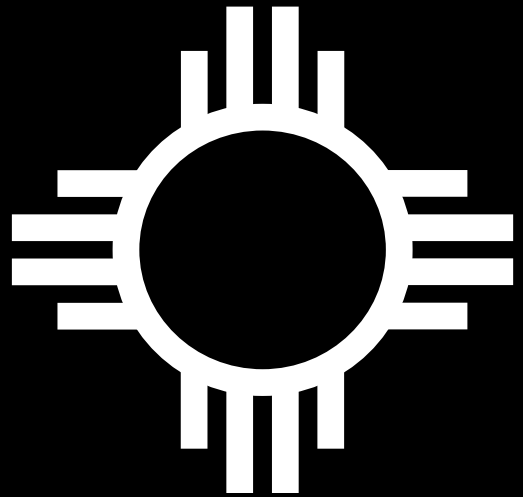


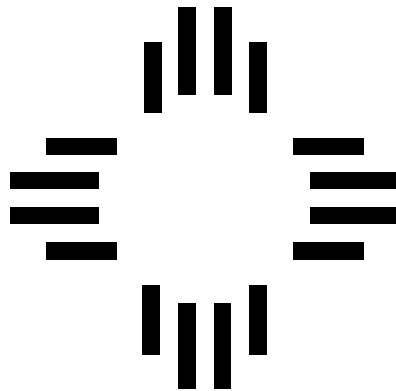
**NEW
MEXICO
REGISTER**



Volume XV
Issue Number 20
October 29, 2004

New Mexico Register

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October 29, 2004



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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Administrative Law Division
Santa Fe, New Mexico
2004

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New Mexico Register

Volume XV, Number 20

October 29, 2004

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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." Section 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULE MAKING NOTICE

On Wednesday, November 17, 2004, beginning at 9:00 a.m. at the Santa Fe Community College/Jemez Room, 6401 Richards Avenue, Santa Fe, New Mexico 87508, the State Game Commission will meet in Public Session to consider action as appropriate on the following, and there will also be a closed Executive Session to discuss personnel, litigation, and land acquisitions as per 10-15-1, NMSA:

The Commission will open the following rules for amendment or adoption:

1. **Consent Agenda:**
 - a. Revocation of Hunting and Fishing License Privileges; and
 - b. 1st Quarter (July-September 30, 2004) Depredation report.
2. **Waterfowl:** Amend 19.31.6.18, NMAC, of the Waterfowl Rule for 2004/2005 Hunting Season to add 11 more Bernardo Youth/Adult Duck Hunt dates for up to 12 individuals per day.
3. **Elk:** Amend Big Game Elk Hunting Rule 19.31.8.13 and 19.31.8.24, NMAC, for 2005/06 and 2006/07:
 - a. Change bag limit for all Mature Bull (MB) and Either Sex (ES) bag limits in Game Management Units 5B, 16A, 16D, 16E, 34, and 52 to Antler Point Restricted Elk (APRE)= 5 points on one antler. (Except designated "Youth Hunts");
 - b. Establish unlimited "Over the Counter License sales" (ability to buy archery elk licenses from any Game and Fish office without applying for limited Special Hunt draw) for these seasons; Late Season (December-January) Archery Elk Hunts with APRE/6= (6 points on one antler) bag limits; in Game Management Units 12, 34, 37, 43, and 50; and
 - c. Adjust "Youth Only" hunt dates on the Valle Vidal to eliminate overlap with other Mature Bull and Antlerless hunts.
4. **Deer:** Amend Big Game Deer Rule 19.31.8.9 and 19.31.8.20 NMAC for 2005/06 and 2006/07 hunt seasons
 - a. Add GMU 10 deer hunt to public draw and private land hunts with Antler Point Restricted Deer (APRD) = 3 points on one antler bag limit; and
 - b. Remove GMU's 12, 40, 41, 43 and 47 from public land draw requirement and allow hunters to purchase licenses at vendor without applying for lim-

ited Special Hunt draw.

5. **Cougar:** Amend 19.31.8.12 and 19.31.8.23 NMAC for 2005/06 and 2006/07 hunting seasons to allow cougar hunting on Wildlife Management Areas:

a. Limited cougar hunts on Sargent Wildlife Area (WLA), Humphries WLA, Rio Chama WLA and Elliot Barker WLA;

b. Unlimited Cougar hunting opportunities, during regularly established cougar season, on Marquez WLA and Water Canyon WLA;

c. Establish unlimited cougar hunting opportunity on Urraca WLA from December 1-31;

d. Establish unlimited hunting opportunity on Colin Neblett WLA from December 1-March 31; and

e. Electronic Calls will be allowed on all of these WLA hunts; no dogs will be allowed except on Big Hatchet WLA; No vehicle access will be allowed except into designated parking areas; cougars harvested will count toward Harvest limits in the Zones where the WLA occurs.

6. **Bighorn Sheep:** Amend 19.31.8.16 and 19.31.8.27, NMAC, for 2005-06 and 2006-07 bighorn sheep seasons by changing one of the 8 licenses for the Pecos Wilderness Area to "youth only" bighorn sheep license. This license would be valid during the same scheduled hunt period.

7. **Oryx:** Amend Oryx Reduction Hunt portion of Big Game Rule 19.31.8.8, NMAC, for 2005/06 and 2006/07 regarding the 240 licenses available for "security badged" personnel on White Sands Missile Range. These licenses would be restricted to individuals who have never held a "Once in a Lifetime Oryx License"; application process would be restricted annually to those individuals with even or odd birth date years depending on the license year. (i.e. born in 1960 could not apply in 2005/06 license year but could apply for 2006/07 etc.)

8. **Ibex:** Amend the Ibex portion of the Big Game Rule 19.31.8.19 and 19.31.8.30 for the 2005/06 and 2006/07 seasons to decrease the licenses available for the IBX-1-525 from 10 to 5 and the IBX-1-550 from 20 to 10 licenses.

9. Amend Hunting and Fishing Application Rule 19.31.3, NMAC, to accommodate "Over the Counter License sales" for specific deer and elk hunting opportunities; new access permits for youth/adult hunts on Bernardo WLA; and access permits for hunting cougar on WLA's.

10. Amend Private Land Elk License Allocation 19.30.10 to change two year agreement to single year agreement in order

to accommodate potential future changes in the Private Land Elk License Allocation Rule and changes to Big Game Elk Rule.

11. Add a new section to Use of Department Owned Lands Rule 19.34.3 NMAC establishing the "Gaining Access into Nature" (GAIN) Program and creating fee structure for activities established under this program.

12. Private land access program proposal: The Department in conjunction with the New Mexico Wildlife Federation will present a "Private Land Access Program" proposal for Hunting, Fishing and Wildlife Related Recreation activities by leasing access from private landowners.

13. Department will present Commission with information regarding 2005 legislative package items and request Commission direction on several legislative issues.

The State Game Commission is amending and establishing regulations per authority vested to them in Sections 17-1-14, 17-1-26, and 17-2-5, NMSA 1978.

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's web site at www.wildlife.state.nm.us for updated information.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 10:00 a.m., on November 30, 2004, in Room 2027, on the second floor in the New Mexico State Library at 1205 Camino Carlos Rey, Santa Fe, New Mexico. The subject of the hearing will be Assertive Community Treatment (ACT).

During 2004 the Medical Assistance Division has been approached by stakeholders within New Mexico who wish to introduce Assertive Community Treatment (ACT) services to meet the medical needs of persons with serious mental illness who frequently utilize emergency services and experience repeated institutionalizations. ACT is a team-based service that includes case management and psychosocial rehabilitation provided in the community; it is a

24-hour, seven-day-per-week service in which all behavioral health needs of the service recipients are addressed by the team, except for medically necessary inpatient services. The Medical Assistance Division proposes this policy to enable qualified providers to provide this service. ACT is anticipated to reduce other Medicaid expenditures for emergency room services and hospitalizations for untreated life-threatening illnesses. ACT is also expected to reduce costs in the area of criminal justice.

Interested persons may submit written comments no later than 5:00 p.m., November 30, 2004, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the New Mexico Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/mad.html or by sending a self-addressed stamped envelope to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

**NEW MEXICO PUBLIC EDUCATION
DEPARTMENT**

The Public Education Department (“Department”) hereby gives notice that it will conduct public hearings as follows regarding the proposed rulemaking actions described below:

— Wednesday, December 1, 2004, from 6:30 p.m. to 9 p.m. at the Board Room of the Las Cruces Public Schools Administration Building, 505 South Main, Suite 249, Las Cruces, New Mexico 88001.

— Friday, December 3, 2004, from 1p.m. to 3 p.m. at Mabry Hall in the Jerry Apodaca

Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501.

The proposed rulemaking actions are:

Rule Number	Rule Name	Proposed Action
6.30.2 NMAC	Educational Standards - Standards for Excellence	Amend paragraph 9 of subsection J of Section 13 to clarify graduation requirements and options for students with disabilities
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend subsection A of Section 6, paragraphs 3 and 5 of subsection C of Section 7 and paragraph 1 of subsection A of Section 11 to clarify eligibility of 2-year-olds who will turn 3 during the school year for enrollment in preschool special education programs
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend subsection A of Section 10 to clarify that child find screenings shall serve as prereferral interventions for preschool children with disabilities
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend subparagraph (g) of paragraph 3 of subsection A of Section 11 to clarify timelines for developing individualized plans for children entering preschool programs
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend subsection C of Section 10 to clarify the nature and sequence of prereferral interventions for students suspected of having disabilities
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend subsection D of Section 11 to require that IEP goals and objectives for students with disabilities be directly tied to the New Mexico content standards and benchmarks
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend subsection D of Section 11 to clarify the requirements for participation of students with disabilities in statewide and district-wide assessments
6.31.2 NMAC	Special Education - Children with Disabilities/Gifted Children	Amend Section 12 to revise and clarify the eligibility standards and evaluation procedures for gifted students

Copies of the proposed amendments may be obtained on the Special Education Bureau page of the Department’s website at <http://www.ped.state.nm.us/seo/>, by e-mail from spedfeed-back@ped.state.nm.us or from the Special Education Bureau, Public Education Department, Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786, phone 505-827-6541, fax 505-827-6791.

Interested individuals may testify at the public hearings or submit written comments by mail, fax or e-mail to the Special Education Bureau at any of the addresses above. Written comments must be received no later than 3 p.m. on December 3, 2004. However, the submission of written comments as soon as possible is encouraged.

Individuals with disabilities who require information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact the Special Education Bureau as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION

This is an amendment to 7.20.11 NMAC, Sections 16 and 31, effective October 29, 2004.

7.20.11.16 PERSONNEL:

A. The agency provides personnel who are trained, supervised and in all respects qualified to perform the functions for which they are responsible.

B. Each position, or group of like positions, is detailed in a written job description that clearly states qualifications, responsibilities and requirements.

C. Each agency employee meets all state registration, licensing and/or certification requirements applicable to his or her position and/or use of professional title(s) and the agency has copies of such licenses, etc. on file.

D. Orientation of personnel:

(1) The agency orients its personnel to the agency's goals, services, policies and procedures, and to the responsibilities of the staff member's position. Initial and ongoing orientation is documented in the personnel record.

(2) Orientation includes training on the establishment and maintenance of appropriate and responsive relationships and boundaries with clients.

E. Personnel training, development, responsibilities and supervision:

(1) The agency provides a training and development program to allow personnel to improve their knowledge, skills and abilities and to promote awareness and appreciation of the cultural background and need of persons served by the agency. This training will be documented in the personnel file.

(2) The agency provides staff development opportunities for personnel, including in-service training.

(3) Staff who require training to qualify for a position in which they are responsible for the care of children do not have sole responsibility for the care of children until after the successful completion of the training.

(4) Staff designated as direct service staff under service-specific certification requirements receive ongoing training related to the age and/or emotional development of the children for whom they are responsible.

(5) All certified services are provided under supervision of a clinical

director who provides clinical oversight of the program, by way of documented supervision and consultation to all agency staff. Supervision may be direct, or may occur through a clinical supervisor who is directly supervised by the clinical director.

(6) All clinical supervision/consultation is documented and documentation includes the theme, date, length of time of supervision and signatures of those participating.

(7) In the event that the therapist and clinical supervisor are the same person, another properly credentialed clinician, either from within the agency or from outside the agency, provides supervision at least one time per month to the clinical supervisor.

(8) The responsibilities of the therapist include providing therapy and participating in the development of a treatment plan. These activities are documented.

(9) When the agency utilizes the services of professionals on a per interview, hourly, part-time, or independent contractor basis, the agency documents regular assessment of the quality of services provided.

F. Accountability:

(1) The agency ensures that the performance of all employees, consultants, contractors, and volunteers is consistent with agency policy and these certification requirements.

(2) At least once a year, written performance reviews are conducted jointly between each staff member, including volunteers, and the person's supervisor.

G. Personnel records:

(1) A personnel record is maintained for each employee and volunteer. Each personnel record is readily accessible to the LCA at each site visit, and contains, at a minimum:

(a) documentation of all orientation and training, including dates, hours or credits, names of trainer and trainee, and written confirmation by trainer or training organization that the training has occurred;

(b) employee's name, current address, telephone number and emergency contact(s);

(c) job title and description;

(d) evidence of licensure for those employees required to be licensed;

(e) date first employed and dates of transfers or changes in position;

(f) documentation of a minimum of three employment reference checks within three weeks prior to employment (if this process yields fewer than three employment reference checks, additional professional and/or personal references are obtained to achieve the required minimum of three references);

(g) a copy of the employee's current CPR and first aid certificates;

(h) for cleared staff, the criminal records clearance letter, or for uncleared staff, a signed statement by the administrator, director, or operator attesting to direct supervision of the uncleared employee by a cleared employee until the clearance is received;

(i) application for employment or resume consistent with agency policy;

(j) performance reviews, as applicable [;

~~[(k) a current certificate stating that the employee is free from tuberculosis in a transmissible form, obtained prior to the first date of direct service, as required by the New Mexico Department of Health regulations, Control of Communicable Disease in Health Facility Personnel, 7.4.4 NMAC.]~~

(2) The agency's written policies and practices require that an applicant for employment disclose any prior criminal convictions, and employees report any arrests and/or convictions that occur while employed.

(3) The agency's written policies provide personnel with access to their records and a process to review the record and to make additions and corrections to the record.

H. Schedules of direct service staff in day treatment and residential facilities:

(1) Each facility or licensed unit maintains a written, legible schedule clearly identifying direct service staff responsible for care of clients.

(2) Each uncleared employee is identified on the staff schedule.

(3) The staff schedule is updated daily to reflect actual hours staff are present and changes in attendance as they occur.

(4) Original updated staff schedules are kept on file for at least 12 months.

(5) The updated schedule documents the client census for each unit of a residential treatment services center or group home service on a daily basis.

[7.20.11.16 NMAC - Rp 7 NMAC 20.11.16, 03/29/02; A, 10/29/04]

7.20.11.31 JCAHO ACCREDITED RESIDENTIAL TREATMENT SERVICES: Residential treatment services programs that are accredited by JCAHO comply with the general provisions and residential treatment services sections of these requirements, and the following standards:

A. The agency provides services, care, and supervision at all times, including maintenance of a minimum staff-to-child ratio of one to five during the day and evening shifts and one awake staff to

ten clients during the night shift. Additional staff is provided when warranted by client acuity or other conditions.

B. A physical examination is completed by a licensed independent medical practitioner within one week of admission, and includes medical history, physical examination, assessment of pain, motor and sensorimotor functioning, speech, hearing, and language functioning, vision, immunizations, oral health, history of psychotropic medication use, and, when indicated an AIMS test. If a comprehensive medical history and physical examination have been completed within 30 days before admission, a durable, legible copy of this report may be used in the clinical record as a physical examination, but any subsequent changes must be recorded at the time of admission.

C. The agency evaluates the need for the following assessments, and when such assessments are indicated, they are completed in a thorough and timely manner: psychological, psychiatric, educational, vocational, legal, nutritional, developmental disabilities, and substance abuse.

D. The agency has a written plan to provide all necessary medical histories, physical examinations, and laboratory tests that the agency does not directly provide.

E. Infection control

(1) The agency has a comprehensive and functioning infection-control program based on proven epidemiological methods for surveillance and prevention of adverse outcomes related to infection.

(2) The agency uses preventive processes such as universal precautions to reduce risks for endemic and epidemic infections in clients and staff.

(3) Infection control policies, procedures, and practices include surveillance, identification, and control of infection, and required reporting to staff and public health authorities.

(4) A current certification stating that the employee is free from tuberculosis in a transmissible form, obtained prior to the first date of direct service.

[7.20.11.30 NMAC - Rp 7 NMAC 20.11.30, 03/29/02; A, 10/29/04]

**NEW MEXICO CHILDREN,
YOUTH AND FAMILIES
DEPARTMENT
FAMILY SERVICES DIVISION**

This is an amendment to 8.16.2 NMAC, Sections 21, 31 and 41, effective October 29, 2004.

**8.16.2.21 ADMINISTRATIVE
REQUIREMENTS:**

A. ADMINISTRATION

RECORDS: A licensee will display in a prominent place:

(1) all licenses, certificates, and most recent inspection reports of all state and local government agencies with jurisdiction over the center;

(2) the current child care regulations;

(3) dated weekly menus for meals and snacks;

(4) the discipline policy; and,

(5) the current list of notifiable diseases and communicable diseases published by the office of epidemiology of the New Mexico department of health.

B. POLICY AND PROCEDURES: All facilities using these regulations must have written policies and procedures covering the following areas:

(1) actions to be taken in case of accidents or emergencies involving a child, parents or staff members;

(2) policies and procedures for admission and discharge of children;

(3) policies and procedures for the handling of medications;

(4) policies and procedures for the handling of complaints received from parents or any other person;

(5) policies and procedures for actions to be taken in case a child is found missing from the center;

(6) policies and procedures for the handling of children who are ill;

(7) an up to date emergency evacuation and disaster preparedness plan approved annually by the licensing authority; the department will provide guidance on developing these plans.

C. CHILDREN'S RECORDS: A center will maintain a complete record for each child, including drop-ins, completed before the child is admitted. Records will be kept at the center for twelve (12) months after the child's last day of attendance. Records will contain at least:

(1) PERSONAL INFORMATION:

(a) name of the child; date of birth, sex; home address, mailing address and telephone number;

(b) names of parents or guardians, parents or guardians current places of employment, addresses, pager, cellular and/or work telephone numbers;

(c) a list of people authorized to pick up the child and an authorization form signed by parent or guardian;

(d) date the child first attended the center and the date of the child's last day at the center;

(e) a copy of the child's up-to-date immunization record or a public health division approved exemption from the requirement;

(f) a record of any accidents, injuries or illnesses which require first aid

or medical attention and any observations of recent bruises, bites or signs of potential abuse or neglect which must be reported to the parent or guardian.

(g) written authorization from the child's parent or guardian to remove a child from the premises to participate in off-site activities;

(h) a record of the time the child arrived and left the center and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child; and

(i) an enrollment agreement form which must be signed by a parent or guardian with an outline of the services and the costs being provided by the facility.

(2) EMERGENCY INFORMATION:

(a) information on any allergies or medical conditions suffered by the child;

(b) the name and telephone number of two (2) people in the local area to contact in an emergency when a parent or guardian cannot be reached; emergency contact numbers must be kept up to date at all times;

(c) the name and telephone number of a physician or emergency medical center authorized by a parent or guardian to contact in case of illness or emergency; and

(d) a document giving a center permission to transport the child in a medical emergency and an authorization for medical treatment signed by a parent or guardian;

(e) documentation of the legal status of the child, if applicable, such as, but not limited to: restraining orders, guardianship, powers of attorney, court orders, custody by children's protective services, etc.

D. PERSONNEL RECORDS:

(1) A licensee will keep a complete file for each staff member, including substitutes and volunteers working more than eight (8) hours of any week and having direct contact with the children. A center will keep the file for one (1) year after the caregiver's last day of employment. Records will contain at least the following:

(a) name, address and telephone number;

(b) position;

(c) current and past duties and responsibilities;

(d) dates of hire and termination;

~~[(e) certification by a physician or recognized health center stating the person is free from tuberculosis in a transmissible form prior to working in the center;~~

(e) documentation of a criminal records check and employment history verification; all persons providing care are required to sign a statement that

they have, or have never had, an arrest or substantiated referral to a child protective services agency; if the person has had an arrest or a substantiated referral, they must provide the licensing authority with a written statement concerning the circumstances and disposition of the arrest and/or substantiated referral; an employer will not allow any employee involved in an incident which would disqualify that employee under the department's most current version of the Criminal Records Check and Employment History Verification Provisions pursuant to 8.8.3 NMAC to continue to work directly and/or unsupervised with children;

~~(e)~~ (f) documentation of current first-aid and cardiopulmonary resuscitation training;

~~(h)~~ (g) documentation of all appropriate training by date, time, hours and area of competency, and

~~(i)~~ (h) emergency contact number.

(2) A center will maintain dated weekly work schedules for the director, all staff, all care givers and volunteers and keep the records on file for at least twelve (12) months. The record will include the time the workers arrived at and left work and include breaks and lunch.

[8.16.2.21 NMAC - Rp 8.16.2.21 NMAC, 11/01/02; A, 10/29/04]

8.16.2.31 ADMINISTRATIVE REQUIREMENTS:

A. ADMINISTRATIVE RECORDS: A licensee will post the child care home license in an area readily visible to parents and visitors. The licensee will also keep on file:

(1) all licenses, certificates, and most recent inspection reports of all state and local government agencies with jurisdiction over the home;

(2) the current child care regulations;

(3) the discipline policy; and

(4) the current list of notifiable diseases and communicable diseases published by the office of epidemiology of the New Mexico department of health.

(5) an up to date emergency evacuation and disaster preparedness plan approved annually by the licensing authority; the department will provide guidance on developing these plans.

B. CHILDREN'S RECORDS: A home will maintain a complete record for each child, including drop-ins, completed before the child is admitted and kept at the home for twelve (12) months after the child's last day of attendance. Records will contain at least:

(1) PERSONAL INFORMATION:

(a) name of the child, date of birth, sex, home address, mailing address

and telephone number;

(b) names of the parents or guardians, the parents or guardians current places of employment, addresses, pager, cellular and/or work telephone numbers;

(c) a list of people authorized to pick up the child and an authorization form signed by parent or guardian;

(d) date the child first attended the home and the date of the child's last day at the home;

(e) a copy of the child's up-to-date immunization record or a public health division-approved exemption from the requirement;

(f) a record of any accidents, injuries or illnesses that require first aid or medical attention and any observations of recent bruises, bites or potential signs of abuse or neglect, both of which must be reported to a parent or guardian;

(g) written authorization from the child's parent or guardian to remove a child from the premises to participate in off-site activities;

(h) a record of the time the child arrived and left the home and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child; and

(i) an enrollment agreement must be signed by a parent or guardian with an outline of the services and the costs being provided by the home.

(2) EMERGENCY INFORMATION:

(a) information on any allergies or medical conditions suffered by the child;

(b) the name and telephone number of two (2) people to contact in the local area in an emergency when a parent or guardian cannot be reached; emergency contact numbers must be kept up to date at all times;

(c) the name and telephone number of a physician or emergency medical center authorized by a parent or guardian to contact in case of illness or emergency; and

(d) a document giving a home permission to transport the child in a medical emergency and an authorization for medical treatment signed by a parent or guardian;

(e) documentation of the legal status of the child, if applicable, such as, but not limited to: restraining orders, guardianship, powers of attorney, court orders custody by children's protective services, etc.

C. PERSONNEL RECORDS: A home will keep the following records on file and make them available to the licensing authority.

~~(1) Certification by a physician or recognized health facility stating all care givers are free from tuberculosis in a transmissible form.~~

~~(2)~~ (1) Documentation of a

criminal records check and employment history verification for all care givers and all adults living in the home. All persons providing care are required to sign a statement that they have or have never had an arrest or substantiated referral to a child protective services agency. If the person has had an arrest or a substantiated referral, they must provide the licensing authority with a written statement concerning the circumstances and disposition of the arrest and/or substantiated referral. An employer will not allow any employee or any other adult living in the home to be involved in an incident which would disqualify that employee under the department's most current version of the Criminal Records Check and Employment History Verification Provisions pursuant to 8.8.3 NMAC to continue to work directly and/or unsupervised with children.

~~(2)~~ (2) A record of the time the second care givers arrived at and left work, to include breaks and lunch.

[8.16.2.31 NMAC - Rp 8.16.2.31 NMAC, 11/01/02; A, 10/29/04]

8.16.2.41 ADMINISTRATIVE REQUIREMENTS:

A. ADMINISTRATION RECORDS: A licensee will keep on file, post in a clearly visible location and make available to the licensing authority:

(1) all licenses, certificates, and most recent inspection reports of all state and local government agencies with jurisdiction over the program;

(2) the current child care regulations;

(3) dated weekly menus for meals and snacks;

(4) the discipline policy; and

(5) the current list of notifiable diseases and communicable diseases published by the office of epidemiology of the New Mexico department of health.

