

**NEW  
MEXICO  
REGISTER**

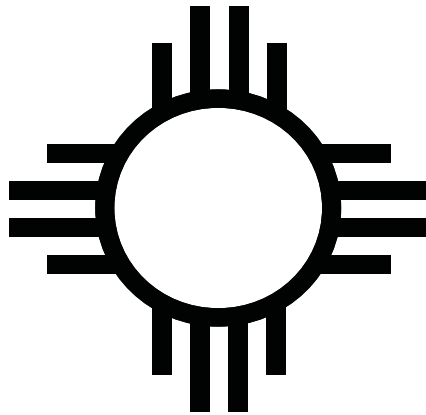


Volume XX  
Issue Number 20  
October 30, 2009



# **New Mexico Register**

**Volume XX, Issue Number 20**  
**October 30, 2009**



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

The Commission of Public Records  
Administrative Law Division  
Santa Fe, New Mexico  
2009

COPYRIGHT © 2009  
BY  
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

# New Mexico Register

Volume XX, Number 20

October 30, 2009

## Table of Contents

### Notices of Rulemaking and Proposed Rules

<b>Naprapathic Practice Board</b>	
Rule Hearing & Board Meeting Notice .....	1287
<b>Nursing, Board of</b>	
Notice of Public Hearing .....	1287
<b>Public Education Department</b>	
Notice of Public Hearing .....	1287
<b>Public Regulation Commission</b>	
Insurance Division	
Notice of Hearing and Procedural Order to Consider Adoption of the Model Audit Rule .....	1288
<b>Public Safety, Department of</b>	
Training and Recruiting Division - Law Enforcement Academy	
Board Meeting and Public Hearing .....	1288
<b>Regulation and Licensing Department</b>	
Securities Division	
Notice of Rulemaking .....	1289
<b>Taxation and Revenue Department</b>	
Notice of Hearing and Proposed Rules (Other Tax Credits Act) .....	1290
Notice of Hearing and Proposed Rules (Gross Receipts and Compensating Tax Act and Weight Distance Tax Act) .....	1291

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**A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered**

<b>Agriculture, Department of</b>		
21.17.28 NMAC A	Pecan Weevil Exterior Quarantine .....	1293
<b>Albuquerque-Bernalillo County Air Quality Control Board</b>		
20.11.47 NMAC A	Emissions Inventory Requirements .....	1293
<b>Game and Fish, Department of</b>		
19.34.3 NMAC R	Use of Department of Game and Fish Lands .....	1294
19.34.3 NMAC N	Use of Department of Game and Fish Lands .....	1294
19.30.4 NMAC A	Boundary Descriptions for Wildlife Management Areas .....	1297
19.31.4 NMAC A/E	Fisheries .....	1299
19.31.12 NMAC A	Barbary Sheep, Oryx and Persian Ibex. ....	1299
19.31.14 NMAC A	Elk. ....	1303
19.31.15 NMAC A	Pronghorn Antelope and Javelina. ....	1314
<b>Human Services Department</b>		
Income Support Division		
8.102.500 NMAC A	Cash Assistance Programs: Eligibility Policy - General Information .....	1317
8.106.500 NMAC A	State Funded Assistance Programs: Eligibility Policy - General Information .....	1317
8.139.500 NMAC A	Food Stamp Program: Financial Eligibility - Need Determination .....	1318
Medical Assistance Division		
8.200.400 NMAC A	Medicaid Eligibility - General Recipient Policies: General Medicaid Eligibility .....	1319

