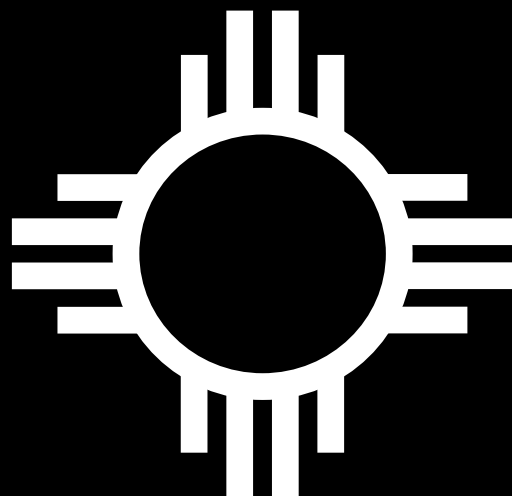


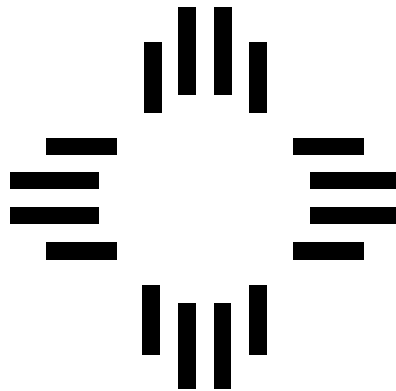
**NEW
MEXICO
REGISTER**



Volume XV
Issue Number 24
December 30, 2004

New Mexico Register

**Volume XV, Issue Number 24
December 30, 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 24

December 30, 2004

Table of Contents

Notices of Rulemaking and Proposed Rules

Children, Youth and Families Department

Family Services Division

Notice of Cancellation. 1065

Information Technology Commission

Notice of Proposed Rulemaking and Procedural Order 1065

Occupational Therapy Board

Public Rule Hearing and Regular Board Meeting 1065

Racing Commission

Notice of Rulemaking and Public Hearing. 1066

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided 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A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

Accountancy Board, Public

16.60.1 NMAC A Public Accountants - General Provisions 1067

16.60.2 NMAC A Certified Public Accountant (CPA) Examination Requirements 1067

16.60.3 NMAC A Licensure and Continuing Professional Education Requirements 1067

Chiropractic Examiners, Board of

16.4.7 NMAC N Impaired Practitioner Programs 1071

16.4.1 NMAC Rn & A Chiropractic Practitioners - General Provisions 1071

16.4.3 NMAC Rn & A Requirements for Licensure by Examination 1073

16.4.4 NMAC Rn & A Licensure by Endorsement. 1074

16.4.9 NMAC Rn & A License Renewal Procedures 1075

16.4.10 NMAC Rn & A Continuing Education 1075

16.4.17 NMAC Rn & A Supervision of Interns 1076

16.4.18 NMAC Rn & A Practice Procedures 1077

Engineer, Office of the State

19.25.13 NMAC N Active Water Resource Management 1077

Game and Fish, Department of

19.31.3 NMAC A/E Hunting and Fishing License Application. 1085

19.31.3 NMAC R Hunting and Fishing License Application. 1086

19.31.3 NMAC N Hunting and Fishing License Application. 1086

19.31.8 NMAC N Big Game and Turkey 1089

Higher Education, Commission on

5.3.13 NMAC A Allocation and Distribution of the Adult Basic Education Fund 1128

5.7.18 NMAC A Residency for Tuition Purposes 1130

Human Services Department

Medical Assistance Division

8.200.510 NMAC A Resource Standards 1131

8.200.520 NMAC A Income Standards. 1132

Livestock Board

21.32.10 NMAC A Livestock Board Fees. 1134

Pharmacy, Board of

16.19.4 NMAC A Pharmacist 1134

16.19.6 NMAC A Pharmacies. 1135

16.19.8 NMAC	A	Wholesale Prescription Drug Distribution	1139
16.19.12 NMAC	A	Fees	1139
16.19.21 NMAC	A	Drug Precursors	1139
Psychologist Examiners, Board of			
16.22.20 NMAC	N	Health Care Practitioner Collaboration Guidelines	1141
16.22.21 NMAC	N	Limits of Practice.	1142
16.22.22 NMAC	N	Prescribing Psychologists: Application Committee.	1142
16.22.23 NMAC	N	Requirements for Education and Conditional Prescription Certificate.	1143
16.22.24 NMAC	N	Application Procedures: Two-Year Supervised Practice	1146
16.22.25 NMAC	N	Application for Prescription Certificate; Peer Review.	1148
16.22.26 NMAC	N	Graduates of the Department of Defense Psychopharmacology Demonstration Project	1149
16.22.27 NMAC	N	Formulary	1150
16.22.28 NMAC	N	Prescribing Psychologists: Complaint Procedures.	1151
16.22.29 NMAC	N	Prescribing Psychologists: Continuing Professional Education and Certificate Renewal	1152
16.22.1 NMAC	A	Psychologist and Psychologist Associates - General Provisions	1152
16.22.13 NMAC	A	Fees	1154
Public Education Department			
6.2.3 NMAC	R	Operational Bylaws of the Professional Standards Commission	1155
6.2.8 NMAC	N	Operational Bylaws of the Professional Practices and Standards Council	1155
6.10.8 NMAC	N	Compulsory School Attendance	1157
6.19.5 NMAC	N	Student Identification System and Accountability Data System: Security Measures	1158
6.30.2 NMAC	A	Standards for Excellence	1159
Public Records, Commission of			
1.18.369 NMAC	R	ERRDS, State Records Center and Archives	1160
1.18.927 NMAC	R	ERRDS, School for the Deaf	1160
		<i>Synopsis Approval Letter</i>	1160
1.18.369 NMAC	N	ERRDS, Commission of Public Records (<i>synopsis</i>)	1160
1.18.927 NMAC	N	ERRDS, New Mexico School for the Deaf (<i>synopsis</i>)	1160
1.15.2 NMAC	A	GRRDS, General Administrative Records	1161
1.15.3 NMAC	A	GRRDS, General Administrative Records (For Use by Local Government and Educational Institutions)	1161
Public Regulation Commission			
Insurance Division			
13.17.4 NMAC	Rn & A	Workers' Compensation Assigned Risk Pool	1161
Transportation Division			
18 NMAC 4.2	R	Ambulance and Medical Rescue Services	1162
18.3.2 NMAC	R	Operating Authorities	1162
18.3.4 NMAC	R	Qualifications of Drivers	1162
18.3.5 NMAC	R	Operating Requirements.	1162
18.3.8 NMAC	R	Changes in Certificates of Public Convenience and Necessity and Permits.	1162
18.3.2 NMAC	N	Operating Authorities.	1162
18.3.4 NMAC	N	Safety Requirements	1170
18.3.8 NMAC	N	Changes in Certificates and Permits	1172
18.3.14 NMAC	N	Ambulance Services.	1175
18.1.2 NMAC	A	Transportation Division Procedures	1180
18.3.1 NMAC	A	Motor Carrier General Provisions - General Provisions	1180
18.3.3 NMAC	A	Financial Responsibility.	1182
18.3.6 NMAC	A	Tariffs	1183
18.3.7 NMAC	A	Reports, Records and Accounts	1183
18.3.9 NMAC	A	Leasing of Equipment	1183
18.3.10 NMAC	A	Parental Responsibility.	1184
18.3.11 NMAC	A	Household Goods Carriers.	1184
18.3.12 NMAC	A	Towing Services.	1184
18.3.13 NMAC	A	Registration of Interstate Carriers.	1187

Other Material Related to Administrative Law

Public Records, Commission of	
Historical Records Advisory Board	
Notice of Regular Meeting	1189
University of New Mexico	
Notices of Adoption	1189
Veterinary Medicine, Board of	
Legal Notice	1189

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The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

Notices of Rulemaking and Proposed Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION NOTICE OF CANCELLATION

The New Mexico Children, Youth and Families Department, Family Services, Child Care Services Bureau is canceling the public hearing regarding 8.16.3 NMAC Regulations Governing the Child Care Facility Loan Act, scheduled for January 14, 2005 at 3:30 p.m. in the Family Services Offices located at 3401 Pan American Freeway NE; Albuquerque, New Mexico. The cancellation only includes the Facility Loan Act portion, where the other Family Services hearings scheduled for the same date and time will be held. Questions may be addressed to Patricia Lucero at (505) 827-7659. The rescheduled date will be published at a later date.

NEW MEXICO INFORMATION TECHNOLOGY COMMISSION

IN THE MATTER OF ADOPTING 1.12.11
NMAC, ENTERPRISE ARCHITECTURE

NOTICE OF PROPOSED RULEMAK- ING AND PROCEDURAL ORDER

I. SOLICITATION OF COMMENTS

The Information Technology Commission (Commission) issues this Notice of Proposed Rulemaking to provide an opportunity for public comment and to create a record for a decision on a proposed new rule: 1.12.11 NMAC, Enterprise Architecture. The Commission requests written comments from all interested persons and entities on the proposed new rule.

All relevant and timely comments, including data, views, or arguments, will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Order issued by the Commission.

II. ORDER

IT IS THEREFORE ORDERED that this

Notice of Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposed rule on or before December 20, 2004. All relevant and timely comments, including data, views, or arguments will be considered by the Commission before final action is taken in this proceeding. Written comments must be filed prior to the deadline for receipt of comments either in hard copy with the Deputy Chief Information Officer, Office of the Chief Information Officer, 404 Montezuma, Santa Fe, NM 87501 or by electronic mail to the Deputy Chief Information Officer at cio@state.nm.us. The rule number must appear on each submittal. Comments will be available for public inspection during regular business hours in the Office of the Chief Information Officer, 404 Montezuma, Santa Fe, NM 87501.

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, Sections 2-11-1 *et seq* NMSA 1978, regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person who is a lobbyist must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

IT IS FURTHER ORDERED that the Commission may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that staff of the Office of the Chief Information Officer shall cause a copy of this Notice to be published once in the *New Mexico Register*; once in the *Albuquerque Journal*, and to be posted to the Internet at <http://www.cio.state.nm.us> all on or before December 30, 2004. To obtain a copy of the proposed rule: (1) send the rule name, rule number, and a self-addressed envelope to the Office of the Chief Information Officer,

404 Montezuma, Santa Fe, NM 87501; (2) call the Office of the Chief Information Officer at 505-476-0400 with the rule name and rule number; e-mail the Deputy Chief Information Officer at cio@state.nm.us with the rule name and rule number (you will receive a copy of the rule in Microsoft WORD format by return e-mail); or download the proposed rule from the Internet at <http://www.cio.state.nm.us>. The proposed rule is also available for inspection and copying during regular business hours in the Office of the Chief Information Officer, 404 Montezuma, Santa Fe, NM 87501.

PLEASE BE ADVISED THAT individuals with a disability who are in need of summaries or other types of accessible forms of the proposed rule or comments may contact the Deputy Chief Information Officer at (505)476-0400.

DONE, this 3rd day of December, 2004.

INFORMATION TECHNOLOGY COM-
MISSION

By: Carroll Cagle, Chair

NEW MEXICO OCCUPATIONAL THERAPY BOARD

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

Notice is hereby given that the New Mexico Occupational Therapy Board will convene a public rule hearing at 10:00 a.m. on Friday, January 21, 2005. The hearing will be held at the Regulation and Licensing Department, 5200 Oakland Ave, Albuquerque, NM.

The purpose of the rule hearing is to consider for adoption proposed amendments to the following Board Regulations in 16.15 NMAC: PART 2, "*Licensing requirements*"; PART 3, "*Supervision*", PART 4, "*Continuing Education Requirements*", and PART 6, "*Fee Schedule*".

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at 2550 Cerrillos Road, 2nd Floor, Santa Fe, New Mexico 87505; or call (505) 476-4600 or 476-4827; or access them in the "News" link on the Board's Website at www.rld.state.nm.us. All written comments, mailed to the Board office or e-mailed to occupationaltherapy@state.nm.us or kim.syra@state.nm.us, must be submitted no later than Monday, January 10, 2005, in order for the Board members to receive

the comments in their packets for review before the rule hearing. Persons wishing to present their comments at the hearing will need eight (8) copies of any comments or proposed changes for distribution to the Board and staff at the hearing.

A regular business meeting will follow the rule hearing during which action will be taken on the proposed rules. During the regular meeting, the Board may enter into Executive Session to discuss licensing matters.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4827 at least two weeks prior to the meeting or as soon as possible.

NEW MEXICO RACING COMMISSION

NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a rulemaking and public hearing will be held in the Commission Conference Room, 300 San Mateo N.E., Albuquerque, New Mexico, commencing in executive session at 8:00 o'clock a.m. on Thursday, January 27, 2005. The public session will begin at 9:30 o'clock a.m. on Thursday, January 27, 2005. The Commission will consider adoption of proposed amended rule for incorporation into the Rules Governing Horse Racing in New Mexico No. 15.2.7.8 NMAC (regarding advanced wagering.)

Copies of the proposed rule may be obtained from India Hatch, Agency Director, New Mexico Racing Commission, 300 San Mateo N.E., Suite 110, Albuquerque, New Mexico 87108, (505) 841-6400. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the commission of such needs at least five days prior to the meeting.

India Hatch
Agency Director

Dated: December 6, 2004

End of Notices and Proposed Rules Section

Adopted Rules

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.1.8 NMAC, effective 12-30-2004.

16.60.1.8 HEADQUARTERS OF THE BOARD: The headquarters, administrative offices, and staff of the board shall be physically located at ~~[4650 University Blvd. NE, Suite 400 A, Albuquerque, NM 87102]~~ 5200 Oakland NE, Suite D, Albuquerque, New Mexico, 87113 or a subsequent location subject to the board's approval and ratification. [16.60.1.8 NMAC - Rp 16 NMAC 60.1-8, 02-14-2002; A, 12-30-2004]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.2.8 NMAC, effective 12-30-2004.

16.60.2.8 APPLICATION PROCEDURES:

A. The board may contract as its agent CPA Examination Services (CPAES), the National Association of State Boards of Accountancy (NASBA), or the American Institute of Certified Public Accountants (AICPA) or other entities it deems appropriate to undertake any aspects of examination development, delivery, administration, qualification, or application that the board considers necessary and appropriate in its oversight and administration of the Uniform CPA Examination.

B. Applicants for the CPA examination shall meet the following requirements:

- (1) Section 61-28B7 of the Act;
- (2) Section 61-28B8 of the Act (Effective July 1, 2004); and provisions set forth in this rule.

C. For the current pencil and paper CPA examination, applications to take the certified public accountant examination must be made on board forms and filed with the board at least 60 days prior to scheduled and available examination dates. For the current pencil and paper examination, the application must be postmarked or hand-delivered on or before March 1 for the May examination, and on or before September 1 for the November examination or the next business day if the specified dates fall on a weekend or holiday. For computer based CPA examination applications, application deadlines shall be specified on the board prescribed application forms.

D. An application will not

be considered filed until all application/qualification fees and examination fees required by these rules and all required supporting documents have been received, including photographs, official transcripts, and proof that the applicant has completed the education requirement.

E. An applicant who fails to appear for the examination shall forfeit all fees charged for both the application and the examination.

F. Prospective applicants for the CPA examination shall demonstrate to the board's satisfaction that all education requirements are met.

G. For the computer-based examination, the board or its designee shall forward notification of eligibility to NASBA's national candidate database.

H. Upon registering for any section of the computer-based examination, an applicant must sit for that section of the examination within six months from the date on which he is deemed eligible to sit for that section.

[16.60.2.8 NMAC - Rp 16 NMAC 60.3.9.1, 16 NMAC 60.3.9.2, & 16 NMAC 60.3.9.3, 02-14-2002; A, 01-15-2004; A, 12-30-2004]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.3 NMAC, Sections 9, 13 and 15, effective 12-30-2004.

16.60.3.9 INITIAL CERTIFICATE/LICENSE REQUIREMENTS:

A. An applicant for initial certification/licensure shall demonstrate to the board's satisfaction that he:

(1) is of good moral character and lacks a history of dishonest or felonious acts;

(2) meets the education, experience and examination requirements of the board; and

(3) ~~[provides evidence of successful completion of an ethics examination prescribed by the board]~~ passes the American institute of certified public accountants ethics examination with a score of 90 percent or higher.

B. Moral character requirements: The board may assess moral character requirements based upon applicant-provided character references and background checks to determine an applicant's history of dishonest or felonious acts.

C. Education and examination requirements: Education and examination requirements are specified in the Act, Section 61-28B7 and Section 61-28B8 (After July 1, 2004) and are further delin-

ated in Part 2 of board rules.

D. Experience required: Applicants documenting their required experience for issuance of an initial certificate pursuant to Section 7H of the act, and after July 1, 2004 Section 8H of the act shall:

(1) provide documentation of experience in providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax or consulting skills; acceptable experience shall include experience gained through employment in industry, government, academia or public practice;

(2) have their experience verified and demonstrate that all experience was obtained under the direct supervision of an active, licensed CPA as defined in the act or under the direct supervision of an active, licensed CPA from another state; the board shall consider and evaluate factors such as complexity and diversity of the work in determining acceptability of experience submitted;

(a) one year of experience shall consist of full or part-time employment that extends over a period of no less than 1 year and no more than 3 years and includes no fewer than 2,000 hours of performance of services described above;

(b) experience documented in support of an initial application must be obtained within the 7 years immediately preceding passing of the examination or within 7 years of having passed the examination upon which the application is based; this does not apply to applicants who qualified and sat for the examination during or prior to the November 2001 administration;

(c) any licensee requested by an applicant to submit evidence of the applicant's experience and who has refused to do so shall, upon request of the board, explain in writing or in person the basis for such refusal; the board may require any licensee who has furnished evidence of an applicant's experience to substantiate the information;

(d) the board may inspect documentation relating to an applicant's claimed experience; any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

E. Replacement wall certificates and licenses to practice: Replacement wall certificates and licenses to practice may be issued by the board in appropriate cases and upon payment by the CPA or RPA of the fee as set by the board. A certificate/license holder is specifically prohibited from possessing more than one wall certificate and more than one license to

practice as a CPA or RPA. When a replacement wall certificate or license to practice is requested, the certificate/license holder must return the original certificate/license or submit a notarized affidavit describing the occurrence that necessitated the replacement certificate or license.

F. Renewal requirements: Certificates/licenses for individuals will have staggered expiration dates based on the individual's birth month. Deadline for receipt of certificate/license renewal applications and supporting continuing professional education affidavits or reports is no later than the last day of the month prior to the CPA or RPA certificate/license holder's birth month or the next business day if the deadline date falls on a weekend or holiday.

(1) The board may accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications.

(2) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(3) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the continuing professional education requirements of Sections 9E and 12A of the act and of these rules.

(4) The board shall mail renewal application notices no less than 30 days prior to the renewal deadline.

[16.60.3.9 NMAC - Rp 16 NMAC 60.4.8.2 & 16 NMAC 60.4.8.3, 02-14-2002; A, 01-15-2004; A, 06-15-2004; A, 12-30-2004]

16.60.3.13 RECIPROCI- TY REQUIREMENTS:

A. Interstate Reciprocity: The board may issue a certificate/license to the holder of a certificate issued by a state other than New Mexico as defined under Sections 3Q, 11B and D, and 26A of the act provided that the license from the other state is valid and in good standing and that the applicant:

(1) provides proof from a board-approved national qualifications service that their CPA qualifications are substantially equivalent to the CPA requirements of the act; or

(2) successfully completed the CPA examination in accordance with the rules of the other state at the time it granted the applicant's initial certificate; and

(3) has satisfied the education requirements set out in Sections 7C and 8C of the act; and

(4) meets the experience requirements under the act and these rules for issuance of the initial certificate; and

(5) has met the CPE requirement of the state in which he is currently licensed pursuant to the act and board rules; and

(6) has ~~met the ethics examination requirements of the board~~ passed either the American institute of certified public accountants ethics examination with a score of 90 percent or higher or an ethics examination of another state board of accountancy with a score of 90 percent or higher.

B. An applicant who holds a certificate from another state based upon passage of the examination but who does not hold a license to practice shall not be eligible for licensure by reciprocity.

C. The board may rely on the national association of state boards of accountancy (NASBA), the American institute of certified public accountants (AICPA), or other professional bodies deemed acceptable to the board for evaluation of other state's CPA qualification requirements in making substantial equivalency determinations.

D. International reciprocity: The board may designate a professional accounting credential issued in a foreign country as substantially equivalent to a New Mexico CPA certificate and may issue a certificate/license to the holder of a professional accounting credential issued in a foreign country.

(1) The board may rely on NASBA, AICPA, or other professional bodies deemed acceptable to the board for evaluation of foreign credentials in making equivalency determinations.

(2) The board may satisfy itself through qualifying examination(s) that the holder of a foreign country credential deemed by the board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. practice standards and the board's rules. The board will specify the qualifying examination(s) and may rely on NASBA, AICPA, or other professional bodies to develop, administer, and grade such qualifying examination(s).

(3) The board recognizes the existence of the international qualifications appraisal board (IQAB), a joint body of NASBA and AICPA, which is charged with:

(a) evaluating the professional credentialing process of certified public accountants, or their equivalents, from countries other than the United States; and

(b) negotiating principles of reciprocity agreements with the appropriate professional and governmental bodies of other countries seeking recognition as having requirements substantially equivalent to the requirements for the certificate of a certified public accountant in the United States.

(4) The board shall honor the terms of all principles of reciprocity agreements issued by IQAB.

(5) The board recognizes the international uniform CPA qualification

examination (IQEX), written and graded by AICPA, as a measure of professional competency satisfactory to obtain a New Mexico certificate by reciprocity.

(6) The board may accept a foreign country accounting credential in partial satisfaction of its certificate/license requirements if:

(a) the holder of the foreign country accounting credential meets the issuing body's education requirement and has passed the issuing body's examination used to qualify its own domestic candidates; and

(b) the foreign country credential is valid and in good standing at the time of application for a certificate/license.

(7) The board shall accept the following foreign credentials in partial satisfaction of its certificate/license requirements:

(a) Canadian chartered accountant

(b) Australian chartered accountant

(c) Australian certified practising accountant

(d) Mexican contador publicos certificado

E. An applicant for renewal of a CPA certificate/license originally issued in reliance on a foreign country accounting credential shall:

(1) meet all board prescribed certificate/license renewal requirements; and

(2) present documentation from the foreign country accounting credential issuing body that the applicant's foreign country credential has not been suspended or revoked and is not the subject of a current investigation; and

(3) report any investigations undertaken or sanctions imposed by a foreign country credentialing body against the CPA's foreign country credential.

F. If the foreign country credential has lapsed, expired, or been cancelled, the applicant must present proof from the foreign country credentialing body that the certificate holder/licensee was not the subject of any disciplinary proceedings or investigations at the time the foreign country credential lapsed.

G. Suspension or revocation of, or refusal to renew, the CPA's foreign accounting credential by the foreign credentialing body shall be considered evidence of conduct reflecting adversely upon the CPA's fitness to retain the certificate and may be a basis for board action.

H. Conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country is evidence of conduct reflecting adversely upon the CPA's fitness to retain a certificate/license and is a basis for board action.

I. The board shall notify the appropriate foreign country credential-

ing authorities of any sanctions imposed against a CPA. The board may participate in joint investigations with foreign country credentialing bodies and may rely on evidence supplied by such bodies in disciplinary hearings.

[16.60.3.13 NMAC - Rp 16 NMAC 60.4.9, 02-14-2002; A, 09-16-2002; A, 01-15-2004; A, 06-15-2004; A, 12-30-2004]

16.60.3.15 CONTINUING PROFESSIONAL EDUCATION (CPE) REQUIRED TO OBTAIN OR MAINTAIN AN "ACTIVE" CPA LICENSE:

A. The following requirements of continuing professional education apply to certificate/license renewals and reinstatements pursuant to Sections 9E and 12A of the act. An applicant for certificate/license renewal shall show completion of no less than 120 clock hours of CPE, complying with these rules during the 36-month period preceding the first day of the certificate/license holder's birth month.

(1) Any applicant seeking a license/certificate or renewal of an existing license shall demonstrate participation in a program of learning meeting the standards set forth in the statement on standards for continuing professional education (CPE) programs jointly approved by NASBA and AICPA or standards deemed comparable by the board.

(2) Each person holding an active CPA certificate/license issued by the board shall show completion of no less than 120 hours of continuing professional education complying with these rules during the 3 calendar years preceding the first day of the certificate/license holder's CPA birth month, with a minimum of 20 hours completed in each year. Licensees shall report CPE completion on board prescribed forms including a signed statement indicating they have met the requirements for participation in the CPE program set forth in board rules.

(3) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with CPE provisions.

(4) Deadline for receipt of license renewal applications and supporting CPE reports or affidavits is no later than the last day of the month prior to the certificate/license holder's birth month. Renewal applications and supporting CPE affidavits or reports shall be postmarked or hand-delivered no later than the renewal deadline date or the next business day if the deadline date falls on a weekend or holiday.

(5) In the event that a renewal applicant has not completed the requisite CPE by the renewal deadline, he shall pro-

vide a written explanation for failure to complete CPE; request an extension for completion of the required CPE; and shall provide a written plan of action to remediate the deficiency.

(a) The extension request and action plan shall accompany the renewal application.

(b) The provisions of the action plan shall be executed within 60 days of the expiration date of the license.

(c) The board reserves the right not to approve a plan of action or grant an extension.

(d) ~~The board may assess a fine for late CPE of \$10.00 per day not to exceed \$1,000.~~ Although a plan of action may be approved immediately upon receipt, the board reserves the right to levy a fine at a later date for late CPE of \$10.00 per day not to exceed \$1,000.

(e) The board may waive this fine for good cause.

(f) If all CPE requirements are not met within 90 days beyond the expiration date of the license, the license shall be ~~cancelled~~ subject to cancellation.

(6) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(7) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the CPE requirements of Sections 9E and 12A of the act and of these rules.

(8) Reinstatement applicants whose certificates/licenses have lapsed shall provide documented evidence of completion of 120 hours of CPE in the preceding 36 months before their application will be considered complete.

B. Exemption from CPE requirements through change of certificate/license status between inactive/retired and active status:

(1) Pursuant to Section 9E of the act, the board may grant an exception to CPE requirements for certificate holders who do not provide services to the public. Persons desiring exemption from CPE rules requirements may request to change from "active" to "inactive" or "retired" certificate/license status, provided that they:

(a) complete board-prescribed change-of-status forms and remit related fees;

(b) not practice public accountancy as defined in Section 3M of the act; and

(c) place the word "inactive" or "retired" adjacent to their CPA or RPA title on a business card, letterhead or other documents or devices, except for a board-issued certificate.

(2) Persons requesting to change from "inactive" or "retired" to "active" cer-

tificate/license status shall:

(a) provide documented evidence of compliance with all CPE requirements of this rule prior to request for certificate/license change of status to "active"; and

(b) complete board-prescribed change-of-status forms and remit related fees.

C. Hardship exceptions: The board may make exceptions to CPE requirements for reason of individual hardship including health, military service, foreign country residence, or other good cause. Requests for such exceptions shall be subject to board approval and presented in writing to the board. Requests shall include such supporting information and documentation as the board deems necessary to substantiate and evaluate the basis of the exception request.

D. Programs qualifying for CPE credit: A program qualifies as acceptable CPE for purposes of Sections 9E and 12A of the act and these rules if it is a learning program contributing to growth in professional knowledge and competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the statement on standards for continuing professional education programs jointly approved by NASBA and AICPA, by accounting societies recognized by the board, or such other standards deemed acceptable to the board.

(1) The following standards will be used to measure the hours of credit to be given for acceptable CPE programs completed by individual applicants:

(a) an hour is considered to be a 50-minute period of instruction;

(b) a full 1-day program will be considered to equal 8 hours;

(c) only class hours or the equivalent (and not student hours devoted to preparation) will be counted.

(2) Service as a lecturer, discussion leader, or speaker at continuing education programs or as a university professor/instructor (graduate or undergraduate levels) will be counted to the extent that it contributes to the applicant's professional competence.

(3) Credit as a lecturer, discussion leader, speaker, or university professor/instructor may be allowed for any meeting or session provided that the session would meet the continuing education requirements of those attending.

(4) Credit allowed as a lecturer, discussion leader, speaker or university professor/instructor will be on the basis of 2 hours for subject preparation for each hour of teaching and 1 hour for each hour of presentation. Credit for subject preparation may only be claimed once for the same

presentation.

(5) Credit may be allowed for published articles and books provided they contribute to the professional competence of the applicant. The board will determine the amount of credit awarded.

(6) Credit allowed under provisions for a lecturer, discussion leader, speaker at continuing education programs, or university professor/instructor or credit for published articles and books may not exceed one half of an individual's CPE requirement for a 3-year reporting period (shall not exceed 60 hours of CPE credit during a 3-year reporting period).

(7) For a continuing education program to qualify under this rule, the following standards must be met:

(a) an outline of the program is prepared in advance and preserved;

(b) the program is at least 1 hour in length;

(c) a qualified instructor conducts the program; and

(d) a record of registration or attendance is maintained.

(8) The following programs are deemed to qualify, provided the above are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters; and

(c) no more than 4 hours CPE annually may be earned for board meeting attendance.

(9) University or college graduate-level courses taken for academic credit are accepted. Excluded are those courses used to qualify for taking the CPA exam. Each semester hour of credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal 10 hours.

(10) Non-credit short courses - each class hour shall equal 1 hour toward the requirement and may include the following:

(a) formal, organized in-firm educational programs;

(b) programs of other accounting, industrial, and professional organizations recognized by the board in subject areas acceptable to the board;

(c) formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.

(11) The board will allow up to a total of 24 hours of CPE credits for firm peer review program participation. Hours may be earned and allocated in the calendar year of the acceptance letter for the firm's CPAs participating in the peer review.

(a) Firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.

(b) Firms having a system peer review will be allowed up to 24 hours of CPE credits.

(c) Firms having a system peer review at a location other than the firm's office shall be considered an off-site peer review and will be allowed up to 12 hours of CPE credits.

(d) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.

(12) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of the credit to be allowed for individual courses. The board will accept programs meeting the standards set forth in the NASBA CPE registry, AICPA guidelines, or such other programs deemed acceptable to the board.

(13) For each 3-year reporting period, at least 96 of the hours reported shall be courses, programs or seminars whose content is in technical subjects such as audit; attestation; financial reporting; tax, management consulting; financial advisory or consulting; and other areas acceptable to the board as directly related to the professional competence of the individual.

(14) For each 3-year reporting period, at least 24 of the hours reported shall be taken outside of the individual's firm, agency, company, organization or normal work setting in a public presentation environment, which is defined as a group program, classroom, live instructor setting in which at least 10 percent of the registered participants are not members, associates, clients, or employees of the firm, agency, company, organization or normal work environment.

(15) For each 3-year reporting period, credit will be allowed once for any single course, program or seminar unless the individual can demonstrate that the content of such course, program or seminar was subject to substantive technical changes during the reporting period.

E. Programs not qualifying for CPE:

(1) CPA examination review or "cram" courses;

(2) industrial development, community enhancement, political study groups or similar courses, programs or seminars;

(3) courses, programs or seminars that are generally for the purpose of learning a foreign language;

(4) partner, shareholder or member meetings, business meetings, committee service, and social functions unless they are structured as formal programs of learning adhering to the standards prescribed in this rule.

F. Continuing professional education records requirements: When applications to the board require evidence of CPE, the applicants shall maintain such records necessary to demonstrate evidence of compliance with requirements of this rule.

(1) Reinstatement and reciprocity applicants shall file with their applications a signed report form and statement of the CPE credit claimed. For each course claimed, the report shall show the sponsoring organization, location of program, title of program or description of content, the dates attended, and the hours claimed.

(2) Responsibility for documenting program acceptability and validity of credits rests with the licensee and CPE sponsor. Such documentation should be retained for a period of 5 years after program completion and at minimum shall consist of the following:

(a) copy of the outline prepared by the course sponsor along with the information required for a program to qualify as acceptable CPE as specified in this rule; or

(b) for courses taken for scholastic credit in accredited universities and colleges, a transcript reflecting completion of the course. For non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.

(3) Institutional documentation of completion is required for formal, individual self-study/correspondence programs.

(4) The board may verify CPE reporting information from applicants at its discretion. Certificate holders/licensees or prospective certificate holders/licensees are required to provide supporting documentation and/or access to such records and documentation as necessary to substantiate validity of CPE hours claimed. Certificate holders/licensees are required to maintain documentation to support CPE hours claimed for a period of 5 years after course completion/CPE reporting. Should the board exercise its discretion to accept an affidavit in lieu of a CPE report, the board shall audit certificate/license holder CPE rules compliance of no less than 10 percent of active CPA/RPA licensees annually.

(5) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action.

(6) An individual who has submitted a sworn affidavit on their renewal application as evidence of compliance with

CPE requirements and is found, as the result of a random audit, not to be in compliance will be subject to a minimum \$250.00 fine and any other penalties deemed appropriate by the board as permitted by Section 20B of the act.

~~(6)~~ (7) The sponsor of a continuing education program is required to maintain an outline of the program and attendance/registration records for a period of 5 years after program completion.

~~(7)~~ (8) The board may, at its discretion, examine certificate holder/licensee or CPE sponsor documentation to evaluate program compliance with board rules. Non-compliance with established standards may result in denial of CPE credit for non-compliant programs and may be a basis for disciplinary action by the board for fraudulent documentation and representation by a CPE sponsor or certificate holder/licensee of a knowingly non-compliant CPE program.

[16.60.3.15 NMAC - Rp 16 NMAC 60.6.6, 02-14-2002; A, 09-16-2002; A, 06-15-2004; A, 07-30-2004; A, 12-30-2004]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 4 CHIROPRACTIC PRACTITIONERS
PART 7 IMPAIRED PRACTITIONER PROGRAMS**

16.4.7.1 ISSUING AGENCY: New Mexico Board of Chiropractic Examiners, PO Box 25101, Santa Fe, New Mexico 87504.
[16.4.7.1 NMAC - N, 1/15/2005]

16.4.7.2 SCOPE: All licensed chiropractic physicians.
[16.4.7.2 NMAC - N, 1/15/2005]

16.4.7.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of chiropractic in New Mexico and are promulgated pursuant to and in accordance with the Chiropractic Physician Practice Act, (Sections 61-4-1 through 17 NMSA 1978).
[16.4.7.3 NMAC - N, 1/15/2005]

16.4.7.4 DURATION: Permanent.
[16.4.7.4 NMAC - N, 1/15/2005]

16.4.7.5 EFFECTIVE DATE: January 15, 2005, unless a later date is cited at the end of a section.
[16.4.7.5 NMAC - N, 1/15/2005]

16.4.7.6 OBJECTIVE: To clarify the procedures identified in the Impaired Health Care Provider Act.
[16.4.7.6 NMAC - N, 1/15/2005]

16.4.7.7 DEFINITIONS:
A. Impaired physicians programs is defined as programs that protect the public and educate the chiropractic physicians.
B. Programs may monitor, educate and intercede in the prevention and treatment of chiropractic physicians impaired or at risk of impairment.
C. All impairment fees received shall be designated for these programs.
[16.4.7.7 NMAC - N, 1/15/2005]

16.4.7.8 COMPLAINTS: Anyone may file a complaint with the board if they have reasonable cause to believe a chiropractor is impaired by:
A. mental illness;
B. physical illness, including but not limited to deterioration through the aging process or loss of motor skills;
C. habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act; or
D. habitual or excessive use or abuse of alcohol.
[16.4.7.8 NMAC - N, 1/15/2005]

16.4.7.9 PROCESS: Complaints received in the board office that allege impaired practice will be processed in the following manner, unless there are exceptional circumstances which require the board to consider the complaint without referral to the complaint committee because of a potential threat to the health or safety of the licensee or patients.

- A. The complaint committee of the board shall review the complaint to determine if the board has jurisdiction over the matter and if the complaint may have merit.
- B. The complaint committee may conduct a preliminary investigation to determine if the allegations in the complaint are supported by facts.
- C. Upon completion of the review and or investigation, the complaint committee shall submit its recommendations to the board.
- D. The board shall determine if an examination to ascertain impaired practice is required.
[16.4.7.9 NMAC - N, 1/15/2005]

16.4.7.10 DISCIPLINARY ACTION: No action or investigation or proceedings under the Impaired Health Care Provider Act (61-7-1 through 12 NMSA 1978) precludes the board from investigating or acting simultaneously, in its sole dis-

cretion, under the Chiropractic Physician Practice Act (61-4-1 through 17 NMSA 1978).
[16.4.7.10 NMAC - N, 1/15/2005]

History of 16.4.7 NMAC: [RESERVED]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.1 NMAC, Sections 5, 7, 12 and 13, effective 1/15/2005. In addition, 16 NMAC 4.1, Chiropractic Practitioners, General Provisions (filed 10/17/97) was also renumbered and reformatted by 16.4.1 NMAC, Chiropractic Practitioners, General Provisions, effective 1/15/2005.

16.4.1.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section [~~or paragraph~~].
[11/16/97; 16.4.1.5 NMAC - Rn & A, 16 NMAC 4.1.5, 1/15/2005]

16.4.1.7 DEFINITIONS:
A. "Chiropractic" means the science, art and philosophy of things natural, the science of locating and removing interference with the transmissions or expression of nerve forces in the human body by the correction of misalignments or subluxations of the articulations and adjacent structures, more especially those of the vertebral column and pelvis, for the purpose of restoring and maintaining health for treatment of human disease primarily by, but not limited to, adjustment and manipulation of the human structure. It shall include, but not be limited to, the ~~use~~ prescription and administration of all natural ~~agencies~~ agents in all forms to assist in the healing act, such as food, water, heat, cold, electricity, mechanical appliances, herbs, nutritional supplements, homeopathic remedies and any necessary diagnostic procedure, excluding invasive procedures, except as provided by the board by rule and regulation. It shall exclude operative surgery and prescription or use of controlled or dangerous drugs.

B. "Board" means the New Mexico board of chiropractic.

C. "Chiropractic physician" includes doctor of chiropractic, chiropractor and chiropractic physician and means a person who practices chiropractic as defined in the Chiropractic Physician Practice Act.

D. "Chiropractic assistant" means a person who practices under the on-premises supervision of a licensed chiropractic physician [~~and~~].

E. "Advertising" means any communication whatsoever, dissemi-

nated by any means whatsoever, to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services.

F. "Chiropractic adjustment" means the application of a precisely controlled force applied by hand or by mechanical device to a specific focal point on the anatomy for the purpose of creating a desired angular movement in the skeletal joint structures in order to eliminate or decrease interference with neural transmission or to correct or attempt to correct a vertebral subluxation using, as appropriate, short lever, high velocity, low amplitude line of correction force to achieve the desired angular movement or neuromuscular reflex response.

G. "Mobilization" means a non-thrusting manual therapy involving movement of a joint within its physiological range of motion. Mobilization is a passive movement within the physiological joint space administered by a clinician for the purpose of increasing normalizing overall joint range of motion.

H. "Spinal manipulation or articular manipulation" means the application of a direct thrust or leverage to move a joint of the spine or extremity articulation to the parapsycho-logic end range movement but without exceeding the limits of anatomical integrity.

I. "Vertebral subluxation" means a complex of functional, structural or pathological articular changes, or combination thereof, that compromise articular junction, neural integrity and may adversely influence organ system function or general health and well being.

J. "Impairment fee" means: that in addition to the license renewal fee, each chiropractor subject to renewal will be assessed an impairment fee to be set aside for the purpose of the impaired practitioners program.

[3/1/72, 9/18/80, 2/27/87, 3/5/93, 11/16/97, 10/31/98; 16.4.1.7 NMAC -Rn & A, 16 NMAC 4.1.7, 1/15/2005]

16.4.1.12 ADVERTISING:

A. Statement of policy: It is the policy of the board that advertising by licensed practitioners of chiropractic should be regulated in order to fulfill the duty of the state of New Mexico to protect the health, safety and welfare of its residents, while not abridging any rights guaranteed to the practitioners or to the public by the Constitution of the United States and the Constitution of the state of New Mexico as construed by the United States supreme court and the New Mexico supreme court.

To that end, the board permits the dissemination of legitimate information to the public concerning the science of chiropractic and individual practitioners thereof. Such dissemination of information must be done in accordance with this rule which is designed to reasonably facilitate the flow of accurate information and prevent fraudulent, false, deceptive, misleading or confusing advertising. Advertising not contrary to the prohibitions in this rule shall be deemed an appropriate means of informing the public of the availability of professional services.

B. Certain advertising prohibited:

(1) Any chiropractor who disseminates or causes to be disseminated or allows to be disseminated any advertising which is in any way fraudulent, false, deceptive, misleading or confusing, shall be deemed to be in violation of the Chiropractic Physician Practice Act.

(2) Fraudulent, false, deceptive, misleading or confusing advertising includes, but is not limited, to:

(a) advertising which contains a misrepresentation of any fact or facts;

(b) advertising which, because of its contents or the context in which it is presented, fails to disclose relevant or material facts or makes only partial disclosure of relevant or material facts;

(c) advertising which makes claims of, or conveys the impression of superior professional qualifications which cannot be substantiated by the chiropractor;

(d) advertising which contains distorted claims or statements about any individual chiropractor, chiropractic group or chiropractic office, clinic or center;

(e) advertising which creates unjustified expectations of beneficial treatment or successful cures;

(f) advertising which guarantees the results of any service, painless treatment, or which promises to perform any procedure painlessly;

(g) advertising which in any way appeals to fears, ignorance or anxieties regarding a persons state of health or physical or mental well-being;

(h) advertising which in any way intimidates or exerts undue pressure on the recipient;

(i) advertising which fails to conspicuously identify the chiropractor or chiropractors referred to in the advertising as practitioners of chiropractic by use of the term "chiropractor", "chiropractors", "chiropractic", "chiropractic physician", "chiropractic physicians", "doctor of chiropractic", or "doctors of chiropractic";

(j) advertising which fails to be conspicuously identified as "chiropractic" advertising;

(k) advertising which fails to con-

spicuously identify the chiropractic practice, office, clinic or center being advertised by a name which includes the term "chiropractor", "chiropractors", "chiropractic", "chiropractic physician", "chiropractic physicians", "doctor of chiropractic" or "doctors of chiropractic";

(l) advertising which invades the field of practice of other healthcare practitioners when the chiropractor is not licensed to practice such profession;

(m) advertising which appears in a classified directory or listing, or otherwise under a heading which, when considered alone or together with the advertisement, does not accurately convey the professional status of the chiropractor or the professional services being advertised;

(n) advertising which concerns a transaction that is in itself illegal;

(o) advertising which employs testimonials which, by themselves or when taken together with the remainder of the advertisement intimidate, exert undue pressure on, or otherwise improperly influence the recipient.

C. Advertising which offers gratuitous services or discounts in connection with professional services; provided, however, that advertising may offer gratuitous services or discounts if:

(1) such advertising clearly and conspicuously states whether or not additional charges may be incurred for related services which may be needed and/or appropriate in individual cases, and the possible range of such additional charges if such charges may be incurred;

(2) such advertising is not otherwise false, fraudulent, deceptive, misleading or confusing;

(3) such advertising offering a "spinal examination" or "scoliosis examination" or using any other similar phrase includes, at a minimum, the following tests or procedures: blood pressure, weight, height, reflexes, pulse, range of motion and orthopedic tests appropriate to the history; and

(4) such advertising offering "an examination" or using any other similar phrase includes the taking of a history of the patient as it relates to the presenting complaints, and a comprehensive neurological, orthopedic, chiropractic and physical examination including, where necessary, the taking, developing and interpretation of x-rays and the performance and interpretation of laboratory or other specialized tests when necessary to establish a diagnosis; such x-rays and laboratory and other specialized tests must constitute a diagnostically complete study.

D. Advertisements may quote fixed prices for specific routine services if such advertising clearly and conspicuously states whether or not additional

charges may be incurred for related services and the possible range of such additional charges if such charges may be incurred. A routine service is one which is not so unique that a fixed rate cannot meaningfully be established.

E. Chiropractors or their agents who engage in telemarketing are required to inform the parties they call at the start of the call:

- (1) who they are (caller's name);
- (2) who they represent (clinic/doctor); and

(3) chiropractors engaging in telemarketing, either directly or through others, shall keep a log to include date, telephone number, and the name of every person called; all such chiropractors shall keep such logs for a period of two (2) years from the date of the telemarketing.

F. No chiropractor engaging in, or authorizing another to engage in, telemarketing of prospective patients shall misrepresent to the person called any association with an insurance company or another chiropractor or group of chiropractors, nor shall such solicitor promise successful chiropractic treatment of injuries, or make any other misrepresentation of whatever kind for the purpose of selling chiropractic services.

G. No chiropractor engaging in, or authorizing another to engage in, telemarketing of prospective patients shall engage in such practices during hours prohibited by applicable municipal ordinance or state law, or in the absence of either, then other than between the hours 9 a.m. and 8 p.m. local time.

H. No chiropractor engaging in, or authorizing another to engage in, telemarketing of prospective patients shall make more than one telephone call to any telephone number unless requested by the recipient to call again.

I. No chiropractor shall advertise directly or indirectly, through any device or artifice, that the advertising chiropractor will not collect from any prospective patient, that patient's insurance deductible or co-payment obligations arising by virtue of any medical insurance policy providing for the payment, in whole or in part, of any chiropractor's charge.

J. No applicant for licensure to practice chiropractic, and no unlicensed practitioner, shall advertise chiropractic services in this state in any way.

K. All advertisements by a chiropractor must include the full name of the chiropractor as it appears on his or her chiropractic license followed by the letters D.C. or the designation "chiropractor", "chiropractic physician" or "doctor of chiropractic".

~~L. No chiropractor engaging in, or authorizing another to engage in,~~

~~advertising for prospective patients shall use police reports or information obtained from police reports for the purpose of the solicitation of victims or the solicitation of the relatives of victims of reported crimes or accidents for a period of thirty (30) days following the accident or crime.]~~

~~[M. Compliance by any New Mexico chiropractor with this regulation does not relieve the doctor engaging in or authorizing the telemarketing from complying with other applicable regulations of the board and other applicable laws.]~~

L. Any written form of solicitation being distributed to individuals whose identities are known through the use of any form of public record, including but not limited to police reports, shall be reviewed and approved by the board. Unless specifically disapproved by the committee designated by the board the copy submitted may be used for patient solicitation. If approved or disapproved, that information shall be communicated to the submitting doctor within 30 days of submission. The submitting physician has the right to request a determination be made by the full board at its next scheduled meeting.

[3/1/72, 2/27/87, 9/18/80, 3/5/93, 10/31/93, 11/16/97, 10/31/98; 16.4.1.12 NMAC - Rn & A, 16 NMAC 4.1.12, 1/15/2005]

16.4.1.13 ADMINISTRATIVE FEES:

A. In accordance with Section 61-4-7.G and Section 61-4-13.B of the New Mexico Chiropractic Physicians Practice Act, NMSA 1978, the board of chiropractic examiners establishes the following nonrefundable fees:

- (1) application fees:
 - (a) licensure by examination [~~\$300~~] \$325;
 - (b) licensure by endorsement [~~\$600~~] \$625;
 - (c) temporary licensure [~~\$25~~] \$50;
 - (d) reinstatement of license [~~\$100~~] \$125 (in addition to back renewal and penalty fees for each year, not to exceed two years);
 - (e) application for examination [~~\$300~~] \$325;
- (2) annual renewal fees:
 - (a) active [~~\$150~~] \$300;
 - (b) inactive [~~\$50~~] \$100;
 - (c) impairment fee of \$25 in addition to the license renewal fee, each chiropractor subject to renewal will be assessed an amount not to exceed \$60 per renewal period.
- (3) penalty for late renewal \$100 (per month or portion of a month for which the license renewal fee is in arrears, the penalty not to exceed \$500).
- (4) continuing education fee \$50.
- (5) miscellaneous fees listed

below will be approved annually by the board and made available by the board office upon request:

- (a) photocopying;
- (b) written license verifications;
- (c) list of licensees;
- (d) duplicate licenses;
- (e) duplicate renewal certificate;
- (f) copies of statutes, rules and regulations.

B. The board shall annually designate that proportion of renewal fees which shall be used for the exclusive purposes of investigating and funding hearings regarding complaints against chiropractic physicians.

[3/22/95, 11/16/97, 10/31/98, 1/29/99; 16.4.1.13 NMAC - Rn & A, 16 NMAC 4.1.13, 1/15/2005]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.3 NMAC, Sections 5, 8 and 9 effective 1/15/2005. In addition, 16 NMAC 4.3, Requirements for Licensure by Examination (filed 10/17/97) renumbered, reformatted, amended and replaced by 16.4.3 NMAC, Requirements for Licensure by Examination, effective 1/15/2005.

16.4.3.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section [~~or paragraph~~]. [11/16/97; 16.4.3.5 NMAC - Rn & A, 16 NMAC 4.3.5, 1/15/2005]

16.4.3.8 APPLICATION FOR LICENSURE:

A. No application for licensure under the Chiropractic Physician Practice Act, Sections 61-4-1 through 61-4-17 NMSA 1978, shall be deemed complete until the board's administrator certifies that the application contains all of the following:

- (1) a completed application form;
- (2) a nonrefundable application by examination fee as set forth in Subparagraph (a) of Paragraph (1) of Subsection A of 16.4.1.13 NMAC payable by cashier's check or money order;
- (3) letter size, notarized copy of original chiropractic diploma;
- (4) 2" x 2" photograph attached to the application;
- (5) transcript of credits of chiropractic college;
- (6) transcripts documenting two years of pre-chiropractic, post-secondary education;
- (7) transcript from the national board of chiropractic examiners (parts I, II, III, IV and physiotherapy exam), demonstrating a passing score;
- (8) all transcripts must be sent

directly from each agency to the New Mexico board;

(9) verification of licensure and good standing in any state where the applicant holds a current or inactive license must be sent directly from the state licensing agency to the New Mexico board;

(10) complete the jurisprudence exam with a score of at least 75 percent.

B. Application must be complete and shall be received by the board's administrator no less than 45 days in advance for the practical examination.

C. All applications deemed completed by the board's administrator shall be referred to the board for final consideration. The board may deny any applicant the right to take the practical examination in accordance with Sections 61-4-10 NMSA 1978 and the Uniform Licensing Act, Section 6-1-1 through 1-1-31 NMSA 1978.

D. No applicant shall be eligible to sit the practical examination until the application is complete.

E. If an applicant does not meet the minimal requirements as set forth above, applicant may, at the discretion of the board, be required to take and pass part I, II, III, IV, or physiotherapy exam, or the special purpose examination (SPEC) of the national boards, or any portion of the New Mexico board of chiropractic examiners practical examination, or any combination thereof.

F. The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources.

[2/27/87, 5/26/89, 9/5/91, 2/12/93, 11/16/97, 10/31/98, 1/29/99; 16.4.3.8 NMAC - Rn & A, 16 NMAC 4.3.8, 1/15/2005]

16.4.3.9 APPLICATION FOR EXAMINATION:

A. No application for examination under the Chiropractic Physician Practice Act, Sections 61-4-1 through 61-4-17 NMSA 1978, shall be deemed complete until the board's administrator certifies that the application contains all of the following:

(1) a completed application form;
 (2) a nonrefundable application for examination fee as set forth in Subparagraph (a) of Paragraph (1) of Subsection A of 16.4.1.13 NMAC payable by cashier's check or money order;

(3) written verification sent directly from the college that applicant is in the last trimester, semester, or quarter, is expected to graduate with the next graduating class and the anticipated graduation date;

(4) 2" x 2" photograph attached to

the application;

(5) transcript of credits of chiropractic college;

(6) transcripts documenting two years of pre-chiropractic, post-secondary education;

(7) transcript from the national board of chiropractic examiners (parts I, II, III, IV and physiotherapy exam), demonstrating a passing score;

(8) all transcripts must be sent directly from each agency to the New Mexico board;

(9) verification of licensure and good standing in any state where the applicant holds a current or inactive license must be sent directly from the state licensing agency to the New Mexico board;

(10) completed the jurisprudence exam with a score of at least 75 percent.

B. Application must be complete and shall be received by the board's administrator no less than 45 days in advance for the practical examination.

C. All applications deemed completed by the board's administrator shall be referred to the board for final consideration. The board may deny any applicant the right to take the practical examination in accordance with Sections 61-4-10 NMSA 1978 and the Uniform Licensing Act, Section 6-1-1 through 1-1-31 NMSA 1978.

D. No applicant shall be eligible to sit the practical examination until the application is complete.

E. If an applicant does not meet the minimal requirements as set forth above, applicant may, at the discretion of the board, be required to take and pass part I, II, III, IV, or the physiotherapy exam or the special purpose examination (SPEC) of the national boards, or any portion of the New Mexico board of chiropractic examiners practical examination, or any combination thereof.

F. Upon receipt of a letter size, notarized copy of original chiropractic diploma, licensure by examination fee as set forth in Subparagraph (a) of Paragraph (1) of Subsection A of 16.4.1.13 NMAC, update of information submitted on original application and affidavit, a license may be issued at the direction of the chairman.

G. Upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board shall formally accept the approval of the application at the next scheduled meeting.

[1/29/99; 16.4.3.9 NMAC - Rn & A, 16 NMAC 4.3.9, 1/15/2005]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.4 NMAC, Sections 5 and 8, effective 1/15/2005. In addition, 16 NMAC 4.4, Licensure By Endorsement (filed 10-17-97) was renumbered, reformatted, amended and replaced by 16.4.4 NMAC, Licensure By Endorsement, effective 1/15/2005.

16.4.4.5 EFFECTIVE DATE:

November 16, 1997, unless a later date is cited at the end of a section [~~or paragraph~~]. [11/16/97; 16.4.4.5 NMAC - Rn & A, 16 NMAC 4.4.5, 1/15/2005]

16.4.4.8 LICENSURE BY ENDORSEMENT:

A. In accordance with Section 61-4-8 NMSA 1978, of the New Mexico Chiropractic Physician Practice Act, the board may, at its discretion, issue licenses to practice chiropractic in New Mexico to doctors who provide evidence of meeting the following minimal requirements:

(1) is of good moral character and has maintained an active practice for at least seven of the last ten years prior to the filing of the application as a doctor of chiropractic in another state or country whose licensure requirements are equal to or exceed those of New Mexico;

(2) doctor of chiropractic diploma from a council on chiropractic education accredited or board accepted equivalent chiropractic college;

(3) has no disciplinary action pending or taken against any chiropractic license the applicant held or holds; applicant agrees to a national practitioners databank and a federation of chiropractic licensing boards background check;

(4) has never been found guilty of any action which, had it been committed in New Mexico, would be grounds for disciplinary action against the license;

(5) provides national board transcripts;

(6) provides pre-chiropractic college transcripts.

B. Applicant must complete application for licensure by endorsement, pay nonrefundable application fee, [~~appear before the board for a personal interview prior to licensure~~] and should meet all other applicable requirements of New Mexico statutes pertaining to the practice of chiropractic and all other applicable provisions of the board's rules. [~~The applicant will also be required to attend orientation as directed by the board and complete a jurisprudence questionnaire.~~] The applicant will be required to completed the jurispru-

dence exam with a score of at least 75 percent.

C. Once an applicant has officially contacted the board in writing requesting application for licensure by endorsement, he or she must complete the application within ninety (90) calendar days. Failure to do so will result in loss of application fee and denial of request.

D. If an applicant does not meet the minimal requirements of 61-4-8.B NMSA 1978, applicant may at the discretion of the board, be required to take and pass part I, II, III or IV, or the special purpose examination (SPEC) of the national boards or any portion of the New Mexico board of chiropractic examiners practical examination or any combination thereof.

~~E. Consideration for licensure by endorsement shall occur only twice a year at the board meeting immediately preceding the day for licensure by examination.]~~

E. Upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board shall formally accept the approval of the application at the next scheduled meeting.

F. The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources.

[3/22/95, 11/16/97; 10/31/98; 16.4.4.8 NMAC - Rn & A, 16 NMAC 4.4.8, 1/15/2005]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.9 NMAC, Sections 5 and 8, effective 1/15/2005. In addition, 16 NMAC 4.9, License Renewal Procedures (filed 10-17-97) was renumbered, reformatted, amended and replaced by 16.4.9 NMAC, License Renewal Procedures, effective 1/15/2005.

16.4.9.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section [~~or paragraph~~]. [11/16/97; 16.4.9.5 NMAC - Rn & A, 16 NMAC 4.9.5, 1/15/2005]

16.4.9.8 LICENSE RENEWAL PROCEDURES:

A. In accordance with Section 61-4-13 and Section 61-4-14 NMSA 1978, of the New Mexico

Chiropractic Physician Practice Act, the board of chiropractic examiners establishes the following procedures for license renewal.

(1) Renewal notice. On or before June 1st of each year, the chiropractic board shall mail to the last address on file with the board a renewal notice to each person licensed to practice chiropractic in New Mexico.

(2) Renewal. The license shall expire at midnight on June 30th of each year. The board shall renew the license upon receipt from the licensee, the nonrefundable license renewal fee, along with a properly filled out original form with signature, and copies of continuing education certificate plus any applicable nonrefundable penalty fees.

(3) Renewal deadline. Each licensee shall submit the nonrefundable license renewal fee and properly completed application to the board postmarked no later than June 30th of the year for which the nonrefundable license renewal fee is requested.

(4) Penalty fees. A licensee shall submit to the board, in addition to the nonrefundable license renewal fee, a nonrefundable penalty fee as set forth in Paragraph (3) of Subsection A of 16.4.1.13 NMAC.

(5) Impairment fee. In addition to the license renewal fee, each chiropractor subject to renewal will be assessed an amount not to exceed \$60.00 per renewal period.

~~(6) Failure to renew license.~~ The procedures in Subsection B of 16.4.9.8 NMAC shall be followed by the board for all licensees who have failed to submit the annual renewal application including, where applicable, required information about continuing education, applicable fees and properly executed forms. Any fee paid to renew the license is deemed nonrefundable.

B. Notice. By July 31st of each year, the board shall send, by certified mail, to the address on file with the board, a forfeiture notice to each licensee who has not made the application for license renewal. The notice shall state that:

(1) the licensee has failed to make application for renewal;

(2) the amount of renewal and late fees;

(3) the information required about continuing education hours which must be submitted to renew the license;

(4) the licensee may voluntarily retire the license or the licensee may apply for an inactive license, by notifying the board in writing;

(5) failure to respond to the notice by the date specified, which date must be at least 31 days after the forfeiture notice is

sent by the board, either by submitting the renewal application and applicable fees, or the information required about continuing education hours, or by notifying the board that the licensee has voluntarily retired the license, or has applied for inactive status, shall result in forfeiture of the license to practice chiropractic in New Mexico.

[3/22/95, 11/16/97, 10/31/98; 16.4.9.8 NMAC - Rn & A, 16 NMAC 4.9.8, 1/15/2005]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.10 NMAC, Sections 5 and 8, effective 1/15/2005. In addition, 16 NMAC 4.10, Continuing Education (filed 10-17-97) was renumbered, reformatted, amended and replaced by 16.4.10 NMAC, Continuing Education, effective 1/15/2005.

16.4.10.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section [~~or paragraph~~]. [11/16/97; 16.4.10.5 NMAC - Rn & A, 16 NMAC 4.10.5, 1/15/2005]

16.4.10.8 CONTINUING EDUCATION:

A. In accordance with Section 61-4-3 NMSA 1978, New Mexico Chiropractic Physician Practice Act, chiropractic physicians licensed in New Mexico are required to complete a minimum of [~~twelve (12)~~] sixteen (16) hours of board approved continuing education annually by the time of license renewal. Credit hours may be earned at any time during the annual reporting period, July 1 through June 30, immediately preceding annual renewal.

B. The board will approve continuing education programs which in its determination, advance the professional skills, risk management and knowledge of the licensee. Practice building and self-motivational courses, or such portions of courses, will not be approved. A fee as set forth in Paragraph (4) of Subsection A of 16.4.1.13 NMAC will be assessed to all sponsoring institutions, organizations or individuals for a request for the approval of any seminar. There will be no charge to a licensee for individual request for approval.

C. Continuing education programs meeting board criteria for license renewal credit by the following entities shall be automatically approved:

(1) American chiropractic association and international chiropractic association, or their successors;

(2) the annual convention of any state recognized chiropractic association; or

(3) chiropractic colleges having

accreditation status with the chiropractic council on education (CCE);

(4) officiating during national board examinations shall be credited to the professional members of the NMBCE as approved hours of continuing education.

D. All other continuing education programs, for which license renewal is requested, must be submitted to the board office in writing by the licensee or sponsoring entity at least forty-five (45) days prior to the first day of the continuing education program and must include:

- (1) course title, objective and format;
- (2) sponsoring entity;
- (3) total class hours;
- (4) method for certification of attendance; or documentation of completion of program; and
- (5) instructors credentials.

E. The board may waive or extend the time for completion of the annual continuing education requirement if the licensee has reached the age of 70 years or if the licensee files with the board the statement of a licensed physician certifying the physical inability of the licensee to attend a seminar.

F. Licensee in the United States military practicing or residing outside the United States shall not be required to fulfill the continuing education requirements for the period of the absence.

(1) The board must be notified prior to license expiration that the licensee will be outside the United States, including the period of the absence.

(2) Upon return to the United States, the licensee shall complete the continuing education required for the years of practice within the United States during the renewal cycle, or apply for an emergency deferral.

(3) All renewal fees shall be waived while the licensee is practicing or residing outside the country serving in the military or under armed services contract.

(4) The board may waive any and all deadlines by special request of licensee in active military service or under armed services contract.

~~F.~~ G. The board may, under circumstances deemed appropriate by the board, waive the forty-five (45) day advance requirement set forth in Subsection D of 16.4.10.8 NMAC.

~~G.~~ H. All licensees shall comply with the requirements of this regulation on or before June 30th of each year.

~~H.~~ I. This rule supersedes all prior continuing education rules.

~~I.~~ J. The board may recognize, upon application, a chiropractic association for the purpose of this part if the association:

- (1) has 100% voluntary member-

ship as evidenced by a written affirmative request for membership;

(2) has 100% of its membership which is licensed in New Mexico, in good standing as a chiropractic physician;

(3) submits a copy of the association charter, by-laws and any similar association documents;

(4) is organized for the express purpose of promoting good and ethical chiropractic practice.

[1/11/74; 10/23/86; 3/22/95; 11/16/97; 10/31/98; 1/29/99; 16.4.10.8 NMAC - Rn & A, 16 NMAC 4.10.8, 1/15/2005]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.17 NMAC, Sections 5 and 8, effective 1/15/2005. In addition, 16 NMAC 4.17, Supervision of Interns (filed 10-17-97) was renumbered, reformatted, amended and replaced by 16.4.17 NMAC, Supervision of Interns, effective 1/15/2005.

16.4.17.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section ~~or paragraph~~. [11/16/97; 16.4.17.5 NMAC - Rn & A, 16 NMAC 4.17.5, 1/15/2005]

16.4.17.8 SUPERVISION OF INTERNS PRE AND POST:

A. The purpose for the intern program in New Mexico shall be to safely complete advanced training for the ~~graduating~~ under graduate and graduate chiropractic intern in the areas including, but not limited to, history taking, exams, ~~radiographic~~ imaging procedures and interpretation, patient report of findings, treatment recommendations, treatment room control, staff management, general clinic policies, problem solving skills, team concepts, goal setting, administrative skills, and other training the doctor may feel appropriate to complete the intern's advanced chiropractic training. This purpose enhances the professional training of the intern, the chiropractic college curriculum, the teaching skills of the doctor, the professional status of the profession of chiropractic and the professional standard of chiropractic health care available to New Mexico consumers.

B. Supervising doctor must have a current New Mexico license in "good standing" with the New Mexico board of chiropractic examiners and have been in active practice for at least three years.

C. Supervising doctor must have written verification from the college that intern is in a CCE, or board

approved equivalent thereof, accredited chiropractic college sanctioned intern program, and the doctor must assure compliance to the guidelines of the intern program.

D. Supervising doctor must personally train intern in chiropractic procedure.

E. Supervising doctor must be physically in the same building and immediately available in order for the intern to adjust any patient.

F. Public must be informed that the intern is an "intern chiropractor, not licensed in the state", and must sign an informed consent document approved by the board to this effect.

G. The supervising doctor must consult with intern prior to the intern's initial treatment of any patient.

H. Supervising doctor must continue to supervise progress of the patient and must personally treat the patient at least every third visit, or at any time there is a significant change in the patient's condition.

I. Supervising doctor may allow intern to position the patient for x-rays, but the supervising doctor may not permit the intern to activate the x-ray machine unless intern holds the appropriate New Mexico license to do so.

J. Supervising doctor may allow intern to assist in various exams and therapies after being trained and cleared by the supervising doctor on proper chiropractic procedures.

K. The supervising doctor must inform the college if the intern is deemed professionally incompetent in diagnosis or treatment or if the intern has other personal habits (alcoholism, drug addiction, moral turpitude, etc.) that would be unsafe for the public.

L. A supervising doctor may not supervise more than two interns at one time. The board must approve the training of more than four interns in any individual or group practice at the same time.

M. Supervising doctor must register with the New Mexico board of chiropractic examiners the interns' names, the college they are from, and the term of the internship, and provide proof of malpractice insurance for the supervising doctor in minimum amount of \$100,000 per person - \$300,000 per occurrence coverage, at least 15 days before the first day of the internship.

N. The board is to be sent a copy of any regular report sent to the college involving the intern at the time the report is sent to the college.

[5/2/92, 11/16/97; 10/31/98; 16.4.17.8 NMAC - Rn & A, 16 NMAC 4.17.8, 1/15/2005]

NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS

This is an amendment to 16.4.18 NMAC, Sections 5, 6, 8, 11, adding Sections 12 and 13, effective 1/15/2005. In addition, 16 NMAC 4.18, Practice Procedures (filed 10-17-97) was renumbered, reformatted, amended and replaced by 16.4.18 NMAC, Practice Procedures, effective 1/15/2005.

16.4.18.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section [~~or paragraph~~]. [11/16/97; 16.4.18.5 NMAC - Rn & A, 16 NMAC 4.18.5, 1/15/2005]

16.4.18.6 OBJECTIVE: [~~To establish practice procedures to include diagnostic, meridian therapy, obstetrics, and radiographic examinations.~~] To establish practice procedures to include diagnostic procedures, meridian therapy, obstetrics, invasive therapeutic procedures, imaging examinations, chiropractic rehabilitation of the neuromusculoskeletal system, manipulation under anesthesia and spinal manipulation. [11/16/97; 16.4.18.6 NMAC - Rn & A, 16 NMAC 4.18.6, 1/15/2005]

16.4.18.8 DIAGNOSTIC PROCEDURES:

A. Chiropractic physicians being primary care providers are authorized to perform diagnostic procedures specified in this regulation, on the general population ranging from pediatrics through geriatrics, which shall include the authority to perform and take.

- (1) Medical case history.
- (2) Physical examination of all body systems including, but not limited to:
 - (a) skin, hair, nails, head, eyes, ears, nose, throat and teeth;
 - (b) cardio-vascular and respiratory system, including auscultation;
 - (c) thorax and abdomen, including breast and rectal examination, when clinically appropriate;
 - (d) genito-urinary and reproductive system, to include vaginal and prostate examination, when clinically appropriate;
 - (e) musculo-skeletal system;
 - (f) neurological system.

B. Authority to order diagnostic procedures. Chiropractic physicians are authorized to order any diagnostic procedure reasonably necessary to clinically correlate a physical examination to a diagnostic impression; which shall include, but not be limited to laboratory procedures involving the collection of human fluids, such as saliva, blood, urine, vaginal and

seminal fluids, hair, feces and special imaging, such as x-ray; CT scan, MRI, nuclear scans, ultrasonography, thermography, B.E.A.M., EEG, EKG, ECG and surface or needle EMG.

C. Authority to perform diagnostic procedures.

(1) Chiropractic physicians are authorized to perform diagnostic procedures reasonably necessary to clinically correlate a physical examination to a diagnostic impression, (excluding surgical procedures and invasive procedures not herein specified), including but not limited to the collection and testing of human fluids, such as saliva, blood, urine, vaginal and seminal fluids, hair, feces, and conventional radiography.

(2) Chiropractic physicians who are trained in a course of doctoral or post-doctoral studies certified with an accredited institution recognized by the board are authorized to perform diagnostic procedures, including but not limited to MRI, CT, nuclear scans, ultrasonography; thermography, B.E.A.M., EEG, EKG, ECG and surface or needle EMG.

[5/4/94, 11/16/97; 16.4.18.8 NMAC - Rn & A, 16 NMAC 4.18.8, 1/15/2005]

16.4.18.11 [RADIOGRAPHIC] IMAGING EXAMINATION:

A. The following requirements for [~~radiographic~~] imaging examination have been established because of concerns about over-radiation and unnecessary X-ray exposure. The following should appear on films:

- (1) patient's name and age;
- (2) doctor's name, facility name, and address;
- (3) date of study;
- (4) left or right marker;
- (5) other markers as indicated;
- (6) adequate collimation;
- (7) gonad shielding, where applicable.

B. Minimum of A-P and lateral views are necessary for any regional study unless clinically justified.

C. As clinical evidence indicates, it may be advisable to produce multiple projections where there is an indication of possible fracture, significant pathology, congenital defects, or when an individual study is insufficient to make a comprehensive diagnosis/analysis.

D. Each film should be of adequate density, contrast, and definition, and no artifacts should be present.

E. The subjective complaints, if any, and the objective findings substantiating the [~~radiographic~~] imaging study must be documented in the patient record.

F. These rules are intended to complement and not supersede those

rules adopted by the environmental improvement board set forth in 20 NMAC.3.1, Subpart 6 [20.3.6 NMAC], "X-rays in the Healing Arts," including but not limited to the requirement of certification.

[4/18/93, 2/7/94, 11/16/97, 10/31/98; 16.4.18.11 NMAC - Rn & A, 16 NMAC 4.18.11, 1/15/2005]

16.4.18.12 CHIROPRACTIC EXERCISE AND THERAPUTIC TREATMENT OF THE NEUROMUSCULOSKELETAL SYSTEM:

Chiropractic physicians may prescribe or administer all necessary mechanical, hygienic and sanitary measures incident to the care of the body including but not limited to air, sound, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, oxygen and electricity.

[16.4.18.12 NMAC - N, 1/15/2005]

16.4.18.13 MANIPULATION UNDER ANESTHESIA:

Chiropractic physicians who can demonstrate training in a course of doctoral or post-doctoral studies certified within an accredited institution recognized by the board are authorized to perform manipulation under anesthesia, with that anesthesia administered by an appropriate, licensed provider.

[16.4.18.13 NMAC - N, 1/15/2005]

NEW MEXICO OFFICE OF THE STATE ENGINEER

TITLE 19 N A T U R A L RESOURCES AND WILDLIFE CHAPTER 25 ADMINISTRATION AND USE OF WATER - GENERAL PROVISIONS PART 13 ACTIVE WATER RESOURCE MANAGEMENT

19.25.13.1 ISSUING AGENCY:

Office of the State Engineer.

[19.25.13.1 NMAC - N, 12/30/2004]

19.25.13.2 SCOPE: The state engineer adopts these rules and regulations to undertake the supervision of the physical distribution of water, to prevent waste, and to administer the available supply of water by priority date or by alternative administration, as appropriate. These rules apply to all water rights within the state from all sources of water, surface water and hydrologically connected groundwater.

[19.25.13.2 NMAC - N, 12/30/2004]

19.25.13.3 S T A T U T O R Y AUTHORITY: These rules and regulations are established pursuant to constitutional authority set forth in Article XVI of the New Mexico Constitution, and statutory authority enumerated in Sections 72-1-2;

72-2-8; 72-2-9; 72-2-9.1; 72-3-1-5; 72-4-20; 72-5-3 through 5; 72-5-18; 72-5-23; 72-5-24; 72-6-1 through 7; 72-8-1; 72-9-2; 72-12-1; 72-12-2; 72-12-8(D); 72-12-24; 72-13-2; 72-13-4 NMSA.

[19.25.13.3 NMAC - N, 12/30/2004]

19.25.13.4 DURATION: Permanent.

[19.25.13.4 NMAC - N, 12/30/2004]

19.25.13.5 EFFECTIVE DATE: December 30, 2004, unless a later date is cited at the end of a section.

[19.25.13.5 NMAC - N, 12/30/2004]

19.25.13.6 OBJECTIVE: The objective of these rules is to establish the framework for the state engineer to carry out his responsibility to supervise the physical distribution of water to protect senior water right owners, to assure compliance with interstate stream compacts and to prevent waste by administration of water rights. These framework rules employ long-standing statutory mechanisms specified at Section 72-3-1 through Section 72-3-5 NMSA, which describe procedures for the creation of water master districts and the appointment of water masters with certain defined duties and authorities. In addition, these rules fulfill the mandates of Section 72-2-9.1 NMSA, requiring the state engineer to adopt rules for priority administration based on appropriate hydrologic models and expedited marketing and leasing within water master districts subject to priority administration.

[19.25.13.6 NMAC - N, 12/30/2004]

19.25.13.7 DEFINITIONS: Unless defined below in a specific section of these rules, all words used herein shall be given their customary and accepted meanings. All uses of masculine pronouns or possessives shall be held to include the feminine.

A. Adjudication: A comprehensive court proceeding to establish the elements of each water right for all water right owners on a stream system with respect to the state of New Mexico and as among each other, including the priority, amount, purpose, periods and place of use and the specific tracts of land to which the water right is appurtenant, as provided by Section 72-4-19 NMSA.