B. CHILDREN'S RECORDS: A program will maintain a complete record for each child, including drop-ins, to be completed before the child is admitted. Records will be kept at the program for twelve (12) months after the child's last day of attendance. Records will contain at least:

(1) PERSONAL INFORMATION:

(a) name of the child; date of birth, sex; home address, mailing address and telephone number;

(b) names of the parents or guardians, the parents or guardian's current places of employment, addresses, and pager, cellular and/or work telephone numbers;

(c) a list of people authorized to pick up the child and an authorized form signed by parent or guardian;

(d) date the child first attended the program and the date of the child's last day at the program;

(e) a record of any accidents, injuries or illnesses that require first aid or medical attention and any observations of recent bruises, bites or signs of abuse or neglect, both of which must be reported to a parent or guardian;

(f) written authorization from the child's parent or guardian to remove a child from the premises to participate in off-site activities;

(g) a record of the time the child arrived and left the program and dates of attendance initialed by a parent, guardian, or person authorized to pick up the child;

(h) an enrollment agreement: This form will be signed by a parent or guardian with an outline of the services and the costs.

(2) EMERGENCY INFORMATION:

(a) information on any allergies or medical conditions suffered by the child; the name and telephone number of two (2) people in the local area to contact in an emergency when a parent or guardian cannot be reached; emergency contact numbers must be kept up to date at all times;

(b) the name and telephone number of a physician or emergency medical facility authorized by a parent or guardian to contact in case of illness or emergency; and

(c) a document giving a program permission to transport the child in a medical emergency and an authorization for medical treatment signed by a parent or guardian;

(d) documentation of the legal status of the child, if applicable, such as, but not limited to: restraining orders, guardianship, powers of attorney, court orders, custody by children's protective services, etc.

(e) all licensed child care programs must maintain an up to date emergency evacuation and disaster preparedness plan approved annually by the licensing authority; the department will provide guidance on developing these plans.

C. PERSONNEL RECORDS:

(1) A licensee will keep a complete file for each staff member, including substitutes and volunteers having direct contact with the children. A program will keep the file for one (1) year after the caregiver's last day of employment. Records will contain at least the following:

- (a) name, address and telephone number;
- (b) position;
- (c) current and past duties and responsibilities;
- (d) dates of hire and termination;

~~[(e) certification by a physician or recognized health program stating the person is free from tuberculosis in a transmissible form;~~

~~[(f)] (e)~~ documentation of a criminal records check and employment history verification; all persons providing care are required to sign a statement that they have or have never had an arrest or substantiated referral to a child protective services agency; if the person has had an arrest or a substantiated referral, they must provide the licensing authority with a written statement concerning the circumstances; an employer will not allow any employee involved in an incident which would disqualify that employee under the department's most current version of the Criminal Records Check and Employment History Verification Provisions pursuant to 8.8.3 NMAC to continue to work directly and/or unsupervised with children; and

~~[(g)] (f)~~ documentation of first-aid and cardiopulmonary resuscitation training;

~~[(h)] (g)~~ documentation of all appropriate training by date, time, hours and area of competency; and

~~[(i)] (h)~~ emergency contact number.

(2) A program will maintain dated weekly work schedules for the director, all staff and all care givers and keep the records on file for at least twelve (12) months. The record will include the time the employee arrived at and left work and include breaks and lunch.

[8.16.2.41 NMAC - Rp 8.16.2.41 NMAC, 11/01/02; A, 10/29/04]

**NEW MEXICO CHILDREN,
YOUTH AND FAMILIES
DEPARTMENT
FAMILY SERVICES DIVISION**

This is an amendment to 8.17.2 NMAC, Sections 7 and 24, effective October 29, 2004.

8.17.2.7 DEFINITIONS:

A. "Child" means any person twelve (12) years old or younger; children of migrant workers fifteen (15) years old or younger, any person with certain disabilities who is eligible under federal child and adult care food program standards; or any person eligible under state and federal child-care assistance programs standards.

B. "Child care assistance program (CCAP)" means the state of New Mexico's child care services bureau which administers the federal child care and development fund (CCDF).

C. "Child and adult care food program (CACFP)" means the state of New Mexico's family nutrition bureau

which administers the federal child and adult care food program.

D. "Emergency caregiver" means someone 18 years of age or older who is authorized by the primary caregiver to provide care on an emergency basis, 48 hours or less, on behalf of the primary caregiver.

E. "Infant" means a child from birth to one-year-old.

F. "Nonresident child" means any child who does not reside in the caregiver's home.

G. "Notifiable diseases" means confirmed or suspected diseases/conditions as identified by the New Mexico department of health which require immediate reporting to the office of epidemiology which include but are not limited to: measles, pertussis, food borne illness, hepatitis and acquired immune deficiency syndrome.

H. "Primary caregiver" means a family day care home provider 18 years of age or older who is personally providing care to non-resident children, less than 24 hours a day, in his/her own residence and has completed a self certification registration form and paid the required fee.

I. "Registered family child care home" means the residence of an independent caregiver who registers the home under these regulations to participate in the child and adult care food program or as a vendor in the state and federal child care assistance programs.

J. "Resident child" means any child who resides in the home, such as provider's own children by birth or adoption, foster children, grandchildren, or cohabitant's children who are part of the residential unit.

K. "Second caregiver" means someone 18 years of age or older who is authorized by the primary caregiver and the day care home sponsoring organization to provide care in the absence of the primary caregiver and is required to complete all the items required of primary caregivers, including ~~[TB tests,]~~ CRC fingerprint clearance, annual training hours and initial orientation and training for participation in the CACFP and/or the child care assistance program.

[8.17.2.7 NMAC - Rp 8.17.2.7 NMAC, 11/01/02; A, 10/29/04]

8.17.2.24 RECORD KEEPING REQUIREMENTS:

~~[A. Caregivers must maintain evidence of tuberculosis screening to show that TB is not active.~~

~~B.]~~ Caregivers must keep an information card for each child with:

- ~~[(1)] A.~~ the child's full name;
- ~~[(2)] B.~~ the child's birth date;
- ~~[(3)] C.~~ any known food or drug

allergies or unusual physical condition;

(4) D. the name, telephone number, and location of a parent or other responsible adult to be contacted in any emergency;

(5) E. the name and telephone number of the child's physician;

(6) E. authorization from a parent or guardian for the caregiver to seek professional medical care in an emergency;

(7) G. written permission from a parent or guardian for the caregiver to administer medication prescribed by a physician or requested by the parent; and,

(8) H. an immunization record showing current, age-appropriate immunizations for each child or a written waiver for immunizations granted by the department of health.

[8.17.2.24 NMAC - Rp 8.17.2.24 NMAC, 11/01/02; A, 10/29/04]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.4 NMAC, Sections 9, 11, and 12. Effective date is 4-1-2005.

19.30.4.9 GAME MANAGEMENT SUB-UNITS AND PORTIONS OF UNITS:

A. **Sub-unit 2A:** that portion of GMU 2 west of the Los Pinos river (Pine Arm of Navajo reservoir) and north of the San Juan river.

B. **Sub-unit 2B:** that portion of GMU 2 east ~~of the Los Pinos river (Pine Arm of Navajo reservoir) and south of the San Juan river~~ and north of the following line: from the junction of the New Mexico/Colorado state line and Pine river, then south along the Pine river to its junction with the San Juan river, then south and west along the San Juan river to its junction with Largo canyon, then south and east along the central wash of Largo canyon to its junction with Cereza canyon, then south and east along the central wash of Cereza canyon to a point 2 miles north of the northwest corner of the Jicarilla Apache Indian reservation, then south along the eastern side of sections 25 and 36 of township 27N, range 6W to the Jicarilla Apache Indian reservation boundary.

C. **Sub-unit 5A the Freeman Davis unit:** that portion of GMU 5 beginning at the junction of the northwest boundary of the Santa Fe national forest and junction with the Jicarilla Apache Indian reservation north of Lindrith and following the forest boundary south towards Lindrith, then northeasterly past Llaves: thence southerly to its intersection with NM 96,

then west along NM 96 to its junction with NM 595 north of Regina, then west along NM 595 to its intersection with the east boundary of the Jicarilla Apache Indian reservation, then following the reservation boundary north to its intersection with the northwest corner of the Santa Fe national forest boundary.

D. **Sub-unit 5B:** beginning at the junction of the east boundary of the Jicarilla Apache Indian reservation and the south boundary of the Tierra Amarilla grant and running east along the grant boundary to its intersection with US 84, then south along US 84 to its junction with NM 96 northwest of Abiquiu, then west along NM 96 to its junction with the Santa Fe national forest boundary west of Gallina, then following the boundary north then west past Llaves then southwesterly to south of Lindrith then north along the forest service boundary line to its intersection with the Jicarilla Apache Indian reservation, then east along the boundary line to the junction of the reservation and the south boundary of the Tierra Amarilla grant.

E. **Sub-unit 6A:** starting at the junction of interstate 25 and US 550 at Bernalillo and running northwest and west along US 550 past San Ysidro to it's intersection with the boundary of the Zia Indian reservation, then south, west, and north along the Zia reservation boundary of the Jemez Indian reservation, then west, north, and east along Jemez Indian reservation boundary to it's intersection with US 550 near La Ventana, then north and west along US 550 to it's intersection with the south boundary of the Jicarilla Apache Indian reservation, then east along the south boundary of the Jicarilla Apache Indian reservation and north along it's east boundary to it's intersection with NM 595, then east along NM 595 to it's junction with NM 96, then east along NM 96 to it's junction with forest road (FR) 103, then south along FR 103 to it's junction with FR 117, then south along FR 117 to it's junction with FR 527 (Pipeline road), then east along FR 527 to it's junction with the west boundary of the Valles Caldera national preserve (formerly the Baca location #1), then south and east along the boundary of the Valles Caldera national preserve to it's junction with FR 280 and NM 4, then south along FR 280 to it's junction with forest service trail (FT) 140, then south along FT 140 to Peralta creek, then south and east along Peralta creek to it's junction with FR 266, then south and east along FR 266 to it's junction with NM 16, then along NM 16 to it's junction with I-25, then south and west along I-25 to it's junction with US 550 at Bernalillo.

F. **Sub-unit 6B:** all lands within the fenced and/or posted boundary of the Valles Caldera national preserve (for-

merly the Baca location #1) as fenced and/or posted by the United States forest service.

G. **Sub-unit 6C:** starting at the junction of NM 96 and forest road (FR) 103 east of Gallina and running south along FR 103 to it's junction with FR 117, then south along FR 117 to it's junction with FR 527 (Pipeline road), then east along FR 527 to it's junction with the west boundary of the Valles Caldera national preserve (formerly the Baca location#1), then north, east, south and west along the boundary of the Valles Caldera national preserve to it's junction with NM 4 and FR 280, then south along FR 280 to it's junction with forest service trail (FT) 1-40, then south along FT 140 to Peralta creek, then south and east along Peralta creek to it's junction with FR 266, then south and east along FR 266 to it's junction with NM 16, then south and east along NM 16 to it's junction with interstate I-25, then north along I-25 to it's junction with US 84 at Santa Fe, then north along US 84 to it's junction with NM 96 west of Abiquiu, then west along NM 96 to it's junction with FR 103.

H. **Sub-unit 16A:** that portion of GMU 16 beginning at the junction of Bursum road (NM 159/USFS road 28) and US 180, then north along US 180 to its junction with NM 12, then northeast along NM 12 to its junction with NM 435, then south along NM 435 to its junction with Negrito creek south of Reserve, then east along Negrito creek to its junction with the north fork of Negrito creek, then east along the north fork of Negrito creek to its junction with USFS road 94 at Collins park, then south on USFS road 94 to its junction with USFS road 28, then southeasterly on USFS road 28 to its junction with USFS road 30, then southeasterly on USFS road 30 to its junction with USFS road 142, then southwesterly on USFS road 142 to its junction with USFS road 142C west of Cooney prairie, then south on USFS road 142C to the Gila wilderness boundary, then west along the Gila wilderness boundary to its junction with Snow creek below Snow lake, then south along Snow creek to its junction with Gilita creek, then west along Gilita creek to its junction with Willow creek, then west along Willow creek to its junction with USFS trail 138, then westerly along USFS trail 138 to its junction with USFS trail 182, then north on USFS trail 182 to its junction with Bursum road (NM159/USFS road 28) at Sandy point, then west along Bursum road (NM 159/USFS road 28) to its junction with US 180.

I. **Sub-unit 16B:** that portion of GMU 16 beginning at the junction of USFS road 152 and the Grant-Sierra county line southwest of Board Gate saddle, then north along the Grant-Sierra county line to Reeds peak and the continental divide,

thence north along the continental divide to its intersection with USFS trail 42, then west along USFS trail 42 to its junction with USFS trail 40 at Diamond creek, then west along USFS trail 40 and Diamond creek to USFS road 225 (old USFS road 19), then southwest along USFS road 225 (old USFS road 19) to its junction with USFS road 18, then northwest along USFS road 18 to its junction with USFS road 704, then west along USFS road 704 to USFS trail 772, then northwesterly along USFS trail 772 to Black mountain, then west from Black mountain along USFS trail 812 to its intersection with the south fork of Christie canyon and the wilderness boundary, then west along the wilderness boundary to Snow creek, then south along Snow creek to Gilita creek, then west along Gilita creek to Willow creek, then west along Willow creek to USFS trail 138, then westerly along USFS trail 138 to USFS trail 182, then south and east on USFS trail 182 to its junction with USFS trail 224 at west fork saddle, then south along USFS trail 224 and down the west fork of Mogollon creek to its junction with Mogollon creek, then easterly along Mogollon creek to USFS trail 158 at Woodrow canyon, then southeast along USFS trail 158 to Turkey creek, then south along Turkey creek to the Gila river, then east along the Gila river to Sapillo creek, then east along Sapillo creek to NM 35, then east along NM 35 to its intersection with USFS road 152, then northeast along USFS road 152 to its junction with the Sierra-Grant county line southwest of Board Gate saddle.

J. Sub-unit 16C: that portion of GMU 16 beginning at the road junction of USFS road 150 and USFS road 30 in Railroad canyon, then northeast along USFS road 150 to its junction with NM 163/USFS road 150, then northeast along NM 163 to the continental divide, then south along the continental divide to USFS trail 42, then south along USFS trail 42 to USFS trail 40, then west on USFS trail 40 to and across USFS road 150 to USFS road 225 (old USFS road 19), then southwest along USFS road 225 (old USFS road 19) to USFS road 18, then northwest along USFS road 18 to USFS road 704, then west along USFS road 704 to USFS trail 772, then northwest along USFS trail 772 to USFS trail 812 on Black mountain, then northwest along USFS trail 812 to south fork of Christie canyon, then north and west along south fork of Christie canyon to USFS road 142C, then north along USFS road 142C to USFS road 142, then northeast along USFS road 142 to its junction with USFS road 30, then east along USFS road 30 to its junction with USFS road 150 in Railroad canyon.

K. Sub-unit 16D: that portion of GMU 16 beginning at Apache creek and continuing south and west along

NM 12 to its junction with NM 435 at Reserve, then south along NM 435 to its junction with Negrito creek, then east along Negrito creek to its junction with the north fork of Negrito creek, then east along the north fork of Negrito creek to its junction with SFS road 94 at Collins park, then south along USFS road 94 to its junction with NM 28, then east along NM 28 to junction with USFS 30, then southeast along USFS road 30 to its intersection with USFS road 551, then north and west along USFS road 551 to its junction with USFS road 28, then north along USFS road 28 to its intersection with NM 12, then west on NM 12 to Apache creek.

L. Sub-unit 16E: that portion of GMU 16 beginning at the intersection of USFS road 551 and USFS road 30, proceed northwesterly along USFS road 551 to its intersection with USFS road 28, then north on USFS road 28 to its intersection with NM 12, then east on NM 12 to its intersection with NM 60 at Datil, then east on NM 60 to its intersection with NM 52, then south on NM 52 to its intersection with NM 163, then west on NM 163 to its intersection with USFS road 150, then west on USFS road 150 to its intersection with USFS road 30, then west on USFS road 30 to its intersection with USFS road 551.

M. Sub-unit 21A: that northwest portion of GMU 21 that lies within the Gila national forest boundary.

N. Sub-unit 21B: that portion of GMU 21 that lies outside the Gila national forest boundary.

O. Sub-unit 22A: that portion of GMU 22 beginning at the intersection of the Gila river and US 180 south of Cliff running north along US 180 to its junction with Bursum road (NM 159/USFS road 28), then east along Bursum road to its junction with forest trail 41 at Windy point, then southeast along forest trail 41 to its junction with forest trail 207, then east along forest trail 207 to its junction with the Gila wilderness boundary, then west and south and then east along the Gila wilderness boundary to its junction with the Gila national forest boundary and forest trail 189, then east and south along the Gila national forest boundary to its junction with the Gila river, then southwest along the Gila river to its junction with US 180, south of Cliff.

P. Sub-unit 22B: that portion of GMU 22 beginning at the intersection of Bursum road (NM 159/USFS road 28) and forest trail 41 at Windy point, then east along Bursum road to its junction with forest trail 182 at Sandy point, then south along forest trail 182 to its junction with forest trail 224 at the west fork saddle, then south on forest trail 224 down the west fork of Mogollon creek to its junction with the main Mogollon creek, then easterly along

Mogollon creek to the junction of forest trail 158 at Woodrow canyon, then south along forest trail 158 to main Turkey creek, then south along Turkey creek to its junction with the Gila river, then southwest along the Gila river to its junction with Gila national forest boundary, then north and west along the Gila national forest boundary to its junction with the Gila wilderness boundary and forest trail 189, then north and west along the Gila wilderness boundary to its junction with forest trail 207, then northwest along forest trail 207 to its junction with forest trail 41, then northwest along forest trail 41 to its junction with Bursum road at Windy point.

Q. Burro mountain hunt area, as used herein, shall mean the big burro mountain portion of the Gila national forest lying within GMU 23.

R. McGregor range portion of Fort Bliss military reservation in GMU 28.

(1) Public hunt area; that portion of the Fort Bliss military reservation lying north of NM 506 excluding that part of the Sacramento division of the Lincoln national forest lying within the McGregor range co-use area.

(2) Military only area; that portion of the Fort Bliss military reservation lying south of NM 506 as defined and restricted by Fort Bliss McGregor range personnel.

S. GMU 53 Cerro portion: shall mean that portion of GMU 53 beginning at the intersection of NM 522 and NM 378, then north on NM 522 approximately 3.1 miles to its intersection with CR B-041 (Buena Vista road), then west on CR B-041 1 mile to the dirt road on the boundary of townships T30N and T29N, then west on that dirt road 2 miles to its intersection with CR B-048 (Sunshine-Jarosa road), then south on CR B-048 approximately 1.3 miles to its intersection with NM 378, then southeasterly on NM 378 approximately 3.5 miles to its intersection with NM 522.

T. GMU 54 northeast portion: beginning at the intersection US 64 and NM 21, then south and east along NM 21 to its intersection with I-25, then north along I-25 to its intersection with NM 58, then west to its intersection with NM 21 at Cimarron.

U. Sub-unit 55A: beginning at the junction of NM 58 and US 64 at Cimarron and running west and south along US 64 to the Colfax-Taos county line at Palo Flechado pass; then north along the Colfax county line to the south boundary of the Sangre de Cristo grant; then north and west along the Sangre De Cristo grant's south boundary to NM 522 then north along NM 522 to the Colorado-New Mexico state line; then east along the state line to its intersection with I-25; then south along I-25

to its junction with US 64 thence southwest along US 64 to its junction with NM 58 at Cimarron.

V. Sub-unit 55B: beginning at the junction of I-25 and US 64, thence along US 64 to the junction with NM 58 at Cimarron, thence easterly from Cimarron along NM 58 to the junction of NM 58 and I-25 at French tract, thence north along I-25 once again to the junction of I-25 and US 64.

W. GMU 56 Sierra Grande area: that portion of GMU 56 beginning at the junction of NM 64 and Union county road A045, five miles west of Des Moines, running south along Union county road AO45 to its junction with Union county A107, then southeast along Union county road A107 to its junction with the southwest corner of T28N, R29E, S18, then east along the south section line of T28N, R29E, S17, S16, S15, S14, and S13 to its junction with Union county road A012, then northeast to its junction with NM64, then northwest, through Des Moines, to its junction with Union county road A045.

X. Sub-unit 56A: that portion of GMU 56 not included in the Sierra Grande area.

Y. Sub-unit 2C: that portion of GMU 2 south and west of the following line: from the junction of US 550 and the San Juan river at Bloomfield, then east along the San Juan river to its junction with Largo canyon, then south and east along the central wash of Largo canyon to its junction with Cereza canyon, then south and east along the central wash of Cereza canyon to a point 2 miles north of the northwest corner of the Jicarilla Apache Indian reservation, then south along the eastern side of sections 25 and 36 of Township 27N, Range 6W to the Jicarilla Apache Indian reservation boundary.

Z. GMU 9 Laguna Indian reservation portion: shall mean that portion of GMU9 comprising all tribal trust lands designated as the Laguna Indian reservation.

AA. GMU 13 Acoma Indian reservation portion: shall mean that portion of GMU 13 comprising all tribal trust lands designated as the Acoma Indian reservation.

[4-1-95; 12-31-96; 4-30-99; 19.30.4.9 NMAC - Rn & A, 19 NMAC 30.4.9, 2-14-2001, A, 3-31-2003; A, 4-1-2005]

19.30.4.11 OTHER DESIGNATED AREAS

A. Valle Vidal area, as used herein, shall mean the Valle Vidal unit of the Carson national forest and the Greenwood area of the Vermejo Park Ranch, Inc. in GMU 55.

B. Florida mountains, as used herein, shall mean the main Florida mountain range and Little Floridas, consisting of that portion of GMU 25 bounded by Interstate 10 on the north, the Luna-Dona Ana county line on the east, the Mexico-New Mexico line on the south and NM highway 11 on the west.

C. Sugarite canyon state park, as used herein, shall mean the Sugarite canyon property owned by the city of Raton and administered by the New Mexico state parks department in GMU 57.

D. White Sands missile range hunting areas, as used herein, are those portions of White Sands missile range as documented as stallion range, small missile range, red canyon, Tularosa gate, and Rhodes canyon hunt areas as documented on maps and descriptions provided to hunters.

E. Organ mountain hunt area: beginning at the intersection of I-25 and US 70, then south along I-25 to its intersection with I-10, then south along I-10 to its intersection with the New Mexico\Texas state line, then east along the New Mexico\Texas state line to its intersection with Ft. Bliss military reservation boundary, then northeast, then west and then north along the Ft. Bliss military reservation boundary to its junction with the White Sands missile range boundary, then north, west and north along the White Sands missile range boundary to its intersection with US 70, then west along US 70 to its junction with I-25.

F. Cougar zones as used herein, shall define hunt areas consisting of one or more GMU's and are described as follows:

- (1) Zone A, GMU's 2 and 7.
- (2) Zone B, GMU's 5, 50, and 51.
- (3) Zone C, GMU's 43, 44, 45, 46, 48, and 49.
- (4) Zone D, GMU's 41, 42, and 47.
- (5) Zone E, GMU's 9 and 10.
- (6) Zone F, GMU's 6 and 8.
- (7) Zone G, GMU's 13, 14, and 17.
- (8) Zone H, GMU's 19, 20, 28, and 29.
- (9) Zone I, GMU's 18, 30, 34, 36, 37, and 38.
- (10) Zone J, GMU's 15, 16, 21 and 25.
- (11) Zone K, GMU's 22, 23, and 24.
- (12) Zone L, GMU's 26 and 27.
- (13) Zone M, GMU's 31, 32, 33, 39, and 40.
- (14) Zone N, GMU's 4 and 52.
- (15) Zone O, GMU 12.
- (16) Zone P GMU's 56, 57,

and 58.

G. Bighorn sheep ranges, open to yearlong cougar hunting shall be described as: that portion of GMU 13 including Mesa Sarca, the entire Ladrón mountain range, including the area along the Rio Salado west of the Sevilleta national wildlife refuge (nwr) border to Riley road to include the area 3 miles north of the Rio Salado and 1 mile south of the Rio Salado; and an area south of the Sevilleta nwr to include Polvadera mountain and Socorro mountain in a line directly south of the southwest corner of the Sevilleta nwr to NM highway 60 and east on NM highway 60 to Interstate 25 and north on Interstate 25 to the southeast corner of the Sevilleta nwr and then west along the south border of the Sevilleta nwr to the southwest corner of the Sevilleta nwr, Sevilleta national wildlife refuge and New Mexico tech property is closed to all cougar hunting; that portion of the Manzano mountains in GMU 14 from Comanche canyon south to US 60 and from the western base of the mountains east to the ridge comprised of Capilla, Osha and Manzano peaks and all of Sand, Priest and Abo canyons; that portion of GMU 19 beginning at the intersection of US 70 and Interstate 25 (I-25) running south along I-25 to its intersection with I-10, thence south along I-10 to its intersection with the Texas/New Mexico state line, thence east along the state line to its intersection with NM 213, thence north along NM 213, which in turn becomes White Sands missile range (WSMR) range road 1 to its intersections with US 70, thence east along US 70 to its intersection with WSMR range road 7, thence north along WSMR range road 7 to its intersection with WSMR range road 306 (Hembrillo canyon), thence west along WSMR range road 306 to its intersection with the western boundary of WSMR, thence south along the WSMR boundary to its intersection with US 70, then west along US 70 to its intersection with I-25; all of GMU's 22A and 22B; that portion of GMU 23 that is south of the Apache and Gila national forest boundary and north of NM 78; that portion of GMU 24 that is west of NM 15; and all of GMU's 26 and 27.