8.200.450 NMAC	A	Medicaid Eligibility - General Recipient Policies: Reporting Requirements . . . . .	1320
8.232.600 NMAC	A	Medicaid Eligibility - Children Under 19: 185 Percent or 235 Percent of Poverty Guidelines - Category 032: Benefit Description . . . . .	1320
<b>Interior Design Board</b>			
16.42.1 NMAC	A	Interior Designers: General Provisions . . . . .	1320
16.42.2 NMAC	A	Code of Professional Conduct . . . . .	1320
16.42.3 NMAC	A	Licensing Requirements . . . . .	1321
16.42.4 NMAC	A	Complaints and Disciplinary Actions . . . . .	1324
16.42.5 NMAC	A	Fees . . . . .	1324
<b>Juvenile Public Safety Advisory Board</b>			
22.510.100 NMAC			
	R	Juvenile Parole Board . . . . .	1324
22.510.100 NMAC			
	N	Juvenile Public Safety Advisory Board . . . . .	1324
<b>Mining Safety Board</b>			
19.6.2 NMAC	A	Emergency Notification . . . . .	1326
<b>Public Lands, Commissioner of</b>			
19.2.22 NMAC	N	Planning and Development Leases . . . . .	1329
<b>Public Safety, Department of</b>			
Training and Recruiting Division - Law		Enforcement Academy	
10.29.8 NMAC	N	Officer Transition Training Program . . . . .	1334
10.29.6 NMAC	A	Certification by Waiver . . . . .	1337
<b>Taxation and Revenue Department</b>			
3.9.1 NMAC	A	Cigarette and Tobacco Products Taxes: General Provisions . . . . .	1338

*The New Mexico Register*  
 Published by  
 The Commission of Public Records  
 Administrative Law Division  
 1205 Camino Carlos Rey  
 Santa Fe, NM 87507

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

*The New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail staterules@state.nm.us.

## Notices of Rulemaking and Proposed Rules

### NEW MEXICO NAPRAPATHIC PRACTICE BOARD

#### RULE HEARING & BOARD MEETING NOTICE:

Notice is hereby given that the NM Naprapathic Practice Board will convene a Rule Hearing on **Friday, December 4, 2009** to amend, replace and repeal:

Title 16, Chapter 6, 16.6.3 Fees; 16.6.4 License Expiration and Renewal; 16.6.5 Inactive Status; 16.6.6 Continuing Education; 16.6.7 Licensure by Endorsement and Examination; 16.6.9 Supervision of Interns

The hearing will be held at the **Toney Anaya Building, Regulation & Licensing Department, 2nd Floor, 2550 Cerrillos Road, Santa Fe, NM, starting at 11:00a.m.** Immediately following the Rule Hearing, the Naprapathic Board will convene a regular meeting.

Copies of the proposed rules are available on the Naprapathy Board's Website: [www.RLD.state.nm.us/naprapathy](http://www.RLD.state.nm.us/naprapathy) or by sending a request to the Board Office, P.O. Box 25101 Santa Fe, NM 87504-5101, or by phone (505) 476-4980. Anyone wishing to present their views on the proposed rules may appear in person at the Hearing, or may send written comments to the Board office. Written comments must be received by November 23, 2009 to allow time for distribution to the Board and Commissions members. Individuals planning on testifying at the hearing must provide 5 copies of their testimony.

Final action on the proposed rules will be taken during the Board meeting. Portions of the Board meeting may be closed to the public while the Board is in Executive Session to discuss licensing matters. Copies of the agenda will be available 24 hours in advance of the meeting from the Board Office.

Disabled members of the public who wish to attend the meeting or hearing are in need of reasonable accommodations for their disabilities should contact the Board office at least one week prior to the meeting.

### NEW MEXICO BOARD OF NURSING

#### NEW MEXICO BOARD OF NURSING

#### NOTICE OF PUBLIC HEARING

Notice is hereby given that the New Mexico

Board of Nursing will convene a Rules Hearing to amend:

16.12.1 NMAC

This Hearing will be held at New Mexico Board of Nursing Conference Room on Friday, December 11, 2009 at 9:30 a.m.

Any person wishing to present testimony at the Hearing is requested to submit, to the Board of Nursing Office, 6301 Indian School NE, Suite 710, Albuquerque, NM, 87110, a written statement of intent (10 copies) to be received no later than November 20, 2009

The Statement shall provide:

Name of Witness:

Who Witness represents:

Brief statement of subject matter of testimony; & anticipated length of presentation.

Notice: Any person presenting testimony, who is representing a client, employer or group, must be registered as a lobbyist through the Secretary of State's Office (505) 827-3600 or do so within 10 days of the Public Hearings.

Persons requiring special accommodations at the hearing are asked to call the Board office (841-8340) no later than December 1, 2009 so that arrangements can be made.

Drafts of proposed changes may be downloaded from our website: [www.bon.state.nm.us](http://www.bon.state.nm.us) or requested through the Board of Nursing office.