B. Administrable water right: A water right or right to impound, store or release water, the elements of which have been determined by a court of competent jurisdiction or determined on an interim basis by the state engineer under these rules and regulations. The state engineer may make determinations of the elements of a water right for purposes of administration prior to the commencement or completion

of, and during the pendency of, a water rights adjudication. State engineer determinations made for purposes of administration are subject to review by any court of competent jurisdiction and are not binding on that court. Such determinations are subject to the decrees of an adjudication court of competent jurisdiction, and are not binding on such an adjudication court.

C. Administration: Distribution by a water master of available water supplies within a water master district or sub-district, subject to any legal constraints identified by or imposed on the state engineer, for specific beneficial uses by the owners of administrable water rights that are in-priority. There are four forms of administration available to achieve different objectives. These forms are defined below together with subsidiary definitions. A water master may, based on the applicable district-specific regulations, use any of these forms of administration, depending on the specific legal and physical aspects of the water supplies that are subject to administration and the existence or absence of agreements for alternative administration. Administration may also combine these forms within a water master district, as the water master finds appropriate or necessary. The specific form of administration, or combination of forms of administration, that will be utilized in each water master district will be established through promulgation of district-specific regulations. Notice of such promulgation will be provided pursuant to Subsection D of 72-2-8 NMSA.

(1) Direct flow administration

(a) Direct flow water: All the flow of a stream, including storage reservoir inflows that are legally bypassed through that reservoir, but excluding sources of flow augmentation such as storage water releases or imported water.

(b) Direct flow administration: Distribution of direct flow water by a water master for diversion and beneficial use, or for diversion and storage in a reservoir, in accordance with the affected administrable water rights. Direct flow administration consists of both protection of available direct flow water for diversion and use by in-priority administrable water rights, and protection of direct flow water from out-of-priority diversion. Direct flow administration may incorporate changes to the water master's determination of which water rights are in-priority and which are out-of-priority on a daily basis, depending on the currently available direct flows.

(2) Storage water administration

(a) Storage water: Water stored in a reservoir in-priority and in accordance with the conditions of an administrable water right and subsequently released from

storage. Storage water does not include direct flow water that is bypassed through a reservoir.

(b) Storage water administration: Administration by a water master of the release from reservoirs and subsequent downstream diversion of storage water in accordance with the requirements of the applicable administrable water rights for such release and diversion. Storage water administration includes both the distribution of storage water released for the benefit of those having rights to its use, and also the protection of storage water releases from diversion by water right owners having only an administrable water right to direct flow water. Conveyance losses that occur as a result of the delivery of storage water shall be borne by the owner of the applicable administrable water right, and storage water administration shall account for those conveyance losses. For purposes of administration, imported water shall be administered in the same manner as storage water; however, imported water is subject to 100% depletion. The beneficial use of imported water is exclusive in the owner of the right to its use and is not subject to priority call in the basin of use, but its diversion from the basin of origin is subject to priority administration in that basin.

(3) Depletion limit administration

(a) Depletion limit: The amount of surface water that is available for depletion by both surface water rights and hydrologically connected groundwater rights within a water master district or sub-district, taking into account interstate stream compact compliance requirements. Taking into account the conjunctive nature of surface and groundwater, the depletion limit may be greater than, or less than, the physically available surface water supply.

(b) Administration date[s]: A date, or dates, to be determined by the state engineer, where administration within a specific water master district is to be in effect for a period of time to be determined by the state engineer for interstate stream compact compliance purposes, or to address substantial long-term groundwater effects on surface supply, as expressed in a depletion limit. If an administration date is determined and published for a district, no water rights with priority dates later than the administration date shall be exercised in the absence of a replacement plan approved by the state engineer.

(c) Depletion limit administration: Administration by a water master to curtail water rights with priority dates junior to an administration date. Such out-of-priority rights shall not use water in the absence of a replacement plan approved by the state engineer.

(d) Replacement water: Water

acquired temporarily by an out-of-priority administrable water right from an in-priority administrable water right pursuant to a replacement plan for the purpose of offsetting surface water depletions attributable to an out-of-priority administrable water right and preventing impairment of in-priority administrable water rights.

(e) Replacement plan: A plan submitted by the owner(s) of administrable water rights, and approved by the state engineer for no more than two consecutive years, subject to renewal, for the purpose of offsetting depletions attributable to out-of-priority administrable water rights.

(4) Alternative administration: Administration that is based on water sharing agreement among affected water right owners, and that is acceptable to the state engineer. Such administration may include voluntary shortage sharing such as, but not limited to, percentage division or pro rata allocation, rotation of water use, and reduced diversions. Where there is an existing shortage sharing agreement between acequias or community ditches confirmed on the first Monday of April of each year in accordance with Section 73-2-47 NMSA or thereafter as necessary, it shall be recognized in the district-specific regulations, but nothing in this section shall be taken to impair the authority of the state engineer and water master to regulate the distribution of water from the various stream systems of the state to the ditches and irrigation systems entitled to water therefrom under the provisions of this article. Alternative administration may be substituted for any of the forms of administration above described.

D. Administration date[s]: See definition under Subsection C of 19.25.13.7 NMAC.

E. Consumptive irrigation requirement: See definition under Subsection S of 19.25.13.7 NMAC.

F. Consumptive use: The quantity of water beneficially consumed during the application of water to beneficial use.

G. Conveyance loss: The quantity of water that is effectively removed from a stream system due to seepage or evapotranspiration as calculated between a measurement device used to measure the available water supply and a downstream point of diversion for an administrable water right or a downstream point of delivery.

H. Depletion: That consumptively used portion of a diversion that has been evaporated, transpired, incorporated into crops or products or used by livestock, or man-made consumptive uses such as, but not limited to, municipal, industrial and domestic uses, or otherwise removed from, and not returned to, the available

water supply, including all incidental depletions associated with the beneficial use. Depletions shall include, but not be limited to:

(1) any increase in depletions resulting from construction projects for the restoration and maintenance of fish and wildlife habitat that result in increased depletion of water over that amount that would have been depleted had there been no restoration; such projects are subject to the permitting authority of the state engineer;

(2) any increase in depletions resulting from changes in reservoir operations that increase the amount of water depleted over that amount which would have been depleted had there been no change in the reservoir's operations; such as, but not limited to, changes in historic release patterns; such changes are subject to the permitting authority of the state engineer.

I. Depletion limit: See definition under Subsection C of 19.25.13.7 NMAC.

J. Depletion limit administration: See definition under Subsection C of 19.25.13.7 NMAC.

K. Direct flow administration: See definition under Subsection C of 19.25.13.7 NMAC.

L. Direct flow water: See definition under Subsection C of 19.25.13.7 NMAC.

M. District: When used in these regulations, means water master district.

N. Diversion: The quantity of water taken from a ground or surface water source by a constructed structure or project to supply a beneficial use.

O. Expedited marketing and leasing: Any process within a district in which water rights are subject to priority administration whereby changes in use or place of use of water may be effected so as to minimize costly and time-consuming administrative procedures. Expedited marketing and leasing processes may include, but are not limited to, expedited permit proceedings before the state engineer through the use of the appropriate hydrologic models adopted by the state engineer for the district. Subsection C of 72-2-9.1 NMSA expressly provides that rules and regulations concerning expedited marketing and leasing "shall not apply to acequias or community ditches or to water rights served by an acequia or community ditch."

P. Farm delivery requirement: See definition under Subsection S of 19.25.13.7 NMAC.

Q. Imported water: Water removed from, and not returned to, its hydrologic basin of origin delivered for use in a different basin or drainage.

R. In-priority: If the cur-

rently available direct flow water is sufficient for distribution to a specific use administrable water right, then that right is in-priority. If a water right has a priority date that is senior to the applicable administration date, that water right is in-priority. In the case of storage water, that amount of the total inflow to a reservoir that exceeds the volume of water that must flow through the dam to serve senior administrable water rights to direct flow water is in-priority for storage.

S. Irrigation water requirements: Irrigation water requirements can be expressed in several ways, depending on circumstances:

(1) Consumptive irrigation requirement (CIR): The quantity of irrigation water, expressed as a depth or volume, exclusive of effective rainfall, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The CIR may be numerically determined by subtracting effective rainfall from the consumptive use.

(2) Farm delivery requirement: The quantity of water, exclusive of effective rainfall, that is delivered to the farm head gate or is diverted from a source of water that originates on the farm itself, such as a well or spring, to satisfy the consumptive irrigation requirement of crops grown on a farm during the irrigation accounting year, or as otherwise provided by permit.

(3) Project diversion requirement: The annual quantity of water necessary to be diverted from a source of water to satisfy the farm delivery requirement and to account for off-farm ditch conveyance delivery losses during the irrigation accounting year.

T. Measuring devices: Gauging or metering devices, installed and operated as required by the state engineer.

U. Out-of-priority: If the currently available direct flow water is insufficient to serve all administrable water rights, and therefore an administration date is adopted or a priority call placed, then those administrable water rights are out-of-priority that have a priority date junior to the applicable administration date or are junior to the priority of the water right placing the priority call. In the case of storage water, if the inflow to a reservoir is equal to, or less than, the quantity of water necessary to serve downstream senior Administrable water rights from the direct flow, then such direct flow must be bypassed and the right to impound and store water in that reservoir is out-of-priority. Water that was stored in-priority is not available for use except by those with administrable water rights to the use of the storage water.

V. Priority administration: All the forms of administration defined under administration are methods

of priority administration. Priority administration involves any administrative scheme implemented by a water master in accordance with the priority dates of administrable water rights, including direct flow, storage water and depletion limit administration. See, generally, administration.

W. Project: Any man-made works intended physically to control or to use water for a beneficial purpose of use.

X. Replacement water: See definition under Subsection C of 19.25.13.7 NMAC.

Y. Replacement plan: See definition under Subsection C of 19.25.13.7 NMAC.

Z. Return flow: That amount of diverted water returned to the available water supply.

AA. State engineer: The New Mexico state engineer, or his designated appointee.

BB. Storage water: See definition under Subsection C of 19.25.13.7 NMAC.

CC. Storage water administration: See definition under Subsection C of 19.25.13.7 NMAC.

DD. Waste: Diversion of water in excess of that amount reasonably necessary to supply a beneficial use in accordance with accepted water use practices that are consistent with considerations of water conservation.

EE. Water master: An official duly appointed by, and under the general supervision of, the state engineer, pursuant to Section 72-3-2 NMSA, who shall have immediate charge of the diversions and distribution of waters in the water master district.

FF. Water master district: An area designated as a water district or sub-district by the state engineer for purposes of administration, as provided in Section 72-3-1 NMSA.

GG. Water master district manager: The state engineer district supervisor is the manager of any water master district within his particular state engineer district and the direct supervisor of the water master.

[19.25.13.7 NMAC - N, 12/30/2004]

19.25.13.8 CONSTRUCTION: These rules and regulations shall be construed as consistent with, and subject to, the authorities of the state engineer for the administration of water in the state of New Mexico. These rules and regulations shall not be construed as imposing any limitation on the authority of the state engineer to administer water rights, act on water rights applications, permit water rights, or order the curtailment, in whole or in part, of the use of water under any water right.

Subsection H of 72-2-8 NMSA provides that these rules and regulations are presumed to be the correct implementation of the law.

[19.25.13.8 NMAC - N, 12/30/2004]

19.25.13.9 USE OF THESE RULES AND REGULATIONS: These rules and regulations provide the framework for the promulgation of specific water master district rules and regulations.

[19.25.13.9 NMAC - N, 12/30/2004]

19.25.13.10 STATE ENGINEER ADOPTION OF DISTRICT-SPECIFIC RULES AND REGULATIONS: For every district in which water rights administration is requested, or the state engineer determines in the performance of his duties under Section 72-2-1 NMSA that water rights administration is required for the economical and satisfactory apportionment of water, the state engineer shall adopt rules and regulations, pursuant to Subsection D of 72-2-8 NMSA, specific to the water master district, which incorporate and adapt the provisions of these rules and regulations to the needs of the specific district.

[19.25.13.10 NMAC - N, 12/30/2004]

19.25.13.11 STATE ENGINEER AUTHORITY TO CREATE WATER MASTER DISTRICTS AND APPOINT WATER MASTERS: The state engineer may create water master districts and appoint water masters in any drainage areas of the state pursuant to Section 72-3-1 through Section 72-3-5 NMSA and these regulations. The water master district manager shall provide the water master with guidelines for administration, including his determination, for purposes of administration, of all administrable water rights within the water master district. Water master guidelines shall be in the form of a water master manual applicable to each water master district or sub-district. Comments from the public shall be taken and considered prior to finalizing the water master manuals. Notice shall be provided in accordance with Subsection D of 72-2-8 NMSA. The state engineer may administer water rights pursuant to a draft water master manual for a specific period of time, which will be determined in the district-specific regulations, prior to finalizing a manual so that the adopted manual will be based upon actual experience and the collective comments of the water right owners in the district.

[19.25.13.11 NMAC - N, 12/30/2004]

19.25.13.12 CREATION OF A WATER MASTER DISTRICT: The state engineer may create water master districts within the state, provided that:

A. the state engineer finds that the creation of such a water master dis-

trict is necessary for the economical and satisfactory administration of water;

B. the boundaries of the water master districts are in conformity with drainage areas as defined by the state engineer;

C. the water master districts are designated by names; and

D. as far as possible, the water master districts comprise one or more stream systems or stream reaches, including hydrologically connected groundwater, as defined by the state engineer.

[19.25.13.12 NMAC - N, 12/30/2004]

19.25.13.13 CHANGING A WATER MASTER DISTRICT: Water master districts may be changed from time to time, as may be necessary in the opinion of the state engineer, for the economical and satisfactory apportionment of water.

[19.25.13.13 NMAC - N, 12/30/2004]

19.25.13.14 CREATION OF WATER MASTER SUBDISTRICTS: When, in his opinion, it shall be in the best interests of the state and the owners of water rights within any stream system within the state, the state engineer may divide water master districts further into sub-districts, each of which shall be designated by a distinct name.

[19.25.13.14 NMAC - N, 12/30/2004]

19.25.13.15 APPOINTMENT OF A WATER MASTER: Where the state engineer has created a water master district, the state engineer shall:

A. appoint a water master for such district upon the written application of a majority of the water right owners of any water master district; or

B. appoint a water master to administer the water master district and sub-districts where the state engineer finds that the public safety or interests of the state or water right owners in any water master district in the state require the appointment of a water master; where a water master has been appointed pursuant to such a finding, he may be appointed on either a temporary or a permanent basis.

[19.25.13.15 NMAC - N, 12/30/2004]

19.25.13.16 GENERAL AUTHORITY OF A WATER MASTER: The water master shall have immediate charge of the administration of waters within a water master district as necessary to protect the public safety and the interests of water right owners in a district or for the economic and satisfactory apportionment of water to all administrable water rights from the available water supply, and shall so regulate and control the waters of the district as to prevent waste. Administration implemented by the water master may be direct

flow administration, storage water administration, depletion limit administration, alternative administration, or any combination thereof, as defined by district-specific regulations, depending on the physical and legal circumstances affecting the water resources and administrable water rights of the water master district. The water master may, as necessary, to effect administration:

A. determine the available supply of water from time to time, considering conveyance losses, as appropriate and necessary for effective administration;

B. implement administration of the storage, diversion, and use of the waters of the water master district in accordance with the administrable water rights;

C. administer the diversion of the waters of the water master district in priority or under an alternative administration;

D. administer diversions of the waters of the water master district in accordance with any administration date declared by the state engineer;

E. facilitate the formation and operation of water right owner groups to, among other things, improve the management of water supplies, water conservation, cooperation among water right owners and administration;

F. facilitate the negotiation and implementation of alternative administration agreements, including cooperative agreements, for sharing available water supplies;

G. adjust headgates and restrict diversions or pumping as required to administer water in accordance with principles of prior appropriation and beneficial use, to prevent the illegal use of water, and to prevent waste; and

H. exercise all such authority as is required to accomplish effective water rights administration.

[19.25.13.16 NMAC - N, 12/30/2004]

19.25.13.17 SPECIFIC DUTIES OF A WATER MASTER: Taking into account the available water supply in general and considering conveyance losses, the water master shall implement administration in the district. The water master is authorized to do the following, as may be provided by district-specific rules and regulations and as necessary to effect administration:

A. determine the physical capacity of diversion and delivery structures for each point of diversion expressed as a maximum rate of flow in cubic feet per second (cfs);

B. determine the maximum rate of flow, expressed in cfs, required to meet the total demand for administrable water rights served by that point of diversion;

C. take into account water needed to provide for adequate hydraulic pressure to ensure maximum irrigation efficiency and charge of the system;

D. take into account water needed for additional uses such as, but not limited to, silt-flushing;

E. during times of high stream flow, when there are no legal constraints imposed upon the physical administration of the available water supply, relax limits on the amount of water that may be diverted in order that the delivery system might operate more efficiently, except that under no circumstances may the total CIR of water rights served from the project increase;

F. with respect to all agricultural uses, require the designation by the water right owner of land to be irrigated in a particular season and verify the irrigability of that land;

G. ensure that water diversions do not exceed the amount needed to serve administrable water rights, except as provided in Subsections C through E, above;

H. administer direct flow water for delivery to in-priority administrable water rights, curtail diversions by out-of-priority administrable water rights, ensure the delivery of storage water to those having rights to its use, and protect storage water releases from diversion by those without rights to its use;

I. establish protocols for communication and exchange of information with water right owners as required for administration;

J. maintain accurate records of all administration activities, including meter readings, and establish a protocol for the inspection and copying of such records, at the requestor's expense;

K. identify waste and illegal use of water, including re-diversion and reuse of return flows other than as specifically provided for in an administrable water right;

L. upon a determination that a use is illegal or constitutes waste, cap, lock or otherwise temporarily disable any mechanism for illegal diversion; no permanent disablement may occur without hearing before the state engineer;

M. where he has determined that a facility must be permanently disabled, issue an order directing that the diversion be permanently disabled, which order shall be heard by the state engineer as provided below; pending review of the water master's order, the temporary disablement of the disputed diversion shall remain in place;

N. perform all such duties as are required to accomplish administration.

[19.25.13.17 NMAC - N, 12/30/2004]

19.25.13.18 NO CHANGE IN DITCH SYSTEM MANAGEMENT:

Except as required in the performance of the water master's duties to regulate the distribution of water from the various stream systems of the state to the points of diversion of ditches and irrigation systems entitled to water therefrom, these rules and regulations shall not be construed to affect the internal management of projects, including acequias or community ditches and other water delivery systems, in accordance with Section 72-9-2 NMSA, which provides for the distribution of water from the ditches and acequias according to local or community customs, rules and regulations that have been properly adopted. The state engineer's authority, and that of his water master, to regulate the diversion of water from the source to a ditch or acequia is unaffected by either Section 72-9-2 NMSA or this provision.

[19.25.13.18 NMAC - N, 12/30/2004]

19.25.13.19 WATER MASTER SUPERVISION OF MEASUREMENT:

In all districts in which water masters are appointed, water masters shall have the authority to supervise the measurement of water in order to conduct administration.

[19.25.13.19 NMAC - N, 12/30/2004]

19.25.13.20 HEADGATES AND MEASURING DEVICES REQUIRED:

The state engineer shall determine those points of diversion from, and return flow discharge to, the stream system where measuring devices are necessary for the efficient administration of water within the water master district. The owners of private ditches, the commissioners of acequias or community ditches, the boards of irrigation and conservancy districts, and all other owners of administrable water rights and operators of projects that are notified by the water master of the need to comply with this rule shall cause to be installed and maintained headgates and measuring devices of types and at locations acceptable to the water master, as may be provided by district-specific rules and regulations, once promulgated and adopted by the state engineer and ordered by the state engineer, or as otherwise ordered pursuant to Paragraph 3 of Subsection B of Section 72-2-8 NMSA.

[19.25.13.20 NMAC - N, 12/30/2004]

19.25.13.21 WATER TO BE DIVERTED OR DELIVERED THAT WILL BE PLACED TO ACTUAL BENEFICIAL USE; ESTABLISHING BENEFICIAL USE REQUIREMENTS:

If a particular water right is in-priority, the water master shall allow the diversion or delivery of water that will be put to actual beneficial use without waste. The water

master shall make such investigations, including inspections of lands, well records, diversion records and municipal records, as are necessary to determine, for purposes of administration, the current beneficial use needs for all types of water uses under administrable water rights during periods of priority administration. Water deliveries for irrigation uses shall not be made unless the land on which water will be used has an administrable water right as determined by the state engineer. Nothing in this provision shall be construed to allow the water master to prefer some beneficial uses to other beneficial uses on any grounds other than priority, unless he is doing so pursuant to local agreements through alternative administration. Such determination shall not affect the maximum legal entitlement to water.

[19.25.13.21 NMAC - N, 12/30/2004]

19.25.13.22 FARM DELIVERY AND PROJECT DIVERSION REQUIREMENT DETERMINATIONS:

In the absence of applicable court orders or adjudication decrees, the state engineer shall, prior to administration, make a determination of farm delivery and project diversion requirements in water master districts that are subject to administration. The project diversion requirement may be expressed as a maximum rate of diversion, an annual maximum diverted volume of water for a specified use, or both. The state engineer may modify these determinations based on new information, including field experience of the water master. None of the requirements of this provision shall apply if a determination adequate for effective water administration has been made by a court of competent jurisdiction.

[19.25.13.22 NMAC - N, 12/30/2004]

19.25.13.23 OBJECTIONS TO, AND STATE ENGINEER REVIEW OF, WATER MASTER DECISIONS:

Objections to any act or failure to act of a water master shall be made in the first instance informally, or in writing, to the water master who shall take prompt action on the objection if he determines that any action is warranted. If the water master fails to resolve the objection, further objections shall be made to the state engineer, who shall hear the matter in accordance with Section 72-3-3 NMSA. Streamlined processes for the prompt hearing of appeals from water master decisions shall be set up for each water master district. Filing of an objection to an act or failure to act by the water master will not stay the water master's action or failure to act, or his authority to administer the water right, pending resolution of the objection.

[19.25.13.23 NMAC - N, 12/30/2004]

19.25.13.24 WATER MASTER

ADMINISTRATION OF AN ADMINISTRATION DATE: In the event that the state engineer determines an administration date for a water master district, the water master shall oversee the curtailment of all administrable water rights junior to the administration date. The water master shall not allow out-of-priority use in the absence of a replacement plan approved by the state engineer.

[19.25.13.24 NMAC - N, 12/30/2004]

19.25.13.25 WATER MASTER ENTRY ON PRIVATE OR PUBLIC LAND: Pursuant to Section 72-8-1 NMSA, the water master shall have the right to enter private or public lands in order to:

A. install, inspect, read, and adjust measuring devices and require the replacement or repair of such measuring devices;

B. inspect and adjust headgates; or require the repair of such headgates;

C. make seepage evaluations;

D. conduct inspections of canals, wells, wasteways or sluiceways;

E. prevent waste and prevent illegal water use;

F. cap, lock or otherwise temporarily disable any mechanism for illegal diversion; and

G. perform such other duties as are required to accomplish administration.

[19.25.13.25 NMAC - N, 12/30/2004]

19.25.13.26 WATER MASTER REPORTS:

Annually, the water master shall submit a report including a record of total diversions and deliveries of direct flow water and storage water, as applicable, a statement of expenditures, a list of infrastructure and metering improvements needed or performed, problems encountered, and any other pertinent issues or aspects of administration. The report shall also address the amount of water needed to supply the requirements of the water master district, the amount available, the works which are without their proper supply, the supply required during the period preceding the water master's next regular report and such other information as the state engineer may require. The report shall be submitted to the state engineer and be publicly available for inspection and copying, at the requestor's expense.

[19.25.13.26 NMAC - N, 12/30/2004]

19.25.13.27 ADMINISTRABLE

WATER RIGHTS: The water master district manager for each water master district will define each administrable water right by its elements as set forth in Subsections A through G below. In all instances where the

state engineer makes determinations of priority based on best available evidence as set forth in Subsections A through G below, he shall publish a list of his determination of the water rights in the water master district for review and provide opportunity to affected water right owners to informally present evidence. The state engineer shall hear objections to the water master district manager's determination of an administrable water right in accordance with Section 72-2-16 NMSA. Filing of an objection to the water master district manager's determination of an administrable water right will not stay the state engineer's administration based upon that determination, pending resolution of the objection. Appeals from decisions of the state engineer shall be in accordance with Section 72-7-1 NMSA. The water master district manager for each water master district will define each administrable water right by its elements as set forth in:

A. a partial final decree or a final decree entered by an adjudication court of competent jurisdiction, subject to any state engineer permit issued subsequent to entry of said adjudication decree; or, if no decree has been entered, then;

B. a subfile order entered by an adjudication court of competent jurisdiction; or, if no subfile order has been entered, then;

C. an offer of judgment signed by the defendant in a water rights adjudication; or, if no offer of judgment has been signed, then;

D. a hydrographic survey conducted and filed in accordance with Section 72-4-17 NMSA or Section 72-4-16 NMSA; or, if no hydrographic survey has been filed, then;

E. a license issued by the state engineer; or, if no license has been issued, then;

F. a permit issued by the state engineer, accompanied by proof of actual beneficial use; and

G. a determination made by the state engineer based on the best available evidence, consisting of, where available, any filings with the office of the state engineer, field or documentary evidence of beneficial use associated with the right including historical aerial photography, diversions records of historical diversions, historical studies containing evidence regarding water use, and data regarding irrigation and water delivery system requirements.

[19.25.13.27 NMAC - N, 12/30/2004]

19.25.13.28 SUPERSESSION BY

A COURT: Any determinations made by the state engineer for administration purposes within any district subject to administration in the absence of a completed adju-

dication shall be subject to any decrees issued by an adjudication court of competent jurisdiction or any court of competent jurisdiction.

[19.25.13.28 NMAC - N, 12/30/2004]

19.25.13.29 ADMINISTRATION BY ADMINISTRATION DATE:

The state engineer may adopt an administration date, based on his best professional judgment of the water supply available for consumptive use by water right owners in the water master district or for depletion within the state of New Mexico as may be appropriate, and the date on which that administration date will be effective, by order in accordance with Paragraph 3 of Subsection B of 72-2-8 NMSA, for any water master district. The state engineer may revise an administration date as necessary to achieve the objectives of these rules and regulations. The state engineer shall publish the adoption or revision of an administration date once a week for two consecutive weeks in two newspapers of general circulation within the water master district affected by such adoption or revision. Upon the effective date of an administrative date, all out-of-priority administrable water rights must cease diversion, except as provided by an approved replacement plan. Determination of an administration date shall be ordered to implement depletion limit administration and shall be specifically provided for by the provisions of district-specific regulations to achieve compliance with an interstate stream compact; or, in the state engineer's performance of his duties under Section 72-2-1 NMSA upon further formal state engineer action pursuant to Section 72-2-8 NMSA for reasons of public safety or the interests of the water right owners in the district.

[19.25.13.29 NMAC - N, 12/30/2004]

19.25.13.30 OBJECTION TO, AND STATE ENGINEER REVIEW OF, STATE ENGINEER DETERMINATION OF AN ADMINISTRATION DATE:

Owners of administrable water rights are encouraged to resolve objections to the state engineer's determination of an administration date informally with the state engineer's district office. If such informal negotiations fail, the state engineer shall hear objections to his determination of an administration date in accordance with Section 72-2-16 NMSA. Filing of an objection to an administration date will not stay the state engineer's administration by administration date, pending resolution of the objection. Appeals from decisions of the state engineer shall be in accordance with Section 72-7-1 NMSA.

[19.25.13.30 NMAC - N, 12/30/2004]

19.25.13.31 APPLICATION FOR APPROVAL OF REPLACEMENT PLANS:

Replacement plans are available only during state engineer priority administration of the available water supply to prevent serious and imminent economic harm in response to, and only until water rights are permanently transferred, if necessary. The state engineer may approve replacement plans based on the adopted generalized hydrologic analysis that, in his professional judgment, provide sufficient replacement water to fully offset depletions to surface waters caused by out-of-priority diversions in order to prevent impairment of senior water right owners by the junior water right owner that would otherwise be out-of-priority. Replacement plans may be approved temporarily until permanent transfer of water is effected for water right owners who are likely to face permanent curtailment, or for limited periods when a water right owner is not likely to face permanent curtailment. The owner of an out-of-priority administrable water right that is subject to administration in a water district may submit to the state engineer an application for approval of a replacement plan. The application shall contain the following information:

A. the name and address of the applicant;

B. the location, amount and priority date of applicant's existing administrable water right;

C. each source of replacement water and the amount of historic consumptive use related to the water right that is the source of replacement water, to be established by documentation satisfactory to the state engineer;

D. an estimate of the amount of water to be diverted by the applicant;

E. a map acceptable to the state engineer showing the source and point of diversion of the replacement water and the location of the proposed use;

F. a copy of any agreement between the applicant and the owner of water to be used as replacement water, or other documentation demonstrating to the state engineer's satisfaction that the applicant has a legal entitlement to a source of water to be used as replacement water;

G. the expected duration of the plan; and

H. any other information the state engineer deems necessary.

[19.25.13.31 NMAC - N, 12/30/2004]

19.25.13.32 GENERALIZED HYDROLOGIC ANALYSIS:

The state engineer will develop a generalized hydrologic analysis for a water master district subject to administration as the basis for the development, review and approval of

replacement plans within that water master district. The generalized hydrologic analysis will be based upon, and obtained from, the best available hydrologic model or models designated by the state engineer for the water master district. The hydrologic models based upon the best available hydrogeologic data will take into account existing surface and groundwater diversions and the combined effect of groundwater and surface water uses on the basin groundwater and surface water system. Adoption of a generalized hydrologic analysis shall be undertaken in conjunction with the public rule-making process for district-specific regulations pursuant to Subsection D of 72-2-8 NMSA. The generalized hydrologic analysis shall include guidelines for the approval of applications. If an applicant agrees to the use of the generalized hydrologic analysis in the review of his application, the state engineer shall expedite his review of the application on that basis. The generalized hydrologic analysis may be adopted as part of basin-specific regulations developed by the state engineer for a specific water master district, or subsequent thereto. A generalized hydrologic analysis shall not be adopted in the absence of proposed district-specific regulations for administration. After consideration of public comment on a proposed generalized hydrologic analysis, the state engineer may adopt a generalized hydrologic analysis for use to evaluate replacement plans pertinent to administration within the water master district. In order to adopt a generalized hydrologic analysis, the state engineer shall find that it is sufficiently conservative to assure that any replacement plan that is approved:

A. will not impair in-priority administrable water rights and by limiting diversions under the replacement plan to no more than the average of recent historical beneficial use will be a sufficient basis for such a finding; and

B. will not result in any increase in depletions within the water master district; accepting an applicant's assurance that no water shall be diverted under that portion of the in-priority administrable water right that is committed to the replacement plan, and finding that foregone average historic depletions associated with the temporarily transferred in-priority water right are at least 10 percent greater than the average historic depletions associated with the out-of-priority administrable water right, are together a sufficient basis for such a finding.

[19.25.13.32 NMAC - N, 12/30/2004]

19.25.13.33 APPROVAL OF REPLACEMENT PLANS:

The state engineer shall determine the adequacy of each source of water proposed for use as replacement water based upon the general-

ized hydrologic analysis adopted by the state engineer. Replacement plans shall be approved for a period not to exceed two years but may be renewed upon application. Upon finding that the approval of a replacement plan meets the criteria of Section 19.25.13.32 NMAC, is necessary to prevent crop loss or other serious economic harm to the owner of an out-of-priority administrable water right, and is not contrary to conservation of water or the public welfare of the state, the state engineer shall approve the replacement plan. The state engineer may require such terms and conditions for the approval of a replacement plan as he deems to be necessary, including time limitations on the duration of the replacement plan. State engineer approvals of replacement plans shall be presumed to be in proper implementation of the provisions of the water laws administered by him as provided by Subsection H of 72-2-8 NMSA. Any approved replacement plan shall continue in effect during the course of objections and appeals proceedings.

[19.25.13.33 NMAC - N, 12/30/2004]

19.25.13.34 AMENDMENT AND RENEWAL OF REPLACEMENT PLANS:

The holder of a replacement plan may submit an application to the state engineer at any time during the term of the replacement plan to amend or renew the replacement plan. Upon state engineer determination that the permanent acquisition of a senior water right to replace the depletions caused by the exercise of an out-of-priority water right is not required, or upon a showing of a good faith effort to permanently acquire a senior water right in the absence of such a determination, the state engineer may approve the renewal or amendment of a replacement plan in the same manner as set forth in Section 19.25.13.33 NMAC, after a review of any new information or evidence of changed conditions submitted in support of the application.

[19.25.13.34 NMAC - N, 12/30/2004]

19.25.13.35 ACCURACY OR SUFFICIENCY OF INFORMATION; MODIFICATION:

Each applicant for, or holder of, a replacement plan is responsible for the accuracy and sufficiency of all material information provided in support of the application to the state engineer before or after approval of the replacement plan. If an approved replacement plan proves to be insufficient to replace depletions, the state engineer may require the holder of a replacement plan to provide additional replacement water at any time during the term of the replacement plan or within a reasonable period after the term of the replacement plan if necessary to offset cumulative impacts.

[19.25.13.35 NMAC - N, 12/30/2004]

19.25.13.36 REVOCATION OF REPLACEMENT PLANS:

The state engineer may revoke approval of a replacement plan, in whole or in part, where material information provided by the applicant for, or the present holder of, the replacement plan is inaccurate; for non-compliance with the terms and conditions of the replacement plan; or for non-compliance with these rules. Upon revocation of a replacement plan, to the extent of the revocation, all diversions authorized by the revoked portion of the replacement plan must cease and the holder of the replacement plan must, within a reasonable period after revocation of the replacement plan, replace the diversion and depletion overruns incurred, if any.

[19.25.13.36 NMAC - N, 12/30/2004]

19.25.13.37 FALLOWING AND NON-USE REQUIREMENTS:

Water once committed to a replacement plan cannot be used for any other purpose during the term of the replacement plan. In the event that the source of replacement water is irrigated land, the land to which the water right being used for replacement water is appurtenant shall be fallowed. Fallowed land shall not be irrigated from any source, including domestic and supplemental wells, without written approval by the state engineer. Fallowed land shall be specifically identified by map or survey, or by other means acceptable to the state engineer. Without written approval by the state engineer, no water shall be diverted on, or delivered to, fallowed land during the period in which the water is being used as replacement water. In the event the source of replacement water is not irrigated land, the use to which the owner of the water right that is the source of replacement water is entitled under his right shall, during the term of the replacement plan, be reduced by the amount of water committed to the replacement plan.

[19.25.13.37 NMAC - N, 12/30/2004]

19.25.13.38 FORMATION OF WATER RIGHT OWNER GROUPS:

Water right owners are encouraged to form water right owner groups for the purpose of discussion and negotiation among themselves, with other water right owners, or with the water master, regarding the possibility of shortage sharing agreements and other forms of alternative administration and joint application for replacement plans. Subject to the exemption for acequias and community ditches under Subsection C of 72-2-9.1 NMSA, in the event that water right owner groups, aided by the water master, attempt to reach an agreement for Alternative administration, such efforts by the water right owner groups and the water

master shall constitute promotion of expedited marketing and leasing as required by that statute.

[19.25.13.38 NMAC - N, 12/30/2004]

19.25.13.39 REPLACEMENT PLANS BY WATER RIGHT OWNER GROUPS:

Water right owners may, individually or collectively, submit applications for replacement plans as described above. Except as may be limited by a specific regulation or order, water conservancy districts, irrigation districts, municipalities, or other entities may initiate and submit plans in accordance with these rules. Water right owner groups operating under an approved replacement plan shall notify the state engineer of any plan participant who is not in compliance with the replacement plan.

[19.25.13.39 NMAC - N, 12/30/2004]

19.25.13.40 OBJECTIONS TO, AND APPEALS FROM, APPROVALS, DENIALS AND REVOCATIONS OF REPLACEMENT PLANS:

Within thirty days after approval of a replacement plan, the state engineer shall cause to be published a summary of the approved replacement plan providing for the opportunity to appeal the approval, denial or revocation of a replacement plan pursuant to Section 72-2-16 NMSA. The state engineer shall hear objections to his approval, denial or revocation of all part of a replacement plan in accordance with Section 72-2-16 NMSA but shall endeavor to hear such objections in the same prompt manner as provided by Section 72-3-3 NMSA for review of water master actions. Filing of an objection to an approval, denial or revocation of a replacement plan will not stay the state engineer's determination that all water use under all, or part of, a revoked replacement plan must cease, pending resolution of the objection.

[19.25.13.40 NMAC - N, 12/30/2004]

19.25.13.41 APPEALS FROM STATE ENGINEER DECISIONS:

All appeals from state engineer review of objections to any actions or decisions made pursuant to these rules and regulations shall be in accordance with Section 72-7-1 NMSA.

[19.25.13.41 NMAC - N, 12/30/2004]

19.25.13.42 REQUEST FOR ADMINISTRATION FROM THE INTERSTATE STREAM COMMISSION:

The state engineer shall proceed with water rights administration when requested to do so by the New Mexico interstate stream commission for the purpose of compliance with interstate stream compacts, which request shall be in the form of a resolution.

[19.25.13.42 NMAC - N, 12/30/2004]

19.25.13.43 EMERGENCY

ADMINISTRATIVE ACTIONS: The state engineer may determine that the need for water rights administration in a specific district is so urgent that water rights administration may proceed directly under order issued pursuant to the procedural requirements of Paragraph 3 of Subsection B of 72-2-8 NMSA.

[19.25.13.43 NMAC - N, 12/30/2004]

19.25.13.44 EXPEDITED MARKETING AND LEASING: The state engineer will review and analyze permit applications in water master districts affected by priority administration on an expedited basis utilizing the appropriate hydrologic model adopted by the state engineer for the water master district. Expedited review of permit applications in water master districts affected by priority administration shall fulfill the requirements of Subsection C of 72-2-9.1 NMSA for the promotion of expedited marketing and leasing of water rights.

[19.25.13.44 NMAC - N, 12/30/2004]

19.25.13.45 KNOWLEDGE OF AND COMPLIANCE WITH STATUTES, RULES, REGULATIONS AND CODES: It shall be the responsibility of all applicants and permittees to know of, and comply with, all applicable statutes, rules, regulations and codes.

[19.25.13.45 NMAC - N, 12/30/2004]

19.25.13.46 RETROACTIVE EFFECT: These rules and regulations shall have retroactive effect on all water master districts already formed at the time of promulgation of these rules and regulations.

[19.25.13.46 NMAC - N, 12/30/2004]

19.25.13.47 SEVERABILITY: If any provision or provisions of these regulations are found to be invalid, the remaining provisions shall continue to be in effect.

[19.25.13.47 NMAC - N, 12/30/2004]

19.25.13.48 ENFORCEMENT: The state engineer may enforce these rules by all means within his legal authority.

[19.25.13.48 NMAC - N, 12/30/2004]

19.25.13.49 STATE ENGINEER OPTION TO REVISE RULES AND REGULATIONS: The state engineer may modify these rules and regulations as needed to accomplish the objectives of these rules and regulations. Removal of a regulation or a section of these rules and regulations, whether by a court or by the state engineer, shall not affect the validity of the remaining rules and regulations.

[19.25.13.49 NMAC - N, 12/30/2004]

19.25.13.50 LIBERAL CONSTRUCTION: These rules shall be liber-

ally construed to carry out their purpose in accordance with Subsection H of 72-2-8 NMSA.

[19.25.13.50 NMAC - N, 12/30/2004]

HISTORY OF 19.25.13 NMAC: [RESERVED]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an emergency filing to 19.31.3 NMAC, Section 11, effective 12-3-2004.

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. 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: It shall be unlawful for anyone to apply for a Rocky Mountain bighorn sheep license 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 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.

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.

F. Trophy ibex - once-in-a-lifetime: It shall be unlawful for anyone to apply for a trophy ibex license if he/she ever held a license or authorization to purchase a license to hunt trophy ibex.

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 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.

(2) It shall be unlawful to hunt bear in the Valle Vidal area except for properly licensed bear hunters that possess a Valle Vidal elk hunting muzzleloader 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.

I. Transfer of permits of 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.

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: (1) 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.

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-life-time: 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.

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 hunt.

Q. Bear entry hunt: It shall be unlawful to hunt bear without having a valid bear entry permit and a valid license in the hunters 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) prior to an application form being processed or a license being awarded.

S. 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/E, 12-3-04]

NEW MEXICO DEPARTMENT OF GAME AND FISH

19.31.3 NMAC, Hunting and Fishing Application is hereby repealed and replaced by 19.31.3 NMAC, Hunting and Fishing Application, effective 12-30-04. 19.31.3 NMAC also replaces the amendments to Sections 6, 8, 9 and 10 that were to go into effect on 4-1-2005.

NEW MEXICO DEPARTMENT OF GAME AND FISH

TITLE 19 N A T U R A L RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING REGULATIONS PART 3 HUNTING AND FISHING LICENSE APPLICATION

19.31.3.1 ISSUING AGENCY: New Mexico Department of Game and Fish.

[19.31.3.1 NMAC - Rp, 19.31.3.1 NMAC, 12-30-04]

19.31.3.2 SCOPE: Hunters in New Mexico. Additional requirements may be found in Chapter 17 NMSA and other Parts of Title 19, Chapter 31.

[19.31.3.2 NMAC - Rp, 19.31.3.2 NMAC, 12-30-04]

19.31.3.3 S T A T U T O R Y AUTHORITY: 17-1-14, 17-1-26, 17-3-2, 17-3-5, 17-3-7, 17-3-14, and 17-3-14.1 NMSA 1978, which pertain to the types of licenses and permits available and grant the state game commission authority to create regulations setting the application procedure.

[19.31.3.3 NMAC - Rp, 19.31.3.3 NMAC, 12-30-04]

19.31.3.4 D U R A T I O N : Permanent.

[19.31.3.4 NMAC - Rp, 19.31.3.4 NMAC, 12-30-04]

19.31.3.5 EFFECTIVE DATE: December 30, 2004, unless a later date is cited at the end of a section.

[19.31.3.5 NMAC - Rp, 19.31.3.5 NMAC, 12-30-04]

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.

[19.31.3.6 NMAC - Rp, 19.31.3.6 NMAC, 12-30-04]

19.31.3.7 DEFINITIONS: [RESERVED]

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 deadline(s): Applications for all population reduction hunts, turkey, pronghorn antelope, elk, bighorn sheep, bear entry, deer entry, oryx, javelina, 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, 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-resident 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 categories: 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 applications:

(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: ORX-5-550 through ORX-5-561. 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.

P. Oryx WSMR restricted area hunts ORX-5-520 through ORX-5-527: are available only to those persons who have never held a 'once in a lifetime' oryx license, to personnel with appropriate security badges or their guests in accordance with White Sands missile range provisions, and to persons whose year of birth, whether odd or even, matches the year of application, odd with odd, even with even. [19.31.3.8 NMAC - Rp, 19.31.3.8 NMAC, 12-30-04]

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 19.30.5 NMAC.

[19.31.3.9 NMAC - Rp, 19.31.3.9 NMAC, 12-30-04]

19.31.3.10 DEER PERMIT VALIDATIONS:

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.

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

[19.31.3.10 NMAC - Rp, 19.31.3.10 NMAC, 12-30-04]

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 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 if one has previously held a license to hunt Rocky Mountain bighorn sheep in New Mexico, including the youth-only bighorn

hunt. However, a person that has received the youth-only license is allowed to apply for the regular once-in-a lifetime bighorn hunts as long as they are eligible. Exception: An applicant is eligible to submit a bid for the special bighorn auction and raffle licenses whether or not he/she has previously held a license 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: An applicant is eligible to submit a bid for the special bighorn auction and raffle licenses whether or not he/she has previously held a license to hunt Rocky Mountain or desert bighorn sheep in New Mexico.

E. [RESERVED]

F. Ibex - once-in-a-lifetime: It shall be unlawful for anyone to apply for a once in a lifetime ibex license if he/she ever held a once in a lifetime license to hunt 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 Subsection A of 19.30.4.11 NMAC):

(1) 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 on the Valle Vidal 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. Use of dogs shall not be allowed for bear hunting on the Valle Vidal.

I. Transfer of permits 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. However, an applicant shall follow the application procedures outlined in 19.31.3.8 NMAC.

L. Deer hunts: It shall be unlawful for any 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 perma-

nent disabilities which cause comparable substantial functional limitation.

O. 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 hunter's possession. 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 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. 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.

T. 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.

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

[19.31.3.11 NMAC - Rp, 19.31.3.11 NMAC, 12-30-04]

19.31.3.12 DENIAL OR REVOCATION:

A. Any applicant for any license, permit, certificate or registration will be automatically rejected if their name and other identifying factors appears on the department's revocation list or a list of provided by the wildlife violator compact.

B. Any applicant automatically rejected shall be afforded a revocation

hearing in accordance with 19.31.2 NMAC, unless a hearing has already been offered.

C. Any applicant automatically rejected must re-apply for any license; permit, certificate or registration if they are found to be eligible, providing applicant shall comply with all the conditions set forth by Chapter 17 and its implementing regulations.

[19.31.3.12 NMAC - Rp, 19.31.3.12 NMAC, 12-30-04]

NEW MEXICO DEPARTMENT OF GAME AND FISH

TITLE 19 N A T U R A L RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING REGULATIONS PART 8 BIG GAME AND TURKEY

19.31.8.1 ISSUING AGENCY:
New Mexico Department of Game and Fish.

[19.31.8.1 NMAC - Rp, 19.31.8.1 NMAC, 4-1-2005]

19.31.8.2 SCOPE: Hunters of big game: Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.

[19.31.8.2 NMAC - Rp, 19.31.8.2 NMAC, 4-1-2005]

19.31.8.3 S T A T U T O R Y AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.

[19.31.8.3 NMAC - Rp, 19.31.8.3 NMAC, 4-1-2005]

19.31.8.4 DURATION: April 1, 2005 through March 31, 2007.

[19.31.8.4 NMAC - Rp, 19.31.8.4 NMAC, 4-1-2005]

19.31.8.5 EFFECTIVE DATE: April 1, 2005, unless later date is cited at the end of individual sections.

[19.31.8.5 NMAC - Rp, 19.31.8.5 NMAC, 4-1-2005]

19.31.8.6 O B J E C T I V E : Establishing open seasons on deer, turkey, bear, cougar, elk, pronghorn antelope, Barbary sheep, bighorn sheep, javelina, oryx, and Persian ibex.

[19.31.8.6 NMAC - Rp, 19.31.8.6 NMAC,

4-1-2005]

19.31.8.7 DEFINITIONS:

A. "Antelope management units" or "AMU" shall mean those areas as documented in the state game commission's rule 19.30.4 NMAC Boundary Descriptions for Wildlife Management Areas.

B. "Antlerless deer" shall mean a deer without or with antlers less than two inches in length.

C. "A or antlerless elk" shall mean any one elk without antlers.

D. "APRD" shall mean any antler point restricted buck deer with a minimum of 3 visible antler points on one side, a brow tine, or eye guard, constitutes a point, a burr at the base does not.

E. "APRMD" shall mean any antler point restricted buck mule deer with a minimum of 3 visible antler points on one side, a brow tine, or eye guard, constitutes a point, a burr at the base does not.

F. "APRWTD" shall mean any antler point restricted buck white-tailed deer with a minimum of 3 visible antler points on one side, a brow tine, or eye guard, constitutes a point, a burr at the base does not.

G. "APRE" shall mean any antler point restricted bull elk with a minimum of 5 visible antler points on one side, a brow tine, or eye guard, constitutes a point, a burr at the base does not.

H. "APRE/6" shall mean any antler point restricted bull elk with a minimum of 6 visible antler points on one side, a brow tine, or eye guard, constitutes a point, a burr at the base does not.

I. "Bear zones" as used herein, shall define hunt areas consisting of one or more game management units as documented in the state game commission's rule 19.30.4 NMAC Boundary Descriptions for Wildlife Management Areas.

J. "Bearded turkey" shall mean a turkey with a visible beard.

K. "Big game species" shall mean deer, bear, cougar, elk, antelope (American pronghorn), Barbary sheep, bighorn sheep, javelina, oryx, and Persian ibex.

L. "Bighorn ram" shall mean any male bighorn sheep.

M. "Bighorn ewe" definition shall mean any female bighorn sheep.

N. "Cougar zones" as used herein, shall define hunt areas consisting of one or more game management units as documented in the state game commission's rule 19.30.4 NMAC Boundary Descriptions for Wildlife Management Areas.

O. "Deer license" shall mean a resident deer, nonresident deer, resident general hunting, resident general hunt-

ing and fishing, resident senior general hunting, resident junior general hunting, or resident handicapped general hunting license issued for hunting deer in New Mexico during the current license year.

P. "Department" shall mean the New Mexico department of game and fish.

Q. "ES or either sex" shall mean any one animal of the species.

R. "Entry permit" shall entitle the holder of a valid license to hunt where hunter numbers are limited by rule.

S. "FAD or forked antlered deer" shall mean a deer possessing antlers, one of which shall have a definite fork showing two or more distinct points. A burr at the base does not constitute a point or fork.

T. "FAMD or forked antlered mule deer" shall mean a mule deer possessing antlers, one of which shall have a definite fork showing two or more distinct points. A burr at the base does not constitute a point or fork.

U. "FAWTD or forked antlered white-tailed deer" shall mean a white-tailed deer possessing antlers, one of which shall have a definite fork showing two or more distinct points. A burr at the base does not constitute a point or fork.

V. "F-IM or female or immature pronghorn antelope" shall mean a pronghorn antelope without horns or with both horns shorter than its ears.

W. "F-IM or female or immature Persian ibex" shall mean a Persian ibex with horns less than 15 inches long.

X. "Game management unit" or "GMU" shall mean those areas as described in the state game commission's rule 19.30.4 NMAC Boundary Descriptions for Wildlife Management Areas.

Y. "License year" shall mean the period from April 1 through March 31.

Z. "Male Persian ibex" shall mean any male Persian ibex.

AA. "MB or mature bull" shall mean a male elk with at least one brow tine extending six or more inches from the main beam or at least one forked antler with both branches six or more inches long.

BB. "MB or mature buck pronghorn antelope" shall mean a pronghorn antelope with at least one horn longer than its ears.

CC. "MB-A or mature bull - antlerless" shall mean a male elk with at least one brow tine extending six or more inches from the main beam or at least one forked antler with both branches six or more inches long, or any one elk without antlers.

DD. "NT or non-typical oryx" shall mean an oryx of either sex with at least one horn broken off at the halfway

point, or horns that deviate significantly from normal.

EE. "Private land deer permit" shall mean the document containing the carcass tag and harvest questionnaire for hunting deer during designated private land only hunts.

FF. "TBD or to be determined" shall mean the details of hunt dates and/or hunt areas will be provided by the department to the hunter when the designated population reduction hunt is initiated.

GG. "Unlimited" shall mean there is no set limit on the number of permits or licenses established for the described hunt areas.

HH. "Valles Caldera national preserve (VCNP)" shall mean the hunt area within game management sub-unit 6B. [19.31.8.7 NMAC - Rp, 19.31.8.7 NMAC, 4-1-2005]

19.31.8.8 POPULATION REDUCTION HUNTS:

A. Public land population reduction hunts:

(1) The respective area chief may authorize population reduction hunts for antelope, deer, elk, javelina or oryx when justified in writing by department personnel.

(2) The respective area chief shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, and number of licenses. No qualifying license holder shall take more than one animal of each species per license year.

(3) The specific hunt dates, hunt area, the name of the department representative providing the information and the date and time of notification shall be written on the license after notification by telephone.

(4) Applications will only be accepted at the Santa Fe office on the special hunt application form provided by the department. Applications shall be received by the department up to 5:00 P.M. on the first Saturday in February. Applications postmarked by the deadline date, will be accepted up to five working days after the deadline.

(5) Applications of licenses may be rejected, and fees returned to an applicant, if such applications are not on the proper form, or do not supply adequate information.

(6) In the event that an applicant is not able to hunt on the dates specified, the applicant's name shall be moved to the bottom of the list and another applicant may be contacted for the hunt.

(7) Not more than one person may apply under each application.

(8) An applicant shall be restricted to one administrative area of the state (NE, NW, SE, SW).

(9) For each scheduled hunt at least one, but not more than 10 percent, of the total license holders will be designated by the affected landowner, except oryx hunts.

(10) The population reduction hunts for deer, elk, pronghorn antelope, oryx and javelina shall be as indicated below or as specific dates and hunt areas are determined (TBD) by the department.

(a) Oryx WSMR restricted area hunts ORX-5-520 through ORX-5-527: are available only to those persons who have never held a 'once-in-lifetime' oryx license, to personnel with appropriate security badges or their guests in accordance with White Sands missile range provisions, and to persons whose year of birth, whether odd or even, matches the year of application, odd with odd, even with even. For example, you must be born in an odd year to apply in an odd year, like 2005, for these hunts, and so on.

(b) Oryx statewide off-range hunts ORX-5-550 through ORX-5-561: are available to persons whose year of birth, whether odd or even, matches the year of application, odd with odd, even with even. For example, you must be born in an odd year to apply in an odd year, like 2005, for these hunts, and so on. The off-range hunt areas open are public lands statewide and private lands with written permission. Closed areas include: White Sands missile range, Holloman air force base, Jornada experimental station, San Andres national wildlife refuge, and Fort Bliss areas in GMUs 19 and 28, and other public lands closed to hunting and private land without permission.

(c) Military Only hunters must be full time active military and proof of military status must accompany application.

Species	Open area	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Deer	northwest area	TBD	TBD	DER-5-060	unlimited	TBD
Deer	northeast area	TBD	TBD	DER-5-061	unlimited	TBD
Deer	southwest area	TBD	TBD	DER-5-062	unlimited	TBD
Deer	southeast area	TBD	TBD	DER-5-063	unlimited	TBD
Elk	northwest area	TBD	TBD	ELK-5-465	unlimited	TBD
Elk	northeast area	TBD	TBD	ELK-5-466	unlimited	TBD
Elk	southwest area	TBD	TBD	ELK-5-467	unlimited	TBD
Elk	southeast area	TBD	TBD	ELK-5-468	unlimited	TBD
Pronghorn antelope	northeast area	TBD	TBD	ANT-5-575	unlimited	TBD
Pronghorn antelope	southeast area	TBD	TBD	ANT-5-576	unlimited	TBD
Oryx	standard reduction hunt, TBD	TBD	TBD	ORX-5-510	500	ES
Oryx	Fort Bliss military only Doña Ana live fire area	TBD	TBD	ORX-5-511	30	ES
Oryx	WSMR restricted area: TBD	04/01	04/30	ORX-5-520	30	ES
Oryx	WSMR restricted area: TBD	05/01	05/31	ORX-5-521	30	ES
Oryx	WSMR restricted area: TBD	08/01	08/31	ORX-5-522	30	ES
Oryx	WSMR restricted area: TBD	09/01	09/30	ORX-5-523	30	ES
Oryx	WSMR restricted area: TBD	10/01	10/31	ORX-5-524	30	ES
Oryx	WSMR restricted area: TBD	01/01	01/31	ORX-5-525	30	ES
Oryx	WSMR restricted area: TBD	02/01	02/28	ORX-5-526	30	ES
Oryx	WSMR restricted area: TBD	03/01	03/31	ORX-5-527	30	ES

Oryx	statewide, off-range	04/01	04/30	ORX-5-550	40	ES
Oryx	statewide, off-range	05/01	05/31	ORX-5-551	40	ES
Oryx	statewide, off-range	06/01	06/30	ORX-5-552	40	ES
Oryx	statewide, off-range	07/01	07/31	ORX-5-553	40	ES
Oryx	statewide, off-range	08/01	08/31	ORX-5-554	40	ES
Oryx	statewide, off-range	09/01	09/30	ORX-5-555	40	ES
Oryx	statewide, off-range	10/01	10/31	ORX-5-556	40	ES
Oryx	statewide, off-range	11/01	11/30	ORX-5-557	40	ES
Oryx	statewide, off-range	12/01	12/31	ORX-5-558	40	ES
Oryx	statewide, off-range	01/01	01/31	ORX-5-559	40	ES
Oryx	statewide, off-range	02/01	02/28	ORX-5-560	40	ES
Oryx	statewide, off-range	03/01	03/31	ORX-5-561	40	ES
Javelina	statewide	TBD	TBD	JAV-5-500	unlimited	ES

B. Private land population reduction hunts:

(1) The respective area chief may authorize population reduction hunts for antelope, deer, elk, or oryx management when justified in writing by department personnel. The department shall enter into a written hunt agreement with the landowner or lessee to obtain permission for hunting these species on the property and issue landowner authorization certificates so the landowner may designate any eligible hunter of his choice.

(2) The respective area chief shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, and number of licenses available for each private land population reduction hunt based on input from the district officer and the landowner.

(3) The private landowner requesting the hunt may designate any eligible hunter of his choice. The prospective hunter will submit the authorization certificate along with the correct license fee to the appropriate area office for a license.

(4) Private land oryx population reduction hunts shall be as follows: each ranch shall receive 4 private oryx authorization certificates valid within the boundaries of that ranch including deeded property and leased public lands. Licenses will be valid for any 30 consecutive days as determined by the landowner. Those landowners that receive 4 private oryx authorization certificates shall allow access to those public lands within the boundaries of their ranch for any legally licensed public off-range oryx hunter.

[19.31.8.8 NMAC - Rp, 19.31.8.8 NMAC, 4-1-2005]

19.31.8.9 DEER (2005-2006):

A. Public land (and private lands in GMUs 4 and 5A) deer hunts for any legal sporting arms, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag limit
2A	11/05/2005	11/09/2005	DER-1-100	360	APRD
2A youth only	10/29/2005	11/02/2005	DER-1-101	50	FAD
2B	10/29/2005	11/02/2005	DER-1-102	465	APRD
2B youth only	10/22/2005	10/26/2005	DER-1-103	150	FAD
2B	11/05/2005	11/09/2005	DER-1-104	465	APRD
2B	11/12/2005	11/16/2005	DER-1-105	465	APRD
2C	11/05/2005	11/09/2005	DER-1-106	50	APRD
4: Humphries/Rio Chama WMAs	10/22/2005	10/26/2005	DER-1-107	20	APRD
4: Humphries/Rio Chama WMAs	10/29/2005	11/02/2005	DER-1-108	20	APRD
4: Humphries/Rio Chama WMAs, youth only	10/22/2005	10/26/2005	DER-1-109	5	FAD
4: Humphries/Rio Chama WMAs, youth only	10/29/2005	11/02/2005	DER-1-110	5	FAD
4 private land only	10/22/2005	10/26/2005	DER-1-111	175	APRD
4 private land only	10/29/2005	11/02/2005	DER-1-112	175	APRD
5A public land only	11/8/2005	11/14/2005	DER-1-113	30	APRD
5A private land only	11/8/2005	11/14/2005	DER-1-114	220	APRD
5B	11/12/2005	11/16/2005	DER-1-115	15	APRD
5B youth only	11/12/2005	11/16/2005	DER-1-116	5	FAD
6A and 6C	11/12/2005	11/16/2005	DER-1-117	100	APRD
7	10/22/2005	10/26/2005	DER-1-118	25	APRD
8 (except Sandia ranger district of the Cibola national forest)	10/22/2005	10/26/2005	DER-1-119	75	APRD
9 (including Water canyon and Marquez WMAs)	11/12/2005	11/16/2005	DER-1-120	10	APRD
9 (including Water canyon and Marquez WMAs), youth only	11/12/2005	11/16/2005	DER-1-121	10	FAD
10	10/22/2005	10/26/2005	DER-1-122	90	APRD
10 youth only	10/29/2005	11/02/2005	DER-1-123	25	FAD
10	10/29/2005	11/02/2005	DER-1-124	65	APRD
10	11/05/2005	11/09/2005	DER-1-125	90	APRD
12	11/05/2005	11/09/2005	DER-1-126	200	APRD

13	11/05/2005	11/09/2005	DER-1-127	500	APRD
13	11/12/2005	11/16/2005	DER-1-128	500	APRD
14 (bows only on Sandia ranger district of the Cibola national forest)	10/29/2005	11/02/2005	DER-1-129	25	APRD
16	11/05/2005	11/09/2005	DER-1-130	750	APRD
16	11/12/2005	11/16/2005	DER-1-131	750	APRD
17	11/05/2005	11/09/2005	DER-1-132	200	APRD
17	11/12/2005	11/16/2005	DER-1-133	200	APRD
17 youth only	10/29/2005	11/02/2005	DER-1-134	50	FAD
18	11/05/2005	11/09/2005	DER-1-135	200	APRD
18	11/12/2005	11/16/2005	DER-1-136	200	APRD
20	11/05/2005	11/09/2005	DER-1-137	300	APRD
20	11/12/2005	11/16/2005	DER-1-138	300	APRD
21	11/05/2005	11/09/2005	DER-1-139	800	APRD
21	11/12/2005	11/16/2005	DER-1-140	800	APRD
22	11/05/2005	11/09/2005	DER-1-141	100	APRD
22	11/12/2005	11/16/2005	DER-1-142	100	APRD
23 (except the Burro mountain hunt area)	11/05/2005	11/09/2005	DER-1-143	475	APRMD
23 (except the Burro mountain hunt area)	11/05/2005	11/09/2005	DER-1-144	50	APRWTD
23 (except the Burro mountain hunt area)	11/12/2005	11/16/2005	DER-1-145	475	APRMD
23 (except the Burro mountain hunt area)	11/12/2005	11/16/2005	DER-1-146	50	APRWTD
23: Burro mountain hunt area	11/18/2005	11/20/2005	DER-1-147	25	APRMD
23: Burro mountain hunt area	11/18/2005	11/20/2005	DER-1-148	25	APRWTD
23: Burro mountain hunt area, youth only	10/29/2005	11/02/2005	DER-1-149	25	FAD
24	11/05/2005	11/09/2005	DER-1-150	375	APRMD
24	11/05/2005	11/09/2005	DER-1-151	50	APRWTD
24	11/12/2005	11/16/2005	DER-1-152	375	APRMD
24	11/12/2005	11/16/2005	DER-1-153	50	APRWTD
25	11/05/2005	11/09/2005	DER-1-154	250	APRD
25	11/12/2005	11/16/2005	DER-1-155	250	APRD
26	11/05/2005	11/09/2005	DER-1-156	75	APRD
26	11/12/2005	11/16/2005	DER-1-157	75	APRD
27	11/12/2005	11/16/2005	DER-1-158	25	APRMD
27	11/12/2005	11/16/2005	DER-1-159	25	APRWTD
29	10/29/2005	11/02/2005	DER-1-160	150	APRD
29	11/12/2005	11/16/2005	DER-1-161	150	APRD
30	10/29/2005	11/02/2005	DER-1-162	1000	APRD
30	11/12/2005	11/16/2005	DER-1-163	1500	APRD
31	11/05/2005	11/09/2005	DER-1-164	500	APRD
31	11/19/2005	11/23/2005	DER-1-165	500	APRD
32	11/05/2005	11/09/2005	DER-1-166	600	APRD
32	11/19/2005	11/23/2005	DER-1-167	600	APRD
33	10/29/2005	11/02/2005	DER-1-168	300	APRD
33	11/12/2005	11/16/2005	DER-1-169	300	APRD
34	10/29/2005	11/02/2005	DER-1-170	1000	APRD
34	11/12/2005	11/16/2005	DER-1-171	1000	APRD
36 (except Fort Stanton)	11/05/2005	11/09/2005	DER-1-172	350	APRD
36: Fort Stanton, youth only	11/05/2005	11/09/2005	DER-1-173	25	FAD
36 (except Fort Stanton)	11/19/2005	11/23/2005	DER-1-174	350	APRD
37	11/05/2005	11/09/2005	DER-1-175	1000	APRD
37	11/19/2005	11/23/2005	DER-1-176	600	APRD
38	11/05/2005	11/09/2005	DER-1-177	600	APRD
38	11/19/2005	11/23/2005	DER-1-178	400	APRD
39	10/29/2005	11/02/2005	DER-1-179	50	APRD
39	11/05/2005	11/09/2005	DER-1-180	50	APRD
40	11/05/2005	11/09/2005	DER-1-181	50	APRD
40	11/19/2005	11/23/2005	DER-1-182	50	APRD
41	10/29/2005	11/02/2005	DER-1-183	75	APRD
41	11/05/2005	11/09/2005	DER-1-184	75	APRD
42	10/29/2005	11/02/2005	DER-1-185	75	APRD
42	11/05/2005	11/09/2005	DER-1-186	75	APRD
43	10/29/2005	11/02/2005	DER-1-187	100	APRD
43	11/05/2005	11/09/2005	DER-1-188	100	APRD
44/45	10/29/2005	11/02/2005	DER-1-189	300	APRD

44/45	11/05/2005	11/09/2005	DER-1-190	300	APRD
47	10/29/2005	11/02/2005	DER-1-191	20	APRD
47	11/05/2005	11/09/2005	DER-1-192	20	APRD
48	10/29/2005	11/02/2005	DER-1-193	100	APRD
48	11/05/2005	11/09/2005	DER-1-194	100	APRD
49	10/29/2005	11/02/2005	DER-1-195	100	APRD
49	11/05/2005	11/09/2005	DER-1-196	100	APRD
50	10/29/2005	11/02/2005	DER-1-197	50	APRD
50	11/05/2005	11/09/2005	DER-1-198	50	APRD
51	10/29/2005	11/02/2005	DER-1-199	100	APRD
51	11/05/2005	11/09/2005	DER-1-200	100	APRD
52	10/29/2005	11/02/2005	DER-1-201	100	APRD
52	11/05/2005	11/09/2005	DER-1-202	100	APRD
53	10/29/2005	11/02/2005	DER-1-203	100	APRD
53	11/05/2005	11/09/2005	DER-1-204	100	APRD
54/55: Colin Neblett WMA	10/29/2005	11/02/2005	DER-1-205	15	APRD
54/55: Colin Neblett WMA	11/05/2005	11/09/2005	DER-1-206	15	APRD
55: E. S. Barker WMA	10/29/2005	11/02/2005	DER-1-207	5	APRD
55: E. S. Barker WMA, youth only	11/24/2005	11/27/2005	DER-1-208	5	FAD
55: Urraca WMA	10/29/2005	11/02/2005	DER-1-209	10	APRD
55: Urraca WMA	11/05/2005	11/09/2005	DER-1-210	10	APRD
56	10/29/2005	11/02/2005	DER-1-211	20	APRD
56	11/05/2005	11/09/2005	DER-1-212	20	APRD
56: Sierra Grande hunt area	10/29/2005	11/02/2005	DER-1-213	10	APRD
56: Sierra Grande hunt area	11/05/2005	11/09/2005	DER-1-214	10	APRD
57	10/29/2005	11/02/2005	DER-1-215	30	APRD
57	11/05/2005	11/09/2005	DER-1-216	30	APRD
58	10/29/2005	11/02/2005	DER-1-217	30	APRD
58	11/05/2005	11/09/2005	DER-1-218	30	APRD

B. Public land (and private lands in GMUs 4 and 5A) deer hunts for bows only, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag Limit
2A	09/01/2005	09/22/2005	DER-2-100	40	APRD
2A	01/01/2006	01/15/2006	DER-2-101	40	APRD
2B	09/01/2005	09/22/2005	DER-2-102	105	APRD
2B	01/01/2006	01/15/2006	DER-2-103	105	APRD
2B youth only	09/01/2005	09/22/2005	DER-2-104	20	FAD
2C	01/01/2006	01/15/2006	DER-2-105	25	APRD
4 private land only	09/01/2005	09/22/2005	DER-2-106	150	APRD
5A public land only	09/01/2005	09/22/2005	DER-2-107	30	APRD
5A private land only	09/01/2005	09/22/2005	DER-2-108	220	APRD
6A and 6C	09/01/2005	09/22/2005	DER-2-109	100	APRD
7	09/01/2005	09/22/2005	DER-2-110	10	APRD
8 youth only	11/19/2005	11/27/2005	DER-2-111	50	FAD
8	01/01/2006	01/15/2006	DER-2-112	50	APRD
9 (including Water canyon and Marquez WMAs)	09/01/2005	09/22/2005	DER-2-113	10	APRD
10	09/01/2005	09/22/2005	DER-2-114	90	APRD
12	09/01/2005	09/22/2005	DER-2-115	75	APRD
13	09/01/2005	09/22/2005	DER-2-116	475	APRD
13	01/01/2006	01/15/2006	DER-2-117	75	APRD
14	09/01/2005	09/22/2005	DER-2-118	25	APRD
15	09/01/2005	09/22/2005	DER-2-119	200	APRD
15	01/01/2006	01/15/2006	DER-2-120	100	APRD
16	09/01/2005	09/22/2005	DER-2-121	300	APRD
16	01/01/2006	01/15/2006	DER-2-122	200	APRD
17	09/01/2005	09/22/2005	DER-2-123	300	APRD
17	01/01/2006	01/15/2006	DER-2-124	100	APRD
18	09/01/2005	09/22/2005	DER-2-125	100	APRD
18	01/01/2006	01/15/2006	DER-2-126	100	APRD
20	09/01/2005	09/22/2005	DER-2-127	25	APRD
20	01/01/2006	01/15/2006	DER-2-128	75	APRD
21	09/01/2005	09/22/2005	DER-2-129	100	APRD

21	01/01/2006	01/15/2006	DER-2-130	200	APRD
22	09/01/2005	09/22/2005	DER-2-131	25	APRD
22	01/01/2006	01/15/2006	DER-2-132	25	APRD
23 (except the Burro mountain hunt area)	09/01/2005	09/22/2005	DER-2-133	150	APRMD
23 (except the Burro mountain hunt area)	09/01/2005	09/22/2005	DER-2-134	100	APRWTD
23 (except the Burro mountain hunt area)	01/01/2006	01/15/2006	DER-2-135	150	APRMD
23 (except the Burro mountain hunt area)	01/01/2006	01/15/2006	DER-2-136	100	APRWTD
23: Burro mountain hunt area	01/01/2006	01/15/2006	DER-2-137	50	APRMD
23: Burro mountain hunt area	01/01/2006	01/15/2006	DER-2-138	50	APRWTD
24	09/01/2005	09/22/2005	DER-2-139	100	APRMD
24	09/01/2005	09/22/2005	DER-2-140	50	APRWTD
24	01/01/2006	01/15/2006	DER-2-141	100	APRMD
24	01/01/2006	01/15/2006	DER-2-142	50	APRWTD
25	09/01/2005	09/22/2005	DER-2-143	25	APRD
25	01/01/2006	01/15/2006	DER-2-144	75	APRD
26	09/01/2005	09/22/2005	DER-2-145	25	APRD
26	01/01/2006	01/15/2006	DER-2-146	25	APRD
27	01/01/2006	01/15/2006	DER-2-147	25	APRMD
27	01/01/2006	01/15/2006	DER-2-148	30	APRWTD
29	09/01/2005	09/22/2005	DER-2-149	200	APRD
	01/01/2006	01/15/2006			
30	09/01/2005	09/22/2005	DER-2-150	350	APRD
	01/01/2006	01/15/2006			
31	09/01/2005	09/22/2005	DER-2-151	200	APRD
	01/01/2006	01/15/2006			
31/33: Brantley WMA, Seven rivers and Huey waterfowl management areas, youth only	12/26/2005	01/01/2006	DER-2-152	10	ES
32	09/01/2005	09/22/2005	DER-2-153	200	APRD
	01/01/2006	01/15/2006			
33	09/01/2005	09/22/2005	DER-2-154	150	APRD
	01/01/2006	01/15/2006			
34	09/01/2005	09/22/2005	DER-2-155	800	APRD
	01/01/2006	01/15/2006			
36 (including Fort Stanton)	09/01/2005	09/22/2005	DER-2-156	250	APRD
	01/01/2006	01/15/2006			
37	09/01/2005	09/22/2005	DER-2-157	200	APRD
	01/01/2006	01/15/2006			
38	09/01/2005	09/22/2005	DER-2-158	200	APRD
	01/01/2006	01/15/2006			
39	09/01/2005	09/22/2005	DER-2-159	50	APRD
	01/01/2006	01/15/2006			
40	09/01/2005	09/22/2005	DER-2-160	50	APRD
	01/01/2006	01/15/2006			
41	09/01/2005	09/22/2005	DER-2-161	20	APRD
42	09/01/2005	09/22/2005	DER-2-162	20	APRD
43	09/01/2005	09/22/2005	DER-2-163	50	APRD
44/45	09/01/2005	09/22/2005	DER-2-164	100	APRD
47	09/01/2005	09/22/2005	DER-2-165	20	APRD
48	09/01/2005	09/22/2005	DER-2-166	50	APRD
49	09/01/2005	09/22/2005	DER-2-167	100	APRD
50	09/01/2005	09/22/2005	DER-2-168	10	APRD
51	09/01/2005	09/22/2005	DER-2-169	100	APRD
52	09/01/2005	09/22/2005	DER-2-170	100	APRD
53	09/01/2005	09/22/2005	DER-2-171	100	APRD
56	09/01/2005	09/22/2005	DER-2-172	15	APRD
56: Sierra Grande hunt area	09/01/2005	09/22/2005	DER-2-173	10	APRD
57	09/01/2005	09/22/2005	DER-2-174	15	APRD
57: Sugarite canyon state park	11/01/2005	11/30/2005	DER-2-175	40	APRD
58	09/01/2005	09/22/2005	DER-2-176	15	APRD

C. Public land (and private land in GMU 4) deer hunts for legal muzzle loading rifles or bows, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag Limit
2A	09/24/2005	09/30/2005	DER-3-100	60	APRD
2B	09/24/2005	09/30/2005	DER-3-101	175	APRD
2B youth only	09/24/2005	09/30/2005	DER-3-102	20	FAD
2C	09/24/2005	10/02/2005	DER-3-103	25	APRD
4 private land only	09/24/2005	09/30/2005	DER-3-104	100	APRD
6A and 6C	09/24/2005	09/30/2005	DER-3-105	100	APRD
7	09/24/2005	09/30/2005	DER-3-106	10	APRD
8 (except Sandia ranger district of the Cibola national forest)	09/24/2005	09/30/2005	DER-3-107	75	APRD
10	09/24/2005	09/30/2005	DER-3-108	90	APRD
12	09/24/2005	09/30/2005	DER-3-109	75	APRD
13	10/29/2005	11/02/2005	DER-3-110	500	APRD
14 (bows only on Sandia ranger district of the Cibola national forest)	09/24/2005	09/30/2005	DER-3-111	50	APRD
15	10/29/2005	11/02/2005	DER-3-112	500	APRD
16	10/29/2005	11/02/2005	DER-3-113	500	APRD
17	10/29/2005	11/02/2005	DER-3-114	400	APRD
18	10/29/2005	11/02/2005	DER-3-115	75	APRD
19 (except White Sands missile range)	10/29/2005	11/02/2005	DER-3-116	10	APRD
20	10/29/2005	11/02/2005	DER-3-117	75	APRD
21	10/29/2005	11/02/2005	DER-3-118	400	APRD
22	10/29/2005	11/02/2005	DER-3-119	50	APRD
23 (except the Burro mountain hunt area)	10/29/2005	11/02/2005	DER-3-120	150	APRMD
23 (except the Burro mountain hunt area)	10/29/2005	11/02/2005	DER-3-121	50	APRWTD
24	10/29/2005	11/02/2005	DER-3-122	200	APRMD
24	10/29/2005	11/02/2005	DER-3-123	50	APRWTD
25	10/29/2005	11/02/2005	DER-3-124	50	APRD
26	10/29/2005	11/02/2005	DER-3-125	50	APRD
27	10/29/2005	11/02/2005	DER-3-126	25	APRMD
27	10/29/2005	11/02/2005	DER-3-127	25	APRWTD
29	10/22/2005	10/26/2005	DER-3-128	50	APRD
31	10/22/2005	10/26/2005	DER-3-129	100	APRD
31/33 Brantley WMA, Seven rivers & Huey waterfowl management areas, youth only	11/25/2005	11/27/2005	DER-3-130	30	ES
32	10/22/2005	10/26/2005	DER-3-131	75	APRD
34	10/22/2005	10/26/2005	DER-3-132	350	APRD
36 (except Fort Stanton)	10/22/2005	10/26/2005	DER-3-133	50	APRD
36 Fort Stanton, youth only	10/22/2005	10/26/2005	DER-3-134	25	FAD
38	10/22/2005	10/26/2005	DER-3-135	200	APRD
39	10/22/2005	10/26/2005	DER-3-136	50	APRD
40	10/22/2005	10/26/2005	DER-3-137	25	APRD
41	09/24/2005	09/30/2005	DER-3-138	50	APRD
42	09/24/2005	09/30/2005	DER-3-139	20	APRD
43	09/24/2005	09/30/2005	DER-3-140	50	APRD
44/45	09/24/2005	09/30/2005	DER-3-141	150	APRD
47	09/24/2005	09/30/2005	DER-3-142	20	APRD
56	09/24/2005	09/30/2005	DER-3-143	15	APRD
56: Sierra Grande hunt area	09/24/2005	09/30/2005	DER-3-144	10	APRD
57	09/24/2005	09/30/2005	DER-3-145	15	APRD
58	09/24/2005	09/30/2005	DER-3-146	15	APRD

D. Public land deer hunts for restricted legal muzzle loading rifles only, as defined in 19.31.10 NMAC, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag limit
9 (including Water canyon and Marquez WMAs)	09/24/2005	09/30/2005	DER-3-150	10	APRD
30	10/22/2005	10/26/2005	DER-3-151	500	APRD
33	10/22/2005	10/26/2005	DER-3-152	50	APRD
37	10/22/2005	10/26/2005	DER-3-153	200	APRD
52	09/24/2005	09/30/2005	DER-3-154	30	APRD

E. Private land only deer hunts: Private land deer permits shall be restricted to the season dates, sporting arms type, and bag limit that corresponds to the public land hunt code listed in Subsections A, B, C and D of 19.31.8.9 NMAC above for the GMU where the private landowner's property lies. The private land deer permits shall be unlimited and available from any license vendor; however, only one private land deer permit will be issued per license. Private land only hunters in Units 4 and 5A must obtain a special application form from the landowner and apply through the draw. Hunts in GMUs 46, 54, and 55 shall be as indicated below:

Open GMUs	Hunt start	Hunt end	Hunt code	Permits	Bag limit
46 for any legal sporting arm	10/29/2005	11/02/2005	DER-1-300	unlimited	APRD
46 for any legal sporting arm	11/05/2005	11/09/2005	DER-1-301	unlimited	APRD
46 for bows only	09/01/2005	09/22/2005	DER-2-300	unlimited	APRD
46 for legal muzzle loading rifles or bows	09/24/2005	09/30/2005	DER-3-300	unlimited	APRD
54 for any legal sporting arm	10/29/2005	11/02/2005	DER-1-302	unlimited	APRD
54 for any legal sporting arm	11/05/2005	11/09/2005	DER-1-303	unlimited	APRD
54 for bows only	09/01/2005	09/22/2005	DER-2-301	unlimited	APRD
54 for legal muzzle loading rifles or bows	09/24/2005	09/30/2005	DER-3-301	unlimited	APRD
55 for any legal sporting arm	10/29/2005	11/02/2005	DER-1-304	unlimited	APRD
55 for any legal sporting arm	11/05/2005	11/09/2005	DER-1-305	unlimited	APRD
55 for bows only	09/01/2005	09/22/2005	DER-2-302	unlimited	APRD
55 for legal muzzle loading rifles or bows	09/24/2005	09/30/2005	DER-3-302	unlimited	APRD

F. Deer enhancement licenses. Deer enhancement licenses shall be valid from September 1 through January 31, 2006, for any legal sporting arms. These licenses shall be valid statewide where hunting is allowed, including private land with prior written permission. Bag limit shall be one APRD. The hunt code shall be DER-1-400. License may be used either by the applicant or any individual of the selected applicant's choice through sale, barter, or gift.