H. Bear zones as used herein, shall define hunt areas consisting of one or more GMU's and are described as follows:

- (1) Zone 1, GMU's 4, 5, 6, 7, 51, and 52.
- (2) Zone 2, GMU's 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57, and 58.
- (3) Zone 3, GMU's 9, and 10.
- (4) Zone 4, GMU's 8, and 14.
- (5) Zone 5, GMU's 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, and 27.

(6) Zone 6, GMU's 34, 36, 37, and 38.

I. Fort Stanton hunt area, as used herein, shall mean those lands owned and administered by the bureau of land management within the historic Fort Stanton military reservation in GMU 36.

[4-1-95,3-14-98; 4-30-99; 19.30.4.11 NMAC - Rn, 19 NMAC 30.4.11, 2-14-2001, A, 3-31-2003; A, 7-15-2003; A, 11-13-2003; A, 4-1-2005]

19.30.4.12 ANTELOPE MANAGEMENT UNITS:

A. AMU 1: Beginning at the junction of US 550 and NM 57 **north-west of Nageezi**, then south along NM 57 to its junction with the Chaco river at Pueblo Bonito, then west along the Chaco river to its junction with NM 371, then north along NM 371 to its junction with the San Juan river near Farmington, then west along the San Juan river to its junction with the east boundary of the Navajo Indian reservation, then north along the east boundary to its junction with the south boundary of the Ute mountain Indian reservation, then east and north along the Ute mountain Indian reservation boundary to the New Mexico/Colorado state line, then east along the New Mexico/Colorado state line to the west boundary of the Jicarilla Apache Indian reservation, then south along the Jicarilla Apache Indian reservation to its junction with US 550 southeast of Counselor, then northwest along US 550 to its junction with NM 57.

B. AMU 2: Beginning at the junction of I-40 and I-25 in Albuquerque, **westward then west** along I-40 to its junction with the [~~Bernalillo and Cibola~~] **Bernalillo-Cibola** county line, then north along the [~~Bernalillo and Cibola, Sandoval and McKinley county lines~~] **Bernalillo-Cibola county line, Cibola-Sandoval county line and then McKinley-Sandoval county line** to its junction with NM 197 **west of Torreon**, then [~~north-easterly~~] **northeast** along NM 197 to its junction with US 550 in Cuba, then southeast along US 550 to its junction with I-25 in Bernalillo, then south along I-25 to its junction with I-40 [~~in Albuquerque~~].

C. AMU 3: Beginning at the intersection of I-40 and NM 53 near Grants, then [~~easterly~~] **east** on I-40 to its junction with I-25 in Albuquerque, then south along I-25 to its junction with the Rio Salado [~~drainage~~] north of Socorro, then [~~westerly~~] **west and northwest** along the Rio Salado to its junction with the [~~cañada~~] **cañada** Bonita northwest of Riley, then north along the [~~cañada~~] **cañada** Bonita to its junction with the [~~Socorro and Cibola~~] **Socorro-Cibola** county [~~lines~~] **line**, then west along the [~~Socorro and Cibola~~

~~Socorro-Cibola~~ county [~~lines~~], continuing west along the [~~Cibola and Catron~~] **Cibola-Catron** county line to its junction with the continental divide, then north along the continental divide to NM 53, then east and north along NM 53 to its junction with I-40 [~~near Grants~~].

D. AMU 4: Beginning at the junction of the New Mexico/ Arizona state line and I-40, then north along the New Mexico/ Arizona state line to its junction with the Colorado state line, then east along the New Mexico/Colorado state line to its junction with the east boundary of the Ute mountain Indian reservation, then south and west along the Ute mountain Indian reservation boundary to its junction with the Navajo Indian reservation, then south along the Navajo Indian reservation to its junction with the San Juan river, then east along the San Juan river to its junction with NM 371 **at Farmington**, then south along NM 371 to its junction with I-40 at Thoreau, then west along I-40 to the New Mexico/Arizona state line.

E. AMU 5: Beginning at the junction of I-40 and NM 371 in Thoreau, then north along NM 371 to its junction with the Chaco river, then [~~easterly~~] **east** along the Chaco river to its junction with NM 57, then [~~northerly~~] **north** along NM 57 to its junction with US 550 **north-west of Nageezi**, then [~~southeasterly~~] **southeast** along US 550 to its junction with NM 197 at Cuba, then south and west along NM 197 to its junction with the [~~Sandoval and McKinley~~] **Sandoval-McKinley** county line near Torreon, then [~~southerly~~] **south** along the [~~Sandoval and McKinley~~] **Sandoval-McKinley** county line continuing **south and east** along the [~~Bernalillo and Cibola~~] **Cibola-Sandoval county line, and then the Cibola-Bernalillo** county line to its junction with I-40 **west of Albuquerque**, then west along I-40 to its junction with NM [~~197 at Thoreau~~] **371**.

F. AMU 6: Beginning at the junction of US 60 and I-25 at Bernardo, then north along I-25 to its junction with I-40 in Albuquerque, then east along I-40 to its junction with NM 41 at Moriarty, then south along NM 41 to its junction with US 60 near Willard, then west along US 60 to its junction with I-25 [~~at Bernardo~~].

G. AMU 7: Beginning on US 550 at the western boundary of the Jicarilla Apache Indian reservation, then north along the Jicarilla Apache Indian reservation to the New Mexico/Colorado state line, then east along the New Mexico/Colorado state line to its junction with the Carson national forest **northeast of Chama**, then [~~southward~~] **south** along the western boundary of the Carson national forest to its convergence with US 84 **near Cebolla**, then south along US 84 to its junction with NM 96 **northwest of Abiquiu**,

then [~~southwesterly~~] **southwest** along NM 96 to its junction with US 550 **north of Cuba**, then [~~westerly~~] **west** along US 550 to its junction with the western boundary of the Jicarilla Apache Indian reservation.

H. AMU 8: Beginning at the junction of I-25 and US 550 at Bernalillo, then [~~northeasterly~~] **northwest** along US 550 to its junction with NM 96 **north of Cuba**, then [~~northeasterly~~] **north-east** along NM 96 to its junction with US 84 **northwest of Abiquiu**, then south along US 84 to its junction with US 84/285 at [~~Espanola~~] **Espanola**, then south along US 84/285 to its junction with I-25 at Santa Fe, then [~~southwesterly~~] **southwest** along I-25 to its junction with US 550 [~~at Bernalillo~~].

I. AMU 9: Beginning at the junction of NM 36 and the [~~Catron and Cibola~~] **Catron-Cibola** county line **north of Quemado**, then south along NM 36 to its intersection with US 60 **east of Quemado**, then west along US 60 to its intersection with NM 32 **at Quemado**, then south along NM 32 to its junction with NM 12 **north-east of Reserve**, then east along NM 12 to its intersection with the continental divide, then north along the continental divide to its intersection with the Cibola national forest at the Saw Tooth mountains **east of Pie Town**, then north along the Cibola national forest boundary to its intersection with the Catron/ Socorro county line, then north along the Catron/ Socorro county line to its intersection with the Cibola county line, then west along the [~~Cibola~~] **Cibola-Catron** county line to its intersection with NM 36.

J. AMU 10: Beginning at the junction of the New Mexico/Arizona state line and the [~~Catron and Cibola~~] **Catron-Cibola** county line, then north along the New Mexico/Arizona state line to its junction with I-40 **west of Gallup**, then east along I-40 to its intersection with NM 53 near Grants, then south and west along NM 53 to its junction with the continental divide, then south along the continental divide to its junction with the [~~Cibola and Catron~~] **Cibola-Catron** county line, then west along the [~~Cibola and Catron~~] **Cibola-Catron** county line to its junction with the New Mexico/Arizona state line.

K. AMU 11: Beginning at the junction of the New Mexico/Arizona state line and the [~~Catron and Cibola~~] **Catron-Cibola** county line, then east along the [~~Catron and Cibola~~] **Catron-Cibola** county line to its intersection with NM 36, then south along NM 36 to its junction with US 60 **east of Quemado**, then west along US 60 to its junction with NM 32 **at Quemado**, then south along NM 32 to its junction with NM 12 **northeast of Reserve**, then west along NM 12 to its junction with US 180 **southwest of Reserve**, then north along US 180 to its intersection with the

New Mexico/Arizona state line, then north along the New Mexico/Arizona state line to its intersection with the ~~[Catron and Cibola]~~ **Catron-Cibola** county line.

L. AMU 12: Beginning at the intersection of I-25 and the rio salado ~~[drainage]~~ **north of Socorro**, then ~~[westerly]~~ **west** along the rio salado to its junction with the ~~[cañada]~~ **cañada** Bonita northwest of Riley, then north along the ~~[cañada]~~ **cañada** Bonita to its junction with the ~~[Socorro and Cibola]~~ **Socorro-Cibola** county ~~[lines]~~ **line**, then west along the ~~[Socorro]~~ **Socorro-Cibola** county line to its junction with the Catron county line, then south along the Catron-Socorro county line to its intersection with the Cibola national forest boundary, then ~~[westerly]~~ **west and south** along the Cibola national forest boundary to its intersection with the continental divide, then south along the continental divide to its intersection with US 60 **east of Pie Town**, then east along US 60 to its intersection with I-25 at Socorro, then north along I-25 to its intersection with the Rio Salado ~~[drainage]~~.

M. AMU 13: Beginning at the intersection of US 60 and NM 52 **east of Datil**, then south along NM 52 to its junction with NM 59, then west on NM 59 to its junction with USFS 150, then south along USFS 150 to its intersection with the ~~[Catron and Grant]~~ **Catron-Grant** county line, then west on the ~~[Catron and Grant]~~ **Catron-Grant** county line to its intersection with the New Mexico/Arizona state line, then north along the state line until it intersects with US 180 **west of Luna**, then ~~[easterly]~~ **east** along US 180 to its junction with NM 12 **southwest of Reserve**, then east along NM 12 to its intersection with the continental divide, then north along the continental divide to its intersection with US 60 **east of Pietown**, then east along US 60 to ~~[the]~~ **its** junction ~~[of US 60 and]~~ **with** NM 52.

N. AMU 14: Beginning at the intersection of the New Mexico/Arizona state line and the Grant- Catron county line, then east along the Grant-Catron county line to its intersection with USFS 150, then south along USFS 150 to its junction with NM 35, then south along NM 35 to its junction with NM 152, then west along NM 152 to its junction with US 180 **east of Silver City**, then west along US 180 to its junction with NM 90 **at Silver City**, then **south and west** along NM 90 until it intersects with the western boundary of the Burro ~~[mountain]~~ **mountains** portion of the Gila national forest, then north along the Gila national forest boundary until it intersects the Gila river, then west along the Gila river until it intersects the New Mexico/Arizona state line, then north along the state line until its junction with the Grant-Cibola county line.

O. AMU 15: Beginning at

the intersection of I-10 and I-25 **at Las Cruces**, then north along I-25 to its junction with NM 152, then west along NM 152 to its junction with US 180 **east of Silver City**, then south along US 180 to its intersection with I-10 **at Deming**, then east along I-10 to its intersection with I-25.

P. AMU 16: Beginning at the intersection of I-10 and NM 11 **at Deming**, then south along NM 11 to the US/Mexico border **near Columbus**, then west along the US/Mexico border to its intersection with the New Mexico/Arizona state line, then north along the New Mexico/Arizona state line to its intersection with the Gila river, then east along the Gila river to its intersection with the **western boundary of the Burro** ~~[mountain]~~ **mountains** portion of the Gila national forest, then south along the forest boundary to its intersection with NM 90, then east **and north** along NM 90 to its intersection with US 180 **at Silver City**, then south along US 180 to its intersection with I-10.

Q. AMU 17: Beginning at the intersection of I-25 and US 70 **at Las Cruces**, then east along US 70 to its intersection with the White Sands missile range (WSMR) boundary **east of Organ**, then north along the WSMR boundary to its ~~[north-west]~~ **northwest** corner, then west along the township 5S and 6S boundary to its intersection with the Bosque del Apache national wildlife refuge, then north along the refuge boundary to its intersection with I-25 **near San Antonio**, then south along I-25 to its intersection with US 70.

R. AMU 18: Beginning at the intersection of ~~[WSMR S. Route 41]~~ **Socorro county road B175** and NM 55 **at Gran Quivira**, then south along ~~[WSMR S. Route 41]~~ **Socorro county road B175 to its junction with Socorro county road A175, then south along Socorro county road A175** to its junction with US 380 **at Bingham**, then east along US 380 to its intersection with the WSMR boundary; then west along the WSMR boundary to its ~~[north-west]~~ **northwest** corner, then west along the Township 5S and 6S boundary line to its intersection with the Bosque del Apache national wildlife refuge, then north along the refuge boundary to its intersection with I-25 **near San Antonio**, then north along I-25 to its junction with US 60 **at Bernardo**, then east along US 60 to its junction with NM 55 **at Mountainair**, then south along NM 55 to its junction with ~~[WSMR S. Route 41]~~ **Socorro county road B175**.

S. AMU 19: The White Sands missile range.

T. AMU 20: Beginning at the intersection of US 60 and I-25 **at Socorro**, then south along I-25 to its junction with NM 52, then north along NM 52 to its junction with US 60, then east along

US 60 to its junction with I-25.

U. AMU 21: Beginning at the intersection of NM 52 and I-25 **north of Truth or Consequences**, then south along I-25 to its intersection with NM 152, then west along NM 152 to its intersection with NM 35, then north along NM 35 to its intersection with USFS 150, then north along USFS 150 to its junction with NM 59, then east ~~[on]~~ **along** NM 59 to its junction with NM 52, then south ~~[on]~~ **along** NM 52 to its intersection with I-25.

V. AMU 22: Beginning at the intersection of I-10 and I-25 **at Las Cruces**, then south along I-10 to its intersection with the ~~[Texas/New Mexico border]~~ **New Mexico/Texas state line**, then west along the New Mexico/Texas state line to its intersection with the US/ Mexico border, then west along the US/Mexico border to its intersection with NM 11 **near Columbus**, then north along NM 11 to its junction with I-10 **at Deming**, then east along I-10 to its intersection with I-25.

W. AMU 23: ~~[Start]~~ **Beginning** at the intersection of US 285 and US 60 at Vaughn, then east along US 60 to the intersection of US 60 and NM 20 at Fort Sumner, then south along NM 20 to the intersection of NM 20 and ~~US 285. Then]~~ **US 285, then** north along US 285 to US 60.

X. AMU 24: ~~[Start]~~ **Beginning** at the intersection of I-40 and NM 3 **east of Clines Corners**, then east along I-40 to the intersection of I-40 and US 84 ~~[at]~~ **east of** Santa Rosa, then south along US 84 to the intersection of US 84 and US 60 at Fort Sumner, then west along US 60 to the intersection of US 60 and NM 3 **at Encino**, then north along NM 3 to I-40.

Y. AMU 25: ~~[Start]~~ **Beginning** at the intersection of US 84 and I-40 **east of Santa Rosa**, then east along I-40 to the intersection of I-40 and NM 209 **at Tucumcari**, then south along NM 209 to the junction of NM 209 and NM 268, then south along NM 268 to the junction of NM 268 and US 60/84 at Melrose, then west along US 60/84 to Fort Sumner, then north along US 84 to ~~[Santa Rosa]~~ **it's intersection with I-40**.

Z. AMU 26: ~~[Start]~~ **Beginning** at the intersection of US 285 and US 82 **at Artesia**, then east along US 82 to the ~~[New Mexico]~~ **New Mexico/Texas** state line, then south along the ~~[NM]~~ **New Mexico/Texas** state line to NM 128 **east of Jal**, then west **along NM 128** to NM 31, then west along NM 31 to US 285 **north of Loving**, then north along US 285 to US 82.

AA. AMU 27: ~~[Start]~~ **Beginning** at the intersection of US 380 and NM 172 **west of Caprock**, then east along US 380 to the ~~[New Mexico]~~ **New Mexico/Texas** state line, then south along the ~~[NM]~~ **New Mexico/Texas** state line to

US 82, then west along US 82 to **NM 249 at Maljamar, then north along NM 249 to NM 172**, then north along NM 172 to US 380.

BB. AMU 28: [Start] **Beginning** at the intersection of US 62/180 and US 285 at Carlsbad, then south on US 285 to NM 31 **north of Loving**, then east on NM 31 to NM 128, then east on NM 128 to the [~~New Mexico~~] **New Mexico/Texas** state line, then south and west along the [~~NM~~] **New Mexico/Texas** state line to US 62/180, then north along US 62/180 to US 285.

CC. AMU 29: [Start] **Beginning** at the intersection of [~~White Sands missile range boundary~~] **US 54** and NM 506 **north of Orogrande**, then east along NM 506 to Cornucopia canyon road **at Piñon**, then south along Cornucopia canyon road to the [~~NM-TX~~] **New Mexico/Texas** state line, then west along the [~~NM-TX~~] **New Mexico/Texas** state line to **the** White Sands [~~missile~~] **missile** range boundary, then north along **the** White Sands [~~missile~~] **missile** range boundary to **a point directly west of the intersection of US 54 and NM 506, then east to the intersection of US 54 and NM 506.**

DD. AMU 30: [Start] **Beginning** at the intersection of NM 506 and NM 24 at [~~Pinyon~~] **Piñon**, then [~~north~~] **northeast** along NM 24 to US 82, then east along US 82 to US 285 at Artesia, then south along US 285 to US 62/180 at Carlsbad, then south along US 62/180 to the [~~New Mexico~~] **New Mexico/Texas** state line, then west along the [~~NM~~] **New Mexico/Texas** state line to [~~NM 506~~] **Cornucopia canyon road**, then north along [~~NM 506 and~~] **Cornucopia canyon road** to NM 24.

EE. AMU 31: [Start] **Beginning** at the intersection of US 60 and NM 267 in Melrose, then east along US 60 to the [~~New Mexico~~] **New Mexico/Texas** state line, then south along the [~~NM~~] **New Mexico/Texas** state line to US 380 **east of Tatum**, then west along US 380 to Lea county road 156 **near Caprock**, then north along Lea county road 156 to Reserve road, and north along Reserve road to NM 440, then north along NM 440 to US 70 at Elida, then north **from Elida** along NM 330 [~~and~~] **to NM 267, then north along NM 267 to US 60 [at Melrose].**

FF. AMU 32: [Start] **Beginning** at the intersection of NM 20 and US 60 **at Fort Sumner**, then east along US 60 to NM 267 in Melrose, then south along NM 267 [~~and~~] **to NM 330, then south along NM 330 to US 70 at Elida**, then [~~west~~] **southwest** along US 70 to US 285 **at Roswell**, then north along US 285 to NM 20, [~~and~~] then north along NM 20 to US 60 [~~at Fort Sumner~~].

GG. AMU 33: [Start] **Beginning** at the intersection of US 285 and

US 70 at Roswell, then northeast along US 70 to NM 440 at Elida, then south along NM 440, Reserve road **and** Lea county road 156 [~~and NM 172 to US 82~~] **to US 380 near Caprock, then west along US 380 to NM 172, then south along NM 172 to NM 249, then south along NM 249 to US 82 at Maljamar**, then west along US 82 to US 285 at Artesia, then north along US 285 to US 70.

HH. AMU 34: [Start] **Beginning** at the intersection of US 70/380 and NM 368 **at Tinnie**, north along NM 368 to NM 246, then east along NM 246 to US 285 at Roswell, then south on US 285 to US 82 at Artesia, then west along US 82 to Picacho road, then north along Picacho road to US 70/380, **then west along US 70/380 to NM 368.**

II. AMU 35: [~~Start at White Sands missile range boundary~~] **Beginning at the intersection of US 54 and US 380 at Carrizozo**, then east along US 380 to [~~NM 37~~] **NM 48 at Capitán**, [~~then south along NM 37 to NM 48~~], then south along NM 48 to US 70 at Ruidoso, then east along US 70 to Picacho Road, then south along Picacho Road to US 82, then west along US 82 to NM 24, then south along NM 24 to [~~Pinon then south along Cornucopia canyon road to NM 506~~] **NM 506 near Piñon**, then west along NM 506 to **US 54, then continue west to the** White Sands [~~missile~~] **missile** range boundary, then north along **the** White Sands missile range boundary to **US 54 near Oscuro, then north along US 54 to US 380 [at Carrizozo].**

JJ. AMU 36: [Start] **Beginning** at the Torrance/Socorro county line on NM 55 at Gran [~~Quivera~~] **Quivera**, then east along the [~~Torrance~~] **Torrance-Socorro county line, continuing east along the Torrance-Lincoln county line to US 54 at Corona**; then south along US 54 to [~~Oscuro~~] **Oscuro**, then north along the White Sands missile range boundary to US 380; then west along US 380 to [~~WSMR S. Route 41~~] **its junction with Socorro county road A175 at Bingham**, then [~~east and north along WSMR S. Route 41 to~~] **north along Socorro county road A175 to its junction with Socorro county road B175, then north along Socorro county road B175 to its junction with NM 55 [at Gran Quivera].**

KK. AMU 37: [Start] **Beginning** at the intersection of US 54 and US 60/285 **west of Vaughn**, then east on US 60/285 to US 285 in Vaughn, then south along US 285 to NM 246 at Roswell, then west along NM 246 to NM 368, then south along NM 368 to US 70/380 at Tinnie, then west along US 70/380 and **continuing west along US 70 to NM 48 at Ruidoso**, then west and north along NM 48 to US 380 at Capitán, then west along US 380 to US 54

at Carrizozo, then north along US 54 to US 60/285.

LL. AMU 38: [~~Start~~] **Beginning** at the intersection of NM 55 and US 60 at Mountainair, then east along US 60 to US 54 **west of Vaughn**, then south along US 54 to the Torrance-Lincoln county line at Corona, then west along the [~~Torrance~~] **Torrance-Lincoln county line, continuing west along the Socorro-Torrance county line to NM 55 at Gran [Quivera] Quivera**, then north along NM 55 to US 60.

MM. AMU 39: Beginning at the junction of US 60 and NM 41 west of Willard, then north along NM 41 to its junction with I-40 at Moriarty, then east along I-40 to its junction with NM 3 east of Clines Corners, then south along NM 3 to its junction with US 60 near Encino, then west along US 60 to its junction with NM 41 [~~west of Willard~~].

NN. AMU 40: Beginning at the intersection of I-40 and the New Mexico/Texas state line **east of Tucumcari**, then west along I-40 to the junction of NM 209 at Tucumcari, then south along NM 209 to the junction of NM 268, then south along NM 268 to the junction of [~~US 64/80~~] **US 60/84** at Melrose, then east along US [~~64/80 to the intersection of US 64/80 and the~~] **60/84 to the** New Mexico/Texas state line, then north along the New Mexico/Texas state line to its intersection with I-40.

OO. AMU 41: Beginning at the intersection of I-40 and **the** New Mexico-Texas state line **east of Tucumcari**, then west along I-40 to its junction with NM 104 at Tucumcari, then west along NM 104 to [~~the~~] **its** intersection [~~of San Miguel-Harding~~] **with the Quay-San Miguel county line**, then east and north along **the Quay-San Miguel county line, continuing northwest along the San Miguel-Harding county line to its intersection [of] with the** David Hill escarpment, then north along **the** escarpment to its intersection with NM 120, then north along NM 120 to its intersection with [~~Harding Union county line, then along county line to its intersection with~~] US 56, [~~just west~~] **east** of Gladstone, then east along US 56 to its intersection [~~of US 87 at Clayton, then east along US 87 to the intersection of US 87 and New Mexico-Texas~~] **with the New Mexico/Texas** state line, then south along **the New Mexico/Texas** state line to its intersection with I-40 [~~east of Tucumcari~~].

PP. AMU 42: Beginning at the junction of I-25 and NM 104 at Las Vegas, then east along NM 104 to its intersection with [~~US 54~~] **I-40** at Tucumcari, [~~then west along US 54 to its junction with I-40 at Santa Rosa~~], then west along I-40 to its intersection with NM 3 **east of Clines Corners**, then north along NM 3 to its intersection with I-25 [~~at Romeroville~~] **east of**

San Jose, then north along I-25 [~~north~~] to its intersection with NM 104 [~~at Las Vegas~~].

QQ. AMU 43: Beginning at the junction of I-40 and I-25 in Albuquerque, then northeast along I-25 to its junction with NM 3 [~~between Santa Fe and Las Vegas~~] east of San Jose, then south along NM 3 to its junction with I-40 east of Clines Corners, then west along I-40 to its junction with I-25.

RR. AMU 44: Beginning at intersection of NM 104 and [~~I-40 at Tucumcari~~] the Quay-San Miguel county line north of Tucumcari, then west along NM 104 to its junction with NM 419, then northeast along NM 419 to its junction with NM 39, then south along NM 39 to the San Miguel-Harding county line north of Mosquero, then southeast along the San Miguel-Harding county line, continuing south then west along the Quay-San Miguel county line to its junction with NM 104 [~~and I-25 at Tucumcari~~].

SS. AMU 45: Beginning at the intersection of US 56 and NM 39 at Abbott, then south along NM 39 to its junction with NM 120 at Roy, then west along NM 120 to its intersection with the Canadian river, then [~~following~~] south along the Canadian river [~~south~~] to its junction with NM 419, then northeast along NM 419 to its junction with NM 39 [~~at Mosquero, then east~~] then south along NM 39 to its junction with the San Miguel-Harding county line west of Mosquero, then southeast along the San Miguel-Harding county line to its intersection [~~of~~] with the David Hill escarpment, then north along the escarpment to its [junction] intersection with NM 120, then north along NM 120 to its intersection with US 56 east of Gladstone, then west along US 56 to its intersection with NM 39 [~~at Abbott~~].