### NEW MEXICO PUBLIC EDUCATION DEPARTMENT

#### NOTICE OF PUBLIC HEARING

The Public Education Department (PED) hereby give notice that the PED will conduct a public hearing at Mabry Hall, Jerry Apodaca Building, at 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on Monday, December 7, 2009, from 2:00 PM to 5:00 PM.

The purpose of the public hearing will be to obtain input on the following Professional Licensure Rules:

<b>6.60.3 NMAC</b>	<b>ALTERNATIVE LICENSURE</b>
<b>6.60.4 NMAC</b>	<b>LICENSURE RECIPROCITY</b>
<b>6.60.5 NMAC</b>	<b>COMPETENCY TESTING FOR LICENSURE</b>
<b>6.60.6 NMAC</b>	<b>CONTINUING LICENSURE FOR LICENSED EDUCATORS IN NEW MEXICO</b>
<b>6.61.2 NMAC</b>	<b>LICENSURE IN ELEMENTARY EDUCATION, GRADES K-8</b>
<b>6.61.8 NMAC</b>	<b>LICENSURE IN EARLY CHILDHOOD EDUCATION, BIRTH - GRADE 3</b>
<b>6.61.10 NMAC</b>	<b>TEACHERS OF STUDENTS WITH BLINDNESS/VISUAL IMPAIRMENT B-12</b>
<b>6.61.11 NMAC</b>	<b>LICENSURE IN EARLY CHILDHOOD EDUCATION, BIRTH - PRE-K</b>
<b>6.61.12 NMAC</b>	<b>LICENSURE IN EARLY CHILDHOOD EDUCATION, PRE-K - GRADE 3</b>
<b>6.62.2 NMAC</b>	<b>LICENSURE FOR EDUCATIONAL ADMINISTRATION, GRADES PRE-K-12</b>
<b>6.63.3 NMAC</b>	<b>LICENSURE FOR INSTRUCTIONAL SUPPORT PROVIDERS PRE K-12 NOT COVERED IN OTHER RULES.</b>

6.63.5 NMAC.	LICENSURE FOR SCHOOL PSYCHOLOGISTS, PRE K-12
6.64.18 NMAC	COMPETENCIES FOR TEACHING GIFTED STUDENTS
6.68.2 NMAC	DENIAL OF APPLICATIONS FOR SCHOOL PERSONNEL

The proposed rules may be accessed on the PED website (<http://ped.state.nm.us>) or, obtained from Ms. Martinez as indicated in the following paragraph, by providing a self-addressed stamped envelope to Ms. Martinez at the Professional Licensure Bureau, 300 Don Gaspar Ave., Room 103 in Santa Fe, NM. 87501. The proposed rules will be made available at least thirty days prior to the hearings.

Interested individuals may testify at the public hearing or submit written comments to Ms. Flo Martinez, Administrative Assistant, Licensure Bureau, Educator Quality Division, Public Education Department, 300 Don Gaspar Ave., Room 103, Santa Fe, NM 87501 ([florence.martinez@state.nm.us](mailto:florence.martinez@state.nm.us)) fax: 505-827-4148. Written comments must be received no later than 5:00 PM on December 7, 2009. However, the submission of written comments as soon as possible is encouraged.

**NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
INSURANCE DIVISION**

**BEFORE THE NEW MEXICO  
SUPERINTENDENT OF INSURANCE**

\_\_\_\_\_ )  
IN THE MATTER OF: )  
\_\_\_\_\_ )  
MODEL AUDIT RULE )  
Docket No. )  
09-00367-IN )  
\_\_\_\_\_ )

**NOTICE OF HEARING AND  
PROCEDURAL ORDER  
TO CONSIDER ADOPTION OF THE  
MODEL AUDIT RULE**

**THIS MATTER** comes before the New Mexico Superintendent of Insurance ("Superintendent") upon the Superintendent's own motion and pursuant to the statutory mandate of NMSA 1978, Section 59A-2-9(A) (1997), which provides that the Superintendent may make reasonable rules and regulations necessary for or as an aid to administration or effectuation of any provision of the Insurance Code administered by the Superintendent, and from time to time withdraw, modify or amend any such rule or regulation. The Superintendent, being fully advised in the premises, hereby issues the following notice and order:

1. A public hearing shall be held on **Friday, November 20th at 9:30 a.m.**, or immediately following any on-going, previously scheduled hearing conducted by the Hearing Officer, whichever comes later, and continuing thereafter as necessary in the Public Regulation Commission Board Room, Third Floor, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

2. The proceeding shall be informal within the meaning of NMSA 1978, Section 59A-4-18 (1984).

3. The staff for the New Mexico Public Regulation Commission's Insurance Division ("Staff") has prepared the rules contained in Appendix A for the purpose of adopting the Model Audit Rule of the National Association of Insurance Commissioners. The hearing shall be held for the purpose of considering the adoption of the rules contained in Appendix A.