G. Private land deer conservation incentive program: Private landowners may submit a deer conservation and management plan, subject to review and approval by the department. Upon department approval of this plan, a landowner may be eligible for various incentives such as extended season dates and "rut period" hunts. The director may approve the opportunity to hunt public lands they lease or lands that are within a landowner's private land boundaries. The hunt code for any unique hunt season approved pursuant to this program shall be DER-1-600.

H. Additional requirements: Private land only hunters in GMUs 4 and 5A must obtain a special application from a landowner. Only full-time active military may apply for 'Military Only' hunts. Proof of military status must accompany application. [19.31.8.9 NMAC - Rp, 19.31.8.9 NMAC, 4-1-2005]

19.31.8.10 TURKEY (2005-2006):

A. Spring turkey hunt shall be as indicated below:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
4 (including the Sargent, Humphries, and Rio Chama WMAs), 5, 6, 7, 9 (including Marquez and Water canyon WMAs), 10, 12, 13, 14 (bow only Sandia ranger district of the Cibola national forest), 15, 16, 17, 18, 20 (except Doña Ana county), 21 (except Doña Ana county), 22, 23, 24, 29, 30, 34, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54 (including Colin Neblett south), and 55 (including Colin Neblett north and E. S. Barker WMAs and except Urraca WMA and except Valle Vidal and Greenwood wildlife areas), 56, 57 (bow only in Sugarite canyon state park), 58	04/15/2005	05/10/2005	TUR-1-001	unlimited	2 turkeys with visible beards

B. Fall turkey hunts shall be as indicated below:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
4 (including Humphries and Rio Chama WMAs and except Sargent WMA), 6, 7, 9 (except Marquez and Water canyon WMAs), 10, 12, 13, 15, 16, 17, 21 (except Doña Ana county), 22, 23, 24, 29, 34, 36, 37, 40, 41, 42, 45, 46, 47, 48, 54 (including Colin Neblett south), 55 (including Colin Neblett north and except Urraca WMA and except Valle Vidal, Greenwood and E.S. Barker wildlife areas), 56, 57 (except Sugarite canyon state park), 58	09/12/2005	09/20/2005	TUR-1-001	unlimited	1 turkey

C. Turkey entry hunts shall be as indicated below:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	04/15/2005	04/30/2005	TUR-1-100	100	1 turkey with visible beard
55: Valle Vidal area	04/15/2005	04/30/2005	TUR-1-101	20	1 turkey with visible beard
4: Sargent WMA	11/12/2005	11/20/2005	TUR-1-102	5	1 turkey

[19.31.8.10 NMAC - Rp, 19.31.8.10 NMAC, 4-1-2005]

19.31.8.11 BEAR (2005-2006):

A. The bear seasons shall be as stated below; open areas are GMUs 4, 5, 6, 7, 8 (bow only in the Sandia ranger district of the Cibola national forest), 9 (including the Marquez and Water canyon WMAs), 10, 12, 13, 14, (bow only in the Sandia ranger district of the Cibola national forest), 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 34, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, and 58 during the seasons, bag limits and restrictions listed below. Dogs shall not be used to pursue bear in any wildlife management area (WMA) as described in 19.30.4 NMAC.

(1) Bow only bear season shall be 09/01/2005 through 09/22/2005 in all zones. No dogs shall be used to pursue bear during bow seasons.

(2) Any legal sporting arms season for bear shall be:

(a) Aug. 16 - Aug. 31 in zones 2, 5, and 6; Sept. 23-Nov. 15, in zones 1, 2, 3; Sept. 23- Nov. 30 in zones 5 and 6. Dogs may be used to pursue bears during the time frames and zones listed above.

(b) Oct. 15 - Nov. 15 in zone 4 (GMUs 8 and 14, bow only in the Sandia ranger district of the Cibola national forest). Dogs are required and the bag limit shall be one male bear except any cub less than a year old.

(3) Bear entry hunts for any legal sporting arms, listing the open areas, hunt date, hunt code, number of licenses and bag limit, as defined in Subsection C of this Section, shall be as indicated below. Dogs shall not be used to pursue bears during bear entry hunts.

Open areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Sargent WMA	08/01/2005	08/31/2005	BER-1-100	10	1 bear
William A. Humphries WMA	08/01/2005	08/31/2005	BER-1-101	5	1 bear
E.S. Barker/Colin Neblett WMAs	08/01/2005	08/31/2005	BER-1-102	12	1 bear

(4) The Valle Vidal area is closed to bear hunting except for any licensed bear hunter who legally possesses a license for an elk hunt on the Valle Vidal area may harvest a bear during their assigned elk hunt period, provided that zone 2 is open for bear hunting. Legal sporting arms for taking bear in the Valle Vidal area shall be the legal sporting arms for the concurrent elk hunt. Dogs shall not be allowed to pursue bear in the Valle Vidal area.

B. The harvest limit for each bear zone is indicated below. If either the total limit (first number) or female sub-limit (italicized number) is reached the bear zone will close 72 hours thereafter. Bears taken from the Sargent WMA and William A. Humphries WMA in zone 1 or the Elliot Barker/Colin Neblett WMAs in zone 2 shall not count towards the harvest limit in those zones. Bears removed by department management action will count against that zone's harvest limit. Bears relocated to other zones and harvested in the zone of release during that fall's hunt season will count against the zone of origin and not the zone where released. If a relocated bear is harvested in a subsequent year, the harvest counts as a normal kill in the zone of harvest.

Open GMU's	Zone	Harvest limit or <i>max. females</i>
4, 5, 6, 7, 51, and 52	1	65 or <i>32</i>
41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57 and 58	2	130 or <i>59</i>
9 and 10	3	18 or <i>10</i>
8 and 14	4	13 or <i>6</i>
12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, and 27	5	75 or <i>45</i>
34, 36, 37 and 38	6	35 or <i>19</i>

C. Bag limit shall be one bear except any female accompanied by cub(s), or except any cub less than a year old, unless otherwise indicated.

D. Bear hunters shall purchase their license at least two days prior to hunting bear.

E. Any bear taken shall be tagged with both the tag from the hunting license and the pelt tag furnished free of charge by the department. A hunter who takes a bear must present the skull and pelt to a department representative for tooth removal and pelt tagging within five days of taking the animal or before taking the pelt out of New Mexico, whichever comes first. The pelt tag shall remain attached until the pelt is processed.

[19.31.8.11 NMAC - Rp, 19.31.8.11 NMAC, 4-1-2005]

19.31.8.12 COUGAR (2005-2006):

A. Cougar season within each cougar zone shall be October 1 through March 31, or until the cougar harvest limit has been met within the specific cougar zone, whichever occurs first. Exceptions shall be as follows:

(1) Cougar season shall be April 1 through March 31 in GMUs 29, 30, and 34 and in the bighorn sheep range of cougar zones G, H, K, and L. These ranges include the Ladron, Manzano, Peloncillo, Little Hatchets, Big Hatchets (including Big Hatchet WMA), Animas, Alamo Hueco, Saliz, Mogollon, Organ, and San Andres mountains as described in 19.30.4 NMAC. Cougars taken in those bighorn sheep ranges shall not count against the harvest limit for that zone.

(2) The Sandia ranger district of the Cibola national forest portion of zone F shall be open for hunting with bow only.

(3) Cougar season on private land shall be April 1 through March 31 (bag limits still apply). Private landowners and their designees may hunt on the owner's private property and cougar taken shall not count against the harvest limit for that zone. All cougar hunters must be legally licensed.

(4) Wildlife management areas listed below are open to cougar hunting as follows; hunters must follow registration procedures as determined by the department, electronic calling devices are legal, dogs are not allowed, vehicle access will not be allowed except into designated parking areas, and cougars harvested will count toward harvest limits in the cougar zones where the WMA occurs:

Open areas	Hunt start	Hunt end	Access authorizations
Sargent WMA	11/10/2005	03/31/2006	10
William A. Humphries WMA	11/10/2005	03/31/2006	10
Rio Chama WMA	01/01/2006	01/31/2006	5
Rio Chama WMA	02/01/2006	02/28/2006	5
Rio Chama WMA	03/01/2006	03/31/2006	5
Elliot S. Barker WMA	01/01/2006	01/31/2006	5
Elliot S. Barker WMA	02/01/2006	02/28/2006	5
Elliot S. Barker WMA	03/01/2006	03/31/2006	5
Marquez and Water canyon WMAs	10/01/2006	03/31/2006	unlimited
Urraca WMA	12/01/2005	12/31/2005	unlimited
Colin Neblett WMA	12/01/2005	03/31/2006	unlimited

B. The harvest limit for each cougar zone is indicated below:

Open GMUs or areas	Zone	Harvest limit
2 and 7	A	18
5, 50, and 51	B	20
43, 44, 45, 46, 48, 49, 53, 54, and 55	C	38
41, 42, and 47	D	9
9 and 10	E	16
6 and 8 (bow only in the Sandia ranger district of the Cibola national forest).	F	16
13, 14 (bow only in the Sandia ranger district of the Cibola national forest), and 17	G	17
19, 20, 28, and 29	H	3
18, 30, 34, 36, 37, and 38	I	20
15, 16, 21, and 25	J	38
22, 23, and 24	K	22
26 and 27	L	no limit
31, 32, 33, 39, and 40	M	5
4 and 52	N	3
12	O	3
56, 57, and 58	P	5

C. Bag limits shall be as indicated below:

(1) One cougar, except any female accompanied by a spotted kitten(s), and except any spotted kitten.

(2) A second cougar, except any female accompanied by a spotted kitten(s), and except any spotted kitten, may be taken in any of the bighorn sheep ranges outlined above in Paragraph (1) of Subsection A of 19.31.8.12 NMAC and in GMUs 29, 30, and 34.

D. Hunters shall purchase a cougar license at least two days prior to hunting cougar.

E. All cougar taken shall be tagged with both the tag from the hunting license and the pelt tag furnished free of charge from the department. A hunter who takes a cougar must present the skull and pelt to a department representative for tooth removal and pelt tagging within five days of taking the animal or before taking the pelt out of New Mexico, whichever comes first. The pelt tag shall remain attached until the pelt is processed. Immediately following the pelt tagging the department employee shall call the division of wildlife with the information regarding the take of cougar.

F. When the number of cougars equaling the cougar harvest limit for a given cougar zone has been met, that zone will close 72 hours thereafter.

G. The director, at his discretion, may adjust or cancel portions of any cougar hunt to address significant changes in population or harvest limits.

[19.31.8.12 NMAC - Rp, 19.31.8.12 NMAC, 4-1-2005]

19.31.8.13 ELK (2005-2006):

A. Public land elk hunts for any legal sporting arms, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certification number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	10/15/2005	10/19/2005	ELK-1-100	100	MB
2	12/03/2005	12/07/2005	ELK-1-101	75	MB
2	12/03/2005	12/07/2005	ELK-1-102	200	A
2 youth only	12/03/2005	12/07/2005	ELK-1-103	25	A
4: Sargent WMA	10/01/2005	10/05/2005	ELK-1-104	5	APRE/6
4: Sargent WMA	10/08/2005	10/12/2005	ELK-1-105	15	APRE
4: Sargent WMA	10/15/2005	10/19/2005	ELK-1-106	15	APRE
4: Sargent WMA	10/22/2005	10/26/2005	ELK-1-107	15	APRE

4: Sargent WMA	10/29/2005	11/02/2005	ELK-1-108	15	A
4: Sargent WMA, youth only	10/29/2005	11/02/2005	ELK-1-109	10	A
4: Sargent WMA	11/05/2005	11/09/2005	ELK-1-110	15	A
4: Humphries/Rio Chama WMAs	10/08/2005	10/12/2005	ELK-1-111	10	APRE
4: Humphries/Rio Chama WMAs	10/15/2005	10/19/2005	ELK-1-112	10	APRE
4: Humphries/Rio Chama WMAs	11/05/2005	11/09/2005	ELK-1-113	30	A
4: Humphries/Rio Chama WMAs, youth only	11/05/2005	11/09/2005	ELK-1-114	10	A
5A public land only	10/01/2005	10/05/2005	ELK-1-115	5	MB
5A public land only	10/01/2005	10/05/2005	ELK-1-116	6	A
5A public land only	10/08/2005	10/12/2005	ELK-1-117	5	MB
5A public land only	10/08/2005	10/12/2005	ELK-1-118	6	A
5A public land only	10/15/2005	10/19/2005	ELK-1-119	5	MB
5A public land only	10/15/2005	10/19/2005	ELK-1-120	6	A
5A public land only	10/22/2005	10/26/2005	ELK-1-121	5	MB
5A public land only	10/22/2005	10/26/2005	ELK-1-122	6	A
5A public land only	10/29/2005	11/02/2005	ELK-1-123	11	A
5B	10/08/2005	10/12/2005	ELK-1-124	150	MB
5B	10/15/2005	10/19/2005	ELK-1-125	100	A
5B	10/22/2005	10/26/2005	ELK-1-126	150	MB
5B	10/29/2005	11/02/2005	ELK-1-127	100	A
5B	11/05/2005	11/09/2005	ELK-1-128	100	A
6A	10/15/2005	10/19/2005	ELK-1-129	100	MB
6A	10/29/2005	11/02/2005	ELK-1-130	100	MB
6A	11/05/2005	11/09/2005	ELK-1-131	100	A
6C	10/15/2005	10/19/2005	ELK-1-132	150	MB
6C	10/22/2005	10/26/2005	ELK-1-133	150	MB
6C	11/05/2005	11/09/2005	ELK-1-134	150	MB
6C	11/19/2005	11/27/2005	ELK-1-135	200	A
6C	12/03/2005	12/11/2005	ELK-1-136	300	A
6C	12/17/2005	12/25/2005	ELK-1-137	300	A
7	10/15/2005	10/19/2005	ELK-1-138	30	MB
7	10/22/2005	10/26/2005	ELK-1-139	30	MB
7	11/05/2005	11/09/2005	ELK-1-140	90	A
7	12/10/2005	12/14/2005	ELK-1-141	90	A
9 (including Water canyon but not Marquez WMAs)	11/05/2005	11/09/2005	ELK-1-142	200	A
9: Marquez WMA	11/05/2005	11/09/2005	ELK-1-143	5	A
10	10/08/2005	10/12/2005	ELK-1-144	100	MB
10	10/15/2005	10/19/2005	ELK-1-145	200	A
10 youth only	10/15/2005	10/19/2005	ELK-1-146	100	A
12	10/01/2005	10/05/2005	ELK-1-147	25	MB
12	10/08/2005	10/12/2005	ELK-1-148	25	MB
12	10/15/2005	10/19/2005	ELK-1-149	25	MB
12	10/22/2005	10/26/2005	ELK-1-150	25	MB
12	10/29/2005	11/02/2005	ELK-1-151	100	A
12	11/19/2005	11/23/2005	ELK-1-152	100	A
16A youth only	10/08/2005	10/12/2005	ELK-1-153	50	A
16A	10/15/2005	10/19/2005	ELK-1-154	100	APRE
16A	10/22/2005	10/26/2005	ELK-1-155	150	APRE
16A	12/03/2005	12/07/2005	ELK-1-156	150	A
16B	10/15/2005	10/19/2005	ELK-1-157	150	APRE
16B	10/22/2005	10/26/2005	ELK-1-158	150	APRE
16C	10/15/2005	10/19/2005	ELK-1-159	50	APRE
16C	10/22/2005	10/26/2005	ELK-1-160	100	APRE
16C	12/03/2005	12/07/2005	ELK-1-161	100	A
16D youth only	10/08/2005	10/12/2005	ELK-1-162	50	A
16D	10/15/2005	10/19/2005	ELK-1-163	50	APRE
16D	10/22/2005	10/26/2005	ELK-1-164	50	APRE
16D	12/03/2005	12/07/2005	ELK-1-165	100	A
16E	10/22/2005	10/26/2005	ELK-1-166	100	APRE
16E	12/03/2005	12/07/2005	ELK-1-167	150	A
16E	12/10/2005	12/14/2005	ELK-1-168	150	A
21A	10/15/2005	10/19/2005	ELK-1-169	50	MB
21A	10/22/2005	10/26/2005	ELK-1-170	50	MB

21B	10/15/2005	10/19/2005	ELK-1-171	50	MB
21B	10/22/2005	10/26/2005	ELK-1-172	50	MB
21B	11/19/2005	11/23/2005	ELK-1-173	30	A
21B	11/26/2005	11/30/2005	ELK-1-174	30	A
21B	12/03/2005	12/07/2005	ELK-1-175	30	A
21B	12/10/2005	12/14/2005	ELK-1-176	30	A
22	10/22/2005	10/26/2005	ELK-1-177	25	MB
22	12/03/2005	12/07/2005	ELK-1-178	25	A
23	10/22/2005	10/26/2005	ELK-1-179	150	MB
23	12/03/2005	12/07/2005	ELK-1-180	50	A
24 (including Fort Bayard) youth only	10/08/2005	10/12/2005	ELK-1-181	10	MB
24 (except Fort Bayard)	10/22/2005	10/26/2005	ELK-1-182	50	MB
34 youth only	09/24/2005	09/28/2005	ELK-1-183	75	MB
34 youth only	09/24/2005	09/28/2005	ELK-1-184	75	A
34	10/08/2005	10/12/2005	ELK-1-185	150	APRE
34	11/26/2005	11/30/2005	ELK-1-186	300	A
34	12/03/2005	12/07/2005	ELK-1-187	300	A
36	10/08/2005	10/12/2005	ELK-1-188	100	MB
36	10/08/2005	10/12/2005	ELK-1-189	50	A
36	10/15/2005	10/19/2005	ELK-1-190	100	MB
36	10/15/2005	10/19/2005	ELK-1-191	50	A
37	10/08/2005	10/12/2005	ELK-1-192	25	MB
37	10/08/2005	10/12/2005	ELK-1-193	25	A
43	10/01/2005	10/05/2005	ELK-1-194	unlimited	ES
44/45	10/08/2005	10/12/2005	ELK-1-195	140	MB
44/45	10/15/2005	10/19/2005	ELK-1-196	140	MB
44/45	10/22/2005	10/26/2005	ELK-1-197	25	A
48	10/15/2005	10/19/2005	ELK-1-198	55	MB
48	10/15/2005	10/19/2005	ELK-1-199	40	A
48	10/22/2005	10/26/2005	ELK-1-200	55	MB
48	10/22/2005	10/26/2005	ELK-1-201	40	A
48	12/03/2005	12/07/2005	ELK-1-202	55	MB
48	12/03/2005	12/07/2005	ELK-1-203	40	A
49	10/01/2005	10/05/2005	ELK-1-204	180	MB
49	10/08/2005	10/12/2005	ELK-1-205	95	MB
49	10/15/2005	10/19/2005	ELK-1-206	95	MB
49	11/12/2005	11/16/2005	ELK-1-207	60	A
50	10/08/2005	10/12/2005	ELK-1-208	100	MB
50	10/08/2005	10/12/2005	ELK-1-209	20	A
50	10/15/2005	10/19/2005	ELK-1-210	100	MB
50	10/15/2005	10/19/2005	ELK-1-211	20	A
50	12/03/2005	12/07/2005	ELK-1-212	50	A
51	10/08/2005	10/12/2005	ELK-1-213	200	MB
51	10/15/2005	10/19/2005	ELK-1-214	200	MB
51	10/22/2005	10/26/2005	ELK-1-215	200	MB
51	11/12/2005	11/16/2005	ELK-1-216	250	A
51	11/19/2005	11/23/2005	ELK-1-217	250	A
52	10/08/2005	10/12/2005	ELK-1-218	250	MB
52	10/15/2005	10/19/2005	ELK-1-219	200	MB
52	10/22/2005	10/26/2005	ELK-1-220	150	A
52	11/12/2005	11/16/2005	ELK-1-221	125	A
52	11/19/2005	11/23/2005	ELK-1-222	100	A
52 youth only	11/19/2005	11/23/2005	ELK-1-223	25	A
53 (except Cerro portion)	10/08/2005	10/12/2005	ELK-1-224	180	MB
53 (except Cerro portion)	10/15/2005	10/19/2005	ELK-1-225	95	MB
53 (except Cerro portion)	12/03/2005	12/07/2005	ELK-1-226	50	A
53 (except Cerro portion)	12/10/2005	12/14/2005	ELK-1-227	50	A
54: Colin Neblett WMA/south	10/08/2005	10/12/2005	ELK-1-228	20	MB
54: Colin Neblett WMA/south	10/15/2005	10/19/2005	ELK-1-229	20	MB
54: Colin Neblett WMA/south	10/22/2005	10/26/2005	ELK-1-230	20	MB
54: Colin Neblett WMA/south	11/19/2005	11/23/2005	ELK-1-231	20	A
55: Colin Neblett WMA/north	10/08/2005	10/12/2005	ELK-1-232	20	MB
55: Colin Neblett WMA/north	10/15/2005	10/19/2005	ELK-1-233	20	MB
55: Colin Neblett WMA/north	10/22/2005	10/26/2005	ELK-1-234	20	MB

55: Colin Neblett WMA/north	11/19/2005	11/23/2005	ELK-1-235	20	A
55: Urraca WMA	10/01/2005	10/05/2005	ELK-1-236	10	MB
55: Urraca WMA	10/08/2005	10/12/2005	ELK-1-237	10	MB
55: Urraca WMA	10/15/2005	10/19/2005	ELK-1-238	10	MB
55: Urraca WMA	10/22/2005	10/26/2005	ELK-1-239	10	MB
55: Urraca WMA	11/19/2005	11/23/2005	ELK-1-240	15	A
55: Urraca WMA	12/03/2005	12/07/2005	ELK-1-241	15	A
55: Valle Vidal/Greenwood areas	10/08/2005	10/12/2005	ELK-1-242	30	MB
55: Valle Vidal/Greenwood areas, youth only	10/08/2005	10/12/2005	ELK-1-243	20	ES
55: Valle Vidal/Greenwood areas	10/15/2005	10/19/2005	ELK-1-244	35	MB
55: Valle Vidal/Greenwood areas	10/22/2005	10/26/2005	ELK-1-245	35	MB
55: Valle Vidal/Greenwood areas	10/29/2005	11/02/2005	ELK-1-246	30	A
55: Valle Vidal/Greenwood areas, youth only	10/29/2005	11/02/2005	ELK-1-247	20	A
55: Valle Vidal/Greenwood areas	11/05/2005	11/09/2005	ELK-1-248	30	A
55: Valle Vidal/Greenwood areas, youth only	11/05/2005	11/09/2005	ELK-1-249	20	A
55: Valle Vidal/Greenwood areas	11/12/2005	11/16/2005	ELK-1-250	45	A
55: Valle Vidal/Greenwood areas	11/19/2005	11/23/2005	ELK-1-251	35	A
56: Sierra Grande hunt area	10/01/2005	10/05/2005	ELK-1-252	5	MB
56: Sierra Grande hunt area	10/08/2005	10/12/2005	ELK-1-253	10	A

B. Public land elk hunts for bows, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

Open GMUs or areas	Hunt Start	Hunt end	Hunt code	Licenses	Bag limit
2	09/01/2005	09/22/2005	ELK-2-100	240	ES
5A public land only	09/01/2005	09/22/2005	ELK-2-101	10	ES
5B	09/01/2005	09/22/2005	ELK-2-102	225	ES
6A	09/01/2005	09/15/2005	ELK-2-103	150	ES
6A	09/16/2005	09/22/2005	ELK-2-104	100	ES
6C	09/01/2005	09/15/2005	ELK-2-105	250	ES
6C	09/16/2005	09/22/2005	ELK-2-106	100	ES
7	09/01/2005	09/22/2005	ELK-2-107	25	ES
9 (including Water canyon but not Marquez WMAs)	09/01/2005	09/22/2005	ELK-2-108	395	ES
9: Marquez WMA	09/01/2005	09/22/2005	ELK-2-109	5	ES
10	09/01/2005	09/22/2005	ELK-2-110	250	ES
12	09/01/2005	09/22/2005	ELK-2-111	25	ES
13	09/01/2005	09/15/2005	ELK-2-112	100	ES
13	09/01/2005	09/15/2005	ELK-2-113	50	A
13	09/16/2005	09/24/2005	ELK-2-114	50	ES
15	09/01/2005	09/15/2005	ELK-2-115	400	ES
15	09/01/2005	09/15/2005	ELK-2-116	100	A
15	09/16/2005	09/24/2005	ELK-2-117	200	ES
16A	09/01/2005	09/15/2005	ELK-2-118	250	APRE
16A	09/01/2005	09/15/2005	ELK-2-119	50	A
16A	09/16/2005	09/24/2005	ELK-2-120	150	APRE
16B	09/01/2005	09/15/2005	ELK-2-121	250	APRE
16B	09/16/2005	09/24/2005	ELK-2-122	150	APRE
16C	09/01/2005	09/15/2005	ELK-2-123	150	APRE
16C	09/01/2005	09/15/2005	ELK-2-124	50	A
16C	09/16/2005	09/24/2005	ELK-2-125	100	APRE
16D	09/01/2005	09/15/2005	ELK-2-126	100	APRE
16D	09/01/2005	09/15/2005	ELK-2-127	50	A
16D	09/16/2005	09/24/2005	ELK-2-128	50	APRE
16E	09/01/2005	09/15/2005	ELK-2-129	100	APRE
16E	09/01/2005	09/15/2005	ELK-2-130	50	A
16E	09/16/2005	09/24/2005	ELK-2-131	50	APRE
17	09/01/2005	09/15/2005	ELK-2-132	100	ES
17	09/01/2005	09/15/2005	ELK-2-133	50	A
17	09/16/2005	09/24/2005	ELK-2-134	100	ES
18	09/01/2005	09/22/2005	ELK-2-135	50	ES
21A	09/01/2005	09/15/2005	ELK-2-136	50	ES
21A	09/16/2005	09/24/2005	ELK-2-137	50	ES
21B	09/01/2005	09/15/2005	ELK-2-138	50	ES
21B	09/16/2005	09/24/2005	ELK-2-139	50	ES

22	09/01/2005	09/15/2005	ELK-2-140	25	ES
22	09/16/2005	09/24/2005	ELK-2-141	25	ES
23	09/01/2005	09/15/2005	ELK-2-142	150	ES
23	09/01/2005	09/15/2005	ELK-2-143	50	A
23	09/16/2005	09/24/2005	ELK-2-144	100	ES
24 (except Fort Bayard)	09/01/2005	09/15/2005	ELK-2-145	50	ES
24 (except Fort Bayard)	09/16/2005	09/24/2005	ELK-2-146	50	ES
34	09/01/2005	09/22/2005	ELK-2-147	400	APRE
36	09/01/2005	09/22/2005	ELK-2-148	175	ES
37	09/01/2005	09/22/2005	ELK-2-149	40	ES
44/45	09/01/2005	09/22/2005	ELK-2-150	150	ES
48	09/01/2005	09/22/2005	ELK-2-151	200	ES
49	09/01/2005	09/22/2005	ELK-2-152	120	ES
50	09/01/2005	09/22/2005	ELK-2-153	120	ES
51	09/01/2005	09/22/2005	ELK-2-154	200	ES
52	09/01/2005	09/15/2005	ELK-2-155	200	ES
52	09/16/2005	09/22/2005	ELK-2-156	200	ES
53	09/01/2005	09/22/2005	ELK-2-157	150	ES
55: Valle Vidal/Greenwood areas	09/01/2005	09/22/2005	ELK-2-158	35	ES
55: E.S. Barker WMA	09/01/2005	09/22/2005	ELK-2-159	10	ES

C. Public land elk hunts for muzzle loading rifles and bows, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certification number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	10/08/2005	10/12/2005	ELK-3-100	200	MB
6A	10/08/2005	10/12/2005	ELK-3-101	100	MB
6C	10/01/2005	10/05/2005	ELK-3-102	300	MB
7	10/08/2005	10/12/2005	ELK-3-103	25	MB
9 (including Water canyon but not Marquez WMAs)	10/01/2005	10/05/2005	ELK-3-104	200	A
9 (including Water canyon but not Marquez WMAs)	10/08/2005	10/12/2005	ELK-3-105	150	MB
9 (including Water canyon but not Marquez WMAs)	10/15/2005	10/19/2005	ELK-3-106	150	MB
9 (including Water canyon but not Marquez WMAs)	10/22/2005	10/26/2005	ELK-3-107	150	MB
9 (including Water canyon but not Marquez WMAs)	10/29/2005	11/02/2005	ELK-3-108	200	A
9: Marquez WMA	10/01/2005	10/05/2005	ELK-3-109	5	A
9: Marquez WMA	10/08/2005	10/12/2005	ELK-3-110	5	MB
9: Marquez WMA	10/15/2005	10/19/2005	ELK-3-111	5	MB
9: Marquez WMA	10/22/2005	10/26/2005	ELK-3-112	5	MB
9: Marquez WMA	10/29/2005	11/02/2005	ELK-3-113	5	A
10	10/01/2005	10/05/2005	ELK-3-114	100	MB
13	10/15/2005	10/19/2005	ELK-3-115	100	MB
13	10/22/2005	10/26/2005	ELK-3-116	150	MB
13	12/03/2005	12/07/2005	ELK-3-117	150	A
15 youth only	10/08/2005	10/12/2005	ELK-3-118	50	A
15	10/15/2005	10/19/2005	ELK-3-119	200	MB
15	10/22/2005	10/26/2005	ELK-3-120	350	MB
15	11/26/2005	11/30/2005	ELK-3-121	200	MB
15	12/03/2005	12/07/2005	ELK-3-122	300	A
15	12/10/2005	12/14/2005	ELK-3-123	300	A
16E	10/15/2005	10/19/2005	ELK-3-124	100	APRE
17	10/15/2005	10/19/2005	ELK-3-125	100	MB
17	10/22/2005	10/26/2005	ELK-3-126	100	MB
17	12/03/2005	12/07/2005	ELK-3-127	150	A
17	12/10/2005	12/14/2005	ELK-3-128	150	A
22	10/15/2005	10/19/2005	ELK-3-129	25	MB
23	10/15/2005	10/19/2005	ELK-3-130	50	MB
24 (except Fort Bayard)	10/15/2005	10/19/2005	ELK-3-131	50	MB
34	10/01/2005	10/05/2005	ELK-3-132	250	APRE
36	10/01/2005	10/05/2005	ELK-3-133	125	MB
37	10/01/2005	10/05/2005	ELK-3-134	25	MB

44/45	10/01/2005	10/05/2005	ELK-3-135	140	MB
44/45	11/12/2005	11/16/2005	ELK-3-136	50	A
48	10/01/2005	10/05/2005	ELK-3-137	75	MB
48	10/08/2005	10/12/2005	ELK-3-138	60	MB
48	10/08/2005	10/12/2005	ELK-3-139	80	A
52	10/01/2005	10/05/2005	ELK-3-140	150	MB
52	10/01/2005	10/05/2005	ELK-3-141	150	A
53 (except Cerro portion)	10/01/2005	10/05/2005	ELK-3-142	100	A
54: Colin Neblett WMA/south	10/01/2005	10/05/2005	ELK-3-143	20	MB
55: Colin Neblett WMA/north	10/01/2005	10/05/2005	ELK-3-144	20	MB
55: Valle Vidal/Greenwood areas	10/01/2005	10/05/2005	ELK-3-145	35	ES
55: E.S. Barker WMA	10/01/2005	10/05/2005	ELK-3-146	10	MB

D. Public land elk hunts for certified mobility impaired hunters, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certification number on application.

Open GMUs or area	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
9 (including Water canyon but not Marquez WMAs)	11/05/2005	11/09/2005	ELK-4-100	30	MB
16A	10/08/2005	10/12/2005	ELK-4-101	30	MB
16D	10/08/2005	10/12/2005	ELK-4-102	30	MB
34	09/24/2005	09/28/2005	ELK-4-103	50	MB
51	10/01/2005	10/05/2005	ELK-4-104	30	MB
51	10/01/2005	10/05/2005	ELK-4-105	30	A

E. The director may allot private land elk licenses for use on those ranches whose owners or lessees sign a hunting agreement with the department.

F. Private land elk hunts for ranches designated as "RANCH ONLY" shall be limited to the following season dates and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC, in order to hunt during the "Mobility Impaired Hunters" or "Youth Only" hunt periods.

Legal sporting arms	Open GMUs or area	Hunt date
bows only	13, 15, 16A, 16B, 16C, 16D, 16E, 17, 21A, 21B, 22, 23, 24, 52	09/01/2005 - 09/15/2005
bows only	13, 15, 16A, 16B, 16C, 16D, 16E, 17, 21A, 21B, 22, 23, 24	09/16/2005 - 09/24/2005
bows only	6A, 6C	09/01/2005 - 09/15/2005
bows only	6A, 6C, 52	09/16/2005 - 09/22/2005
bows only	2, 4, 5A, 5B, 7, 9, 10, 12, 18, 34, 36, 37, 42, 44/45, 46, 47, 48, 49, 50, 51, 53, 54 (except northeast portion), 55A, 56A, 57, 58	09/01/2005 - 09/22/2005
muzzle loading rifles and bows	6C, 9, 10, 34, 36, 37, 44/45, 48, 52, 53	any 5 consecutive days, Oct. 1 - Dec. 31, 2005
muzzle loading rifles and bows	2, 6A, 7	any 5 consecutive days, Oct. 8 - Dec. 31, 2005
muzzle loading rifles and bows	13, 15, 16E, 17, 22, 23, 24	any 5 consecutive days, Oct. 15 - Dec 31, 2005
youth only - muzzle loading rifles and bows	15	10/08/2005 - 10/12/2005
any legal sporting arms	4, 5A, 12, 41, 42, 43, 46, 47, 49, 54 (except northeast portion), 55A, 56A, 56 (sierra grande portion), 57, 58	any 5 consecutive days, Oct 1 - Dec. 31, 2005
any legal sporting arms	5B, 10, 34, 36, 37, 44/45, 50, 51, 52, 53.	any 5 consecutive days, Oct. 8 - Dec. 31, 2005
any legal sporting arms	2, 6A, 6C, 7, 16A, 16B, 16C, 16D, 21A, 21B, 48	any 5 consecutive days, Oct. 15 - Dec. 31, 2005
any legal sporting arms	16E, 22, 23, 24	any 5 consecutive days, Oct. 22 - Dec. 31, 2005
any legal sporting arms	9	any 5 consecutive days, Nov. 5 - Dec. 31, 2005
rifles only (except GMU 13 is muzzle loading rifles only)	13, 46, 54(except northeast portion), 55A, 56, 57, 58 with approval of NE or SW area chiefs and the state game commission chairman. ANTLERLESS ELK ONLY	any 5 consecutive days between Jan. 1 - 31, 2006
youth only - any legal sporting arms	34	09/24/2005 - 09/28/2005
youth only - any legal sporting arms	16A, 16D, 24	10/08/2005 - 10/12/2005
mobility impaired only	16A, 16D	10/08/2005 - 10/12/2005

mobility impaired only	34	09/24/2005 - 09/28/2005
mobility impaired only	51	10/01/2005 - 10/05/2005
mobility impaired only	9 (including Water canyon but not Marquez WMAs)	11/05/2005 - 11/09/2005

G. Unlimited private land either-sex or antlerless licenses valid for GMUs 41, 42, 43, 54 (northeast portion only), and 55B shall be available over-the-counter or by mail without deadline at all department of game and fish offices. Season dates and sporting arms types shall be the same as specified above in Subsection F of 19.31.8.13 NMAC for GMUs 41, 42, 43. Licenses issued for GMUs 54 (northeast portion) and 55B shall be limited to any 30 consecutive day period from April 1 through March 31. Any legal sporting arms for taking elk may be used during these hunts.

H. Numbers of private land elk authorization certificates for qualifying ranches shall be available to the level listed for the GMUs and bag limits indicated below. For those ranches that do not qualify, except for GMUs 4, 16(A-E) and 34, private land ranch-only either-sex (ES) authorization certificates will be issued pursuant to Subsection M of 19.30.5.8 NMAC. Non-qualifying ranches in GMUs 4, 16(A-E) and 34 will receive one (1) APRE authorization certificate. In GMU 4, any APRE authorization converted to a license that lists hunt dates which include any day from October 1 through October 5 will be restricted to a bag limit of APRE/6.

GMU	MB	APRE	A	ES
2	92	0	66	0
4	0	1090	400	0
5A	250	0	360	0
5B	192	0	197	0
6A	61	0	20	0
6C	154	0	164	0
7	70	0	150	0
9	240	0	245	0
10	50	0	75	0
12	138	0	276	0
13	167	0	100	0
15	212	0	183	0
16A	0	6	6	0
16B	0	3	0	0
16C	0	26	18	0
16D	0	18	20	0
16E	0	55	111	0
17	47	0	70	0
21A	2	0	0	0
21B	203	0	244	0
22	14	0	7	0
23	41	0	8	0
24	5	0	0	0
34	0	121	155	0
36	100	0	120	0
37	13	0	7	0
44/45	65	0	5	0
46	0	0	700	600
47	0	0	50	50
48	215	0	205	0
49	20	0	10	0
50	65	0	7	0
51	80	0	60	0
52	50	0	40	0
53	165	0	50	0
54 (except northeast portion)	0	0	500	300
55A	0	0	2200	2500
56A	0	0	150	100
56 (Sierra Grande portion only)	10	0	10	0
57	0	0	800	400
58	0	0	80	60

I. The director may allot private land elk bow authorization certificates for use on ranches in GMUs whose owners or lessees sign a hunting agreement with the department. Private land elk bow authorizations may not be used in any other season. The GMUs open, number of bow authorization certificates available, and bag limits shall be as indicated below:

GMU	Authorization certificates	Bag limit
2	46	ES
4	435	APRE
5A	67	ES
5B	144	ES
6A	51	ES
6C	72	ES
7	20	ES
9	370	ES
10	63	ES
12	35	ES
13	100	ES
13	33	A
15	169	ES
15	28	A
16A	12	APRE
16A	2	A
16B	4	APRE
16C	44	APRE
16C	9	A
16D	20	APRE
16D	7	A
16E	55	APRE
16E	19	A
17	47	ES
17	12	A
18	30	ES
21A	2	ES
21B	203	ES
22	14	ES
23	41	ES
23	8	A
24	5	ES
34	92	APRE
36	53	ES
37	10	ES
44/45	25	ES
46	100	ES
47	10	ES
48	230	ES
49	5	ES
50	35	ES
51	25	ES
52	40	ES
53	75	ES
54 (except northeast portion)	300	ES
55A	700	ES
56A	20	ES
57	110	ES
58	10	ES

J. Elk enhancement licenses. Elk enhancement licenses shall be valid from September 1 through December 31 for any legal sporting arms. These licenses shall be valid statewide where hunting is allowed, including private land with valid written landowner permission. Bag limit shall be one bull elk. The hunt code shall be ELK-1-400. The authorization to obtain an elk enhancement license may be used either by the applicant or any individual. The authorization may be transferred through sale, barter, or gift.

K. Elk incentive authorization certificates.

(1) Distribution. Two (2) elk incentive authorization certificates will be distributed through a drawing that will include all prior-year deer and elk hunters forwarding their harvest survey forms to the department or its designated agent by the published deadline.

(2) Distribution. One (1) elk incentive authorization certificate will be distributed through a drawing that will include all prior-year deer and elk hunters who delivered for testing the head of a legally harvested elk or deer within 48 hours of death to the department or its designated agent.

(3) Authorization certificates to purchase incentive license may be used either by the applicant or any individual. The authorization may be transferred through sale, barter, or gift.

(4) Elk incentive hunts shall be restricted to the Valle Vidal area of the Carson national forest in GMU 55 during the first mature

bull hunt after October 1st, using any legal sporting arms.

L. Valles Caldera national preserve hunts shall be administered as follows:

(1) Valles Caldera national preserve elk hunting licenses shall be issued to the holders of the Valles Caldera national preserve elk hunting access authorization.

(2) Each Valles Caldera national preserve elk hunting license shall be valid for one hunt in GMU 6B for which the bag limit and hunt period is specified on the Valles Caldera national preserve elk hunting access authorization.

(3) Valles Caldera national preserve elk hunts, listing the sporting arms, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

Area	Legal sporting arms	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
6B: VCNP	any legal sporting arms	10/01/2005	10/05/2005	ELK-1-001	16	MB
6B: VCNP	any legal sporting arms	10/01/2005	10/05/2005	ELK-1-002	8	A
6B: VCNP	any legal sporting arms	10/08/2005	10/12/2005	ELK-1-003	16	MB
6B: VCNP	any legal sporting arms	10/08/2005	10/12/2005	ELK-1-004	8	A
6B: VCNP	any legal sporting arms, youth only	10/15/2005	10/17/2005	ELK-1-005	30	A
6B: VCNP	any legal sporting arms	10/29/2005	10/31/2005	ELK-1-006	30	A
6B: VCNP	any legal sporting arms	11/05/2005	11/07/2005	ELK-1-007	30	A
6B: VCNP	any legal sporting arms	11/12/2005	11/14/2005	ELK-1-008	30	A
6B: VCNP	any legal sporting arms	11/19/2005	11/21/2005	ELK-1-009	30	A
6B: VCNP	bow only	09/03/2005	09/07/2005	ELK-2-010	10	ES
6B: VCNP	bow only	09/10/2005	09/14/2005	ELK-2-011	15	ES
6B: VCNP	muzzle loading rifles only	09/17/2005	09/21/2005	ELK-3-012	16	MB
6B: VCNP	muzzle loading rifles only	09/17/2005	09/21/2005	ELK-3-013	8	A
6B: VCNP	mobility impaired only	10/22/2005	10/24/2005	ELK-4-014	30	A

M. Late season bow-only elk hunts. These hunts will be administered by the department through a registration process other than the random draw process. The open GMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

Open GMUs or areas	Hunt Start	Hunt end	Hunt code	Licenses	Bag limit
12	11/26/2005	11/30/2005	ELK-2-300	TBD	APRE/6
34	12/10/2005	12/14/2005	ELK-2-301	TBD	APRE/6
37	12/10/2005	12/14/2005	ELK-2-302	TBD	APRE/6
43	11/12/2005	11/16/2005	ELK-2-303	TBD	APRE/6
50	11/12/2005	11/16/2005	ELK-2-304	TBD	APRE/6

[19.31.8.13 NMAC - Rp, 19.31.8.13 NMAC, 4-1-2005]

19.31.8.14 PRONGHORN ANTELOPE (2005-2006):

A. Pronghorn antelope hunts for any legal sporting arms, listing the open areas or AMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on original hunt code. Youth hunters must provide hunter education certificate number on application. Military only hunters must be full time active military and proof of military status must accompany application.

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
3, 5, 9, 10, 11, 12, 13, 15, 16, 17, 18, 20	10/08/2005	10/09/2005	ANT-1-100	250	MB
6, 23, 24, 25, 26, 27, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43	09/17/2005	09/18/2005	ANT-1-101	300	MB
selected ranches in SE area,, youth only	09/24/2005	09/25/2005	ANT-1-102	75	F-IM
19: Stallion range of WSMR	09/10/2005	09/11/2005	ANT-1-103	10	MB
19: Stallion range of WSMR, youth only	09/10/2005	09/11/2005	ANT-1-104	10	MB
29: McGregor range, military only	09/10/2005	09/11/2005	ANT-1-105	10	MB
selected ranches in NE area, youth only	09/03/2005	09/04/2005	ANT-1-106	20	F-IM
41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	08/27/2005	08/29/2005	ANT-1-107	300	MB

B. Pronghorn antelope hunts for bows, listing the open AMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below:

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
3, 5, 10	08/20/2005	08/28/2005	ANT-2-100	10	MB
9	08/20/2005	08/28/2005	ANT-2-101	6	MB
12	08/20/2005	08/28/2005	ANT-2-102	15	MB
13	08/20/2005	08/28/2005	ANT-2-103	30	MB
16	08/20/2005	08/28/2005	ANT-2-104	25	MB

17	08/20/2005	08/28/2005	ANT-2-105	2	MB
20	08/20/2005	08/28/2005	ANT-2-106	30	MB
6, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43	08/20/2005	08/24/2005	ANT-2-107	200	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	08/13/2005	08/17/2005	ANT-2-108	100	MB

C. Pronghorn antelope hunts for legal muzzle loading rifles and bows, listing the hunt dates, open areas or AMUs, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
29	09/10/2005	09/11/2005	ANT-3-100	50	MB
29: McGregor range, youth only	09/10/2005	09/11/2005	ANT-3-101	10	MB
52: portion west of the Rio Grande	08/20/2005	08/23/2005	ANT-3-102	175	MB

D. Pronghorn antelope hunts for certified mobility-impaired hunters, listing the hunt dates, hunt code, number of licenses, bag limit, and open areas or AMUs, shall be listed below:

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
09	08/06/2005	08/07/2005	ANT-4-100	2	MB
12	08/06/2005	08/07/2005	ANT-4-101	2	MB
13	08/06/2005	08/07/2005	ANT-4-102	5	MB
16	08/06/2005	08/07/2005	ANT-4-103	2	MB
18	08/06/2005	08/07/2005	ANT-4-104	5	MB
19: Stallion range of WSMR	09/10/2005	09/11/2005	ANT-4-105	10	MB
20	08/06/2005	08/07/2005	ANT-4-106	2	MB
3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 43	08/06/2005	08/08/2005	ANT-4-107	45	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	08/06/2005	08/07/2005	ANT-4-108	25	MB

E. The director may cancel portions of any pronghorn antelope hunt or change a bag limit if surveys indicate the need for such action.

F. Private land pronghorn antelope hunts: The director may allot private land pronghorn antelope authorizations for use on those ranches whose owners, manager, or lessees sign a hunting agreement with the department. Hunt dates shall be as indicated below, listing areas or AMUs open, the hunt date, hunt code, number of licenses and bag limit:

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
selected ranches in AMUs 1, 2, 3, 5, 6, 7, 8, 10, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43	09/17/2005	09/18/2005	ANT-1-700	unlimited	F-IM
selected ranches in AMUs 1, 2, 3, 5, 6, 7, 8, 10, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43	09/24/2005	09/25/2005	ANT-1-701	unlimited	F-IM
selected ranches in AMUs 41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	09/17/2005	09/19/2005	ANT-1-702	unlimited	MB
selected ranches in NE area	09/03/2005	09/04/2005	ANT-1-703	unlimited	F-IM

G. Bow and mobility-impaired pronghorn antelope hunters shall not be allowed in any AMU or portion thereof that has been administratively closed by the director to rifle hunting.

[19.31.8.14 NMAC - Rp, 19.31.8.14 NMAC, 4-1-2005]

19.31.8.15 BARBARY SHEEP (2005-2006):

A. Barbary sheep hunt dates shall be as indicated below, listing the hunt date, hunt code, number of licenses, bag limit, and open GMUs or areas:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
28, 29, 30, 31, 32, 33, 34, 36, 37	02/01/2006	02/28/2006	BBY-1-001	unlimited	ES
statewide, including the Marquez and Water canyon WMAs in GMU 9 and except GMUs 8, 13, 14, 16, WSMR and Fort Bliss portions of 19, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37	04/01/2005	03/31/2006	BBY-1-001	unlimited	ES

B. [RESERVED]

[19.31.8.15 NMAC - Rp, 19.31.8.15 NMAC, 4-1-2005]

19.31.8.16 BIGHORN SHEEP (2005-2006):

A. Bighorn sheep hunts shall be as indicated below, listing the hunt dates, hunt code, number of licenses, bag limit, and

GMUs or areas open. Youth hunters must provide hunter education certificate number on application. The Pecos mountain youth hunt (BHS-1-103) bag limit is one ram with a horn size of $\frac{3}{4}$ curl or smaller, any youth successfully drawing this hunt will not be allowed to apply for this hunt in subsequent hunting seasons.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
23: San Francisco river area	12/27/2005	01/06/2006	BHS-1-100	1	1 ram
27: Peloncillo mountains	11/01/2005	11/30/2005	BHS-1-101	1	1 ram
44/45: Pecos mountains	08/27/2005	09/09/2005	BHS-1-102	8	1 ram
44/45: Pecos mountains, youth only	08/27/2005	09/09/2005	BHS-1-103	1	One $\frac{3}{4}$ curl ram or less
53: Wheeler peak portion south of NM 38	09/08/2005	09/18/2005	BHS-1-104	2	1 ram
auction hunt, 1 hunt area of: 23, 27, 44/45, or	08/01/2005	12/31/2005	BHS-1-500	1	1 ram
auction hunt (continued): 53, south of NM 38.	08/01/2005 09/01/2005	08/10/2005 12/31/2005	BHS-1-500	1	1 ram
raffle hunt, 1 of 3 hunt areas not chosen by	08/01/2005	12/31/2005	BHS-1-600	1	1 ram
raffle hunt (continued): 53, south of NM 38	08/01/2005 09/01/2005	08/10/2005 12/31/2005	BHS-1-600	1	1 ram

B. [RESERVED]

[19.31.8.16 NMAC - Rp, 19.31.8.16 NMAC, 4-1-2005]

19.31.8.17 JAVELINA (2005-2006):

A. Javelina hunts shall be as indicated below, listing the hunt date, hunt code, number of licenses, bag limit, and open GMUs or areas. Youth hunters must provide hunter education certification number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
12, 13, 15, 16, 17, 20, 21, 22, 30, 31	01/15/2006	03/31/2006	JAV-1-100	600	ES
12, 13, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27 (including Big Hatchet WMA), 30, 31, youth only	01/15/2006	03/31/2006	JAV-1-101	100	ES
23, 24, 25, 26, 27 (including Big Hatchet WMA)	02/01/2006	02/15/2006	JAV-1-102	1300	ES

B. [RESERVED]

[19.31.8.28 NMAC - Rp, 19.31.8.28 NMAC, 4-1-2005]

19.31.8.18 ORYX (2005-2006):

A. Oryx hunts for center-fire firearms shall be as indicated below, listing the open areas, hunt dates, hunt code, number of licenses and bag limit. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on original hunt code. Two persons may apply on one application. New Mexico residents returning from military service in Iraq or Afghanistan are eligible to apply for oryx hunts designated as "Iraq/Afghanistan vets". Proof of this service is required.

Open areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Rhodes canyon	10/15/2005	10/16/2005	ORX-1-100	100	ES
Rhodes canyon (Iraq/Afghanistan vets)	10/15/2005	10/16/2005	ORX-1-101	5	ES
Rhodes canyon	02/04/2006	02/05/2006	ORX-1-102	100	ES
Rhodes canyon (Iraq/Afghanistan vets)	02/04/2006	02/05/2006	ORX-1-103	5	ES
Rhodes canyon	03/04/2006	03/05/2006	ORX-1-104	100	ES
Rhodes canyon (Iraq/Afghanistan vets)	03/04/2006	03/05/2006	ORX-1-105	5	ES
small missile range	10/01/2005	10/02/2005	ORX-1-106	50	ES
small missile range (Iraq/Afghanistan vets)	10/01/2005	10/02/2005	ORX-1-107	5	ES
small missile range	01/07/2006	01/08/2006	ORX-1-108	50	ES
small missile range (Iraq/Afghanistan vets)	01/07/2006	01/08/2006	ORX-1-109	5	ES
Stallion range	09/17/2005	09/18/2005	ORX-1-110	100	ES
Stallion range (Iraq/Afghanistan vets)	09/17/2005	09/18/2005	ORX-1-111	5	ES
Stallion range	11/19/2005	11/20/2005	ORX-1-112	100	ES
Stallion range (Iraq/Afghanistan vets)	11/19/2005	11/20/2005	ORX-1-113	5	ES
Stallion range	01/21/2006	01/22/2006	ORX-1-114	100	ES
Stallion range (Iraq/Afghanistan vets)	01/21/2006	01/22/2006	ORX-1-115	5	ES
Stallion range	02/18/2006	02/19/2006	ORX-1-116	100	ES
Stallion range (Iraq/Afghanistan vets)	02/18/2006	02/19/2006	ORX-1-117	5	ES

B. Oryx hunts for any legal firearms, muzzle loading rifles, and bows shall be as indicated below, listing the hunt dates, hunt code, maximum number of licenses, bag limit, and areas open. Legal sporting arms for the final day of any hunt listed below shall be center-fire rifles and muzzle loading rifles only. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on original hunt code. Youth hunters must provide

hunter education certificate number on application. New Mexico residents returning from military service in Iraq or Afghanistan are eligible to apply for oryx hunts designated as "Iraq/Afghanistan vets". Proof of this service is required.

Open areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Rhodes canyon	12/17/2005	12/18/2005	ORX-1-120	80	ES
Rhodes canyon, youth only	12/17/2005	12/18/2005	ORX-1-121	20	ES
mountainous areas on WSMR	12/17/2005	12/20/2005	ORX-1-122	10	ES
Rhodes canyon (Iraq/Afghanistan vets)	12/17/2005	12/18/2005	ORX-1-123	5	ES

C. Oryx incentive authorizations.

(1) Distribution. Five (5) oryx incentive authorization certificates will be distributed through a drawing that will include all prior year deer and elk hunters forwarding their harvest survey forms to the department or its designated agent by the published deadline.

(2) Distribution. One (1) oryx incentive authorization certificate will be distributed through a drawing that will include all prior year deer and elk hunters who delivered for testing the head of a legally harvested elk or deer within 48 hours of death to the department or its designated agent.

(3) Authorization certificates to purchase the license may be used either by the applicant or any individual of the selected applicant's choice and may be transferred through sale, barter, or gift.

(4) Oryx incentive hunts shall be any one (1) regular established oryx season (excluding population reduction hunts) of the hunter's choice. Bag limit shall be either sex with the legal sporting arms and hunt area of the selected hunt.

D. The director, at his discretion, may adjust the number of oryx licenses and hunt dates on White Sands missile range pending negotiations with White Sands missile range officials. Hunt dates may extend into future hunting seasons.

[19.31.8.18 NMAC - Rp, 19.31.8.18 NMAC, 4-1-2005]

19.31.8.19 PERSIAN IBEX (2005-2006):

A. Persian ibex hunts shall be as indicated below, listing the open GMUs or areas, hunt date, hunt code, number of licenses and bag limit. The Florida mountain hunt is that 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, and this area is closed to cougar hunting during any concurrent Florida mountain Persian ibex hunt. Youth hunters must provide hunter education certificate number on application. Sporting arms for IBX-1-500, IBX-1-525, IBX-1-528, and IBX-1-550, include legal rifles, muzzle loading rifles and bows. Sporting arms legal for IBX-2-535 is bow only and for IBX-3-540 is legal muzzle loading rifles and bows.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Florida mountains, youth only	10/01/2005	10/09/2005	IBX-1-500	15	F-IM
Florida mountains, once in a lifetime	12/03/2005	12/18/2005	IBX-1-525	15	ES
off-mountain: 20, 21, 23, 24, 25 (except Florida mountain hunt area), 26 (including Big Hatchet WMA), 27	04/01/2005	03/31/2006	IBX-1-528	unlimited	ES
Florida mountains	01/01/2006	01/15/2006	IBX-2-535	50	ES
Florida mountains	02/18/2006	02/26/2006	IBX-3-540	5	ES

B. Holders of the off-mountain license (IBX-1-528) may apply for any Florida mountain ibex hunt (IBX-1-500, IBX-1-525, IBX-2-535, IBX-3-540, or IBX-1-550) unless otherwise restricted by rule. 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.

[19.31.8.19 NMAC - Rp, 19.31.8.19 NMAC, 4-1-2005]

19.31.8.20 DEER (2006-2007):

A. Public land (and private lands in GMUs 4 and 5A) deer hunts for any legal sporting arms, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag limit
2A	11/04/2006	11/08/2006	DER-1-100	360	APRD
2A youth only	10/28/2006	11/01/2006	DER-1-101	50	FAD
2B	10/28/2006	11/01/2006	DER-1-102	465	APRD
2B youth only	10/21/2006	10/25/2006	DER-1-103	150	FAD
2B	11/04/2006	11/08/2006	DER-1-104	465	APRD
2B	11/11/2006	11/15/2006	DER-1-105	465	APRD
2C	11/04/2006	11/08/2006	DER-1-106	50	APRD
4: Humphries/Rio Chama WMAs	10/21/2006	10/25/2006	DER-1-107	20	APRD
4: Humphries/Rio Chama WMAs	10/28/2006	11/01/2006	DER-1-108	20	APRD
4: Humphries/Rio Chama WMAs, youth only	10/21/2006	10/25/2006	DER-1-109	5	FAD
4: Humphries/Rio Chama WMAs, youth only	10/28/2006	11/01/2006	DER-1-110	5	FAD
4 private land only	10/21/2006	10/25/2006	DER-1-111	175	APRD

4 private land only	10/28/2006	11/01/2006	DER-1-112	175	APRD
5A public land only	11/7/2006	11/13/2006	DER-1-113	30	APRD
5A private land only	11/7/2006	11/13/2006	DER-1-114	220	APRD
5B	11/11/2006	11/15/2006	DER-1-115	15	APRD
5B youth only	11/11/2006	11/15/2006	DER-1-116	5	FAD
6A and 6C	11/11/2006	11/15/2006	DER-1-117	100	APRD
7	10/21/2006	10/25/2006	DER-1-118	25	APRD
8 (except Sandia ranger district of the Cibola national forest)	10/21/2006	10/25/2006	DER-1-119	75	APRD
9 (including Water canyon and Marquez WMAs)	11/11/2006	11/15/2006	DER-1-120	10	APRD
9 (including Water canyon and Marquez WMAs), youth only	11/11/2006	11/15/2006	DER-1-121	10	FAD
10	10/21/2006	10/25/2006	DER-1-122	90	APRD
10 youth only	10/28/2006	11/01/2006	DER-1-123	25	FAD
10	10/28/2006	11/01/2006	DER-1-124	65	APRD
10	11/04/2006	11/08/2006	DER-1-125	90	APRD
12	11/04/2006	11/08/2006	DER-1-126	200	APRD
13	11/04/2006	11/08/2006	DER-1-127	500	APRD
13	11/11/2006	11/15/2006	DER-1-128	500	APRD
14 (bows only on Sandia ranger district of the Cibola national forest)	10/28/2006	11/01/2006	DER-1-129	25	APRD
16	11/04/2006	11/08/2006	DER-1-130	750	APRD
16	11/11/2006	11/15/2006	DER-1-131	750	APRD
17	11/04/2006	11/08/2006	DER-1-132	200	APRD
17	11/11/2006	11/15/2006	DER-1-133	200	APRD
17 youth only	10/28/2006	11/01/2006	DER-1-134	50	FAD
18	11/04/2006	11/08/2006	DER-1-135	200	APRD
18	11/11/2006	11/15/2006	DER-1-136	200	APRD
20	11/04/2006	11/08/2006	DER-1-137	300	APRD
20	11/11/2006	11/15/2006	DER-1-138	300	APRD
21	11/04/2006	11/08/2006	DER-1-139	800	APRD
21	11/11/2006	11/15/2006	DER-1-140	800	APRD
22	11/04/2006	11/08/2006	DER-1-141	100	APRD
22	11/11/2006	11/15/2006	DER-1-142	100	APRD
23 (except the Burro mountain hunt area)	11/04/2006	11/08/2006	DER-1-143	475	APRMD
23 (except the Burro mountain hunt area)	11/04/2006	11/08/2006	DER-1-144	50	APRWTD
23 (except the Burro mountain hunt area)	11/11/2006	11/15/2006	DER-1-145	475	APRMD
23 (except the Burro mountain hunt area)	11/11/2006	11/15/2006	DER-1-146	50	APRWTD
23: Burro mountain hunt area	11/17/2006	11/19/2006	DER-1-147	25	APRMD
23: Burro mountain hunt area	11/17/2006	11/19/2006	DER-1-148	25	APRWTD
23: Burro mountain hunt area, youth only	10/28/2006	11/01/2006	DER-1-149	25	FAD
24	11/04/2006	11/08/2006	DER-1-150	375	APRMD
24	11/04/2006	11/08/2006	DER-1-151	50	APRWTD
24	11/11/2006	11/15/2006	DER-1-152	375	APRMD
24	11/11/2006	11/15/2006	DER-1-153	50	APRWTD
25	11/04/2006	11/08/2006	DER-1-154	250	APRD
25	11/11/2006	11/15/2006	DER-1-155	250	APRD
26	11/04/2006	11/08/2006	DER-1-156	75	APRD
26	11/11/2006	11/15/2006	DER-1-157	75	APRD
27	11/11/2006	11/15/2006	DER-1-158	25	APRMD
27	11/11/2006	11/15/2006	DER-1-159	25	APRWTD
29	10/28/2006	11/01/2006	DER-1-160	150	APRD
29	11/11/2006	11/15/2006	DER-1-161	150	APRD
30	10/28/2006	11/01/2006	DER-1-162	1000	APRD
30	11/11/2006	11/15/2006	DER-1-163	1500	APRD
31	11/04/2006	11/08/2006	DER-1-164	500	APRD
31	11/18/2006	11/22/2006	DER-1-165	500	APRD
32	11/04/2006	11/08/2006	DER-1-166	600	APRD
32	11/18/2006	11/22/2006	DER-1-167	600	APRD
33	10/28/2006	11/01/2006	DER-1-168	300	APRD
33	11/11/2006	11/15/2006	DER-1-169	300	APRD
34	10/28/2006	11/01/2006	DER-1-170	1000	APRD
34	11/11/2006	11/15/2006	DER-1-171	1000	APRD

36 (except Fort Stanton)	11/04/2006	11/08/2006	DER-1-172	350	APRD
36: Fort Stanton, youth only	11/04/2006	11/08/2006	DER-1-173	25	FAD
36 (except Fort Stanton)	11/18/2006	11/22/2006	DER-1-174	350	APRD
37	11/04/2006	11/08/2006	DER-1-175	1000	APRD
37	11/18/2006	11/22/2006	DER-1-176	600	APRD
38	11/04/2006	11/08/2006	DER-1-177	600	APRD
38	11/18/2006	11/22/2006	DER-1-178	400	APRD
39	10/28/2006	11/01/2006	DER-1-179	50	APRD
39	11/04/2006	11/08/2006	DER-1-180	50	APRD
40	11/04/2006	11/08/2006	DER-1-181	50	APRD
40	11/18/2006	11/22/2006	DER-1-182	50	APRD
41	10/28/2006	11/01/2006	DER-1-183	75	APRD
41	11/04/2006	11/08/2006	DER-1-184	75	APRD
42	10/28/2006	11/01/2006	DER-1-185	75	APRD
42	11/04/2006	11/08/2006	DER-1-186	75	APRD
43	10/28/2006	11/01/2006	DER-1-187	100	APRD
43	11/04/2006	11/08/2006	DER-1-188	100	APRD
44/45	10/28/2006	11/01/2006	DER-1-189	300	APRD
44/45	11/04/2006	11/08/2006	DER-1-190	300	APRD
47	10/28/2006	11/01/2006	DER-1-191	20	APRD
47	11/04/2006	11/08/2006	DER-1-192	20	APRD
48	10/28/2006	11/01/2006	DER-1-193	100	APRD
48	11/04/2006	11/08/2006	DER-1-194	100	APRD
49	10/28/2006	11/01/2006	DER-1-195	100	APRD
49	11/04/2006	11/08/2006	DER-1-196	100	APRD
50	10/28/2006	11/01/2006	DER-1-197	50	APRD
50	11/04/2006	11/08/2006	DER-1-198	50	APRD
51	10/28/2006	11/01/2006	DER-1-199	100	APRD
51	11/04/2006	11/08/2006	DER-1-200	100	APRD
52	10/28/2006	11/01/2006	DER-1-201	100	APRD
52	11/04/2006	11/08/2006	DER-1-202	100	APRD
53	10/28/2006	11/01/2006	DER-1-203	100	APRD
53	11/04/2006	11/08/2006	DER-1-204	100	APRD
54/55: Colin Neblett WMA	10/28/2006	11/01/2006	DER-1-205	15	APRD
54/55: Colin Neblett WMA	11/04/2006	11/08/2006	DER-1-206	15	APRD
55: E. S. Barker WMA	10/28/2006	11/01/2006	DER-1-207	5	APRD
55: E. S. Barker WMA, youth only	11/23/2006	11/26/2006	DER-1-208	5	FAD
55: Urraca WMA	10/28/2006	11/01/2006	DER-1-209	10	APRD
55: Urraca WMA	11/04/2006	11/08/2006	DER-1-210	10	APRD
56	10/28/2006	11/01/2006	DER-1-211	20	APRD
56	11/04/2006	11/08/2006	DER-1-212	20	APRD
56: Sierra Grande hunt area	10/28/2006	11/01/2006	DER-1-213	10	APRD
56: Sierra Grande hunt area	11/04/2006	11/08/2006	DER-1-214	10	APRD
57	10/28/2006	11/01/2006	DER-1-215	30	APRD
57	11/04/2006	11/08/2006	DER-1-216	30	APRD
58	10/28/2006	11/01/2006	DER-1-217	30	APRD
58	11/04/2006	11/08/2006	DER-1-218	30	APRD

B. Public land (and private lands in GMUs 4 and 5A) deer hunts for bows only, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag limit
2A	09/01/2006	09/22/2006	DER-2-100	40	APRD
2A	01/01/2007	01/15/2007	DER-2-101	40	APRD
2B	09/01/2006	09/22/2006	DER-2-102	105	APRD
2B	01/01/2007	01/15/2007	DER-2-103	105	APRD
2B youth only	09/01/2006	09/22/2006	DER-2-104	20	FAD
2C	01/01/2007	01/15/2007	DER-2-105	25	APRD
4 private land only	09/01/2006	09/22/2006	DER-2-106	150	APRD
5A public land only	09/01/2006	09/22/2006	DER-2-107	30	APRD
5A private land only	09/01/2006	09/22/2006	DER-2-108	220	APRD
6A and 6C	09/01/2006	09/22/2006	DER-2-109	100	APRD
7	09/01/2006	09/22/2006	DER-2-110	10	APRD
8 youth only	11/18/2006	11/26/2006	DER-2-111	50	FAD
8	01/01/2007	01/15/2007	DER-2-112	50	APRD

9 (including Water canyon and Marquez WMAs)	09/01/2006	09/22/2006	DER-2-113	10	APRD
10	09/01/2006	09/22/2006	DER-2-114	90	APRD
12	09/01/2006	09/22/2006	DER-2-115	75	APRD
13	09/01/2006	09/22/2006	DER-2-116	475	APRD
13	01/01/2007	01/15/2007	DER-2-117	75	APRD
14	09/01/2006	09/22/2006	DER-2-118	25	APRD
15	09/01/2006	09/22/2006	DER-2-119	200	APRD
15	01/01/2007	01/15/2007	DER-2-120	100	APRD
16	09/01/2006	09/22/2006	DER-2-121	300	APRD
16	01/01/2007	01/15/2007	DER-2-122	200	APRD
17	09/01/2006	09/22/2006	DER-2-123	300	APRD
17	01/01/2007	01/15/2007	DER-2-124	100	APRD
18	09/01/2006	09/22/2006	DER-2-125	100	APRD
18	01/01/2007	01/15/2007	DER-2-126	100	APRD
20	09/01/2006	09/22/2006	DER-2-127	25	APRD
20	01/01/2007	01/15/2006	DER-2-128	75	APRD
21	09/01/2006	09/22/2006	DER-2-129	100	APRD
21	01/01/2007	01/15/2007	DER-2-130	200	APRD
22	09/01/2006	09/22/2006	DER-2-131	25	APRD
22	01/01/2007	01/15/2007	DER-2-132	25	APRD
23 (except the Burro mountain hunt area)	09/01/2006	09/22/2006	DER-2-133	150	APRMD
23 (except the Burro mountain hunt area)	09/01/2006	09/22/2006	DER-2-134	100	APRWTD
23 (except the Burro mountain hunt area)	01/01/2007	01/15/2007	DER-2-135	150	APRMD
23 (except the Burro mountain hunt area)	01/01/2007	01/15/2007	DER-2-136	100	APRWTD
23: Burro mountain hunt area	01/01/2007	01/15/2007	DER-2-137	50	APRMD
23: Burro mountain hunt area	01/01/2007	01/15/2007	DER-2-138	50	APRWTD
24	09/01/2006	09/22/2006	DER-2-139	100	APRMD
24	09/01/2006	09/22/2006	DER-2-140	50	APRWTD
24	01/01/2007	01/15/2007	DER-2-141	100	APRMD
24	01/01/2007	01/15/2007	DER-2-142	50	APRWTD
25	09/01/2006	09/22/2006	DER-2-143	25	APRD
25	01/01/2007	01/15/2007	DER-2-144	75	APRD
26	09/01/2006	09/22/2006	DER-2-145	25	APRD
26	01/01/2007	01/15/2007	DER-2-146	25	APRD
27	01/01/2007	01/15/2007	DER-2-147	25	APRMD
27	01/01/2007	01/15/2007	DER-2-148	30	APRWTD
29	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-149	200	APRD
30	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-150	350	APRD
31	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-151	200	APRD
31/33: Brantley WMA, Seven rivers and Huey waterfowl management areas, youth only	12/26/2006	01/01/2007	DER-2-152	10	ES
32	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-153	200	APRD
33	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-154	150	APRD
34	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-155	800	APRD
36 (including Fort Stanton)	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-156	250	APRD
37	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-157	200	APRD
38	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-158	200	APRD
39	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-159	50	APRD
40	09/01/2006 01/01/2007	09/22/2006 01/15/2007	DER-2-160	50	APRD

41	09/01/2006	09/22/2006	DER-2-161	20	APRD
42	09/01/2006	09/22/2006	DER-2-162	20	APRD
43	09/01/2006	09/22/2006	DER-2-163	50	APRD
44/45	09/01/2006	09/22/2006	DER-2-164	100	APRD
47	09/01/2006	09/22/2006	DER-2-165	20	APRD
48	09/01/2006	09/22/2006	DER-2-166	50	APRD
49	09/01/2006	09/22/2006	DER-2-167	100	APRD
50	09/01/2006	09/22/2006	DER-2-168	10	APRD
51	09/01/2006	09/22/2006	DER-2-169	100	APRD
52	09/01/2006	09/22/2006	DER-2-170	100	APRD
53	09/01/2006	09/22/2006	DER-2-171	100	APRD
56	09/01/2006	09/22/2006	DER-2-172	15	APRD
56: Sierra Grande hunt area	09/01/2006	09/22/2006	DER-2-173	10	APRD
57	09/01/2006	09/22/2006	DER-2-174	15	APRD
57: Sugarite canyon state park	11/01/2006	11/30/2006	DER-2-175	40	APRD
58	09/01/2006	09/22/2006	DER-2-176	15	APRD

C. Public land (and private land in GMU 4) deer hunts for legal muzzle loading rifles or bows, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag limit
2A	09/23/2006	09/29/2006	DER-3-100	60	APRD
2B	09/23/2006	09/29/2006	DER-3-101	175	APRD
2B youth only	09/23/2006	09/29/2006	DER-3-102	20	FAD
2C	09/23/2006	10/01/2006	DER-3-103	25	APRD
4 private land only	09/23/2006	09/29/2006	DER-3-104	100	APRD
6A and 6C	09/23/2006	09/29/2006	DER-3-105	100	APRD
7	09/23/2006	09/29/2006	DER-3-106	10	APRD
8 (except Sandia ranger district of the Cibola national forest)	09/23/2006	09/29/2006	DER-3-107	75	APRD
10	09/23/2006	09/29/2006	DER-3-108	90	APRD
12	09/23/2006	09/29/2006	DER-3-109	75	APRD
13	10/28/2006	11/01/2006	DER-3-110	500	APRD
14 (bows only on Sandia ranger district of the Cibola national forest)	09/23/2006	09/29/2006	DER-3-111	50	APRD
15	10/28/2006	11/01/2006	DER-3-112	500	APRD
16	10/28/2006	11/01/2006	DER-3-113	500	APRD
17	10/28/2006	11/01/2006	DER-3-114	400	APRD
18	10/28/2006	11/01/2006	DER-3-115	75	APRD
19 (except White Sands missile range)	10/28/2006	11/01/2006	DER-3-116	10	APRD
20	10/28/2006	11/01/2006	DER-3-117	75	APRD
21	10/28/2006	11/01/2006	DER-3-118	400	APRD
22	10/28/2006	11/01/2006	DER-3-119	50	APRD
23 (except the Burro mountain hunt area)	10/28/2006	11/01/2006	DER-3-120	150	APRMD
23 (except the Burro mountain hunt area)	10/28/2006	11/01/2006	DER-3-121	50	APRWTD
24	10/28/2006	11/01/2006	DER-3-122	200	APRMD
24	10/28/2006	11/01/2006	DER-3-123	50	APRWTD
25	10/28/2006	11/01/2006	DER-3-124	50	APRD
26	10/28/2006	11/01/2006	DER-3-125	50	APRD
27	10/28/2006	11/01/2006	DER-3-126	25	APRMD
27	10/28/2006	11/01/2006	DER-3-127	25	APRWTD
29	10/21/2006	10/25/2006	DER-3-128	50	APRD
31	10/21/2006	10/25/2006	DER-3-129	100	APRD
31/33: Brantley WMA, Seven rivers & Huey waterfowl management areas, youth only	11/24/2006	11/26/2006	DER-3-130	30	ES
32	10/21/2006	10/25/2006	DER-3-131	75	APRD
34	10/21/2006	10/25/2006	DER-3-132	350	APRD
36 (except Fort Stanton)	10/21/2006	10/25/2006	DER-3-133	50	APRD
36 Fort Stanton, youth only	10/21/2006	10/25/2006	DER-3-134	25	FAD
38	10/21/2006	10/25/2006	DER-3-135	200	APRD
39	10/21/2006	10/25/2006	DER-3-136	50	APRD
40	10/21/2006	10/25/2006	DER-3-137	25	APRD
41	09/23/2006	09/29/2006	DER-3-138	50	APRD

42	09/23/2006	09/29/2006	DER-3-139	20	APRD
43	09/23/2006	09/29/2006	DER-3-140	50	APRD
44/45	09/23/2006	09/29/2006	DER-3-141	150	APRD
47	09/23/2006	09/29/2006	DER-3-142	20	APRD
56	09/23/2006	09/29/2006	DER-3-143	15	APRD
56: Sierra Grande hunt area	09/23/2006	09/29/2006	DER-3-144	10	APRD
57	09/23/2006	09/29/2006	DER-3-145	15	APRD
58	09/23/2006	09/29/2006	DER-3-146	15	APRD

D. Public land deer hunts for restricted legal muzzle loading rifles only, as defined in 19.31.10 NMAC, listing the open GMUs or areas, hunt dates, hunt code, number of permits and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Permits	Bag limit
9 (including Water canyon and Marquez WMAs)	09/23/2006	09/29/2006	DER-3-150	10	APRD
30	10/21/2006	10/25/2006	DER-3-151	500	APRD
33	10/21/2006	10/25/2006	DER-3-152	50	APRD
37	10/21/2006	10/25/2006	DER-3-153	200	APRD
52	09/23/2006	09/29/2006	DER-3-154	30	APRD

E. Private land only deer hunts: Private land deer permits shall be restricted to the season dates, sporting arms type, and bag limit that corresponds to the public land hunt code listed in Subsections A, B, C and D of 19.31.8.20 NMAC above for the GMU where the private landowner's property lies. The private land deer permits shall be unlimited and available from any license vendor; however, only one private land deer permit will be issued per license. Private land only hunters in Units 4 and 5A must obtain a special application form from the landowner and apply through the draw. Hunts in GMUs 46, 54, and 55 shall be as indicated below:

Open GMUs	Hunt start	Hunt end	Hunt code	Permits	Bag limit
46 for any legal sporting arm	10/28/2006	11/01/2006	DER-1-300	unlimited	APRD
46 for any legal sporting arm	11/04/2006	11/08/2006	DER-1-301	unlimited	APRD
46 for bows only	09/01/2006	09/22/2006	DER-2-300	unlimited	APRD
46 for legal muzzle loading rifles or bows	09/23/2006	09/29/2006	DER-3-300	unlimited	APRD
54 for any legal sporting arm	10/28/2006	11/01/2006	DER-1-302	unlimited	APRD
54 for any legal sporting arm	11/04/2006	11/08/2006	DER-1-303	unlimited	APRD
54 for bows only	09/01/2006	09/22/2006	DER-2-301	unlimited	APRD
54 for legal muzzle loading rifles or bows	09/23/2006	09/29/2006	DER-3-301	unlimited	APRD
55 for any legal sporting arm	10/28/2006	11/01/2006	DER-1-304	unlimited	APRD
55 for any legal sporting arm	11/04/2006	11/08/2006	DER-1-305	unlimited	APRD
55 for bows only	09/01/2006	09/22/2006	DER-2-302	unlimited	APRD
55 for legal muzzle loading rifles or bows	09/23/2006	09/29/2006	DER-3-302	unlimited	APRD

F. Deer enhancement licenses. Deer enhancement licenses shall be valid from September 1 through January 31, 2007, for any legal sporting arms. These licenses shall be valid statewide where hunting is allowed, including private land with prior written permission. Bag limit shall be one APRD. The hunt code shall be DER-1-400. License may be used either by the applicant or any individual of the selected applicant's choice through sale, barter, or gift.