TT. AMU 46: Beginning at the junction of I-25 and NM 120 at Wagon Mound [~~and running~~] then northwest along NM 120 to its junction with [~~NM 434, near black lake, then north on NM 434 to Carson national forest road 76 and the forest boundary, then south following Carson national forest boundary to Santa Fe national forest boundary at Holman hill, then south along Santa Fe national forest boundary to Tecolote land grant boundary, thence south along the Tecolote land grant boundary to~~] NM 442 at Ocate, then south along NM 442 to its intersection with NM 518 near La Cueva, then south along NM 518 to its intersection with I-25 at Las Vegas, then north along I-25 to [~~the junction of I-25 and~~] NM 120 [~~at Wagon Mound~~].

UU. AMU 47: Beginning at the junction of I-25 and US 56 at Springer, then south along I-25 to its junction with NM 120 at Wagon Mound, then east along NM 120 to its junction with the Canadian

river, then northwest along the Canadian river to its junction with US 56, then west along US 56 to its junction with I-25 [~~at Springer~~].

VV. AMU 48: Beginning at the junction of I-25 and NM 21 at Springer, then south along I-25 to its junction with NM 120 at Wagon Mound, then west along NM 120 to [~~the town of~~] Ocate and the Santa Fe trail, then northeast along the Santa Fe Trail to its intersection with NM 21, then east along [~~NM 121~~] NM 21 to its junction with I-25 [~~at Springer~~].

WW. AMU 49: Beginning at the intersection I-25 and NM 120 at Wagon Mound, then east along NM 120 to its intersection with the Canadian river; then [~~southeast down~~] south along the Canadian river to its junction with [~~NM 104~~] NM 419 near Sabinoso, then south and west along 419 to its intersection with NM 104 [~~and~~] then west along NM 104 to its intersection [~~of~~] with I-25 [~~and NM 104~~] at Las Vegas, then north along I-25 to its intersection with NM 120 [~~at Wagon Mound~~].

XX. AMU 52: Beginning at the junction of US 64 and the eastern boundary of the Tierra Amarilla land grant [~~and running~~] then north along the eastern boundary of the grant to the [~~Colorado New Mexico~~] New Mexico/Colorado state line, then east along the New Mexico/Colorado state line to its intersection with the Rio Grande, then south along the Rio Grande to its junction with US 64, then west along US 64 to its junction the Tierra Amarilla land grant.

YY. AMU 53: Beginning at the junction of US 56 and the Canadian river east of Springer, then [~~southeasterly~~] southeast along the Canadian river to its junction with NM 120 west of Roy, then east along New Mexico 120 to its junction with NM 39 at Roy, then north along NM 39 to its junction with US 56 at Abbott, then west along US 56 to its junction with the Canadian river.

ZZ. AMU 54: Beginning at the junction of I-25 and US 64 south of Raton, then [~~along~~] southwest along a course parallel (at a distance of three miles) and north of US 64 to [~~the~~] its junction with NM 21 at Cimarron, then south and [~~then~~] east [~~following~~] along NM 21 to its junction with I-25 at Springer, then north along I-25 to its junction with US 64.

AAA. AMU 55: Beginning at the junction of US 56 and I-25 at Springer [~~and running~~] then north along I-25 to its junction with [~~US 64~~] US 64/87 at Raton, then east along [~~US 64~~] US 64/87 to its junction with the Colfax/Union county line, then south along the Colfax-Union county line to its intersection with US 56 east of Farley, then west along US 56 to its intersection with I-25 [~~at Springer~~].

BBB. AMU 56: Beginning at

the intersection of US 64/87 and the Colfax/Union county line [~~just~~] west of Capulin, then south along the Colfax-Union county line to its intersection with US 56 east of Farley, then east along US 56 to its intersection with [~~US 64~~] US 64/87 at Clayton, then west on [~~US 64~~] US 64/87 to its intersection with the Colfax/Union county line [~~west of Capulin~~].

CCC. AMU 57: Beginning at the junction of [~~US 64~~] US 64/87 and I-25 at Raton [~~and running~~] then north along I-25 to the [~~Colorado New Mexico~~] New Mexico/Colorado state line, then east along the New Mexico/Colorado state line to NM 551, then south along NM 551 to its junction with NM 456, then southwest along NM 456 to its junction with NM 325, then southwest along NM 325 to its junction with [~~US 64~~] US 64/87 at Capulin, then west along [~~US 64~~] US 64/87 to its junction with I-25.

DDD. AMU 58: Beginning at the junction of [~~US 64~~] US 64/87 and NM 325 at Capulin [~~and running~~] then northeast along NM 325 to its junction with NM 456, then northeast along NM 456 to its junction with NM 551, then north along NM 551 to [~~Colorado New Mexico~~] the New Mexico/Colorado state line, then east along the [~~Colorado New Mexico~~] New Mexico/Colorado state line to the [~~Oklahoma New Mexico~~] New Mexico/Oklahoma state line, then south along the [~~OK NM~~] New Mexico/Oklahoma state line to its intersection with [~~US 64~~] US 56/64 northeast of Clayton, then west along US 56/64 to its intersection with US 87 at Clayton, then west along [~~US 64~~] US 64/87 to its junction with NM 325 at Capulin.

[4-1-95, A, 4-30-99; 19.30.4.12 NMAC - Rn, 19 NMAC 30.4.12, 2-14-2001, A, 3-31-2003; A, 4-1-2005]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.6 NMAC, Section 11, effective date October 29, 2004.

19.30.6.11 PROCEDURES FOR CONDUCTING PREVENTIVE COUGAR CONTROL IN BIGHORN SHEEP RANGES.

A. The New Mexico department of game and fish will conduct preventive cougar control within bighorn sheep ranges in the Manzano, Ladrón, Peloncillo, Hatchet, Animas, Alamo Huevo, and San Andres mountains [~~for 5 years~~] beginning October 1, 1999 through October 31, 2007. Bighorn sheep ranges include: Mesa Sarca and the entire Ladrón mountains in game management unit 13

including the area along the Rio Salado west of the Sevilleta national wildlife refuge (NWR) border to the Riley road to include the area 3 miles north of the Rio Salado and 1 mile south of the Rio Salado; and an area south of the Sevilleta NWR to include Polvadera mountain and Socorro mountain in a line directly south of the southwest corner of the Sevilleta NWR to NM highway 60 and east on NM highway 60 to interstate 25 and north on interstate 25 to the southeast corner of the Sevilleta NWR and then west along the south border of the Sevilleta NWR to the southwest corner of the Sevilleta NWR, except that portion on the Sevilleta national wildlife refuge and except New Mexico tech property; that portion of the Manzano mountains in game management unit 14 from Commanche canyon south to US highway 60 and from the western base of the mountains east to the ridge comprised of Capilla, Osha and Manzano peaks and all of Sand, Priest and Abo canyons; all of the San Andres mountain range within Unit 19; and all of units 26 and 27.

B. The maximum number of cougars removed per year (October 1-September 30) from bighorn ranges will not be limited. Cougars taken from within the bighorn ranges by hunters during the sport harvest season will not be considered part of the harvest limit of the cougar zone in which the specific bighorn sheep range lies.

C. The department will obtain the services of houndsmen or trappers either from the department's depredation list or through private contract [to take up to the allowable number of cougars within the bighorn ranges that are not taken by hunters during the sport harvest season].

D. A decision to hunt with hounds or to use snares will be made by department personnel.

E. All cougars taken for preventive control will be reported to the department.

F. [At the conclusion of the 5 year period, an] An interim report on the first 2 years effective cougar control will be completed by March 31, 2005. An evaluation of the effectiveness of preventive control of cougars in improving the condition of the bighorn sheep populations will be made] completed by March 31, 2008. [5-14-99, 9-15-99; 19.30.6.11 NMAC - Rn, 19 NMAC 30.6.11, 2-14-01; A, 11-30-01; A, 08-15-02; A, 7-15-03; A, 10-29-04]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

This is an amendment to 19.30.7 NMAC, Section 9. Effective date is 4-1-2005.

19.30.7.9 QUALITY HUNT AREAS:

A. Elk

- (1) All Valle Vidal hunts.
- (2) First three mature bull hunts on the Sargent WMA.
- (3) Any elk hunt, except antlerless, closest to the rut period (September 15 to October 15) for each weapon type in game management units 15 and 16, including all sub-units.
- (4) The handicapped elk hunter hunts in sub-units 16A or 16D.

B. Deer

- (1) [The Salinas and Oscuras hunts.] All hunts in game management sub-unit 2C.
- (2) The third center fire rifle hunt in sub-unit 2B
- (3) All hunts in game management unit 17 [deer entry center fire rifle hunt.]
- (4) [The January center fire rifle hunt on White Sands missile range.] All hunts in game management sub-unit 5B.

- (5) All hunts in the Burro mountain hunt area of the Gila national forest in game management unit 23.
- (6) All hunts in game management unit 27.
- (7) All January bow hunts.

[10-31-95, 4-30-99; 19.30.7.9 NMAC - Rn & A, 19 NMAC 30.7.9, 02-14-2001; A, 4-1-2005]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

This is an amendment to 19.31.3 NMAC, Sections 6, 8, 9, 10 and 11. Effective date is 4-1-2005.

19.31.3.6 OBJECTIVE: Basic regulation, rules and procedures governing the issuance of special permits and licenses issued by the department pertaining to deer, elk, pronghorn antelope, turkey, oryx, ibex, javelina, and other species determined by the state game commission.

[4-1-95; 19.31.3.6 NMAC - Rn & A, 19 NMAC 31.3.6, 1-31-01; A, 4-1-05]

19.31.3.8 PUBLIC LICENSES AND PERMITS - APPLICATION FOR:

A. Application form:

Application for all public licenses and permits shall be made on the standard application form provided by the department of game & fish.

B. Application dead-

line(s): Applications for all [depredation] population reduction hunts, turkey, pronghorn antelope, elk, bighorn sheep,

bear entry, deer entry, oryx, javelina, [bison,] and ibex hunts must be received, in the Santa Fe office only, by 5:00 p.m. on dates set by the state game commission.

C. Mailed application

deadline: Mailed applications postmarked, but not delivered by the deadline date, will be accepted by the Santa Fe office up to five (5) working days after that deadline.

D. One applicant per

application: No more than one (1) person may apply under each application number for bighorn sheep, bear entry, ibex, [bison, depredation] population reduction hunts and game management sub-unit 6B (Valles Caldera national preserve).

E. Two applicants per

application: No more than two (2) persons may apply under the same application number for turkey and oryx.

F. Four applicants per

application: No more than four (4) persons may apply under the same application number for deer entry, elk, pronghorn antelope, and javelina.

G. Resident and non-res-

ident application combination: Any mixture or combination of residents and non-residents may make application for special drawing providing the number of applicants does not exceed the restriction of this section (subsection D, E or F).

H. Applications rejected:

Applications for licenses may be rejected by the department if an applicant did not:

- (1) apply on the proper form as designated by the director;
- (2) submit the correct or required information;
- (3) submit the correct license or application fee, and any other required fee;
- (4) meet the deadline date;
- (5) comply with a current statute or rule, or did not submit valid written landowner permission when specified by rule.

I. More applications

than permits: If more applications for public licenses or permits are received than there are licenses or permits available, the available licenses or permits shall be allotted by means of a public drawing.

J. Increase in licenses or

permits: The number of licenses or permits available may be increased to accommodate corrections or errors by the department which result in the addition of names to the successful list.

K. Additional choices:

Applicants for public licenses may designate additional choices for hunt periods. No additional choices may be made for hunt codes designated as unlimited as defined in 19.31.8 NMAC.

L. Application cate-

gories: Applications for special drawing hunts will be placed into the appropriate

categories, as specified in 17-3-16 NMSA 1978 by department personnel or their designee. Special drawings shall continue to draw applicants from the appropriate drawing pool progressively for each respective hunt code, starting with first choice applicants, then proceeding to second and subsequent choice applicants until the quota has been met or the pool of applicants has been exhausted.

M. Resident and non-resident applicants:

(1) A non-resident applicant must have a valid outfitter registration number on his or her application to be placed in the separate pool designed for guided hunts.

(2) For an application to be successfully drawn, there must be a sufficient number of licenses or permits available for that hunt code to accommodate all applicants from their respective drawing pools.

(3) Any licenses left over from the appropriate drawing pool will be allocated as prescribed in Paragraph C of Section 17-3-16 NMSA 1978 Compilation.

N. Valles Caldera national preserve or VCNP- requirements and procedures for determination of access authorization holders.

(1) The department shall issue elk hunting licenses only to persons holding a valid VCNP elk hunting access authorization in accordance with 17-3-16 NMSA.

(2) Prior to the department issuing any elk hunting licenses to persons holding a valid VCNP elk hunting access agreement, the VCNP must provide to the department, written verification from the contractor conducting the drawing process to determine the holders of VCNP elk hunting access authorizations, that the provisions of 17-3-16B, C and D NMSA have been met with respect to all authorizations issued.

(3) The VCNP shall utilize a contractor to conduct the drawing that determines the holders of any VCNP elk hunting access authorization. The contractor must be approved by the department prior to the drawing process conducted in accordance with paragraph 1 and 2 if this subsection.

O. Off-range population reduction hunts for oryx. Only applicants with even numbered birth year may apply during even numbered license years and only applicants with odd numbered birth year may apply during odd numbered license years.

[4-1-95, A, 10-14-95, A, 9-14-96, 10-15-96, 5-31-97, 12-31-97, 2-28-98; 19.31.3.8 NMAC - Rn & A, 19 NMAC 31.3.8, 1-31-01, A, 12-28-01, A, 11-27-02; A, 11-26-03; A, 4-1-05]

19.31.3.9

PRIVATE LAND -

PRONGHORN ANTELOPE AND ELK LICENSES

A. No application deadline: Private land licenses for elk and pronghorn antelope will be issued without an application deadline.

B. Issuance of licenses: Licenses will be issued, in person or by mail, out of the Santa Fe, Albuquerque, Las Cruces, Roswell, and Raton offices.

C. Maximum number of licenses: Licenses will be issued only up to the number of licenses allotted for each ranch and only to persons who submit a properly completed form and the appropriate fees.

D. No authorizations issued: No authorizations for elk licenses shall be issued to landowners in game management units where specific limits to licenses are not set.

E. Pronghorn antelope landowner system:

(1) The deadline for new landowner sign-ups and changes to existing data is February 1.

(2) Sign-up requirements: Landowners wanting to apply for private land pronghorn antelope authorizations must submit: 1) Warranty deed of the property; 2) Most recent tax receipt for the property; 3) A map which outlines and provides the boundary locations of the property.

(3) All signed pronghorn antelope hunt contracts must be received in the Santa Fe office by June 8.

F. Private land elk license allocation: The private land elk license allocation system may be found in [Title 19, Chapter 30, Part 5] **19.30.5 NMAC.**

[4-1-95, A, 12-31-97; 19.31.3.9 NMAC - Rn & A, 19 NMAC 31.3.9, 1-31-01; A, 4-1-05]

19.31.3.10 DEER [LICENSE] PERMIT VALIDATIONS

[A. Sporting arms validations: Whenever a license vendor issues a deer license, the vendor shall mark the hunter's selection of sporting arms type.

(1) Licenses validated for rifle shall be validated for hunting deer with modern sporting arms during seasons for modern sporting arms. Licenses validated for bow shall be valid for hunting deer with bows and arrows during seasons for bow deer hunting. Licenses validated for muzzle loaders shall be valid for hunting deer with muzzle loaders during seasons for muzzle loader deer hunting.

(2) It shall be unlawful for anyone to hunt deer with any sporting arms type other than that for which his/her license is validated.

B. D-hunt season validations: Whenever a license vendor issues a

deer license validated for rifle, the vendor shall mark on it the hunter's D-hunt season as defined in Title 19, Chapter 31, Part 8. It shall be unlawful for anyone to hunt deer in any deer season other than that for which his/her license is validated.

C. Game management unit (GMU) validations: Whenever a license vendor issues a deer license, the vendor shall mark the hunter's selection of one of the (GMU's) described in Title 19, Chapter 30, Part 4. It shall be unlawful for anyone to hunt deer in any (GMU) other than that for which his/her license is validated, except as allowed by state game commission rule(s).

A. Hunt code validations: Whenever a license vendor issues a private land deer permit, the vendor shall indicate on the permit the hunter's selection for a DER hunt code as listed in 19.31.8 NMAC. The hunt code indicated shall be one listed for draw deer hunts both within the GMU and for the specific sporting arms type. Vendors shall not validate private land deer permits with hunt codes for deer hunts on wildlife management areas. Private land only hunt codes are established for these GMU's in 19.31.8 NMAC.

~~[D.]~~ **B. Change of validation:** No one other than a department representative, a law enforcement designee or a department license vendor may change the [sporting arms, D-hunt, or (GMU) selection(s)] **hunt code validation** marked on any deer [license] **permit**. Such changes must be made on the face of the [license] **permit**, using a special stamp supplied by the department. No [sporting arms, D-hunt, or (GMU)] changes **in the hunt code** may be made after the start of the first deer season for which the [license] **permit** is validated. Permits issued through the draw system are not eligible for validation changes.

[4-1-95, A, 1-29-99; 19.31.3.10 NMAC - Rn & A, 19 NMAC 31.3.10, 1-31-01, A, 11-27-02; A, 4-1-05]

19.31.3.11 RESTRICTIONS:

A. One license per big game species per year: It shall be unlawful for anyone to hold more than one permit or license for any one big game species during the current license year unless otherwise allowed by rule.

B. Valid dates of license or permit: All permits or licenses shall be valid only [during the dates specified and only in the area which is specified] **for the specified dates, legal sporting arms, bag limit and area.** Except that a permit or license will be valid on the contiguous deeded land of private property that extends into an adjacent GMU or AMU, that is open to hunting for that species, when the license

holder is in possession of current, valid written permission from the appropriate landowner. This exception shall only apply when the adjacent unit has the same restrictions as to weapon type, bag limit, season dates and license availability.

C. Rocky Mountain bighorn sheep - once-in-a-lifetime hunts: It shall be unlawful for anyone to apply for a Rocky Mountain bighorn sheep license (except ewe licenses and youth only hunts) if one has previously held a license to hunt Rocky Mountain bighorn sheep in New Mexico. Exception: [Any resident, nonresident, or alien is eligible to submit a bid for the special bighorn permit S-1-488 (auction permit) and S-1-490 (lottery permit) regardless if he/she has previously held a permit to hunt Rocky Mountain or desert bighorn sheep in New Mexico.

D. Desert bighorn sheep - once-in-a-lifetime: It shall be unlawful for anyone to apply for a desert mountain bighorn sheep license if one has previously held a license to hunt desert mountain bighorn sheep in New Mexico. Exception: [~~Any resident, nonresident, or alien~~] **An applicant** is eligible to submit a bid for the special bighorn [~~permit S-1-488 (auction permit) and S-1-490 (lottery permit) regardless if~~] **auction and raffle licenses whether or not** he/she has previously held a [~~permit~~] **license** to hunt Rocky Mountain or desert bighorn sheep in New Mexico.

~~[E. Rocky Mountain and desert bighorn sheep: It shall be unlawful to apply for both Rocky Mountain and desert bighorn sheep licenses in the same license year.]~~ **RESERVED.**

F. [~~Trophy~~ ibex] Ibex - once-in-a-lifetime: It shall be unlawful for anyone to apply for a [~~trophy~~] **once in a lifetime** ibex license if he/she ever held [~~a license or authorization to purchase~~] **a once in a lifetime** license to hunt [~~trophy~~] ibex. **Youth ibex hunts, year-round off-mountain hunts, and hunts for female or immature (FIM) ibex, as designated in 19.31.8 NMAC, are not once-in-a-lifetime hunts.**

G. Oryx - once-in-a lifetime: It shall be unlawful, beginning April 1, 1993, for anyone to apply for an oryx license if he/she ever held a "once-in-a-lifetime" license to hunt oryx. Exception: Depredation **population reduction** oryx hunts, youth oryx hunts and incentive hunts are not once-in-a-lifetime hunts.

H. Valle Vidal (as described in 19.30.4.11(A) NMAC):

(1) [~~It shall be unlawful for anyone to apply for a license of a species in the Valle Vidal if he/she ever held a license for that species in Valle Vidal area since 1983.~~] Exceptions: A person who had held a rifle license for a mature bull elk may apply for an antlerless elk license and vice versa,

~~and a person who has held a Valle Vidal license issued through the incentive authorization program.]~~ **It shall be unlawful for anyone to apply for a license to hunt bull elk on the Valle Vidal if he/she has ever held a license allowing them to take a bull elk on the Valle Vidal since 1983. This restriction applies to all licenses valid for a bag limit of mature bull (MB), either sex (ES) or mature bull/antlerless (MB/A). It shall be unlawful for anyone to apply for a license to hunt antlerless elk on the Valle Vidal if he/she has ever held a Valle Vidal elk license valid for a bag limit of antlerless since 1983. Either sex (ES) or mature bull/antlerless (MB/A) shall not be considered as an "antlerless" license for this restriction. Persons who have held a Valle Vidal elk license through any incentive program are exempt from this restriction.**

(2) It shall be unlawful to hunt bear [~~in~~] **on** the Valle Vidal [~~area~~] except for properly licensed bear hunters that possess a Valle Vidal elk hunting muzzleloader, **bow**, or rifle license and only during the dates of the elk hunt specified. [~~No dogs shall be allowed to hunt bear on the Valle Vidal.]~~ **Use of dogs shall not be allowed for bear hunting on the Valle Vidal.**

I. Transfer of permits [~~of~~] or licenses: It shall be unlawful to transfer permits or licenses to other persons, areas, or other hunt periods except as permitted by regulation adopted by the state game commission.

J. Refunds will not be made for any license or permit after it has been awarded or issued **except as permitted by regulation adopted by the state game commission.**

K. More than one application: It shall be unlawful to submit more than one application per species for any license issued through a special drawing, unless otherwise permitted by regulation. Exception: [(+) An individual may apply for both a population reduction hunt on public or private land and a special drawing hunt. [(2) An individual applying for game management sub unit 6B (Valles Caldera national preserve) must submit a separate application form containing hunt codes for this area. Nothing in this exemption shall prevent an applicant from applying for other public hunt codes within the state during the same license year.] However, an applicant shall follow the application procedures outlined in 19.31.3.8 NMAC.

L. Deer [~~entry~~] hunts: It shall be unlawful for any [~~deer entry hunter to hunt during any other deer season~~] **person who is issued a deer hunting permit:**

(1) **to hunt with any sporting arms type other than that for which his/her deer permit is validated;**
(2) **to hunt during any season**

other than that for which his/her deer permit is validated;

(3) **to hunt in any GMU other than that for which his/her deer permit is validated;**

(4) **to hunt deer on public land in any GMU with a private land deer permit; or**

(5) **to hunt private property without possessing a valid deer permit, the proper deer license and written permission.**

M. Handicapped fishing or handicapped general hunting license qualifications: To hold a handicapped fishing or handicapped general hunting license, the individual must be a resident of New Mexico and must show proof of a severe disability by reason of one or more physical disabilities resulting from amputation, arthritis, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, and end-stage renal disease, or who has a combination of permanent disabilities which cause comparable substantial functional limitation. Reasonable accommodation will be made, relating to these licenses, upon request.

N. Handicapped elk or antelope license qualifications: To hold a handicapped elk or antelope license, any individual must show proof of a permanent mobility restriction which limits their activity to a walker, wheelchair, or two crutches, or severely restricts the movement in both arms or who has a combination of permanent disabilities which cause comparable substantial functional limitation.

O. [~~Bison once in a lifetime:~~ It shall be unlawful for anyone to apply for a bison license if he/she ever held a license or authorization to purchase a license to hunt bison] **One deer permit per year: It shall be unlawful for anyone to hold more than one deer permit during the current license year.**

P. Youth hunts: Only applicants who have not reached their 18th birthday by the opening day of the hunt are eligible to apply for or participate in a youth only hunt. **Applicant for firearm hunts must provide hunter education certificate number on application.**

Q. Bear entry hunt: It shall be unlawful to hunt bear **in designated wildlife areas** without having a valid bear entry permit and a valid license in the [~~hunters~~] **hunter's** possession [~~in designated wildlife areas~~]. Bear entry hunters shall be allowed to hunt any other bear hunt provided they have a valid license and tag.

R. An individual making license application shall supply the department on the appropriate form with all

required personal information including, but not limited to [~~i.e. name, address, date of birth, social security number etc.~~] **name, address, date-of-birth, last four digits of his/her social security number** prior to an application form being processed or a license being awarded.

S. GMU 4 and 5A private land only hunts: Deer hunt applicants in GMUs 4 and 5A must obtain a special application from landowner. GMU 4 and 5A landowners may be required to provide proof of land ownership to obtain special application forms.

T. Military only hunts: Applicants must be full time active military and proof of military status must accompany application.

U. It shall be unlawful to hunt pheasant in Valencia county without possessing a valid pheasant permit, the proper license and written permission.

(1) Exception: A hunter with a Valencia county pheasant north hunt or south hunt area permit is not required to have written permission for these specific hunt areas.

(2) It is unlawful for a hunter that successfully draws a Valencia county pheasant north hunt or south hunt to hunt any other area or property outside of the designated hunt area in Valencia county that same season.