4. All interested persons may testify at the hearing.

5. Written comments on Staff's proposal as contained in Appendix A shall be filed in this docket on or before **Friday, November 6, 2009**. All written comments suggesting changes to Staff's proposal shall state and discuss the particular reasons for the suggested changes and, where necessary or appropriate to effectuate the changes being suggested, shall include specific language for incorporation into the proposal. Comments and other materials to be filed shall be submitted in person or by mail to the docketing office, citing the above-referenced docket. The docketing office is located in Room 406, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico and its mailing address is P.O. Box 1269, Santa Fe, New Mexico 87504-1269. An additional copy of all comments and other materials filed in this docket shall be delivered or mailed to Hearing Officer assigned to this matter at the following address: Hearing Officer, Insurance Division, Room 431, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

6. All submissions shall be deemed filed as of the date and time stamped by the docketing office.

7. Comments will be available for public inspection during regular business hours at the Public Regulation Commission's docketing office.

8. Staff shall arrange for distribution and publication of this notice pursuant to NMSA 1978, Section 59A-4-16, and other applicable law.

9. Any individual with

a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, should contact Mariano Romero, at (505) 827-4526, no later than **Monday, November 16, 2009**. Public documents, including the transcript, agenda or minutes, if any, can be provided in various accessible forms. Please contact Mariano Romero if a summary or other type of accessible form is needed.

10. Interested persons should contact the Docketing Office or Staff for confirmation of the hearing date, time, and place because hearings are rescheduled on occasion.

**DONE AND ORDERED** this \_\_\_\_ day of October, 2009.

\_\_\_\_\_  
**Morris J. Chavez**  
Superintendent of Insurance

**NEW MEXICO  
DEPARTMENT OF PUBLIC  
SAFETY  
TRAINING AND RECRUITING  
DIVISION  
Law Enforcement Academy**

Notice

**NEW MEXICO DEPARTMENT OF  
PUBLIC SAFETY  
NM LAW ENFORCEMENT ACADEMY  
BOARD MEETING AND PUBLIC  
HEARING**

On Tuesday December 8, 2009, at 9:00 a.m., the New Mexico Law Enforcement Academy Board will hold a Regular Board Meeting to include one Public Hearing. The Public Hearing will include 2010-2011 In Service Training Cycle for Law Enforcement 10.29.7.8

The NMLEA Board Meeting and public hearing will be held at the Route 66 Casino, 14500 Central Ave. SW- I-40, exit 140



Albuquerque, NM 87121

Copies of the Regular Board Meeting Agenda's and proposed rule changes may be obtained by accessing our website at [www.dps.nm.org/training](http://www.dps.nm.org/training) or by calling Arthur Ortiz at (505) 827-9290, Gil Najjar at (505) 827-9265 or Monique Croker at (505) 827-9255.

## NEW MEXICO REGULATION AND LICENSING DEPARTMENT SECURITIES DIVISION

### NOTICE OF RULEMAKING

In accordance with the enactment of the New Mexico Uniform Securities Act, Sections 58-13C-101 to -701, effective January 1, 2010 and the simultaneous repeal of the New Mexico Securities Act of 1986 Sections 58-13B-1 to -57 (1986, as amended through 2004), the Director of the Securities Division of the New Mexico Regulation and Licensing Department proposes to repeal and replace the following rules:

12.11.1 NMAC	<u>GENERAL PROVISIONS</u>
12.11.2 NMAC	<u>BROKER-DEALERS AND SALES REPRESENTATIVES</u>
12.11.3 NMAC	<u>BROKER-DEALER AND SALES REPRESENTATIVES RECORDS</u>
12.11.4 NMAC	<u>BROKER-DEALER AND SALES REPRESENTATIVES RULES OF CONDUCT AND PROHIBITED BUSINESS PRACTICES</u>
12.11.5 NMAC	<u>INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES AND FEDERAL COVERED ADVISERS</u>
12.11.6 NMAC	<u>INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES RECORDS</u>
12.11.7 NMAC	<u>INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES RULES OF CONDUCT AND PROHIBITED BUSINESS PRACTICES</u>
12.11.8 NMAC	<u>REGISTRATION OF SECURITIES - GENERAL PROVISIONS</u>
12.11.9 NMAC	<u>STANDARDS APPLICABLE TO REGISTERED OFFERINGS</u>
12.11.10 NMAC	<u>SMALL COMPANY OFFERING REGISTRATION (SCOR)</u>
12.11.11 NMAC	<u>EXEMPT SECURITIES</u>
12.11.12 NMAC	<u>EXEMPT TRANSACTIONS</u>
12.11.13 NMAC	<u>UNIFORM LIMITED OFFERING EXEMPTION</u>
12.11.14 NMAC	<u>NOTICE FILINGS FOR OFFERINGS OF COVERED SECURITIES</u>
12.11.15 NMAC	<u>FRAUDULENT PRACTICES</u>
12.11.16 NMAC	<u>FORMS</u>
12.11.17 NMAC	<u>USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS</u>

The following are the proposed new rules:

12.11.1 NMAC	<u>GENERAL PROVISIONS</u>
12.11.2 NMAC	<u>BROKER-DEALERS AND AGENTS</u>
12.11.3 NMAC	<u>BROKER-DEALER AND AGENTS RECORDS</u>
12.11.4 NMAC	<u>BROKER-DEALER AND AGENTS RULES OF CONDUCT AND PROHIBITED BUSINESS PRACTICES</u>
12.11.5 NMAC	<u>INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES AND FEDERAL COVERED ADVISERS</u>
12.11.6 NMAC	<u>INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES RECORDS</u>
12.11.7 NMAC	<u>INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES RULES OF CONDUCT AND PROHIBITED BUSINESS PRACTICES</u>
12.11.8 NMAC	<u>REGISTRATION OF SECURITIES - GENERAL PROVISIONS</u>
12.11.9 NMAC	<u>STANDARDS APPLICABLE TO REGISTERED OFFERINGS</u>
12.11.10 NMAC	<u>SMALL COMPANY OFFERING REGISTRATION (SCOR)</u>
12.11.11 NMAC	<u>EXEMPT SECURITIES</u>
12.11.12 NMAC	<u>EXEMPT TRANSACTIONS</u>
12.11.13 NMAC	<u>UNIFORM LIMITED OFFERING EXEMPTION</u>

12.11.14 NMAC	<u>NOTICE FILINGS FOR OFFERINGS OF COVERED SECURITIES</u>
12.11.15 NMAC	<u>FRAUDULENT PRACTICES</u>
12.11.16 NMAC	<u>FORMS</u>
12.11.17 NMAC	<u>USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS</u>

Interested parties may access the proposed new rules on the Division's website at <http://www.rld.state.nm.us/Securities/index.html>. Copies may also be obtained by contacting the Division at (505) 476-4580. Written comments regarding the proposed new rules should be directed to Marianne Woodard, Attorney, Securities Division, New Mexico Regulation and Licensing Department, 2550 Cerrillos Rd., Toney Anaya Bldg 3<sup>rd</sup> floor, Santa Fe, New Mexico 87505, or faxed to (505) 984-0617. **The Securities Division must receive any comments, in writing, no later than 5:00 p.m. on December 7, 2009.**