G. Private land deer conservation incentive program: Private landowners may submit a deer conservation and management plan, subject to review and approval by the department. Upon department approval of this plan, a landowner may be eligible for various incentives such as extended season dates and "rut period" hunts. The director may approve the opportunity to hunt public lands they lease or lands that are within a landowner's private land boundaries. The hunt code for any unique hunt season approved pursuant to this program shall be DER-1-600.

H. Additional requirements: Private land only hunters in GMUs 4 and 5A must obtain a special application from a landowner. Only full-time active military may apply for 'Military Only' hunts. Proof of military status must accompany application. [19.31.8.20 NMAC - Rp, 19.31.8.20 NMAC, 4-1-2005]

19.31.8.21 TURKEY (2006-2007):

A. Spring turkey hunt shall be as indicated below:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
4 (including the Sargent, Humphries, and Rio Chama WMAs), 5, 6, 7, 9 (including Marquez and Water canyon WMAs), 10, 12, 13, 14 (bow only Sandia ranger district of the Cibola national forest), 15, 16, 17, 18, 20 (except Doña Ana county), 21 (except Doña Ana county), 22, 23, 24, 29, 30, 34, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54 (including Colin Neblett south), and 55 (including Colin Neblett north and E. S. Barker WMAs and except Urraca WMA and except Valle Vidal and Greenwood wildlife areas), 56, 57 (bow only in Sugarite canyon state park), 58	04/15/2006	05/10/2006	TUR-1-001	unlimited	2 turkeys with visible beards

B. Fall turkey hunts shall be as indicated below:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
4 (including Humphries and Rio Chama WMAs and except Sargent WMA), 6, 7, 9 (except Marquez and Water canyon WMAs), 10, 12, 13, 15, 16, 17, 21 (except Doña Ana county), 22, 23, 24, 29, 34, 36, 37, 40, 41, 42, 45, 46, 47, 48, 54 (including Colin Neblett south), 55 (including Colin Neblett north and except Urraca WMA and except Valle Vidal, Greenwood and E.S. Barker wildlife areas), 56, 57 (except Sugarite canyon state park), 58	09/11/2006	09/19/2006	TUR-1-001	unlimited	1 turkey

C. Turkey entry hunts shall be as indicated below:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	04/15/2006	04/30/2006	TUR-1-100	100	1 turkey with visible beard
55: Valle Vidal area	04/15/2006	04/30/2006	TUR-1-101	20	1 turkey with visible beard
4: Sargent WMA	11/11/2006	11/19/2006	TUR-1-102	5	1 turkey

[19.31.8.21 NMAC - Rp, 19.31.8.21 NMAC, 4-1-2005]

19.31.8.22 BEAR (2006-2007):

A. The bear seasons shall be as stated below; open areas are GMUs 4, 5, 6, 7, 8 (bow only in the Sandia ranger district of the Cibola national forest), 9 (including the Marquez and Water canyon WMAs), 10, 12, 13, 14, (bow only in the Sandia ranger district of the Cibola national forest), 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 34, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, and 58 during the seasons, bag limits and restrictions listed below. Dogs shall not be used to pursue bear in any wildlife management area (WMA) as described in 19.30.4 NMAC.

(1) Bow only bear season shall be 09/01/2006 through 09/22/2006 in all zones. No dogs shall be used to pursue bear during bow seasons.

(2) Any legal sporting arms season for bear shall be:

(a) Aug. 16 - Aug. 31 in zones 2, 5, and 6; Sept. 15 - Nov. 15, in zones 1, 2, 3; Sept. 23- Nov. 30 in zones 5 and 6. Dogs may be used to pursue bears during the time frames and zones listed above.

(b) Oct. 15 - Nov. 15 in zone 4 (GMUs 8 and 14, bow only in the Sandia ranger district of the Cibola national forest). Dogs are required and the bag limit shall be one male bear except any cub less than a year old.

(3) Bear entry hunts for any legal sporting arms, listing the open areas, hunt date, hunt code, number of licenses and bag limit, as defined in Subsection C of this Section, shall be as indicated below. Dogs shall not be used to pursue bears during bear entry hunts.

Open areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Sargent WMA	08/01/2006	08/31/2006	BER-1-100	10	1 bear
William A. Humphries WMA	08/01/2006	08/31/2006	BER-1-101	5	1 bear
E.S. Barker/Colin Neblett WMAs	08/01/2006	08/31/2006	BER-1-102	12	1 bear

(4) The Valle Vidal area is closed to bear hunting except for any licensed bear hunter who legally possesses a license for an elk hunt on the Valle Vidal area may harvest a bear during their assigned elk hunt period, provided that zone 2 is open for bear hunting. Legal sporting arms for taking bear in the Valle Vidal area shall be the legal sporting arms for the concurrent elk hunt. Dogs shall not be allowed to pursue bear in the Valle Vidal area.

B. The harvest limit for each bear zone is indicated below. If either the total limit (first number) or female sub-limit (italicized number) is reached the bear zone will close 72 hours thereafter. Bears taken from the Sargent WMA and William A. Humphries WMA in zone 1 or the Elliot Barker/Colin Neblett WMAs in zone 2 shall not count towards the harvest limit in those zones. Bears removed by department management action will count against that zone's harvest limit. Bears relocated to other zones and harvested in the zone of

release during that fall's hunt season will count against the zone of origin and not the zone where released. If a relocated bear is harvested in a subsequent year, the harvest counts as a normal kill in the zone of harvest.

Open GMU's	Zone	Harvest limit or <i>max. females</i>
4, 5, 6, 7, 51, and 52	1	65 or 32
41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57 and 58	2	130 or 59
9 and 10	3	18 or 10
8 and 14	4	13 or 6
12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, and 27	5	75 or 45
34, 36, 37 and 38	6	35 or 19

C. Bag limit shall be one bear except any female accompanied by cub(s), or except any cub less than a year old, unless otherwise indicated.

D. Bear hunters shall purchase their license at least two days prior to hunting bear.

E. Any bear taken shall be tagged with both the tag from the hunting license and the pelt tag furnished free of charge by the department. A hunter who takes a bear must present the skull and pelt to a department representative for tooth removal and pelt tagging within five days of taking the animal or before taking the pelt out of New Mexico, whichever comes first. The pelt tag shall remain attached until the pelt is processed.

[19.31.8.22 NMAC - Rp, 19.31.8.22 NMAC, 4-1-2005]

19.31.8.23 COUGAR (2006-2007):

A. Cougar season within each cougar zone shall be October 1 through March 31, or until the cougar harvest limit has been met within the specific cougar zone, whichever occurs first. Exceptions shall be as follows:

(1) Cougar season shall be April 1 through March 31 in GMUs 29, 30, and 34 and in the bighorn sheep range of cougar zones G, H, K, and L. These ranges include the Ladron, Manzano, Peloncillo, Little Hatchets, Big Hatchets (including Big Hatchet WMA), Animas, Alamo Hueco, Saliz, Mogollon, Organ, and San Andres mountains as described in 19.30.4 NMAC. Cougars taken in those bighorn sheep ranges shall not count against the harvest limit for that zone.

(2) The Sandia ranger district of the Cibola national forest portion of zone F shall be open for hunting with bow only.

(3) Cougar season on private land shall be April 1 through March 31 (bag limits still apply). Private landowners and their designees may hunt on the owner's private property and cougar taken shall not count against the harvest limit for that zone. All cougar hunters must be legally licensed.

(4) Wildlife management areas listed below are open to cougar hunting as follows; hunters must follow registration procedures as determined by the department, electronic calling devices are legal, dogs are not allowed, vehicle access will not be allowed except into designated parking areas, and cougars harvested will count toward harvest limits in the cougar zones where the WMA occurs:

Open areas	Hunt start	Hunt end	Access authorizations
Sargent WMA	11/10/2006	03/31/2007	10
William A. Humphries WMA	11/10/2006	03/31/2007	10
Rio Chama WMA	01/01/2007	01/31/2007	5
Rio Chama WMA	02/01/2007	02/28/2007	5
Rio Chama WMA	03/01/2007	03/31/2007	5
Elliot S. Barker WMA	01/01/2007	01/31/2007	5
Elliot S. Barker WMA	02/01/2007	02/28/2007	5
Elliot S. Barker WMA	03/01/2007	03/31/2007	5
Marquez and Water canyon WMAs	10/01/2007	03/31/2007	unlimited
Urraca WMA	12/01/2006	12/31/2006	unlimited
Colin Neblett WMA	12/01/2006	03/31/2007	unlimited

B. The harvest limit for each cougar zone is indicated below:

Open GMUs or areas	Zone	Harvest limit
2 and 7	A	18
5, 50, and 51	B	20
43, 44, 45, 46, 48, 49, 53, 54, and 55	C	38
41, 42, and 47	D	9
9 and 10	E	16
6 and 8 (bow only in the Sandia ranger district of the Cibola national forest).	F	16
13, 14 (bow only in the Sandia ranger district of the Cibola national forest), and 17	G	17
19, 20, 28, and 29	H	3
18, 30, 34, 36, 37, and 38	I	20
15, 16, 21, and 25	J	38
22, 23, and 24	K	22
26 and 27	L	no limit
31, 32, 33, 39, and 40	M	5
4 and 52	N	3
12	O	3
56, 57, and 58	P	5

C. Bag limits shall be as indicated below:

(1) One cougar, except any female accompanied by a spotted kitten(s), and except any spotted kitten.

(2) A second cougar, except any female accompanied by a spotted kitten(s), and except any spotted kitten, may be taken in any of the bighorn sheep ranges outlined above in Paragraph (1) of Subsection A of 19.31.8.23 NMAC and in GMUs 29, 30, and 34.

D. Hunters shall purchase a cougar license at least two days prior to hunting cougar.

E. All cougar taken shall be tagged with both the tag from the hunting license and the pelt tag furnished free of charge from the department. A hunter who takes a cougar must present the skull and pelt to a department representative for tooth removal and pelt tagging within five days of taking the animal or before taking the pelt out of New Mexico, whichever comes first. The pelt tag shall remain attached until the pelt is processed. Immediately following the pelt tagging the department employee shall call the division of wildlife with the information regarding the take of cougar.

F. When the number of cougars equaling the cougar harvest limit for a given cougar zone has been met, that zone will close 72 hours thereafter.

G. The director, at his discretion, may adjust or cancel portions of any cougar hunt to address significant changes in population or harvest limits.

[19.31.8.23 NMAC - Rp, 19.31.8.23 NMAC, 4-1-2005]

19.31.8.24 ELK (2006-2007):

A. Public land elk hunts for any legal sporting arms, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certification number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	10/14/2006	10/18/2006	ELK-1-100	100	MB
2	12/02/2006	12/06/2006	ELK-1-101	75	MB
2	12/02/2006	12/06/2006	ELK-1-102	200	A
2 youth only	12/02/2006	12/06/2006	ELK-1-103	25	A
4: Sargent WMA	09/30/2006	10/04/2006	ELK-1-104	5	APRE/6
4: Sargent WMA	10/07/2006	10/11/2006	ELK-1-105	15	APRE
4: Sargent WMA	10/14/2006	10/18/2006	ELK-1-106	15	APRE
4: Sargent WMA	10/21/2006	10/25/2006	ELK-1-107	15	APRE
4: Sargent WMA	10/28/2006	11/01/2006	ELK-1-108	15	A
4: Sargent WMA, youth only	10/28/2006	11/01/2006	ELK-1-109	10	A
4: Sargent WMA	11/04/2006	11/08/2006	ELK-1-110	15	A
4: Humphries/Rio Chama WMAs	10/07/2006	10/11/2006	ELK-1-111	10	APRE
4: Humphries/Rio Chama WMAs	10/14/2006	10/18/2006	ELK-1-112	10	APRE
4: Humphries/Rio Chama WMAs	11/04/2006	11/08/2006	ELK-1-113	30	A
4: Humphries/Rio Chama WMAs, youth only	11/04/2006	11/08/2006	ELK-1-114	10	A
5A public land only	09/30/2006	10/04/2006	ELK-1-115	5	MB
5A public land only	09/30/2006	10/04/2006	ELK-1-116	6	A
5A public land only	10/07/2006	10/11/2006	ELK-1-117	5	MB
5A public land only	10/07/2006	10/11/2006	ELK-1-118	6	A
5A public land only	10/14/2006	10/18/2006	ELK-1-119	5	MB
5A public land only	10/14/2006	10/18/2006	ELK-1-120	6	A
5A public land only	10/21/2006	10/25/2006	ELK-1-121	5	MB
5A public land only	10/21/2006	10/25/2006	ELK-1-122	6	A
5A public land only	10/28/2006	11/01/2006	ELK-1-123	11	A
5B	10/07/2006	10/11/2006	ELK-1-124	150	MB
5B	10/14/2006	10/18/2006	ELK-1-125	100	A
5B	10/21/2006	10/25/2006	ELK-1-126	150	MB
5B	10/28/2006	11/01/2006	ELK-1-127	100	A
5B	11/04/2006	11/08/2006	ELK-1-128	100	A
6A	10/14/2006	10/18/2006	ELK-1-129	100	MB
6A	10/28/2006	11/01/2006	ELK-1-130	100	MB
6A	11/04/2006	11/08/2006	ELK-1-131	100	A
6C	10/14/2006	10/18/2006	ELK-1-132	150	MB
6C	10/21/2006	10/25/2006	ELK-1-133	150	MB
6C	11/04/2006	11/08/2006	ELK-1-134	150	MB
6C	11/18/2006	11/26/2006	ELK-1-135	200	A
6C	12/02/2006	12/10/2006	ELK-1-136	300	A
6C	12/16/2006	12/24/2006	ELK-1-137	300	A
7	10/14/2006	10/18/2006	ELK-1-138	30	MB
7	10/21/2006	10/25/2006	ELK-1-139	30	MB
7	11/04/2006	11/08/2006	ELK-1-140	90	A
7	12/09/2006	12/13/2006	ELK-1-141	90	A
9 (including Water canyon but not Marquez WMAs)	11/04/2006	11/08/2006	ELK-1-142	200	A

9: Marquez WMA	11/04/2006	11/08/2006	ELK-1-143	5	A
10	10/07/2006	10/11/2006	ELK-1-144	100	MB
10	10/14/2006	10/18/2006	ELK-1-145	200	A
10 youth only	10/14/2006	10/18/2006	ELK-1-146	100	A
12	09/30/2006	10/04/2006	ELK-1-147	25	MB
12	10/07/2006	10/11/2006	ELK-1-148	25	MB
12	10/14/2006	10/18/2006	ELK-1-149	25	MB
12	10/21/2006	10/25/2006	ELK-1-150	25	MB
12	10/28/2006	11/01/2006	ELK-1-151	100	A
12	11/18/2006	11/22/2006	ELK-1-152	100	A
16A youth only	10/07/2006	10/11/2006	ELK-1-153	50	A
16A	10/14/2006	10/18/2006	ELK-1-154	100	APRE
16A	10/21/2006	10/25/2006	ELK-1-155	150	APRE
16A	12/02/2006	12/06/2006	ELK-1-156	150	A
16B	10/14/2006	10/18/2006	ELK-1-157	150	APRE
16B	10/21/2006	10/25/2006	ELK-1-158	150	APRE
16C	10/14/2006	10/18/2006	ELK-1-159	50	APRE
16C	10/21/2006	10/25/2006	ELK-1-160	100	APRE
16C	12/02/2006	12/06/2006	ELK-1-161	100	A
16D youth only	10/07/2006	10/11/2006	ELK-1-162	50	A
16D	10/14/2006	10/18/2006	ELK-1-163	50	APRE
16D	10/21/2006	10/25/2006	ELK-1-164	50	APRE
16D	12/02/2006	12/06/2006	ELK-1-165	100	A
16E	10/21/2006	10/25/2006	ELK-1-166	100	APRE
16E	12/02/2006	12/06/2006	ELK-1-167	150	A
16E	12/09/2006	12/13/2006	ELK-1-168	150	A
21A	10/14/2006	10/18/2006	ELK-1-169	50	MB
21A	10/21/2006	10/25/2006	ELK-1-170	50	MB
21B	10/14/2006	10/18/2006	ELK-1-171	50	MB
21B	10/21/2006	10/25/2006	ELK-1-172	50	MB
21B	11/18/2006	11/22/2006	ELK-1-173	30	A
21B	11/25/2006	11/29/2006	ELK-1-174	30	A
21B	12/02/2006	12/06/2006	ELK-1-175	30	A
21B	12/09/2006	12/13/2006	ELK-1-176	30	A
22	10/21/2006	10/25/2006	ELK-1-177	25	MB
22	12/02/2006	12/06/2006	ELK-1-178	25	A
23	10/21/2006	10/25/2006	ELK-1-179	150	MB
23	12/02/2006	12/06/2006	ELK-1-180	50	A
24 (including Fort Bayard) youth only	10/07/2006	10/11/2006	ELK-1-181	10	MB
24 (except Fort Bayard)	10/21/2006	10/25/2006	ELK-1-182	50	MB
34 youth only	09/23/2006	09/27/2006	ELK-1-183	75	MB
34 youth only	09/23/2006	09/27/2006	ELK-1-184	75	A
34	10/07/2006	10/11/2006	ELK-1-185	150	APRE
34	11/25/2006	11/29/2006	ELK-1-186	300	A
34	12/02/2006	12/06/2006	ELK-1-187	300	A
36	10/07/2006	10/11/2006	ELK-1-188	100	MB
36	10/07/2006	10/11/2006	ELK-1-189	50	A
36	10/14/2006	10/18/2006	ELK-1-190	100	MB
36	10/14/2006	10/18/2006	ELK-1-191	50	A
37	10/07/2006	10/11/2006	ELK-1-192	25	MB
37	10/07/2006	10/11/2006	ELK-1-193	25	A
43	09/30/2006	10/04/2006	ELK-1-194	unlimited	ES
44/45	10/07/2006	10/11/2006	ELK-1-195	140	MB
44/45	10/14/2006	10/18/2006	ELK-1-196	140	MB
44/45	10/21/2006	10/25/2006	ELK-1-197	25	A
48	10/14/2006	10/18/2006	ELK-1-198	55	MB
48	10/14/2006	10/18/2006	ELK-1-199	40	A
48	10/21/2006	10/25/2006	ELK-1-200	55	MB
48	10/21/2006	10/25/2006	ELK-1-201	40	A
48	12/02/2006	12/06/2006	ELK-1-202	55	MB
48	12/02/2006	12/06/2006	ELK-1-203	40	A
49	09/30/2006	10/04/2006	ELK-1-204	180	MB
49	10/07/2006	10/11/2006	ELK-1-205	95	MB

49	10/14/2006	10/18/2006	ELK-1-206	95	MB
49	11/11/2006	11/15/2006	ELK-1-207	60	A
50	10/07/2006	10/11/2006	ELK-1-208	100	MB
50	10/07/2006	10/11/2006	ELK-1-209	20	A
50	10/14/2006	10/18/2006	ELK-1-210	100	MB
50	10/14/2006	10/18/2006	ELK-1-211	20	A
50	12/02/2006	12/06/2006	ELK-1-212	50	A
51	10/07/2006	10/11/2006	ELK-1-213	200	MB
51	10/14/2006	10/18/2006	ELK-1-214	200	MB
51	10/21/2006	10/25/2006	ELK-1-215	200	MB
51	11/11/2006	11/15/2006	ELK-1-216	250	A
51	11/18/2006	11/22/2006	ELK-1-217	250	A
52	10/07/2006	10/11/2006	ELK-1-218	250	MB
52	10/14/2006	10/18/2006	ELK-1-219	200	MB
52	10/21/2006	10/26/2006	ELK-1-220	150	A
52	11/11/2006	11/15/2006	ELK-1-221	125	A
52	11/18/2006	11/22/2006	ELK-1-222	100	A
52 youth only	11/18/2006	11/22/2006	ELK-1-223	25	A
53 (except Cerro portion)	10/07/2006	10/11/2006	ELK-1-224	180	MB
53 (except Cerro portion)	10/14/2006	10/18/2006	ELK-1-225	95	MB
53 (except Cerro portion)	12/02/2006	12/06/2006	ELK-1-226	50	A
53 (except Cerro portion)	12/09/2006	12/13/2006	ELK-1-227	50	A
54: Colin Neblett WMA/south	10/07/2006	10/11/2006	ELK-1-228	20	MB
54: Colin Neblett WMA/south	10/14/2006	10/18/2006	ELK-1-229	20	MB
54: Colin Neblett WMA/south	10/21/2006	10/25/2006	ELK-1-230	20	MB
54: Colin Neblett WMA/south	11/18/2006	11/22/2006	ELK-1-231	20	A
55: Colin Neblett WMA/north	10/07/2006	10/11/2006	ELK-1-232	20	MB
55: Colin Neblett WMA/north	10/14/2006	10/18/2006	ELK-1-233	20	MB
55: Colin Neblett WMA/north	10/21/2006	10/25/2006	ELK-1-234	20	MB
55: Colin Neblett WMA/north	11/18/2006	11/22/2006	ELK-1-235	20	A
55: Urraca WMA	09/30/2006	10/04/2006	ELK-1-236	10	MB
55: Urraca WMA	10/07/2006	10/11/2006	ELK-1-237	10	MB
55: Urraca WMA	10/14/2006	10/18/2006	ELK-1-238	10	MB
55: Urraca WMA	10/21/2006	10/25/2006	ELK-1-239	10	MB
55: Urraca WMA	11/18/2006	11/22/2006	ELK-1-240	15	A
55: Urraca WMA	12/02/2006	12/06/2006	ELK-1-241	15	A
55: Valle Vidal/Greenwood areas	10/07/2006	10/11/2006	ELK-1-242	30	MB
55: Valle Vidal/Greenwood areas, youth only	10/07/2006	10/11/2006	ELK-1-243	20	ES
55: Valle Vidal/Greenwood areas	10/14/2006	10/18/2006	ELK-1-244	35	MB
55: Valle Vidal/Greenwood areas	10/21/2006	10/25/2006	ELK-1-245	35	MB
55: Valle Vidal/Greenwood areas	10/28/2006	11/01/2006	ELK-1-246	30	A
55: Valle Vidal/Greenwood areas, youth only	10/28/2006	11/01/2006	ELK-1-247	20	A
55: Valle Vidal/Greenwood areas	11/04/2006	11/08/2006	ELK-1-248	30	A
55: Valle Vidal/Greenwood areas, youth only	11/04/2006	11/08/2006	ELK-1-249	20	A
55: Valle Vidal/Greenwood areas	11/11/2006	11/15/2006	ELK-1-250	45	A
55: Valle Vidal/Greenwood areas	11/18/2006	11/22/2006	ELK-1-251	35	A
56: Sierra Grande hunt area	09/30/2006	10/04/2006	ELK-1-252	5	MB
56: Sierra Grande hunt area	10/07/2006	10/11/2006	ELK-1-253	10	A

B. Public land elk hunts for bows, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

Open GMUs or areas	Hunt Start	Hunt end	Hunt code	Licenses	Bag limit
2	09/01/2006	09/22/2006	ELK-2-100	240	ES
5A (public land only)	09/01/2006	09/22/2006	ELK-2-101	10	ES
5B	09/01/2006	09/22/2006	ELK-2-102	225	ES
6A	09/01/2006	09/15/2006	ELK-2-103	150	ES
6A	09/16/2006	09/22/2006	ELK-2-104	100	ES
6C	09/01/2006	09/15/2006	ELK-2-105	250	ES
6C	09/16/2006	09/22/2006	ELK-2-106	100	ES
7	09/01/2006	09/22/2006	ELK-2-107	25	ES
9 (including Water canyon but not Marquez WMAs)	09/01/2006	09/22/2006	ELK-2-108	395	ES
9: Marquez WMA	09/01/2006	09/22/2006	ELK-2-109	5	ES

10	09/01/2006	09/22/2006	ELK-2-110	250	ES
12	09/01/2006	09/22/2006	ELK-2-111	25	ES
13	09/01/2006	09/15/2006	ELK-2-112	100	ES
13	09/01/2006	09/15/2006	ELK-2-113	50	A
13	09/16/2006	09/24/2006	ELK-2-114	50	ES
15	09/01/2006	09/15/2006	ELK-2-115	400	ES
15	09/01/2006	09/15/2006	ELK-2-116	100	A
15	09/16/2006	09/24/2006	ELK-2-117	200	ES
16A	09/01/2006	09/15/2006	ELK-2-118	250	APRE
16A	09/01/2006	09/15/2006	ELK-2-119	50	A
16A	09/16/2006	09/24/2006	ELK-2-120	150	APRE
16B	09/01/2006	09/15/2006	ELK-2-121	250	APRE
16B	09/16/2006	09/24/2006	ELK-2-122	150	APRE
16C	09/01/2006	09/15/2006	ELK-2-123	150	APRE
16C	09/01/2006	09/15/2006	ELK-2-124	50	A
16C	09/16/2006	09/24/2006	ELK-2-125	100	APRE
16D	09/01/2006	09/15/2006	ELK-2-126	100	APRE
16D	09/01/2006	09/15/2006	ELK-2-127	50	A
16D	09/16/2006	09/24/2006	ELK-2-128	50	APRE
16E	09/01/2006	09/15/2006	ELK-2-129	100	APRE
16E	09/01/2006	09/15/2006	ELK-2-130	50	A
16E	09/16/2006	09/24/2006	ELK-2-131	50	APRE
17	09/01/2006	09/15/2006	ELK-2-132	100	ES
17	09/01/2006	09/15/2006	ELK-2-133	50	A
17	09/16/2006	09/24/2006	ELK-2-134	100	ES
18	09/01/2006	09/22/2006	ELK-2-135	50	ES
21A	09/01/2006	09/15/2006	ELK-2-136	50	ES
21A	09/16/2006	09/24/2006	ELK-2-137	50	ES
21B	09/01/2006	09/15/2006	ELK-2-138	50	ES
21B	09/16/2006	09/24/2006	ELK-2-139	50	ES
22	09/01/2006	09/15/2006	ELK-2-140	25	ES
22	09/16/2006	09/24/2006	ELK-2-141	25	ES
23	09/01/2006	09/15/2006	ELK-2-142	150	ES
23	09/01/2006	09/15/2006	ELK-2-143	50	A
23	09/16/2006	09/24/2006	ELK-2-144	100	ES
24 (except Fort Bayard)	09/01/2006	09/15/2006	ELK-2-145	50	ES
24 (except Fort Bayard)	09/16/2006	09/24/2006	ELK-2-146	50	ES
34	09/01/2006	09/22/2006	ELK-2-147	400	APRE
36	09/01/2006	09/22/2006	ELK-2-148	175	ES
37	09/01/2006	09/22/2006	ELK-2-149	40	ES
44/45	09/01/2006	09/22/2006	ELK-2-150	150	ES
48	09/01/2006	09/22/2006	ELK-2-151	200	ES
49	09/01/2006	09/22/2006	ELK-2-152	120	ES
50	09/01/2006	09/22/2006	ELK-2-153	120	ES
51	09/01/2006	09/22/2006	ELK-2-154	200	ES
52	09/01/2006	09/15/2006	ELK-2-155	200	ES
52	09/16/2006	09/22/2006	ELK-2-156	200	ES
53	09/01/2006	09/22/2006	ELK-2-157	150	ES
55: Valle Vidal/Greenwood areas	09/01/2006	09/22/2006	ELK-2-158	35	ES
55: E.S. Barker WMA	09/01/2006	09/22/2006	ELK-2-159	10	ES

C. Public land elk hunts for legal muzzle loading rifles and bows, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certification number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	10/07/2006	10/11/2006	ELK-3-100	200	MB
6A	10/07/2006	10/11/2006	ELK-3-101	100	MB
6C	09/30/2006	10/04/2006	ELK-3-102	300	MB
7	10/07/2006	10/11/2006	ELK-3-103	25	MB
9 (including Water canyon but not Marquez WMAs)	09/30/2006	10/04/2006	ELK-3-104	200	A
9 (including Water canyon but not Marquez WMAs)	10/07/2006	10/11/2006	ELK-3-105	150	MB

9 (including Water canyon but not Marquez WMAs)	10/14/2006	10/18/2006	ELK-3-106	150	MB
9 (including Water canyon but not Marquez WMAs)	10/21/2006	10/25/2006	ELK-3-107	150	MB
9 (including Water canyon but not Marquez WMAs)	10/28/2006	11/01/2006	ELK-3-108	200	A
9: Marquez WMA	09/30/2006	10/04/2006	ELK-3-109	5	A
9: Marquez WMA	10/07/2006	10/11/2006	ELK-3-110	5	MB
9: Marquez WMA	10/14/2006	10/18/2006	ELK-3-111	5	MB
9: Marquez WMA	10/21/2006	10/25/2006	ELK-3-112	5	MB
9: Marquez WMA	10/28/2006	11/01/2006	ELK-3-113	5	A
10	09/30/2006	10/04/2006	ELK-3-114	100	MB
13	10/14/2006	10/18/2006	ELK-3-115	100	MB
13	10/21/2006	10/25/2006	ELK-3-116	150	MB
13	12/02/2006	12/06/2006	ELK-3-117	150	A
15 youth only	10/07/2006	10/11/2006	ELK-3-118	50	A
15	10/14/2006	10/18/2006	ELK-3-119	200	MB
15	10/21/2006	10/25/2006	ELK-3-120	350	MB
15	11/25/2006	11/29/2006	ELK-3-121	200	MB
15	12/02/2006	12/06/2006	ELK-3-122	300	A
15	12/09/2006	12/13/2006	ELK-3-123	300	A
16E	10/14/2006	10/18/2006	ELK-3-124	100	APRE
17	10/14/2006	10/18/2006	ELK-3-125	100	MB
17	10/21/2006	10/25/2006	ELK-3-126	100	MB
17	12/02/2006	12/06/2006	ELK-3-127	150	A
17	12/09/2006	12/13/2006	ELK-3-128	150	A
22	10/14/2006	10/18/2006	ELK-3-129	25	MB
23	10/14/2006	10/18/2006	ELK-3-130	50	MB
24 (except Fort Bayard)	10/14/2006	10/18/2006	ELK-3-131	50	MB
34	09/30/2006	10/04/2006	ELK-3-132	250	APRE
36	09/30/2006	10/04/2006	ELK-3-133	125	MB
37	09/30/2006	10/04/2006	ELK-3-134	25	MB
44/45	09/30/2006	10/04/2006	ELK-3-135	140	MB
44/45	11/11/2006	11/15/2006	ELK-3-136	50	A
48	09/30/2006	10/04/2006	ELK-3-137	75	MB
48	10/07/2006	10/11/2006	ELK-3-138	60	MB
48	10/07/2006	10/11/2006	ELK-3-139	80	A
52	09/30/2006	10/04/2006	ELK-3-140	150	MB
52	09/30/2006	10/04/2006	ELK-3-141	150	A
53 (except Cerro portion)	09/30/2006	10/04/2006	ELK-3-142	100	A
54: Colin Neblett WMA/south	09/30/2006	10/04/2006	ELK-3-143	20	MB
55: Colin Neblett WMA/north	09/30/2006	10/04/2006	ELK-3-144	20	MB
55: Valle Vidal/Greenwood areas	09/30/2006	10/04/2006	ELK-3-145	35	ES
55: E.S. Barker WMA	09/30/2006	10/04/2006	ELK-3-146	10	MB

D. Public land elk hunts for certified mobility impaired hunters, listing the open GMUs or areas, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certification number on application.

Open GMUs or area	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
9 (including Water canyon but not Marquez WMAs)	11/04/2006	11/08/2006	ELK-4-100	30	MB
16A	10/07/2006	10/11/2006	ELK-4-101	30	MB
16D	10/07/2006	10/11/2006	ELK-4-102	30	MB
34	09/23/2006	09/27/2006	ELK-4-103	50	MB
51	09/30/2006	10/04/2006	ELK-4-104	30	MB
51	09/30/2006	10/04/2006	ELK-4-105	30	A

E. The director may allot private land elk licenses for use on those ranches whose owners or lessees sign a hunting agreement with the department.

F. Private land elk hunts for ranches designated as "RANCH ONLY" shall be limited to the following season dates and sporting arms types. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC, in order to hunt during the "Mobility Impaired Hunters" or "Youth Only" hunt periods.

Legal sporting arms	Open GMUs or area	Hunt date
Bows only	13, 15, 16A, 16B, 16C, 16D, 16E, 17, 21A, 21B, 22, 23, 24, 52	09/01/2006 - 09/15/2006
Bows only	13, 15, 16A, 16B, 16C, 16D, 16E, 17, 21A, 21B, 22, 23, 24	09/16/2006 - 09/24/2006
Bows only	6A, 6C	09/01/2006 - 09/15/2006
Bows only	6A, 6C, 52	09/16/2006 - 09/22/2006
Bows only	2, 4, 5A, 5B, 7, 9, 10, 12, 18, 34, 36, 37, 42, 44/45, 46, 47, 48, 49, 50, 51, 53, 54 (except northeast portion), 55A, 56A, 57, 58	09/01/2006 - 09/22/2006
Muzzle loading rifles and bows	6C, 9, 10, 34, 36, 37, 44/45, 48, 52, 53	any 5 consecutive days, Sept 30 - Dec. 31, 2006
Muzzle loading rifles and bows	2, 6A, 7	any 5 consecutive days, Oct. 7 - Dec 31, 2006
muzzle loading rifles and bows	13, 15, 16E, 17, 22, 23, 24	any 5 consecutive days, Oct. 14 - Dec. 31, 2006
youth only - muzzle loading rifles and bows	15	10/07/2006 - 10/11/2006
any legal sporting arms	4, 5A, 12, 41, 42, 43, 46, 47, 49, 54 (except northeast portion), 55A, 56A, 56 (sierra grande portion), 57, 58	any 5 consecutive days, Sept 30 - Dec. 31, 2006
any legal sporting arms	5B, 10, 34, 36, 37, 44/45, 50, 51, 52, 53	any 5 consecutive days, Oct. 7 - Dec. 31, 2006
any legal sporting arms	2, 6A, 6C, 7, 16A, 16B, 16C, 16D, 21A, 21B, 48	any 5 consecutive days, Oct. 14 - Dec. 31, 2006
any legal sporting arms	16E, 22, 23, 24	any 5 consecutive days, Oct. 21 - Dec. 31, 2006
any legal sporting arms	9	any 5 consecutive days, Nov. 4 - Dec. 31, 2006
rifles only (except GMU13 is muzzle loading rifles only)	13, 46, 54 (except northeast portion), 55A, 56, 57, 58 with approval of NE or SW area chiefs and the state game commission chairman. ANTLER-LESS ELK ONLY	any 5 consecutive days between Jan. 1 - 31, 2007
youth only - any legal sporting arms	34	09/23/2006 - 09/27/2006
youth only - any legal sporting arms	16A, 16D	10/07/2006 - 10/11/2006
mobility impaired only	16A, 16D	10/07/2006 - 10/11/2006
mobility impaired only	34	09/23/2006 - 09/27/2006
mobility impaired only	51	09/30/2006 - 10/04/2006
mobility impaired only	9 (including Water canyon but not Marquez WMAs)	11/04/2006 - 11/08/2006

G. Unlimited private land either-sex or antlerless licenses valid for GMUs 41, 42, 43, 54 (northeast portion only), and 55B shall be available over-the-counter or by mail without deadline at all department of game and fish offices. Season dates and sporting arms types shall be the same as specified above in Subsection F of 19.31.8.24 NMAC for GMUs 41, 42, 43. Licenses issued for GMUs 54 (northeast portion) and 55B shall be limited to any 30 consecutive day period from April 1 through March 31. Any legal sporting arms for taking elk may be used during these hunts.

H. Numbers of private land elk authorizations certificates for qualifying ranches shall be available to the level listed for the GMUs and bag limits indicated below. For those ranches that do not qualify, except for GMUs 4, 16(A-E) and 34, private land ranch-only either-sex (ES) authorization certificates will be issued pursuant to Subsection M of 19.30.5.8 NMAC. Non-qualifying ranches in GMUs 4, 16(A-E) and 34 will receive one (1) APRE authorization certificate. In GMU 4, any APRE authorization converted to a license that lists hunt dates which include any day from September 30 through October 4 will be restricted to a bag limit of APRE/6.

GMU	MB	APRE	A	ES
2	92	0	66	0
4	0	1090	400	0
5A	250	0	360	0
5B	192	0	197	0
6A	61	0	20	0
6C	154	0	164	0
7	70	0	150	0
9	240	0	245	0
10	50	0	75	0
12	138	0	276	0
13	167	0	100	0
15	212	0	183	0
16A	0	6	6	0
16B	0	3	0	0
16C	0	26	18	0
16D	0	18	20	0
16E	0	55	111	0

17	47	0	70	0
21A	2	0	0	0
21B	203	0	244	0
22	14	0	7	0
23	41	0	8	0
24	5	0	0	0
34	0	121	155	0
36	100	0	120	0
37	13	0	7	0
44/45	65	0	5	0
46	0	0	700	600
47	0	0	50	50
48	215	0	205	0
49	20	0	10	0
50	65	0	7	0
51	80	0	60	0
52	50	0	40	0
53	165	0	50	0
54 (except northeast portion)	0	0	500	300
55A	0	0	2200	2500
56A	0	0	150	100
56 (Sierra Grande portion only)	10	0	10	0
57	0	0	800	400
58	0	0	80	60

I. The director may allot private land elk bow authorization certificates for use on ranches in GMUs whose owners or lessees sign a hunting agreement with the department. Private land elk bow authorizations may not be used in any other season. The GMUs open, number of bow authorization certificates available, and bag limit shall be as indicated below:

GMU	Authorization certificates	Bag limit
2	46	ES
4	435	APRE
5A	67	ES
5B	144	ES
6A	51	ES
6C	72	ES
7	20	ES
9	370	ES
10	63	ES
12	35	ES
13	100	ES
13	33	A
15	169	ES
15	28	A
16A	12	APRE
16A	2	A
16B	4	APRE
16C	44	APRE
16C	9	A
16D	20	APRE
16D	7	A
16E	55	APRE
16E	19	A
17	47	ES
17	12	A
18	30	ES
21A	2	ES
21B	203	ES
22	14	ES
23	41	ES
23	8	A
24	5	ES
34	92	APRE
36	53	ES

37	10	ES
44/45	25	ES
46	100	ES
47	10	ES
48	230	ES
49	5	ES
50	35	ES
51	25	ES
52	40	ES
53	75	ES
54 (except northeast portion)	300	ES
55A	700	ES
56A	20	ES
57	110	ES
58	10	ES

J. Elk enhancement licenses. Elk enhancement licenses shall be valid from September 1 through December 31 for any legal sporting arms. These licenses shall be valid statewide where hunting is allowed, including private land with valid written landowner permission. Bag limit shall be one bull elk. The hunt code shall be ELK-1-400. The authorization to obtain an elk enhancement license may be used either by the applicant or any individual. The authorization may be transferred through sale, barter, or gift.

K. Elk incentive authorization certificates.

(1) Distribution. Two (2) elk incentive authorization certificates will be distributed through a drawing that will include all prior-year deer and elk hunters forwarding their harvest survey forms to the department or its designated agent by the published deadline.

(2) Distribution. One (1) elk incentive authorization certificate will be distributed through a drawing that will include all prior-year deer and elk hunters who delivered for testing the head of a legally harvested elk or deer within 48 hours of death to the department or its designated agent.

(3) Authorization certificates to purchase incentive license may be used either by the applicant or any individual. The authorization may be transferred through sale, barter, or gift.

(4) Elk incentive hunts shall be restricted to the Valle Vidal area of the Carson national forest in GMU 55 during the first mature bull hunt after October 1st, using any legal sporting arms.

L. Valles Caldera national preserve hunts shall be administered as follows:

(1) Valles Caldera national preserve elk hunting licenses shall be issued to the holders of the Valles Caldera national preserve elk hunting access authorization.

(2) Each Valles Caldera national preserve elk hunting license shall be valid for one hunt in GMU 6B for which the bag limit and hunt period is specified on the Valles Caldera national preserve elk hunting access authorization.

(3) Valles Caldera national preserve elk hunts, listing the sporting arms, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

Area	Legal sporting arms	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
6B: VCNP	any legal sporting arms	09/30/2006	10/04/2006	ELK-1-001	16	MB
6B: VCNP	any legal sporting arms	09/30/2006	10/04/2006	ELK-1-002	8	A
6B: VCNP	any legal sporting arms	10/07/2006	10/11/2006	ELK-1-003	16	MB
6B: VCNP	any legal sporting arms	10/07/2006	10/11/2006	ELK-1-004	8	A
6B: VCNP	any legal sporting arms, youth only	10/14/2006	10/16/2006	ELK-1-005	30	A
6B: VCNP	any legal sporting arms	10/28/2006	10/30/2006	ELK-1-006	30	A
6B: VCNP	any legal sporting arms	11/04/2006	11/06/2006	ELK-1-007	30	A
6B: VCNP	any legal sporting arms	11/11/2006	11/13/2006	ELK-1-008	30	A
6B: VCNP	any legal sporting arms	11/18/2006	11/20/2006	ELK-1-009	30	A
6B: VCNP	bows only	09/02/2006	09/06/2006	ELK-2-010	10	ES
6B: VCNP	bows only	09/09/2006	09/13/2006	ELK-2-011	15	ES
6B: VCNP	muzzle loading rifles only	09/16/2006	09/20/2006	ELK-3-012	16	MB
6B: VCNP	muzzle loading rifles only	09/16/2006	09/20/2006	ELK-3-013	8	A
6B: VCNP	mobility impaired only	10/21/2006	10/23/2006	ELK-4-014	30	A

M. Late season bow-only elk hunts. These hunts will be administered by the department through a registration process other than the random draw process. The open GMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

Open GMUs or areas	Hunt Start	Hunt end	Hunt code	Licenses	Bag limit
12	11/25/2006	11/29/2006	ELK-2-300	TBD	APRE/6
34	12/09/2006	12/13/2006	ELK-2-301	TBD	APRE/6
37	12/09/2006	12/13/2006	ELK-2-302	TBD	APRE/6
43	11/11/2006	11/15/2006	ELK-2-303	TBD	APRE/6
50	11/11/2006	11/15/2006	ELK-2-304	TBD	APRE/6

19.31.8.25 PRONGHORN ANTELOPE (2006-2007):

A. Pronghorn antelope hunts for any legal sporting arms, listing the open areas or AMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on original hunt code. Youth hunters must provide hunter education certificate number on application. Military only hunters must be full time active military and proof of military status must accompany application.

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
3, 5, 9, 10, 11, 12, 13, 15, 16, 17, 18, 20	10/07/2006	10/08/2006	ANT-1-100	250	MB
6, 23, 24, 25, 26, 27, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43	09/16/2006	09/17/2006	ANT-1-101	300	MB
Selected ranches in SE area, youth only	09/23/2006	09/24/2006	ANT-1-102	75	F-IM
19: Stallion range of WSMR	09/09/2006	09/10/2006	ANT-1-103	10	MB
19: Stallion range of WSMR, youth only	09/09/2006	09/10/2006	ANT-1-104	10	MB
29: McGregor range, military only	09/09/2006	09/10/2006	ANT-1-105	10	MB
selected ranches in NE area, youth only	09/02/2006	09/03/2006	ANT-1-106	20	F-IM
41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	08/26/2006	08/28/2006	ANT-1-107	300	MB

B. Pronghorn antelope hunts for bows, listing the open AMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below:

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
3, 5, 10	08/19/2006	08/27/2006	ANT-2-100	10	MB
9	08/19/2006	08/27/2006	ANT-2-101	6	MB
12	08/19/2006	08/27/2006	ANT-2-102	15	MB
13	08/19/2006	08/27/2006	ANT-2-103	30	MB
16	08/19/2006	08/27/2006	ANT-2-104	25	MB
17	08/19/2006	08/27/2006	ANT-2-105	2	MB
20	08/19/2006	08/27/2006	ANT-2-106	30	MB
6, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43	08/19/2006	08/23/2006	ANT-2-107	200	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	08/12/2006	08/16/2006	ANT-2-108	100	MB

C. Pronghorn antelope hunts for legal muzzle loading rifles and bows, listing the hunt dates, open areas or AMUs, hunt code, number of licenses and bag limit shall be as indicated below. Youth hunters must provide hunter education certificate number on application.

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
29	09/09/2006	09/10/2006	ANT-3-100	50	MB
29: McGregor range, youth only	09/09/2006	09/10/2006	ANT-3-101	10	MB
52: portion west of the Rio Grande	08/19/2006	08/22/2006	ANT-3-102	175	MB

D. Pronghorn antelope hunts for certified mobility-impaired hunters, listing the hunt dates, hunt code, number of licenses, bag limit, and open areas or AMUs, shall be listed below:

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
09	08/05/2006	08/06/2006	ANT-4-100	2	MB
12	08/05/2006	08/06/2006	ANT-4-101	2	MB
13	08/05/2006	08/06/2006	ANT-4-102	5	MB
16	08/05/2006	08/06/2006	ANT-4-103	2	MB
18	08/05/2006	08/06/2006	ANT-4-104	5	MB
19: Stallion range of WSMR	09/09/2006	09/10/2006	ANT-4-105	10	MB
20	08/05/2006	08/06/2006	ANT-4-106	2	MB
3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 43	08/05/2006	08/07/2006	ANT-4-107	45	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	08/05/2006	08/06/2006	ANT-4-108	25	MB

E. The director may cancel portions of any pronghorn antelope hunt or change a bag limit if surveys indicate the need for such action.

F. Private land pronghorn antelope hunts: The director may allot private land pronghorn antelope authorizations for use on those ranches whose owners, manager, or lessees sign a hunting agreement with the department. Hunt dates shall be as indicated below, listing areas or AMUs open, the hunt date, hunt code, numbers of licenses and bag limit:

Open AMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
selected ranches in AMUs 1, 2, 3, 5, 6, 7, 8, 10, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43	09/16/2006	09/17/2006	ANT-1-700	unlimited	F-IM
selected ranches in AMUs 1, 2, 3, 5, 6, 7, 8, 10, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43	09/23/2006	09/24/2006	ANT-1-701	unlimited	F-IM
selected ranches in AMUs 41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58	09/16/2006	09/18/2006	ANT-1-702	unlimited	MB
selected ranches in NE area	09/02/2006	09/03/2006	ANT-1-703	unlimited	F-IM

G. Bow and mobility-impaired pronghorn antelope hunters shall not be allowed in any AMU or portion thereof that has been administratively closed by the director to rifle hunting.

[19.31.8.25 NMAC - Rp, 19.31.8.25 NMAC, 4-1-2005]

19.31.8.26 BARBARY SHEEP (2006-2007):

A. Barbary sheep hunt dates shall be as indicated below, listing the hunt date, hunt code, number of licenses, bag limit, and open GMUs or areas:

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
28, 29, 30, 31, 32, 33, 34, 36, 37	02/01/2007	02/28/2007	BBY-1-001	unlimited	ES
statewide, including the Marquez and Water canyon WMAs in GMU 9 and except GMUs 8, 13, 14, 16, WSMR and Fort Bliss portions of 19, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37	04/01/2006	03/31/2007	BBY-1-001	unlimited	ES

B. [RESERVED]

[19.31.8.26 NMAC - Rp, 19.31.8.26 NMAC, 4-1-2005]

19.31.8.27 BIGHORN SHEEP (2006-2007):

A. Bighorn sheep hunts shall be as indicated below, listing the hunt dates, hunt code, number of licenses, bag limit, and GMUs or areas open. Youth hunters must provide hunter education certificate number on application. The Pecos mountain youth hunt (BHS-1-103) bag limit is one ram with a horn size of $\frac{3}{4}$ curl or smaller, any youth successfully drawing this hunt will not be allowed to apply for this hunt in subsequent hunting seasons.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
23: San Francisco river area	12/27/2006	01/06/2007	BHS-1-100	1	1 ram
27: Peloncillo mountains	11/01/2006	11/30/2006	BHS-1-101	1	1 ram
44/45: Pecos mountains	08/26/2006	09/08/2006	BHS-1-102	8	1 ram
44/45: Pecos mountains, youth only	08/26/2006	09/08/2006	BHS-1-103	1	One $\frac{3}{4}$ curl ram or less
53: Wheeler peak portion south of NM 38	09/08/2006	09/18/2006	BHS-1-104	2	1 ram
auction hunt, 1 hunt area of: 23, 27, 44/45, or	08/01/2006	12/31/2006	BHS-1-500	1	1 ram
auction hunt (continued): 53, south of NM 38.	08/01/2006 09/01/2006	08/10/2006 12/31/2006	BHS-1-500	1	1 ram
raffle hunt, 1 of 3 hunt areas not chosen by auction hunter: 23, 27, 44/45, or	08/01/2006	12/31/2006	BHS-1-600	1	1 ram
raffle hunt (continued): 53, south of NM 38	08/01/2006 09/01/2006	08/10/2006 12/31/2006	BHS-1-600	1	1 ram

B. [RESERVED]

[19.31.8.27 NMAC - Rp, 19.31.8.27 NMAC, 4-1-2005]

19.31.8.28 JAVELINA (2006-2007):

A. Javelina hunts shall be as indicated below, listing the hunt date, hunt code, number of licenses, bag limit, and open GMUs or areas. Youth hunters must provide hunter education certification number on application.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
12, 13, 15, 16, 17, 20, 21, 22, 30, 31	01/15/2007	03/31/2007	JAV-1-100	600	ES
12, 13, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27 (including Big Hatchet WMA), 30, 31, youth only.	01/15/2007	03/31/2007	JAV-1-101	100	ES
23, 24, 25, 26, 27 (including Big Hatchet WMA)	02/01/2007	02/15/2007	JAV-1-102	1300	ES

B. [RESERVED]

[19.31.8.28 NMAC - Rp, 19.31.8.28 NMAC, 4-1-2005]

19.31.8.29 ORYX (2006-2007):

A. Oryx hunts for center-fire firearms shall be as indicated below, listing the open areas, hunt dates, hunt code, number of licenses and bag limit. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on original hunt code. Two persons may apply on one application. New Mexico residents returning from military service in Iraq or Afghanistan are eligible to apply for oryx hunts designated as "Iraq/Afghanistan vets". Proof of this service is required.

Open areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Rhodes canyon	10/14/2006	10/15/2006	ORX-1-100	100	ES
Rhodes canyon (Iraq/Afghanistan vets)	10/14/2006	10/15/2006	ORX-1-101	5	ES
Rhodes canyon	02/03/2007	02/04/2007	ORX-1-102	100	ES
Rhodes canyon (Iraq/Afghanistan vets)	02/03/2007	02/04/2007	ORX-1-103	5	ES
Rhodes canyon	03/03/2007	03/04/2007	ORX-1-104	100	ES
Rhodes canyon (Iraq/Afghanistan vets)	03/03/2007	03/04/2007	ORX-1-105	5	ES
small missile range	09/30/2006	10/01/2006	ORX-1-106	50	ES
small missile range (Iraq/Afghanistan vets)	09/30/2006	10/01/2006	ORX-1-107	5	ES
small missile range	01/06/2007	01/07/2007	ORX-1-108	50	ES
small missile range (Iraq/Afghanistan vets)	01/06/2007	01/07/2007	ORX-1-109	5	ES
Stallion range	09/16/2006	09/17/2006	ORX-1-110	100	ES
Stallion range (Iraq/Afghanistan vets)	09/16/2006	09/17/2006	ORX-1-111	5	ES
Stallion range	11/18/2006	11/19/2006	ORX-1-112	100	ES
Stallion range (Iraq/Afghanistan vets)	11/18/2006	11/19/2006	ORX-1-113	5	ES
Stallion range	01/20/2007	01/21/2007	ORX-1-114	100	ES
Stallion range (Iraq/Afghanistan vets)	01/20/2007	01/21/2007	ORX-1-115	5	ES
Stallion range	02/17/2007	02/18/2007	ORX-1-116	100	ES
Stallion range (Iraq/Afghanistan vets)	02/17/2007	02/18/2007	ORX-1-117	5	ES

B. Oryx hunts for any legal firearms, muzzle loading rifles, and bows shall be as indicated below, listing the hunt dates, hunt code, maximum number of licenses, bag limit, and areas open. Legal sporting arms for the final day of any hunt listed below shall be center-fire rifles and muzzle loading rifles only. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on original hunt code. Youth hunters must provide hunter education certificate number on application. New Mexico residents returning from military service in Iraq or Afghanistan are eligible to apply for oryx hunts designated as "Iraq/Afghanistan vets". Proof of this service is required.

Open areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Rhodes canyon	12/16/2006	12/17/2006	ORX-1-120	80	ES
Rhodes canyon, youth only	12/16/2006	12/17/2006	ORX-1-121	20	ES
mountainous areas on WSMR	12/16/2006	12/19/2006	ORX-1-122	10	ES
Rhodes canyon (Iraq/Afghanistan vets)	12/16/2006	12/17/2006	ORX-1-123	5	ES

C. Oryx incentive authorizations.

(1) Distribution. Five (5) oryx incentive authorization certificates will be distributed through a drawing that will include all prior year deer and elk hunters forwarding their harvest survey forms to the department or its designated agent by the published deadline.

(2) Distribution. One (1) oryx incentive authorization certificate will be distributed through a drawing that will include all prior year deer and elk hunters who delivered for testing the head of a legally harvested elk or deer within 48 hours of death to the department or its designated agent.

(3) Authorization certificates to purchase the license may be used either by the applicant or any individual of the selected applicant's choice and may be transferred through sale, barter, or gift.

(4) Oryx incentive hunts shall be any one (1) regular established oryx season (excluding population reduction hunts) of the hunter's choice. Bag limit shall be either sex with the legal sporting arms and hunt area of the selected hunt.

D. The director, at his discretion, may adjust the number of oryx licenses and hunt dates on White Sands missile range pending negotiations with White Sands missile range officials. Hunt dates may extend into future hunting seasons.

[19.31.8.29 NMAC - Rp, 19.31.8.29 NMAC, 4-1-2005]

19.31.8.30 PERSIAN IBEX (2006-2007):

A. Persian ibex hunts shall be as indicated below, listing the open GMUs or areas, hunt date, hunt code, number of licenses and bag limit. The Florida mountain hunt is that 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, and this area is closed to cougar hunting during any concurrent Florida mountain Persian ibex hunt. Youth hunters must provide hunter education certification number on application. Sporting arms for IBX-1-500, IBX-1-525, IBX-1-528, and IBX-1-550, include legal rifles, muzzle loading rifles and bows. Sporting arms legal for IBX-2-535 is bow only and for IBX-3-540 is legal muzzle loading rifles and bows.

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
Florida mountains, youth only	09/30/2006	10/08/2006	IBX-1-500	15	F-IM
Florida mountains, once in a lifetime	12/02/2006	12/17/2006	IBX-1-525	15	ES
off-mountain: 20, 21, 23, 24, 25 (except Florida mountain hunt area), 26 (including Big Hatchet WMA), 27	04/01/2006	03/31/2007	IBX-1-528	unlimited	ES
Florida mountains	01/01/2007	01/15/2007	IBX-2-535	50	ES
Florida mountains	02/17/2007	02/25/2007	IBX-3-540	5	ES

B. Holders of the off-mountain license (IBX-1-528) may apply for any Florida mountain ibex hunt (IBX-1-500, IBX-1-525, IBX-2-535, IBX-3-540 or IBX-1-550) unless otherwise restricted by rule. 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, 4-1-2005]

19.31.8.31 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS, AND HARVEST LIMITS: The director, with the concurrence of the chairman or his designee, may adjust the number of licenses, permits, authorizations, or harvest limits, up or down by no more than 20% to address significant changes in population levels or habitat availability (exception: GMU 34, elk licenses and authorizations may be adjusted beyond this amount as necessary to meet management objectives). The total adjustment, by GMU, area or zone, may be applied to permits, authorizations, licenses, harvest limits or specific hunt codes for species in this rule.

[19.31.8.31 NMAC - N, 4-1-2005]

19.31.8.32 CHRONIC WASTING DISEASE CONTROL: It shall be unlawful to transport dead deer or elk taken from any game management unit in which the presence of chronic wasting disease has been confirmed to any location outside that game management unit except the following portions of the carcass:

- A.** meat that is cut and wrapped (either commercially or privately);
- B.** quarters or other portions of meat with no part of the spinal column or head attached;
- C.** meat that has been boned out;
- D.** hides with no heads attached;
- E.** clean skull plates with antlers attached; clean is defined as having been immersed in a bath of at least 1 part chorine bleach and 2 parts water with no meat or tissue attached;
- F.** antlers with no meat or tissue attached;
- G.** upper canine teeth, also known as “buglers,” “whistlers,” or “ivories;”
- H.** finished taxidermied heads.

[19.31.8.32 NMAC - Rp, 19.31.8.32 NMAC, 4-1-2005]

NEW MEXICO COMMISSION ON HIGHER EDUCATION

This is the amendment to 5.3.13 NMAC, sections 2, 6, 7, 8, 9, effective 12/30/04

5.3.13.2 SCOPE: 5.3.13 NMAC applies to the allocation and distribution of money appropriated to the adult basic education fund by the legislature for use in a given fiscal year and further applies to the allocation and distribution of those monies made available to the state of New Mexico for basic education of adults and available for formula allocation and distribution to pay ~~[the federal share of the cost of]~~ for the establishment or expansion of adult education programs to be carried out by local educational agencies, community colleges as defined by Section 21-13-2 NMSA 1978, branch community colleges as defined by Section 21-14-1 NMSA 1978, technical and vocational institutes as defined by Section 21-16-2 NMSA 1978, learning centers established pursuant to Section 21-16A NMSA 1978, postsec-

ondary educational institutions operated by tribal entities, and bureau of Indian affairs controlled postsecondary schools.

[5.3.13.2 NMAC - Rp, 6 NMAC 8.2.1.2, 6/30/2003; A, 12/30/2004]

5.3.13.6 OBJECTIVE: This regulation establishes a formula funding process whereby monies appropriated by the New Mexico legislature to the adult basic education fund and monies made available to the state of New Mexico for basic education of adults and available for formula allocation and distribution to pay ~~[the federal share of the cost of]~~ for the establishment or expansion of adult education programs to be carried out by local educational agencies, community colleges as defined by Section 21-13-2 NMSA 1978, branch community colleges as defined by Section 21-14-1 NMSA 1978, technical and vocational institutes as defined by Section 21-16-2 NMSA 1978, learning centers established pursuant to Section 21-16A NMSA 1978, postsecondary educational institutions operated by tribal entities, and bureau of Indian affairs controlled postsecondary schools are allocated and distrib-

uted.

[5.3.13.6 NMAC - Rp, 6 NMAC 8.2.1.6, 6/30/03; A, 12/30/2004]

5.3.13.7 DEFINITIONS:

A. “Adult basic education” (ABE) means adult education as defined by 20 U.S.C. Section 9202(1).

B. “Adult basic education fund” means that fund established pursuant to Section 22-8-30.1 NMSA 1978 for the purpose of funding- adult basic education programs for educationally disadvantaged adults.

~~[C. “Adult education” means adult education as defined by 20 U.S.C. Section 9202(1).~~

D. ~~[Reserved]~~

~~**E.** “Advanced ESL and adult secondary education (GED preparation)” means that service level for individuals who can read materials on abstract topics, descriptions, and narrations of factual material. The individuals can write descriptions and short essays and can complete complex forms and applications, can converse with minimal or no difficulty, can communicate by telephone on familiar sub-~~

jects, and have basic control of grammar, understand descriptive and spoken narrative, and can comprehend abstract concepts in familiar contexts.

F. "Appropriation" means the total of that amount appropriated to the adult basic education fund by the New Mexico legislature for a given fiscal year.

G. "Beginning ESL and beginning ABE" means that service level for individuals who have limited understanding of print and whose speaking and listening skills are limited to simple communication of survival needs through repetitive phrases and responding to simple questions.

H. "Contact hour" means one hour of classroom instructional time or one hour of evaluation or diagnostic service.

I. "ESL" means instruction in the use of English as a second language.

J. "Fiscal year" means July 1 of a given year through June 30 of the following calendar year.

K. "GED" means standardized tests of General Educational Development and the credential awarded for passing these exams.

L. "Headeount" means (1) an individual who was enrolled in and received instructional offerings for twelve or more contact hours during the second preceding fiscal year; and

(2) the full time equivalent derived by obtaining the ratio of the actual number of contact hours for individuals enrolled and receiving instructional offerings during the second preceding fiscal year for fewer than twelve contact hours to twelve hours; and;

(3) an individual enrolled in and receiving instructional offerings during the second preceding fiscal year who obtained the GED during the second preceding fiscal year in fewer than twelve contact hours.

M. "Intermediate ESL and intermediate ABE" means that service level for individuals who can read simple material on familiar subjects and can write simple paragraphs on survival topics and personal issues with some errors, who can understand simple learned phrases and new phrases containing familiar vocabulary, can converse on familiar topics beyond survival needs, and who can clarify speech through rewording and asking questions.

N. [Reserved]

O. "Preceding fiscal year" means that fiscal year immediately preceding the fiscal year for which the allocation is being calculated.

P. "Restricted funding source" means categorical funding for adult basic education.

Q. "Second preceding fis-

cal year" means that fiscal year two years before the fiscal year for which the allocation is being calculated.

R. "Service delivery category" means service delivery based on the federal definitions of the adult basic education functioning levels of beginning ESL and beginning ABE, intermediate ESL and intermediate ABE, and advanced ESL and adult secondary education.

S. "State administrative site" means an entity submitting a proposal meeting the criteria established by the commission on higher education and approved for formula funding through the adult basic education fund for a given fiscal year, including public schools and school districts, community colleges as defined by Section 21-13-2 NMSA 1978, branch community colleges as defined by Section 21-14-1 NMSA 1978, technical and vocational institutes as defined by Section 21-16-2 NMSA 1978, learning centers established pursuant to Section 21-16A NMSA 1978, state-supported educational programs, and postsecondary educational institutions operated by tribal entities and located in New Mexico.

T. "Unrestricted funding source" means any other funding source used for direct support of adult basic education.

[5.3.13.7 NMAC - Rp, 6 NMAC 8.2.1.7, 6/30/03; A, 12/30/2004]

5.3.13.8 [CALCULATION OF] APPROPRIATION TO STATE ADMINISTRATIVE SITES:

[A. WEIGHTED HEADEOUNT

(1) The weighting factor for each service delivery category is established as follows:

(a) The average contact hours per headeount for each service delivery category is calculated by dividing the sum of the statewide total of contact hours for the same service delivery category for the second preceding fiscal year for all state administrative sites by the statewide total headeount for the same service delivery category for the second preceding year for all state administrative sites.

(b) The service delivery category having the lowest rate as determined in Subparagraph (a) of Paragraph (1) of Subsection A of 5.3.13.8 NMAC is assigned the weighting factor of 1.0.

(c) The weighting for each remaining service delivery category is established by determining the ratio that the service delivery category rate bears to the lowest service delivery category rate.

(2) A weighted headeount for each service delivery category for each state administrative site is established by multiplying the final headeount reported for the

second preceding fiscal year for the service delivery category by the factor as determined in Paragraph (1) of Subsection A of 5.3.13.8 NMAC.

(3) The total weighted headeount for a state administrative site is the sum of the weighted headeounts for each service delivery category.

B. INSTRUCTIONAL PROGRAM COST

(1) The total statewide cost for instruction is determined by adding all reported expenditures from restricted and unrestricted sources for all state administrative sites for the second preceding fiscal year and dividing the sum by 1.35.

(2) The rate per weighted headeount cost for instruction is obtained by dividing the quotient obtained in Paragraph (1) of Subsection B of 5.3.13.8 NMAC by the statewide total of total weighted headeounts obtained in Paragraph (3) of Subsection A of 5.3.13.8 NMAC.