[4-1-95, 10-14-95, 10-31-97; Rn, 19 NMAC 31.3.7, 2-28-98, A, 12-29-99, A, 5-14-99 A, 7-15-99, A, 10-15-99; 19.31.3.11 NMAC - Rn & A, 19 NMAC 31.3.11, 1-31-01, A, 12-14-01; A, 12-28-01, A, 11-27-02; A, 11-26-03; A, 4-1-05]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.8 NMAC, Section 30, effective October 29, 2004

19.31.8.30 PERSIAN IBEX (2004-2005):

A. Persian ibex hunts shall be as indicated below, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas. The portion of GMU 25 bounded by interstate 10 on the north, U.S.-Mexico border on the south, NM 11 on the west and the Dona Ana-Luna county line on the east is closed to cougar hunting during any concurrent Persian ibex hunt:

(1) Oct. 2 - 10, IBX-1-500, 2, F-IM, Florida mountains, (youth only, must be 17 years of age or younger and provide hunter education certification number on application).

(2) Dec. 4 - 19, IBX-1-525, 5, ES, Florida moun-

tains.

(3) Jan. 15 - 30, 2005, IBX-2-535, 5, ES, Florida mountains.

(4) Feb. 19 - 27, 2005, IBX-3-540, 5, ES, Florida mountains.

(5) April 1 - March 31, 2005, IBX-1-528, unlimited, ES, 20, 21, 23, 24, 25 (except Florida mountains), 26 **(including the Big Hatchet WMA)**, 27.

B. Holders of the off-mountain license (IBX-1-528) may apply for any on-mountain ibex hunt (IBX-1-500, IBX-1-525, IBX-2-535, or IBX-3-540) if they qualify. The off-mountain (IBX-1-528) license holders need only submit the \$6.00 application fee and their license number along with their application.

C. Any valid Persian ibex license shall be valid during the off-mountain (IBX-1-528) hunts.

D. Holders of an off-mountain (IBX-1-528) license have an unlimited number of tags available upon request at any department office. [19.31.8.30 NMAC - Rp 19.31.8.30 NMAC, 4-1-2003; A, 10-29-2004]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.10 NMAC, Sections 7, 15, 16, 17, 20 and 21. Effective date is 4-1-2005.

19.31.10.7 DEFINITIONS:

A. "Big game species" shall mean deer, bear, cougar, elk, **prong-horn** antelope (American pronghorn), Barbary sheep, bighorn sheep, javelina, oryx, **and** Persian ibex [~~Siberian ibex and Bison~~].

B. "Modern firearms" shall mean center-fire firearms, not to include any fully automatic firearms. Legal shotguns shall be only those shotguns capable of being fired from the shoulder.

C. "Muzzle-loader or muzzle-loading firearms" shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only blackpowder, Pyrodex or equivalent blackpowder substitute may be used. **Use of smokeless powder is prohibited.** Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.

D. "Restricted muzzle-loading rifle" shall mean any muzzle-loading rifle using open sights, black powder or equivalent and firing a single projectile. The use of in-line ignition, scopes, pelleted powder, smokeless powder and sabots is prohibited.

~~[D]~~ **E. "Bow"** shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.

~~[E]~~ **F. "Arrows"** shall mean only those arrows **or bolts** having broad-heads with steel cutting edges.

~~[F]~~ **G. "Trotline"** shall be synonymous with "set line" or "throw line" or "jug", and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.

~~[G]~~ **H. "Angling"** shall mean taking or attempting to take fish by hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

~~[H]~~ **I. "Spear fishing"** shall mean taking or attempting to take game fish with spears, jigs, and arrows with barbs that are discharged under the surface of the water.

~~[I]~~ **J. "Bait fish"** is defined as those nongame fish which are not otherwise protected by statute or regulation.

~~[J]~~ **K. "Chumming"** is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

~~[K]~~ **L. "Protected species"** shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 New Mexico Statutes Annotated 1978 Compilation;

(2) all animals defined as furbearing animals under Section 17-5-2 New Mexico Statutes Annotated 1978 Compilation;

(3) all animals listed as endangered species or subspecies as stated in regulation(s) set by the state game commission.

~~[L]~~ **M. "Retention"** or **"retain"** shall mean the holding of in captivity.

~~[M]~~ **N. "Established road"** is defined as follows:

(1) a road, built and/or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures;

(2) a two-track road completely void of vegetation in the tracks which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

~~[N]~~ **O. "Non-toxic shot"** shall mean shot approved for use by the U. S. fish and wildlife service.

~~[O]~~ **P. "Director"** shall mean the director of the New Mexico department of game and fish.

[P-] Q. "Baiting" shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take protected game mammals or game birds.

[Q-] R. "Nets" shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

[R-] S. "Barbless lure or fly" shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or man-made materials tied onto a hook to resemble or simulate insects, bait fish, or other foods. A fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, or rubber or plastic moldings of these or other foods are not included.

T. "Crossbow" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.

U. "Permanent mobility limitation" shall mean an individual that permanently has: restricted movement in both arms, or is restricted to the use of a walker, wheelchair, or two crutches to walk, or has a combination of disabilities that cause comparable substantial functional limitations.

[4-1-95; 1-15-97; 6-25-90; 1-29-99; 19.31.1.7 NMAC - Rn, 19 NMAC 31.1.7, 4-14-2000; 19.31.10.7 NMAC - Rn, 19.31.1.7 NMAC, 9-29-00; A, 4-1-03; A, 6-25-03; A, 4-1-05]

19.31.10.15 HUNTING:

A. Hours: Game species or turkey may be hunted or taken during open seasons only, and only during the period from one-half hour before sunrise to sunset.

B. Bag limit: It is unlawful for any person to hunt for or take more than one of any big game species during a current license year unless otherwise provided by regulation.

C. Tagging:

(1) Any license that permits the taking of any big game animal or turkey, dark goose in the middle Rio Grande valley or sandhill cranes in the middle Rio Grande valley, Estancia valley, and southwest; shall be issued with a tag bearing the name of the species.

(2) It shall be unlawful to possess more than one tag per big game species except as permitted by regulation.

(3) It shall be unlawful for any

licensee not to properly tag the animal as prescribed below:

(a) IMMEDIATELY after killing any big game species or turkey, dark goose in the middle Rio Grande valley or sandhill crane in the middle Rio Grande valley, Estancia valley, and southwest; the licensee killing the game shall notch the proper day and month of kill from the species tag.

(b) The tag shall be attached to the carcass of big game animals and turkey, dark geese harvested in the middle Rio Grande valley or sandhill cranes harvested in the middle Rio Grande valley, Estancia valley, and southwest; and the tag shall remain attached to the carcass while the carcass is in any vehicle, left unattended in the field, or while it is in camp or at a residence or other place of storage. The notched tag may be removed from the carcass while the carcass is being removed from the field to a camp or vehicle. In situations where numerous trips are required to remove the carcass from the field, the tag shall remain attached to that portion of the carcass left in a camp or vehicle.

(4) A species tag, when attached to the carcass of legally taken game, shall authorize possession and storage for the period designated on the tag.

D. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of big game species or turkey that are improperly tagged.

E. RESERVED.

F. Sealing of bighorn sheep horns

(1) A seal shall be affixed to a horn of every bighorn sheep head taken in New Mexico, imported into New Mexico, or found in the field in New Mexico subsequent to August 17, 1973. Bighorn sheep heads found in the field within New Mexico shall remain the property of the state until disposed of by permit from the director. The seal shall authorize possession and transportation of the head within New Mexico.

(2) Such sealing shall be done within ten (10) days after the bighorn sheep head is taken, imported, or found in the field and before the bighorn sheep head is exported from New Mexico. Bighorn sheep heads not so declared shall be seized. Only legally taken and possessed bighorn sheep heads shall be sealed.

(3) Bighorn sheep heads legally sealed in another state are exempted.

G. Proof of sex of game animals and turkey.

(1) It shall be unlawful for any one to transport or possess the carcass of any game animal or turkey without proof of sex until the carcass reaches the place where it will be consumed or placed in cold stor-

age.

(2) The antlers of any deer or elk and the horns of any **pronghorn** antelope, bighorn sheep, Barbary sheep, oryx or ibex taken shall remain attached to the skull. The scalp and both ears of females or immature males of those species shall accompany the carcass in a like manner.

(3) The external genitalia of any bear or cougar taken shall remain attached to the hide and be readily visible until the hide has been inspected and tagged by a department representative.

(4) The beard and a small patch of feathers surrounding the beard shall not be removed from any turkey taken when the bag limit is limited to a bearded turkey.

(5) The head or a leg of each pheasant taken must remain attached to the bird.

(6) One fully feathered wing must remain attached to all migratory game birds.

H. Use of dogs in hunting:

(1) Dogs may be used only to hunt bear and cougar during open seasons for those species.

(2) When dogs are used in pursuit of bear or cougar, the licensed hunter intending to harvest the bear must be present continuously once any dog is released.

(3) It shall be unlawful to use dogs to hunt any other big game species or turkey.

I. Use of baits or scents:

(1) It shall be lawful to take quail **and turkey** from any place or area where quail feeders occur on private property.

(2) It shall be unlawful for anyone to take or attempt to take any protected species by use of baits or scents as defined in Subsection P of 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

J. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any protected species.

K. Use of calling devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any protected species (except furbearers **and cougars**).

L. Killing out-of-season: It shall be unlawful to kill any protected species out-of-season.

M. Roost shooting: It shall be unlawful to shoot wild turkey from a tree or structure used for resting. [6-25-90; 11-18-92; 9-9-93; 4-1-95; A, 10-14-95; A, 1-29-99; 19.31.1.15 NMAC - Rn & A, 19 NMAC 31.1.15, 4-14-2000; 19.31.10.15 NMAC - Rn, 19.31.1.15 NMAC & A, 9-29-00; A, 4-1-03; A, 8-13-04; A, 4-1-05]

19.31.10.16 LEGAL SPORTING ARMS AND AMMUNITION:

A. Bullets: It shall be unlawful to take or attempt to take protected species by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking big game species.

B. Crossbow: It shall be unlawful to use a crossbow to take protected species, except by a licensee that has been approved by the department utilizing the proper department form and is certified by a licensed physician that the licensee has a permanent mobility limitation.

C. Drugs and explosives: It shall be unlawful to use any form of drug on an arrow or use arrows driven by explosives.

D. The following are legal sporting arms for deer, cougar, **pronghorn** antelope, Barbary sheep, bear, ibex, and javelina:

- (1) any center-fire rifle;
- (2) any center-fire handgun;
- (3) shotguns not smaller than 28 gauge, firing a single slug;
- (4) muzzle-loading rifles; and
- (5) bows and arrows.

E. The following are legal sporting arms for **elk, bighorn sheep, bison, and oryx:**

- (1) any center-fire rifle of .24 caliber or larger;
- (2) any center-fire handgun of .24 caliber or larger;
- (3) shotguns not smaller than 28 gauge, firing a single slug;
- (4) muzzle-loading rifles not smaller than .45 caliber; and
- (5) bows and arrows.

F. The following are legal sporting arms for **turkey, pheasants, quail, and lesser prairie chickens:**

- (1) shotguns firing shot, including muzzle-loading shotguns; and
- (2) bows and arrows;

G. The following are legal sporting arms for **blue grouse, Abert's squirrels, and red squirrels:**

- (1) shotguns firing shot;
- (2) rimfire firearms;
- (3) muzzle-loading firearms; and
- (4) bows and arrows.

H. Shotguns firing shot and bows and arrows are legal sporting arms for **doves, sandhill cranes, waterfowl, and bandtailed pigeons.**

~~[I. Legal weapons for bow, muzzle loader, and modern firearms big game seasons are:~~

- ~~(1) Bow Seasons bows and arrows as defined in Subsections D & E of 19.31.1.7 NMAC.~~

~~(2) Muzzle loader Seasons muzzle loader firearms as defined in Subsection C of 19.31.1.7 NMAC.~~

~~(3) Modern Firearms Seasons Bows and arrows, muzzle loader firearms, and modern firearms as defined in Section 7.~~

~~[J.] L. Non-toxic shot~~ use is required on all state game commission owned lands.

~~[K.] J. Use of toxic shot:~~ It shall be unlawful for any person hunting waterfowl in New Mexico to hunt with or be in possession of any shotgun shells loaded with toxic shot.

[6-25-90; 4-1-95; A, 10-14-95; 19.31.1.16 NMAC - Rn, 19 NMAC 31.1.16, 4-14-2000; 19.31.10.16 NMAC - Rn, 19.31.1.16 NMAC, 9-29-00; A, 4-1-05]

19.31.10.17 USE OF VEHICLES AND ROADS IN HUNTING:

A. Roads: It shall be unlawful to shoot at, wound, take, attempt to take, or kill any protected species on, from, or across any graded **paved, or maintained public road** and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences.

B. Vehicles, boats, aircraft: It shall be unlawful to shoot at any protected species from within a motor vehicle, power boat, sailboat, or aircraft. EXCEPTION - Migratory birds may be taken from a motor-driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.

C. Harassing protected wildlife: It shall be unlawful, at any time, to pursue, harass, harry, drive, or rally any protected species by use of or from a motor-driven vehicle, powerboat, sailboat, or aircraft.

D. Hunting after air travel: It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

E. Use of aircraft for spotting game: It shall be unlawful to use aircraft to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

F. Using information gained from air flight: It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding loca-

tion of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

G. Vehicle off of established road: During the seasons established for any protected species, it shall be unlawful to drive or ride in a motor vehicle which is driven off an established road when the vehicle bears a licensed hunter, fisherman or trapper. EXCEPTION: 1) Snowmobiles; 2) To retrieve lawfully taken game not in an area closed to vehicular traffic. 3) All landowners, lessees or their employees, while on their owned or leased lands in connection with legitimate agricultural activities.

H. Closed roads: During the seasons established for any protected species, it shall be unlawful to knowingly occupy, drive, or cause to be driven any motor vehicle on a closed road when the vehicle bears a licensed hunter, angler or trapper.

I. Handicapped license:
(1) Shooting from a vehicle: The holder of a handicap license is authorized to shoot at and kill protected species during their respective open seasons from a stationary motor-driven vehicle that is not on a public road or highway. The director may issue permits to shoot from a stationary vehicle to applicants who provide certification that the applicant is permanently disabled in accordance with the American Disability Act. Such certification shall be signed by an M.D. or O.D. licensed to practice in the applicant's state of residence.

(2) Driving off established roads: Holders of a handicap license may, with permission of the landowner, lessee, or land management agency, drive off established roads to hunt for or take squirrels or game birds, excluding turkey, during open seasons.

(3) Assistance for handicapped hunter: The holder of a handicapped license may be accompanied by another person to assist in reducing to possession any big game animal which has clearly been wounded by the licensed handicapped hunter.

[6-25-90; 4-1-95; 19.31.1.17 NMAC - Rn, 19 NMAC 31.1.17, 4-14-2000; 19.31.10.17 NMAC - Rn, 19.31.1.17 NMAC, 9-29-00; A, 12-14-01; A, 09-15-03; A, 4-1-05]

19.31.10.20 AREAS CLOSED TO HUNTING, FISHING AND TRAPPING:

The following areas shall remain closed to hunting, fishing, and trapping, except as permitted by regulation.

~~[A.] All State Game Refuges.~~

~~[B.] A.~~ Sugarite canyon state park.

~~[C.] B.~~ Rio Grande wild and scenic river area.

~~D.] C.~~ All wildlife management areas.
~~E.] D.~~ Valle Vidal area.
~~F.] Animas Gray — Peak~~

Area:
G.] Region M:
H.] E. Sub-Unit 6B (Valles Caldera **national preserve**)
 [4-1-95; 1-29-99; 19.31.1.20 NMAC - Rn, 19 NMAC 31.1.20, 4-14-2000; 19.31.10.20 NMAC - Rn, 19.31.1.20 NMAC, 9-29-00; A, 10-11-02; A, 4-1-05]

19.31.10.21 REGULATIONS PERTAINING TO BOATS, OTHER FLOATING DEVICES, AND MOTORS:

A. Charette, Clayton, and McAllister lakes: On the following lakes controlled by the department of game and fish, boats and other floating devices with or without electric or gas motors shall be permitted only during the season and hours when fishing is permitted. Boats or floating devices on these lakes shall not be operated at greater than normal trolling speed: Charette, Clayton, and McAllister lakes

B. On Springer lake, boats and other floating devices with or without motors shall be permitted; provided, however, that boats or floating devices shall not be operated at greater than normal trolling speed when water storage is less than 1,000 acre feet.

C. On Ramah lake, boats and floating devices shall not be operated at greater than normal trolling speed.

D. On the following lakes controlled by the department of game and fish, only boats and other floating devices using electric motors or with motors that are not in use shall be permitted: **Bear canyon, Bill Evans, Green Meadow, Fenton, Hopewell, Jackson, lake Roberts, Maddox, Morphy, Quemado, Snow, Wall, and waters located on the Ladd S. Gordon wildlife area.**

E. On the following lakes controlled by the department of game and fish, only boats and other floating devices using no motors shall be permitted: **Bernardo waterfowl management area, La Joya waterfowl management area, McGaffey, San Gregorio, Shuree ponds.**

F. On the following lakes controlled by the department of game and fish, no boats or other floating devices shall be permitted: **Bonito, Burns canyon at Parkview state fish hatchery, and Monastery lakes, Power dam, and Red River hatchery pond.**

G. Department of game and fish ~~Department~~ personnel or persons authorized by the director of the **department of game and fish** ~~Department~~ may use gasoline powered outboard motors on all lakes mentioned in this chapter while

performing official duties.
 [4-1-95, Rn, 19 NMAC 31.4.17, 7-15-99; 19.31.1.21 NMAC - Rn, 19 NMAC 31.1.21, 4-14-2000; 19.31.10.21 NMAC - Rn, 19.31.1.21 NMAC, 9-29-00; A, 4-1-05]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.32.2 NMAC, Section 14. Effective date is 4-1-2005.

19.32.2.14 TAGGING BOBCAT PELTS:

A. Every person who takes a bobcat in New Mexico shall present the pelt for tagging. The trapper or his agent must make arrangements to have pelts tagged within 30 days of capture.

B. Every person who presents a bobcat for tagging shall display a current trapper's license. Tags may be obtained from department offices in Raton, Roswell, Las Cruces, Albuquerque and Santa Fe. In addition pelts may be tagged by New Mexico licensed furbearer dealers following policies set forth by the department.

C. No person shall transport across state lines, sell, barter, or otherwise dispose of any bobcat pelt taken in New Mexico unless it has been properly tagged.

D. It shall be unlawful to present for tagging, or to have tagged, any pelt from a bobcat taken outside the state of New Mexico.

E. It shall be unlawful for fur dealers to tag any bobcat contrary to this rule.
 [4-1-95; 19.32.2.14 NMAC - Rn, 19 NMAC 32.1.14, 9-29-2000; A, 4-1-05]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.320.6 NMAC, Sections 10, 11, and 13 through 17 which will be effective on November 1, 2004. The Medical Assistance Division amended the sections to add Physical Therapy, Occupational Therapy and Speech Language Pathology assistants; Licensed Practical Nurses; Licensed Bachelor's Level Social Workers; and Licensed Professional Counselors as eligible providers in the School-Based Services program. In addition, coverage of certain administrative activities is being added.

8.320.6.10 ELIGIBLE PROVIDERS:

A. Upon approval of New

Mexico medical assistance provider participation applications by MAD, local educational agencies (LEAs) ~~and~~, regional educational cooperatives (RECs), and other state-funded educational agencies (SFEAs) that meet specified requirements are eligible to be reimbursed for furnishing services to medicaid recipients. The LEA ~~or REC~~, REC, or other SFEA must develop a collaborative plan with the community. Requirements for such plans will be described in written guidelines by MAD. The ~~LEA or REC must have oversight by~~ LEAs, RECs, and other SFEAs that have school nurses are under the oversight of the department of health's district health officer, as provided by state statute ~~(NMSA 24-1-4)~~ (NMSA 1978, Section 24-1-4).

B. The following individual service providers must be employed by, or under contract to, the LEA ~~or REC~~, REC, or other SFEA when furnishing treatment, and meet other specified qualification criteria:

(1) Physical therapists licensed by the physical ~~Therapists~~ therapy board under the state of New Mexico regulation and licensing department and meeting licensure requirements of the department of education, and physical therapy assistants licensed by the physical therapy board under the state of New Mexico regulation and licensing department, meeting licensure requirements of the department of education and working under the supervision of a licensed physical therapist.

(2) Occupational therapists licensed by the occupational therapy board under the state of New Mexico regulation and licensing department and meeting licensure requirements of the department of education, and occupational therapy assistants licensed by the occupational therapy board under the state of New Mexico regulation and licensing department, meeting licensure requirements of the department of education and working under the supervision of a licensed occupational therapist.

(3) Speech pathologists licensed by the board of speech-language pathology and audiology under the New Mexico regulation and licensing department and meeting licensure requirements of the department of education, and speech language pathology apprentices, clinical fellows, and paraprofessionals licensed by the board of speech-language pathology and audiology under the New Mexico regulation and licensing department therapy board, meeting licensure requirements of the department of education and working under the supervision of a licensed speech pathologist.

(4) Audiologists licensed by the board of speech-language pathology and audiology under the regulation and licensing department and meeting licensure

requirements of the department of education.

(5) ~~Master's level~~ Social work practitioners who meet one of the following requirements:

(a) licensed by the social work examiners board as a licensed master's level independent social work practitioner; or

(b) licensed by the social work examiners board and supervised by a licensed Ph.D., Psy.D., Ed.D. or LISW; and

(c) meeting licensure requirements of the department of education.

(6) Psychologists meeting one of the following requirements:

(a) psychologists (Ph.D., Psy.D., or Ed.D.) licensed by the New Mexico psychologist examiners board and meeting licensure requirements of the department of education; or

(b) master's level practitioners licensed by the New Mexico psychologist examiners board as psychologist associates or licensed by the state department of education as school psychologists and supervised by a psychiatrist or a Ph.D., Psy.D., or Ed.D., who is licensed as a psychologist by the New Mexico psychologist examiners board, and meeting licensure requirements of the department of education.

(7) Physicians and psychiatrists licensed by the board of medical examiners and meeting licensure requirements of the department of education.

(8) Case managers who meet one of the following requirements:

(a) bachelor's degree in social work, counseling, psychology, nursing, or a related health or social services field from an accredited institution and ~~have~~ having one year experience serving medically-at-risk children or adolescents.

(b) licensed registered or practical nurse.

(c) individuals with a bachelor's degree in another field ~~can substitute~~ and two years of direct experience in serving medically-at-risk children or adolescents.

(9) Licensed professional clinical counselors (LPCC) and licensed professional counselors (LPC), licensed by the New Mexico counseling and therapy practice board and meeting licensure requirements of the department of education.

(10) Licensed marriage and family therapists (LMFT), licensed by the New Mexico counseling and therapy practice board and meeting licensure requirements of the department of education.

(11) Licensed psychiatric clinical nurse specialists (CNS), licensed by the New Mexico board of nursing and meeting licensure requirements of the department of education.

(12) Licensed nutritionists or registered dietitians, licensed by the New

Mexico nutrition and dietetics practice board and meeting licensure requirements of the department of education.

(13) Licensed registered and practical nurses, licensed by the New Mexico board of nursing and meeting licensure requirements of the department of education.

[1/1/94; 8.320.6.10 NMAC - Rn, MAD.747.1 & A, 11-1-02; A, 11-1-04]

8.320.6.11 PROVIDER RESPONSIBILITIES:

A. General responsibilities:

(1) Providers who furnish services to medicaid recipients must comply with all specified medicaid participation requirements. See Section 8.302.1 NMAC, *General Provider Policies*.

(2) Providers must verify that individuals are eligible for medicaid at the time services are furnished ~~and determine if medicaid recipients have other health insurance~~.

(3) Providers must appoint a program liaison and backup alternate for each LEA, REC or other SFEA, who will be responsible for receiving and disbursing all communication, information and guidelines from HSD regarding the medicaid school-based services program, including information on, but not limited to, direct services and administrative claiming.

B. Documentation requirements:

(1) Providers must maintain all records necessary to fully disclose the nature, quality, amount and medical necessity of services furnished to recipients who are currently receiving medical services or have received medical services in the past. Payment for services billed to MAD that are not substantiated in the recipient's records are subject to recoupment. Documentation must be retained for at least six (6) years from the date of creation or until ongoing audit issues are resolved, whichever is longer. See Section 8.302.1, *General Provider Policies*.

(2) For services covered under this policy, complete copies of the IEPs or IFSPs, with the ITP portions of the IEPs or IFSPs signed by the primary care provider (PCP), must be maintained as part of the required records.

C. Record availability:

The provider must, on request, promptly furnish to the ~~medicaid agency~~ human services department, the secretary of health and human services, or the state medicaid fraud control unit any information under documentation requirements, stated above, including patient and employee records and any information regarding payments claimed by the provider furnishing services. Failure to provide records on request may

result in a denial of claims.

[1/1/94; 8.320.6.11 NMAC - Rn, MAD.747.2 & A, 11-1-02; A, 11-1-04]

8.320.6.13 COVERED SERVICES: Medicaid covers the following services when medically necessary and furnished by specified providers in school settings:

A. **Therapy services:** Medicaid covers physical, occupational, audiological and speech evaluations, and therapy required for treatment of an identified medical condition.

(1) Services must be medically necessary, must be ordered or authorized by the child's primary care provider (PCP), and must meet the needs specified in the individualized education plan (IEP) or individualized family service plan (IFSP). The services must be necessary for the treatment of the recipient's specific identified condition.