(3) The instructional program cost for a state administrative site is that product derived by multiplying the rate per weighted headeount cost by the total weighted student headeount as calculated in Paragraph (3) of Subsection A of 5.3.13.8 NMAC.

C. SUPPORT SERVICE COST

(1) Instructional program cost for each state administrative site is multiplied by .35 to obtain the support service cost.

(2) If the product derived in Paragraph (1) of Subsection C of 5.3.13.8 NMAC is less than the two year postsecondary student services staffing unit established annually by the commission on higher education, the support service cost will equal the student services staffing unit.

D. TOTAL PROGRAM COST The total program cost for a state administrative site is the sum of the instructional program cost and the support service cost.

E. PROGRAM ALLOCATION

(1) The Commission on higher education will calculate an adjustment factor as follows:

(a) The sum of the total program costs for all state administrative sites will be calculated.

(b) The sum calculated in Subparagraph (a) of Paragraph (1) of Subsection E of 5.3.13.8 NMAC will be subtracted from the appropriation for the fiscal year for which the allocations are being calculated; the result will be divided by the sum of the total program costs for all state administrative sites and 1 will be added in the following manner: "(appropriation minus total program cost for all state administrative sites) divided by total program costs for all state administrative sites) plus 1". The result is the adjustment factor.

~~(2) The adjustment factor will be applied to the total program cost for each state administrative site. The product derived is the program allocation for the state administrative site.~~

~~(3) The commission on higher education will notify each state administrative site of its program allocation no later than June 15 of the fiscal year immediately preceding the fiscal year for which the allocation is being made.~~

~~(4) If the appropriation is adjusted prior to the end of the fiscal year for which the allocations are being calculated, the commission on higher education will recalculate the adjustment factor and notify state administrative sites.~~

~~F. REPORTING REQUIREMENTS: State administrative sites will comply with reporting dates and reporting requirements established by the commission on higher education.]~~

~~G. [Reserved]~~
The commission on higher education will convene a task force on ABE formula funding with members representing ABE programs, post-secondary institution fiscal offices, and the association of community colleges to review and modify the funding formula as appropriate.

[5.3.13.8 NMAC - Rp, 6 NMAC 8.2.1.8, 6/30/03; A, 12/30/2004]

5.3.13.9 BUDGET

A. The commission on higher education will notify each state administrative site of its program allocation no later than June 15 of the fiscal year immediately preceding the fiscal year for which the allocation is being made.

~~A.] B. State administrative sites will submit to the commission on higher education budgets based upon program allocations, together with executed written agreements as required by the commission on higher education, no later than June 30 of the fiscal year immediately preceding the fiscal year for which the allocations are made.~~

~~B. If the adjustment factor is recalculated in accordance with Paragraph (4) of Subsection E of 5.3.13.8 NMAC, state administrative sites will submit budget adjustments to the commission on higher education.]~~

C. State administrative sites will comply with reporting dates and reporting requirements established by the commission on higher education.

[5.3.13.9 NMAC - Rp, 6 NMAC 8.2.1.9, 6/30/03; A, 12/30/2004]

NEW MEXICO COMMISSION ON HIGHER EDUCATION

This is the amendment to 5.7.18 NMAC, Sections 9 and 11, effective 12/30/04.

5.7.18.9 Nonresident for tuition purposes defined:

A. **"Legal nonresident"** means a student who enters and remains in this state principally to enroll in postsecondary education, is presumed to continue to reside outside this state, and such presumption continues in effect until rebutted by clear and convincing evidence of bona fide residence.

B. **"Tuition reciprocity participants"** mean any nonresident student participating in a tuition reciprocity agreement. Pursuant to Section 21-1-6 NMSA 1978, these participants are ineligible for residency. Furthermore, students may not begin to establish residency (i.e., 12-month durational requirement) until discontinuing from such a program. Refer to commission-negotiated reciprocity agreements for additional detail.

C. **"Student exchange program"** means all programs established under the auspices of the western interstate commission on higher education (WICHE), and other commission on higher education (commission) approved contract programs (e.g., dental...). Participating students may not begin to establish residency (i.e., 12-month durational requirement) until discontinuing from such a program. Refer to compact negotiated agreements for additional detail about WUE, WRGP, and PSEP participation and limitations.

(1) **"Ongoing student"** means any student applying to be certified as a legal resident of New Mexico in order to participate in a student exchange program must have resided in New Mexico for three calendar years prior to the application deadline. The existing commission rules on residency status shall apply except for the three-year requirement.

(2) **"Incoming student"** means any nonresident student attending a New Mexico public postsecondary institution participating in a student exchange program is ineligible for residency. Furthermore, students may not begin to establish residency (i.e., 12-month durational requirement) until discontinuing from such a program.

~~D. "Non-U.S. citizen" means persons and their children who are not citizens of the United States shall be classified as residents or nonresidents on the same basis as citizens of the United States if they are lawfully in the United States and have obtained permanent resident status from the Immigration and Naturalization~~

~~Service (INS). Non citizen on other visas (e.g., diplomatic student, visitors or visiting scholars) shall be classified as nonresidents. Service in the armed forces of the United States shall entitle the noncitizen to be classified as a nonresident or a resident on the same basis as a citizen.]~~

[7/15/97, 9/30/98; 5.7.18.9 NMAC - Rn & A, 5 NMAC 7.18.9, 8/14/2000; A, 12/30/2004]

5.7.18.11 Requirements to establish New Mexico residency: To become a legal resident of New Mexico for tuition purposes each of the following requirements must be satisfied.

A. **Twelve month durational requirement.** A person must physically reside in New Mexico for the twelve consecutive months immediately preceding the term for which the resident classification is requested.

B. **Financial independence requirement.** Only persons who are financially independent may establish residency apart from parents or guardians. A student cannot be approved for residency who is financially dependent upon his or her parents or legal guardians who are nonresidents of New Mexico. Dependency is always determined by the status of the student on their parent's or guardians previous year federal income tax form. If the student is shown to be dependent, they will not be considered financially independent or eligible for residency during the current year.

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

D. **Overt acts requirement.** Overt acts are required to evidence support of the written declaration of intent to establish permanent residency in New Mexico. The required overt acts are evidence of any two of the following:

~~[(1) if employed, evidence if employment was within the state of New Mexico;~~

~~(2) if employed in New Mexico, evidence of payment of New Mexico state income tax;~~

~~(3) evidence of a New Mexico drivers' license;~~

~~(4) evidence of a New Mexico vehicle registration; and~~

~~(5) evidence of voter registration in New Mexico.]~~

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

(2) a New Mexico high school transcript issued in the past year confirming attendance at a New Mexico public or pri-

vate high school within the past twelve (12) months; or
 (3) a transcript from an online high school showing a New Mexico address confirming attendance within the past twelve (12) months; or
 (4) a New Mexico driver's license or ID card with an original date of issue or a renewal date issued prior to the application date for admission; or
 (5) proof of payment of New Mexico state income tax for the previous year; or
 (6) evidence of employment within the state of New Mexico; or
 (7) New Mexico vehicle registration; or
 (8) voter registration in New Mexico; or
 (9) a bank account established in New Mexico prior to the application date for admission; or

(10) proof of residential property ownership in New Mexico; or
 (11) a rental agreement within New Mexico; or
 (12) utility bills showing the applicant name and a New Mexico address; or
 (13) other evidence which would reasonably support the individual's intent to establish and maintain New Mexico residency.
~~(14)~~ (14) Any act considered inconsistent with being a New Mexico resident will cause the request for resident classification to be denied. As such, other relevant factors may be considered in addition to the items listed in this Section. ~~For example, additional documentation which may be requested of the student may include: 1) evidence of a long established bank account of at least six (6) months in New Mexico, or 2) evidence of residential~~

~~property ownership in New Mexico or evidence of a rental agreement within the State.~~
~~(7) The student must meet the requirements of all of the overt acts listed in this section unless they can sufficiently demonstrate why they are unable to do so.]~~
 (15) The commission recognizes that there may be circumstances in which a student would not be able to fulfill the requirements of an overt act as listed in this section, such as: 1) individual is physically disabled and does not have a driver's license, or 2) individual is a convicted felon and therefore cannot vote, etc. In instances such as these, the institution will afford the student an opportunity to provide other documentary evidence or reasonable explanation which demonstrates that permanent residency in New Mexico has been established by the student.
 [7/15/97; 5.7.18.11 NMAC - Rn, 5 NMAC 7.18.11, 8/14/2000; A, 12/30/2004]

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.510 NMAC, Sections 11, 12 and 13, which will be effective on January 1, 2005. The Medical Assistance Division amended subsections in each section by changing the deduction amounts.

8.200.510.11 COMMUNITY SPOUSE RESOURCE ALLOWANCE (CSRA): The CSRA standard varies based on when the applicant/recipient become institutionalized for a continuous period. The CSRA remains constant even if it was calculated prior to submission of a formal medicaid application. If institutionalization began:

- (A) Between September 30, 1989 and December 31, 1989, the state maximum CSRA is \$30,000 and the federal maximum CRSA is \$60,000.
- (B) On or after January 1, 1990, the state minimum is \$31,290 and the federal maximum CSRA is \$62,580.
- (C) On or after January 1, 1991, the state minimum is \$31,290 and the federal maximum CSRA is \$66,480.
- (D) On or before January 1, 1992, the state minimum is \$31,290 and the federal maximum CSRA is \$68,700.
- (E) On or after January 1, 1993, the state minimum is \$31,290 and the federal maximum CSRA is \$70,740.
- (F) On or after January 1, 1994, the state minimum is \$31,290 and the federal maximum CSRA is \$72,660.
- (G) On or after January 1, 1995, the state minimum is \$31,290 and the federal maximum CSRA is \$74,820.
- (H) On or after January 1, 1996, the state minimum is \$31,290 and the federal maximum CSRA is \$76,740.
- (I) On or after January 1, 1997, the state minimum is \$31,290 and the federal maximum CSRA is \$79,020.
- (J) On or after January 1, 1998, the state minimum is \$31,290 and the federal maximum CSRA is \$80,760.
- (K) On or after January 1, 1999, the state minimum is \$31,290 and the federal maximum CSRA is \$81,960.
- (L) On or after January 1, 2000, the state minimum is \$31,290 and the federal maximum CSRA is \$84,120.
- (M) On or after January 1, 2001, the state minimum is \$31,290 and the federal maximum CSRA is \$87,000.
- (N) On or after January 1, 2002, the state minimum is \$31,290 and the federal maximum CSRA is \$89,280.
- (O) On or after January 1, 2003, the state minimum is \$31,290 and the federal maximum CSRA is \$90,660.
- (P) On or after January 1, 2004, the state minimum is \$31,290 and the federal maximum CSRA is \$92,760.
- (Q) On or after January 1, 2005, the state minimum is \$31,290 and the federal maximum CSRA is \$95,100.

[1-1-95, 7-1-95, 3-30-96, 8-31-96, 4-1-97, 6-30-97, 4-30-98, 6-30-98, 1-1-99, 7-1-99, 7-1-00; 8.200.510.11 NMAC - Rn, 8 NMAC 4.MAD.510.1 & A, 1-1-01; A, 1-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT): Apply applicable deductions in the order listed below when determining the medical care credit for an institutionalized spouse.

DEDUCTION	AMOUNT
A. Personal needs allowance for institutionalized spouse	\$52
B. Basic community spouse monthly income allowance standard (CSMIA)	\$1,562
(CSMIA standard minus income of community spouse = deduction)	
C. * Excess shelter allowance for allowable expenses for community spouse	[\$757] \$816
D. ** Extra maintenance allowance	
E. Dependent family member	1/3 X (CSMIA - dependent member's income)
F. Non-covered medical expenses	

- G. * The allowable shelter expenses of the community spouse must exceed \$469 per month for any deduction to apply.
- H. ** To be deducted, the extra maintenance allowance for the community spouse must be ordered by a court of jurisdiction or a state administrative hearing officer.
- I. **MAXIMUM TOTAL:** The maximum total of the community spouse monthly income allowance and excess shelter deduction is \$2,319.

[1-1-95, 7-1-95, 3-30-96, 8-31-96, 4-1-97, 6-30-97, 4-30-98, 6-30-98, 1-1-99, 7-1-99, 7-1-00; 8.200.510.12 NMAC - Rn, 8 NMAC 4.MAD.510.2 & A, 1-1-01, 7-1-01; A, 1-1-02; A, 7-1-02; A, 1-1-03; A, 7-1-03; A, 1-1-04; A, 7-1-04; A, 1-1-05]

8.200.510.13 AVERAGE MONTHLY COST OF NURSING FACILITIES FOR PRIVATE PATIENTS USED IN TRANSFER OF ASSET PROVISIONS: Costs of care are based on the date of application registration.

DATE	AVERAGE COST PER MONTH
A. July 1, 1988 - Dec. 31, 1989	\$ 1,726 per month
B. Jan. 1, 1990 - Dec. 31, 1991	\$ 2,004 per month
C. Jan. 1, 1992 - Dec. 31, 1992	\$ 2,217 per month
D. Effective July 1, 1993, for application register on or after Jan. 1, 1993	\$ 2,377 per month
E. Jan. 1, 1994 - Dec. 31, 1994	\$2,513 per month
F. Jan. 1, 1995 - Dec. 31, 1995	\$2,592 per month
G. Jan. 1, 1996 - Dec. 31, 1996	\$2,738 per month
H. Jan. 1, 1997 - Dec. 31, 1997	\$2,889 per month
I. Jan. 1, 1998 - Dec 31, 1998	\$3,119 per month
J. Jan. 1, 1999 - Dec. 31, 1999	\$3,429 per month
K. Jan. 1, 2000 - Dec. 31, 2000	\$3,494 per month
L. Jan. 1, 2001 - Dec. 31, 2001	\$3,550 per month
M. Jan. 1, 2002 - Dec. 31, 2002	\$3,643 per month
N. Jan. 1, 2003 - Dec. 31, 2003	\$4,188 per month
O. Jan. 1, 2004 - Dec. 31, 2004	\$3,899 per month
P. Jan 1, 2005 -	\$4,277 per month

Any fraction of a month remaining when this calculation is completed is dropped.

[1-1-95, 3-30-96, 4-1-97, 4-30-98, 1-1-99, 7-1-00; 8.200.510.13 NMAC - Rn, 8 NMAC 4.MAD.510.3 & A, 1-1-01; A, 1-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.520 NMAC, Sections 12, 13, 15, 16 and 20, which will be effective on January 1, 2005. The Medical Assistance Division amended these sections by changing the deduction amounts.

8.200.520.12 COLA DISREGARD COMPUTATION

<u>Current amt/cost of living</u>	<u>Benefit period</u>
<u>Current Title II amount</u> =	Benefit before [1/04] 1/05
1.024 1.027	
<u>Benefit before 1/05</u> =	Benefit before 1/04
1.021	
<u>Benefit before 1/04</u> =	Benefit before 1/03
1.014	
<u>Benefit before 1/03</u> =	Benefit before 1/02
1.026	
<u>Benefit before 1/02</u> =	Benefit before 1/01
1.035	
<u>Benefit before 1/01</u> =	Benefit before 1/00
1.025	
<u>Benefit before 1/00</u> =	Benefit before 1/99
1.013	
<u>Benefit before 1/99</u> =	Benefit before 1/98
1.021	
<u>Benefit before 1/98</u> =	Benefit before 1/97
1.029	
<u>Benefit before 1/97</u> =	Benefit before 1/96
1.026	
<u>Benefit before 1/96</u> =	Benefit before 1/95
1.028	
<u>Benefit before 1/95</u> =	Benefit before 1/94
1.026	

<u>Benefit before 1/94 =</u> 1.030	Benefit before 1/93
<u>Benefit before 1/93 =</u> 1.037	Benefit before 1/92
<u>Benefit before 1/92 =</u> 1.054	Benefit before 1/91
<u>Benefit before 1/91 =</u> 1.047	Benefit before 1/90
<u>Benefit before 1/90 =</u> 1.040	Benefit before 1/89
<u>Benefit before 1/89 =</u> 1.042	Benefit before 1/88
<u>Benefit before 1/88 =</u> 1.013	Benefit before 1/87
<u>Benefit before 1/87 =</u> 1.031	Benefit before 1/86
<u>Benefit before 1/86 =</u> 1.035	Benefit before 1/85
<u>Benefit before 1/85 =</u> 1.035	Benefit before 1/84
<u>Benefit before 1/84 =</u> 1.074	Benefit before 7/82
<u>Benefit before 7/82 =</u> 1.112	Benefit before 7/81
<u>Benefit before 7/81 =</u> 1.143	Benefit before 7/80
<u>Benefit before 7/80 =</u> 1.099	Benefit before 7/79
<u>Benefit before 7/79 =</u> 1.065	Benefit before 7/78
<u>Benefit before 7/78 =</u> 1.059	Benefit before 7/77

[1-1-95, 4-1-95, 3-30-96, 4-1-97, 4-30-98, 1-1-99; 8.200.520.12 NMAC - Rn, 8 NMAC 4.MAD.520.6 & A, 1-1-01; A, 1-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

8.200.520.13 FEDERAL BENEFIT RATES

YEAR	Individual FBR	Inst. FBR	Indiv. VTR	Couple FBR	Inst. FBR	Couple VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33
1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33
1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66

Ineligible child deeming allocation: [~~\$282.00~~] \$290.00

Part B premium is [~~\$66.60~~] \$78.20 per month.

VTR (value of one third reduction) is used when an individual or couple lives in the household of another and receives food and shelter from the household or when the individual or couple is living in their own household but receiving support and maintenance from others.

Effective January 1, 1989, the SSI resource standard was increased to \$2,000 for an individual and \$3,000 for a couple. These amounts did not change in 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, [~~or~~] 2004, or 2005.

[1-1-95, 4-1-95, 3-30-96, 4-1-97, 4-30-98, 1-1-99; 8.200.520.13 NMAC - Rn, 8 NMAC 4.MAD.520.7 & A, 1-1-01; A, 1-01-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

8.200.520.15 SSI LIVING ARRANGEMENTS

- A. **Individual living in his/her own household who own or rent**
 Payment amount: [~~\$564~~] \$579 Individual
 [~~\$846~~] \$869 Couple
- B. **Individual receiving support and maintenance payments:** For an individual or couple living his/her own household, but receiving support and maintenance from others (such as food, shelter or clothing), subtract the value of one third reduction (VTR).
 Payment amount: [~~\$564 - \$188 - \$376~~] \$579 - \$193 = \$386 Individual
 [~~\$846 - \$282 - \$564~~] \$869 - \$289.66 - \$579.34 Couple
- C. **Individual or couple living household of another:** For an individual or couple living in another person's household and not contributing his/her pro-rata share of household expenses, subtract the VTR.
 Payment amount: [~~\$564 - \$188 - \$376~~] \$579 - \$193 = \$386 Individual
 [~~\$846 - \$282 - \$564~~] \$869 - \$289.66 - \$579.34 Couple
- D. **Child living in home with his/her parent(s)**
 Payment amount: [~~\$564~~] \$579
- E. **Individual in institution**
 Payment amount: \$30.00
- [1-1-95, 4-1-95, 3-30-96, 4-1-97, 4-30-98, 1-1-99; 8.200.520.15 NMAC - Rn, 8 NMAC 4.MAD.520.9 & A, 1-1-01; A, 1-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER CATEGORIES: Effective January 1, [~~2004~~] 2005, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is [~~\$1,672~~] \$1,717.
 [4-1-95, 3-30-96, 4-1-97, 4-30-98, 1-1-99, 4-1-99; 8.200.520.16 NMAC - Rn, 8 NMAC 4.MAD.520.10 & A, 1-1-01; A, 1-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

8.200.520.20 COVERED QUARTER INCOME STANDARD:

<u>DATE</u>	<u>CALENDAR QUARTER AMOUNT</u>
Jan 2005 – Dec 2005	\$920 per calendar quarter
Jan. 2004 - Dec. 2004	\$900 per calendar quarter
Jan. 2003 - Dec. 2003	\$890 per calendar quarter
Jan. 2002 - Dec. 2002	\$870 per calendar quarter

[8.200.520.20 NMAC - Rn, 8.200.510.14 NMAC & A, 1-1-02; A, 4-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05]

NEW MEXICO LIVESTOCK BOARD

This is an amendment to 21.32.10 NMAC by the addition of a new Section 13, effective 12-30-04.

21.32.10.13 ABATTOIRS, MEAT DEALERS AND STORAGE PLANTS

A. Annual license fee for meat dealers, abattoirs and storage plants - one hundred dollars (\$100.00).

B. Annual licenses are valid from January 1st through December 31st.

C. License fees renewals are due thirty days before the expiration date of the current license.

D. Operating without a current license is prohibited.
 [21.32.10.13 NMAC - N, 12-30-04]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.4 NMAC, Section 16, effective January 15, 2005.

16.19.4.16 RESPONSIBILITIES OF PHARMACIST AND PHARMACIST INTERN:

A. The following responsi-

bilities require the use of professional judgment and shall therefore only be performed by a pharmacist or pharmacist intern:

(1) receipt of all new verbal prescription orders and reduction to writing;

(2) initial identification, evaluation and interpretation of the prescription order and any necessary clarification prior to dispensing;

(3) professional consultation with a patient or his agent regarding a prescription;

(4) evaluation of available clinical data in patient medication record system;

(5) oral communication to the patient or patient's agent of information, as defined in this section under patient counseling, in order to improve therapy by ensuring proper use of drugs and devices;

(6) professional consultation with the prescriber, the prescriber's agent, or any other health care professional or authorized agent regarding a patient and any medical information pertaining to the prescription, [and]

[~~(7) Preparation of prescription drug orders for cancer chemotherapy solutions.~~]

B. ONLY A PHARMACIST SHALL PERFORM THE FOLLOWING DUTIES:

(1) final check on all aspects of the completed prescription **including ster-**

ile products and cytotoxic preparations,

and assumption of the responsibility for the filled prescription, including, but not limited to, appropriateness of dose, accuracy of drug, strength, labeling, verification of ingredients and proper container;

(2) evaluation of pharmaceuticals for formulary selection within the facility;

(3) supervision of all supportive personnel activities including preparation, mixing, assembling, packaging, labeling and storage of medications;

(4) ensure that supportive personnel have been properly trained for the duties they may perform;

(5) any verbal communication with a patient or patient's representative regarding a change in drug therapy or performing therapeutic interchanges (i.e. drugs with similar effects in specific therapeutic categories); this does not apply to substitution of generic equivalents;

(6) any other duty required of a pharmacist by any federal or state law.

C. PATIENT RECORDS:

(1) A reasonable effort must be made to obtain, record and maintain at least the following information:

(a) name, address, telephone number, date of birth (or age) and gender of the patient;

(b) individual medical history, if significant, including disease state or states, known allergies and drug reactions and a

comprehensive list of medications and relevant devices; and

(c) pharmacist comments relevant to the individual's drug therapy.

(2) Such information contained in the patient record should be considered by the pharmacist or pharmacist intern in the exercise of their professional judgment concerning both the offer to counsel and the content of counseling.

D. PROSPECTIVE DRUG REVIEW:

(1) A pharmacist or pharmacist intern shall review the patient record for:

- (a) clinical abuse/misuse;
- (b) therapeutic duplication;
- (c) drug-disease contraindications;
- (d) drug-drug interactions;
- (e) incorrect drug dosage;
- (f) incorrect duration of drug treatment;
- (g) drug-allergy interactions;
- (h) appropriate medication indication.

(2) Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with the prescriber.

E. COUNSELING:

(1) Upon receipt of a new prescription drug order and following a review of the patient's record, a pharmacist or pharmacist intern shall personally offer to counsel on matters which will enhance or optimize drug therapy with each patient or the patient's agent. Upon receipt of a refill prescription drug order a pharmacy technician may query the patient or patient's agent regarding counseling by the pharmacist or pharmacist intern concerning drug therapy. Such counseling shall be in person, whenever practicable, or by telephone, and shall include appropriate elements of patient counseling which may include, in their professional judgment, one or more of the following:

- (a) the name and description of the drug;
- (b) the dosage form, dosage, route of administration, and duration of drug therapy;
- (c) intended use of the drug and expected action;
- (d) special directions and precautions for preparation, administration and use by the patient;
- (e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur;
- (f) techniques for self-monitoring drug therapy;
- (g) proper storage;
- (h) prescriptions refill informa-

tion;

(i) action to be taken in the event of a missed dose;

(j) the need to check with the pharmacist or practitioner before taking other medication; and

(k) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) [REPEALED]

(3) Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs.

(4) Patient counseling, as described above and defined in this regulation shall not be required for in-patients of a hospital or institution where other licensed health care professionals are authorized to administer the drug(s).

(5) A pharmacist shall in no way attempt to circumvent or willfully discourage a patient or patient's agent from receiving counseling. However, a pharmacist shall not be required to counsel a patient or patient's agent when the patient or patient's agent refuses such consultation.

(6) When the patient or agent is not present when the prescription is dispensed, including but not limited to a prescription that was shipped by the mail, the pharmacist shall ensure that the patient receives written notice of available counseling. Such notice shall include days and hours of availability, and: (1) of his or her right to request counseling; and (2) a toll-free telephone number in which the patient or patient's agent may obtain oral counseling from a pharmacist who has ready access to the patient's record. For pharmacies delivering more than 50% of their prescriptions by mail or other common carrier, the hours of availability shall be a minimum of 60 hours per week and not less than 6 days per week. The facility must have sufficient toll-free phone lines and personnel to provide counseling within 15 minutes.

(7) In every pharmacy there shall be prominently posted in a place conspicuous to and readable by prescription drug consumers a notice concerning available counseling.

F. [REPEALED]

G. REGULATORY ASSESSMENT: Profiles, either electronic or hard copy, shall be available for inspection, and shall provide the capability of storing the described historical information. The profiles must demonstrate that an effort is being made to fulfill the requirements by the completion of the detail required. A patient record shall be maintained for a period of not less than three (3) years from the date of the last entry in the profile record.

[08-27-90; 16.19.4.16 NMAC - Rn, 16 NMAC 19.4.16, 03-30-02; 16.19.4.16 NMAC - Rn, 16.19.4.17 NMAC, 12-15-02; A, 02-01-04; A, 11-30-04; A, 01-15-2005]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.6.11 NMAC, effective January 15, 2005.

16.19.6.11 MINIMUM EQUIPMENT AND ACCESSORY STANDARDS:

A. The pharmacy shall have the necessary equipment for the safe and appropriate storage, compounding, packaging, labeling, dispensing and preparations of drugs and parenteral products appropriate to the scope of pharmaceutical services provided. The following items shall be in the pharmacy:

(1) An updated reference source, appropriate to each practice site, either electronic or paper version;

(2) One copy of the most recently published New Mexico pharmacy laws, rules and regulations and available revisions, either electronic or paper version

B. PARENTERAL PHARMACEUTICALS

(1) Purpose: To ensure that the citizens of New Mexico receive routine safe and competent delivery of parenteral products and nutritional support throughout the state. To establish guidelines for licensure and inspection of such facilities by the state board of pharmacy.

(2) Definitions

(a) "Parenteral products pharmacy" is a retail pharmacy which prepares and distributes prescriptions for sterile products intended for parenteral administration to patients either at home or in or out of an institution licensed by the state.

(b) "Parenteral product" means any preparation administered by injection through one or more layers of skin tissue.

(c) "Sterile" means a preparation that has undergone a valid sterilization process and is devoid of all living microorganisms, packaged in such a way to ensure the retention of this characteristic.

(d) "Preparation" means a sterile product which has been subjected to manipulation by a pharmacist under aseptic conditions to render the product suitable for administration.

(e) "Aseptic conditions" means a cabinet or facility capable of obtaining [Class 100] ISO class 5 clean air as defined by the federal standards 209E and which is certified by a testing agency at least every six months.

(f) "Aseptic technique" means proper manipulation of articles within a

~~[Class 100]~~ **ISO class 5** clean air room or station to maintain sterility.

(g) "Disinfectant" means a chemical compound used to kill and or control microbial growth within a ~~[Class 100]~~ **ISO class 5** area or its surroundings and is approved for such use by the environmental protection agency.

(h) "Antimicrobial soap" means soap containing an active ingredient that is active both in vitro and vivo against skin microorganisms.

(i) "Surgical hand scrub" means an antimicrobial containing preparation which significantly decreases the number of microorganisms on intact skin.

(j) "SOP" means standard operating procedures. These are written standards for performance for tasks and operations within a facility.

(k) "Quality control" means procedures performed on preparations to assess their sterility and/or freedom from other contamination.

(l) "Quality assurance" means the procedures involved to maintain standards of goods and services.

(m) "~~[Class 100]~~ **ISO class 5** environment" means having less than 100 particles 0.5 microns or larger per cubic foot.

(n) "~~[Class 100,000]~~ **ISO class 8** environment" means having less than 100,000 particles 0.5 microns or larger per cubic foot.

(o) "Critical area" means any area in the controlled area where products or containers are exposed to the environment.

(p) "Process validation" means documented evidence providing a high degree of assurance that a specific process will consistently produce a product meeting its predetermined specifications and quality attributes.

(q) "Positive pressure controlled area" means the clean room is to have a positive pressure differential relative to the adjacent pharmacy.

(r) "Barrier isolator" is an enclosed containment device which provides a controlled ~~[Class 100]~~ **ISO class 5** environment. The device has four components; the stainless steel shell, HEPA filtration of entering and exiting air flows, glove ports for people interaction and an air lock for moving products into and out of the controlled environment.

(s) "Plan of care" means an individualized care plan for each patient receiving parenteral products in a home setting to include the following:

(i) a description of actual or potential drug therapy problems and their proposed solutions;

(ii) a description of desired outcomes of drug therapy provided;

(iii) a proposal for patient education and counseling; and
(iv) a plan specifying proactive objective and subjective monitoring (e.g. vital signs, laboratory test, physical findings, patient response, toxicity, adverse reactions, and non compliance) and the frequency with which monitoring is to occur.

(t) USP/NF standards means USP/NF Chapter 797 titled "pharmacy compounding - sterile products".

(u) "Cytotoxic drugs" shall be defined in the most current American hospital formulary service (AHFS).

(3) Pharmacist-in-Charge: In order to obtain a license, all parenteral product pharmacies must designate a pharmacist in charge of operations who is:

(a) licensed to practice pharmacy in the state of New Mexico;

(b) responsible for the development, implementation and continuing review of written SOP's **consistent with USP/NF standards** which are used by the operation in their daily operation;

(c) pharmacist on staff who is available for twenty-four hour seven-day-a-week services;

(d) responsible for establishing a system to assure that the products prepared by the establishment are administered by licensed personnel or properly trained and instructed patients;

(e) responsible for developing an appropriate and individualized plan of care in collaboration with patient or caregiver and other healthcare providers for each patient receiving parenteral products in a home setting.

(4) Physical Requirements

(a) The parenteral products pharmacy must have sufficient floor space to assure that the products are properly prepared and stored to prevent contamination or deterioration prior to administration to the patient and meet the following:

(i) be separated physically from other pharmacy activities and enclosed on all sides except for doors and/or windows for the passage of materials;

(ii) the minimum size of a retail pharmacy must be 240 square feet; a retail pharmacy with preparation of sterile products capabilities must have 340 square feet; the stand alone parenteral product pharmacy must have a minimum of 240 square feet;

(iii) addition of a parenteral area in existing pharmacies will require submission of plans for remodeling to the board office for approval and inspection prior to licensure;

(iv) a new parenteral pharmacy must comply with Sections 8, 9, 10 and 11 of the regulations.

(b) Equipment and materials. The

parenteral products pharmacy has sufficient equipment and physical facilities to safely compound and store such products and includes the following:

(i) either a ~~[Class 100]~~ **ISO class 5** clean air work station or a room which meets ~~[Class 100]~~ **ISO class 5** conditions;

(ii) refrigeration capacity for proper storage ~~[of]~~ of prepared parenterals at ~~[5-C]~~ **2C to 8C** after preparation and until prescriptions are ~~[picked up by or delivered to]~~ **received by** the patient or their agent;

(iii) if bulk reconstitution of antibiotics is performed the facility has a freezer capable of freezing and storing the product at -20C for periods not to exceed the manufacturer's recommendations;

(c) References. Parenteral products pharmacies maintain in their library at least one current edition reference book from each category listed below in addition to other required references:

(i) drug monograph reference, i.e., USP-DI, AHFS: *drug information service*, *martindale's extra pharmacopoeia*, or other suitable reference;

(ii) stability and incompatibility reference; i.e., *trissell's handbook of parenteral medications*, *king/cutter IV incompatibilities*, or other suitable reference;

(iii) reference on pharmaceutical technology and compounding; i.e., *remington's pharmaceutical sciences*, *block's disinfection sterilization and preservation*, or other suitable reference;

(iv) periodicals, i.e., *American journal of hospital pharmacy*, *ASHP's clinical pharmacy*, *American journal of parenteral and enteral nutrition*, or other suitable periodical.

(5) Documentation Requirements for Parenteral Product Pharmacies: Written policies and procedures must be available for inspection and review by authorized agents of the board of pharmacy. Written policies and procedures must be submitted to the state board of pharmacy prior to the issuance of any license. These records must include but are not limited to:

(a) cleaning, disinfection, evaluation and maintenance of the preparation area;

(b) regular recertification of the clean air unit or units by independent testing agencies;

(c) surveillance of parenteral solutions for microbiological contamination;

(d) surveillance of parenteral solutions for particulate contamination;

(e) personnel qualifications, training and performance guidelines;

(f) facility and equipment guide-

lines and standards;

(g) SOP's for dispensing all solutions and medications;

(h) SOP's for disposal of physical, chemical and infectious waste;

(i) quality control guidelines and standards;

(j) quality assurance guidelines and standards;

(k) SOP's for determination of stability, incompatibilities or drug interactions.

(6) Record keeping and Patient Profile: The parenteral products pharmacy is required to maintain complete records of each patient's medications which include but are not limited to the following:

(a) prescription records including the original Rx, refill authorization, alterations in the original Rx, and interruptions in therapy due to hospitalization;

(b) patient's history including pertinent information regarding allergy or adverse drug reactions experienced by the patients;

(c) ~~Patent contact is documented. Patients are contacted at least every 3 days and any problems that cannot be solved by the patients agent or pharmacist (or which result in changes in the patient's behavior) are transmitted to the physician in charge for response and documentation;~~ **patients receiving parenteral products in a home setting are contacted at a frequency appropriate to the complexity of the patient's health problems and drug therapy as documented on patient specific plan of care and with each new prescription, change in therapy or condition;**

(d) documentation that the patient **receiving parenteral products in a home setting** or their agent has received **a written copy of their plan of care and** training in the safe administration of their medication.

C. STERILE PHARMACEUTICAL PREPARATION

(1) Pharmacies compounding sterile pharmaceuticals shall prepare products in an appropriate aseptic environment which meets ~~[Class 100]~~ **ISO class 5** requirements. Devices used to maintain a ~~[Class 100]~~ **ISO class 5** environment will:

(a) be certified in the course of normal operation by an independent contractor according to Federal Standard 209E et seq. for operational efficiency at least every 6 months and when moved, certification records will be maintained for 3 years;

(b) have pre-filters which are inspected periodically and inspection/replacement date documented according to written policy; and

(c) have a positive pressure controlled area that is certified as at least a ~~[Class 100,000]~~ **ISO class 8** which is functionally separate from other areas of the pharmacy and which minimizes the oppor-

tunity for particulate and microbial contamination; this area shall:

(i) have a controlled aseptic environment or contain a device which maintains an aseptic environment;

(ii) be clean, lighted, and at an average of 80-150 foot candles;

(iii) be a minimum of 100 sq. ft to support sterile compounding activities;

(iv) be used only for the compounding of sterile pharmaceuticals using appropriate aseptic technique including gowning and gloving;

(v) be designed to avoid outside traffic and airflow;

(vi) be ventilated in a manner which does not interfere with aseptic environment control conditions;

(vii) have non-porous, washable floor coverings, hard cleanable walls and ceilings (which may include acoustical ceiling tiles coated with an acrylic paint) to enable regular disinfection; (contain only compounding medication and supplies and not be used for bulk storage;

(viii) a self contained, ~~[Class 100]~~ **ISO class 5** barrier isolator not located in the clean room is acceptable; the barrier isolator may only be located in an area which is maintained under sanitary conditions and traveled only by persons engaged in sterile product preparation. Such barrier isolators must be certified by an independent certification contractor according to ~~[Class 100]~~ **ISO class 5** conditions, as defined by federal standard 209E et seq. prior to use and at six-month intervals; certification records will be maintained for 3 years;

(d) store medications and supplies on shelves above the floor;

(e) develop and implement a disposal process for packaging materials, used supplies, containers, syringes, and needles; this process shall be performed to enhance sanitation and avoid accumulation in the controlled area;

(f) prohibit particle generating activities in the controlled area:

(i) removal of medications or supplies from cardboard boxes shall not be done in the controlled area;

(ii) cardboard boxes or other packaging/ shipping material which generate an unacceptable amount of particles shall not be permitted. The removal of immediate packaging designed to retain sterility or stability will be allowed;

(g) cytotoxic drugs shall:

~~(i) be prepared only by a licensed pharmacist;~~

~~[(i)]~~ **(i)** be prepared in a vertical flow biological safety cabinet, micro-biological isolation chamber or equivalent containment device;

~~[(ii)]~~ **(ii)** be prepared in

a cabinet thoroughly cleaned prior to use for preparation of other products; said cleaning will be documented;

~~[(ii)]~~ **(iii)** be prepared in a cabinet located in a controlled area as described in 11.C.(1).(c);

~~[(iii)]~~ **(iv)** be disposed of according to written policies and procedures maintained at the facility;

(h) maintain a library of specialty references appropriate for the scope of services provided; reference material may be hard copy or computerized.

(2) Requirements for training.

(a) All pharmacists **prior to** compounding sterile pharmaceuticals, or ~~[pharmacists]~~ supervising pharmacy ~~[technicians]~~ **personnel** compounding sterile pharmaceuticals, **all** shall ~~[effective December 31, 2002,]~~ have completed a minimum of 20 contact hours ~~[(after January 1, 1999 and before manipulating sterile products)]~~ of didactic, experiential training and competency evaluation through demonstration and testing (written or practical) as outlined by the pharmacist-in-charge and described in the policy and procedures or training manual. Such training shall be evidenced by completion of a recognized course in an accredited college of pharmacy or an ACPE approved course which shall include instruction and hands-on experience in the following areas:

(i) aseptic technique;

(ii) critical area contamination factors;

(iii) environmental monitoring;

(iv) facilities;

(v) equipment and supplies;

(vi) sterile pharmaceutical calculations and terminology;

(vii) sterile pharmaceutical compounding documentation;

(viii) quality assurance procedures;

(ix) proper gowning and gloving technique;

(x) the handling of cytotoxic and hazardous drugs; and

(xi) general conduct in the controlled area.

(b) All pharmacist interns ~~[who]~~ **prior to** ~~[compound]~~ **compounding** sterile pharmaceuticals shall ~~[effective December 31, 2002 (after January 1, 1999 and before manipulating sterile products)]~~ have completed a minimum of 40 hours of instruction and experience in the areas listed in paragraph 1. Such training will be obtained through the:

(i) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy); or

(ii) completion of a

course sponsored by an ACPE approved provider.

(c) All pharmacy technicians who compound sterile pharmaceuticals shall have a high school or equivalent education and ~~[effective December 31, 2002]~~ be a ~~[Pharmacy]~~ certified **pharmacy** technician, and complete a minimum of 40 hours of instruction and experience in the areas listed in paragraph 1. Such training will be obtained through the:

(i) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy) which provides 40 hours of instruction and experience in the areas listed in paragraph 1; or

(ii) completion of a course sponsored by an ACPE approved provider which provides 40 hours of instructions and experience in the areas listed in paragraph 1.

(d) All pharmacists compounding sterile chemotherapy drugs or supervising pharmacy interns or technicians compounding sterile chemotherapy drugs shall, effective December 31, 2007, have completed a Board approved training program in chemotherapy drug preparation. All pharmacy interns and technicians must complete this training prior to preparing sterile chemotherapy drug products.

~~[(d)]~~ (e) Documentation of Training. A written record of initial and in-service training and the results of written or practical testing and process validation of pharmacy personnel shall be maintained and contain the following information:

(i) name of person receiving the training or completing the testing or process validation;

(ii) date(s) of the training, testing, or process validation;

(iii) general description of the topics covered in the training or testing or of the process validated;

(iv) name of person supervising the training, testing, or process validation;

(v) signature of the person receiving the training or completing the testing or process validation and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training, testing, or process validation of personnel.

~~[(e)]~~ (f) No product intended for patient uses shall be compounded by an individual until the process validation test indicates that the individual can competently perform aseptic procedures.

~~[(f)]~~ (g) On an annual basis the pharmacist-in-charge shall assure continuing competency of pharmacy personnel through in-service education, training, and

process validation to supplement initial training. A written record of such training will be maintained for 3 years.

(3) Patient or Caregiver Training for Home Sterile Products.

(a) The pharmacist shall maintain documentation that the patient has received training consistent with regulation 16.19.4.17.5 NMAC.

(b) The facility shall provide a 24-hour toll free telephone number for use by patients of the pharmacy.

(c) There shall be a documented, ongoing quality assurance program that monitors patient care and pharmaceutical care outcomes, including the following:

(i) routine performance of prospective drug use review and patient monitoring functions by a pharmacist;

(ii) patient monitoring plans that include written outcome measures and systems for routine patient assessment;

(iii) documentation of patient training; and

(4) Quality Assurance/compounding and preparation of sterile pharmaceuticals.

(a) There shall be a documented, ongoing performance improvement control program that monitors personnel performance, equipment, and facilities:

(i) all aspects of sterile product preparation, storage, and distribution, including details such as the choice of cleaning materials and disinfectants and monitoring of equipment accuracy shall be addressed in policy and procedures;

(ii) if bulk compounding of parenteral solutions is performed using non-sterile chemicals, appropriate end product testing must be documented prior to the release of the product from quarantine; the test must include appropriate tests for particulate matter and pyrogens;

(iii) there shall be documentation of quality assurance audits at regular, planned intervals, including infection control and sterile technique audits; a plan for corrective action of problems identified by quality assurance audits shall be developed which includes procedures for documentation of identified problems and action taken; a periodic evaluation as stated in the policy and procedures of the effectiveness of the quality assurance activities shall be completed and documented;

(iv) the label of each sterile compounded product shall contain: patient name; if batch filling, lot or control number; solution, ingredient names, amounts; expiration date and time, when applicable; directions for use (only if the patient is the end user; not in a hospital setting), including infusion rates, specific times scheduled when appropriate; name or initials of person preparing the product and,

if prepared by supportive personnel, the name or identifying initials and the name or initials of the pharmacist that completed the final check; when appropriate, ancillary instructions such as storage instructions or cautionary systems, including cytotoxic warning labels and containment bags; 8 device instructions when needed.

(b) There shall be a mechanism for tracking and retrieving products which have been recalled.

(c) Automated compounding devices shall:

(i) have accuracy verified on a routine basis at least every thirty days per manufacturer's specifications;

(ii) be observed every thirty days by the operator during the mixing process to ensure the device is working properly;

(iii) have data entry verified by a pharmacist prior to compounding; and

(iv) have accuracy of delivery of the end product verified according to written policies and procedures.

(d) If batch preparation of sterile products is being performed, a worksheet (log) must be maintained for each batch. This worksheet shall consist of formula, components, compounding directions or procedures, a sample label and evaluation and testing requirements, if applicable, and shall be used to document the following:

(i) all solutions and ingredients and their corresponding amounts, concentrations and volumes;

(ii) component manufacturer and lot number;

(iii) lot or control number assigned to batch;

(iv) date of preparation;

(v) expiration date of batch prepared products;

(vi) identity of personnel in preparation and pharmacist responsible for final check;

(vii) comparison of actual yield to anticipated yield, when appropriate.

(5) Application of Regulation: Pharmacies licensed by the board prior to adoption of this regulation shall comply with the controlled area standards defined in section 11.C.(1).(c). by December 31, 2002. When these pharmacies change ownership, remodel the pharmacy, or relocate the pharmacy after the effective date of this regulation, Section 11(2)A.3. shall apply. All other portions of this regulation apply on the effective date.

[16.19.6.11 NMAC - Rp 16 NMAC 19.6.11, 03-30-02; A, 01-15-2005]

**NEW MEXICO
BOARD OF PHARMACY**

This is an amendment to 16.19.8.10 NMAC, effective January 15, 2005.

16.19.8.10 MINIMUM QUALIFICATIONS:

A. The board shall consider, at a minimum, the following factors in reviewing the qualifications of persons who engage in wholesale distribution of prescription drugs within the state:

(1) any conviction of the applicant under any federal, state or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;

(2) any felony convictions of the applicant under federal, state or local law;

(3) the applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(4) the furnishing by the applicant of false or fraudulent material in any application made in connection with prescription drug manufacturing or prescription drug distribution;

(5) suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(6) compliance with licensing requirements under previously granted licenses, if any;

(7) compliance with requirements to maintain and/or make available to the board or to federal, state, or local law enforcement officials those records required under this section; and

(8) any other factors or qualifications the board considers relevant to and consistent with the public health and safety.

B. The board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be in the public interest. Public interest considerations shall be based upon factors and qualifications that are directly related to the protection of the public health and safety.

C. Request for an alternative reduced wholesale license fee: The board shall collect the full license fee as set by the board unless the board determines that collection of the license fee would be inconsistent with the public interest. The applicant/petitioner shall provide the board with any information necessary to make that determination including:

(1) business/organization profit status under federal and state code;

(2) impact on the health and safety of New Mexico citizens;

(3) volume of distribution in New Mexico;

(4) sole source of dangerous drugs; and

(5) financial hardship for applicant/registrant.

[06-14-92; 16.19.8.10 NMAC - Rn, 16 NMAC 19.8.10, 03-30-02; A, 01-15-2005]

**NEW MEXICO
BOARD OF PHARMACY**

This is an amendment to 16.19.12.13 NMAC, effective January 15, 2005.

16.19.12.13 LICENSE FEES:

A. License fee for drug manufacturer \$5000.00 for 1 year or \$10,000.00 for 2 years. Upon implementation of a federal medicare prescription drug benefit program, the annual fee shall revert to \$1000.00 annually.

B. Wholesale drug distributor \$5000.00 for 1 year or \$10,000.00 for 2 years. Upon implementation of a federal medicare prescription drug benefit program, the annual fee shall revert to \$1000.00 annually.

C. Drug manufacturer/repackager \$5000.00 for 1 year or \$10,000.00 for 2 years. Upon implementation of a federal medicare prescription drug benefit program, the annual fee shall revert to \$1000.00 annually.

D. Repackager \$5000.00 for 1 year or \$10,000.00 for 2 years. Upon implementation of a federal medicare prescription drug benefit program, the annual fee shall revert to \$1000.00 annually.

E. Retail pharmacy license \$300.00 bi-ennially

F. Hospital pharmacy license \$300.00 bi-ennially

G. Hospital drug room pursuant to Section 61-11-7 of Pharmacy Act \$60.00

H. Duplicate license \$10.00

I. Nonresident pharmacies \$400.00 bi-ennially

J. Seller or dispenser of contact lenses \$400.00 bi-ennially

K. Alternative fee for wholesale/manufacture/repackager as determined by the board or board's designee.

[03-07-80...05-01-93; 16.19.12.13 NMAC - Rn, 16 NMAC 19.12.13, 03-30-02; A, 09-30-03; A, 07-15-04; A, 01-15-2005]

**NEW MEXICO
BOARD OF PHARMACY**

This is an amendment to 16.19.21 NMAC, Sections 1, 8, 9, 10, 14, 19, 23 and 35, effective January 15, 2005.

16.19.21.1 ISSUING AGENCY:

Regulation and Licensing Department - Board of Pharmacy, [1650 University Blvd, NE - Ste. 400B], Albuquerque, NM [87102, (505) 841-9102].

[02-14-1889...02-15-96; 16.19.21.1 NMAC - Rn, 16 NMAC 19.21.1, 03-30-02; A, 01-15-2005]

16.19.21.8 PERSONS REQUIRED TO REGISTER:

A. The board shall license an applicant to manufacture, possess, transfer or transport drug precursors unless it determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the board may consider the following factors:

(1) maintenance of effective controls against diversion of drug precursors into other than legitimate medical, scientific or industrial channels;

(2) compliance with applicable state and local law;

(3) any conviction of the applicant under federal or state laws relating to any controlled substance or drug precursor;

(4) past experience in the manufacturer, possession, transfer or transportation of drug precursors and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under the Drug Precursor Act or the Controlled Substances Act;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled substances or drug precursors as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

B. Licensing under this section does not entitle a licensee to manufacture, possess, transfer or transport drug precursors other than those allowed in the license.

C. Entities currently licensed by the board shall be exempt from this registration, but not exempt from the regulation.

[03-07-80...08-27-90; 16.19.21.8 NMAC - Rn, 16 NMAC 19.21.8, 03-30-02; A, 01-15-2005]

16.19.21.9 REGISTRATION AND EXPIRATION DATE:

A. Any person who is required to be registered **under this part** and who is not registered may apply for registration at any time.

B. The license for persons required to register **under this part** shall be renewed [~~annually~~] **bi-ennially** before the last day of December [~~of each year~~]. [03-07-80...08-27-90; 16.19.21.9 NMAC - Rn, 16 NMAC 19.21.9, 03-30-02; A, 01-15-2005]

16.19.21.10 REGISTRATION FEE: The registration fee or annual renewal fee required by the Drug Precursor Act shall be [~~\$500.00~~];

A. for a wholesaler, manufacturer, or distributor shall be \$250.00 per year;

B. for a retail distributor with fewer than 10 employees shall be \$25.00 per year;

C. for a retail distributor with 10 or more employees shall be \$50.00 per year.

[03-07-80...08-27-90; 16.19.21.10 NMAC - Rn, 16 NMAC 19.21.10, 03-30-02; A, 01-15-2005]

16.19.21.14 FACILITY INSPECTION: The board of pharmacy may direct the drug inspector to inspect the facilities prior to approval of any **registration** application **filed under this part of any wholesaler, manufacturer, or distributor**, for security provisions and other applicable standards as required by the Drug Precursor Act **or regulations passed by the board. A fee of \$150.00 must be submitted before such inspection of any wholesaler, manufacturer, or distributor.**

[03-07-80...08-27-90; 16.19.21.14 NMAC - Rn, 16 NMAC 19.21.14, 03-30-02; A, 01-15-2005]

16.19.21.19 INVENTORY RECORDS: [~~A-~~] All registrants are required to keep procurement records **in a readily retrievable manner for 3 years.**

[~~B-~~] ~~All registrants must keep a perpetual inventory. The amount of drug precursor must equal the amount on the inventory at the end of each work day.~~ [03-07-80...08-27-90; 16.19.21.19 NMAC - Rn, 16 NMAC 19.21.19, 03-30-02; A, 01-15-2005]

16.19.21.23 DISTRIBUTION RECORDS:

A. All wholesaler, manufacturer, or distributor registrants shall include the following **in distribution records for drug precursors under this part** [~~where applicable~~]:

[~~A-~~] **(1)** purchaser's name, address and **telephone number, and drug precursor** [~~license~~] **registration number or**

other license number issued by the board in lieu of a drug precursor registration number;

[~~B-~~] **(2)** quantity purchased;

[~~C-~~] **(3)** date supplied;

[~~D-~~] **(4)** [~~purchaser's identity must be verified by valid drivers license or other appropriate identification and the type of identification recorded in distribution records~~] **suppliers name, address, telephone number, and drug precursor registration number of the supplier;**

[~~E-~~] **(5)** [~~number of purchaser's precursor license must be included on distribution record~~] **distribution records must be retained for three (3) years.**

B. All retail distributor registrants, pharmacies, hospitals and clinics shall adhere to the following record keeping and distribution requirements concerning pseudoephedrine or pseudoephedrine containing products regulated by the board:

(1) that a retail distributor registrant, pharmacies, hospitals and clinics shall transfer (sell) no more than 2 blister packages not to exceed 6 grams of pseudoephedrine to any one individual in a single transaction and may not knowingly or intentionally transfer cumulative total exceeding 2 blister packages or 6 grams of pseudoephedrine during any seven day period to that one individual;

(2) that a retail distributor registrant, pharmacies, hospitals and clinics must place all products regulated by the board in direct sight of an employee of the facility and no more than 20 feet from a checkout or other security measures as approved by the board;

(3) that the retail distributor registrant, pharmacies, hospitals and clinics owner or manager must develop a written or electronic training program, to be read and signed (written or electronic) by all employees involved in the sale of regulated products that makes the employee aware of all statutes and regulations concerning the sale of regulated products;

(4) that the retail distributor registrant, pharmacies, hospitals and clinics will retain all invoices of purchases of regulated products in a readily retrievable manner for a period of three (3) years;

(5) that the retail distributor registrant, pharmacies, hospitals and clinics will purchase regulated products only from wholesalers, manufacturers, or distributors registered to distribute drug precursors or otherwise licensed with the board.

[03-07-80...08-27-90; 16.19.21.23 NMAC - Rn, 16 NMAC 19.21.23, 03-30-02; A, 01-15-2005]

16.19.21.35 CONTROLLED SUBSTANCE PRECURSORS: The following substances are designated as immediate precursors used in the manufacture of controlled substances:

- A. phenyl acetone;
 - B. ephedrine;
 - C. phenyl-2-propanone;
 - D. norephedrine;
 - E. ethyl-1-methyl butyl diethyl malonate;
 - F. allyl-1-methyl butyl diethyl malonate;
 - G. hydroxyindole;
 - H. 3,4,5-trimethoxybenzyl cyanide;
 - I. 3,4,5-trimethoxybenzyl alcohol;
 - J. 3,4,5-trimethoxyphenylacetone;
 - K. 3,4,5-trimethoxybenzoic acid amide;
 - L. 4-benzyloxyindole;
 - M. 4-chloro indole;
 - N. indole;
 - O. tryptophol;
 - P. 3-indole glyoxylic acid;
 - Q. 3-indole glyoxylic acid ethyl ester;
 - R. lysergic acid;
 - S. lysergic acid amide;
 - T. ergotamine tartrate;
 - U. 1-phenyl cyclohexylamine;
 - V. 1-piperidinocyclohexanecarbonitrile;
 - W. pseudoephedrine **single ingredient solid oral dosage form and any combination solid oral dosage form containing pseudoephedrine excluding liquid products including liquid gel products for oral administration, inhalation, injection, any product intended for pediatric use, and any solid oral dosage form for which the manufacturer of said product presents scientific evidence to the board verifying that the product cannot be converted into a controlled substance;**
 - X. methylamine;
 - Y. methylformamide
 - Z. phenylacetic acid;
 - AA. anhydrous ammonia:
 - (1) a person shall not possess any amount of anhydrous ammonia;
 - (2) a person must store anhydrous ammonia in a container approved for the transport of anhydrous ammonia;**
- [~~(2)~~] **(3)** the provisions of this section do not apply to a:
- (i) person who is actively operating land used for agricultural purposes;
 - (ii) retail distributor;
 - (iii) wholesaler;
 - (iv) manufacturer;
 - (v) warehouseman;
 - (vi) common carrier; or
 - (vii) person engaged in the regu-

lar course of conducting a lawful business;
 BB. red phosphorous;
 CC. iodine matrix, a retail distributor registrant, pharmacy, hospital, clinic may not sell more than 2 ounces of iodine matrix in a single transaction;
 DD. crystal iodine, a retail distributor registrant, pharmacy, hospital, clinic may not sell more than 2 ounces of iodine crystals in a single transaction.
 [03-07-80...08-27-90; 16.19.21.35 NMAC - Rn, 16 NMAC 19.21.35, 03-30-02; A, 12-01-03; A, 01-15-2005]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 20 HEALTH CARE PRACTITIONER COLLABORATION GUIDELINES

16.22.20.1 ISSUING AGENCY:
 Regulation and Licensing Department
 Board of Psychologist Examiners.
 [16.22.20.1 NMAC - N, 1/7/05]

16.22.20.2 SCOPE: This part applies to psychologists with conditional prescription certificate, and the general public.
 [16.22.20.2 NMAC - N, 1/7/05]

16.22.20.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.2
 [16.22.20.3 NMAC - N, 1/7/05]

16.22.20.4 DURATION:
 Permanent.
 [16.22.20.4 NMAC - N, 1/7/05]

16.22.20.5 EFFECTIVE DATE:
 January 7, 2005, unless a later date is cited at the end of the section.
 [16.22.20.5 NMAC - N, 1/7/05]

16.22.20.6 OBJECTIVE: The objective of Part 20 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.
 [16.22.20.6 NMAC - N, 1/7/05]

16.22.20.7 DEFINITIONS:
 [RESERVED]
 [Refer to 16.22.1.7 NMAC]

16.22.20.8 PSYCHOLOGIST WITH CONDITIONAL PRESCRIPTION CERTIFICATE OR PRESCRIP-

TION CERTIFICATE - HEALTH CARE PRACTITIONER COLLABORATION GUIDELINES:

A. A conditional prescribing or prescribing psychologist shall obtain a release of information from the patient or the patient's legal guardian authorizing the psychologist to contact the patient's primary treating health care practitioner, as required by law.

B. If a patient or the patient's legal guardian refuses to sign a release of information for the patient's primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall inform the patient or the patient's legal guardian that the psychologist cannot treat the patient pharmacologically without an ongoing collaborative relationship with the primary treating health care practitioner. The psychologist shall refer the patient to another mental health care provider who is not required to maintain an ongoing collaborative relationship with a health care practitioner.

C. A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner prior to prescribing medication to the patient.

(1) The conditional prescribing or prescribing psychologist shall inform the primary treating health care practitioner the medications the psychologist intends to prescribe for mental illness and any laboratory tests that the psychologist ordered or reviewed and shall discuss the relevant indications and contraindications to the patient of prescribing these medications.

(2) The conditional prescribing or prescribing psychologist shall document the date and time of contacts with the primary treating health care practitioner, a summary of what was discussed, and the outcome of the discussions or decisions reached.

(3) If the primary treating health care practitioner and the conditional prescribing or prescribing psychologist do not agree about a particular psychopharmacological treatment strategy, the psychologist shall document the reasons for recommending the psychopharmacological treatment strategy that is in disagreement and shall inform the primary treating health care practitioner of that recommendation. The conditional prescribing or prescribing psychologist shall make no change in medication unless agreed to by the primary treating health care practitioner. The conditional prescribing or prescribing psychologist shall defer to the judgment of the primary treating health care practitioner and shall not prescribe.

(4) If a conditional prescribing or prescribing psychologist determines that an emergency exists that may jeopardize the health or well being of the patient, the psy-

chologist may, without prior consultation with the patient's primary treating health care practitioner, prescribe psychotropic medications or modify an existing prescription for psychotropic medication previously written for that patient by that psychologist. The conditional prescribing or prescribing psychologist shall consult with the primary treating health care practitioner as required herein as soon as possible. The conditional prescribing or prescribing psychologist shall document in the patient's psychological evaluation/treatment file the nature and extent of the emergency and the attempt(s) made to contact the primary treating health care practitioner prior to prescribing or other reason why contact could not be made.

D. If a patient does not have a primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall refer the patient to a health care practitioner prior to psychopharmacological treatment. The psychologist must receive the results of the health care practitioner's assessment and shall contact the health care practitioner as required herein prior to prescribing.

E. Once the collaborative relationship is established with the primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall maintain and document the collaborative relationship to ensure that relevant information is exchanged accurately and in a timely manner. The ongoing collaborative relationship shall be maintained pursuant to the following guidelines.

(1) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner prior to any change in medications prescribed by the psychologist.

(2) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner if and when the patient experiences adverse effects from medications prescribed by the psychologist that may be related to the patient's medical condition for which he or she is being treated by a health care practitioner.

(3) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner regarding results of laboratory tests related to the medical care of the patient that have been ordered by the psychologist in conjunction with psychopharmacological treatment.

(4) The patient's treating health care practitioner shall inform a conditional prescribing or prescribing psychologist of any new medical diagnosis or changes in the patient's medical condition that may affect the treatment being provided by the psychologist.

(5) A conditional prescribing or prescribing psychologist shall inform a treating health care practitioner as soon as possible of any change in the patient's psychological condition that may affect the medical treatment being provided by the health care practitioner.

(6) The patient's primary treating or other health care practitioner shall inform the conditional prescribing or prescribing psychologist of any psychotropic medications prescribed or discontinued by the primary or other treating health care practitioner, the dates of any subsequent changes in psychotropic medications prescribed by the primary or other treating health care practitioner, and the efforts to coordinate the mental health care of the patient as soon as possible.

[16.22.20.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.20 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS
AND PSYCHOLOGIST ASSOCIATES
PART 21 LIMITS OF PRAC-
TICE**

16.22.21.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners.
[16.22.21.1 NMAC - N, 1/7/05]

16.22.21.2 SCOPE: This part
applies to the board, licensees, applicants
for licensure seeking licenses under pre-
scriptive authority, and the general public.
[16.22.21.2 NMAC - N, 1/7/05]

**16.22.21.3 STATUTORY
AUTHORITY:** This part is adopted pur-
suant to the Professional Psychologist Act,
NMSA 1978 Section 61-9-17.2
[16.22.21.3 NMAC - N, 1/7/05]

16.22.21.4 DURATION:
Permanent.
[16.22.21.4 NMAC - N, 1/7/05]

16.22.21.5 EFFECTIVE DATE:
January 7, 2005, unless a later date is cited
at the end of the section.
[16.22.21.5 NMAC - N, 1/7/05]

16.22.21.6 OBJECTIVE: The
objective of Part 21 is to set forth the provi-
sions, which apply to all of Chapter 22, and
all persons affected or regulated by Chapter
22 of Title 16.
[16.22.21.6 NMAC - N, 1/7/05]

16.22.21.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

**16.22.21.8 LIMITS OF PRAC-
TICE:**

A. A conditional prescribing
or prescribing psychologist shall limit
practice and supervision to the areas of
competence in which proficiency has been
gained through education, training and
experience.

B. A conditional prescribing
or prescribing psychologist shall not
prescribe a drug, substance or controlled
substance that is not contained in the for-
mulary described in 16.22.27 NMAC, of
these regulations.

C. Unless specifically
agreed to by the primary treating health care
practitioner, a conditional prescribing or
prescribing psychologist shall not prescribe
medications for patients with the following
conditions:

(1) patients with a serious co-
morbid disease of the central nervous sys-
tem;

(2) patients with cardiac arrhyth-
mia;

(3) patients who are being phar-
macologically treated for coronary vascular
disease;

(4) patients with blood dyscrasia;

(5) patients who are hospitalized
for an acute medical condition; or

(6) women who are pregnant or
breast feeding.

D. A conditional prescribing
or prescribing psychologist may order
and review laboratory tests that are neces-
sary to maximize the psychopharmacologi-
cal effectiveness and to minimize the poten-
tial untoward effects of medications that are
prescribed. The psychologist shall not:

(1) perform medical procedures
such as spinal taps, intramuscular or intra-
venous administration of medication, or
phlebotomy;

(2) order or interpret neurovascu-
lar imaging procedures that use contrast
media;

(3) order or interpret neuro-imag-
ining that require the use of radioactive
material;

(4) order or interpret roentgeno-
logical procedures (x-rays); or

(5) perform amytal interviews.

E. A conditional prescribing
or prescribing psychologist shall not
self-prescribe medication and shall not
prescribe medication to any person who is a
member of the psychologist's family or
household, or with whom the psychologist
has a conflict of interest, including a pro-
hibited dual relationship, as defined in
16.22.1 NMAC, of these regulations and the

code of conduct adopted by the board.

F. A conditional prescribing
or prescribing psychologist is subject to
provisions of the Professional Psychologist
Act and board regulations. A psychologist
who violates the Professional Psychologist
Act or board regulations is subject to disci-
plinary action by the board, which may
include denial, suspension, or revocation of
a conditional prescribing certificate or pre-
scribing certificate or suspension or revoca-
tion of a license to practice psychology.

G. A conditional prescribing
or prescribing psychologist must com-
ply with all other state and federal laws re-
gulating the administering and prescribing
of controlled substances.

[16.22.21.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.21 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS
AND PSYCHOLOGIST ASSOCIATES
PART 22 PRESCRIBING PSY-
CHOLOGIST: APPLICATION COM-
MITTEE**

16.22.22.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners.
[16.22.22.1 NMAC - N, 1/7/05]

16.22.22.2 SCOPE: This part
applies to the board, licensees, applicants
for licensure, and the general public.
[16.22.22.2 NMAC - N, 1/7/05]

**16.22.22.3 STATUTORY
AUTHORITY:** This part is adopted pur-
suant to the Professional Psychologist Act,
NMSA 1978 Section 61-9-17.1
[16.22.22.3 NMAC - N, 1/7/05]

16.22.22.4 DURATION:
Permanent.
[16.22.22.4 NMAC - N, 1/7/05]

16.22.22.5 EFFECTIVE DATE:
January 7, 2005, unless a later date is cited
at the end of the section.
[16.22.22.5 NMAC - N, 1/7/05]

16.22.22.6 OBJECTIVE: The
objective of Part 22 is to set forth the provi-
sions, which apply to all of Chapter 22, and
all persons affected or regulated by Chapter
22 of Title 16.
[16.22.22.6 NMAC - N, 1/7/05]

16.22.22.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.22.8 PSYCHOPHARMACOLOGY APPLICATION COMMITTEE:

A. The chair of the board may appoint one or more psychopharmacology application committee(s) to review application(s) for conditional prescription and prescription certificates and to make recommendations to the board.

B. The psychopharmacology application committee will consist of a minimum of three (3) members who shall reside in New Mexico and who shall hold an active, unrestricted New Mexico license in their respective profession. The committee shall consist of:

(1) one person appointed by the chair of the board who is experienced in psychopharmacology;

(2) one person appointed by the chair of the board, in collaboration with the New Mexico medical board, who is an allopathic or osteopathic physician with clinical experience in mental health or psychopharmacology; and

(3) a public member appointed by the chair of the board.

C. The professional members appointed by the chair of the board to the committee may include:

(1) a psychologist with a prescription certificate;

(2) a physician or osteopathic physician with clinical experience in mental health or psychopharmacology;

(3) a pharmacist clinician, or certified, or certified nurse practitioner, RNCS or physician's assistant with specialized training in psychopharmacology; or

(4) a licensed psychologist.

D. Members of the psychopharmacology application committee shall not be in a pharmacological training program, shall not be seeking licensure as a psychologist, and shall not be seeking certification as prescribing psychologist.

E. Members of the psychopharmacology application committee shall not participate in the review, deliberation, or decision of an application if the applicant is a member of the member's family or household or if the member has a conflict of interest as defined in 16.22.25 NMAC, of these regulations.

F. The New Mexico medical board or its designee shall be available upon request to consult with the application committee or the board regarding the applicability of the regulations adopted pursuant to NMSA 1978 Section 61-9-17.1 of the Professional Psychologist Act to a particular application.

G. The psychopharmacol-

ogy application committee shall provide the board a recommendation to accept or reject an application for a conditional prescription or prescription certificate. A recommendation to reject an application shall state the reasons for the recommendation.

[16.22.22.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.22 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES
PART 23 REQUIREMENTS FOR EDUCATION AND CONDITIONAL PRESCRIPTION CERTIFICATE**

16.22.23.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.
[16.22.23.1 NMAC - N, 1/7/05]

16.22.23.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.
[16.22.23.2 NMAC - N, 1/7/05]

16.22.23.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1
[16.22.23.3 NMAC - N, 1/7/05]

16.22.23.4 DURATION: Permanent.
[16.22.23.4 NMAC - N, 1/7/05]

16.22.23.5 EFFECTIVE DATE: January 7, 2005, unless a later date is cited at the end of the section.
[16.22.23.5 NMAC - N, 1/7/05]

16.22.23.6 OBJECTIVE: The objective of Part 23 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.
[16.22.23.6 NMAC - N, 1/7/05]

16.22.23.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.23.8 EDUCATION REQUIREMENTS FOR CONDITIONAL PRESCRIPTIVE CERTIFICATE:

A. The board shall issue a conditional prescription certificate pursuant to 16.22.24.8 NMAC, of these regulations

to each applicant who submits evidence satisfactory to the board that the applicant:

(1) has completed a doctoral program in psychology from an accredited institution of higher education or professional school, including:

(a) a program accredited by the American psychological association or designated by the association of state and provincial psychology boards/national register designation system; or

(b) if the program was not accredited by the American psychological association or designated by the association of state and provincial psychology boards/national register designation system at the time of the applicant's graduation, that the board determined that the program met professional standards determined acceptable by the board at the time of licensure.

(2) holds a current unrestricted license to practice psychology in New Mexico;

(3) has successfully completed psychopharmacological training that meets the standards set forth in Subsection B below from either:

(a) an institution of higher education that has a postdoctoral program of psychopharmacology education for psychologists and that is accredited by a regional body recognized by the U.S. department of education or the council for higher education accreditation; or

(b) a continuing education provider approved by the American psychological association that offers a program of psychopharmacology education for psychologists; or

(c) a continuing education program of professional development in psychopharmacology for psychologists that is administered in collaboration with a school and that is a formal and organized program of study leading to a credential in psychopharmacology from that school; or

(d) a continuing education program of professional development in psychopharmacology for psychologists that is administered in collaboration with a school if the applicant successfully completed the 450 classroom hours of didactic study referred to in Subsection E of 16.22.23.8 NMAC, below prior to January 1, 2004.

B. Psychopharmacology training program. The psychopharmacology training program referred in Subparagraph (c) above, shall meet the following criteria.

(1) The program shall be an integrated and organized program of study.

(2) The program shall have an identifiable body of students at different levels of matriculation.

(3) The program shall be clearly identified and labeled as a psychopharmacology program and shall specify in perti-

ment institutional catalogues and brochures its intent to educate and train psychologists to prescribe psychotropic medication.

(4) The program shall have a formally designated training director who is a psychiatrist or a doctoral psychologist, trained in the area of psychopharmacology, and licensed to practice in the jurisdiction in which the program resides.

(5) The training director shall be primarily responsible for directing the training program and shall have administrative authority commensurate with those responsibilities.

(6) The training director's credentials and expertise shall be consistent with the program's mission and goals to train psychologists to prescribe psychotropic medication.

(7) The program shall provide information regarding the minimal level of achievement required for postdoctoral trainees to satisfactorily progress through and complete the psychopharmacological training program, as well as evidence that it adheres to the minimum levels of achievement.

(8) The program shall have formally designated instructors and supervisors in sufficient number to accomplish the program's education and training.

(9) Supervisors shall hold an active, unrestricted license in their field of practice in the jurisdiction in which the program resides or where the supervision is being provided.

(10) The program instructors and supervisors shall have sufficient expertise, competence, and credentials in the areas in which they teach or supervise.

(11) The program instructors and supervisors shall participate actively in the program's planning, implementation and evaluation.

(12) The program, with appropriate involvement from its training supervisors, instructors, and trainees, shall engage in a self-study process that addresses:

(a) expectations for the quality and quantity of the trainees' preparation and performance in the program;

(b) training goals and objectives for the trainees and the trainees' views regarding the quality of the training experiences and the program;

(c) procedures to maintain current achievements or to make changes as necessary; and

(d) goals, objectives, and outcomes in relation to local, regional, and national changes in the knowledge base of psychopharmacology training.

(13) The program shall follow the guidelines for psychopharmacology training of post-doctoral psychologists established by the American psychological association.

(14) As part of the admission process, the training program shall evaluate and assure that every student completes necessary prerequisite training in basic science (e.g. physiology, chemistry, biochemistry), the biological bases of behavior, and psychopharmacology.

(15) When students are not in residence, the program provides on-line access to a library of sufficient diversity and level to support the advanced study of the psychopharmacological treatment of mental disorders from wherever the student resides. This access shall remain available throughout all didactic and clinical phases of the training program. Frequent face-to-face evaluation and discussions shall be included in the didactic training.

(16) The program provides formal, written measurement of the mastery of course content.

(17) The program demonstrates in its written materials or course syllabi that it integrates into the training the following areas; socio-cultural issues in psychopharmacological treatment, ethno-pharmacology, use of translators, the cultural context of compliance and noncompliance with prescribed medication, creating a culturally appropriate environment to meet patient care treatment and language needs, and working collaboratively with traditional healers.

C. Within the five years immediately preceding the date of application for a conditional prescription certificate, the applicant shall have successfully completed didactic instruction of no fewer than 450 classroom hours in at least the following core areas of instruction:

(1) neuroscience;

(2) pharmacology;

(3) psychopharmacology;

(4) physiology;

(5) pathophysiology;

(6) appropriate and relevant physical and laboratory assessment; and

(7) clinical pharmaco-therapeutics.

D. At least three fourths (3/4) of the 450 classroom hours of didactic instruction shall be awarded by one certification or degree-granting institution or continuing education program.

E. Eighty hour practicum in clinical assessment and pathophysiology. Requirements for the eighty (80) hour practicum in clinical assessment and pathophysiology.

(1) The 80-hour practicum shall be part of the psychopharmacology training program from which the applicant obtains the certification or degree.

(2) The 80-hour practicum shall provide the opportunity for the applicant to observe and demonstrate competence in physical and health assessment techniques

within a medical setting under the supervision of a physician.

(3) The 80-hour practicum shall be completed in no less than eight (8) weeks and no more than sixteen (20) weeks.

(4) The supervising physician and the training director of the psychopharmacology training program shall certify in writing that the applicant:

(a) assessed a diverse and significantly medically ill patient population;

(b) observed the progression of illness and continuity of care of individual patients;

(c) adequately assessed vital signs;

(d) demonstrated competent laboratory assessment; and

(e) successfully completed the 80-hour practicum.

F. Four hundred hour practicum. Requirements for the general four hundred (400) hour practicum treating a minimum of 100 patients with mental disorders.

(1) The 400-hour practicum shall be part of the psychopharmacology training program from which the applicant obtains the certification, degree or certification of completion.

(2) One hundred (100) patients shall mean 100 separate patients.

(3) Four hundred hours shall refer to four hundred (400) face-to-face hours. The four hundred (400) face-to-face hours shall include only time spent with patients to provide psychopharmacotherapy and time spent in collaboration with the patient's treating health care practitioner(s).

(4) The applicant must have a supervised experience in the evaluation and treatment of 100 patients, representing a diverse patient population including diversity in the patients':

(a) gender;

(b) different ages throughout the life cycle, including adults, children/adolescents, and geriatrics;

(c) range of disorders listed in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and acute and chronic disorders;

(d) ethnicity;

(e) socio-cultural background; and

(f) economic background.

(5) At least 80 hours of the practicum shall occur in one or more setting(s) treating acutely ill and seriously mentally ill patients in which the level of care is more restrictive than in an outpatient setting. Such setting may include an acute mental health treatment program, a residential treatment center, a general hospital, an inpatient mental health treatment facility, a substance abuse treatment center, day or

residential geriatric treatment center, or a treatment program for the homeless.

(6) The applicant and the training program shall maintain a log on each patient seen for psychopharmacological treatment, which shall include the patient's age, gender, race or ethnicity, diagnosis, past and current medications, laboratory tests and recommended action including any psychotropic medications suggested, time spent in treatment, and the psychological treatment methods utilized. The log shall be available to the psychopharmacology application committee or the board upon request. The log shall not contain patient identifying information but shall be coded to identify the log with a particular patient. The log shall contain the name and signature of the supervisor.

(7) The applicant and the training program shall keep records of the time spent during this practicum. The records shall be available to the psychopharmacology application committee or the board upon request. The records shall not contain patient identifying information.

(8) A psychiatrist or other appropriately trained physician, licensed in good standing in the jurisdiction in which the psychiatrist or other physician rendered supervision shall be the primary supervisor of the practicum. The primary supervisor shall be responsible for the overall supervision of the applicant; however, training may be assigned to other licensed physicians, i.e., secondary supervisors, as designated by the primary supervisor and the training director of the program.

(9) The primary or secondary supervisor shall be on site. The applicant shall consult with the primary or secondary supervisor, as appropriate, before the applicant makes a decision about the psychopharmacological treatment of the patient.

(10) The primary or secondary supervisor shall review the charts and records of any patient seen by the applicant during the practicum while under the supervision of the primary or secondary supervisor.

(11) The primary or secondary supervisor shall consult with the applicant for supervision and clinical education for a cumulative total of at least two (2) hours per week. The applicant is responsible to keep a log of the dates and time of supervision. The supervisor may meet with the applicant for additional education at his or her discretion.

(12) The practicum shall be completed in a period of time of not less than six (6) months and not more than three (3) years.

(13) The practicum shall be completed within the five years immediately preceding the date of application for a con-

ditional prescription certificate.

(14) Upon request of the psychopharmacology application committee or the board, the primary supervisor shall provide an affidavit stating that:

(a) the supervisor does not have conflict of interest and is not a member of the applicant's family or household as defined in 16.22.26 NMAC, of these regulations;

(b) the supervisor or a designated secondary supervisor reviewed and discussed with the applicant the charts and records of patients seen by the applicant during the practicum;

(c) the practicum included a diverse group of patients, as defined in these regulations; and

(d) the applicant did not write any prescriptions without the primary or secondary supervisor's supervision and signature or authorization.

(15) The primary supervisor shall conduct a formal, written evaluation on at least two occasions, at the midpoint and at the end of the practicum. The evaluation shall assess the applicant's progress and competencies and shall describe any deficiencies or areas where competency has not been achieved. The primary supervisor shall submit copies of the evaluations to the applicant and the training director.

(16) In the event of documented deficiencies the training director of the psychopharmacology program shall specify in writing:

(a) the areas in need of remediation;

(b) the process and procedures by which these areas are to be re-mediated; and

(c) the method by which the training director and supervisor shall determine that the applicant has achieved the competencies necessary to successfully complete the practicum.

(17) The program shall ensure that during the initial contact between the patient or the patient's legal guardian, if any, and the applicant, the patient or the patient's legal guardian shall be informed of the status of the applicant as a licensed psychologist who is receiving specialized training in psychotherapy and who is providing treatment under supervision. The name and role of the supervisor and sufficient information of the expectation and requirements of the practicum shall be provided to the patient or the patient's legal guardian at the initial contact necessary to obtain informed consent and appropriate releases. The applicant shall provide additional information requested by the patient or the patient's legal guardian concerning the applicant's education, training and experience.

(18) The primary supervisor and the training director of the psychopharma-

cology program from which the applicant obtained a certification of successful completion or a degree in psychopharmacology shall certify to the board in writing that the applicant has successfully completed the practicum.

G. National examination. To qualify for a conditional prescription or prescription certificate, the applicant must demonstrate competency by passing a national examination.

(1) Applicant must pass the psychopharmacology examination for psychologists (PEP), developed by the American psychological association practice organization's college of professional psychology and its contractor, the professional examination service.

(2) Applicant must be eligible to take the PEP after the applicant successfully completes the didactic portion of the postdoctoral program of education in psychopharmacology.

(3) The passing score shall be the passing score recommended by the American psychological association's practice organization college of professional psychology for the occasion.

(4) If the applicant fails the examination, the applicant may take the examination a second time after a mandatory 90-day waiting period.

(5) If the applicant fails the examination on the second attempt, the applicant will be required to wait one year before repeating the examination.

(6) If the applicant fails the examination on the third attempt, the applicant is required to take the remedial didactic program recommended by the psychopharmacology application committee and approved by the board before the applicant is allowed to repeat the examination.

H. An applicant who has successfully completed a psychopharmacology educational program, an eighty (80) hour practicum in clinical assessment and pathophysiology, a four hundred (400) hour/100 patient practicum treating patients with mental disorders or the national certification examination prior to the effective date of these regulations may include the completed portion(s) of the training in the application for a conditional prescription certificate. The applicant who has completed the four hundred (400) hour practicum shall include certification in writing from the primary supervisor that the applicant has successfully completed the practicum and is trained to competently treat a diverse patient population as defined in these regulations. The board shall approve the prior training program(s) that satisfy the requirements as listed in 16.22.23 NMAC, of these regulations.

[16.22.23.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.23 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 24 APPLICATION PROCEDURES: TWO-YEAR SUPER- VISED PRACTICE

16.22.24.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners.
[16.22.24.1 NMAC - N, 1/7/05]

16.22.24.2 SCOPE: This part
applies to the board, licensees, applicants
for licensure seeking licenses under pre-
scriptive authority, and the general public.
[16.22.24.2 NMAC - N, 1/7/05]

**16.22.24.3 STATUTORY
AUTHORITY:** This part is adopted pur-
suant to the Professional Psychologist Act,
NMSA 1978 Section 61-9-17.1
[16.22.24.3 NMAC - N, 1/7/05]

16.22.24.4 DURATION:
Permanent.
[16.22.24.4 NMAC - N, 1/7/05]

16.22.24.5 EFFECTIVE DATE:
January 7, 2005, unless a later date is cited
at the end of the section.
[16.22.24.5 NMAC - N, 1/7/05]

16.22.24.6 OBJECTIVE: The
objective of Part 24 is to set forth the provi-
sions, which apply to all of Chapter 22, and
all persons affected or regulated by Chapter
22 of Title 16.
[16.22.24.6 NMAC - N, 1/7/05]

16.22.24.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.24.8 APPLICATION PROCEDURES AND PRESCRIBING PRACTICES FOR CONDITIONAL PRESCRIPTION CERTIFICATE; TWO-YEAR SUPERVISED PRACTICE:

A. A psychologist shall not
administer or prescribe drugs or medicines
unless the psychologist holds a valid condi-
tional prescription certificate or prescription
certificate issued by the board pursuant to
these regulations. A conditional prescrip-
tion certificate or prescription certificate is
automatically invalid upon the expiration,

surrender, placement on inactive status, sus-
pension, or revocation of the psychology
license.

B. An applicant for a con-
ditional prescription certificate shall submit
a completed application on the form provid-
ed by the board. The applicant is responsi-
ble to ensure that the application is comple-
te and that all application fees are paid.

C. Application procedure,
the applicant shall submit the following:

(1) a copy of the degree, certifi-
cate or certification of completion of a post-
doctoral psychopharmacology training pro-
gram;

(2) certification by the supervis-
ing physician and program training director
of successful completion of the eighty (80)
hour practicum in clinical assessment and
pathophysiology;

(3) certification by the primary
supervisor and the program-training direc-
tor of successful completion of the general
four hundred (400) hour practicum treating
a minimum of 100 patients with mental dis-
orders;

(4) evidence of passing the psy-
chopharmacology examination for psychol-
ogists (PEP);

(5) a proposed supervisory plan;

(6) evidence of proof of insurance
or insurance binder as described in 16.22.24
NMAC, of these regulations;

(7) a non-refundable application
fee.

D. Only a complete appli-
cation will be considered. The board may
request additional information from the
applicant to verify or confirm the informa-
tion contained in the application.

E. The applicant will be
notified in writing within thirty (30) days
whether the application, including the
supervisory plan, is accepted or rejected. If
the application is rejected the notice shall
state the reason for rejection.

F. The conditional pre-
scribing psychologist shall be supervised by
a licensed physician(s) knowledgeable of
the administration of psychotropic medica-
tion. If more than one supervisor is select-
ed, one supervisor shall be designated the
primary supervisor.

G. The board must
approve the supervisory plan before the
conditional prescription certificate is issued.
The proposed supervisory plan shall include
the information contained in 16.22.24
NMAC, and shall be signed by the primary
supervisor.

H. After the board
approves the supervisory plan, the condi-
tional prescribing psychologist shall within
thirty (30) days submit to the New Mexico
medical board the name, address and phone
number of the conditional prescribing psy-
chologist and the name(s), address(s) and

phone number(s) of the primary supervising
physician and secondary supervising physi-
cians, if any. During the period of super-
vised practice, the conditional prescribing
psychologist shall provide to the New
Mexico medical board the name(s),
address(s) and phone number(s) of any
supervising physician or physician serving
as a substitute or replacement for primary or
secondary supervisor(s).

I. Each supervisor shall
have clinical expertise or training with the
patient population that the psychologist
with a conditional prescription certificate is
evaluating and treating.

J. During the initial con-
tact between the patient or the patient's
legal guardian, if any, and the conditional
prescribing psychologist, the patient or the
patient's legal guardian shall be informed
that the psychologist has received special-
ized training in the prescription of psy-
chotropic medication, that the psychologist
is transitioning to independent psychophar-
macological practice, and that the psychol-
ogist is practicing under supervision with
respect to the prescribing of psychotropic
medication. The name and role of the
supervisor shall be provided to the patient
or the patient's legal guardian and informed
consent and appropriate releases shall be
obtained. The conditional prescribing psy-
chologist shall provide additional informa-
tion requested by the patient or the patient's
legal guardian concerning the psychol-
ogist's education, training, and experience.

K. Supervision by the pri-
mary supervisor shall be provided on a one-
to-one basis for at least four hours a month
and should total at least forty-six (46) hours
of one-to-one supervision per year, unless
altered, in accordance with Subsection P of
16.22.24.8 NMAC of these regulations.

L. Each supervisor is
responsible to review only the cases he or
she is supervising. The supervising physi-
cian at all times shall have access to and
shall review records relating to the treat-
ment of patients under his or her supervi-
sion. The supervising physician may
require face-to-face consultation(s) with the
conditional prescribing psychologist.

M. If there is more than
one supervisor, each supervisor shall inform
the other supervisor of any concerns about a
conditional prescribing psychologist whom
he or she is supervising.

N. The primary supervisor
shall contact any secondary supervisor(s) at
least every six (6) months to obtain written
or verbal progress reports concerning how
the conditional prescribing psychologist is
performing.

O. One-to-one supervision
must be provided either face- to-face, tele-
phonically, or by tele-video live communi-
cation.

P. The supervising physician, after consultation with the conditional prescribing psychologist, may amend the supervisory plan, the board shall approve amendments to the supervisory plan set forth in Subsection R below.

Q. A primary supervisor shall not supervise more than three (3) conditional prescribing psychologists.

R. The two year supervised practice supervisory plan shall include the following information and shall be signed by the primary supervisor:

- (1) name of the applicant;
- (2) name, address license number, and area of specialization of the primary supervisor and the secondary supervisor(s), if any;
- (3) beginning and ending dates of the two-year supervised practice covered by the plan;
- (4) number of one-on-one supervisory hours per month and by whom;
- (5) setting(s) in which the conditional prescribing psychologist will practice and the hours per week worked at each setting;
- (6) duties and clinical responsibilities of the conditional prescribing psychologist;
- (7) location(s) where supervision will occur and with whom;
- (8) areas in which the primary and secondary supervisor(s), if any, have specialized skills to render competent supervision;
- (9) number of psychologists with conditional prescription certificates that the primary supervisor will supervise during this time period;
- (10) the manner in which the conditional prescribing psychologist will be represented to the public including, all written communications and public announcements;
- (11) any direct or indirect financial agreements between or among the conditional prescribing psychologist and the primary and secondary supervisor(s), if any;
- (12) other information necessary to clarify the nature and scope of supervision; and
- (13) a statement specifying the manner in which supervision and clinical and professional responsibility will be provided during the supervisor's absence (during vacations or unexpected events that require the supervisor to be absent for any period of time).

S. The board or its designee shall notify the applicant in writing within sixty (60) days of application date, whether the application and the proposed supervisory plan are accepted or rejected. The board or its designee shall notify a conditional prescribing psychologist within thirty (30) days whether a pro-

posed amendment to an approved supervisory plan is accepted or rejected. If rejected, the notice shall state the reasons for rejection.

T. The conditional prescribing psychologist shall submit summary reports to the supervising physician concerning each patient receiving psychotropic medications at least quarterly or more frequently as required by the supervisor. The summary reports shall be available to the board upon request. The summary reports shall include at a minimum:

- (1) a code number for the patient and the patient's date of birth, gender, and weight and any other significant variable considered in prescribing the medication(s);
- (2) the principle diagnosis;
- (3) the name of the supervising physician for the patient;
- (4) the patient's medications taken for this condition prior to this treatment;
- (5) all current medications and dosages;
- (6) initial or updated relevant findings from assessments and laboratory tests (e.g., cbc, liver panel, psychological testing);
- (7) medical risk factors;
- (8) pertinent current medical problems including drug and food allergies; and
- (9) a certification by the conditional prescribing psychologist that the patient's chart or treatment record contains the following information:
 - (a) full medical history and family history;
 - (b) documentation of mental status examination and assessment procedures and complete differential diagnosis of the patient by the conditional prescribing psychologist;
 - (c) risk factors for the diagnostic condition are identified, including absence of drug, alcohol, suicide, and homicide;
 - (d) treatment, including psychopharmacotherapy and psychotherapy, prescribed by the conditional prescribing psychologist, adverse effects, and documentation of outcomes for the prescribed medications;
 - (e) patient education regarding medications prescribed, including documentation of informed consent;
 - (f) patient's response to treatment;
 - (g) dates and outcomes of consultations with the patient's treating health care practitioner, to include a record and description of any disagreements with the patient's treating health care practitioner regarding the conditional prescribing psychologist's recommendations for prescription of psychotropic medication and psychopharmacological patient care;

(h) dates of contact and time spent with the patient;

(i) dates of supervision with the supervisor;

(j) legible progress notes, including continuation or update notes related to the patient; and

(k) discharge and follow-up plans.

U. The summary reports shall be corrected or revised and resubmitted at the direction of the supervising physician.

V. Each supervising physician shall maintain a supervision log containing the dates, duration, and place or method of supervision, the same identification code for patients as used by the psychologist with a conditional prescribing certificate in the summary reports, and a brief description of the content of supervision. The log shall be submitted to the board upon request.

W. The primary supervising physician shall also maintain a log of the contacts with the secondary supervisor(s) that includes the dates of contact, and a brief description of the outcome of this contact, including a statement stating whether the conditional prescribing psychologist is progressing satisfactorily.

X. The supervisor shall review the results of laboratory tests as appropriate and shall be skilled and experienced in such interpretation.

Y. The supervising physician(s) shall hold an active license in good standing and appropriate drug enforcement administration certificate and shall be experienced and skilled in the prescription of psychopharmacological drugs.

Z. The conditional prescribing psychologist shall maintain malpractice insurance covering claims for personal injury arising out of his or her performance of professional services and claims arising out of his or her acts, errors or omissions in providing professional services, including prescribing psychotropic medication. Such malpractice insurance coverage shall be no less than one (1) million dollars per occurrence with an aggregate limit of three (3) million dollars.

AA. The conditional prescribing psychologist shall submit to the board the declaration page of his or her malpractice insurance policy, when instituted, and thereafter on the policy renewal date, as proof of this required insurance upon making application for the conditional prescription certification, and proof that the policy covers the prescribing of psychotropic drugs.

BB. The conditional prescribing psychologist shall see a minimum of 50 separate patients within the two-year period who are seen for the purpose of eval-

uation for psychotropic medication. The duration of the two-year supervisory period shall not be accelerated or reduced.

CC. At the end of the two-year period, the primary supervising physician shall provide an affidavit to the board certifying that:

(1) the supervising physician has not received any financial payments from the applicant except appropriate fees for supervisory services, the supervising physician is not a member of the applicant's family or household, the supervising physician is not in a prohibited dual relationship with the applicant or a member of the applicant's family or household, and that the supervising physician has not had an interest that conflicts with the supervisor's duties as supervisor;

(2) summary reports as specified in 16.22.24 NMAC, of these regulations were accurate and timely;

(3) each supervising physician discussed with the psychologist the charts and records of patients seen by the psychologist under that physician's supervision during the two-year period; and

(4) the psychologist has successfully completed two years of evaluating for or prescribing psychotropic medication to at least 50 patients.

DD. The primary supervisor in consultation with any secondary supervisor shall evaluate and describe any deficiencies at the end of the two-year period. In the event of documented deficiencies, the primary supervising physician(s) shall specify in writing the areas in need of remediation and the process and procedures by which these areas are to be remediated.

EE. The supervisory period and the conditional prescriptive certificate may be extended with approval of the board if the conditional prescribing psychologist does not successfully complete the two-year conditional period of supervision. A supervisory plan shall be submitted to the board for the proposed extended period of practice under supervision. The conditional prescribing psychologist shall continue to maintain malpractice insurance.

FF. At the end of the extended two-year period above, the primary supervising physician shall provide an affidavit to the board certifying:

(1) the method by which the supervisor(s) determined that the conditional prescribing psychologist obtained the competencies necessary to prescribe psychotropic medication, supported by a written evaluation addressing areas of remediation; the evaluation shall be submitted to the psychopharmacology application committee and the board upon request; and

(2) the requirements set forth in Subsection CC of 16.22.24.8 NMAC, above covering the entire period of supervised

practice, including any extension.

GG. The conditional prescribing psychologist shall notify the board in writing if a supervising physician fails to meet any of the supervisory requirements as set forth in this section and the supervisory plan approved by the board. The notification shall include a clear and detailed description of the supervisor's failure(s) to perform.

HH. The conditional prescribing psychologist shall notify the board within fourteen (14) days of discovery of any event or circumstance that requires the psychologist to interrupt or cease prescribing practices for any period of time that exceeds sixty (60) days. In no event shall the conditional prescribing psychologist continue prescribing psychotropic medications without an active, responsible supervising physician and valid malpractice insurance.

II. The conditional prescribing certificate shall expire two years after issuance, unless extended in writing as provided in Subsection EE of 16.22.24.8 NMAC, above. A psychologist shall not administer or prescribe drugs or medicines unless the psychologist holds a valid conditional prescription certificate or prescription certificate issued by the board. The board may extend the conditional prescribing certificate up to sixty (60) days pending peer review if the board has received at the board office a complete application for a prescription certificate no later than ten (10) days before the expiration of the conditional prescription certificate.

JJ. The psychologist shall not administer or prescribe drugs or medicines after the expiration of the conditional prescription certificate. The psychologist shall notify the board in writing if the psychologist decides not to immediately apply for a prescription certificate upon expiration of the conditional prescription certificate. A psychologist who successfully completes all of the requirements of conditional prescription certificate may apply for a prescription certificate after the expiration of the conditional prescription certificate, so long as the psychologist satisfies all the education, training, and supervision criteria within the time limits established by NMSA 1978, Section 61-9-17.1 and Subsection E of 16.22.23.8 NMAC, of these regulations. The psychologist is solely responsible to obtain patient records for peer review and all other evidence of satisfactory completion of practice under supervision, including supervising physician affidavit(s).

[16.22.24.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.24 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 25 APPLICATION FOR PRESCRIPTION CERTIFICATE; PEER REVIEW

16.22.25.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners.
[16.22.25.1 NMAC - N, 1/7/05]

16.22.25.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.
[16.22.25.2 NMAC - N, 1/7/05]

16.22.25.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1
[16.22.25.3 NMAC - N, 1/7/05]

16.22.25.4 DURATION:
Permanent.
[16.22.25.4 NMAC - N, 1/7/05]

16.22.25.5 EFFECTIVE DATE:
January 7, 2005, unless a later date is cited at the end of the section.
[16.22.25.5 NMAC - N, 1/7/05]

16.22.25.6 OBJECTIVE: The objective of Part 25 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.
[16.22.25.6 NMAC - N, 1/7/05]

16.22.25.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.25.8 APPLICATION FOR PRESCRIPTION CERTIFICATE; PEER REVIEW:

A. A psychologist shall not administer or prescribe drugs or medicines unless the psychologist holds a valid conditional prescription certificate or prescription certificate issued by the board pursuant to these regulations. A conditional prescription certificate or prescription certificate is automatically invalid upon the expiration, surrender, placement on inactive status, suspension, or revocation of the psychology license.

B. An applicant for a prescription certificate shall submit a complete application on a form approved by the

board. The applicant is responsible to ensure that the application is complete and timely and that all application fees are paid.

C. Application procedure, no sooner than sixty (60) days and no later than ten (10) days prior to expiration of the conditional prescription certificate, the applicant shall submit a non-refundable fee established by the board and shall submit evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed or anticipates successfully completing two (2) years of prescribing psychotropic medication, as certified by the primary supervising physician pursuant to 16.22.24 NMAC of these regulations;

(2) holds a current license to practice psychology in New Mexico;

(3) has malpractice insurance as required in 16.22.24 NMAC, of these regulations; the psychologist shall submit to the board a copy of the declaration page of his or her malpractice insurance policy with the application, and proof that the policy covers prescribing psychotropic medications; and

(4) holds a current certification in basic cardiac life support.

D. Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information in the application.

E. The applicant for a prescription certificate shall successfully complete a process of independent peer review that meets the requirements set forth below before the board shall issue a prescription certificate.

(1) One or more peer review panel(s) shall be appointed by the chair of the board. Peer review panels shall consist of (3) members from at least (2) of the following professions and categories:

(a) prescribing psychologists or licensed psychologists with specialized training and experience in psychopharmacology;

(b) licensed, board-certified psychiatrists or other physicians with specialized training and experience in psychopharmacology;

(c) doctoral level licensed pharmacists or pharmacist clinicians with specialized training and experience in psychopharmacology.

(2) A panel member shall not be a member of the applicant's family or household, shall not be in a prohibited dual relationship with the applicant or a member of the applicant's family or household, shall not have supervised the applicant, and shall not have a conflict of interest as defined in 16.22.1 NMAC, of these regulations.

(3) No panel member may be a psychologist enrolled in a psychopharma-

cology training program or hold a conditional prescription certificate.

(4) A panel shall examine at least ten randomly selected charts of patients treated by the conditional prescribing psychologist during the two-year supervised period and any approved extensions. The applicant shall be solely responsible for obtaining the patient charts for peer review. The charts shall be reviewed to determine whether the following information is timely, accurately, and properly recorded:

(a) a full medical history and family history;

(b) a mental status examination and complete differential diagnosis of the patient by the conditional prescribing psychologist;

(c) risk factors for the diagnostic condition were identified, including absence of drug, alcohol, suicide and homicide;

(d) drug and food allergies;

(e) patient medications;

(f) patient education on prescription, including evidence of informed consent to treatment;

(g) appropriate laboratory tests ordered and reviewed;

(h) the patient's diagnosis;

(i) adequate dosing requirements for prescription;

(j) treatment, including psychopharmacotherapy and psychotherapy, adverse affects from prescriptions, documentation of outcome measures for prescriptions;

(k) progress notes;

(l) a follow-up plan, including a discharge plan, and

(m) documentation of collaboration with the patient's treating health care practitioner as required pursuant to 16.22.20 NMAC, of these regulations;

(5) A satisfactory mark shall be achieved if the peer review panel determines that the charts are ninety percent (90) in compliance with the requirements of 16.22.25.8 NMAC. The peer review panel shall complete an evaluation form approved by the psychopharmacology application committee, which shall certify that the charts reviewed are in ninety percent (90) compliance and are satisfactory, and shall forward the evaluation form to the board.

(6) The board shall issue a prescription certificate to the applicant within thirty (30) days of receipt of a satisfactory peer review panel evaluation.

(7) If the peer review panel documents deficiencies in the patient charts or the applicant otherwise does not demonstrate competency to prescribe independently, the panel shall specify in writing:

(a) the areas in need of remediation;

(b) the process and procedures by

which these areas are to be remediated; and

(c) the time period, not to exceed six (6) months, allowed for remediation of deficiencies or demonstration of competency before the applicant can undergo another peer review.

(8) Another peer review shall be conducted at the end of the remedial period. The applicant may have a total of three (3) peer reviews, after which the applicant shall re-enroll in psychopharmacology program meeting all criteria in 16.22.23.8 NMAC, and apply for another conditional prescription certificate prior to applying for a prescription certificate.

(9) The evaluation or results of any deficient peer review shall be forwarded to the board and the New Mexico medical board. The board, in consultation with the medical board or its designee, shall have the discretion to extend a conditional prescription certificate pursuant to Subsection EE of 16.22.24.8 NMAC, pending the outcome of the second or subsequent peer review process.

[16.22.25.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.25 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 26 GRADUATES OF THE DEPARTMENT OF DEFENSE PSYCHOPHARMACOLOGY DEMON- STRATION PROJECT

16.22.26.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.
[16.22.26.1 NMAC - N, 1/7/05]

16.22.26.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.
[16.22.26.2 NMAC - N, 1/7/05]

16.22.26.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1 and 61-9-10
[16.22.26.3 NMAC - N, 1/7/05]

16.22.26.4 DURATION: Permanent.
[16.22.26.4 NMAC - N, 1/7/05]

16.22.26.5 EFFECTIVE DATE:

January 7, 2005, unless a later date is cited at the end of the section.

[16.22.26.5 NMAC - N, 1/7/05]

16.22.26.6 OBJECTIVE: The objective of Part 26 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.26.6 NMAC - N, 1/7/05]

16.22.26.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.26.8 GRADUATES OF THE DEPARTMENT OF DEFENSE PSYCHOPHARMACOLOGY DEMONSTRATION PROJECT:

A. Graduates of the department of defense psychopharmacology demonstration project shall be issued a prescription certificate without undergoing the two years of supervision under a conditional prescription certificate if the applicant submits evidence satisfactory to the board that the applicant holds a doctoral degree that either:

(1) meets the educational requirements described in board regulations Paragraphs (1) and (2) of Subsection A of 16.22.4.8 NMAC; or

(2) has completed a doctoral program in psychology from an accredited institution of higher education or professional school, including:

(a) a program accredited by the American psychological association or designated by the association of state and provincial psychology boards/national register designation system; or

(b) if the program was not accredited by the American psychological association or designated by the association of state and provincial psychology boards/national register designation system at the time of the applicant's graduation, that the board determined that the program met professional standards determined acceptable by the board at the time of licensure;

(c) has a current unrestricted license to practice psychology in New Mexico;

(d) has passed the psychopharmacology examination for psychologists (PEP) with a passing score recommended by the American psychological association's college of professional psychology for that occasion;

(e) has within five years immediately preceding the date of application successfully completed training in the department of defense psychopharmacology demonstration project, or provides evidence satisfactory to the board that the applicant has been actively engaged in prescribing psychotropic medication within the depart-

ment of defense health system for at least two of the last five years immediately preceding the date of application;

(f) certifies on a form approved by the board that the training in the department of defense demonstration project included:

(i) a program of didactic instruction that consisted of no fewer than 450 classroom hours in at least the following core areas of instruction; neuroscience, pharmacology, psychopharmacology, physiology, pathophysiology, appropriate and relevant physical and laboratory assessment, and clinical pharmacotherapeutics;

(ii) no less than an eighty (80) hour practicum in clinical assessment and pathophysiology;

(iii) supervised experience of at least 400 hours treating no fewer than 100 patients with mental disorders, supervised by a psychiatrist or other appropriately trained physician sufficient to train the applicant in the treatment of a diverse patient population;

(iv) a minimum of one peer review conducted by the appropriate department of defense health facility in which the applicant has practiced;

(g) has malpractice insurance as required in 16.22.24 NMAC, of these regulations.

B. Graduates of the department of defense psychopharmacology demonstration project who have not been actively engaged in prescribing psychotropic medication for at least two of the last five years immediately preceding the date of application may apply for a conditional prescription certificate and shall complete the requirements of Paragraphs (1) and (2) below.

(1) The psychopharmacology application committee shall make recommendations to the board concerning additional supervision and training that may be required. The board shall review the committee recommendations and determine the additional supervision and training required by the applicant in order to qualify for a prescription certificate.

(2) The period of supervised practice shall be determined by the board based on the applicant's education, training, and experience and shall not be less than three (3) months or more than two (2) years. The applicant shall submit to the psychopharmacology application committee a supervisory plan as outlined in Subsection R of 16.22.24.8 NMAC, of these regulations. The same requirements set forth in 16.22.24.8 NMAC, shall apply to the supervisory period.

C. The application committee shall recommend to the board issuance of a prescription certificate to a

graduate of the department of defense psychopharmacology demonstration project who qualifies in accordance with these regulations.

[16.22.26.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.26 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES
PART 27 FORMULARY**

16.22.27.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.27.1 NMAC - N, 1/7/05]

16.22.27.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.

[16.22.27.2 NMAC - N, 1/7/05]

16.22.27.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.2 and 61-9-3

[16.22.27.3 NMAC - N, 1/7/05]

16.22.27.4 DURATION: Permanent.

[16.22.27.4 NMAC - N, 1/7/05]

16.22.27.5 EFFECTIVE DATE: January 7, 2005, unless a later date is cited at the end of the section.

[16.22.27.5 NMAC - N, 1/7/05]

16.22.27.6 OBJECTIVE: The objective of Part 27 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.27.6 NMAC - N, 1/7/05]

16.22.27.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.27.8 FORMULARY:

A. Conditional prescribing or prescribing psychologists shall exercise prescriptive authority using psychotropic medications, as defined in 16.22.1 NMAC, within the recognized scope of practice for the treatment of mental disorders and for which the psychologist has been properly educated and trained.

B. As provided by Section

61-9-17.2, NMSA, 1978 (2002), when prescribing psychotropic medication for a patient, a prescribing psychologist or a psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with a health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition and significant changes in the patient's medical or psychological condition are discussed. The collaborative relationship shall be utilized to coordinate the patient's ongoing care, including, determining whether non-psychotropic medications should be prescribed to provide the patient with optimized care. In such cases, all non-psychotropic medications shall be prescribed by the health care practitioner who oversees the patient's general medical care, or by other health care practitioners involved in the patient's care who are authorized by law to prescribe such medications.

C. Unless specifically agreed to by a primary healthcare practitioner, a conditional prescribing or prescribing psychologist shall not prescribe psychotropic medication to treat patients for the following conditions:

- (1) chronic pain;
- (2) endocrine, cardiovascular, orthopedic, neurological, and gynecological illness or disorders;
- (3) allergies; or
- (4) other non-psychiatric illnesses, disorders, or illnesses causing mental disorders.

D. A conditional prescribing or prescribing psychologists shall be allowed to pharmacologically treat patients psychopharmacologically with the medical conditions in 16.22.27.8 NMAC, if those conditions are under treatment of a health care practitioner licensed in New Mexico.

E. A conditional prescribing or prescribing psychologist shall treat psychopharmacologically only mental disorders listed in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

F. A conditional prescribing psychologist or prescribing psychologist who prescribes outside the scope of practice specified in the Professional Psychologist Act and these regulations is subject to disciplinary action by the board. [16.22.27.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.27 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 28 PRESCRIBING PSY- CHOLOGISTS: COMPLAINT PROCE- DURES

16.22.28.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners.
[16.22.28.1 NMAC - N, 1/7/05]

16.22.28.2 SCOPE: The provisions of Part 28 shall apply to all licensees and applicants for licensure, and the general public.
[16.22.28.2 NMAC - N, 1/7/05]

16.22.28.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1
[16.22.28.3 NMAC - N, 1/7/05]

16.22.28.4 DURATION:
Permanent.
[16.22.28.4 NMAC - N, 1/7/05]

16.22.28.5 EFFECTIVE DATE:
January 7, 2005, unless a later date is cited at the end of the section.
[16.22.28.5 NMAC - N, 1/7/05]

16.22.28.6 OBJECTIVE: The objective of Part 28 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.
[16.22.28.6 NMAC - N, 1/7/05]

16.22.28.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.28.8 COMPLAINT PROCEDURES:

A. Any complaint against a conditional prescribing or prescribing psychologist shall be made according to the complaint procedures described in 16.22.11 NMAC of board regulations.

B. The board shall notify the New Mexico medical board, the board of osteopathic medical examiners, or the board of nursing in writing upon receipt of any complaint that implicates the collaborative relationship between a conditional prescribing or prescribing psychologist and a physician, an osteopathic physician or a nurse practitioner, respectively.

C. A joint board complaint

committee shall be appointed to evaluate any complaint arising out of the collaboration between a conditional prescribing or prescribing psychologist and a health care practitioner. The committee shall evaluate compliance with provisions of the collaboration guidelines as set forth in 16.22.20.8 NMAC. If the committee determines that the complaint does not involve the collaboration guidelines, the committee shall return the complaint to the board for appropriate action.

D. A joint board complaint committee will consist at a minimum of the following members, appointed as follow:

(1) one person appointed by the board who has experience in the field of psychopharmacology;

(2) one person appointed by the appropriate board of the health care practitioner having a collaborative relationship with the conditional prescribing or prescribing psychologist; and

(3) a public member appointed by the board.

E. Members of a joint board complaint committee shall not be in a pharmacological training program or seeking a prescription certificate, shall not be seeking licensure as a psychologist, physician, or nurse, and shall be a licensee in good standing in his or her respective profession.

F. Members of a joint board complaint committee shall not participate in any complaint review involving the member's family, household or a conflict of interest as defined in 16.22.1.7 NMAC, of these regulations.

G. The professional members of a joint board complaint committee may include:

(1) a psychologist with specialized training and experience in psychopharmacology;

(2) a licensed physician or osteopathic physician with clinical experience in mental health or psychopharmacology;

(3) a licensed pharmacist or pharmacist clinician with specialized training and experience in psychopharmacology;

(4) a licensed psychologist with a prescription certificate;

(5) a nurse practitioner with specialized training and experience in psychopharmacology; or

(6) a licensed psychologist.

H. Upon receipt and review of a complaint, a joint board complaint committee shall attempt an informal resolution of a complaint between a treating health care practitioner and a conditional prescribing or prescribing psychologist, consistent with the collaboration guidelines, in order to optimize patient care.

I. If an informal resolution cannot be achieved, a joint board com-

plaint committee shall report its findings to the board and to the health care practitioner's licensing board. The report shall specify the area of alleged non-compliance with the collaboration guidelines and shall provide recommendations to each board for each board's appropriate action.

[16.22.28.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.28 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 29 PRESCRIBING PSY- CHOLOGISTS: CONTINUING PRO- FESSIONAL EDUCATION AND CER- TIFICATE RENEWAL

16.22.29.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners.
[16.22.29.1 NMAC - N, 1/7/05]

16.22.29.2 SCOPE: This part
applies to the board, conditional prescribing
and prescribing psychologists.
[16.22.29.2 NMAC - N, 1/7/05]

**16.22.29.3 STATUTORY
AUTHORITY:** This part is adopted pur-
suant to the Professional Psychologist Act,
NMSA 1978 Section 61-9-17.1
[16.22.29.3 NMAC - N, 1/7/05]

16.22.29.4 DURATION:
Permanent.
[16.22.29.4 NMAC - N, 1/7/05]

16.22.29.5 EFFECTIVE DATE:
January 7, 2005, unless a later date is cited
at the end of the section.
[16.22.29.5 NMAC - N, 1/7/05]

16.22.29.6 OBJECTIVE: The
objective of Part 29 is to set forth the provi-
sions, which apply to all of Chapter 22, and
all persons affected or regulated by Chapter
22 of Title 16.
[16.22.29.6 NMAC - N, 1/7/05]

16.22.29.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.29.8 CONTINUING PRO- FESSIONAL EDUCATION AND CER- TIFICATE RENEWAL:

A. Conditional prescribing
and prescribing psychologists shall complete
the requirements for continuing pro-

fessional education as specified in the cur-
rent regulations of the board 16.22.9
NMAC.

B. In addition to the
required continuing education hours
described in Subsection A of 16.22.29.8
NMAC, a conditional prescribing or pre-
scribing psychologist shall complete no
fewer than twenty (20) continuing educa-
tion hours in psychopharmacology or psy-
chopharmacotherapy each year. A condi-
tional prescribing or prescribing psycholo-
gist shall maintain a complete, accurate, and
current record of additional continuing educa-
tion hours earned annually. The record
shall include the date, title, sponsor, and
program category of each program attend-
ed, the number of hours earned, and a cer-
tificate or other evidence of attendance or
completion provided by the program spon-
sor. The record shall be available to the
board upon request.

C. The additional psy-
chopharmacology or psychopharmacothera-
py hours may be earned in any of the three
program categories described in 16.22.9
NMAC, of these board regulations. The
additional continuing education hours
earned in categories I and II may be used
to fulfill the minimum and maximum number
of hours for categories I and II required for
license renewal, provided that the minimum
and maximum requirements for each cate-
gory are met and aggregate minimum total
number of hours are met.

D. The prescription certi-
ficate shall be renewed concurrently with the
license to practice psychology. The pre-
scribing psychologist shall submit the cer-
tificate renewal application on forms
approved by the board. The prescribing
psychologist shall provide evidence of mal-
practice insurance and additional continu-
ing education required by the board and
shall pay a certificate renewal fee estab-
lished by the board.

E. Conditional prescribing
psychologists and prescribing psychologists
shall maintain a current certification in
basic cardiac life support.

F. A licensee in good
standing may voluntarily surrender a condi-
tional prescription certificate or prescription
certificate.
[16.22.29.8 NMAC - N, 1/7/05]

HISTORY OF 16.22.29 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

This is an amendment to 16.22.1 NMAC,
Section 7, effective January 7, 2005.

16.22.1.7 DEFINITIONS:

~~A.~~ As used in these regula-
tions, the following words and phrases have
the following meanings unless the context
or intent clearly indicates a different mean-
ing. Definitions in Subsection A pertain to
licensed psychologists.

~~A-]~~ (1) "Act" means the
Professional Psychologist Act, Section 61-
9-1 through 61-9-19 NMSA 1978.

~~B-]~~ (2) "Administrator" or
"board administrator" means the staff per-
son assigned certain express or implied
executive and administrative functions of
the board as defined by board regulations or
as required to carry out the provisions of the
act.

~~C-]~~ (3) "Applicant" means a per-
son who has completed all educational
requirements for licensure and has filed an
initial application with the board.

~~D-]~~ (4) "Board-certified psychi-
atrist" means a physician licensed in the state
of New Mexico who has been certified by
the American board of psychiatry and neu-
rology in the specialty of psychiatry or the
subspecialty of child and adolescent psychi-
atry.

~~E-]~~ (5) "Board regulation" or
"regulation" means any part adopted by the
board pursuant to authority under the act
and includes any superseding regulation.
"Rule" means board regulation.

~~F-]~~ (6) "Candidate" means a per-
son who has filed with the board a properly
made application and is eligible to take the
oral examination.

~~G-]~~ (7) "Client" means a person,
corporate entity or patient that is the recipi-
ent of psychological services. A corporate
entity or other organization can be a client
when the purpose of the professional con-
tract is to provide services of benefit prima-
rily to the organization rather than to indi-
viduals. In the case of individuals with
legal guardians, including minors and legal-
ly incompetent adults, the legal guardian
shall be the client for decision-making pur-
poses, except that the individual receiving
services shall be the client for:

~~(H-)]~~ (a) issues directly affecting
the physical or emotional safety of the indi-
vidual, such as sexual or other exploitative
dual relationships; and

~~(I-)]~~ (b) issues specifically
reserved to the individual, and agreed to by
the guardian prior to rendering of services,
such as confidential communication in a
therapy relationship;

~~(3)~~ (c) all matters specifically designated to individuals in the Mental Health Code and Children's Code, NMSA 1978.

~~(H)~~ (8) "Confidential information" means information revealed by a client or clients or otherwise obtained by a psychologist, where there is reasonable expectation that the information is not to be disclosed by the psychologist without the informed written consent of the client(s) because of ~~(+)~~ (a) the relationship between the client(s) or patient(s) and the psychologist, or ~~(2)~~ (b) the circumstances under which the information was revealed or obtained. When a corporation or organization is the client, the confidential relationship is between the psychologist and the organization, not between the psychologist and an individual within the organization. In this instance, information obtained by the psychologist from the individual shall be available to the organization unless such information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements in itself.

~~(+)~~ (9) "Consultant" means a licensed psychologist who provides professional advice or opinion to a licensee and who has no professional relationship with the patient or client, has no authority over the case, or has no responsibility for the services performed or the welfare of the patient or client.

~~(+)~~ (10) "Court order" means the written communication of a member of the judiciary, or other court magistrate or administrator, if such authority has been lawfully delegated to such magistrate or administrator.

~~(K)~~ (11) "Currently enrolled" means enrolled as a student in a college or university.

~~(L)~~ (12) "Custodian" means the board administrator.

~~(M)~~ (13) "Electronic transmission" means the sending of information through the internet or by telephone facsimile (FAX), or e-mail.

~~(N)~~ (14) "Filed with the board" means actual receipt during normal business hours at the board office in Santa Fe, New Mexico.

~~(O)~~ (15) "Good cause" means the inability to comply because of illness, undue hardship, or extenuating circumstances that are not willful and are beyond the control of the person asserting good cause. The person asserting good cause shall have the burden to demonstrate good cause.

~~(P)~~ (16) "Inactive status" means a procedure of the board to affirm that a licensee is not engaged in active practice.

~~(Q)~~ (17) "Initial application" means the initial application for licensure

filed with the board by an applicant not previously or currently licensed in any jurisdiction.

~~(R)~~ (18) "Licensee" means a person licensed pursuant to the provisions of the act and board regulations.

~~(S)~~ (19) "Licensee in good standing" means a licensee who is not the subject of a pending investigation, adjudicatory proceeding, or petition on appeal or review, or whose license is not restricted, suspended, or revoked in New Mexico or any other state or licensing jurisdiction.

~~(T)~~ (20) "Licensed" means licensed or certified, registered, or any other term when such term identifies a person whose professional behavior is subject to regulation by the board.

~~(U)~~ (21) "Non-licensed person" means a student, post-doctoral person working under supervision in order to satisfy licensure requirements in psychology, employees or staff of a licensee.

~~(V)~~ (22) "Outdated test" means a test for which a revision has been available for three (3) or more years.

~~(W)~~ (23) "Out-of-state psychologist" means a psychologist licensed in another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico who is in good standing in his or her licensing jurisdiction(s).

~~(X)~~ (24) "Patient" means a person who consults or is treated, examined, assessed, or interviewed by a licensed psychologist or licensed psychologist associate or a non-licensed person working under supervision as provided in these regulations.

~~(Y)~~ (25) "Professional relationship" means a mutually agreed-upon relationship between a psychologist and a client(s) for the purpose of the client(s) or patient(s) obtaining the psychologist's professional services.

~~(Z)~~ (26) "Professional service" means all actions of the psychologist in the context of a professional relationship with a client or patient.

~~(AA)~~ (27) "Properly made application" means a completed form for a psychologist or psychologist associate license filed with the board that is complete in all particulars and appears on its face to satisfy all minimum age, educational, supervision, payment, and other requirements except examination requirements for licensure as required by the act and these regulations.

~~(BB)~~ (28) "Rule" means board regulation.

~~(CC)~~ (29) "Sponsoring psychologist" means a licensed psychologist in New Mexico who agrees to provide adequate oversight of an out-of-state psychologist ordered by a court to perform an independent examination; the sponsoring psycholo-

gist remains responsible for the professional conduct of the out-of-state psychologist and the welfare of the patient or client.

~~(DD)~~ (30) "Supervisee" means any person who functions under the authority of a licensed psychologist to provide psychological services as provided in the act or board regulation.

~~(EE)~~ (31) "Supervisor" means a licensed psychologist who agrees to provide adequate supervision over a student, applicant, employee or staff, or other non-licensed person and who remains ultimately responsible for the professional conduct of the non-licensed person and the welfare of the patient or client.

B. Definitions in Subsection B pertain to conditional prescribing and prescribing psychologists only.

(1) "Adults" means all persons over 18 years of age through 65 years of age.

(2) "Board" means the New Mexico state board of psychologist examiners.

(3) "Children/adolescents" means all persons through 18 years of age (children, 2-12 years; adolescents 12-18 years).

(4) "Collaborative relationship" means a cooperative working relationship between a conditional prescribing or prescribing psychologist and a health care practitioner in the provision of patient care, including cooperation in the management and delivery of physical and mental health care, to ensure optimal patient care.

(5) "Conditional prescribing psychologist" means a licensed psychologist who holds a valid conditional prescription certificate.

(6) "Conditional prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the Professional Psychologist Act.

(7) "Conflict of interest" means past or present familial, social, fiduciary, business, financial, health care provider-patient relationship, agency, or other personal relationship that impairs or compromises or appears to impair or compromise the supervisor's neutrality, independence or objectivity. Paying or receiving an appropriate fee for supervisory services is not a conflict of interest. Conflict of interest includes dual relationship. If a conflict of interest or dual relationship arises during the supervision, the supervisor shall immediately report the conflict of interest or dual relationship to the board and shall cease supervision of the supervised psychologist.

(8) "Controlled substance" means any drug, substance or immediate precursor enumerated in schedules I through V of the Controlled Substance Act.

(9) "Drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories.

(10) "Ethno-pharmacology" means the basic and clinical sciences of treatment of specific mental illness with ethnically or culturally appropriate drugs.

(11) "Geriatric" means all persons over 65 years of age;

(12) "Health care practitioner" means a licensed physician, osteopathic physician or nurse practitioner with independent, licensed prescribing privilege;

(13) "Log" means a written record of patient examination and treatment that contains elements specified in the regulations and which is required as a basis for evaluation of the applicant for licensure.

(14) "Member of the family" means a parent, spouse, child, stepchild, grandchild, grandparent, sibling, uncle, aunt, niece or nephew, or other relative by blood, marriage, or legal process with whom the supervisor or physician supervisor has or has had a close familial relationship.

(15) "Member of the household" means residing within the same dwelling unit, either continuously or intermittently, regardless of whether fee or rent is paid or received.

(16) "National certification exam" means an examination that evaluates the psychopharmacological knowledge base of the applicant, is developed with the intention to administer it to psychologists seeking certificates or licenses to prescribe psychotropic medication in any state with prescriptive authority for psychologists, and meets standards acceptable to the board and the medical board.

(17) "Physician" means an allopathic or osteopathic physician.

(18) "Practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities,

interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psycho-educational evaluation, therapy, remediation and consultation.

(19) "Practicum" means a period of supervised clinical training and practice in which specific scientific and clinical techniques and diagnoses are learned.

(20) "Prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate.

(21) "Prescription" means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription.

(22) "Prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the Professional Psychologist Act.

(23) "Primary treating health care practitioner" means the health care practitioner who is directly responsible for treating a specific illness or condition of a patient. The primary treating health care practitioner may be a primary care practitioner, or may be a medical specialist.

(24) "Psychologist" means a person who engages in the practice of psychology or holds himself out to the public by any title or description of services representing himself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself as above and under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain.

(25) "Psychopharmacology" means the basic and clinical sciences of drugs used to treat mental illnesses.

(26) "Psychopharmacotherapy" means the application of pharmacotherapeutics to psychological problems. A key principle is the assessment of a patient's history that helps establish the appropriate role of drug therapy. Essential steps include recognition of the disorder, adequate under-

standing of efficacy safety, pharmaco-kinetics, pharmaco-dynamics and application in the clinical setting.

(27) "Psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription, whose indication for use has been approved by the federal food and drug administration for the treatment of mental disorders and is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service.

(28) "School" means a college or a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved by the American psychological association.

(29) "Socio-cultural" means aspects of mental illness related to social and cultural mores and traditions of varied social and cultural groups.

(30) "Supervision" means direct oversight of the psychologist trainee's psychopharmacological practice by qualified supervising physician approved by the board. Supervision may be on or off site as specified in the rule.

(31) "Applicant" means a licensed psychologist who has made application to the board for a conditional prescribing or prescribing certificate.

(32) "Supervisor" means a qualified supervising physician approved by the board.

[16.22.1.7 NMAC - Rp 16NMAC 22.2.7, 4/16/00; A, 1/7/05]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

This is an amendment to 16.22.13 NMAC, Sections 2 and 8, effective January 7, 2005.

16.22.13.2 SCOPE: The provisions of Part 13 apply to all applicants for licensure [~~to active, retired, expired and suspended licensees; and to anyone who requests a list or labels of licensees, multiple copies of the law or rules or copies of public records~~] and the general public.

[16.22.13.2 NMAC - N, 6/5/00; A, 1/7/05]

16.22.13.8 FEE SCHEDULE:

A. All fees payable to the board are non-refundable. The fee for the written examination, the examination for professional practice in psychology (EPPP) and the psychopharmacology examination for psychologists (PEP) is in addition to the fees described below, shall be determined by the professional examination service (PES), and shall be payable to PES by cer-

tified check or money order.

B. APPLICATION FEES for psychologists and psychologist associates, conditional prescribing and prescribing psychologists:

(1) initial application - (includes one oral examination) \$300.00

(2) re-examination application fee

\$300.00

(3) application for an out of state psychologist to conduct court-ordered independent examination 150.00 (per case)

(4) initial conditional prescription certificate \$300.00

(5) extension of conditional prescription (60 days) \$100.00

(6) reapplication fee

\$300.00

(7) prescription certificate

\$300.00

C. ANNUAL RENEWAL FEE: Psychologists, psychologists associates and prescribing psychologists

(1) annual renewal active status (psychologists and psychologists associates) \$300.00

(2) annual renewal active status (conditional prescribing and prescribing psychologist) \$300.00

(3) annual renewal inactive status \$150.00

(4) renewal fee received after July 1 and within 1 year of suspension \$300.00 plus \$100.00 late fee (psychologist, psychologist associate and conditional prescribing and prescribing psychologist).

(5) application from inactive status to active status \$300.00

D. OTHER MISCELLANEOUS CHARGES

(1) duplicate/replacement wall certificate \$ 25.00

(2) licensee lists or labels \$75.00

(3) copying; records request \$00.30pg.

(4) copying; over or undersize copies \$01.00/pg.

[16.22.13.8 NMAC - N, 6/5/00; A, 1/7/05]

**NEW MEXICO
PUBLIC EDUCATION
DEPARTMENT**

The Public Education Department repeals 6.2.3 NMAC, Operational Bylaws of the Professional Standards Commission, effective December 30, 2004.

**NEW MEXICO
PUBLIC EDUCATION
DEPARTMENT**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 2 STATE BOARD OF
EDUCATION COMMISSIONS AND
ADVISORY BOARDS
PART 8 OPERATIONAL
BYLAWS OF THE PROFESSIONAL
PRACTICES AND STANDARDS
COUNCIL**

6.2.8.1 ISSUING AGENCY: Public Education Department.

[6.2.8.1 NMAC - N, 01-01-05]

6.2.8.2 SCOPE: The New Mexico public education department (PED) hereby creates a professional practices and standards council (PPSC) whose purpose shall be to ensure that high standards are maintained in the preparation and practice of professional educators and support providers licensed by the PED. The PPSC shall advise the secretary of education (secretary) and the PED on matters related to the approval of educator preparatory programs, licensure, professional development, and ethics of licensed school personnel.

[6.2.8.2 NMAC - N, 01-01-05]

6.2.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and 9-24-8, NMSA 1978

[6.2.8.3 NMAC - N, 01-01-05]

6.2.8.4 DURATION: Permanent

[6.2.8.4 NMAC - N, 01-01-05]

6.2.8.5 EFFECTIVE DATE: January 1, 2005, unless a later date is cited at the end of a section.

[6.2.8.5 NMAC - N, 01-01-05]

6.2.8.6 OBJECTIVE: The purpose of the PPSC is to ensure that high standards are maintained in the preparation and practice of professional licensed school personnel. The creation of the PPSC recognizes that persons licensed by the PED comprise a profession, with all of the rights, responsibilities and privileges accorded professions, having their first obligation to the public they serve. The primary responsibilities of this profession are to educate the children of this state and to improve the professional practices and ethical conduct of the members of the profession.

[6.2.8.6 NMAC - N, 01-01-05]

6.2.8.7 DEFINITIONS: [RESERVED]

6.2.8.8 RECOMMENDATIONS FOR APPROVAL OF EDUCATOR PREPARATION PROGRAMS: Matters pertaining to educator preparation programs shall include:

A. recommending standards to govern the approval of preparatory programs; and

B. establishing procedures for assessing educator preparation programs in compliance with standards approved by the PED; these procedures shall include provisions for a comprehensive evaluation of course content, an on-site visitation, and recommending the approval or disapproval of programs designed to prepare professional education personnel.

[6.2.8.8 NMAC - N, 01-01-05]

6.2.8.9 LICENSURE OF SCHOOL PERSONNEL: Matters pertaining to licensure of school personnel shall include: recommending licensure standards for all professional and paraprofessional school personnel.

[6.2.8.9 NMAC - N, 01-01-05]

6.2.8.10 PROFESSIONAL DEVELOPMENT OF SCHOOL PERSONNEL: Matters pertaining to professional development of school personnel shall include:

A. recommending professional development standards and framework for all professional and paraprofessional school personnel;

B. recommending approval of state funding for professional development providers and projects.

[6.2.8.10 NMAC - N, 01-01-05]

6.2.8.11 ETHICS OF LICENSED SCHOOL PERSONNEL AND RELATED MATTERS: Matters pertaining to ethics shall include:

A. recommending to the PED any changes to its code of ethics or standards of professional conduct for all licensed personnel; and

B. recommending to the PED in cases in which it has been asked by the educator quality division of the PED to perform a summary review, that a notice of contemplated action (NCA) be issued seeking the reprimand of a licensed educator, or suspension or revocation of a license held by a licensed educator according to law for incompetency, immorality or for any good and just cause.

[6.2.8.11 NMAC - N, 01-01-05]

6.2.8.12 ORGANIZATION
A. Composition of the council: The PPSC shall consist of twenty (20) voting members appointed to four subcommittees by the secretary according to the following criteria:

(1) Five members shall be appointed to each of the following subcommittees of the council:

- (a) educator preparation committee;
- (b) licensure committee;
- (c) professional development committee;
- (d) ethics committee.

(2) The educator preparation, licensure, and professional development committees shall have the following representation:

- (a) three currently licensed teachers or instructional support providers;
- (b) one currently licensed school administrator;
- (c) one professional educator associated with a university, college or post-secondary department of education that offers educator preparation programs.

(3) The ethics committee shall have the following representation:

- (a) three currently licensed teachers or instructional support providers;
- (b) one currently licensed school administrator;
- (c) one lay member/business representative from the citizenry of the state on the basis of their interest and knowledge of public schools.

(4) The PED shall give due consideration to maintaining the representative nature of the PPSC with regard to geographic distribution, membership in professional organizations, and grade level assignments. Each member shall be a resident of New Mexico.

B. Term of service

(1) Members of the PPSC shall be appointed to a three-year term beginning on July 1 of the calendar year in which the appointment is made. In the initial year of organization of the PPSC the secretary may establish terms from two years to four years for members. In the event that a member is no longer employed in the classification to which he/she was appointed, leaves the state, or resigns from the PPSC, the secretary shall appoint a successor to serve for the remainder of the term.

(2) The secretary may designate an alternate to serve in each of the above listed categories as it deems necessary should the appointee be unable to fulfill his/her term. The alternate shall automatically assume membership on the PPSC for the remaining of the term when a vacancy occurs.

(3) The secretary may appoint or remove any member or dissolve the PPSC through official action.

C. The chairperson and vice-chair of the PPSC shall be the designee of the secretary.

D. Each subcommittee shall elect a chairperson for the subcommit-

tee who shall serve a one year term and may be reelected at the pleasure of the subcommittee members.

E. Task forces

(1) Task forces to study and advise on specific issues may be appointed by the secretary.

(2) Each task force shall solicit information, gather and evaluate data, and report its findings and recommendations in writing to one of the subcommittees. Each task force shall include at least two members of the PPSC, one of whom shall serve as chairperson of the task force.

[6.2.8.12 NMAC - N, 01-01-05]

6.2.8.13 MEETINGS

A. Time and frequency:

The full PPSC shall meet at the call of the chairperson or at the request of the secretary. Subcommittees shall meet as needed at the call of the chairperson of each subcommittee in collaboration with PED staff. Notification of meetings will be given in accordance with the PPSC's open meeting policy pursuant to the Open Meeting Act, [Section 10-15-1 et seq.] but at least ten days prior to the day of the meeting. Eleven members shall constitute a quorum of the entire PPSC. Three members shall constitute a quorum of the subcommittees.

B. Rules and procedures:

Meetings of the PPSC, subcommittees, and task forces shall be governed by the following rules.

(1) The chairperson and vice-chair or designee in his/her absence shall preside at all meetings.

(2) The presiding officer shall neither introduce nor second a motion.

(3) A motion shall require a simple majority of those present to pass.

(4) A motion shall be in order as long as no previous motion is on the floor.

(5) Minutes shall be taken at all open sessions of the PPSC and subcommittees. The minutes shall be made available to public inspection.

(6) The PPSC may develop rules of procedure consistent with the provisions of this rule.

C. Council agenda

(1) An agenda will be formulated by the chairperson and will be distributed to members of the PPSC at least ten days prior to the meeting.

(2) Any member of the PPSC or its subcommittees may submit an item for the agenda through the chairperson. Items for discussion may be added to or deleted from the agenda at the beginning of a meeting by concurrence of a majority of the PPSC or its subcommittees. Interested parties, other than PPSC members, asking for the inclusion of an agenda item must present the item in writing.

D. Announcement of

meetings

(1) The chairperson of the PPSC or any of its subcommittees will provide reasonable notice to the public, school districts, and appropriate professional associations of items pending before the PPSC.

(2) All meetings of the PPSC and/or subcommittees shall be open, except those in which personnel or ethics cases will be discussed.

E. Absences: A member who is unable to attend a PPSC or subcommittee meeting may not send an alternate or proxy. The PPSC may recommend to the secretary that a member who has two or more absences during a calendar year be replaced.

[6.2.8.13 NMAC - N, 01-01-05]

6.2.8.14 REPORTS TO THE SECRETARY

A. The PPSC or subcommittee chairperson will prepare a written or oral report after each meeting and will present it to the secretary. The decision of the secretary will be reported to the PPSC or its subcommittee(s) at the next meeting.

B. Recommendations to be submitted to the secretary for action shall require a simple majority approval by the PPSC.

[6.2.8.14 NMAC - N, 01-01-05]

6.2.8.15 SUPPORT OF THE COUNCIL

A. The educator quality division of the PED shall serve as the staff office of the PPSC. All communications to the PPSC shall be addressed to: Professional Practices and Standards Council, c/o Assistant Secretary for Educator Quality, Public Education Department, Jerry Apodaca Education Building, Santa Fe, New Mexico 87501-2786.

B. PPSC members may submit travel claims to the assistant secretary for educator quality under provisions of the Per Diem and Mileage act [10-8-1 et Seq]. Such claims will be reviewed by the fiscal office of the PED for compliance with the state statutes and PED procedures. Under no condition shall a member claim mileage and per diem from the PED when such a claim has been made to another agency.

[6.2.8.15 NMAC - N, 01-01-05]

HISTORY OF 6.2.8 NMAC: [RESERVED]

**NEW MEXICO
PUBLIC EDUCATION
DEPARTMENT**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 10 PUBLIC SCHOOL
ADMINISTRATION - PROCEDURAL
REQUIREMENTS
PART 8 C O M P U L S O R Y
SCHOOL ATTENDANCE**

6.10.8.1 ISSUING AGENCY:
Public Education Department
[6.10.8.1 NMAC - N, 12-30-04]

6.10.8.2 SCOPE: All New Mexico school districts, public schools including charter schools, and home schools.
[6.10.8.2 NMAC - N, 12-30-04]

**6.10.8.3 S T A T U T O R Y
AUTHORITY:** Sections 22-1-2, 22-1-2.1, 22-2-1, 22-2-2, 22-2-14, 22-5-4, 22-5-14, 22-10A-31, 22-12-1 to 22-12-9, NMSA 1978, and 20 U.S.C. Sections 7111, 7112.
[6.10.8.3 NMAC - N, 12-30-04]

6.10.8.4 D U R A T I O N :
Permanent
[6.10.8.4 NMAC - N, 12-30-04]

6.10.8.5 EFFECTIVE DATE:
December 30, 2004, unless a later date is specified at the end of a section.
[6.10.8.5 NMAC - N, 12-30-04]

6.10.8.6 OBJECTIVE: To set forth the requirements for the implementation of the compulsory school attendance law. Specifically, this rule establishes requirements for the identification, reduction and reporting of truancy in all public schools including charter schools. In addressing truancy, the goal is to keep children in school and not to suspend, expel or outright punish them for being truant.
[6.10.8.6 NMAC - N, 12-30-04]

6.10.8.7 DEFINITIONS:
A. "Attendance" means students who are in class or in a school-approved activity. If a student is in attendance up to one half the total instructional time during a school day, the student will be counted as having attended one-half of a school day. If the student attends school for more than one-half of the total instructional time, the student will be counted as having attended for the full day.

B. "Early identification" means the process by which school districts including charter schools promptly determine and identify students who have excessive absences and tardiness from classes or

school. Early identification includes the school district's, individual school's or charter school's defined system for recording, reporting, and summarizing daily attendance of its students and then providing that data to the district's or charter school's central administration.

C. "Habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year.

D. "Home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science.

E. "Home school truant" means a school age child whose parent(s)/guardian(s) have filed a home school notification about that child with the department but the child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction.

F. "Intervention" means the partnering that schools engage in with other state agencies to implement administrative remedies, provide services and provide support programs that aggressively reduce if not eliminate truancy in a school district or charter school.

G. "Prevention" means school-based innovative or proven successful programs, including alternative programs whether school-based or non-school based, that encourage regular and on-time attendance for students.

H. "Tribe" means an Indian nation, tribe or pueblo located within New Mexico.

I. "Truancy" means the unexcused absence of a student from school or class that results in the student being deemed truant.

J. "Truant" means a student who has accumulated five unexcused absences within any twenty-day period.

K. "Unexcused absence" means an absence from school or a class for which the student does not have an allowable excuse pursuant to the compulsory school attendance law or rules of the local school board, governing authority of a private school, or governing board of a charter school.
[6.10.8.7 NMAC - N, 12-30-04]

6.10.8.8 REQUIREMENTS:

A. Each local school board and charter school shall develop a written attendance policy that:

(1) in accordance with the definition of "attendance" stated in this rule, requires that class attendance be taken and maintained by class period for every

instructional day for each student in each school or school program in the school district;

(2) prohibits out-of-school suspension and expulsion as a punishment for truancy;

(3) provides for early identification of students with unexcused absences, truants and habitual truants; provides for intervention that focuses on keeping truants in an educational setting; and further provides that:

(a) if a student is truant, the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student is truant and to discuss possible interventions;

(b) a representative of the school district or charter school shall meet with the student and his or her parent(s)/guardian(s) to identify the causes for the student's truancy, identify what actions can be taken that might prevent the student's truancy, identify possible school district, charter school and community resources to address the causes for the student's truancy, and establish a corrective action plan to address the student's truancy;

(c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/ guardian(s) must be respectful and in a language and in manner that is understandable to the student and the parent(s)/guardian(s);

(d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's truancy are being addressed;

(e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by certified mail to or by personal service on the student's parent(s)/guardian(s);

(f) if there is another unexcused absence after delivery of a written notice of habitual truancy, the student shall within seven (7) days of this unexcused absence be reported to the probation services office of the judicial district where the student resides.

B. If the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken.

C. If a determination and finding has been made by the juvenile probation office that the habitual truancy by a student may have been caused by the parent or guardian of the student, and no charges have been filed against the parent or guardian, the school district may contact the

district attorney's office to determine what action will be taken.

D. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's truancy officer within ten (10) days of its adoption by the local school board or governing body of a charter school.

E. The public education department's truancy officer shall be permitted access to any records and information related to truancy in any school district, any particular school within a district, or any charter school.

[6.10.8.8 NMAC - N, 12-30-04]

6.10.8.9 INTERGOVERNMENTAL AGREEMENTS: In carrying out its duties under this rule and the compulsory school attendance law, school districts and charter schools shall take into consideration the sovereignty of a Native American tribe. While all children attending public schools will still be subject to being reported to the public education department if they are truant or habitually truant, a school district or charter school shall respect tribal laws and traditions in carrying out its duties of early identification, intervention, and parental notification. To do so, school districts and charter schools shall adopt policies that:

A. emphasize a better understanding of tribal customs, religious practices and laws,

B. consider entering into a memorandum of agreement, a memorandum of understanding, or some other form of intergovernmental agreement with Native American tribes,

C. consider respectful and effective ways to notify a parent(s)/guardian(s) of habitually truant Native American students,

D. consider follow-up or reinforcement procedures after Native American children have undergone intervention through Native American or other agreed upon resources.

[6.10.8.9 NMAC - N, 12-30-04]

6.10.8.10 REPORTING REQUIREMENT:

A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.

B. For the 2004-2005 school year, the local superintendent of each school district and the governing body or administrative head of a charter school shall provide the public education department

with a report of all absences by school, including by charter school, simultaneous with the eightieth and one hundred twentieth days in a manner specified by the public education department. The report will compile the number of daily absences at the school building level, and of those absences, will indicate the number of absences that were excused and the number of absences that were unexcused. At the end of the 2004-2005 school year, the local superintendent or administrative head of a charter school will provide the public education department with a report that sets forth the number of unexcused absences for the school year that were truant and the number of unexcused absences for the school year that were habitually truant.

C. For subsequent school years, the local superintendent of each school district will report absences through the accountability data system as specified by the public education department.

[6.10.8.10 NMAC - N, 12-30-04]

6.10.8.11 HOME SCHOOLS:

Upon receipt of verified information that a school age child whose parent(s)/guardian(s) have previously filed a home school notification about that child with the department but that child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction, the department may obtain a reasonable assurance from the parent(s) or guardian that the child is actually engaged in a home-study program of instruction. In addition to any other remedies permitted by the compulsory school attendance law or the children's code, upon a determination that a home school student is repeatedly not (or no longer) engaged in a home-study program of instruction, the department may order that the home school truant attend a public school, or at the election of his parent/guardian, a private school. Prior to pursuing these other remedies, the public education department shall make a reasonable effort to accommodate the parents'/guardians' preference for maintaining their child in a home school.

[6.10.8.11 NMAC - N, 12-30-04]

6.10.8.12 FAILURE TO COMPLY WITH THIS RULE:

Failure to comply with this rule may be good and just grounds for the suspension or revocation of a department-issued license or certificate, may result in notification by the department to the local school board, superintendent, school principal or governing body of a charter school that they have failed to meet requirements as prescribed by law or rules promulgated by the department, and may be grounds for seeking a court order to ensure compliance with the requirements of this rule.

[6.10.8.12 NMAC - N, 12-30-04]

HISTORY of 6.10.8 NMAC: [Reserved]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY PART 5 STUDENT IDENTIFICATION SYSTEM AND ACCOUNTABILITY DATA SYSTEM: SECURITY MEASURES

6.19.5.1 ISSUING AGENCY:
Public Education Department
[6.19.5.1 NMAC - N, 12-30-04]

6.19.5.2 SCOPE: This rule applies to all school districts and public schools, including charter schools.
[6.19.5.2 NMAC - N, 12-30-04]

6.19.5.3 STATUTORY AUTHORITY: Paragraph (1) of Subsection B of Section 22-2-1, Paragraph (1) of Subsection A of Section 22-2C-11, and Subsection I of Section 22-2C-11 NMSA 1978
[6.19.5.3 NMAC - N, 12-30-04]

6.19.5.4 DURATION:
Permanent
[6.19.5.4 NMAC - N, 12-30-04]

6.19.5.5 EFFECTIVE DATE:
December 30, 2004, unless a later date is cited at the end of a section.
[6.19.5.5 NMAC - N, 12-30-04]

6.19.5.6 OBJECTIVE: The rule establishes security measures that shall be adhered to in the implementation of the system designed to address the requirement that the public education department issue a state identification number for each public school student for use in the accountability data system.
[6.19.5.6 NMAC - N, 12-30-04]

6.19.5.7 DEFINITIONS:
A. "Accountability data system ("ADS")" means that system through which data from each public school and each school district is compiled and reviewed.

B. "Accountability data system coordinator ("ADS coordinator")" means that employee designated by the public education department ("PED") as the point of contact for the implementation of ADS.

C. "FERPA" means the

Family Educational Rights and Privacy Act of 1974, codified at 20 United States Code 1232g, and the implementing regulations at 34 Code of Federal Regulations Part 99.

D. "Need to know" means the determination made by the local school district superintendent or charter school administrator that an employee granted access to the student identification system in the performance of the employee's official duties has a legitimate educational reason for accessing individual student records. This determination must be made subsequent to the beginning of each school year.

E. "Student identification number" means that unique and consistent number assigned to each student enrolled in the New Mexico public school system for whom data is reported to the accountability data system.

F. "Student information system" means that collective system designed and implemented by a local school district or charter school to record individual student information. [6.19.5.7 NMAC - N, 12-30-04]

6.19.5.8 SECURITY MEASURES: LOCAL SCHOOL DISTRICT AND CHARTER SCHOOL REQUIREMENTS:

A. Each local school board and each charter school must develop and implement a student information system security policy that addresses the following minimum components:

(1) establishes requirements for the issuance of passwords to ensure system integrity (for example, the policy may specify the number of characters to be used, require that at least three (3) different types of characters be used, and preclude the use of spaces);

(2) requires the use of password protected screensavers with time-out;

(3) prohibits sharing of passwords;

(4) establishes an internal system for tracking and identifying individuals with access to the student identification system, the type of access authorized, and the date, time, and location of any access; and

(5) ensures that access is immediately terminated upon cessation of an individual's authority for access.

B. Each local school board and each charter school shall regularly review and, as appropriate, revise its student information system security policy.

C. The local school district or charter school may not use the student identification number on student identification cards or display or utilize the student identification number within any other identification system that is not part of the student identification system.

D. Local school district superintendents and charter school administrators shall inform employees to whom access to the student identification system is approved of the requirements of FERPA and the implementing regulations to FERPA. If the local school district superintendent or charter school administrator has reason to believe that the requirements of FERPA have not been adhered to by an employee having access to the student identification system, the superintendent or administrator shall immediately cancel the individual's access authorization.

E. Breach of security: The local superintendent or administrator of a charter school shall immediately notify the PED's ADS coordinator if the superintendent or administrator has reason to believe that a breach of security has occurred with respect to the student identification system. [6.19.5.8 NMAC - N, 12-30-04]

6.19.5.9 SECURITY MEASURES: PUBLIC EDUCATION DEPARTMENT:

A. The PED shall, at least annually, assess and strengthen as appropriate the system designed to prevent unauthorized access to the student identification system.

B. The PED shall install and utilize appropriate intrusion detection systems to collect information from a variety of vantage points within its computer systems and networks and analyze this information for symptoms of security breaches.

C. The PED shall, on an annual basis, delete all user identification numbers and passwords, subject to the following:

(1) The PED shall inform local school superintendents and administrators of charter schools at least twenty (20) days in advance of the deletion date.

(2) The PED shall inform local school district superintendents and administrators of charter schools of the procedures and timelines for reactivating user identification numbers and passwords. [6.19.5.9 NMAC - N, 12-30-04]

History of 6.19.5 NMAC: [Reserved]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

Explanatory paragraph: This is an amendment to Section 10 of 6.30.2 NMAC (STANDARDS FOR EXCELLENCE). The amendments adds a new paragraph (5) to subsection D (Records and reports) to Section 10 providing that

beginning with the Spring 2005 administration of the high school standards based assessment, school districts are required to record test results from each sub-test on each student's official transcript. Paragraph (6)(Concurrent enrollment credit) of subsection J (Graduation requirements) is deleted in its entirety.