(2) The individualized treatment plan (ITP) portion of the IEP or IFSP must be signed by the child's PCP and be developed in conjunction with qualified physical therapists, occupational therapists, speech therapists, audiologists, nurses or behavioral health providers.

(3) Services require prior ~~approval~~ authorization by the PCP. The requirement for prior ~~approval~~ authorization is met when the PCP signs the ITP portion of the IEP or IFSP. For medicaid reimbursement, services must be performed in accordance with the IEP or IFSP that has been signed by the PCP. Frequency and duration of services furnished may not exceed ~~that~~ those specified in the IEP or IFSP. Reimbursement is made directly to the LEA ~~or REC~~, REC, or other SFEA when therapy providers furnish services under contract to the LEA, ~~or REC~~, REC, or other SFEA.

(4) If all the requirements of this section are not met, the services will require prior ~~approval~~ authorization from MAD or its designee.

B. **Mental health services:** Medicaid covers counseling, evaluation, and therapy required for treatment of an identified medical condition when furnished by a licensed independent social worker (LISW), licensed marriage and family therapist (LMFT), licensed professional clinical counselor (LPCC), psychiatric clinical nurse specialist (CNS), ~~psychiatrists, psychologists or~~ psychiatrist, psychologist or psychologist associate; or licensed bachelor's level social worker (LBSW), licensed master's level social worker (LMSW), or licensed professional counselor (LPC) supervised by a Ph.D., Psy.D., Ed.D. or a LISW. Services provided by LBSWs, LMSWs, and LPCs must be within the scope of their practice respectively and

supervised and periodically evaluated. Supervision must adhere to requirements of the practitioner's applicable licensing board. Periodic evaluation must be conducted at least once every twelve (12) service hours or more frequently if indicated by the recipient's condition or applicable state/federal regulation, and must be documented in the recipient record, with signature of the supervisor. Based on periodic evaluation, in consultation with the practitioner providing the services, and review of medical records, evaluations must determine and document the extent to which treatment goals are being met and whether changes in direction or emphasis of the treatment are needed. Recipients receiving services from LBSWs, LMSWs and LPCs must be diagnosed by the supervisor. The diagnosis must be documented in the recipient's record with the signature of the supervisor. Mental health services include regularly scheduled, structured counseling or therapy sessions for recipients under twenty-one (21) years of age, recipients and their parents, or multi-family groups.

(1) Services must be medically necessary, must be ordered or authorized by the child's primary care provider (PCP), and must meet the needs specified in the individualized education plan (IEP) or the individualized family service plan (IFSP).

(2) The individualized treatment plan (ITP) portion of the IEP or IFSP must be signed by the child's primary care provider (PCP) and be developed in conjunction with a qualified therapist. The services must be necessary for the treatment of the recipient's specific identified condition. Facilitation of the development of age-appropriate social skills may be part of the treatment plan.

(3) Services require prior [approval] authorization by the PCP. The requirement for prior [approval] authorization is met when the PCP signs the ITP portion of the IEP or IFSP. For medicaid reimbursement, services must be performed in accordance with the IEP or the IFSP that has been signed by the PCP. Frequency and duration of services furnished may not exceed [that] those specified in the IEP or IFSP. Reimbursement is made directly to the LEA [or REC], REC or other SFEA when mental health providers furnish services under contract to the LEA [or REC], REC or other SFEA.

(4) If all the requirements of this section are not met, the services will require prior [approval] authorization from MAD or its designee.

C. **Nutritional assessment and counseling:** Medicaid covers nutritional assessment and counseling when furnished by licensed nutritionists or dietitians for recipients who have been referred for a nutritional need. A nutritional assess-

ment consists of an evaluation of the nutritional needs of individuals based upon appropriate biochemical, anthropometric, physical, and dietary data, including a recommendation [on] for appropriate nutritional intake.

(1) Services must be medically necessary, must be ordered or authorized by the child's primary care provider (PCP) and must meet the needs specified in the individualized education plan (IEP) or individualized family service plan (IFSP).

(2) The individualized treatment plan (ITP) portion of the IEP or IFSP must be signed by the child's primary care provider (PCP) and developed in conjunction with licensed nutritionists or registered dietitians.

(3) Services require prior [approval] authorization by the PCP. The requirement for prior [approval] authorization is met when the PCP signs the ITP portion of the IEP or IFSP. For medicaid reimbursement, services must be performed in accordance with the IEP or IFSP that has been signed by the PCP. Frequency and duration of services furnished may not exceed [that] those specified in the IEP or IFSP. Reimbursement is made directly to the LEA [or REC], REC or other SFEA when licensed nutritionists or registered dietitians furnish services under contract to the LEA [or REC], REC or other SFEA.

(4) If all the requirements of this section are not met, the services will require prior [approval] authorization from MAD or its designee.

D. **Transportation services:** Medicaid covers transportation services for recipients who must travel from the school to receive a covered service from a medicaid provider, when the service is unavailable in the school setting and when the service is medically necessary and is identified in the recipient's individualized education plan (IEP) or [the] individualized family service plan (IFSP). Medicaid covers transportation to and from the school on the date a medically necessary service is furnished in the school setting for recipients who have disabilities, if all of the following conditions are met:

(1) Services must be medically necessary, must be ordered or authorized by the child's primary care provider (PCP), and must meet the needs specified in the IEP or the IFSP.

(2) The individualized treatment plan (ITP) portion of the IEP or IFSP must be signed by the child's primary care provider (PCP).

(3) Services require prior [approval] authorization by the primary care provider (PCP). For medicaid reimbursement, services must be performed in accordance with the IEP or IFSP that has been signed by the PCP. The requirement for

prior [approval] authorization is met when the PCP signs the ITP portion of the IEP or IFSP. Frequency and duration of services furnished may not exceed [that] those specified in the IEP or IFSP. Reimbursement is made directly to the LEA [or REC], REC or other SFEA when transportation services are furnished under contract to the LEA [or REC], REC or other SFEA.

(4) Medical services are furnished on the specific day on which transportation is furnished.

(5) Medical services furnished on that date are specified in the ITP portion of the IEP or IFSP.

(6) The recipient requires transportation in a vehicle adapted to serve the needs of the recipient.

(7) If all the requirements of this section are not met, the services will require prior [approval] authorization from MAD or its designee.

E. **Case management:** Medicaid covers case management services furnished in school settings to recipients who are medically at risk. Medicaid pays for services furnished by a single case management service provider during a given time period. "Medically at risk" refers to individuals who have a diagnosed physical or mental health condition which has high probability of impairing cognitive, emotional, neurological, social, or physical development.

(1) Services must be medically necessary, must be ordered or authorized by the child's primary care provider (PCP) and must meet specified needs identified in the individualized education plan (IEP) or individualized family service plan (IFSP).

(2) The individualized treatment plan (ITP) portion of the IEP or IFSP must be signed by the child's primary care provider (PCP) and developed in conjunction with a qualified case manager.

(3) Services require prior [approval] authorization by the PCP. For medicaid reimbursement, services must be performed in accordance with the IEP or IFSP that has been signed by the PCP. The requirement for prior [approval] authorization is met when the PCP signs the ITP portion of the IEP or IFSP. Frequency and duration of services furnished may not exceed [that] those specified in the IEP or IFSP. Reimbursement is made directly to the LEA [or REC], REC or other SFEA when case management providers furnish services under contract to the LEA [or REC], REC or other SFEA.

(4) Services must be coordinated with the child's medicaid managed care organization (MCO) if the child is enrolled in managed care.

(5) Medicaid covers the following case management services:

(a) Assessment of the recipi-

ent's medical, social and functional abilities at least every six (6) months, unless more frequent reassessment is indicated by the recipient's condition.

(b) Development and implementation of a comprehensive plan of care that helps the recipient retain or achieve the maximum degree of independence.

(c) Mobilization of the use of "natural helping" networks, such as family members, church members, community organizations, support groups, friends, and the school, if the recipient is able to attend.

(d) Coordination and monitoring of the delivery of services, evaluation of the effectiveness and quality of the services, and revision of the plan of care as necessary.

(e) All services must be delivered to be eligible for medicaid reimbursement.

(6) If all the requirements of this section are not met, the services will require prior ~~[approval]~~ authorization from MAD or its designee.

(7) Recipients have the freedom to choose a case management service provider. Medicaid pays for only *one* case management provider to furnish services during a given time period. If a recipient has a case manager or chooses to use a case manager who is not employed or under contract to the LEA ~~[or REC]~~, REC or other SFEA, the LEA ~~[or REC]~~, REC or other SFEA must coordinate with the case manager in the development of the individualized treatment plan (ITP).

F. Nursing: Medicaid covers nursing services required for treatment of an identified medical condition ~~[which]~~ that qualifies a child for an individualized education plan (IEP) or individualized family service plan (IFSP) when provided by a licensed registered or practical nurse.

(1) Services must be medically necessary, must be ordered or authorized by the child's primary care provider (PCP), and must meet the needs specified in the individualized education plan (IEP) or individualized family service plan (IFSP).

(2) The individualized treatment plan (ITP) portion of the IEP or IFSP must be signed by the child's PCP and developed in conjunction with a registered nurse. The services must be necessary for the treatment of the recipient's specific identified condition.

(3) Services require prior ~~[approval]~~ authorization by the PCP. The requirement for prior ~~[approval]~~ authorization is met when the PCP signs the ITP portion of the IEP or IFSP. For medicaid reimbursement, services must be performed in accordance with the IEP or IFSP that has been signed by the PCP. Frequency and duration of services furnished may not exceed ~~[that]~~ those specified in the IEP or

IFSP. Reimbursement is made directly to the LEA ~~[or REC]~~, REC or other SFEA when registered or licensed practical nurses furnish services under contract to the LEA ~~[or REC]~~, REC or other SFEA.

(4) Nursing services require professional nursing expertise and are provided by a licensed registered nurse (RN) or licensed practical nurse (LPN), and must be provided in accordance with the New Mexico Nursing Practice Act. Only those skilled nursing tasks that are approved by the medical assistance division (MAD) may be eligible for reimbursement.

(5) If all the requirements of this section are not met, the services will require prior ~~[approval]~~ authorization from MAD or its designee.

G. Administrative activities: Medicaid covers the cost of certain administrative activities that directly support efforts to provide health-related services to medicaid-eligible children and youth with special education and health care needs. These administrative activities include, but are not limited to, providing information about medicaid programs and how to access them, facilitating the eligibility determination process, assisting in obtaining transportation and translation services when necessary to receive health care services, making referrals for medicaid-reimbursable services, and coordinating and monitoring medical services that are covered by medicaid.

(1) Payment for these allowable administrative activities is contingent upon the following:

(a) the LEA, REC or other SFEA must complete a provider participation agreement (PPA) and be approved by the human services department as a medicaid provider of school-based health services;

(b) the LEA, REC or other SFEA must enter into a joint powers agreement (JPA) with the human services department and agree to abide by the terms and conditions of the JPA; and

(c) the LEA, REC or other SFEA must submit claims for allowable administrative activities in accordance with federal and state medicaid regulations, policies and guidelines; the centers for medicare and medicaid services (CMS) *Medicaid School-Based Administrative Claiming Guide*, May 2003, and any revisions thereto; and the *New Mexico Medicaid Guide for School-Based Services*, November 2004, and any revisions thereto.

(2) Administrative claiming is subject to compliance reviews and audits conducted by HSD and/or CMS. In signing the medicaid provider participation agreement, the LEA, REC or other SFEA, as a medicaid provider, agrees to cooperate fully with HSD and/or CMS in the performance

of all reviews and audits and agrees to comply with all review and audit requirements. [1/1/94; 8.320.6.13 NMAC - Rn, MAD.747.4 & A, 11-1-02; A, 11-1-04]

8.320.6.14 INDIVIDUALIZED TREATMENT PLAN:

A. The objectives, duration, and ~~[provider]~~ providers of medical treatment furnished to all medicaid recipients in school settings must be specified in an individualized treatment plan (ITP). The plan is developed by the LEA ~~[or REC]~~, REC or other SFEA in conjunction with recipients, recipients' families, and applicable service providers. The ITP portion of the IEP or IFSP must be reviewed and signed at least annually by the PCP to meet requirements for prior ~~[approval]~~ authorization of services provided to the recipient. If this review and PCP signature are not performed annually, the service ~~[requires prior approval]~~ will require prior authorization by MAD or its designee.

B. The ITP utilizes the recipient's health history, medical and educational evaluations and recommendations by the PCP and other medical providers, as applicable. The ITP is a plan of care agreed upon by the parents or legal guardians, evaluating therapists, the IEP or IFSP committee, and the recipient's teacher, all of whom are included in the IEP or IFSP. If medical needs are identified in the IEP or IFSP, the medical portion of the IEP or IFSP is the recipient's individualized treatment plan. The ITP must be incorporated into the IEP or IFSP.

[1/1/94; 8.320.6.14 NMAC - Rn, MAD.747.7 & A, 11-1-02; A, 11-1-04]

8.320.6.15 NON COVERED SERVICES:

Services furnished in school settings are subject to the limitations and coverage restrictions ~~[which]~~ that exist for other medicaid services. See 8.301.3 NMAC [MAD-602], *General Noncovered Services*. Medicaid does not cover the following specific services:

A. services classified as educational;

B. services to non-medicaid eligible individuals;

C. services furnished by practitioners outside their area of expertise;

D. vocational training ~~[which]~~ that is related solely to specific employment opportunities, work skills or work settings;

E. services ~~[which]~~ that duplicate services furnished outside the school setting, unless determined to be medically necessary ~~[and are prior authorized]~~, and given prior authorization by the medical assistance division or its designee;

F. services not identified in the recipient's IEP or IFSP, and not

authorized by the recipient's PCP;

G. transportation [~~which~~] that a recipient would otherwise receive in the course of attending school; and

H. transportation for a recipient with special education needs under the Individuals with Disabilities Education Act (IDEA), who rides the regular school bus to and from school with other non-disabled children [~~is not covered by Medicaid~~].

[1/1/94; 8.320.6.15 NMAC - Rn, MAD.747.5 & A, 11-1-02; A, 11-1-04]

8.320.6.16 PRIOR [APPROVAL] AUTHORIZATION AND UTILIZATION REVIEW: All Medicaid services are subject to utilization review for medical necessity and program compliance. Reviews may be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC [MAD-705], *Prior Authorization And Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior [approval] authorization and claims processing.

A. **Prior [approval] authorization:** Certain procedures or services identified in the utilization review instructions may require prior [approval] authorization from MAD or its designee. See specific requirements specified in 8.320.6.13 NMAC, *Covered Services*. Services for which prior [approval] authorization was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** Providers must verify that individuals are eligible for Medicaid at the time services are furnished [~~and determine if Medicaid recipients have other health insurance~~].

C. **Reconsideration:** Providers who disagree with [~~prior approval request denials~~] denials of prior authorization requests or other review decisions can request a re-review and a reconsideration. See 8.350.2 NMAC [MAD-953], *Reconsideration Of Utilization Review Decisions*.

[1/1/94; 8.320.6.16 NMAC - Rn, MAD.747.6, 11-1-02; A, 11-1-04]

8.320.6.17 REIMBURSEMENT:

A. The LEA [~~or REC~~], REC, or other SFEA must submit claims for reimbursement on the HCFA 1500 or its successor form. See 8.302.2 NMAC [MAD-702], *Billing For Medicaid Services*. Once enrolled, providers receive instructions on documentation, billing, and claims processing.

B. Reimbursement to the LEA [~~or REC~~], REC or other SFEA for covered services furnished by individual practi-

tioners is made at the lesser of the following:

- (1) the specific practitioner's billed charge; or
- (2) the MAD fee schedule for the specific service.

(a) The practitioner's billed charge must be [~~their~~] his or her usual and customary charge for [~~services~~] the service.

(b) "Usual and customary" charge refers to the amount which an individual practitioner charges the general public in the majority of cases for a specific procedure or service.

C. Reimbursement to the LEA, REC or other SFEA is not contingent upon billing a third party payor first, when the client has other insurance. The Medicaid program is generally the payor of last resort. However, if medical services are included in a disabled child's IEP, an exception is created under 42 USC 1396b(c), 20 USC 1412(a)(12) and 34 CFR 300.142. Therefore, if medical services are contained in a child's IEP and the child is eligible for Medicaid and the services are covered by Medicaid, then Medicaid is permitted to pay for such services.

[1/1/94; 8.320.6.17 NMAC - Rn, MAD.747.8 & A, 11-1-02; A, 11-1-04]

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.310.4 NMAC, Section 12 which will be effective on November 1, 2004. The Medical Assistance Division amended the section to allow board-eligible psychiatrists to serve New Mexico Medicaid recipients as well as board-certified psychiatrists. This rule was renumbered from 8 NMAC 4.MAD.713 to 8.310.4 NMAC to conform to NMAC requirements.

8.310.4.12 COVERED SERVICES: All services provided by the FQHC must be furnished in accordance with applicable federal, state, and local laws and regulations and must be furnished within the limitations applicable to Medicaid-covered benefits. If not specified in this section, MAD adopts definitions of coverage delineated in the FQHC sections of Medicare statutes. "Other ambulatory services" offered by the FQHC are subject to the same Medicaid limitations, utilization review requirements, and coverage restrictions that exist for other providers rendering the delineated service.

A. Physician services:

(1) Physician services are professional services that are performed by a physician, including psychiatrists,

employed by or under contract with the FQHC.

(2) Services and supplies incident to a physician's professional service are covered if the service or supply meets delineated requirements. Services and supplies include the professional component of radiology services, laboratory services performed by the FQHC and specimen collection for laboratory services furnished by an off-site laboratory. To meet the definition of "incident to" a professional service, the service and supplies must be:

(a) of a type commonly furnished in a physician's office; [within the meaning of the Code of Federal Regulations (CFR) page 128 Section 405.2413 (a)(1) 10-01-98 edition]

(b) of a type commonly rendered either without charge or included in the FQHC encounter rate;

(c) furnished as an incidental, although integral, part of a physician's professional service;

(d) furnished under direct, personal supervision of a physician; and

(e) in the case of a service, furnished by a member of the FQHC's health care staff who is an employee of the FQHC or under contract with the FQHC.

(3) Inpatient hospital visits are those services furnished to an individual as a "patient" of the FQHC. Therefore, FQHC services furnished off-site (including those furnished to a person who is an inpatient of a hospital or nursing facility) will be considered FQHC services only if the physician's agreement with the FQHC requires that he or she seek compensation from the FQHC. (Section 4704 c of OBRA '90, amended Section 1905 1,2.) (HCFA Letter #91-18 dated March 1991.)

B. **Mid-level practitioners:** Services furnished by a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner are covered as an FQHC core service if the service is:

(1) furnished by a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner who is employed by or under contract with the FQHC;

(2) furnished in accordance with FQHC policies and individual treatment plans developed by FQHC personnel for a given client;

(3) a type which the nurse practitioner, physician assistant, nurse midwife or specialized nurse practitioner who furnished the service is permitted by licensure and/or certification;

(4) furnished under the supervision of a physician, if required by New Mexico law.

(a) The physician supervision requirement is met if the conditions specified in Section 491.8 (b) of the Social

Security Act and any pertinent requirements specified under New Mexico law are satisfied.

(b) To be covered, the services provided by mid-level practitioners must comply with New Mexico law.

(c) Services and supplies are covered as incident to the provision of services by a mid-level practitioner if the requirements specified in Paragraph (2) of Subsection A of 8.310.4.12 NMAC are met.

(d) The direct personal supervision requirement for mid-level practitioners is met if the mid-level practitioner is permitted to supervise under the written policies governing the FQHC and as defined under New Mexico law.

C. Outpatient mental health services: Diagnosis and treatment of mental illness are covered services when the service is provided by ~~a licensed board certified psychiatrist~~ an individual licensed as a physician by the board of medical examiners or board of osteopathy and who is board-eligible or board-certified in psychiatry, a licensed clinical psychologist (Ph.D., Psy. D., or Ed. D.), a licensed independent social worker (LISW), a licensed professional clinical mental health counselor (LPCC), a licensed marriage and family therapist (LMFT), or a clinical nurse specialist certified in psychiatric nursing (CNP) who is employed by or under contract with the FQHC. An FQHC is reimbursed for services furnished by licensed master's level social workers, licensed psychology associates and master's level licensed counselors who are graduates of an accredited program when the services are furnished under the direction and supervision as addressed under Subsection C of 8.310.8.10 NMAC.

D. Visiting nurse services: Visiting nurse services are covered if the FQHC is located in an area identified by the secretary of health and human services as having a shortage of home health agencies. No additional certification is required beyond the FQHC certification. To be covered, visiting nurse services must be:

(1) rendered to clients who meet criteria for home health services;

(2) furnished by a registered nurse, licensed practical nurse, or licensed vocational nurse who is employed by or under contract with the FQHC; and

(3) furnished under a written plan of treatment that is established and signed by a supervising physician; the plan may also be established by a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner employed by or under contract with the FQHC; the plan must be reviewed every 60 days by the supervising physician and revised as the client's condition warrants;

(4) visiting nurse services do

not include household and housekeeping services or other services that constitute custodial care.

E. Preventive services:

(1) Preventive primary services that an FQHC may provide are those services as defined in the 42 CFR 405.2448 and include:

(a) medical social services;

(b) nutritional assessment and referral;

(c) individual preventive health education;

(d) well-child care, including periodic screening, to include children's eye and ear examinations;

(e) prenatal and postpartum care;

(f) immunizations for children and adults, including tetanus-diphtheria booster and influenza vaccine;

(g) family planning services;

(h) physical examinations targeted to risk, to include blood pressure measurement, weight, and client history;

(i) visual acuity screening;

(j) hearing screening;

(k) cholesterol screening;

(l) stool testing for occult blood;

(m) dipstick urinalyses;

(n) risk assessment and initial counseling regarding risks;

(o) tuberculosis testing for high risk clients;

(p) preventive dental services;

(q) for women only: PAP smears; clinical breast exams; referral for mammography; and thyroid function tests.

(2) Documentation of any service provided by the FQHC must be available in the client's record.

(3) Preventive primary services do not include eyeglasses, hearing aids, group or mass information programs, health education classes, or group education activities, including media productions and publications.

F. Pharmacy services:

Pharmacy services and medical supplies are covered services and are included as an allowable cost if dispensed from an FQHC. An FQHC encounter for the provision of medical, behavioral health, and dental services includes related pharmacy services. The FQHC shall not bill a separate encounter for the provision of pharmacy services. To dispense medications, the FQHC must be licensed as a licensed drug clinic under the Pharmacy Practice Act.

G. Dental services: See 8.310.7 NMAC, *Dental Services*, for benefit coverage and service limitation. Dentists and dental hygienists providing services for an FQHC must provide services within the scope of their license as defined in the New Mexico Dental Health Care Act.

H. Case management:

Targeted case management services are covered services and are subject to the same requirements that apply to providers who furnish case management services. See 8.326.2 NMAC through 8.326.8 NMAC [MAD-771 - MAD-779].

[2/1/95; 1/1/00; 8.310.4.12 NMAC - Rn, 8 NMAC 4.MAD.713.3 & A, 11/1/04]

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.310.8 NMAC, Sections 10, 13 and 15 which will be effective on November 1, 2004. The Medical Assistance Division amended the section to allow board-eligible psychiatrists to serve New Mexico Medicaid recipients as well as board-certified psychiatrists. This rule was renumbered from 8 NMAC 4.MAD.717 to 8.310.8 NMAC to conform to NMAC requirements.

8.310.8.10 ELIGIBLE PROVIDERS:

A. Upon approval of New Mexico medical assistance program provider participation agreements by MAD, the following providers are eligible to be reimbursed for providing mental health professional services:

(1) individuals licensed as physicians by the board of medical examiners or board of osteopathy and who are board-eligible or board-certified in psychiatry, or the groups they form;

(2) psychologists (Ph.D., Psy.D. or Ed.D.) licensed as clinical psychologists by the New Mexico board of psychologist examiners, or the groups they form;

(3) licensed independent social workers (LISW) licensed by the New Mexico board of social work examiners, or the groups they form;

(4) licensed professional clinical mental health counselors (LPCC) licensed by the New Mexico counseling and therapy practice board, or the groups they form;

(5) licensed marriage and family therapists (LMFT) who are licensed by the New Mexico counseling and therapy practice board, or the groups they form;

(6) clinical nurse specialists certified in psychiatric nursing by a national nursing organization such as the American nurses' association, to practice within the scope of these services, who are licensed by the New Mexico board of nursing, or the groups they form. Clinical nurse specialists can furnish services to the populations (adult and/or children) as their certification permits;

(7) mental health clinics when services are provided by licensed ~~board certified~~ board-eligible or board-certified psychiatrists, licensed clinical psychologists (Ph.D., Psy.D. or Ed.D.), clinical nurse specialists, LISWs, LPCCs, and LMFTs;

(8) community mental health centers certified by the department of health, when services are provided by licensed ~~board certified~~ board-eligible or board-certified psychiatrists or licensed clinical psychologists (Ph.D., Psy.D. or Ed.D.), clinical nurse specialists, LISWs, LPCCs, and LMFTs. Community mental health centers provide, at minimum, outpatient mental health services without regards to age and which are available on a twenty-four (24) hour a day basis.

B. Once enrolled, providers receive a packet of information, including medicaid program policies, billing instructions, utilization review instructions, and other pertinent material from MAD. Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from MAD.

C. **Licensed master's level social workers, licensed psychology associates and master's level licensed counselors (other than LISWs, LPCCs and LMFTs):** The following agencies may be reimbursed for services furnished to recipients under twenty-one (21) years of age by employees or contractors who are New Mexico licensed master's level social workers, licensed psychology associates and licensed counselors who are graduates of an accredited program, if the services are furnished under the direction and supervision of a licensed psychiatrist, licensed clinical psychologist, LISW, LPCC, LMFT or clinical nurse specialist as permitted by the license or certification they hold:

- (1) community mental health centers;
- (2) federally qualified health centers (FQHCs);
- (3) Indian health services (IHS); and
- (4) EPSDT school-based service providers.

D. **Supervision of licensed master's level social workers, licensed psychology associates and licensed master's level counselors (other than LISWs, LPCCs and LMFTs):** Services provided by licensed master's level social workers, licensed psychology associates and licensed counselors listed above must be supervised and periodically evaluated. Supervision must adhere to requirements of the practitioner's applicable licensing board. Periodic evaluation must be conducted at least once every twelve (12) service hours, or more frequently if indicated by the recipient's condition or applicable

state/ federal regulation, and must be documented in the recipient record, with signature of the supervisor. Based on periodic evaluation, in consultation with the practitioner providing the service, and review of medical records, evaluations must determine and document the extent to which treatment goals are being met and whether changes in direction or emphasis of the treatment are needed. Recipients receiving services from licensed master's level social workers, licensed psychology associates and licensed counselors must be diagnosed by the supervisor. The diagnosis must be documented in the recipient records with signature of the supervisor.

[2/1/95; 3/1/99; 8.310.8.10 NMAC - Rn, 8 NMAC 4.MAD.717.1 & A, 11/1/04]

8.310.8.13 COVERED SERVICES:

A. **Inpatient treatment and evaluations:** Medicaid covers inpatient psychiatric admission, evaluations, testing, therapy and treatment for the acute phase of an illness when these services are furnished by licensed ~~board certified~~ board-eligible or board-certified psychiatrists or licensed clinical psychologists (Ph.D., Psy.D., or Ed.D.) and are consistent with the comprehensive treatment plan in effect at the inpatient facility. Acute care psychiatric hospitals and specialty units of general acute care hospitals are considered inpatient facilities for purposes of medicaid coverage.

B. **Outpatient therapy services:** Medicaid covers outpatient evaluations, testing and therapy. Services require prior authorization from the New Mexico utilization review agent and will be reviewed based on criteria approved by HSD. Any currently allowable treatment modality (individual, group, family) in any combination is covered. Frequency of services is to be determined by clinical necessity. Services furnished by eligible providers must be specified in the client's treatment plan. The plan must be developed by the third (3rd) therapy session. In the treatment of minor-age clients, the treatment plan must document involvement of clients, families, and if applicable, others involved in the child's care. Adult clients will participate in the development of their treatment plans. The treatment plan and all supporting documentation must be available for review in the client record. Services must be consistent with the treatment plan in effect at the time the services are provided.

C. **Therapy in partial hospital settings, JCAHO accredited RTCs, non-accredited residential treatment services and treatment foster care:** Routine mental health care is covered in the reimbursement rates for recipients under the age of twenty-one (21) in partial hospital-

ization programs, JCAHO accredited RTCs, non-accredited residential treatment services, and treatment foster care. Additional services not covered by the fixed rates may be provided only after obtaining prior ~~approval~~ authorization from the utilization review agent. The additional services must be consistent with the treatment plan in effect at the time services are provided. Services not covered by fixed rates that would be eligible for prior ~~approval~~ authorization are:

(1) **Medication management:** Medication management of psychotropic medications for recipients in residential treatment services and foster care placement. In accredited residential treatment centers, prior ~~approval~~ authorization could be obtained for conditions which pose unusual or frequent complications in monitoring or potential side effects, or continual or repetitive medication review due to persistent serious symptom presentation.

(2) **Psychological testing;** which is not duplicative and is clinically necessary to meet the "extraordinary and specific," (see definition below) complex diagnostic needs of the client. Such psychological testing will not replace the routine psychological testing provided within the scope of the program.

(3) **Individual, group and family therapy;** which is additional to the core program therapies and is performed by clinicians whose specialized training is necessary to treat documented "extraordinary and specific" (see definition below) client needs. Additional group therapy will be reimbursed only for recipients placed in treatment foster care. Conditions and circumstances which meet the definition of "extraordinary and specific need":

(a) complex diagnoses or symptom presentations such as, but not limited to, continuing psychotic features, persistent aggression which does not remit with standard behavioral interventions, or secondary encopresis.

(b) diagnostic questions which are persistent, recurring, or complicated.

(c) clinical situations or conditions which threaten further decompensation without intensive treatment.

D. **Injections:** Medicaid covers injections subject to the injection and pharmacy policies. See 8.310.2 NMAC, *Medical Service Providers* and 8.324.4 NMAC, *Pharmacy Services*.

E. **Medication review visits:** Medicaid covers brief office visits performed by an M.D., D.O. or a qualified CNS for the sole purpose of monitoring or changing prescriptions in the treatment of covered disorders.

F. **Treatment for substance abuse:** Medicaid covers up to twelve (12) hours of psychiatric therapy

services for the treatment of alcohol abuse for recipients over twenty-one (21) years of age.

G. Services provided to recipients under twenty-one years of age:

Additional services are covered for recipients under twenty-one (21) years of age. See 8.320.2 NMAC, *EPSDT Services* [MAD-740].

H. Disorders covered for recipients under twenty-one years of age:

Medicaid covers the following disorders for recipients under twenty-one (21) years of age only:

- (1) personality disorders;
- (2) substance abuse or dependence; and
- (3) conditions not attributable to a mental disorder including sexual abuse, physical abuse, and emotional abuse. [2/1/95; 3/1/99; 8.310.8.13 NMAC - Rn, 8 NMAC 4.MAD.717.4 & A, 11/1/04]

8.310.8.15 PRIOR [APPROVAL] AUTHORIZATION AND UTILIZATION REVIEW:

All medicaid services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior [Approval] Authorization and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior [approval] authorization and claims processing.

A. Prior [approval] authorization: All services or procedures require prior [approval] authorization from MAD or its designee, with the exception of crisis intervention or in the case of an emergency. These services will be reviewed retrospectively. Services for which prior [approval] authorization was obtained remain subject to utilization review at any point in the payment process.

B. Eligibility determination: Prior [approval] authorization of services does not guarantee that individuals are eligible for medicaid. Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance.

C. Reconsideration: Providers who disagree with prior [approval] authorization request denials or other review decisions can request a review and a reconsideration. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions* [MAD-953]. [2/1/95; 3/1/99; 8.310.8.15 NMAC - Rn, 8 NMAC 4.MAD.717.6 & A, 11/1/04]

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.324.10 NMAC, Sections 10 through 15, which will be effective on November 1, 2004. The Medical Assistance Division amended the sections to reflect clarification of the covered services furnished in ambulatory surgical centers and the reimbursement methodology for these services. This rule was renumbered from 8 NMAC 4.MAD.759 to 8.324.10 NMAC to conform to NMAC requirements.

8.324.10.10 ELIGIBLE PROVIDERS:

A. Upon approval of New Mexico medical assistance program provider participation [agreements] application by the New Mexico medical assistance division (MAD), ambulatory surgical centers certified to participate in medicare under Title XVIII of the Social Security Act as free-standing ambulatory surgical centers are eligible to be reimbursed by medicaid for providing services as ambulatory surgical centers.

(1) The [federal health care financing administration (HCFA) certifies] centers for medicare and medicaid (CMS) certify ambulatory surgical centers based on surveys and recommendations submitted by the licensing and certification bureau of the New Mexico department of health (DOH).

(2) Ambulatory surgical centers which are not free-standing but are part of an accredited and certified hospital are subject to 8.311.2 NMAC, *Hospital Services* [MAD-721].

B. Once enrolled, providers receive and are responsible for maintenance of a packet of information, including medicaid program policies, billing instructions, utilization review instructions and other pertinent material from MAD. [Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from MAD.] To be eligible for medicaid reimbursement, providers are bound by MAD policies, procedures, billing instructions, reimbursement rates, and all audit, recoupment and withholding provisions unless superceded by federal law, federal regulation or the specific written approval of the MAD director. Providers must be enrolled as medicaid providers before submitting a claim for payment to MAD claims processing contractor. [2/1/95; 8.324.10.10 NMAC - Rn, 8 NMAC 4.MAD.759.1 & A, 11/1/04]

8.324.10.11 PROVIDER RESPONSIBILITIES: Providers who furnish services to medicaid recipients must

comply with all [specified medicaid participation requirements] federal and state laws and regulations relevant to the provision of medical services, including but not limited to, Title XIX of the Social Security Act, the Medicare and Medicaid Anti-Fraud Act, and the State Medicaid Fraud Act. Providers also agree to conform to MAD policies and instructions as specified in this manual and its appendices, as updated. See 8.302.1 NMAC, *General Provider Policies*. [Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance. Providers must maintain records which are sufficient to fully disclose the extent and nature of the services furnished to recipients. See 8.302.1 NMAC, *General Provider Policies*.]

A. Recipient eligibility determination: Providers must verify that services they furnish are provided to eligible recipients.

(1) Providers may verify eligibility through several mechanisms, including the use of an automated voice response system, contacting the medicaid fiscal agent contractor eligibility help desk, contracting with a medicaid eligibility verification system (MEVS) vendor, or contracting with a medicaid magnetic swipe card vendor.

(2) Providers must verify that recipients are eligible for medicaid through out periods of continued or extended services. By verifying client eligibility, a provider is informed of restrictions that may apply to a recipient's eligibility.

B. Requirements for updating information: Providers must furnish in writing to MAD or MAD claims processing contractor with complete information on changes in their address, license, certification, board specialties, corporate name or corporate ownership, and a statement as to the continuing liability for the provider for any dissolution of other disposition of the health care provider or person. MAD or the MAD claims processing contractor must receive this information at least 60 days before the change. Any payment made by MAD based upon erroneous or outdated information is subject to recoupment.

C. Documentation requirements: Providers must maintain records to fully disclose the nature, quality, amount, and medical necessity of the services furnished to recipients who are currently receiving or who have received medical services in the past [42 CFR 431.107(b)]. Documentation supporting medical necessity must be legible and available to medicaid upon request. See 8.302.1 NMAC, *General Provider Policies*.

[2/1/95; 8.324.10.11 NMAC - Rn, 8 NMAC 4.MAD.759.2 & A, 11/1/04]

8.324.10.12 COVERED SERVICES:

A. Medicaid covers ambulatory surgical center facility services, as required by the condition of the recipient and if the following conditions are met:

(1) the surgical procedure and use of the facility are medically necessary and are covered by medicaid; and

(2) all medicaid requirements for the surgery, such as applicable consent forms or prior [approval] authorization requirements, are met by the physician.

B. See 8.310.2 NMAC, *Medical Services Providers*. [2/1/95; 8.324.10.12 NMAC - Rn, 8 NMAC 4.MAD.759.3 & A, 11/1/04]

8.324.10.13 NONCOVERED SERVICES:

Ambulatory surgical center services are subject to the limitations and coverage restrictions which exist for other medicaid services. If the surgery is non-covered, the anesthesia is non-covered. See 8.301.3 NMAC, *General Noncovered Services* [MAD-602].

A. **Direct payment to physician.** Ambulatory surgical centers are not reimbursed by medicaid for physician fees. Reimbursement for physician fees is made directly to the provider of the service.

B. **Services furnished to dual eligible recipients.** By federal regulation, the medicare program pays ambulatory surgical centers only for an approved list of specific surgical procedures. Medicare is the primary payment source for individuals who are eligible for both medicare and medicaid. For these recipients, medicaid will not pay an ambulatory surgical center for a surgical procedure denied by medicare. Ambulatory surgical centers must refer these recipients to facilities which medicare pays for the surgical procedure, such as an outpatient hospital.

~~C. **Services furnished to primary care network members without a referral.** Medicaid does not cover services furnished to primary care network (PCN) members which are not exempt from PCN coverage and are not furnished by the PCN provider or through the PCN referral process.]~~

[2/1/95; 8.324.10.13 NMAC - Rn, 8 NMAC 4.MAD.759.4 & A, 11/1/04]

8.324.10.14 PRIOR [APPROVAL] AUTHORIZATION AND UTILIZATION REVIEW:

All medicaid services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Authorization and Utilization Review*. Once enrolled, providers receive instruc-

tions and documentation forms necessary for prior [approval] authorization and claims processing.

A. **Prior [approval] authorization:** Certain procedures or services can require prior [approval] authorization from MAD or its designee. Services for which prior [approval] authorization was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** Prior [approval] authorization of services does not guarantee that individuals are eligible for medicaid. Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance.

C. **Reconsideration:** Providers who disagree with prior [approval] authorization request denials or other review decisions can request a re-review and a reconsideration. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions* [MAD-953]. [2/1/95; 8.324.10.14 NMAC - Rn, 8 NMAC 4.MAD.759.5 & A, 11/1/04]

8.324.10.15 REIMBURSEMENT:

Ambulatory surgical centers must submit claims for reimbursement on the ~~[HCFA-1500]~~ CMS-1500 claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services*. Once enrolled, providers receive instructions on documentation, billing and claims processing.

A. **Inclusion of all services in the facility fee:** All services furnished by the facility are considered reimbursed in the facility fee and cannot be billed separately. The amount paid will be the lesser of the facility's usual and customary charge or the maximum allowed by medicaid.

B. **Reimbursement methodology:** The facility fee maximum is established at a level which considers the surgical procedure and the area in which the facility is located. Each surgical procedure is assigned to one of nine (9) surgical groups, based on the complexity of the procedure. Each of these surgical groups has a separate reimbursement level. The level of reimbursement is [established by] determined by medicaid by utilizing the medicare carrier for procedures payable to ambulatory surgical centers by medicare regulations. The list of surgeries payable under medicare regulations also designates the assigned surgical group for payment purposes. The list is available from the medicare carrier.

(1) For those procedures for which medicare has not established a reimbursement level, MAD assigns the procedure to one of the nine (9) surgical groups. The assignment is based upon the complexity of the procedure or its similarity to pro-

cedures within the surgical groups developed by medicare.

(2) Reimbursement is made at the level established by [medicare] medicaid for that surgical group.

C. **Reimbursement for multiple procedures:** When more than one covered surgical procedure is performed during the same surgical encounter, reimbursement is made at the rate for the most complex procedure plus fifty percent (50%) of the applicable rate for any additional procedures.

D. **Reimbursement for laboratory services:**

(1) The following laboratory services are considered included in the facility fee and are not reimbursed separately:

- (a) hematocrit;
- (b) hemoglobin (colorimetric);

and

- (c) routine urinalysis, without microscopy.

(2) For an ambulatory surgical center to be reimbursed for laboratory tests which are not included in the facility fee, the following conditions must be met:

- (a) ambulatory surgical center laboratories must be separately certified and enrolled as clinical laboratories with valid CLIA numbers;

- (b) laboratory tests billed must fall within the approved laboratory specialties/ subspecialties for which the laboratory has been certified;

- (c) laboratories must have separate New Mexico medical assistance program provider participation applications approved by MAD to bill for laboratory tests not included in the facility fee; and

- (d) laboratory tests must be performed on the premises of ambulatory surgical centers and not sent out to reference laboratories. See 8.324.2 NMAC, *Laboratory Services* [MAD-751].

E. **Reimbursement for diagnostic imaging and therapeutic radiology services:** Diagnostic radiological, diagnostic ultrasound, peripheral vascular flow measurements and nuclear medicine studies furnished by a facility are considered covered services but payment is considered to be made within the facility fee and are not separately reimbursed services. See 8.324.3 NMAC, *Diagnostic Imaging and Therapeutic Radiology Services* [MAD-752].

[2/1/95; 8.324.10.15 NMAC - Rn, 8 NMAC 4.MAD.759.6 & A, 11/1/04]

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.325.2 NMAC, Sections 10, 11, 12, 13, 15 and 16, which will be effective on November 1, 2004. The Medical Assistance Division amended the sections to reflect clarification of medically necessary renal dialysis services and the reimbursement methodology for these services. This rule was renumbered from 8 NMAC 4.MAD.761 to 8.325.2 NMAC to conform to NMAC requirements.

8.325.2.10 ELIGIBLE PROVIDERS:

A. Upon approval of New Mexico medical assistance program provider participation applications licensed practitioners or facilities that meet applicable requirements by the New Mexico medical assistance division (MAD), the following providers are eligible to be reimbursed for furnishing dialysis services to medicaid recipients:

- (1) individuals licensed to practice medicine or osteopathy [~~Payment can be made to the group practices they form~~];
- (2) facilities certified by the licensing and certification bureau of the department of health to furnish renal dialysis services; and
- (3) hospitals eligible to participate in the New Mexico medicaid program. See 8.311.2 NMAC, Hospital Services [MAD-721].

B. Once enrolled, providers receive and are responsible for maintenance of a packet of information, [including] which includes medicaid program policies, billing instructions, utilization review instructions and other pertinent material from MAD. Providers are responsible for ensuring that they [have received] understand these materials [and for updating them as new materials are received from MAD]. To be eligible for medicaid reimbursement, providers are bound by MAD policies, procedures, billing instructions, reimbursement rates, and all audit, recoupment and withholding provisions unless superceded by federal law, or federal regulation. Providers must be enrolled as medicaid providers before submitting a claim for payment to the MAD claims processing contractor.

[2/1/95; 8.325.2.10 NMAC - Rn, 8 NMAC 4.MAD.761.1 & A, 11/1/04]

8.325.2.11 PROVIDER RESPONSIBILITIES: Providers who furnish services to medicaid recipients [~~must comply with all specified medicaid participation requirements. See Section MAD 701, General Provider Policies~~

~~Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance. Providers must maintain records which are sufficient to fully disclose the extent and nature of the services furnished to recipients. See Section MAD 701, General Provider Policies]~~ agree to comply with all federal and state laws and regulations relevant to the provision of medical services, including but not limited to, Title XIX of the Social Security Act, the Medicare and Medicaid Anti-Fraud Act, and the state Medicaid Fraud Act. Providers also agree to conform to the MAD policies and instructions as specified in this manual and its appendices, as updated.

A. Recipient eligibility verification: Providers must verify that services they furnish are provided to eligible recipients. Providers must verify that recipients are eligible and remain eligible for medicaid through periods of continued and extended services. By verifying eligibility, a provider is informed of restrictions that may apply to recipient's eligibility. Providers may verify eligibility through several mechanisms, including using an automated voice response system, contacting the medicaid fiscal agent contractor eligibility help desk, contracting with a medicaid eligibility verification system (MEVS) vendor, or contracting with a medicaid magnetic swipe card vendor.

B. Requirements for updating information: Providers must furnish in writing to MAD or the MAD claims processing contractor with complete information changes in their address, license, certification, board specialties, corporate name or corporate ownership, and a statement as to the continuing liability of the provider for any recoverable obligation to MAD which occurred or may have occurred prior to any sale, merger, consolidation, dissolution or other disposition of the health care provider group or individual.

C. Documentation requirements: Providers must maintain records to fully disclose the nature, quality, amount, and medical necessity of services furnished to recipients who are currently receiving or who have received medical services in the past [42 CFR 43.107(b)]. [2/1/95; 8.325.2.11 NMAC - Rn, 8 NMAC 4.MAD.761.2 & A, 11/1/04]

8.325.2.12 COVERED SERVICES [AND SERVICE LIMITATIONS]: [~~Medicaid covers medically necessary renal dialysis services furnished by providers within the limitations specified in this section. Medicaid covers medically necessary dialysis supplies furnished to home dialyzed recipients.] Medicaid covers renal dialysis services for~~

the first three (3) months of dialysis pending the establishment of medicare eligibility. Medicare becomes the primary reimbursement source for individuals who meet the medicare eligibility criteria. Dialysis providers must assist medicaid recipients in applying for and pursuing final medicare eligibility determinations. Medicaid covers medically necessary dialysis supplies furnished to home-dialyzed recipients. Medicaid covers medically necessary renal dialysis services furnished by providers as required by the condition of the recipient. Medicaid covers the following specific renal dialysis services:

A. [~~Supplies and equipment included in home renal dialysis services]~~ Supplies, equipment and services included in the renal dialysis services composite rate:

The facility reimbursement fee includes all renal-related facility and home dialysis services, including supplies and equipment. The following are some of the drugs, items and supplies included in the facility fee:

- (1) hypertonic saline;
- (2) dextrose (glucose);
- (3) mannitol or similar product used for volume control;
- (4) heparin;
- (5) protamine;
- (6) antiarrhythmics;
- [~~(7) oxygen; and~~
- [~~(8) filters.]~~
- (7) antihistamines;
- (8) antihypertensives;
- (9) pressor drugs;
- (10) antibiotics (when used at

home by a patient to treat an infection of the catheter site or peritonitis associated with peritoneal dialysis):

- (11) oxygen;
- (12) filters;
- (13) bicarbonate dialysate;
- (14) cardiac monitoring;
- (15) catheters and catheter

changes:

- (16) suture removal kits and suture removal;
- (17) dressing supplies;
- (18) crash cart usage for cardiac

arrest:

- (19) declotting of shunt performed by facility staff in the dialysis unit;
- (20) staff time to administer

blood:

- (21) staff time to administer separately billable parenteral items; and
- (22) staff time used to collect

all specimens for laboratory tests.

B. Routine laboratory tests: Routine laboratory tests are included in the facility fee. The following list specifies the covered routine tests and allowed frequencies. Routine tests at greater frequencies are reimbursable in addition to the facility fee, but require medical justification

by a physician.

(1) For hemodialysis, peritoneal dialysis and continuous cyclic peritoneal dialysis (CCPD):

(a) **per dialysis:**

- (i) hematocrit;
- (ii) clotting time;
- (iii) hemoglobin.

(b) [~~per week~~] **weekly:**

- (i) prothrombin time
- (ii) creatinine; and
- (iii) BUN;

for patients on anticoagulant therapy;

(c) [~~per month~~] **monthly:**

- (i) CBC;
- (ii) calcium;
- (iii) potassium;
- (iv) chloride;
- (v) alkaline phosphatase;

phosphate;

- (vi) SGOT;
- (vii) bicarbonate;
- (viii) phosphate;
- (ix) total protein;
- (x) albumin; or
- (xi) LDH.

(2) For continuous abdominal peritoneal dialysis when the facility bills a facility charge (CAPD): **Monthly:** BUN; magnesium; HCT; calcium; HGB; albumin; creatinine; phosphate; LDH; sodium; potassium; SGOT; CO₂; total protein; dialysate protein; alkaline phosphatase.

[2/1/95; 8.325.2.12 NMAC - Rn, 8 NMAC 4.MAD.761.3 & A, 11/1/04]

8.325.2.13 SERVICE LIMITATIONS: Tests that are listed as separately billable (not included in the composite rate) and are performed at a frequency greater than specified in the composite rate require medical justification and are covered when furnished at specified frequencies.

A. **Tests for hemodialysis, peritoneal dialysis and CCPD:** (Not included in the composite rate). These services may be billed separately at the specified frequencies.

(1) **Monthly**

- (a) alkaline phosphatase;
- (b) alkaline phosphatase;
- (c) blood urea nitrogen (BUN);
- (d) serum bicarbonate (CO₂);
- (e) dialysis protein;
- (f) hematocrit;
- (g) hemoglobin;
- (h) lactic dehydrogenase

(LDH);

- (i) magnesium;
- (j) serum albumin;
- (k) serum creatinine;
- (l) serum phosphorus;
- (m) serum potassium;
- (n) SGOT;
- (o) sodium;
- (p) total protein;
- (q) serum calcium;

(r) hepatitis test.

(2) **Once every three (3)**

months

- (a) serum aluminum;
- (b) serum ferritin;
- (c) nerve conductor velocity

test;

(d) EKG.

(3) **Once every six (6) months:**

chest x-ray

(4) **Once every year: bone**

survey

B. **Tests for CAPD:** (Not included in the composite rate). These services may be billed separately at the specified frequencies.

(1) **Once every three (3)**

months

- (a) white blood count (WBC);
- (b) platelet count;
- (c) red blood count.

(2) **Once every six (6) months:**

- (a) 24-hour urine volume;
- (b) residual renal function;
- (c) chest x-ray;
- (d) EKG;
- (e) MNCV.

C. **Training:** Medicaid reimburses for hemodialysis, peritoneal dialysis, continuous cycling peritoneal dialysis and continuous abdominal peritoneal dialysis training sessions if furnished by a renal dialysis facility certified to provide these services. Dialysis training must be performed in the dialysis facility. Fifteen (15) training sessions are allowed without medical justification. To be reimbursed for additional training sessions, a medical justification must be attached to the claim. [8.325.2.13 NMAC - N, 11/1/04]

8.325.2.15 PRIOR [APPROVAL] AUTHORIZATION AND UTILIZATION REVIEW:

All Medicaid services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Authorization and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior [approval] authorization and claims processing.

A. **Prior [approval] authorization:** Certain procedures or services can require prior [approval] authorization from MAD or its designee. Services for which prior [approval] authorization was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** Prior [approval] authorization of services does not guarantee that individuals are eligible for Medicaid. Providers must verify that individuals are eligible for Medicaid

at the time services are furnished and determine if Medicaid recipients have other health insurance.