6.30.2.10 PROCEDURAL REQUIREMENTS

D. Records and reports

(5) Beginning with the Spring 2005 administration of the high school standards based assessment, school districts are required to record test results from each sub-test on each student's official transcript. The information recorded must include the following:

(a) district and high school administering the examination;

(b) date of examination administration;

(c) scale score in reading and associated proficiency level;

(d) scale score in mathematics and associated proficiency level; and

(e) scale score(s) in other sub-test(s) as adopted and administered.

J. Graduation requirements

~~(6) [Concurrent enrollment credit: Concurrent enrollment credit, both academic and vocational, may be earned simultaneously from both the public school district and the post secondary institution(s). Concurrent enrollment requires an agreement between the two entities. The agreement must address:~~

~~(a) methods of qualifying students;~~

~~(b) information and counseling to assist students and parents in making participation decisions;~~

~~(c) student competencies to meet course completion;~~

~~(d) means of demonstrating student awareness of the academic and scheduling requirements of a course;~~

~~(e) responsibilities of students;~~

~~(f) availability of support services;~~

~~(g) schedule of payment from the public school district to the institution;~~

~~(h) funding and scheduling of student transportation; and~~

~~(i) liability for secondary students and student behavior.] [Reserved]~~

[10-31-96, 12-31-98; 6.30.2.10 NMAC - Rn, 6 NMAC 3.2.9 & A, 11-14-00; A, 08-15-03; A, 10-30-03; A, 08-31-04; A, 12-30-04]

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

NOTICE OF REPEAL

On December 7, 2004, at a regular meeting of the Commission of Public Records, the Commission repealed and replaced the following Executive Records Retention and Disposition Schedules. Effective date is January 10, 2005.

1.18.369 NMAC, State Records Center and Archives. This rule was replaced by 1.18.369 NMAC, Commission of Public Records.

1.18.927 NMAC, School for the Deaf. This rule was replaced by 1.18.927 NMAC, New Mexico School for the Deaf.

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

December 8, 2004

Leo R. Lucero,
Agency Analysis Bureau Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

Mr. Lucero:

You recently requested to publish a synopsis in lieu of publishing the full content of the following listed rules:

- * 1.18.369 NMAC ERRDS,
Commission of Public Records; and
- * 1.18.927 NMAC ERRDS,
School for the Deaf.

A review of these rules shows that their most impact is limited to the individual agencies to which they pertain, and they are "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for each is approved.

Sincerely,

Sandra Jaramillo
State Records Administrator

SJ/lrl

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

SYNOPSIS

**1.18.369 NMAC ERRDS, Commission
of Public Records - State Records
Center and Archives**

1. Subject matter: 1.18.369 NMAC, Executive Records Retention and Disposition Schedule for the Commission of Public Records, also known as the State Records Center and Archives. This rule is new and replaces 1.18.369 NMAC ERRDS, State Records Center and Archives an outdated version that was filed on 5/16/2001. This records retention and disposition schedule is a timetable for the management of specific records series of the State Records Center and Archives. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives and approved by the State Records Administrator, the Commission of Public Records and the Legal Counsel for the State Records Center and Archives.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the State Records Center and Archives. Persons and entities normally subject to the rules and regulations of the State Records Center and Archives may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the State Records Center and Archives.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the State Records Center and Archives. Any person or entity outside the covered geographical area that conducts business with or through the State Records Center and Archives may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes

Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507. Telephone number: (505) 476-7900.

7. Effective date of this rule: January 10, 2005.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.369 NMAC ERRDS, Commission of Public Records.

Roberta D. Joe
Assistant Attorney General

Date

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

SYNOPSIS

**1.18.927 NMAC ERRDS, New Mexico
School for the Deaf**

1. Subject matter: 1.18.927 NMAC, Executive Records Retention and Disposition Schedule for the New Mexico School for the Deaf. This is a replacement to rule 1.18.927 NMAC ERRDS, New Mexico School for the Deaf, which was last filed in 2002. The retention and disposition requirements on this schedule are based on the legal and use requirements of the records and on their administrative, legal, fiscal and archival values. This retention and disposition schedule was developed by the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the superintendent of the New Mexico School for the Deaf, and legal counsel for the New Mexico School for the Deaf.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the New Mexico School for the Deaf. Persons and entities normally subject to the rules and regulations of the New Mexico School for the Deaf may also be directly or indirectly affected by this rule.

3. Interest of persons affected: Interests include the records produced and maintained by the New Mexico School for the

Deaf.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the New Mexico School for the Deaf. Any person or entity outside the covered geographical area that conducts business with or through the New Mexico School for the Deaf may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, NM 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: January 10, 2005

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.927 NMAC ERRDS, New Mexico School for the Deaf.

Roberta D. Joe
Assistant Attorney General

Date

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

This is an amendment to 1.15.2 NMAC, Sections 208 and 709, effective January 10, 2005.

**1.15.2.208 MATERIAL SAFETY
DATA SHEETS:**

A. Program: risk management records

B. Maintenance system: agency preference

C. Description: records concerning safety information on chemical products used by the staff. Material safety data sheet may contain information on chemical ingredients, hazards identification, first-aid measures, fire fighting measures, accidental release measures, handling and storage, exposure controls or personal protection, agency name or vendor name, physical and chemical properties, toxicological information, etc.

D. Retention: 30 years after discontinuance of substance per 29 CFR 1910.1020(d) (1) (ii)(B) [1.15.2.208 NMAC - N, 1/10/2005]

**1.15.2.709 METHYLENE BLUE
TEST FORMS:**

A. Program: records management records

B. Maintenance system: chronological by month and date

C. Description: records concerning the verification that the microfilm media meet standards. Form may contain agency or vendor name, address, contact person, telephone number, test readings, test dates, agencies or offices processed for, inclusive microfilm roll numbers, record series name and NMAC section number, address of New Mexico records center and archives, correspondence, etc.

D. Retention: until retention of the original records has been met or until microfilm is regenerated per Subsection F of 1.14.2.10 NMAC [1.15.2.709 NMAC - N, 1/10/2005]

[The test documents the amount of residual thiosulfate existing in master microfilm produced by or for agencies.]

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

This is an amendment to 1.15.3 NMAC, Sections 208 and 709, effective January 10, 2005.

**1.15.3.208 MATERIAL SAFETY
DATA SHEETS:**

A. Program: risk management records

B. Maintenance system: alphabetical by chemical name

C. Description: records concerning safety information on chemical products used by the staff. Material safety data sheet may contain information on chemical ingredients, hazards identification, first-aid measures, fire fighting measures, accidental release measures, handling and storage, exposure controls or personal protection, agency name or vendor name, physical and chemical properties, toxicological information, etc.

D. Retention: 30 years after discontinuance of substance per 29 CFR 1910.1020(d) (1) (ii)(B) [1.15.3.208 NMAC - N, 1/10/2005]

**1.15.3.709 METHYLENE BLUE
TEST FORMS:**

A. Program: records management records

B. Maintenance system:

chronological by month and date

C. Description: records concerning the verification that the microfilm media meet the standards for 1.14.2 NMAC. Form may contain agency or vendor name, address, contact person, telephone number, test readings, test dates, agencies or offices processed for, inclusive microfilm roll numbers, record series name and NMAC section number, address of New Mexico records center and archives, correspondence, etc.

D. Retention: until retention of the original records has been met or until microfilm is regenerated per Subsection F of 1.14.2.10 NMAC [1.15.3.709 NMAC - N, 1/10/2005]

[The test documents the amount of residual thiosulfate existing in master microfilm produced by or for agencies.]

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
INSURANCE DIVISION**

This is an amendment to 13 NMAC 17.4, Sections 1, 5, 8, 9 and 10. This amendment will also renumber and reformat 13 NMAC 17.4 to 13.17.4 NMAC named, Workers' Compensation Assigned Risk Pool, in accordance with the current New Mexico Administrative Code (NMAC) requirements effective, December 31, 2004.

13.17.4.1 ISSUING AGENCY: [New Mexico State Corporation Commission, Department of Insurance, Post Office Box 1269, Santa Fe, NM 87504 1269.] New Mexico Public Regulation Commission Insurance Division.

[7/1/97; 13.17.4.1 NMAC - Rn & A, 13 NMAC 17.4.1, 12/31/04]

13.17.4.5 EFFECTIVE DATE: January 1, 1990, unless a later date is cited at the end of a section [or paragraph. Repromulgated in NMAC format effective July 1, 1997].

[1/1/90, 7/1/97; 13.17.4.5 NMAC - Rn & A, 13 NMAC 17.4.5, 12/31/04]

**13.17.4.8 PARTICIPATION OF
WORKERS' COMPENSATION
INSURERS:**

A. The undertakings of any policy issued by the agency shall be fully reinsured by all members of the pool in proportion to the amount that the net direct workers' compensation line premium on the insurance written in the state during the preceding calendar year by the issuing member bears to the total of workers' compensation line premiums written in this state during the preceding calendar year by all

members of the agency. Net direct workers' compensation line premium shall be direct written premium exclusive of policyholder dividends and New Mexico Workers' Compensation Assigned Risk Pool premiums.

B. The premium used for the basis of proration, as described in Subsection A of 13.17.4.8 NMAC [~~above,~~] shall be those premiums reported to the New Mexico department of insurance in the annual statement. Each member company may file with the agency for exclusion of those premiums classified as workers' compensation premiums on the annual statement.

C. The exclusions applicable in Subsection B of 13.17.4.8 NMAC [~~above,~~] shall not reduce the member's assessment base below zero.

D. Application for exclusion under Subsection B of 13.17.4.8 NMAC [~~above,~~] shall be made prior to April 1 of the following calendar year and shall be certified by a responsible officer of the member company. Members may apply for the exclusions described above on a form prescribed by the agency and approved by the superintendent and may be required by the agency to provide other information as may be necessary to verify the information contained in the application.

[1/1/90, 7/1/97; 13.17.4.8 NMAC - Rn & A, 13 NMAC 17.4.8, 12/31/04]

13.17.4.9 SMALL POLICY EXEMPTIONS:

A. A member of the agency which insures on a voluntary basis any policyholder having \$5,000 or less in annual workers' compensation premium shall be exempt from participation in the agency to the extent [~~of such workers' compensation premium~~] approved by the New Mexico insurance division.

~~**B.** The workers' compensation premium exempted shall be the estimated annual standard premium as shown on the expiring policy.~~

~~**C.** B.~~ The premium threshold of \$5,000 applies to policies issued or renewed during 1990. [~~This threshold shall be adjusted annually on January 1 of each year. The amount of the adjustment shall be equal to the change in the experience rating threshold during the previous year.~~] The agency may file a request for an adjustment to the premium threshold with the New Mexico insurance division. No requested adjustment shall become effective nor shall it be used until approved by the New Mexico insurance division, at which time it may be used.

~~**D.** The maximum exemption for any one policy shall be the amount of the threshold.~~

~~**E.** C.~~ The exemption applicable to a member shall not reduce the member's assessment base below zero.

~~**F.** D.~~ [~~Application~~] Eligibility for the small policy exemptions shall be [~~made~~] established prior to April 1 of the following calendar year and shall be certified by a responsible officer of the member company. Members may apply for the small policy exemptions [~~on a form~~] in the manner prescribed by the agency and approved by the [~~superintendent~~] New Mexico insurance division and may be required by the agency to provide other information as may be necessary to verify the information contained in the application.

[1/1/90; 13.17.4.9 NMAC - Rn & A, 13 NMAC 17.4.9, 12/31/04]

13.17.4.10 TAKE-OUT CREDITS:

A. The following policies shall be eligible for take-out credit:

(1) \$5,000 or less in estimated standard annual workers' compensation premium as shown on the expiring policy as provided for in 13.17.4.9 NMAC; and

(2) any other such policy that was an assigned risk policy immediately prior to being voluntarily assumed by the member company.

~~**B.** Eligible policies shall be credited to the member's participation to the extent of such workers' compensation premium.~~

~~**C.** B.~~ [~~The take-out credit shall apply in addition to the exemption provided for in 13 NMAC 17.4.9 [13.17.4.9 NMAC] above and shall apply only to policies issued or renewed during 1990. The take-out credit applies for one year only.~~] The agency shall file its take-out credit program with the New Mexico insurance division. No take-out credit program shall become effective nor shall it be used until approved by the New Mexico insurance division, at which time it may be used.

~~**D.** The maximum credit for any one policy shall be \$5,000.~~

~~**E.** C.~~ The total credits applicable to a member shall not reduce the member's assessment base below zero.

~~**F.** D.~~ [~~Application~~] Eligibility for take-out credit shall be [~~made~~] established prior to April 1 of the following calendar year and shall be certified by a responsible officer of the member company. Members may apply for take-out credit [~~on a form~~] in the manner prescribed by the agency and approved by the [~~superintendent~~] New Mexico insurance division and may be required by the agency to provide other information as may be necessary to verify the information contained in the application.

[1/1/90; 13.17.4.10 NMAC - Rn & A, 13

NMAC 17.4.10, 12/31/04]

NEW MEXICO PUBLIC REGULATION COMMISSION TRANSPORTATION DIVISION

Effective January 1, 2005, the Public Regulation Commission repeals 18 NMAC 4.2, Ambulances and Medical Rescue Services, filed December 16, 1997.

Effective January 1, 2005, the Public Regulation Commission repeals 18.3.2 NMAC, Operating Authorities, filed 12-10-2002.

Effective January 1, 2005, the Public Regulation Commission repeals 18.3.4 NMAC, Qualifications of Drivers, filed 12-10-02.

Effective January 1, 2005, the Public Regulation Commission repeals 18.3.5 NMAC, Operating Requirements, filed 12-10-02.

Effective January 1, 2005, the Public Regulation Commission repeals 18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity, filed 12-10-02.

NEW MEXICO PUBLIC REGULATION COMMISSION TRANSPORTATION DIVISION

TITLE 18 TRANSPORTATION AND HIGHWAYS CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS PART 2 OPERATING AUTHORITIES

18.3.2.1 ISSUING AGENCY:
New Mexico Public Regulation Commission.
[18.3.2.1 NMAC - Rp, 18.3.2.1 NMAC, 1-1-05]

18.3.2.2 SCOPE: This rule applies to all persons operating as a motor carrier in New Mexico who are subject to the jurisdiction of the commission.
[18.3.2.2 NMAC - Rp, 18.3.2.2 NMAC, 1-1-05]

18.3.2.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4 and 65-2A-4.
[18.3.2.3 NMAC - Rp, 18.3.2.3 NMAC, 1-1-05]

18.3.2.4 DURATION:

Permanent.

[18.3.2.4 NMAC - Rp, 18.3.2.4 NMAC, 1-1-05]

18.3.2.5 EFFECTIVE DATE:

January 1, 2005, unless a later date is cited at the end of a section.

[18.3.2.5 NMAC - Rp, 18.3.2.5 NMAC, 1-1-05]

18.3.2.6 OBJECTIVE:

The purpose of this rule is to implement NMSA 1978 Sections 65-2A-5 through 65-2A-13.

[18.3.2.6 NMAC - Rp, 18.3.2.6 NMAC, 1-1-05]

18.3.2.7 DEFINITIONS:

See 18.3.1.7 NMAC.

[18.3.2.7 NMAC - Rp, 18.3.2.7 NMAC, 1-1-05]

18.3.2.8 OPERATING AUTHORITY REQUIRED:

No person shall provide any of the following compensated transportation services in New Mexico without having first obtained from the commission the operating authority required for the particular type of service to be rendered. The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The commission may at any time determine whether an operating authority is appropriate for the type of service a motor carrier is providing.

A. A warrant is required for:

- (1) charter services;
- (2) towing services;
- (3) repossession services using towing equipment;

(4) commuter services; or
(5) transportation of property, except that a person licensed pursuant to the Thanatopractice Act, NMSA 1978 Section 61-32-1 et seq. is not required to obtain a warrant for the transportation of cadavers.

B. A single trip ticket is required when a motor vehicle regularly used to convey children to and from school or school activities is used for a trip sponsored by a charitable organization.

C. A certificate or permit is required for:

- (1) taxicab services;
- (2) limousine services;
- (3) terminal shuttle services;
- (4) shared-ride services;
- (5) tour and sightseeing services;
- (6) bingo bus services;
- (7) non-emergency medical transportation services;
- (8) shuttle services;
- (9) ambulance services; or
- (10) transportation of household goods.

[18.3.2.8 NMAC - Rp, 18.3.2.8 NMAC, 1-1-05]

18.3.2.9 LIMITATIONS ON PASSENGER SERVICES:

A. Bingo bus services. A bingo bus service:

(1) may not provide charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) may use chauffeur-driven luxury motor vehicles to provide bingo bus service.

B. Charter services. A charter service:

(1) may not hold itself out as a bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) may not provide bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(3) may not use the terms bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service in its business name, markings on motor vehicles, or advertising;

(4) may only provide round-trip transportation of passengers;

(5) may not charge rates that apply to each individual passenger;

(6) may not use chauffeur-driven luxury motor vehicles to provide charter services, except when providing charter service pursuant to contracts with government agencies;

(7) may not solicit business on the streets;

(8) shall enter into a single pre-arranged written contract for charter services; such contract shall not be arranged, accepted, entered into or paid for with or through the driver of the motor vehicle;

(9) may only provide charter service to a group of persons (two or more).

C. Commuter service. A commuter service:

(1) may not provide bingo bus service, charter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) may not use chauffeur-driven luxury motor vehicles to provide commuter service.

D. Limousine service. A limousine service:

(1) may not provide bingo bus service, charter service, commuter service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) may not charge rates that apply to each individual passenger;

(3) may not solicit business on the streets;

(4) shall enter into a contract for limousine service in advance of providing the service; such contract shall not be arranged, accepted, or entered into with or through the driver of the motor vehicle.

E. Non-emergency medical transport service. A non-emergency medical transport service may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service.

F. Shared-ride service. A shared ride service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) may solicit business on the streets or may prearrange to provide service;

(3) may not use chauffeur-driven luxury motor vehicles to provide shared ride service.

G. Shuttle service. A shuttle service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) may solicit business at scheduled stops on its regular route or may prearrange to provide service;

(3) may use chauffeur-driven luxury motor vehicles to provide shuttle service;

(4) may not deviate from its regular route.

H. Taxicab service. A taxicab service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, or terminal shuttle service;

(2) shall charge rates based on one charge for the first person and an additional small fixed charge for each addition-

al person;

(3) shall grant exclusive direction to the first person engaging the taxicab service;

(4) may provide one-way transportation of passengers;

(5) may solicit business on the streets or may prearrange to provide service;

(6) may not use chauffeur-driven luxury motor vehicles to provide taxicab service.

I. Terminal shuttle service. A terminal shuttle service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) shall charge rates that apply to each individual passenger;

(3) may use chauffeur-driven luxury motor vehicles to provide terminal shuttle service.

J. Tour and sightseeing service. A tour and sightseeing service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride, shuttle service, taxicab service, or terminal shuttle service;

(2) may use chauffeur-driven luxury motor vehicles to provide tour and sightseeing service.

[18.3.2.9 NMAC - N, 1-1-05]

18.3.2.10 FILING OF APPLICATIONS:

A. By mail. Applications filed by mail must be sent to the New Mexico Public Regulation Commission, Transportation Division, Applications Bureau, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

B. In person. Applications filed in person must be delivered to the applications bureau of the transportation division of the New Mexico public regulation commission, Room 409, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

C. By facsimile. Persons wishing to file an application for pre-filing review by facsimile may call the New Mexico public regulation commission, transportation division, applications bureau at (505) 827-4289 to obtain the facsimile number.

[18.3.2.10 NMAC - N, 1-1-05]

18.3.2.11 CONTENTS OF APPLICATIONS FOR A WARRANT:

An applicant for a warrant shall file with the commission an application containing the

following information and documents:

A. the applicant's name;
B. the applicant's d/b/a name, if applicable;

C. the applicant's principal place of business;

D. the applicant's business telephone number;

E. the applicant's electronic mail address, if applicable;

F. the applicant's tax identification number obtained from the New Mexico taxation and revenue department, or the applicant's social security number;

G. if the applicant is a corporation, evidence that the applicant is authorized by the corporations bureau of the commission to do business in New Mexico and that it is in good corporate standing in New Mexico;

H. if the applicant is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, and the date the business entity was created;

I. if the applicant is a commuter service, a description of the area to be served;

J. if the applicant is a towing service providing non-consensual tows, a proposed tariff meeting the requirements of 18.3.6 NMAC, Tariffs;

K. an appointment of an agent for service of process;

L. a list of all equipment to be used by the applicant, including all equipment leases filed with and approved by the commission in accordance with these rules;

M. for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding twelve (12) months that shows that each motor vehicle proposed to be operated by the applicant meets the safety requirements of the federal motor carrier safety regulations;

N. a list of drivers and drivers license information for each driver including state of issuance, license number, and class of license;

O. the applicant's written statement certifying that all drivers meet the driver qualifications of 18.3.4 NMAC, Safety Requirements, and that the applicant will maintain driver qualification files on each driver;

P. the applicant's U.S. DOT safety rating, if it has one;

Q. proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;

R. a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration; (com-

muter services shall not be required to file a certificate for volunteer drivers but shall file the appropriate certificate for drivers who are employees.)

S. the applicant's written statement certifying that it has developed a drug and alcohol testing program that will meet the requirements of 49 CFR Parts 40 and 382; or, if the applicant is a commuter van pool, a certification that it has a program providing for an initial drug test for anyone seeking to be a commuter service driver;

T. a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.5.11 NMAC;

U. a contact person and telephone number for the commission to call in the event of a complaint.

V. the notarized oath of the applicant attesting that all statements in the application are true and correct; and

W. the application fee required by NMSA 1978 Section 65-2A-36. [18.3.2.11 NMAC - Rp, 18.3.2.9 NMAC, 1-1-05]

18.3.2.12 CONTENTS OF APPLICATIONS FOR A SINGLE TRIP TICKET:

An applicant for a single trip ticket shall file with the commission an application containing the following information and documents:

A. the applicant's name, address, and telephone number;

B. the applicant's electronic mail address, if applicable;

C. the time, purpose, origin, and destination of the trip;

D. the name, address, purpose, and status of the charitable organization sponsoring the trip, and the name and telephone number of a contact person for the charitable organization;

E. affidavits stating that no certificated or permitted common or contract motor carrier service is available for the trip described in the application;

F. proof that the motor vehicle to be used for the trip meets the safety requirements prescribed by the Motor Carrier Act and the commission's rules;

G. the applicant's tax identification number obtained from the New Mexico taxation and revenue department, or the applicant's social security number;

H. an annual vehicle inspection conducted by a qualified inspector within the preceding twelve (12) months that shows that the motor vehicle proposed to be used for the trip meets the safety requirements of the federal motor carrier safety regulations;

I. the name and driver's

license information for the driver including state of issuance, license number, and class of license;

J. the applicant's written statement certifying that the driver meets the driver qualifications of 18.3.4 NMAC, Safety Requirements, and that the applicant maintains a driver qualification files on the driver;

K. the applicant's U.S. DOT safety rating, if it has one;

L. proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility;

M. a contact person and telephone number for the commission to call in the event of a complaint;

N. the notarized oath of the applicant attesting that all statements in the application are true and correct; and

O. the application fee required by NMSA 1978 Section 65-2A-36. [18.3.2.12 NMAC - Rp, 18.3.2.10 NMAC, 1-1-05]

18.3.2.13 REVIEW OF APPLICATIONS FOR WARRANTS AND SINGLE TRIP TICKETS:

A. Filing requirements.

(1) Application required.

Applications for a warrant or single trip ticket must be typed or completed in ink on forms prescribed by the director.

(2) Number of copies.

(a) Warrants. Applicants for a warrant must file an original application form and every required document as provided in Subsection A or B of 18.3.2.9 NMAC. If the applicant wishes to have a file stamped copy of the complete application returned to it, it must submit an additional copy of the application form and each document.

(b) Single trip tickets.

Applicants for a single trip ticket shall file an original and one (1) copy of the application form and every required document.

(3) Filing fee. Applicants shall submit the appropriate application fee with the application in the form of a check or money order made payable to the New Mexico public regulation commission.

B. Review by the director. Within seven (7) days of receipt of an application, the director will review the application to determine whether it is complete.

C. Incomplete applications.

(1) If the application is incomplete, the director will, within three (3) days of determining the application is incomplete, return the application to the applicant along with an initial letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the initial letter to cure the deficiencies

and return the completed application to the applications bureau. To expedite the process, the director may contact the applicant by telephone, electronic mail, or facsimile to obtain the missing information or documents.

(2) If the applicant returns the application to the commission but the application is still deficient, the director will, within ten (10) days, return the application to the applicant along with a second letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the second letter to cure the deficiencies and return the completed application to the applications bureau.

(3) If the returned application cures the deficiencies, the director will certify the application as complete pursuant to Subsection C of this section.

(4) If the applicant fails to return the application to the commission within sixty (60) days from the date the application was filed, or the director determines the application is still incomplete, the application shall be deemed abandoned, the file will be closed, and all fees paid will be forfeited to the state. The director will send a letter notifying the applicant that the application has been deemed abandoned, the file has been closed, and all fees paid have been forfeited to the state.

D. Complete applications. If the application contains all of the information and documents required by 18.3.2.11 or 18.3.2.12 NMAC, and is in compliance with all other statutory requirements and these rules, the director shall certify in writing that the application satisfies the sixty (60) day completeness requirement of Subsection E of NMSA 1978 Section 65-2A-36 and shall approve the application for the warrant or single trip ticket.

E. Docketing.

(1) Warrants. Upon receipt of a complete application, all required documents, and the filing fee, the applications bureau shall issue a docket number and file the application with the docket filing unit of the commission.

(2) Single trip tickets. No docket number will be issued for single trip tickets.

F. Issuance of warrant or single trip ticket.

(1) The director will issue a warrant or single trip ticket within five (5) business days after the date the director approves the application. Issuance of the warrant closes the docket.

(2) The director will issue a warrant or single trip ticket in the name of the person owning the motor carrier, if the motor carrier is a sole proprietorship; in the name of the partners, if the motor carrier is a partnership; in the name of the limited lia-

bility company if the motor carrier is a limited liability company; and in the name of the corporation, if the motor carrier is a corporation. No warrant or single trip ticket will be issued only in a "doing business as" name.

[18.3.2.13 NMAC - Rp, 18.3.2.11 NMAC, 1-1-05]

18.3.2.14 TERMS AND CONDITIONS OF WARRANTS OR SINGLE TRIP TICKETS:

A. Proof of operating authority. A copy of the warrant or single trip ticket shall be carried in each motor vehicle operated by the motor carrier or commuter service.

B. Term. A warrant shall remain in force until suspended or revoked by the commission or until surrendered by the person holding it. A single trip ticket shall be valid only for the duration of the trip.

C. Changes prohibited. A warrant or single trip ticket may not be leased, transferred, assigned or voluntarily suspended.

[18.3.2.14 NMAC - Rp, 18.3.2.12 NMAC, 1-1-05]

18.3.2.15 CONTENTS OF APPLICATIONS FOR AN ORIGINAL CERTIFICATE OR PERMIT:

A. For all certificates and permits. An applicant for a certificate or permit shall file with the commission an application containing the following information and documents:

- (1)** the applicant's name;
- (2)** the applicant's d/b/a name, if applicable;
- (3)** the applicant's mailing address;
- (4)** the applicant's electronic mail address, if applicable;
- (5)** the applicant's tax identification number obtained from the New Mexico taxation and revenue department, or the applicant's social security number;
- (6)** if the applicant is a corporation:

(a) evidence that the applicant is authorized by the corporations bureau of the commission to do business in New Mexico and that it is in good corporate standing in New Mexico; and

(b) the names and addresses of any shareholders who own ten percent or more of the voting stock of the corporation;

(7) if the applicant is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, the percentage of ownership interest of each, and the date the business entity was created;

(8) appointment of an agent for service of process;

(9) an income statement for the latest fiscal year if available;

(10) a current balance sheet;

(11) affidavits or other evidence upon which the applicant intends to rely to show that the proposed service is or will be required by the public convenience and necessity;

(12) affidavits or other evidence upon which the applicant intends to rely to show that the applicant is fit, willing and able;

(13) a statement of the type of service the applicant intends to operate and a description of the territory it proposes to serve;

(14) the application fee required by NMSA 1978 Section 65-2A-36;

(15) a proposed tariff meeting the requirements of 18.3.6 NMAC, Tariffs;

(16) a proposed general schedule if the applicant will provide scheduled service; and

(17) the notarized oath of the applicant attesting that all statements in the application are true and correct.

B. Additional requirements for permits. An applicant for a permit shall also file with the commission:

(1) a copy of each contract under which the applicant intends to operate; and

(2) a statement indicating:

(a) the effect that denying the permit would have on the applicant and its customers; and

(b) the changing character of the requirements of those customers.

C. Additional requirements for ambulance services. An applicant for a certificate or a permit as an ambulance service shall also:

(1) submit an operations plan in accordance with 18.3.14.10 NMAC; and

(2) identify fixed stationing points for all ambulances used within a service's territory or patient catchment area.

[18.3.2.15 NMAC - Rp, 18.3.2.13 NMAC, 1-1-05]

18.3.2.16 REVIEW OF APPLICATIONS FOR CERTIFICATES OR PERMITS:

A. Pre-filing review. An applicant shall present a single copy of its proposed application for a certificate or permit to the director for pre-filing review. Within seven (7) days of receipt of such application, the director will review the application to determine if it is complete.

B. Complete applications. If the application contains all of the information and documents required by the section specified below for each particular type of application, and is in compliance with all other statutory requirements and these rules, the director shall certify in writing that the application satisfies the sixty

(60) day completeness requirement of Subsection E of NMSA 1978 Section 65-2A-36 and notify the applicant that the application is complete. The director's determination of completeness shall not constitute approval of the application. Upon receipt of notice that the application is complete, the applicant shall file its application in accordance with Subsection D of this section.

(1) For an original certificate or permit, 18.3.2.15 NMAC;

(2) For a change in a tariff, 18.3.6.14 NMAC;

(3) For amendment of a certificate or permit, 18.3.8.9 NMAC;

(4) For lease of a certificate or permit, 18.3.8.10 NMAC;

(5) For voluntary transfer of a certificate or permit, 18.3.8.11 NMAC;

(6) For transfer by operation of law of a certificate or permit, 18.3.8.12 NMAC;

(7) For reinstatement of a certificate or permit following involuntary suspension, 18.3.8.13 NMAC;

(8) For a change in the form of ownership of a certificate or permit, 18.3.8.14 NMAC;

(9) For transfer of control of a motor carrier, 18.3.8.15 NMAC;

(10) For cancellation of a certificate or permit, 18.3.8.16 NMAC;

(11) For voluntary suspension of a certificate or permit, 18.3.8.17 NMAC;

(12) For reinstatement of a certificate or permit following voluntary suspension, 18.3.8.18 NMAC;

(13) For leasing equipment, Subsection A of 18.3.9.8 NMAC.

C. Incomplete applications.

(1) If the application is incomplete, the director will, within three (3) days of determining the application is incomplete, return the application to the applicant along with an initial letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the initial letter to cure the deficiencies and return the completed application to the applications bureau. To expedite the process, the director may contact the applicant by telephone, electronic mail, or facsimile to obtain the missing information or documents.

(2) If the applicant returns the application to the commission but the application is still deficient, the director will, within ten (10) days, return the application to the applicant along with a second letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the second letter to cure the deficiencies and return the completed application to the applications bureau.

(3) If the returned application

cures the deficiencies, the director will certify the application as complete pursuant to Subsection B of this section.

(4) If the applicant fails to return the application to the commission within sixty (60) days from the date the application was pre-filed, or the director determines the application is still incomplete, the application shall be deemed abandoned. The director will send a letter notifying the applicant that the application has been deemed abandoned and the file has been closed.

D. Filing requirements.

(1) Application required.

Applications must be typed or completed in ink on forms prescribed by the director.

(2) Number of copies.

Applicants must file an original and three (3) copies of the application form and every required document as provided in Subsection A or B of 18.3.2.10 NMAC. If the applicant wishes to have a file-stamped copy of the complete application returned to it, it must submit an additional copy of each application form and document.

(3) Filing fee. Applicants shall submit the appropriate application fee with the application in the form of a check or money order made payable to the New Mexico public regulation commission.

E. Docketing. The applications bureau shall issue a docket number upon receipt of the complete application, all required documents, and the filing fee and shall file the application with the docket filing unit of the commission.

F. Procedure. The commission shall review complete applications for a certificate or permit in accordance with 18.3.2.17 through 18.3.2.20 NMAC. [18.3.2.16 NMAC - Rp, 18.3.2.16 NMAC, 1-1-05]

18.3.2.17 NOTICE:

A. The director shall prepare a notice of application within five (5) business days of the date the director certifies that an application is complete. If the application is accompanied by an application for temporary authority, the notice shall so state and shall indicate whether the application for temporary authority is pending or has been granted.

B. An applicant shall, at its own expense, publish the notice of application and, if applicable, grant of temporary authority once in a newspaper of general circulation in the area to be served within five (5) business days of receipt of the notice prepared by the director.

C. An applicant shall request from the director a list of all motor carriers holding the kind of operating authority the applicant has or is seeking and all other interested parties. An applicant shall mail a copy of the notice of application and, if applicable, grant of temporary

authority to all persons on the list within five (5) business days of receipt of the notice prepared by the director. Mailing of such notice by first class U.S. mail to the last known business address of a motor carrier shall constitute service under this rule.

D. An applicant shall file an affidavit of publication and a certificate of mailing with the docket filing unit. Instead of the affidavit of publication, an applicant may file the page from the newspaper showing the notice of application and, if applicable, grant of temporary authority, the name of the newspaper, and the date of its publication. The commission will not act on an application, except to dismiss it for good cause, until it has received the affidavit of publication or newspaper page and the certificate of mailing.

E. There shall be a minimum twenty (20) calendar day notice period before the commission may act on an application; the notice period shall start on the later of the date of publication of the notice in a newspaper of general circulation or three (3) days after the date notice was mailed to the persons on the list supplied by the director.

[18.3.2.17 NMAC - Rp, 18.3.2.17 NMAC, 1-1-05]

18.3.2.18 CONTESTED APPLICATIONS:

A. If the director requests a hearing, or a member of the public or industry files a motion to intervene in an application for operating authority or a grant of temporary authority at any time during the notice period, the commission shall appoint a hearing examiner. The motion to intervene shall state the movant's interest in the proceeding, specifically allege that the applicant for operating authority or grantee of temporary authority does not meet one or more of the criteria for issuance of the operating authority or temporary authority, and describe in sufficient detail the facts known to the movant supporting the allegation.

B. The hearing examiner shall, within ten (10) days of appointment, issue a notice of hearing setting a hearing to be held within sixty (60) days from the date of appointment. The hearing examiner may for good cause extend the time within which a hearing must be held.

C. If the commission or hearing examiner denies all motions to intervene or all intervenors withdraw at any time, and staff and the commission or hearing examiner do not object, the commission or hearing examiner shall recommend to the commission that the application be reassigned to staff and processed as an uncontested application.

D. The applicant has the burden of proof and shall present testimony

and evidence justifying: issuance of an original certificate or permit and the justness and reasonableness of the accompanying proposed tariff; approval of the proposed change in tariff; approval of the proposed amendment, lease, transfer, or reinstatement following involuntary suspension of an existing certificate or permit; or approval of a proposed equipment lease; as appropriate. Contesting parties shall be allowed an opportunity to present evidence regarding the application. The hearing examiner may require pre-filed testimony.

E. The hearing examiner shall issue a recommended decision within forty-five (45) days of receipt of the transcript of hearing, or completion of the briefing schedule, whichever is later. The hearing examiner may for good cause extend the time within which a recommended decision must be issued.

[18.3.2.18 NMAC - Rp, 18.3.2.1 NMAC, 1-1-05]

18.3.2.19 UNCONTESTED APPLICATIONS: If the director does not request a hearing, and no person files a motion to intervene in the application during the notice period, and the director finds that the applicant has met the statutory requirements specified below for each particular type of application, the director shall prepare, within five (5) business days of the end of the notice period, a proposed order conditionally approving the application:

A. for an original certificate as a motor carrier of persons, NMSA 1978 Section 65-2A-8;

B. for an original certificate as a motor carrier of household goods, NMSA 1978 Section 65-2A-9;

C. for an original permit, NMSA 1978 Section 65-2A-10

D. for temporary authority, NMSA 1978 Section 65-2A-11;

E. for reinstatement of a certificate or permit following involuntary suspension, NMSA 1978 Section 65-2A-27;

F. for an original tariff or common tariff, NMSA 1978 Sections 65-2A-20 and 65-2A-21, and, if applicable, 65-2A-22 and 65-2A-23;

G. for a change in a tariff or common tariff, transfer of control of a motor carrier, reinstatement of a certificate or permit following voluntary suspension, or for amendment, lease, transfer, cancellation, change in form of ownership, or voluntary suspension of a certificate or permit, NMSA 1978 Section 65-2A-14; and

H. for lease of equipment, NMSA 1978 Section 65-2A-24.

[18.3.2.19 NMAC - Rp, 18.3.2.19 NMAC, 1-1-05]

18.3.2.20 CONDITIONAL APPROVAL OF A CERTIFICATE OR

PERMIT: If the commission finds that the applicant for a certificate as a motor carrier of persons has met the statutory requirements in NMSA 1978 Section 65-2A-8, or that the applicant for a certificate as a motor carrier of household goods has met the statutory requirements in NMSA 1978 Section 65-2A-9, or that the applicant for a permit has met the statutory requirements in NMSA 1978 Section 65-2A-10, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within ninety (90) days from the date of the order, comply with the qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

[18.3.2.20 NMAC - Rp, 18.3.2.20 NMAC, 1-1-05]

18.3.2.21 QUALIFYING PROVISIONS: Upon conditional approval of its application, an applicant shall submit the following information and documents:

A. the applicant's principal place of business;

B. the applicant's business telephone number;

C. a list of all equipment to be used by the applicant, including all equipment leases filed with and approved by the commission in accordance with these rules;

D. for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding twelve (12) months that shows that each motor vehicle proposed to be operated by the applicant meets the safety requirements of the federal motor carrier safety regulations;

E. a list of drivers and drivers license information for each driver including state of issuance, license number and class of license;

F. the applicant's written statement certifying that all drivers meet the driver qualifications of the 18.3.4 NMAC, Safety Requirements, and that the applicant will maintain driver qualification files on each driver;

G. the applicant's U.S. DOT safety rating, if it has one;

H. proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;

I. a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the Workers' Compensation Administration;

J. the applicant's written statement certifying that the motor carrier has developed a drug and alcohol testing program that will meet the requirements of 49 CFR Section 382 and Part 40;

K. a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.5.12 NMAC;

L. a proposed specific schedule of service meeting the requirements of subsection A of 18.3.6.15 NMAC if the applicant will provide scheduled service; and

M. if the application is for transfer or cancellation of a certificate or permit, the original certificate or permit and all endorsements to it.
[18.3.2.21 NMAC - Rp, 18.3.2.21 NMAC, 1-1-05]

18.3.2.22 ISSUANCE OF A CERTIFICATE OR PERMIT:

A. Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission shall, over the signature of a single commissioner, adopt the final order approving the application. The director will then sign and issue a certificate or permit.

B. The commission will issue the certificate or permit in the name of the person owning the motor carrier, if the motor carrier is a sole proprietorship; in the name of the partners, if the motor carrier is a partnership; in the name of the limited liability company if the motor carrier is a limited liability company; and in the name of the corporation, if the motor carrier is a corporation. No certificate or permit will be issued only in a "doing business as" name.

C. In addition to the requirements in Subsection D of NMSA 1978 Section 65-2A-8, a certificate or permit issued to an ambulance service shall specify:

(1) the patient catchment area to be served, if different from the territory to be served; and

(2) the level of EMS service to be provided.

D. Certificates issued to ambulance services shall be valid for the time period prescribed in NMSA 1978 Section 65-6-5.

[18.3.2.22 NMAC - Rp, 18.3.2.20 and 18.4.2.57 NMAC, 1-1-05]

18.3.2.23 TERMS AND CONDITIONS OF CERTIFICATES AND PERMITS: The requirements of this section are in addition to the requirements in the Motor Carrier Act, NMSA 1978 chapter 65, article 2A.

A. Operation to begin within thirty days. A motor carrier must

actually begin authorized operations within thirty (30) days from the date its certificate or permit was issued. Failure to begin operations within thirty (30) days shall create a presumption that the applicant has refused to render continuous and adequate service.

B. Posting of operating authority. Every motor carrier of persons shall post, in a conspicuous place visible to the public, in each of its motor vehicles and at the motor carrier's principal place of business, a notice containing a statement in substantially the following form: "This motor carrier operates pursuant to NMPRC Operating Authority No. _____, issued by the New Mexico Public Regulation Commission, and the tariff approved by the commission. If you have any questions or problems with the service provided by this company, you may contact the management at [insert phone number], and if the problem is not resolved, you may contact the New Mexico Public Regulation Commission, Transportation Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269, 1-800-947-4722."

[18.3.2.23 NMAC - Rp, 18.3.2.22 NMAC, 1-1-05]

18.3.2.24 REQUIREMENTS APPLICABLE TO ALL MOTOR CARRIERS OF PERSONS:

A. Safe and adequate service, equipment, and facilities. All motor carriers of persons must provide safe and adequate service, equipment, and facilities for the provision of transportation services.

B. Condition of vehicles. A motor carrier of persons shall use motor vehicles that are safe, dependable, and suitable for the service rendered. A motor carrier of persons shall maintain each motor vehicle in good mechanical and operating condition. No motor carrier of persons shall operate, or require or permit to be operated, a motor vehicle with any defect or deficiency capable of causing an accident or the mechanical breakdown of the motor vehicle.

C. Heating and ventilation system. A motor carrier of persons shall ensure that every motor vehicle it operates is equipped with a heating system capable of providing a reasonable level of comfort inside the motor vehicle, and shall have ventilation adequate to prevent the escape of engine fumes into the interior of the motor vehicle.

D. Transportation of property limited. No motor carrier of persons may transport any property, including parcel freight, cargo or baggage, in any quantity or manner that interferes with the comfort or safety of passengers. Any property carried within the passenger compartment must be secured to prevent the proper-

ty from obscuring the vision of the driver or endangering the passengers.

E. Use of highways. A motor carrier may use only those highways that are authorized by its operating authority but may deviate from its authorized routes where the condition of the highway or street necessitates a detour.

F. Businesslike operations. All motor carriers of persons shall conduct their operations in a businesslike, ethical and courteous manner.

[18.3.2.24 NMAC - Rp, 18.3.2.23 NMAC, 1-1-05]

18.3.2.25 REQUIREMENTS APPLICABLE TO ALL MOTOR CARRIERS OF PERSONS EXCEPT AMBULANCE SERVICES:

A. Rates to be posted in vehicles. A motor carrier of persons shall post the rates for transportation services in the passenger compartment of the vehicle in a place and manner that is readily accessible and viewable by passengers.

B. Seat belts. A motor carrier of persons shall ensure that each motor vehicle it uses that is capable of transporting fifteen or fewer persons is equipped with a separate seat belt assembly for each passenger.

C. Child restraints. A motor carrier of persons except commuter services shall ensure that each motor vehicle it uses that is capable of transporting fifteen or fewer persons complies with all federal and state requirements regarding child restraint systems.

D. Cleaning. A motor carrier of persons shall ensure that the interior and exterior of every motor vehicle it operates is cleaned routinely to keep the motor vehicle free of dirt and debris.

E. Transportation of hazardous matter. No motor carrier of persons shall transport hazardous matter (including but not limited to explosives, acids, flammable liquids), loaded guns or other deadly weapons, or other dangerous articles of property.

[18.3.2.25 NMAC - N, 1-1-05]

18.3.2.26 REQUIREMENTS APPLICABLE TO ALL MOTOR CARRIERS OF PERSONS EXCEPT AMBULANCE, CHARTER, AND COMMUTER SERVICES:

A. Stations. A motor carrier of persons shall ensure that any station it operates is of adequate size and contains those facilities reasonably needed by the traveling public. A motor carrier of persons shall ensure that its stations are maintained in a clean and sanitary condition, adequately lighted, heated and ventilated during hours of use, and contain adequate restroom facilities. A motor carrier of persons shall

make reasonable efforts to keep the station area safe for the public.

B. Routing of passengers. Unless expressly requested otherwise, a motor carrier of persons shall ticket all passengers over the shortest available route and for the earliest scheduled arrival.

C. Rest stops. A motor carrier of persons shall require its drivers to announce all scheduled rest stops immediately before leaving any station and the location of the restroom facilities upon arriving at a rest stop.

[18.3.2.26 NMAC - Rp, 18.3.2.24 NMAC, 1-1-05]

18.3.2.27 ADDITIONAL REQUIREMENTS FOR MOTOR CARRIERS OF PERSONS PROVIDING SCHEDULED SERVICE EXCEPT COMMUTER SERVICES:

A. Posting of schedules. A motor carrier of persons shall post in a conspicuous place, readily available for public inspection, at each station or place where passengers are regularly received or discharged, at least one copy of its current schedule of arrivals and departures.

B. Compliance with time schedules required.

(1) A motor carrier of persons authorized to provide scheduled service must operate the service on each day as scheduled.

(2) A motor carrier of persons shall comply with all time schedules throughout its routes.

(3) A shuttle service picking up passengers at a transportation hub facility may delay its departure from the transportation hub facility when reserved passengers are delayed as a result of another carrier's late arrival or delayed baggage handling, provided that:

(a) if the particular vehicle has no loaded passengers at the particular time and has no other pickup points on its route, the shuttle service may delay its departure for any reasonable period of time for late arriving reserved passengers.

(b) if the particular vehicle has other passengers loaded, but has no other pickup points on its route, the shuttle service may delay its departure up to fifteen (15) minutes past its scheduled departure time.

C. Reserve equipment. Every motor carrier of persons must keep sufficient equipment on reserve to assure reasonable compliance with approved time schedules.

D. Interruption of service. Each motor carrier of persons shall promptly report in writing to the commission any interruption in service which is likely to continue for more than twenty-four (24) hours, stating in detail the cause of the interruption and its expected duration.

[18.3.2.27 NMAC - Rp, 18.3.2.25 NMAC, 1-1-05]

18.3.2.28 UNAUTHORIZED CARRYING OF PERSONS PROHIBITED:

No motor carrier unauthorized to transport persons shall carry any person, including but not limited to hitchhikers, except on-duty employees of the motor carrier, commission representatives on official business, or in an emergency.

[18.3.2.28 NMAC - Rp, 18.3.2.26 NMAC, 1-1-05]

18.3.2.29 TEMPORARY AUTHORITY:

A. Grant discretionary. Pursuant to NMSA 1978 Section 65-2A-11, the commission may, in its discretion, but is not required to, grant temporary authority to a person applying for a certificate or permit, amendment of a certificate or permit or for lease or transfer of all or part of a certificate if it finds that the applicant meets the requirements of NMSA 1978 Section 65-2A-11. An application for temporary authority shall be made on the form prescribed by the director.

B. Original or amended authority. If the application for temporary authority is made in connection with an application for an original certificate or permit, or for amendment of a certificate or permit, the commission shall not grant temporary authority unless:

(1) the director has certified that the application for permanent operating authority contains all of the information and documents required by 18.3.2.15 NMAC; and

(2) the applicant has shown that the public has an urgent and immediate need for the proposed transportation service by filing affidavits from one or more persons having need of the service:

(a) stating that no other motor carrier is providing the transportation service in the territory the applicant seeks to serve; or

(b) stating that another motor carrier is providing such transportation service, but that such transportation service is inadequate in rates, routes, or service; and

(3) the applicant submits the fee required by NMSA 1978 Section 65-2A-36.

C. Transfer of authority. If the application for temporary authority is made in connection with an application for transfer of all or part of a certificate or permit, the commission shall not grant temporary authority to a transferee unless:

(1) the director certifies that the application contains all of the information and documents required by 18.3.8.11 NMAC; and

(2) the transferor provides an affidavit that it is no longer fit, no longer will-

ing, or no longer able to render continuous and adequate service; and

(3) the applicant submits the fee required by NMSA 1978 Section 65-2A-36.

D. Lease of authority. If the application for temporary authority is made in connection with an application for lease of all or part of a certificate or permit, the commission shall not grant temporary authority to a transferee unless:

(1) the director certifies that the application contains all of the information and documents required by 18.3.8.10 NMAC; and

(2) the applicant submits the fee required by NMSA 1978 Section 65-2A-36.

E. Director's certification. The director shall certify to the commission that the application contains the required information and documents and that the required affidavits and fee have been filed, and shall make a recommendation to the commission as to whether or not it should grant the temporary authority.

[18.3.2.29 NMAC - Rp, 18.3.2.27 NMAC, 1-1-05]

18.3.2.30 SUSPENSION OR REVOCATION OF OPERATING AUTHORITIES:

A. For lapse in financial responsibility. Upon receipt of a Form K, the director shall issue a letter notifying a motor carrier that its operating authority has been indefinitely suspended as of the date of the letter, without further notice or a public hearing, until the commission receives a valid form E and, if applicable, a valid form H. The letter shall also state that suspension of the operating authority will not take effect if the commission receives a valid Form E and, if applicable, a valid Form H, before the motor carrier's financial responsibility coverage expires.

B. For safety violation. Upon receipt of sufficient information that a motor carrier's operations endanger the public health or safety, the director shall present to the commission at its next meeting or at an emergency meeting the safety requirement of the Motor Carrier Act or the rules of the commission or MTD alleged to have been violated and all facts known to the director concerning the matter. If the commission is satisfied that the facts show that a motor carrier's operations endanger the public health and safety and merit immediate temporary suspension, the commission shall personally serve or mail by certified mail, return receipt requested, an order notifying a motor carrier that its operating authority is temporarily suspended. The order shall set the matter for an expedited hearing. The commission may authorize issuance of the order over the signature of a single commissioner. The motor carrier shall suspend operations immediately

upon receipt of the commission's order. If the commission determines after the hearing that the motor carrier's operations prior to the suspension were not endangering the public health or safety, the commission shall vacate the suspension order and the motor carrier shall be allowed to resume operations without applying for reinstatement following involuntary suspension or paying any additional fees. The commission may impose lesser temporary restraints or conditions if it believes that the public health and safety will not be compromised.

C. For failure to render reasonably continuous and adequate service. The commission may suspend or revoke a certificate or permit, after notice and a public hearing, for failure to render reasonably continuous and adequate service. The commission may find that a motor carrier operating under a certificate or permit that is not seasonal has failed to render reasonably continuous and adequate service when the motor carrier has not operated under the certificate or permit for sixty (60) days or more, and one or more of the following is true:

(1) the motor carrier is unable to operate; or

(2) the motor carrier has refused to accept business; or

(3) the motor carrier has not actively, and in good faith, solicited business; or

(4) the motor carrier has failed to obtain approval from the commission for voluntary suspension in accordance with 18.3.8 NMAC, Changes in Certificates and Permits.

[18.3.2.30 NMAC - Rp, 18.3.2.28 NMAC, 1-1-05]

18.3.2.31 CHANGES OF NAME:

A. A motor carrier that changes its name shall file with the commission within ten (10) days after the change of name:

(1) the form prescribed by the commission for filing changes of name;

(2) the original certificate or permit;

(3) the fee required by NMSA 1978 Section 65-2A-36;

(4) new filings for Paragraphs (5), (6)(a) or (7), and (8) of Subsection A of 18.3.2.15 NMAC, and

(5) the applicable insurance filing forms in the new name and the insurance filing fee.

B. If the applicant fails to comply with any of the requirements of subsection A of this section, the commission shall refuse to approve the change of name.

C. If the director determines the filing is complete, the commission shall issue a new certificate or permit

in the new name.

[18.3.2.31 NMAC - Rp, 18.3.2.9 NMAC, 1-1-05]

NEW MEXICO PUBLIC REGULATION COMMISSION TRANSPORTATION DIVISION

TITLE 18 TRANSPORTATION AND HIGHWAYS CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS PART 4 SAFETY REQUIREMENTS

18.3.4.1 ISSUING AGENCY:
New Mexico Public Regulation
Commission, Transportation Division.
[18.3.4.1 NMAC - N, 1-1-05]

18.3.4.2 SCOPE:
A. This rule applies to all drivers, all motor carriers and commuter services subject to the jurisdiction of the commission, and all motor vehicles operated by the motor carrier or commuter service in the course of its operations, subject to the exceptions and limitations stated in particular sections of this rule.

B. Whenever this rule prescribes a duty or imposes a prohibition on a driver, the motor carrier that uses, employs, or contracts with the driver shall require its drivers to observe the duty or prohibition.

C. A motor carrier who employs himself or herself as a driver must comply with both the rules that apply to motor carriers and the rules that apply to drivers.

[18.3.4.2 NMAC - N, 1-1-05]

18.3.4.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4, 65-2A-4, and 65-6-4.

[18.3.4.3 NMAC - N, 1-1-05]

18.3.4.4 DURATION:
Permanent.
[18.3.4.4 NMAC - N, 1-1-05]

18.3.4.5 EFFECTIVE DATE:
January 1, 2005, unless a later date is cited at the end of a section.
[18.3.4.5 NMAC - N, 1-1-05]

18.3.4.6 OBJECTIVE: The purpose of this rule is to implement NMSA 1978 Sections 65-2A-19 and 65-6-4 by establishing safety requirements for drivers, motor vehicles, and motor carriers and commuter services subject to the jurisdiction of the commission.
[18.3.4.6 NMAC - N, 1-1-05]

18.3.4.7 DEFINITIONS: In

addition to the definitions in 18.3.1.7 NMAC, as used in this rule:

A. CDL driver means a driver who is required by 49 CFR Section 383.3 or NMSA 1978 Section 66-5-59 to have a commercial driver's license;

B. driver means a person who drives a motor vehicle as, for, or on behalf of a motor carrier or a commuter service;

C. MVD means the motor vehicle division of the New Mexico taxation and revenue department.

[18.3.4.7 NMAC - N, 1-1-05]

18.3.4.8 AVAILABILITY OF CITED MATERIAL: The sections of the code of federal regulations cited in this rule may be found on the government printing office website at <http://www.gpoaccess.gov/cfr/>. Printed copies of the cited motor carrier regulations are also available at nominal cost from the New Mexico motor carriers association, listed in the Albuquerque telephone directory.

[18.3.4.8 NMAC - N, 1-1-05]

18.3.4.9 SUBSTITUTION OF TERMS: Wherever one of the following terms appears in a part or section of title 49 adopted by reference in this rule, substitute the provided term or phrase:

A. for the terms "commerce" and "interstate commerce," substitute "intrastate commerce," as defined in 49 CFR Section 390.5;

B. for the terms "commercial motor vehicle," "bus," "truck," and "truck tractor," substitute "motor vehicle," as defined in NMSA 1978 Section 65-2A-3, except in 49 CFR Section 391.21(b)(11). The term "motor vehicle" shall not include any limitations based on gross combination weight rating, gross vehicle weight rating, or passenger seating capacity;

C. for the abbreviation "FMCSA," substitute "public regulation commission" or "PRC."

[18.3.4.9 NMAC - N, 1-1-05]

18.3.4.10 REQUIREMENTS APPLICABLE TO ALL DRIVERS:

A. Drug and alcohol testing.

(1) **Procedures for transportation workplace drug and alcohol testing programs.** This rule adopts by reference title 49, part 40 of the code of federal regulations in its entirety.

(2) **Controlled substances and alcohol use and testing.** This rule adopts by reference title 49, part 382 of the code of federal regulations, except for sections 382.117 and 382.119.

(3) **Commuter services.** Commuter services shall comply with the

requirements of Subsection C of NMSA 1978 Section 65-2A-19.

B. Hours of service of drivers. This rule adopts by reference title 49, part 395 of the code of federal regulations, except that section 395.1(e)(1) is amended to add: "or operates in intrastate commerce within a 150 air-mile radius of the normal work reporting location." [18.3.4.10 NMAC - N, 1-1-05]

18.3.4.11 REQUIREMENTS APPLICABLE ONLY TO CDL DRIVERS:

A. Commercial drivers licenses. This rule adopts by reference NMSA 1978 chapter 66, article 5, part 1A.

B. Qualifications of drivers and longer combination vehicle (LCV) driver instructors. This rule adopts by reference title 49, part 391 of the code of federal regulations with the following changes:

(1) Section 391.11(b)(1) is amended to add: "or is 18 years old and drives only in intrastate commerce motor vehicles that are not required to be placarded for hazardous materials;"

(2) Section 391.15 is not adopted;

(3) Section 391.49(a) is amended to add: "or the director of MVD has granted a waiver to that person pursuant to 18.19.5.33 NMAC."

C. Driving of commercial motor vehicles. This rule adopts by reference title 49, part 392 of the code of federal regulations in its entirety.

D. Parts and accessories necessary for safe operation. This rule adopts by reference title 49, part 393 of the code of federal regulations in its entirety.

E. Inspection, repair and maintenance. This rule adopts by reference title 49, part 396 of the code of federal regulations in its entirety.

F. Transportation of hazardous material; driving and parking rules. This rule adopts by reference title 49, part 397 of the code of federal regulations in its entirety. [18.3.4.11 NMAC - N, 1-1-05]

18.3.4.12 REQUIREMENTS APPLICABLE ONLY TO NON-CDL DRIVERS:

A. Operator's and chauffeur's licenses. This rule adopts by reference NMSA 1978 chapter 66, article 5, part 1.

B. Qualifications of drivers. This rule adopts by reference only the following specific sections of title 49, part 391 of the code of federal regulations:

(1) **general qualifications of drivers:** Section 391.11(b)(8);

(2) **application for employment:** Section 391.21;

(3) **investigations and inquiries:** Section 391.23, except that:

(a) this section shall not apply to commuter services;

(b) "public regulation commission" should be substituted for:

(i) department of transportation in section 391.23(a)(2), (i)(1), and (i)(2);

(ii) FMCSA in section 391.23(c)(3) and (j)(6);

(iii) DOT in section 391.23(c)(4) and (e);

(c) section 391.23(d)(2) is amended to substitute "in the uniform accident report form prescribed by the state of New Mexico" for "as specified in section 390.15(b)(1) of this chapter";

(4) **annual inquiry and review of driving record.** Section 391.25, except that:

(a) Subsections 391.25(a) and (b) are amended to delete: "Except as provided in subpart G of this part;"

(b) Section 391.25 shall not apply to volunteer drivers;

(5) **record of violations:** Section 391.27, except that section 391.27(a) is amended to delete: "Except as provided in subpart G of this part;"

(6) **road test:** Section 391.31, except that section 391.31(a) is amended to delete: "Except as provided in subpart G;"

(7) **equivalent of road test:** Section 391.33; an ambulance service may also accept from a person who seeks to drive an ambulance a copy of a certificate of completion from an emergency vehicle operator's course approved by the emergency medical services bureau;

(8) **physical qualifications for drivers:** Section 391.41, except that drivers for ambulance and commuter services are exempt from section 391.41(a);

(9) **medical examinations; certificate of physical examination:** Section 391.43, except that:

(a) for volunteer drivers of ambulance services only, the physician performing the medical examination shall perform a medical examination sufficient to enable the physician to certify, in accordance with Subsection C of 18.19.5.33 NMAC, whether or not the driver has a condition which may interfere with the safe operation of an ambulance; and

(b) this section shall not apply to commuter services;

(10) **persons who must be medically examined and certified:** Section 391.45, but this section shall not apply to volunteer drivers;

(11) **general requirements for driver qualification files:** Section 391.51, except that:

(a) subsections 391.51(b)(8) and (d)(5) are not adopted;

(b) this section shall not apply to commuter services;

(12) **driver investigation history file:** Section 391.53, but this section shall not apply to commuter services.

C. Driving of commercial motor vehicles. This rule adopts by reference the following sections of title 49, part 392 of the code of federal regulations:

(1) **ill or fatigued operator:** Section 392.3;

(2) **drugs and other substances:** Section 392.4;

(3) **alcohol prohibition:** Section 392.5;

(4) **emergency equipment, inspection and use:** Section 392.8, but this section is amended to substitute NMSA 1978 Section 66-3-849 for the reference to Section 393.95;

(5) **inspection of cargo, cargo securement devices and systems:** Section 392.9, except that this section shall:

(a) not apply to ambulance or commuter services;

(b) only apply to a motor vehicle with a gross vehicle weight rating of 10,000 pounds or more;

(6) **hazardous conditions; extreme caution:** Section 392.14, but this section shall not apply to ambulance services;

(7) **use of seat belts:** Section 392.16;

(8) **obscured lamps or reflectors:** Section 392.33;

(9) **ignition of fuel; prevention:** Section 392.50;

(10) **safe operation, buses:** Section 392.62;

(11) **towing or pushing loaded buses:** Section 392.63;

(12) **riding within closed commercial motor vehicles without proper exits:** Section 392.64;

(13) **carbon monoxide; use of commercial motor vehicle when detected:** Section 392.66;

(14) **radar detectors; use and/or possession:** Section 392.71.

D. Equipment. This rule adopts by reference NMSA 1978 chapter 66, article 3, parts 9 and 10.

E. Inspection, repair and maintenance. This rule adopts by reference the following sections of title 49, part 396 of the code of federal regulations:

(1) **inspection, repair and maintenance:** Section 396.3, but this section shall not apply to commuter services;

(2) **lubrications:** Section 396.5;

(3) **driver vehicle inspection reports:** Section 396.1; a commuter service shall be exempt from this section, but each commuter service shall require its drivers to report to it, and each commuter service shall timely repair, any defect or

deficiency that would be likely to affect the safe operation of the motor vehicle;

(4) **driver inspection:** Section 396.13, except that commuter services are exempt from subsections 396.13 (b) and (c);

(5) **periodic inspection:** Section 396.17;

(6) **inspector qualifications:** Section 396.19;

(7) **periodic inspection record-keeping requirements:** Section 396.21;

(8) **equivalent to periodic inspection:** Section 396.23(a);

(9) **qualifications of brake inspectors:** Section 396.25.
[18.3.4.12 NMAC - N, 1-1-05]

18.3.4.13 IDENTIFICATION OF EQUIPMENT:

A. Issuance. The commission shall assign an NMPRC transportation number to each motor carrier or commuter service when it issues an operating authority. Any transportation number issued by the New Mexico state corporation commission shall be changed to an NMPRC transportation number and displayed as required by this rule.

B. Display. The letters and numbers must be not less than one-half inch (1/2") wide and not less than two and one half inches (2 1/2") high. The transportation number will be displayed in the following manner: "NMPRC 123".

(1) **Placement on limousines.** The NMPRC transportation number must be distinctly displayed on the front and rear bumpers of each limousine operated in New Mexico.

(2) **Placement on all other motor vehicles.** The name or d/b/a name of the motor carrier or commuter service and the NMPRC transportation number must be distinctly displayed on the right and left doors, or sides of the power unit, of each motor vehicle operated in New Mexico.

C. Exceptions.

(1) Interstate motor carriers that display a federal transportation number are not required to display the NMPRC transportation number.

(2) Intrastate motor carriers that display a New Mexico safety identification number issued by MVD are not required to display the NMPRC transportation number.
[18.3.4.13 NMAC - Rp, 18.3.5.8 NMAC, 1-1-05]

NEW MEXICO PUBLIC REGULATION COMMISSION TRANSPORTATION DIVISION

TITLE 18 TRANSPORTATION
AND HIGHWAYS
CHAPTER 3 MOTOR CARRIER
GENERAL PROVISIONS

PART 8 CHANGES IN CERTIFICATES AND PERMITS

18.3.8.1 ISSUING AGENCY:

New Mexico Public Regulation Commission.
[18.3.8.1 NMAC - Rp, 18.3.8.1 NMAC, 1-1-05]

18.3.8.2 SCOPE:

A. This rule applies to all motor carriers operating pursuant to a certificate or permit issued by the commission.

B. This rule does not apply to the use of a certificate or permit as collateral for indebtedness of the owner of the certificate or permit.

[18.3.8.2 NMAC - Rp, 18.3.8.2 NMAC, 1-1-05]

18.3.8.3 STATUTORY AUTHORITY:

NMSA 1978 Sections 8-8-4 and 65-2A-4.
[18.3.8.3 NMAC - Rp, 18.3.8.3 NMAC, 1-1-05]

18.3.8.4 DURATION:

Permanent.
[18.3.8.4 NMAC - Rp, 18.3.8.4 NMAC, 1-1-05]

18.3.8.5 EFFECTIVE DATE:

January 1, 2005, unless a later date is cited at the end of a section.
[18.3.8.5 NMAC - Rp, 18.3.8.5 NMAC, 1-1-05]

18.3.8.6 OBJECTIVE:

The purpose of this rule is to implement NMSA 1978 Section 65-2A-14.
[18.3.8.6 NMAC - Rp, 18.3.8.6 NMAC, 1-1-05]

18.3.8.7 DEFINITIONS:

See 18.3.1.7 NMAC.
[18.3.8.7 NMAC - Rp, 18.3.8.7 NMAC, 1-1-05]

18.3.8.8 APPLICATION REQUIRED:

The following actions constitute changes in a certificate or permit requiring the prior approval of:

- A.** the commission:
- (1) amendment of a certificate or permit;
 - (2) lease of a certificate or permit;
 - (3) voluntary transfer of a certificate or permit;
 - (4) transfer by operation of law of a certificate or permit;
 - (5) reinstatement of a certificate or permit following involuntary suspension;
 - (6) transfer of control of a motor carrier;
 - (7) cancellation of a certificate or permit;
- B.** the director:

(1) voluntary suspension of a certificate or permit; and

(2) reinstatement of a certificate or permit following voluntary suspension.

(3) change in the form of ownership of a certificate or permit;
[18.3.8.8 NMAC - Rp, 18.3.8.8 NMAC, 1-1-05]

18.3.8.9 AMENDMENT OF A CERTIFICATE OR PERMIT:

A. Application. An applicant for amendment of a certificate or permit shall file:

(1) an application on the form prescribed by the director containing the information and documents required by 18.3.2.15 NMAC;

(2) copies of its current certificate or permit and all endorsements; and

(3) the fee required by NMSA 1978 Section 65-2A-36.

B. Procedure for commission review. The commission shall review an application for amendment of an existing certificate or permit in accordance with 18.3.2.15 through 18.3.2.19 NMAC.

C. Qualifying provisions.

If the commission finds that the applicant for amendment of a certificate or permit has met the statutory requirements in NMSA 1978 Section 65-2A-14, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

D. Issuance. Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission shall, over the signature of a single commissioner, issue an endorsement to the existing certificate or permit.
[18.3.8.9 NMAC - Rp, 18.3.8.9 NMAC, 1-1-05]

18.3.8.10 LEASE OF ALL OR PART OF A CERTIFICATE OR PERMIT:

A. Application.

(1) A lessor-applicant shall file:

- (a) an application on the form prescribed by the director;

- (b) copies of its current certificate or permit and all endorsements;

- (c) a complete description of all operating equipment to be leased;

- (d) a showing that the proposed lease is not being made to avoid any previ-

ously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and

(e) a copy of the proposed lease, containing provisions:

(i) stating that the proposed lease may not go into effect until approved by the commission;

(ii) stating which party to the lease shall be responsible for complying with the qualifying provisions in 18.3.2.21 NMAC; and

(iii) specifying the term of the lease.

(2) A lessee-applicant shall file:

(a) an application on the form prescribed by the director containing the information and documents required by 18.3.2.15 NMAC, except that the lessee-applicant shall not be required to provide the affidavits or other evidence required by Paragraph (1) of Subsection A of 18.3.2.15 NMAC to show that the service is required by the public convenience and necessity;

(b) an application for amendment of a certificate or permit if the lessee-applicant seeks to change the type of service or the territory to be served;

(c) an application for a change in a tariff if the lessee-applicant seeks to change the rates or schedules for service;

(d) a showing that the proposed lease is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and

(e) the fee required by NMSA 1978 Section 65-2A-36.

B. Procedure for commission review. The commission shall review an application for lease of all or part of an existing certificate or permit in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

C. Qualifying provisions. If the commission finds that the lessee-applicant for lease of a certificate or permit has met the statutory requirements in NMSA 1978 Section 65-2A-14, the commission shall issue an order conditionally approving an application for lease of all or part of a certificate or permit. Then, unless the commission prescribes a different period, the lessee-applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the lessee-applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

D. Issuance. Within five (5) business days after the date the director

certifies that the lessee-applicant has complied with all qualifying provisions, the commission shall, over the signature of a single commissioner, issue an order approving the application for lease of a certificate or permit.

[18.3.8.10 NMAC - Rp, 18.3.8.10 NMAC, 1-1-05]

18.3.8.11 VOLUNTARY TRANSFER OF A CERTIFICATE OR PERMIT:

A. Application.

(1) The transferor-applicant shall file:

(a) an application on the form prescribed by the director;

(b) copies of its current certificate and all endorsements or permit;

(c) a joint affidavit on the form prescribed by the director, executed by the transferor-applicant and the transferee-applicant certifying that all accrued taxes, rents, wages of employees and all other indebtedness incident to the transferor-applicant's operations have been paid in full, or that the transferee-applicant will assume responsibility for paying them if they have not been paid in full;

(d) a complete description of all operating equipment to be transferred;

(e) a showing that the proposed transfer is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and

(f) a tax clearance certificate from the New Mexico taxation and revenue department certifying that all state tax indebtedness incident to the transferor-applicant's operations has been paid in full.

(2) The transferee-applicant shall file:

(a) an application containing the items required by 18.3.2.15 NMAC, except that the transferee-applicant shall not be required to provide the affidavits or other evidence required by Paragraph (1) of Subsection A of 18.3.2.15 NMAC to show that the service is required by the public convenience and necessity;

(b) an application for amendment of a certificate or permit if the transferee-applicant seeks to change the type of service and the territory to be served;

(c) an application for a change in a tariff if the transferee-applicant seeks to change the rates or schedules for service;

(d) a showing that the proposed transfer is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and

(e) the fee required by NMSA 1978 Section 65-2A-36.

B. Procedure for commission review. The commission shall review an application for transfer of an existing certificate or permit in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

C. Qualifying provisions. If the commission finds that the transferee-applicant for transfer of a certificate or permit has met the statutory requirements in NMSA 1978 Section 65-2A-14, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the transferee-applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the transferee-applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

D. Issuance. Within five (5) business days after the date the director certifies that the transferee-applicant has complied with all qualifying provisions, the commission shall, over the signature of a single commissioner, issue a new certificate or permit.

[18.3.8.11 NMAC - Rp, 18.3.8.11 NMAC, 1-1-05]

18.3.8.12 TRANSFER BY OPERATION OF LAW OF A CERTIFICATE OR PERMIT: This section shall apply whenever the ownership of, or interest in, a certificate or permit passes to another by operation of law, as upon inheritance, bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a loan, lease or executory sales contract, or otherwise than by voluntary transfer.

A. Notice. A transferee by operation of law shall file a notice of transfer by operation of law with the commission as provided in 18.3.1.11 NMAC. The personal representative, executor, administrator, receiver, trustee, sheriff or other representative or successor-in-interest of the owner of the operating authority shall sign the notice of transfer by operation of law. The notice of transfer by operation of law shall contain:

(1) the name of the entity from whom the certificate of public convenience or necessity or permit was transferred;

(2) the circumstances resulting in the transfer by operation of law; and

(3) a certified copy of a court order or other document admissible as evidence pursuant to the New Mexico Rules of Evidence, establishing that the transfer by operation of law has occurred; if the document appears to meet these requirements, the commission shall find that the transfer

by operation of law has occurred.

B. Which application appropriate.

(1) Disposal of certificate or permit. If the transferee by operation of law does not wish to continue providing transportation services under the certificate or permit, the transferee by operation of law shall apply for voluntary suspension of the certificate or permit in accordance with 18.3.8.17 NMAC for the period of time needed to dispose of the certificate or permit.

(2) Continued provision of transportation service. If the transferee by operation of law wishes to continue providing transportation services under the certificate or permit, the transferee by operation of law shall file:

(a) an application for voluntary transfer of the certificate or permit in accordance with 18.3.8.11 NMAC, except that a transferee by operation of law shall not be required to provide the affidavits or other evidence required by Paragraph (11) of Subsection A of 18.3.2.15 NMAC to show that the service is required by the public convenience and necessity;

(b) an application for amendment of a certificate or permit if the transferee by operation of law seeks to change the type of service and the territory to be served;

(c) an application for a change in a tariff if the transferee by operation of law seeks to change the rates or schedules for service.

C. Commission decision.

(1) If the commission finds that the transferee by operation of law does not meet the requirements for transfer of a certificate or permit, the commission may provide a reasonable period of time for the transferee by operation of law to meet the standards or to dispose of the certificate or permit as provided in this rule.

(2) The commission may revoke a certificate or permit that has been transferred by operation of law if the transferee by operation of law fails to obtain commission approval of the transfer.

[18.3.8.12 NMAC - Rp, 18.3.8.12 NMAC, 1-1-05]

18.3.8.13 REINSTATEMENT OF A CERTIFICATE OR PERMIT FOLLOWING INVOLUNTARY SUSPENSION:

A. Application. An applicant for reinstatement of a certificate or permit that was suspended by the commission pursuant to 18.3.2.30 NMAC may, upon expiration of the suspension period, file:

(1) an application on the form prescribed by the director;

(2) a copy of the commission order imposing involuntary suspension;

(3) a detailed statement describ-

ing how the motor carrier has remedied or will remedy each of the violations stated as grounds for involuntary suspension; and

(4) the fee required by NMSA 1978 Section 65-2A-36.