C. **Reconsideration:** Providers who disagree with prior [approval] authorization request denials or other review decisions can request a re-review and a reconsideration. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions* [MAD-953]. [2/1/95; 8.325.2.15 NMAC - Rn, 8 NMAC 4.MAD.761.5 & A, 11/1/04]

8.325.2.16 REIMBURSEMENT: [Dialysis providers must submit claims for reimbursement on the HCFA 1500 or the UB-92 claim form or their successor, as appropriate to the provider type. See Section MAD-702, *Billing for Medicaid Services*. Once enrolled, providers receive instructions on documentation, billing and claims processing. Medicaid pays for renal dialysis services furnished at the closest available facility. Medicaid uses the Medicare reimbursement rates for renal dialysis services.

A. ~~The reimbursement methodology allows a monthly capitation provider specific payment rate established by Medicare for physicians providing renal dialysis services.~~

(1) ~~The same rate is paid to physicians for home dialysis and outpatient facility dialysis services.~~

(2) ~~For hospitalized patients, physicians can choose to bill on a fee-for-service basis for inpatient services or to continue to bill the monthly capitated payment. If the fee-for-service option is chosen, the monthly capitation payment is reduced by 1/30th for each day of hospitalization during a month.~~

B. ~~Certified renal dialysis facilities are reimbursed at a composite rate for recipients who are dialyzed in the facility or at home. Certified independent facilities are reimbursed at the Medicare determined composite rate for each renal dialysis treatment.~~

C. ~~Certified hospital-based facilities are reimbursed at the Medicare-determined rate for each outpatient renal dialysis treatment.~~

D. ~~Hospital providers are reimbursed for inpatient renal dialysis at their established reimbursement rates.~~

E. ~~Renal dialysis facilities acting as suppliers to a home-dialyzed recipient can bill Medicaid for the necessary supplies furnished to the recipient only if the facility is not billing a facility fee. Facilities cannot bill for both a facility fee and supplies.~~

F. **Payment for services in addition to facility fee:** Separate payment in addition to the facility fee is allowed for the following tests at the stated

frequencies. ~~Medical justification by the physician is required if the tests are performed more often than is allowed by this policy.~~

(1) ~~For hemodialysis, peritoneal dialysis and continuous cyclic peritoneal dialysis:~~

(a) ~~monthly: hepatitis test;~~

(b) ~~once every three months: nerve conduction velocity test; EKG;~~

(c) ~~once every six months: chest X-ray;~~

(d) ~~once every year: bone survey.~~

(2) ~~For continuous abdominal peritoneal dialysis:~~

(a) ~~once every three months: WBC; RBC; platelet count.~~

(b) ~~once every six months: residual renal function; bone mineral density; 24 hour urine volume; chest X-ray; EKG; MNCV.~~

~~G. **Reimbursement for training:** Medicaid reimburses for hemodialysis, peritoneal dialysis, continuous cycling peritoneal dialysis, and continuous abdominal peritoneal dialysis training sessions if furnished by a renal dialysis facility certified to provide these services. Fifteen (15) training sessions are allowed without medical justification. To be reimbursed for additional training sessions, a medical justification must be attached to the claim.] Dialysis facilities must submit claims for reimbursement on the UB-92 claim form or its successor. Physicians must submit for reimbursement on the CMS-1500 claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services*. The facility's composite rate reimbursement is a comprehensive payment for all in facility and home dialysis services. Providers cannot bill separately for services inclusive of the composite rate, as defined by medicare, even though payment is made at the medicaid fee schedule. Physicians services are not included in the facilities composite rate. Physicians may bill for their professional services according to the policies and procedures outlined in the 8.310.2 NMAC, *Medical Services Providers*. Laboratory procedures and radiology procedures that are not part of the facilities composite rate, as defined by medicare, may be billed separately.~~

A. Certified hospital-based dialysis facilities are reimbursed at a rate determined by the medicaid outpatient hospital reimbursement methodology.

B. Hospital providers are reimbursed for inpatient renal dialysis at a rate determined by the medicaid inpatient hospital reimbursement methodology.

C. Renal dialysis facilities acting as suppliers to a home-dialyzed recipient can bill medicaid for the necessary

supplies furnished to the recipient only if the facility is not billing a facility fee. Facilities cannot bill for both a facility fee and supplies.

[2/1/95; 8.325.2.16 NMAC - Rn, 8 NMAC 4.MAD.761.6 & A, 11/1/04]

NEW MEXICO STATE PERSONNEL BOARD

This is an amendment to 1.7.10 NMAC, Section 13, effective 10/29/04.

1.7.10.13 INVOLUNTARY OR VOLUNTARY SEPARATION:

A. Employees who have suffered a job-related injury or illness which is compensable under the Workers' Compensation Act and are physically or mentally unable to perform the essential functions of their pre-injury/pre-illness position, with or without reasonable accommodation, shall be involuntarily or voluntarily separated from the service without prejudice provided:

(1) the employee has been afforded modified duty in accordance with 1.7.10.12 NMAC;

(2) the employee has reached maximum medical improvement prior to the completion of up to 12 months of modified duty; or, the employee has not reached maximum medical improvement upon the expiration of up to 12 months of modified duty;

(3) all efforts to [reasonably] accommodate the medical restrictions of the employee have been made and documented; and

(4) the employing agency has [exhausted] made reasonable efforts to find other suitable vacant positions within the agency at the same or lower midpoint than the midpoint of the pre-injury/pre-illness position for which:

(a) the employee meets the established requirements and can perform the essential functions of the job, either with or without reasonable accommodation; or

(b) the agency certifies that the employee holds qualifications and abilities necessary for successful job performance and can perform the essential functions of the job, either with or without reasonable accommodation.

B. Employees who have suffered a non job-related injury or illness and are permanently unable to perform the essential functions of their pre-injury/pre-illness position, with or without reasonable accommodation, as a result of the physical or mental disability created by the non job-related injury or illness shall be involuntarily or voluntarily separated from the service without prejudice provided:

(1) all efforts to reasonably

accommodate the medical restrictions of the employee have been made and documented; and

(2) the employing agency has [exhausted] made reasonable efforts to find other suitable vacant positions within the agency at the same or lower midpoint than the midpoint of the pre-injury/pre-illness position for which:

(a) the employee meets the established requirements and can perform the essential functions of the job, either with or without reasonable accommodation; or

(b) the agency certifies that the employee holds qualifications and abilities necessary for successful job performance and can perform the essential functions of the job, either with or without reasonable accommodation.

C. Agencies may provide modified duty to employees for a period of up to 4 months during the separation process if required to meet the provisions of this rule.

~~D. Employees involuntarily or voluntarily separated in accordance with 1.7.10.13 NMAC shall be provided with at least 14 calendar days written notice. Such separation is not appealable to the Board.]~~

~~E. The agency shall notify the Director and the Risk Management Division of the General Services Department of the proposed separation 30 calendar days in advance of the separation date and submit a copy of the separation notice along with documentation to support efforts to modify pre-injury/pre-illness positions and to support efforts to find other suitable vacant positions.]~~

D. Notice of Contemplated Separation :

(1) To initiate the involuntary separation of an employee who has completed the probationary period, the agency shall serve a notice of contemplated separation on the employee which: describes the circumstances which form the basis for the contemplated separation; gives a general explanation of the evidence the agency has; advises the employee of his or her right to inspect and obtain copies of any documentary evidence relied upon; specifies what the contemplated action is; and states that the employee has 11 calendar days from service of the notice to respond in writing to the notice or to request an opportunity for an oral response.

(2) When the notice of contemplated separation is served by mail, the employee receiving service shall have 3 additional calendar days in which to file a response.

(3) At the time the notice of contemplated separation is served on the employee, the agency shall notify the director and the risk management division of the

general services department of the proposed separation and submit a copy of the separation notice along with documentation to support efforts to provide modified duty and to support efforts to find other suitable vacant positions.

E. Response to Notice of Contemplated Separation:

(1) A representative of the employee's choosing may respond in writing to the notice of contemplated separation on behalf of the employee.

(2) If there is a request for an oral response to the notice of contemplated separation, the agency shall meet with the employee within 11 calendar days of a request for an oral response, unless the employee and the agency agree in writing to an extension of time. A representative of the employee's choosing may represent the employee.

(3) The purpose of the oral response is not to provide an evidentiary hearing but is an opportunity for the employee to present his or her side of the story. It is an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to support the proposed involuntary separation.

F. Notice of Final Separation:

(1) If the employee does not respond to the notice of contemplated separation the agency shall issue a notice of final separation within 11 calendar days following the response period.

(2) If the employee has filed a written response or has been provided an opportunity for oral response, the agency shall issue a notice of final separation no later than 11 calendar days from the date of receipt of the response.

(3) The notice of final separation shall:

(a) specify the action to be taken;

(b) describe the circumstances which form the basis for the involuntary separation, which may not include allegations not included in the notice of contemplated separation;

(c) give a general explanation of the evidence the agency has;

(d) specify when the final separation will be effective, which must be at least 24 hours from the time of service of the notice of final separation; and

(e) inform the employee that the final separation may be appealed to the board with a written statement of the grounds for the appeal delivered to the state personnel office in Santa Fe, New Mexico, and received by the director within 30 calendar days of the effective date of the separation.

[1.7.10.13 NMAC - Rp, 1 NMAC 7.10.13,

07/07/01; A, 11/14/02; A, 06/08/04; A, 10/29/04]

NEW MEXICO RACING COMMISSION

This is an amendment to Paragraph (2) of Subsection C of 15.2.7.8 NMAC effective 10/29/2004.

15.2.7.8 GENERAL PROVISIONS:

A. GENERAL: Each association shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the commission. The totalisator shall be tested prior to and during the meeting as required by the commission. Each association shall make reasonable provisions for providing a backup system in case of a mechanical failure. The association is required to report to the commission on the backup system so provided.

B. RECORDS:

(1) The association shall maintain records of all wagering so the commission may review such records for any contest including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each association and safeguarded for a period of time specified by the commission. The commission may require that certain of these records be made available to the wagering public at the completion of each contest.

(2) The association shall provide the commission with a list of the licensed individuals afforded access to pari-mutuel records and equipment at the wagering facility.

C. PARI-MUTUEL TICKETS:

(1) A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the association and is evidence of the obligation of the association to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The association shall cash all valid winning tickets when such are presented for payment during the course of the meeting where sold, and for a 60 day period after the last day of the meeting.

(2) To be deemed a valid pari-mutuel ticket, such ticket shall have been **[issued] recorded** by a pari-mutuel ticket machine operated by the association and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

(a) the name of the association operating the meeting;

(b) a unique identifying number or code;

(c) identification of the terminal at which the ticket was issued;

(d) a designation of the performance for which the wagering transaction was issued;

(e) the contest number for which the pool is conducted;

(f) the type or types of wagers represented;

(g) the number or numbers representing the betting interests for which the wager is recorded;

(h) the amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

(3) No pari-mutuel ticket recorded or reported as previously paid, cancelled, or non-existent shall be deemed a valid pari-mutuel ticket by the association. The association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as provided in Subsection D of 15.2.7 NMAC of these general provisions.

D. PARI-MUTUEL TICKET SALES:

(1) Pari-mutuel tickets shall not be sold by anyone other than an association licensed to conduct pari-mutuel wagering.

(2) No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalisator is closed for wagering on such contest.

(3) Claims pertaining to a mistake on an issued ticket, or a mistake involving failure to issue a ticket, must be made by the bettor prior to leaving the seller's window. Cancellation or exchange of tickets issued shall not be permitted after a patron has left a seller's window except in accordance with written policies established by the association and approved by the commission.

(4) Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official". Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the stewards or commission shall in no way affect the pari-mutuel payout. If an error in the posted order of finish or payout figures is discovered, the official order of finish or payout prices may be corrected and an announcement concerning the change shall be made to the public.

(5) The association shall not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization of the commission.

(6) The association shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

(7) No person under eighteen (18) years of age is permitted to purchase or cash a pari-mutuel ticket. It shall be the duty of the pari-mutuel employees to demand proof of age from any person whose age, as it pertains to this rule, is doubtful.

E. ADVANCE PERFORMANCE WAGERING: No association shall permit wagering to begin more than one hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the commission.

F. CLAIMS FOR PAYMENT FROM PARI-MUTUEL POOL:

(1) At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by the association in any case where the association has withheld payment or has refused to cash a pari-mutuel wager. The claim shall be made on such form as approved by the commission, and the claimant shall make such claim under penalty of perjury. The original of such claim shall be forwarded to the commission within 48 hours.

(2) In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements required in Subsection C Paragraph (2) of 15.2.7 NMAC of these general provisions, the association shall make a recommendation to accompany the claim forwarded to the commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

(3) In the case of a claim made for payment on a pari-mutuel wager, the commission shall adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the association, or may deny the claim, or may make such other order as it may deem proper.

G. PAYMENT FOR ERRORS: If an error occurs in the payment amounts for pari-mutuel wagers which are cashed or entitled to be cashed; and as a result of such error the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

(1) verification is required to show that the amount of the commission, the amount in breakage, and the amount in payouts is equal to the total gross pool; if the amount of the pool is more than the amount used to calculate the payout, the underpayment shall be added to the corresponding pool of the next contest; if underpayments are discovered after the close of the meeting, the underpayment shall be held

in an interest-bearing account approved by the commission until being added, together with accrued interest, to the corresponding pool of the next meeting;

(2) any claim not filed with the association within 60 days, inclusive of the date on which the underpayment was publicly announced, shall be deemed waived; and the association shall have no further liability therefore;

(3) in the event the error results in an overpayment to winning wagers, the association shall be responsible for such payment.

H. BETTING EXPLANATION: A summary explanation of pari-mutuel wagering and each type of betting pool offered shall be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on association grounds and available upon request through association representatives.

I. DISPLAY OF BETTING INFORMATION:

(1) Approximate odds for win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than 90 seconds.

(2) The probable payout or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the commission.

(3) Official results and payouts must be displayed upon each contest being declared official.

J. CANCELLED CONTESTS: If a contest is cancelled or declared "no contest", refunds shall be granted on valid wagers in accordance with these rules.

K. REFUNDS:

(1) Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(a) win pools, exacta pools, and first-half double pools offered in contests in which the number of betting interests has been reduced to fewer than two (2);

(b) place pools, quinella pools, trifecta pools, first-half quinella double pools, first-half twin quinella pools, first-half twin trifecta pools, and first-half tri-superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three (3);

(c) show pools, superfecta pools, and first-half twin superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four (4).

(2) Authorized refunds shall be paid upon presentation and surrender of the affected pari-mutuel ticket.

L. COUPLED ENTRIES AND MUTUEL FIELDS:

(1) Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.

(2) For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

M. POOLS DEPENDENT UPON BETTING INTERESTS: Unless the commission otherwise provides, at the time the pools are opened for wagering, the association:

(1) may offer win, place, and show wagering on all contests with six (6) or more betting interests;

(2) may be allowed to prohibit show wagering on any contest with five (5) or fewer betting interests scheduled to start;

(3) may be allowed to prohibit place wagering on any contest with four (4) or fewer betting interests scheduled to start;

(4) may be allowed to prohibit quinella wagering on any contest with three (3) or fewer betting interests scheduled to start;

(5) may be allowed to prohibit quinella double wagering on any contests with three (3) or fewer betting interests scheduled to start;

(6) may be allowed to prohibit exacta wagering on any contest with three (3) or fewer betting interests scheduled to start;

(7) may prohibit trifecta wagering on any contest with seven (7) or fewer betting interests scheduled to start;

(8) may prohibit superfecta wagering on any contest with seven (7) or fewer betting interests scheduled to start;

(9) may be allowed to prohibit twin quinella wagering on any contests with three (3) or fewer betting interests scheduled to start;

(10) may prohibit twin trifecta wagering on any contests with seven (7) or fewer betting interests scheduled to start;

(11) may prohibit tri-superfecta wagering on any contests with seven (7)

or fewer betting interests scheduled to start;

(12) may prohibit twin superfecta wagering on any contests with seven (7) or fewer betting interests scheduled to start.

N. PRIOR APPROVAL REQUIRED FOR BETTING POOLS:

(1) An association desiring to offer new forms of wagering must apply in writing to the commission and receive written approval prior to implementing the new betting pool.

(2) The association may suspend previously approved forms of wagering with the prior approval of the commission. Any carryover shall be held until the suspended form of wagering is reinstated. An association may request approval of a form of wagering or separate wagering pool for specific performances.

O. CLOSING OF WAGERING IN A CONTEST:

(1) A commission representative shall close wagering for each contest after which time no pari-mutuel tickets shall be sold for that contest.

(2) The association shall maintain, in good order, a system approved by the commission for closing wagering.

P. COMPLAINTS PERTAINING TO PARI-MUTUEL OPERATIONS:

(1) When a patron makes a complaint regarding the pari-mutuel department to an association, the association shall immediately issue a complaint report, setting out:

- (a) the name of the complainant;
- (b) the nature of the complaint;
- (c) the name of the persons, if any, against whom the complaint was made;
- (d) the date of the complaint;
- (e) the action taken or proposed to be taken, if any, by the association.

(2) The association shall submit every complaint report to the commission within 48 hours after the complaint was made.

Q. LICENSED EMPLOYEES: All licensees shall report any known irregularities, wrong doings by, or dismissal of, any person involving pari-mutuel wagering immediately to the commission and cooperate in subsequent investigations.

R. UNRESTRICTED ACCESS: The association shall permit the commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the association that relate to pari-mutuel wagering.

S. EMERGENCY SITUATIONS: Should an emergency arise in connection with the operation of the pari-mutuel department not covered by these

rules and an immediate decision is necessary, the manager of the pari-mutuel department shall make the decision and render a full report to the commission within 48 hours.

[15.2.7.8 NMAC - Rp, 15 NMAC 2.7.8, 03/15/2001; A, 10/29/2004]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.1 NMAC, Section 1, effective November 8, 2004.

16.25.1.1 ISSUING AGENCY:

New Mexico Board of Veterinary Medicine [~~1650 University Blvd. NE, Suite 400C, Albuquerque, NM 87102, (505) 841-9112~~]. [16.25.1.1 NMAC - Rp, 16 NMAC 25.1.1, 10-12-00; A, 11-08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.2 NMAC, Sections 1, 14 and 20, effective November 8, 2004.

16.25.2.1 ISSUING AGENCY:

New Mexico Board of Veterinary Medicine [~~1650 University Blvd. NE, Suite 400C, Albuquerque, NM 87102, (505) 841-9112~~]. [16.25.2.1 NMAC - Rp, 16 NMAC 25.2.1, 7-25-01; A, 11-08-04]

16.25.2.14 60-DAY TEMPORARY LICENSE:

A. Purpose - The temporary license - good for a period of no more than 60 calendar days - is intended for experienced, licensed veterinarians who wish to practice in New Mexico for only a brief time. The temporary license is not intended for, or granted to, a new graduate or experienced veterinarian who has not yet taken the state licensing exam or met the other licensing requirements.

B. Eligibility and requirements - To qualify for a temporary license, an applicant must:

- (1) have been licensed in and have practiced in another state (or states), territory, or district of the United States;
- (2) be in good standing in all jurisdictions in which he/she is or has been licensed; and
- (3) submit the completed, signed, and notarized "application for 60-day temporary license" (form obtained from board office) along with a head-and-shoulders photo and the temporary license fee.

(4) provide diploma, transcripts, letters of good standing, and personal and professional references, as discussed in Section 16.25.2.10 basic licensure

requirements.

C. An applicant for a temporary license does not need to take ~~either portion of~~ the state exam or provide national exam scores.

D. Limitations - A temporary license cannot be renewed, and no more than one will be granted per career. [16.25.2.14 NMAC, 7-25-01; A, 11-08-04]

16.25.2.20 FEES FOR EXAMINATION AND LICENSURE:

A. State examination

(1) For applicants who do not qualify for endorsement, to take the exam:

- (a) at one of the regularly scheduled times - \$200
- (b) at an individually scheduled special time - \$500

(2) For applicants who qualify for endorsement, to take the exam [~~Jurisprudence only~~]:

- (a) at one of the regularly scheduled times - \$500
- (b) at an individually scheduled special time - \$500

B. Annual DVM license renewal - \$175.

C. New licensee's first-year (partial-year) - fee prorated from date of license issue until renewal date (birth month)

D. 60-day temporary license - \$200

E. Late-renewal penalties:

- (1) if postmarked no later than 30 days past expiration date - \$100
- (2) if postmarked more than 30 days after expiration date - \$10 per day
- (3) Any veterinarian practicing with a lapsed license is practicing in violation of the law.

[16.25.2.20 NMAC - Rp, 16 NMAC 25.2.17.1 and 25.2.19.1, 7-25-01; A, 1-10-2004; A, 11-08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.4 NMAC, Section 1, effective November 8, 2004.

16.25.4.1 ISSUING AGENCY:

New Mexico Board of Veterinary Medicine [~~1650 University Blvd. NE, Suite 400C, Albuquerque, NM 87102, (505) 841-9112~~]. [16.25.4.1 NMAC - Rp, 16 NMAC 25.4.1, 09-01-00; A, 11-08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.5 NMAC, Section 1, effective November 8, 2004.

16.25.5.1 ISSUING AGENCY:

New Mexico Board of Veterinary Medicine
~~[, 1650 University Blvd. NE, Suite 400C,
 Albuquerque, NM 87102, (505) 841-9112].~~
 [16.25.5.1 NMAC - Rp, 16 NMAC 25.5.1,
 10-12-00; A, 11-08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.6 NMAC,
 Section 1, effective November 8, 2004.

16.25.6.1 ISSUING AGENCY:
 New Mexico Board of Veterinary Medicine
~~[, 1650 University Blvd. NE, Suite 400C,
 Albuquerque, NM 87102, (505) 841-9112].~~
 [12/05/75...05/31/96; 16.25.6.1 NMAC -
 Rn, 16 NMAC 25.6.1, 04-15-04; A, 11-08-
 04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.7 NMAC,
 Section 1, effective November 8, 2004.

16.25.7.1 ISSUING AGENCY:
 New Mexico Board of Veterinary Medicine
~~[, 1650 University Blvd. NE, Suite 400C,
 Albuquerque, NM 87102, (505) 841-9112].~~
 [16.25.7.1 NMAC - Rp, 16 NMAC 25.7.1,
 09-01-00; A, 11-08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.8 NMAC,
 Sections 1 and 10, effective November 8,
 2004.

16.25.8.1 ISSUING AGENCY:
 New Mexico Board of Veterinary Medicine
~~[, 1650 University Blvd. NE, Suite 400C,
 Albuquerque, NM 87102, (505) 841-9112].~~
 [16.25.8.1 NMAC - Rp, 16 NMAC 25.8.1,
 10-12-00; A, 11-08-04]

**16.25.8.10 LICENSE RENEW-
 AL:**

A. To renew his/her AI or
 PD permit, a technician must pay the ~~[\$50]~~
~~\$75~~ annual renewal fee by December 31.
 There is no continuing education require-
 ment for AI or PD technicians.

B. Before the December
 31 renewal date, the board office sends all
 AI/PD technicians a renewal notice and
 form to be filled out and returned with the
 renewal fee.

C. If an AI/PD technician
 permit lapses and is not renewed within one
 year, the applicant must take and pass the
 examination(s) again before he/she can
 obtain a new permit.

[16.25.8.10 NMAC - N, 10-12-00; A, 11-
 08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.3 NMAC,
 Section 1, effective November 8, 2004.
 This rule was also reformatted and renum-
 bered from 16 NMAC 25.3 to comply with
 current NMAC requirements.

16.25.3.1 ISSUING AGENCY:
 New Mexico Board of Veterinary Medicine
~~[, 1650 University Blvd. NE, Ste 400C,
 Albuquerque, NM 87102 (505) 841-9112].~~
 [12/5/75, 5/31/96; 16.25.3.1 NMAC - Rn &
 A, 16 NMAC 25.3.1, 11-08-04]

NEW MEXICO BOARD OF VETERINARY MEDICINE

This is an amendment to 16.25.11 NMAC,
 Section 1, effective November 8, 2004.
 This rule was also reformatted and renum-
 bered from 16 NMAC 25.11 to comply with
 current NMAC requirements.

16.25.11.1 ISSUING AGENCY:
 New Mexico Board of Veterinary Medicine
~~[, 1650 University Blvd. NE, Ste 400C,
 Albuquerque, NM 87102 (505) 841-9112].~~
 [5/31/96; 16.25.11.1 NMAC - Rn & A, 16
 NMAC 25.11.1, 11-08-04]

End of Adopted Rules Section

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Other Material Related to Administrative Law

**NEW MEXICO BOARD OF
EXAMINERS FOR
ARCHITECTS**

New Mexico Board of Examiners for
Architects

PO Box 509
Santa Fe, NM
505-827-6375

Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, November 19, 2004. The meeting will be held in the Conference Room of the Board office, Lamy Building, 491 Old Santa Fe Trail, beginning at 9:00 a.m. Disciplinary matters may also be discussed.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 827-6375 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2004

Volume XV	Submittal Deadline	Publication Date
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 14
Issue Number 24	December 15	December 30

2005

Volume XVI	Submittal Deadline	Publication Date
Issue Number 1	January 3	January 14
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 14
Issue Number 8	April 15	April 29
Issue Number 9	May 2	May 13
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 18	July 29
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 3	October 17
Issue Number 20	October 18	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. 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. For further subscription information, call 505-476-7907.