B. Procedure for commission review. The commission shall review an application for reinstatement of an existing certificate or permit following involuntary suspension in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

C. Qualifying provisions. If the commission finds that the applicant for reinstatement of a certificate or permit following involuntary suspension has met the statutory requirements in NMSA 1978 Section 65-2A-27, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

D. Reissuance. Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission will return the surrendered certificate or permit to the applicant.

[18.3.8.13 NMAC - Rp, 18.3.8.13 NMAC, 1-1-05]

18.3.8.14 CHANGE IN THE FORM OF OWNERSHIP OF A CERTIFICATE OR PERMIT:

A. Application. An applicant for a change in the form of ownership of a certificate or permit shall file:

(1) an application on the form prescribed by the director;

(2) the information and documents required by Paragraphs (1) through (8) and (17) of Subsection A of 18.3.2.15 NMAC for the proposed new entity;

(3) a showing that the proposed change is not being made to avoid any previously incurred taxes or other legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and

(4) a statement that all assets will or will not be transferred to the new entity.

B. Procedure for review by the director. The director shall review an application for a change in the form of ownership of an existing certificate or permit in accordance with 18.3.2.16 NMAC.

C. Approval. If the director determines that only the form of ownership will change, the director shall approve the application for a change in the form of

ownership. The new entity shall file:

(1) proof of public liability insurance in the new entity's name in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;

(2) a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration in the new entity's name; and

(3) copies of all other documents required by 18.3.2.15 NMAC if they are different for the new entity.

D. More than a change in form. If the director determines that the change will entail more than a change in form of ownership, the director shall require the entity to file an application for voluntary transfer of a certificate or permit in accordance with 18.3.8.11 NMAC.

[18.3.8.14 NMAC - Rp, 18.3.8.14 NMAC, 1-1-05]

18.3.8.15 TRANSFER OF CONTROL OF A MOTOR CARRIER:

A. Application. An applicant for transfer of control of a motor carrier shall file:

(1) an application on the form prescribed by the director;

(2) the information and documents required by Paragraphs (1) through (10), (12), and 17 of Subsection A of 18.3.2.15 NMAC; and

(3) a showing that the proposed transfer of control is not being made to avoid any previously incurred taxes or other legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act;

B. Procedure for commission review. The commission shall review an application for transfer of control of a motor carrier in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

C. Standards. The commission may authorize the transfer of control of a motor carrier at the request of the applicant acquiring control if:

(1) the applicant is fit, willing and able to provide the authorized transportation services and to comply with the Motor Carrier Act and the rules of the commission;

(2) the transfer of control of a motor carrier does not have the effect of destroying competition or creating a monopoly; and

(3) the transfer of control of a motor carrier is not inconsistent with the public interest.

D. Qualifying provisions; issuance. If the commission finds that the applicant for transfer of control of a motor carrier has met the requirements set forth in Subsection C of this section, the commission shall issue an order approving the

application. The motor carrier shall file copies of all documents required by 18.3.2.15 NMAC if they are different after transfer of control of the motor carrier. [18.3.8.15 NMAC - N, 1-1-05]

18.3.8.16 CANCELLATION OF A CERTIFICATE OR PERMIT:

A. Application. An applicant for cancellation of all or part of its certificate or permit shall file:

(1) an application on the form prescribed by the director;

(2) copies of its current certificate or permit and all endorsements it seeks to cancel in whole or in part; and

(3) the date on which the applicant proposes to terminate all or part of its service.

B. Procedure for commission review. The commission shall review an application for cancellation of an existing certificate or permit in accordance with 18.3.2.16 and 18.3.2.17 NMAC, except that the applicant shall not be required to mail notice pursuant to Subsection C of 18.3.2.17 NMAC.

C. Issuance. The commission may, over the signature of a single commissioner, issue an order approving an application for cancellation of a certificate or permit if the commission finds that cancellation of the certificate or permit would not be adverse to the public interest.

D. Disputed application. If the need for cancellation is disputed, the commission shall give the applicant an opportunity to request a hearing. [18.3.8.16 NMAC - Rp, 18.3.8.15 NMAC, 1-1-05]

18.3.8.17 VOLUNTARY SUSPENSION OF A CERTIFICATE OR PERMIT:

A. Application. An applicant for voluntary suspension shall file:

(1) an application on the form prescribed by the director;

(2) copies of its current certificate or permit and all endorsements it seeks to suspend;

(3) a statement explaining:

(a) why such voluntary suspension is not adverse to the public interest, including whether any other motor carrier is capable of providing the service; and

(b) if applicable, why the applicant is not fit, willing, and able to render reasonably continuous and adequate service for the period of time for which voluntary suspension is requested;

(4) the period of time for which the applicant seeks to suspend service; and

(5) the fee required by NMSA 1978 Section 65-2A-36.

B. Procedure for review by the director. The director shall review

an application for voluntary suspension of an existing certificate or permit in accordance with 18.3.2.16 and 18.3.2.17 NMAC, except that the applicant shall not be required to mail notice pursuant to Subsection C of 18.3.2.17 NMAC.

C. Approval. The director may approve an application for voluntary suspension of a certificate or permit if the director finds that the applicant meets the requirements of Section 65-2A-14 NMSA 1978.

D. Disputed application. If the director finds that voluntary suspension of a certificate or permit is adverse to the public interest, the director shall give the applicant an opportunity to request a hearing. [18.3.8.17 NMAC - Rp, 18.3.8.16 NMAC, 1-1-05]

18.3.8.18 REINSTATEMENT OF A CERTIFICATE OR PERMIT FOLLOWING VOLUNTARY SUSPENSION:

A. Application. An applicant for reinstatement following voluntary suspension shall file:

(1) an application on the form prescribed by the director;

(2) a copy of the application for voluntary suspension approved by the director; and;

(3) a statement of the changes in circumstances and evidence that the applicant is fit, willing, and able to render reasonably continuous and adequate service if the reinstatement is approved; and

(4) the fee required by NMSA 1978 Section 65-2A-36.

B. Procedure for review by the director. The director shall review an application for reinstatement of an existing certificate or permit following voluntary suspension in accordance with 18.3.2.16 and 18.3.2.17 NMAC, except that the applicant shall not be required to mail notice pursuant to Subsection C of 18.3.2.17 NMAC.

C. Approval. The director may approve an application for reinstatement of a certificate or permit following voluntary suspension if the director finds that it is not adverse to the public interest.

D. Disputed application. If the director finds that reinstatement following voluntary suspension is adverse to the public interest, the director shall give the applicant an opportunity to request a hearing. [18.3.8.18 NMAC - Rp, 18.3.8.17 NMAC, 1-1-05]

18.3.8.19 CONSOLIDATED CERTIFICATES AND PERMITS:

A. Amendment. Any amendment of a certificate or permit grant-

ed by the commission will be evidenced by an endorsement to the owner's existing certificate or permit and not by issuance of a separate certificate or permit.

B. Transfers.

(1) A motor carrier, or a motor carrier in common control with another motor carrier, obtaining additional operating authority of a different kind or for a different territory by transfer of an existing certificate or permit from another carrier shall have its own existing certificate or permit endorsed to include the additional operating authority, thereby creating a single consolidated certificate or permit to be operated under the motor carrier's original NMPRC transportation number.

(2) A motor carrier obtaining both additional and duplicate operating authority by transfer of an existing certificate or permit from another carrier shall have its own existing certificate or permit endorsed to add only the additional operating authority, thereby creating a single consolidated certificate or permit to be operated under the transferee motor carrier's original NMPRC transportation number. The commission shall extinguish the parts of the transferred certificate or permit that duplicate operating authority already held by the transferee.

(3) A motor carrier transferring part of its certificate or permit to another carrier shall have its existing certificate or permit endorsed to exclude the part of the certificate or permit transferred.

(4) A motor carrier transferring all of its certificate or permit to another carrier shall have its NMPRC transportation number canceled. [18.3.8.19 NMAC - Rp, 18.3.8.18 NMAC, 1-1-05]

NEW MEXICO PUBLIC REGULATION COMMISSION TRANSPORTATION DIVISION

TITLE 18 TRANSPORTATION AND HIGHWAYS CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS PART 14 AMBULANCE SERVICES

18.3.14.1 ISSUING AGENCY: Public Regulation Commission. [18.3.14.1 NMAC - Rp, 18 NMAC 4.2.1, 1-1-05]

18.3.14.2 SCOPE:

A. This rule applies to all ambulance services subject to the jurisdiction of the commission and is in addition to all other applicable requirements of these rules.

B. In addition to the exemptions stated in NMSA 1978 Sections

65-2A-38 and 65-6-6, this rule does not apply to:

(1) agencies of the United States government or

(2) ambulance services authorized in another state or country that are engaged in interstate transportation of patients into or out of New Mexico.

C. The director shall determine, on a case-by-case basis, whether this rule applies to New Mexico state agencies operating ambulance services.

[18.3.14.2 NMAC - Rp, 18 NMAC 4.2.2, 1-1-05]

18.3.14.3 STATUTORY

AUTHORITY: NMSA 1978 Sections 65-2A-4 and 65-6-4.

[18.3.14.3 NMAC - Rp, 18 NMAC 4.2.3, 1-1-05]

18.3.14.4 DURATION:

Permanent.

[18.3.14.4 NMAC - Rp, 18 NMAC 4.2.4, 1-1-05]

18.3.14.5 EFFECTIVE DATE:

January 1, 2005, unless a later date is cited at the end of a section.

[18.3.14.5 NMAC - Rp, 18 NMAC 4.2.5, 1-1-05]

18.3.14.6 OBJECTIVE:

The purpose of this rule is to establish requirements for ambulance services.

[18.3.14.6 NMAC - Rp, 18 NMAC 4.2.6, 1-1-05]

18.3.14.7 DEFINITIONS:

In addition to the definitions in NMSA 1978 Sections 24-10B-3 and 65-6-2, and 18.3.1 and 7.27.2 NMAC, as used in this rule:

A. **advanced levels** means emergency medical services above the EMT basic level, including EMT intermediate, EMT paramedic, and special skills which include enhanced emergency medical services and critical care transport;

B. **critical care transport (CCT)** means inter-facility critical patient care and treatment used to transport intensive care patients, that exceeds the EMT paramedic level of care and is a special skill;

C. **emergency medical services basic (EMT basic)** means the pre-hospital and inter-facility care and treatment prescribed in 7.27.2 NMAC, Certification and Licensing for EMS Personnel, that can be performed by all licensed emergency medical technicians;

D. **emergency medical services intermediate (EMT intermediate)** means certain advanced pre-hospital and inter-facility care and treatment prescribed in 7.27.2 NMAC, Certification and Licensing for EMS Personnel, including

EMT basic, that may be performed only by a person licensed by the EMS bureau as an EMT intermediate and only under medical direction;

E. **emergency medical services paramedic (EMT paramedic)** means advanced pre-hospital assessment, and inter-facility care and treatment prescribed in 7.27.2 NMAC, Certification and Licensing for EMS Personnel, including EMT basic and EMT intermediate, that may be performed only by a person licensed by the EMS bureau as an EMT paramedic and only under medical direction;

F. **emergency** means the sudden onset of what reasonably appears to be a medical condition that manifests itself by symptoms of sufficient severity, which may include severe pain, that the absence of immediate medical attention could reasonably be expected by a lay person to result in:

(1) jeopardy of the person's health;

(2) serious impairment of bodily functions;

(3) serious dysfunction of any bodily organ or part; or

(4) disfigurement to the person.

G. **EMS** means emergency medical services;

H. **enhanced emergency medical service (E-EMS)** means out-of-hospital care and treatment utilized in underserved areas that have a need for medical assessment, treatment, or referral, or alternate modes of transportation, for patients by specially trained, advanced level EMS providers that exceeds the EMT paramedic level of care and is a special skill;

I. **GSA standards** means the minimum standards and specifications for ambulances contained in U.S. general services administration standard KKK-A-1822-D;

J. **inter-facility transfer** means the transportation of a person between health care facilities with the concurrence of a sending and a receiving physician;

K. **mutual aid** means a written agreement between one municipality, county or emergency medical service and other municipalities, counties or emergency medical services for the purpose of ensuring that adequate emergency medical services exist throughout the state;

L. **patient catchment area** means an area outside the territory authorized by the operating authority issued by the commission that an ambulance service is permitted to serve in emergencies or pursuant to mutual aid agreements;

M. **pre-hospital response times** means the period of time from the time a dispatch agency dispatches an ambulance service until the time an EMS crew arrives at the scene of the emergency;

N. **special event EMS** means an ambulance with two (2) licensed EMTs in stand-by status at a special event such as a football game or county fair.

[18.3.14.7 NMAC - Rp, 18 NMAC 4.2.7, 1-1-05]

18.3.14.8 DUTY TO PROVIDE SERVICE:

A. It shall be unlawful for an ambulance service, or any of its personnel or agents, to refuse to provide service to a person in need of emergency medical treatment or transportation, or to require advance payment prior to rendering such service.

B. An ambulance service shall transport a patient requiring medical treatment and transport to the closest appropriate facility capable of providing definitive care and treatment, as determined by the service's medical director.

C. An ambulance service shall give priority to emergency response calls.

D. An ambulance service shall be available 24 hours a day, 365 days a year.

[18.3.14.8 NMAC - Rp, 18 NMAC 4.2.95, 1-1-05]

18.3.14.9 MUTUAL AID:

Ambulance services shall develop mutual aid plans with all appropriate entities that may be implemented anytime an ambulance service cannot respond to a call or if a disaster or emergency occurs. Mutual aid may be provided:

A. in an emergency or disaster situation when requested by state or local authorities;

B. when requested by another EMS service, an EMT, or health-care facility during an emergency and in accordance with established mutual aid agreements;

C. when requested by a law enforcement agency or officer; or

D. when requested by an official of a political subdivision of the state.

[18.3.14.9 NMAC - Rp, 18 NMAC 4.2.84, 1-1-05]

18.3.14.10 OPERATIONS

PLAN: Each ambulance service shall have a written operations plan setting forth its policies and procedures. The plan shall be periodically updated and shall be available for inspection by the EMS bureau and the commission at all times. Such a plan shall include at a minimum:

A. copies of all operational guidelines and medical protocols;

B. a quality assurance plan;

C. personnel require-

ments;

- D.** copies of all mutual aid agreements;
- E.** a disaster or mass casualty plan;
- F.** infection control procedures;
- G.** a description of emergency medical dispatch capabilities;
- H.** standards for personnel duty time; and
- I.** anticipated pre-hospital response times in the ambulance service's territory or patient catchment area, and a discussion of factors that can cause delays in meeting anticipated response times. Such factors may include:

- (1) the geography of the territory;
- (2) whether the service uses volunteer or paid drivers;
- (3) whether the territory is urban or rural or both;
- (4) stationing points for ambulances and crews;
- (5) weather.

[18.3.14.10 NMAC - Rp, 18 NMAC 4.2.94, 1-1-05]

18.3.14.11 MINIMUM PERSONNEL REQUIREMENTS:

A. Ambulances.

(1) A minimum of two (2) licensed EMTs from the ambulance service shall be present at the scene of the emergency, except that two EMTs need not be present at the scene for prearranged transfers of a stable patient or in those unusual situations where there are overlapping calls, disasters, or similar unforeseen circumstances which result in an insufficient number of EMTs being available.

(2) A minimum of one (1) EMT shall be in the patient compartment at all times during patient care and transport.

B. Exceptions.

(1) An EMT is required to be aboard the ambulance but is not required in the patient compartment of the ambulance when a member of a neonatal intensive care team is attending a patient in a self-contained newborn intensive care isolette.

(2) Subject to the policies of the service, additional non-EMT medical personnel, functioning within the scope of their licensure, may accompany a patient in an ambulance patient compartment, as long as one EMT is also present in the patient compartment.

C. Training coordinator required. Each ambulance service shall designate an individual who shall coordinate the availability of appropriate training programs and continuing education for ambulance service personnel.

D. Medical director required. Each ambulance service shall designate a medical director, working under

agreement or contract, who is trained and meets the requirements for a medical director prescribed in 7.27.3 NMAC, Medical Direction for Emergency Medical Services. If an ambulance service is temporarily without a medical director, it shall make arrangements for temporary medical direction with a local, regional or state EMS medical director.

[18.3.14.11 NMAC - Rp, 18 NMAC 4.2.80 and 18 NMAC 4.2.82, 1-1-05]

18.3.14.12 VEHICLE LIST:

A. Each ambulance service shall maintain at its operating location a list of ambulances used in its authorized operations. The list shall identify each ambulance by type (I, II, III), manufacturer, serial number, registration number, and other descriptive information sufficient for identification, and shall state whether the ambulance is leased or owned.

B. An ambulance service may only use ambulances on the vehicle list for its regulated operations.

C. An ambulance service shall update the list and submit it to the commission within ten days of the date on which an ambulance is either put into service or taken out of service.

[18.3.14.12 NMAC - Rp, 18 NMAC 4.2.74, 1-1-05]

18.3.14.13 VEHICLE STANDARDS:

All ambulances purchased, acquired, or placed into service by an authorized EMS service after the effective date of this rule shall meet or exceed the GSA standards for the operation, crash performance and safety of Type I, II or III ambulances or other newly designated ambulance types.

[18.3.14.13 NMAC - Rp, 18 NMAC 4.2.83, 1-1-05]

18.3.14.14 REQUIRED EQUIPMENT:

When an ambulance is dispatched, it shall carry and have readily available in good working order:

A. one (1) semi-automatic defibrillator for EMT basic, as specified in the EMS scopes of practice and local medical protocol; (note: these devices require specific training and medical director approval prior to use);

B. suction systems, which include:

(1) on-board suction unit that meets GSA standards;

(2) portable, manual- or battery-powered suction unit;

(3) ventilation devices including manual, self-filling, bag-valve-mask (BVM) ventilation devices, in adult and child sizes (child and adult BVMs are sufficient for the entire pediatric range); the BVM shall be equipped with a sufficient

supply of see through adult, child and infant masks;

C. oxygen delivery systems, which include:

(1) fixed, on-board oxygen supply which meets GSA specifications;

(2) portable oxygen devices which are capable of delivering at least 60 minutes of oxygen at a flow rate of 10 liters per minute, or at a minimum, two (2) D cylinders; at least one (1) cylinder will be designated primary and configured with a yoke type regulator, liter control and contents supply gauge;

D. splints, including as a minimum:

(1) one (1) adult traction splint with limb supporting slings, padded ankle hitch and traction device;

(2) two (2) sets of rigid splinting devices, or equivalents, suitable for the immobilization of upper or lower extremities, in adult, child and infant sizes;

E. spine immobilization devices, one (1) half-body device and two (2) full-body devices, with suitable strapping, and head immobilization devices; commercial devices that stabilize head, neck, and back as one unit, may be substituted;

F. one (1) commercially available obstetrical kit, or equivalent;

G. one (1) sphygmomanometer in adult, child and infant sizes, or one (1) sphygmomanometer capable of accepting various sizes of cuffs (adult, child, and infant); in the latter case, a sufficient supply of cuffs in each of the identified sizes shall be available;

H. one (1) stethoscope;

I. two (2) double D-cell, or equivalent, flashlights with batteries;

J. one (1) all-purpose multi-level ambulance stretcher, with safety straps and crash-resistant locking/securing mechanism; the locking mechanism in the vehicle shall be the mechanism designed for the stretcher being used; locking mechanisms for other stretchers or locally produced mechanisms are not allowed; in addition, the mattress shall be fluid impervious;

K. one (1) minimum 10-pound, or two (2) minimum five-pound 1A20BC, or equivalent, fire extinguisher; a current inspection tag will be displayed on all fire extinguishers;

L. one (1) two-way mobile radio capable of direct communication between the EMT and the receiving medical facility, on ultra high frequency, on federal communications commission-designated emergency medical radio service (EMRS) frequencies, and which is compatible with the state emergency medical services radio communications system (EMSCOM), and is approved by the EMS bureau and a copy of the IPEMSBS / DOH "EMS communica-

tions system (EMSCOM) manual;”

M. scene safety protective equipment including:

(1) six (6) 20-minute red flares or other warning devices suitable for nighttime use;

(2) reflective apparel (or turn-out gear) for all personnel;

(3) a current edition of the “north American emergency response guidebook”, a guidebook for first responders during the initial phase of a hazardous materials/dangerous goods incident;

N. uniforms or other apparel or means of identification of a distinct design or fashion to be worn by ambulance service personnel when on duty to identify them as EMS providers and to identify the level of EMS care they are providing.

[18.3.14.14 NMAC - Rp, 18 NMAC 4.2.87, 1-1-05]

18.3.14.15 REQUIRED SUPPLIES: When an ambulance is dispatched, it shall carry and have readily available:

A. twelve (12) sterile bandages, soft roller, self-adhering type;

B. six (6) triangular bandages;

C. one (1) box band-aids;

D. one (1) pair trauma shears (either in the ambulance or on the EMT’s person);

E. one (1) pair sterile scissors used for cutting the umbilical cord during a delivery; commercially available sterile cutting devices may be substituted;

F. six (6) sterile trauma dressings in large and small sizes;

G. fifty (50) sterile 4” x 4”, or larger, sponges;

H. four (4) rolls of adhesive tape;

I. four (4) cold packs and four (4) heat packs;

J. two (2) sterile burn sheets, individually wrapped;

K. four (4) sterile burn dressings;

L. two (2) sets of oropharyngeal airways in sizes 0 through 5 (infant through adult);

M. three (3) sterile, petroleum gel-impregnated gauze dressings, or other suitable occlusive dressings;

N. two (2) sets of rigid cervical collars of plastic, not foam, construction in various sizes for adult, child and infant; commercially available immobilization devices are allowed;

O. a sufficient quantity of appropriate airborne and blood-borne infection control supplies, as recommended by the centers for disease control and prevention, including gloves, masks, eye protection, sharps containers, etc., to protect all

patient care providers dispatched with the ambulance; in addition, recommended hand-washing supplies and disinfectant shall be available on the vehicle;

P. at least two (2) disposable high-concentration oxygen masks and two (2) disposable nasal cannulas in adult and child sizes and oxygen supply tubing, in adult and child sizes;

Q. appropriate large and small bore tip suction catheters (6f-14f) and hoses;

R. one (1) bulb suction device;

S. one (1) emesis basin or large plastic bag;

T. two (2) liters of sterile water; and

U. two (2) clean sets of linen, including at least two (2) blankets and pillows (or suitable pillow substitutes) at all times.

[18.3.14.15 NMAC - Rp, 18 NMAC 4.2.86, 1-1-05]

18.3.14.16 MEDICATIONS: An ambulance service shall adhere to the appropriate EMS scopes of practice for EMS personnel regarding approved medications. In some cases the medical direction committee may authorize special skills that allow unique medications not found in the scopes of practice. In such cases, these medications are allowed on the vehicle for use by the authorized personnel, as specified by the special skills approval letter provided by the EMS medical direction committee and the EMS bureau. In all cases, medications shall only be administered under medical direction, as specified in the scopes of practice and any special skills approval letters.

[18.3.14.16 NMAC - Rp, 18 NMAC 4.2.89, 1-1-05]

18.3.14.17 PORTABLE MEDICAL KITS: In addition to the equipment and supplies required by this rule, every ambulance shall carry at least one (1) or more portable medical kits, consistent with medical protocol. Each portable medical kit shall contain the items listed below, or their appropriate equivalent, although an ambulance service may add other items based on training levels and local protocols.

A. One (1) sphygmomanometer in adult, child and infant sizes, or one (1) sphygmomanometer capable of accepting various sizes of cuffs (adult, child, and infant). In the latter case, a sufficient supply of cuff in each of the identified sizes shall be available.

B. One (1) stethoscope.

C. Four (4) soft roller, self-adhering type bandages.

D. Three (3) triangular bandages.

E. Two (2) trauma dressings.

F. Ten (10) 4” x 4” gauze sponges.

G. One (1) roll adhesive tape.

H. One (1) pair of trauma shears (either in the ambulance or on the EMT’s person).

I. One (1) penlight (either in the ambulance or on the EMT’s person).

J. Two (2) sterile burn dressings.

K. One (1) adult-size bag-valve-mask (BVM) ventilation device. Infant and child BVM may be incorporated in the kit or readily available aboard the vehicle.

L. One (1) set of oropharyngeal airways, sizes 0 through 6 (neonatal through adult).

M. Two (2) sterile, petroleum gel-impregnated gauze dressings, or other suitable occlusive dressings.

N. Multiple pair of disposable assessment and treatment gloves. [18.3.14.17 NMAC - N, Rp, 18 NMAC 4.2.90, 1-1-05]

18.3.14.18 SPECIAL SKILLS: An ambulance service wishing to provide special skills of EMS shall:

A. submit a special skills application to the EMS bureau, as provided in 7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel; and

B. if the application is approved, file an application for a change in tariff with the commission if it seeks reimbursement for advanced levels service.

[18.3.14.18 NMAC - Rp, 18 NMAC 4.2.24, 1-1-05]

18.3.14.19 ADDITIONAL REQUIREMENTS FOR ADVANCED LEVEL SERVICES:

A. Additional requirements. An ambulance service shall meet the following additional requirements before it provides any EMT paramedic treatments or procedures, including special skills.

(1) If an ambulance service represents itself or labels its vehicles as a provider of service at any level above EMT basic, that advanced level of care and treatment shall be appropriately provided 24 hours a day, 365 days a year, except in those unusual situations where there are overlapping calls, disasters, or similar unforeseen circumstances.

(2) When advanced level care and treatment is provided, at least one person trained and licensed at that higher level shall respond to the scene of the emergency and accompany the patient in the patient

compartment of the ambulance during transport, in addition to, or instead of, the EMT required by this rule.

(3) If EMT intermediate or EMT paramedic level services are to be provided, the ambulance shall, in addition to other requirements, carry supplies and equipment appropriate to the level of service and consistent with the relevant EMS scopes of practice.

B. Additional supplies and equipment. The following additional items are required for advanced level ambulance services:

(1) one (1) semi-automatic monitor-defibrillator for EMT intermediate or manual monitor-defibrillator for EMT paramedic, as specified in the EMS scopes of practice and local medical protocol; (note: these devices require specific training and medical director approval prior to use);

(2) assorted arm boards in infant, child and adult sizes;

(3) assorted intravenous catheters in sizes 14-24 gauge;

(4) assorted macro-drip IV devices to infuse intravenous fluids into adults (15 drop per cc or better);

(5) assorted micro-drip IV devices to manage IV administration to infants and children; these may be burettes, micro-drip tubing or in-line volume controllers;

(6) two (2) intra-osseous needles;

(7) one (1) pediatric drug dosage chart or tape; this may include charts listing the drug dosages in milliliters or milligrams per kilogram, pre-calculated doses based on weight, or a tape that generates the drug dose based on the patient's height or weight;

(8) assorted intravenous (IV) fluids that comply with the EMS scopes of practice; these fluids shall be stored within the manufacturers recommended temperature range at all times during non-use;

(9) one (1) laryngoscope with straight or curved blades in infant, child and adult sizes; spare bulbs and batteries shall be readily available;

(10) two (2) each pediatric and adult stylets for endotracheal tubes;

(11) one (1) each pediatric and adult magill forceps;

(12) assorted endotracheal tubes in sizes: uncuffed 2.5-6.0 and cuffed 6.0-8.0; one each pediatric and adult magill forceps;

(13) assorted medications and resuscitation medications that are allowed in the EMS scopes of practice and local medical protocol; these medications shall be stored within the manufacturer's recommended temperature range at all times during non-use.

[18.3.14.19 NMAC - Rp, 18 NMAC 4.2.88 and 18 NMAC 4.2.92, 1-1-05]

18.3.14.20 NON-EMERGENCY TRANSPORT SERVICE: An ambulance service may provide scheduled pre-hospital or inter-facility transport of stable patients, including physically or mentally impaired patients or non-ambulatory patients, who cannot be transported by common means of transportation and who require the attending care of qualified medical personnel. An ambulance service providing such service shall:

A. transport patients in ambulances that meet the requirements of this rule; and

B. provide, at a minimum, one EMT basic who shall be in the patient compartment attending the patient whenever a patient is being cared for or transported. [18.3.14.20 NMAC - Rp, 18 NMAC 4.2.93, 1-1-05]

18.3.14.21 SPECIAL EVENTS EMS: An ambulance in:

A. dedicated stand-by status shall not respond to emergency calls, except in cases of disaster or medical emergency where mutual aid is requested and granted;

B. non-dedicated stand-by status may respond to emergency calls. [18.3.14.21 NMAC - N, 1-1-05]

18.3.14.22 ANNUAL SERVICE REPORT AND LOCAL FUNDING PROGRAM APPLICATION: The EMS bureau will mail an EMS annual service report form including an EMS Fund Act local funding program application to all ambulance services on November 1 each year. Each ambulance service shall complete the form and return it to the EMS bureau no later than January 15 of the following year. The EMS bureau will distribute a copy of the annual service report and funding application from each ambulance service to the commission. The annual service report shall contain:

A. the names of all individuals serving as EMS personnel, including their licensure level and expiration date and the completion date of the emergency vehicle operator's course required by this rule;

B. the names of all non-EMT drivers and the completion date of the driving course required by this rule;

C. the name and physician license number of the service's medical director; if an ambulance service has not previously submitted the physician's credentials to the EMS bureau, it shall include them with the annual report; any substantial change in these credentials shall be forwarded to the EMS bureau for review by the state EMS medical director;

D. the name of the service's training coordinator;

E. a description of all ambulances currently being used to transport patients, including their dates of manufacture, makes, license plate numbers and mileage;

F. other information as may be required by the EMS bureau or the commission;

G. a certification of an annual safety inspection of all ambulances including the date, name and location of the certified mechanic performing the inspection, as outlined in Subsection C of 18.3.5.13 NMAC.

[18.3.14.22 NMAC - Rp, 18 NMAC 4.2.76, 1-1-05]

18.3.14.23 MAINTENANCE, PRESERVATION, AND RETENTION OF RECORDS: In addition to the requirements in 18.3.7.14 NMAC, every ambulance service shall maintain accurate and separate records of its services in New Mexico, including but not limited to:

A. driver records including current licenses, history of DOT physical examinations or physician certifications, and emergency vehicle operator training history;

C. EMS personnel licensure;

D. statement of employment or volunteer status, including employment start and stop dates;

E. records of equipment, such as reports, repair and maintenance records, equipment lists, vehicle titles, and registration certificates;

F. complete accounts;

G. organized records of all ambulance runs, including a copy of the patient care record.

[18.3.14.23 NMAC - Rp, 18 NMAC 4.2.73, 1-1-05]

18.3.14.24 QUALITY ASSURANCE: Each ambulance service shall have a written quality assurance program, which shall provide for:

A. patient care records retention: an ambulance service shall retain pre-hospital patient care records for seven (7) years, as approved by local medical protocol;

B. reporting: ambulance services shall complete a patient run report for each patient that is contacted during an emergency response or inter-facility transport; the minimum data elements from these reports, as identified by the EMS bureau, shall be compiled to the extent possible and submitted to the pre-hospital data collection system at the injury prevention and EMS bureau as prescribed in 7.27.4 NMAC, Emergency Medical Services Fund Act;

C. minimum patient information required upon patient deliv-

ery to the destination facility: pursuant to ambulance service protocol, an ambulance service shall communicate, in writing, clinical patient information to the intercepting ambulance or receiving facility at the time of patient transfer or delivery, if available:

- (1) ambulance unit number, EMT name and level of licensure;
- (2) patient age and sex;
- (3) patient's chief complaint;
- (4) a brief history of the present illness, including scene assessment and mechanism of injury;
- (5) major past illnesses;
- (6) patient's mental status;
- (7) patient's baseline vital signs;
- (8) pertinent findings of the physical examination;
- (9) description of emergency medical care that has been provided for the patient, including that provided by any first response units; and
- (10) the patient's response to the emergency medical care received.

D. completed patient care records: an ambulance service shall deliver a copy of the completed pre-hospital patient care record to the receiving facility emergency department for inclusion in the patient's permanent medical record upon delivery of the patient to the hospital; in the event the unit is dispatched on another call, the patient care record shall be delivered as soon as possible after that call, but not later than the end of a shift or 24 hours after the transportation and treatment of the patient;

E. medical protocols and operational guidelines: the ambulance service medical director shall develop and approve medical protocols and operational guidelines, which should include procedures for obtaining on-line medical direction;

F. medical director review of patient care: an ambulance service medical director shall review patient care records at least monthly to determine whether appropriate medical care is being provided; the medical director shall document the steps taken during the review; subsequent reviews will include an evaluation of whether appropriate follow-up has been accomplished;

G. confidentiality of medical records: an ambulance service may only release patient care records as provided by law.
[18.3.14.24 NMAC - Rp, 18 NMAC 4.2.91, 1-1-05]

18.3.14.25 REISSUANCE OF CERTIFICATE: Sixty (60) days prior to expiration of its certificate, an ambulance service shall submit to the director an application for reissuance of its ambulance certificate containing the information required by Paragraphs (1) through (10) of

Subsection A of 18.3.2.15 NMAC. The director shall prepare a notice of application as provided in 18.3.2.17 NMAC. The director shall reissue the certificate for the period of time prescribed in NMSA 1978 Section 65-6-5 unless staff or an interested person objects. If there is an objection, the director shall process the application in accordance with 18.3.2.18 NMAC.

18.3.14.25 NMAC - N, 1-1-05]

18.3.14.26 TRANSITION TO NEW EQUIPMENT REQUIREMENTS:

Ambulance services utilizing equipment that does not meet the requirements of this rule shall have thirty (30) days from the effective date of this rule to meet the equipment requirements of this rule or apply for a variance from or waiver of such requirements.

[18.3.14.26 NMAC - Rp, 18 NMAC 4.2.14, 1-1-05]

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.1.2 NMAC, Sections 2, 3, and 6, effective January 1, 2005.

18.1.2.2 SCOPE: This rule applies to all persons operating as motor carriers or commuter [~~vanpools~~] services in New Mexico who are subject to the jurisdiction of the commission.

18.1.2.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4 and [~~65-2-83~~] 65-2A-4.

18.1.2.6 OBJECTIVE: The purpose of this rule is to [~~implement NMSA 1978 Sections 65-2-92, 65-2-96, and 65-2-109~~] establish procedures for handling matters before the commission concerning its regulation of motor carriers.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.1 NMAC, Sections 3, 6, 7, 11, 14, and 19, effective January 1, 2005.

18.3.1.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4 and [~~65-2-83~~] 65-2A-4.

18.3.1.6 OBJECTIVE: The purpose of this rule is to set forth general

provisions governing motor [~~transportation~~] carriers in New Mexico.

18.3.1.7 DEFINITIONS: In addition to the definitions in NMSA 1978 Sections 24-10B-3, [~~65-2-82~~] 65-2A-3, and 65-6-2, as used in these rules:

[~~A. amendment (of a certificate or permit) means a change in the routes, territory, or services authorized by an existing certificate of public convenience and necessity or permit.~~]

A. ambulance services means the scheduled or unscheduled compensated transportation over irregular routes of passengers in ambulances;

B. bingo bus service means the scheduled or unscheduled compensated transportation of passengers in motor vehicles over regular or irregular routes to and from legal gambling establishments at rates that apply to each individual passenger;

C. cadaver means a dead human body;

[~~D. cancellation means the voluntary, permanent termination of all or part of an operating authority.~~]

E. change in name means a change in the legal name of the owner of an operating authority or in the d/b/a name of the transportation business, but does not include a change in ownership.];

[F]D. charter service means the compensated transportation of a group of persons in a motor vehicle who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle and driver, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;

[~~G. common control means control of more than one operating authority of the same kind for the same or overlapping territory.~~]

H. control (of an operating authority) means the power to direct or cause the direction of the management and policies of a motor carrier deriving from:

(1) ownership of a sole proprietorship, if the operating authority is held by a person or sole proprietorship;

(2) ownership of ten percent or more of the voting stock of the corporation, if the operating authority is held by a corporation;

(3) a partnership interest in a general partnership, if the operating authority is held by a general partnership;

(4) an interest in a limited partnership of ten percent or more of the total value of contributions made to the limited partnership, or entitlement to ten percent or more of the profits earned or other compensation paid by the limited partnership, if the

operating authority is held by a limited partnership;

~~(5) a membership interest of ten percent or more in a limited liability company, if the operating authority is held by a limited liability company; or~~

~~(6) capacity as a trustee, personal representative or other person with a fiduciary duty to a motor carrier.]~~

~~[F]E. director means the director of the transportation division of the New Mexico public regulation commission or his designee;~~

~~[F]F. endorsement means the document evidencing the amendment of a certificate [of public convenience and necessity] or permit;~~

~~[F]G. facilities includes lands, buildings, and improvements to real property owned, leased, or used in the operations of a motor carrier;~~

~~[F]H. FMCSA means the federal motor carrier safety administration or any predecessor or successor agency;~~

~~[M]I. hazardous matter has the meanings given in 49 CFR Section 390.5 for the terms hazardous material, hazardous substance, and hazardous waste;~~

~~[N]J. household goods carrier (HGC) means a person who transports household goods;~~

~~[O]K. inspection means the examination by the commission, the motor transportation division, or other lawful entity of a motor carrier's operations, including the facilities and equipment used in connection with its operations, and all pertinent records;~~

~~[P] involuntary suspension means the temporary cessation of use of all or part of an operating authority ordered by the commission for cause for a stated period of time or pending compliance with certain conditions.~~

~~Q. lease of a certificate or permit means an agreement by which the owner of a certificate of public convenience and necessity or permit grants to another the exclusive right to use all or part of the certificate of public convenience and necessity or permit for a specified period of time in exchange for consideration.]~~

~~[R]L. limousine service means the unscheduled compensated transportation over irregular routes of passengers in a chauffeur-driven luxury motor vehicle at the exclusive [direction] use of one individual or group at a fixed charge for the motor vehicle and [driver] chauffeur for a period of time that is not less than thirty (30) minutes by prearrangement and not by soliciting on the streets;~~

~~[S. motor carrier of persons means a person who provides compensated transportation of persons on any highway in New Mexico.]~~

~~[F]M. MTD means the motor~~

transportation division of the New Mexico department of public safety;

~~[U]N. non-emergency medical transport service means the unscheduled medically necessary transportation of passengers in a motor vehicle over irregular routes, to or from medical facilities only, at rates that apply to each individual passenger;~~

~~[V]O. on duty time has the meaning given in 49 CFR Part 395.2;~~

~~[W. operating authority means a certificate of public convenience and necessity, permit, warrant, certificate of registration, single trip permit, license, or single state registration issued by the commission.]~~

~~[X]P. principal place of business means the mailing address of the motor carrier and the street address and other physical locations of a motor carrier's business office and stationing points;~~

~~[Y. property means movable articles of value, cadavers, hazardous matter, farm products transported from the place of harvesting to market, to storage, or to a processing plant, livestock hauled in lots of less than twenty five thousand pounds, and the items transported by a towing service, but does not include household goods.]~~

~~[Z]Q. public liability insurance means automobile bodily injury and property damage liability insurance;~~

~~[AA. rate means every form of compensation charged or collected, whether directly or indirectly, by any person for any transportation service that is subject to the jurisdiction of the commission.~~

~~BB. records means all accounts, correspondence, tapes, discs, papers, books, documents, and memoranda, and transcribed information regarding the operations of a motor carrier, in whatever form created and maintained.]~~

~~[CC]R. repossession service means the compensated transportation of a motor vehicle lawfully seized without consent from the owner or operator;~~

~~[DD. revocation means the involuntary permanent termination of all or part of an operating authority ordered by the commission for cause.]~~

~~[EE]S. shared ride service means the unscheduled compensated transportation of passengers to or from [transportation hub facilities] bus, train, or airport terminals over irregular routes in motor vehicles with a seating capacity of [seven (7)] nine (9) or more persons at rates for each individual passenger that are generated from a grid-based zone rate structure;~~

~~[FF]T. shuttle service means the scheduled compensated transportation of passengers in motor vehicles over regular routes at rates that apply to each individual passenger;~~

~~[GG. tariff means a document filed by a motor carrier of persons, household goods carrier or towing service performing nonconsensual tows, and approved by the commission, that sets forth the transportation services offered by the motor carrier to the general public, and all rates, terms and conditions, and schedules if applicable, relating to those services.~~

~~HH. taxi service means the unscheduled compensated transportation of passengers over irregular routes in motor vehicles with a seating capacity of 6 or fewer persons at rates based upon one charge for the first person who has exclusive direction of the motor vehicle and an additional lower charge for each additional person.]~~

~~[H]U. these rules means the rules codified in Title 18, Chapter 3 of the New Mexico Administrative Code;~~

~~[JJ]V. tour and sightseeing service means the scheduled or unscheduled guided compensated transportation of passengers over regular or irregular routes in motor vehicles to scenic points or other points of interest at rates that apply to each individual passenger;~~

~~W. transfer of control means a change in control of a motor carrier as control is defined in Paragraphs (1) through (5) of Subsection N of NMSA 1978 Section 65-2A-3;~~

~~[KK. towing service has the meaning given to "towing company" in NMSA 1978 Section 65-2-82 and, as used in 18.3.13 NMAC, Towing Services, includes repossession services using towing equipment.~~

~~LL. vehicle escort service means the compensated use of a motor vehicle to accompany another motor vehicle that is transporting a load that exceeds the maximum size or weight limits allowed by law.~~

~~MM. voluntary suspension means the commission authorized temporary withdrawal from or cessation of use of all or part of a certificate of public convenience and necessity or permit at the request of the motor carrier, for a specified period of time not to exceed one hundred eighty (180) days.]~~

~~X. volunteer driver means a person who drives for an ambulance or commuter service without remuneration; the provision of or reimbursement for training, equipment, uniforms, and supplies necessary to the performance of driving duties are incidental and do not constitute remuneration for purposes of these rules.~~

~~[NN. warrant means the operating authority issued by the commission or its designee to charter, towing, repossession, and vehicle escort services, and motor carriers of property.]~~

18.3.1.11 FILING OF DOCUMENTS OTHER THAN APPLICATIONS: In addition to the requirements stated here, particular rules may include other filing requirements.

A. Address for [correct] filing [of] documents.

(1) Documents filed by mail must be sent to the New Mexico Public Regulation Commission, Docket Filing Unit, Transportation Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

(2) Documents filed in person must be delivered to the docket filing unit of the New Mexico public regulation commission, P.E.R.A. Building, Room 406, Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

B. Filing by facsimile or electronic mail. Persons may call the New Mexico public regulation commission docket filing unit at (505) 827-4562 to obtain the facsimile number or electronic mail address for filing documents. Persons filing documents by facsimile or electronic mail must also mail or deliver the original document to the commission. The document will be deemed filed on the date of receipt of the facsimile, the electronic mail, or the original, whichever occurs first. The commission will accept facsimile and electronic mail filings of:

- (1) appointments of a substitute agent for service of process;
- (2) change of address reports;
- (3) reports of fatal accidents;
- (4) complaints; and
- (5) other documents the commission or its designee in its discretion permits.

18.3.1.14 INSPECTION:

A. General authority. NMSA 1978 Section ~~[65-2-10]~~ 65-2A-4 authorizes the commission to inspect a motor carrier's operations. The commission shall provide a written inspection report to a motor carrier within thirty (30) days following a routine inspection containing feedback to the motor carrier and outlining necessary corrective or follow-up actions a motor carrier shall make.

B. Inspection of cargo under seal. NMSA 1978 Section ~~[65-1-7]~~ 65-5-1 authorizes MTD enforcement employees to inspect cargo.

(1) If an MTD enforcement employee breaks a seal to inspect cargo, the MTD enforcement employee shall:

- (a) reseal the load with a seal furnished by MTD; and
- (b) give the driver a written acknowledgement, on a form prescribed by MTD, that the MTD enforcement employee broke the seal.

(2) No MTD enforcement employee shall break a U.S. government seal.

18.3.1.19 REFERENCES TO OTHER DOCUMENTS: Whenever a rule, tariff, or other document issued or approved by the commission relating to motor carriers refers to a federal or state statute, rule, regulation, tariff, or other document, the reference, unless specifically stated to the contrary, is continuous and intended to refer to the most current version of the document.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.3 NMAC, Sections 3, 6, 9, 10, 11, 14, 15, and 16, effective January 1, 2005.

Explanatory note: The legislature adopted a new Motor Carrier Act in 2003. As a result, the citations to the Motor Carrier Act have been revised in 18.3.3.3 and 18.3.3.6 NMAC. The following substantive changes were also made:

18.3.3.10 MINIMUM LIMITS OF PUBLIC LIABILITY INSURANCE:

A. Motor carriers of persons providing service in vehicles with a seating capacity of ~~[sixteen (16)]~~ forty (40) persons or more, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least ~~[five] three~~ million ~~five hundred thousand~~ dollars [(\$5,000,000)] (\$3,500,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

B. Motor carriers of persons ~~[(other than commuter vanpools)]~~ that provide service in vehicles with a seating capacity of ~~[ten (10) to fifteen (15)]~~ sixteen (16) to thirty-nine (39) persons, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least ~~[three] two~~ million dollars ~~[\$3,000,000)] (\$2,000,000)~~ per occurrence for bodily injury to or death of all persons injured or killed and property damage.

C. Household goods carriers ~~[, all commuter vanpools, and those motor carriers of persons that provide service in vehicles with a seating capacity of seven (7) to nine (9) persons, excluding the driver,]~~ must maintain a combined single-limit public liability insurance policy of at least one million five hundred thousand dollars (\$1,500,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

D. Motor carriers of persons providing service in vehicles with a seating capacity of ~~[six (6)]~~ fifteen (15) persons or less, excluding the driver, must

maintain a combined single-limit public liability insurance policy of at least one million dollars (\$1,000,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

18.3.3.11 ADDITIONAL SPECIALTY INSURANCE REQUIREMENTS:

C. Household goods carriers must maintain ~~[ten thousand dollars (\$10,000) of]~~ fifty thousand dollars (\$50,000) cargo liability insurance per shipper for loss or damage to cargo of the shipper.

18.3.3.14 AUTOMATIC SUSPENSION [OR REVOCATION] OF OPERATING AUTHORITY:

~~[A. Commuter vanpools.]~~ The commission [may] shall, in accordance with 18.3.2.30 NMAC, suspend [or revoke, without a hearing, a certificate of registration for a commuter vanpool] the operating authority of a motor carrier if it fails to continuously maintain the amounts of financial responsibility required by this rule. If a motor carrier's operating authority explicitly authorizes seasonal transportation service, the continuous coverage requirement of this rule shall apply only during the seasonal period during which the motor carrier is authorized to provide service.

~~[B. All other motor carriers. The Commission may suspend or revoke, after notice and a public hearing, the operating authority of any other motor carrier if it fails to continuously maintain the amounts of financial responsibility required by this rule.]~~

18.3.3.15 LAPSE IN COVERAGE: ~~If Commission records indicate that a motor carrier's financial responsibility expired or was canceled, the Commission may require evidence that the motor carrier had continuous and adequate coverage for all times it was operating during the lapse before it accepts a subsequent insurance filing.~~

18.3.3.16 PROOF OF FINANCIAL RESPONSIBILITY: ~~Each motor carrier and commuter vanpool shall carry proof of financial responsibility in the form and amount required by this rule in each motor vehicle it operates in this state.]~~

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.6 NMAC, Sections 2, 3, 6, 9, 11, 13, 14, and 15, effective January 1, 2005.

Explanatory note: The legislature adopted a new Motor Carrier Act in 2003. As a result, the citations to the Motor Carrier Act have been revised in 18.3.6.3, 18.3.6.6, and subsection C of 18.3.6.14 NMAC. The new Motor Carrier Act also adopted new terminology. Accordingly, the phrase “commuter vanpools” has been changed to “commuter services in Subsection B of 18.3.6.2; the phrase “motor carrier agreement” has been changed to “common tariff” in the title of 18.3.6.13 NMAC and in the title and Subsection C of 18.3.6.14 NMAC. The following substantive changes were also made:

18.3.6.9 CONTENTS OF TARIFFS:

B. A motor carrier may not include a provision for mandatory gratuities in a tariff.

18.3.6.11 COMPUTATION OF DISTANCES:

A. [A motor carrier shall compute distances using the current official road map of New Mexico issued by the New Mexico State Highway and Transportation Department.] A motor carrier shall use the least expensive route when charging by mileage, consistent with existing events and road and weather conditions, unless the passenger or customer directs otherwise.

B. [A motor carrier shall use actual odometer miles via the shortest practicable route:-

(1) for any part of the distance that cannot be calculated from the official road map;-

(2) for off highway miles;

(3) for uncharted highway miles;

and

(4) when a highway is closed by authority of any regulatory body and motor vehicles must be detoured.] A motor carrier other than a taxicab service shall compute actual distances using odometer readings, GPS-based data, or the official road map of New Mexico issued by the New Mexico department of transportation. A taxicab service may use odometer readings, a calibrated meter, or a zone structure.

18.3.6.15 SPECIFIC SCHEDULES OF SERVICE:

B. Changes in specific

schedules. Whenever a motor carrier proposes to change its specific schedule of service, it shall:

(2) mail the proposed specific schedule to all motor carriers on the [Department's] transportation list and file a certificate of mailing with the director.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.7 NMAC, Sections 2, 3, 6, 8, 9, 13, 14, 15 and 16, effective January 1, 2005.

Explanatory note: The legislature adopted a new Motor Carrier Act in 2003. The new Motor Carrier Act adopted new terminology. Accordingly, the phrase “certificate of public convenience and necessity” has been changed to “certificate” in Subsection B of 18.3.7.2, Subsection I of 18.3.7.9, 18.3.7.14, 18.3.7.15, and 18.3.7.16 NMAC; the phrase “piece of equipment” has been changed to “motor vehicle” in Subsections B and C of 18.3.7.13 NMAC. The following substantive changes were also made:

18.3.7.2 SCOPE:

A. 18.3.7.8 NMAC through 18.3.7.13 NMAC apply to all motor carriers subject to the jurisdiction of the commission, except that ambulance services are exempt from 18.3.7.8, 18.3.7.9, and 18.3.7.13 NMAC.

B. 18.3.7.14 NMAC through [18.3.7.19] 18.3.7.16 NMAC apply only to motor carriers operating pursuant to a certificate [of public convenience and necessity] or a permit.

C. [This rule does not apply to e] Commuter [vanpools] services and persons who have obtained single trip tickets from the commission are subject to 18.3.7.11 NMAC only.

18.3.7.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4, [and 65-2-83] 65-2A-4, and 65-2A-29.

18.3.7.8 ANNUAL REPORT: Every motor carrier except ambulance services shall prepare and file with the commission an annual report of its operations.

18.3.7.9 CONTENTS OF ANNUAL REPORT: The annual report shall include:

F. the applicant's electronic mail address, if applicable;

[F.]H. for motor carriers operating pursuant to a warrant [or certificate of registration], a list of equipment used in the

motor carrier's operations if the motor carrier is using twenty-five (25) vehicles or less, or the motor carrier's written statement certifying the number of vehicles in use if the motor carrier is using more than twenty-five (25) vehicles;

18.3.7.13 EQUIPMENT LIST: This section does not apply to ambulance services.

A. Every motor carrier shall maintain at its principal place of business within the state a list of [equipment, including but not limited to] motor vehicles, used in its authorized operations. The list shall identify each [piece of equipment] motor vehicle by make, model, year, VIN number, license plate number, and other descriptive information sufficient for identification, and shall state whether the motor vehicle is leased or owned.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.9 NMAC, Sections 2, 3, 6, 8, 9, and 10, effective January 1, 2005.

Explanatory note: The legislature adopted a new Motor Carrier Act in 2003. As a result, the citations to the Motor Carrier Act have been revised in 18.3.9.3, 18.3.9.6, and paragraph (4) of Subsection A of 18.3.9.8 NMAC. The new Motor Carrier Act also adopted new terminology. Accordingly, the phrase “commuter vanpools” has been changed to “commuter services” in 18.3.9.2 and Subsection A of 18.3.9.8 NMAC. Finally, 18.3.4 NMAC, Qualifications of Drivers, and 18.3.5 NMAC, Operating Requirements, are being combined into one new rule, 18.3.4 NMAC, Safety Requirements. Accordingly, references to those rules were changed to reflect the new name of the rule. The following substantive changes were also made:

18.3.9.8 APPLICATION AND PRIOR APPROVAL REQUIRED:

B. Procedure. The commission shall review applications for approval of equipment leases in accordance with [18.3.2.15 and] 18.3.2.16 NMAC.

18.3.9.9 REQUIREMENTS FOR EQUIPMENT LEASES:

E. The lessee shall be responsible for identifying the leased equipment as required by [18.3.5.8] 18.3.4.12 NMAC for the duration of the lease and shall be responsible for removing all identification showing it as the operating motor

carrier before relinquishing possession of the equipment.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.10 NMAC, Sections 3, 6, 7, and 11, effective January 1, 2005.

18.3.10.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4 and ~~[40-5A-1 to 13]~~ 40-5A-9.

18.3.10.6 OBJECTIVE: The purpose of this rule is to implement the requirements of the Parental Responsibility Act, NMSA 1978 Sections 40-5A-1 ~~[to 40-5A-13]~~ et seq.

18.3.10.7 DEFINITIONS: In addition to the definitions in NMSA 1978 Section 40-5A-3, as used in this rule:

A. commission means the New Mexico public regulation commission;

B. holder means a sole proprietorship or partnership that has an operating authority from the commission;

C. HSD means the New Mexico human services department;

D. operating authority means a certificate ~~[of public convenience and necessity]~~, permit, or warrant ~~[, certificate of registration, or license]~~ issued by the commission;

E. statement of compliance means a certified statement from HSD stating that an applicant or holder is in compliance with a judgment and order for support.

18.3.10.11 PROCEEDING TO REJECT APPLICATION OR SUSPEND OR REVOKE ~~[LICENSE]~~ OPERATING AUTHORITY: If an applicant or holder fails to provide the statement of compliance, the director shall file and serve a complaint upon the applicant or holder. If the director's complaint is due solely to the failure of an applicant or holder to comply with a judgment and order for support, and there are no additional grounds based on violations of the Motor Carrier Act or commission rules or orders, the complaint shall state:

A. the grounds for the director's proposed rejection of the application or suspension or revocation of the operating authority; and

B. that a hearing shall be held before the commission on a date that is at least thirty (30) days after the date the complaint is personally served, unless the

respondent applicant or holder provides the director with a statement of compliance prior to the hearing date.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.11 NMAC, Sections 2, 3, 6, and 7, effective January 1, 2005.

Explanatory note: The legislature adopted a new Motor Carrier Act in 2003. As a result, the citations to the Motor Carrier Act have been revised in 18.3.11.3, 18.3.11.6, and 18.3.11.7 NMAC. Subsection G of 18.3.11.7 NMAC, the definition of "household goods," was deleted because the definition is now in the new Motor Carrier Act. The following substantive change was also made:

18.3.11.2 SCOPE: This rule applies to all household goods carriers (HGCs) and household goods agents subject to the jurisdiction of the commission and is in addition to all other applicable requirements of these rules.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment to 18.3.12 NMAC, Sections 3, 7, 10, 14, 16, 23, 24, 25, 26, 27, and 28, effective January 1, 2005.

18.3.12.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4 and ~~[65-2-83]~~ 65-2A-4.

18.3.12.7 DEFINITIONS: In addition to the definitions in NMSA 1978 Section 65-2A-3 and 18.3.1.7 NMAC, as used in this rule:

A. abandoned motor vehicle has the meaning given in NMSA 1978 Section 66-1-4.1;

[A]B. MVD means the motor vehicle division of the New Mexico taxation and revenue department;

B. non-consensual tow ~~means the compensated transportation of a motor vehicle by a towing service, if such transportation is performed at the request of a law enforcement officer without the prior consent or authorization of the owner or operator of the motor vehicle;~~

C. normal business hours means nine consecutive hours from 8:00 a.m. to 5:00 p.m. on every weekday exclud-

ing holidays;

D. owner means a person who holds legal title to a motor vehicle or a person legally entitled to possession of the motor vehicle;

E. proof of ownership means a certificate of title or evidence of current registration of a motor vehicle and sufficient other documentation to identify an individual as the person described in the documents or as the person's agent;

[G]E. storage means the safe-keeping of motor vehicles entrusted to the custody of a towing service;

[H]G. unclaimed motor vehicle ~~[means a motor vehicle whose legal ownership is not claimed or asserted to the towing service by any person within a period of thirty (30) days from the time the motor vehicle is entrusted to the towing service]~~ has the meaning given in NMSA 1978 Section 66-1-4.18.

18.3.12.10 CLASS A TOWING EQUIPMENT: A Class A towing service shall maintain equipment adequate to transport motor vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall not exceed 8,000 pounds.

A. Tow truck specifications.

(1) GVW rating of not less than 10,000 pounds;

(2) Minimum of 60" cab to axle length;

(3) Automatic or manual transmission;

(4) Dual rear wheels. ~~[(This requirement does not apply to repossession services.)]~~

B. Towing equipment specifications.

(1) Lifting capacity of not less than four (4) tons;

(2) Winching capacity of not less than four (4) tons, single line pull;

(3) 3/8" cable for winch;

(4) Tow bar, cradle, sling attachment, underreach, or roll-back vehicle carrier.

C. Vehicle carrier truck specifications.

(1) GVW of not less than 10,000 pounds;

(2) Minimum of 96" cab to axle length;

(3) Dual rear wheels;

(4) Automatic or manual transmission.

D. Vehicle carrier bed specifications.

(1) Minimum of 17' of length;

(2) Winching capacity of not less than four (4) tons;

(3) 3/8" cable for winch.

18.3.12.14 MOVING ~~[DAMAGED, DISABLED OR ABANDONED]~~ MOTOR VEHICLES:

A. ~~[Permission]~~ Written authorization required.

(1) Damaged or disabled motor vehicles. No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle which has been damaged or disabled in an accident ~~[or which has been abandoned on a highway]~~ without having first obtained ~~[permission]~~ written authorization from a law enforcement officer, except ~~[when]~~:

(a) of necessity:

~~[(1)](i)~~ when no law enforcement officer is available within a period of three (3) or more hours; and

~~[(2)](ii)~~ the accident or abandonment has occurred at a point on the highway which may be dangerous to other motor vehicles using the highway and it is not possible to detour other motor vehicles around the damaged[;] or disabled[; or abandoned] motor vehicle; the motor vehicle shall be moved only the distance necessary to remove the hazard to other motor vehicles using the highway;

(b) by order: when a law enforcement officer explicitly orders a towing service to tow the motor vehicle without written authorization; the towing service shall obtain the name of the officer ordering the tow and the agency for which he is employed.

(2) Abandoned motor vehicles.

No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle which a New Mexico law enforcement agency has determined has been abandoned on public or private property or has deemed abandoned pursuant to NMSA 1978 Section 66-7-350, without having first obtained written authorization from:

(a) a law enforcement officer if the motor vehicle is abandoned on public property; or

(b) the owner or agent of private property if the motor vehicle is abandoned on private property; written authorization shall include the name of the owner of the property, the name of the agent of the private property, the amount of time the motor vehicle has been on the private property, a description of the vehicle, and the date and time the towing service removed the vehicle from the private property.

(3) Motor vehicles whose driver has been arrested. No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle when a law enforcement officer has arrested the driver without having first obtained written authorization from a law enforcement officer.

(4) Illegally parked motor vehicles. No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked without having first obtained written authorization from:

(a) a law enforcement officer if the motor vehicle is illegally parked on public property; or

(b) the owner or agent of the private property if the motor vehicle is illegally parked on private property; written authorization shall include the name of the owner of the property, the name of the agent of the property if different, the location of the private property, the amount of time the motor vehicle has been on the private property, a description of the vehicle, and the date and time the towing service removed the vehicle from the private property.

B. Additional requirements. When towing motor vehicles, a towing service shall:

(1) ensure that at least two wheels of the motor vehicle, front or rear, are clear of the highway;

(2) use a cradle or bar to provide a rigid space between the motor vehicle and the tow truck; and

(3) use a cradle or rigid bar without lifting the front or rear wheels if the total gross weight of the motor vehicle, including lading, exceeds ten thousand (10,000) pounds.

C. Prohibitions. A towing service shall not:

(1) transport a motor vehicle of any type by pushing;

(2) transport a disabled motor vehicle on a dolly or other wheeled auxiliary device, except when the auxiliary device is specifically designed for, and used only for, the towing of disabled motor vehicles;

(3) use a wheeled auxiliary device unless it is necessary to prevent further mechanical damage to the motor vehicle being moved;

(4) use a wheeled auxiliary device unless the nature of the existing damage prohibits moving the motor vehicle in any other way.

18.3.12.16 USE OF DOLLY OR SUPPLEMENTARY WHEELS:

A. A towing service shall not use a wheeled auxiliary device when such use could jeopardize the safety of the public.

B. Only Class A and Class B towing services may use dollies or supplementary wheels and then only when necessary.

C. Class C and Class D towing services may use converter dollies when necessary to transport Class C or Class D motor vehicles.

D. A towing service may use a dolly when both ends of the motor vehicle to be towed are damaged or it is necessary to prevent further damage.

18.3.12.23 STORAGE FACILITIES:

Towing service includes the storage of motor vehicles. Towing service begins when the motor vehicle is entrusted to the towing service and ends when the towing service delivers the motor vehicle to the owner or the owner's agent. Storage begins when the motor vehicle arrives at the storage facility and ends when the motor vehicle leaves the storage facility.

A. A towing service must maintain at least one of the following classes of storage facility:

(1) Type 1 - a fenced and locked area;

(2) Type 2 - a fenced, lighted, and locked area; or

(3) Type 3 - an enclosed, roofed and locked structure.

B. A towing service must either be located at the storage facility or must have a person working at the storage facility during normal business hours who is able to provide the services specified in subsection A and paragraphs (1) and (2) of subsection B of 18.3.12.24 NMAC.

18.3.12.24 ~~[STORED]~~ INSPECTION AND RELEASE OF TOWED MOTOR VEHICLES:

A. Motor vehicles ordered held for investigation.

If a law enforcement agency orders a towing service to hold a motor vehicle for investigation, the towing service shall not, without specific written authorization of the law enforcement agency:

(1) allow the owner of the motor vehicle, the owner's agent, or a lienholder to inspect the motor vehicle or remove proof of ownership or personal property from the motor vehicle; or

(2) release the motor vehicle to any person, including the owner, the owner's agent, or a lienholder.

B. Motor vehicles not held for investigation.

(1) ~~[Inspection.~~ Unless a stored motor vehicle has been impounded,] If a law enforcement agency does not order a motor vehicle to be held for investigation, the towing service shall allow the owner, the owner's agent, or the lienholder of ~~[a stored]~~ the motor vehicle ~~[shall have the right,]~~ without charge, during normal business hours, to:

~~[(1)](a)~~ inspect the motor vehicle;

~~[(2)](b)~~ remove proof of ownership from the motor vehicle; or

~~[(3)](c)~~ remove personal property from the motor vehicle if he or she presents proof of ownership.

B. Release of vehicle.
~~(4)~~(2) The owner, the owner's agent, or the lienholder of a stored motor vehicle that has not been ordered held for investigation may obtain possession of the motor vehicle by paying all just and reasonable charges and providing proof of ownership:

(a) as a matter of right, during normal or extended business hours; or

(b) at the option of the towing service, during non-business hours; if a towing service elects to deliver a motor vehicle during non-business hours, it must assess the tariffed administrative charge for such delivery.

~~(2) A towing service must give notice to~~ **C.** If the owner, the owner's agent, or the lienholder of a motor vehicle ~~[that if the person]~~ disputes any of the charges for towing or storage, or feels the motor vehicle was illegally towed, the towing service shall furnish to the disputant a written statement containing the name, address, and telephone number of the consumer relations division of the commission and advising the disputant that he or she [person] may file a complaint with the commission as provided [in 18.1.2 NMAC, Transportation Division Procedures] by applicable commission rules. The written statement shall be in substantially the following form: "If you have a dispute with the towing service regarding charges for towing or storage, and are not satisfied with the solution offered by the towing service, you may file a complaint with the Consumer Relations Division of the Public Regulation Commission in writing at P.O. Box 1269, Santa Fe, New Mexico, 87504-1269 or by calling the Commission's toll-free number 1-800-947-4722."

~~(3) If a towing service elects to deliver a motor vehicle during non-business hours, it must assess the tariffed administrative charge for such delivery.~~

18.3.12.25 IMPOUNDED MOTOR VEHICLES: If a law enforcement agency places a hold on a motor vehicle it impounds and entrusts to the custody of a towing service, the towing service shall not, without specific written authorization of the law enforcement agency:

A. release the impounded motor vehicle to any person, including the owner, the owner's agent, or a lienholder; or

B. allow the owner of the impounded motor vehicle, the owner's agent, or a lienholder to inspect the motor vehicle or remove proof of ownership or personal property from the motor vehicle] [Reserved].

18.3.12.26 NOTICE TO OWNERS OF [STORED AND IMPOUNDED] TOWED MOTOR VEHICLES:

A. Identification of owner.

(1) **On site.** Before a towing service tows a motor vehicle, it shall request ownership information from the authorizing law enforcement officer on scene.

(2) **From the storage facility.** If a towing service ~~[does not already have]~~ has not already obtained ownership information on a motor vehicle, it shall obtain the name and address of the registered owner and any lienholder of the motor vehicle.

(a) If the motor vehicle has New Mexico plates, ~~[and the towing service has a computer with Internet access, the towing service shall obtain the information on line within one (1)]~~ the towing service shall request ownership information within five (5) business days after the motor vehicle comes into its possession. [Otherwise, the towing service shall request the information from MVD on forms prescribed by MVD within three (3) business days after the motor vehicle comes into its possession.]

(b) If the motor vehicle has out-of-state plates or the towing service has other reason to believe that the motor vehicle is registered in a state other than New Mexico, the towing service must request the information from the appropriate agency of that state within ~~three (3)]~~ five (5) business days after the motor vehicle comes into its possession.

(3) Documentation.

(a) Information requested from the Motor Vehicle Division of any state. A towing service shall retain in its files a photocopy of MVD Form 10705, Vehicle or Hull Identification Number Verification, indicating the date ownership and lienholder information was requested from MVD and a copy of any document received from MVD in response.

(b) Information requested from other sources.

(i) Electronically. A towing service shall print out and retain in its files a copy of the ownership and lienholder information shown on the computer screen, notated with the name of the person making the request and the date and time the request was made.

(ii) By other means. A towing service shall maintain a record in its files indicating the name of the person requesting ownership and lienholder information, the source from which the information was requested, and the date and time the information was requested, and a copy of any document received from the source in response.

B. Notification of owner.

(1) [Upon receipt of the] Within two (2) business days of receiving information identifying the registered owner or any lienholder of the motor vehicle, the towing service shall [within two (2) business days

after receipt of such information,] notify the registered owner and the lienholder, if any, that the towing service has the motor vehicle in its possession.

(2) The towing service shall use ~~[the notice form prescribed by]~~ MVD Form 10058, Notice of Mechanic's or Landowner's Lien, and shall mail the notice by certified mail, return receipt requested, to the registered owner and the lienholder, if any.

(3) This requirement applies even if the VIN is altered, mutilated, or missing.

C. Penalty for failure to [notify] comply with this section. A towing service ~~[that fails to]~~ shall not collect any charges or liens for storage of an unclaimed motor vehicle if it fails to either:

(1) request ownership information within five (5) business days after a motor vehicle comes into its possession; or

(2) [notify] mail notice to the registered owner and any lienholder [of an unclaimed motor vehicle in accordance with this section shall not collect any charges or liens for storage, except when the certified letter is returned to the towing service by the United States Postal Service for failure of delivery] within two (2) business days of receipt of ownership information.

D. Exception. A towing service shall not be required to give the notice required by subsection B of this section to the owner if, before the notice is required to be sent, the owner of the motor vehicle identifies himself to the towing service and makes any arrangement the towing service deems necessary for the payment of the towing and storage charges. However, the towing service shall still be required to give the notice to the lienholder of the motor vehicle.

18.3.12.27 DISPOSAL OF UNCLAIMED AND ABANDONED MOTOR VEHICLES:

~~[**A.** Before a towing service may dispose of a motor vehicle deemed unclaimed, it must first perfect a lien against the motor vehicle, as provided by New Mexico law, and obtain a new certificate of title.—~~

~~**B.** A dismantler licensed by the New Mexico Motor Vehicle Division need not obtain a new certificate of title before dismantling an unclaimed motor vehicle if—~~

~~(1) the dismantler lists the unclaimed motor vehicle on a dismantler's notification form; and~~

~~(2) the motor vehicle is at least eight years of age and in such a state of repair that it will not be placed into service.] Before a towing service may dispose of an unclaimed or abandoned motor vehicle, it must comply with the requirements in NMSA 1978 Chapter 66, Article 3, Part 2,~~

Transfer of Title or Interest, and perfect it's lien using the MVD "Special Title Procedures for Towing Lien Process" or "Special Title Procedures for Mechanic's, Landlords, Storage or Abandoned Vehicle Lien Process."

18.3.12.28 TOWING SERVICE RESPONSIBILITY: A towing service shall be responsible for:

A. removing debris at the scene of an accident whether or not specifically directed to do so by law enforcement authorities; and

B. the safekeeping and delivery of a motor vehicle and its contents entrusted to it or which come into its custody in the course of its authorized operations.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION
TRANSPORTATION DIVISION**

This is an amendment of 18.3.13 NMAC, Sections 3, 6, 7, and 8, effective January 1, 2005.

18.3.13.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4 and [~~65-2-83~~] 65-2A-4.

18.3.13.6 OBJECTIVE: The purpose of this rule is to implement NMSA 1978 Section [~~65-2-115.4~~] 65-2A-16.

18.3.13.7 DEFINITIONS: In addition to the [~~terms~~] definitions in NMSA 1978 Section 65-2A-3 and 18.3.1.7 NMAC, as used in this rule:

A. FMCSA authorized carrier means a motor carrier authorized by the federal motor carrier safety administration to engage in compensated transportation as a common or contract carrier in interstate or foreign commerce [~~under the provisions of 49 U.S.C. 13902~~] pursuant to federal law;

B. single state registration system means the procedures [~~adopted~~] in 49 CFR Part 367 for the registration of FMCSA authorized carriers with states [~~in accordance with 49 CFR Part 367~~].

18.3.13.8 SINGLE STATE REGISTRATION OF FMCSA AUTHORIZED CARRIERS:

A. The commission has determined that New Mexico is eligible to participate in, and elects to participate in, the single state registration system and agrees to utilize the procedures developed by the national conference of state transportation specialists in accordance with 49

U.S.C. 14504 for the single state registration of FMCSA authorized carriers.

B. FMCSA authorized carriers registering in New Mexico shall pay all fees required by NMSA 1978 Section [~~65-2-115.4~~] 65-2A-36 in guaranteed funds.

End of Adopted Rules Section

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Other Material Related to Administrative Law

NEW MEXICO COMMISSION OF PUBLIC RECORDS HISTORICAL RECORDS ADVISORY BOARD

NOTICE OF REGULAR MEETING

A regular meeting of the New Mexico Historical Records Advisory Board has been scheduled for Friday, January 14, 2005 at 9:00 A.M. The meeting will be held at Western New Mexico University, 1000 College Avenue, Silver City, New Mexico. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Gail Cross at the State Records Center and Archives at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact Gail Cross at the State Records Center and Archives if a summary or other type of accessible format is needed.

A copy of the proposed agenda may be obtained at the State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505.

UNIVERSITY OF NEW MEXICO

Notice of Adoption of Regulation by the University of New Mexico Purchasing Department

The University of New Mexico's Purchasing Department has adopted a regulation governing Requests for Proposals for Construction (Regulation 7). This regulation is available on the Purchasing Department's website at <http://www.unm.edu/~purch/> under "Policies and Procedures." Interested persons may also request a copy by calling the Purchasing Department at (505) 277-2036 or by writing to University of New Mexico Purchasing Department, 1 University of New Mexico, MSC06-3530, Albuquerque, NM, 87131-0001.

Notice of Adoption of University of New Mexico Board of Regents Policy

The Board of Regents of The University of New Mexico has adopted a policy governing the Selection of Contractors for UNM

Construction Projects (UNM Board of Regents' Policy Manual 7.12.1). This policy is available on the University of New Mexico's website at <http://www.unm.edu/~brpm/r7121.htm>. Interested persons may also request a copy by calling the UNM Policy Office at (505) 277-9749 or by writing to University of New Mexico Policy Office, 1 University of New Mexico, MSC07-4270, Albuquerque, NM, 87131-0001.

NEW MEXICO BOARD OF VETERINARY MEDICINE

Legal Notice

The New Mexico Board of Veterinary Medicine will hold a regularly scheduled board meeting on Friday and Saturday, January 7-8, 2005 from 8:30 a.m. to 5:00 p.m. and 8:30 a.m. to noon, respectively, at the Albuquerque TVI Workforce Training Center located at 5600 Eagle Rock Ave NE, Albuquerque, NM 87113. Conference room name will be posted in the lobby. Please refer to our website (www.newmexicoveterinaryboard.us) for the most current scheduling changes, if any.

The NM Board of Veterinary Medicine does not discriminate against people who are physically challenged. Any individual who wishes to attend this meeting and who requires special accommodations should contact the Board of Veterinary Medicine at (505) 841-9112 or via email at info@newmexicoveterinaryboard.us at least five working days prior to the meeting. This will afford us the time necessary to make arrangements to accommodate your special needs. The board may go into executive session at any time to discuss licensee and/or personnel matter.

End of Other Related Material Section

2005

SUBMITTAL DEADLINES AND PUBLICATION DATES

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.