## NEW MEXICO TAXATION AND REVENUE DEPARTMENT

### NEW MEXICO TAXATION AND REVENUE DEPARTMENT

#### NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to amend the following regulations:

##### Other Tax Credits Act

3.13.8.2 NMAC Section 7-9G-2 NMSA 1978

##### (Scope)

3.13.8.3 NMAC Section 7-9G-2 NMSA 1978

##### (Statutory Authority)

3.13.8.6 NMAC Section 7-9G-2 NMSA 1978

##### (Objective)

3.13.8.7 NMAC Section 7-9G-2 NMSA 1978

##### (Definitions: Advanced Energy Tax Credit Defined)

3.13.8.8 NMAC Section 7-9G-2 NMSA 1978

##### (Value of Eligible Generation Plant Costs)

3.13.8.9 NMAC Section 7-9G-2 NMSA 1978

##### (Eligible Generation Plant Cost must be "Subject to Depreciation")

3.13.8.10 NMAC Section 7-9G-2 NMSA 1978

##### (Application of the Credit)

3.13.8.11 NMAC Section 7-9G-2 NMSA 1978

##### (Carry Forward of Unused Credits)

3.13.8.12 NMAC Section 7-9G-2 NMSA 1978

##### (Using the Credit)

3.13.8.13 NMAC Section 7-9G-2 NMSA 1978

##### (Limitation on Other Credits)

These proposals were placed on file in the Office of the Secretary on October 16, 2009. Pursuant to Section 9-11-6.2 NMSA 1978

of the Taxation and Revenue Department Act, the final of these proposals, if filed, will be filed as required by law on or about December 31, 2009.

A public hearing will be held on these proposals on Thursday, December 3, 2009, at 9:30 a.m. in the Secretary's Conference Room No. 3002/3137 of the Taxation and Revenue Department, Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico. Auxiliary aids and accessible copies of the proposals are available upon request; contact (505) 827-0928. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before December 3, 2009.

3.13.8.2 **SCOPE:** This part applies to all persons who own an interest in a qualified generating facility in New Mexico who may be eligible to obtain the advanced energy income tax credit, the advanced energy corporate income tax credit or the advanced energy combined reporting tax credit.

[3.13.8.2 NMAC - N, 12/31/08; A, XXX]

3.13.8.3 **STATUTORY AUTHORITY:** Sections 7-9G-2, 7-2-18.25, 7-2A-25 and 9-11-6.2 NMSA 1978.

[3.13.8.3 NMAC - N, 12/31/08; A, XXX]

3.13.8.6 **OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the, advanced energy combined reporting tax credit, per the Other Tax Credits Act; the advanced energy income tax credit, per the Income Tax Act; and the advanced energy corporate income tax credit, per the Corporate Income and Franchise Tax Act.

[3.13.8.6 NMAC - N, 12/31/08; A, XXX]

3.13.8.7 **DEFINITIONS:** **ADVANCED ENERGY TAX CREDIT DEFINED:** For purposes of 3.13.8.1 through 3.13.8.13 NMAC, advanced

energy tax credit means the advanced energy combined reporting tax credit, per the Other Tax Credits Act (Section 7-9G-2 NMSA 1978); the advanced energy income tax credit, per the Income Tax Act (Section 7-2-18.25 NMSA 1978); and the advanced energy corporate income tax credit, per the Corporate Income and Franchise Tax Act (Section 7-2A-25 NMSA 1978).

[3.13.8.7 NMAC - N, XXX]

3.13.8.8 **VALUE OF ELIGIBLE GENERATION PLANT COSTS:** The value of eligible generation plant costs pursuant to [~~Section 7-9G-2 NMSA 1978~~] the advanced energy tax credit shall be the adjusted basis established for the qualified generating facility under the applicable provisions of the Internal Revenue Code of 1986.

[3.13.8.8 NMAC - N, 12/31/08; A, XXX]

3.13.8.9 **ELIGIBLE GENERATION PLANT COST MUST BE "SUBJECT TO DEPRECIATION":** For purposes of [~~Section 7-9G-2 NMSA 1978;~~] the advanced energy tax credit, eligible generation plant costs must be subject to depreciation. "Subject to depreciation" means the taxpayer's federal income tax return must include a depreciation expense with respect to the eligible generation plant costs for which an advanced energy tax credit is sought or claimed. Equipment depreciated under the accelerated cost recovery system, Internal Revenue Code Section 168, and property for which the taxpayer makes an election under Internal Revenue Code Section 179 is "subject to depreciation".

[3.13.8.9 NMAC - N, 12/31/08; A, XXX]

3.13.8.10 **APPLICATION OF THE CREDIT:**

[A. ~~The credit allowed by Section 7-9G-2 NMSA 1978 may not be applied against any local option gross receipts tax imposed by a county or municipality.~~

~~B.] The credit may not be applied to a report period prior to the report period that includes the first day on which eligible generation plant costs were incurred~~

and included on the application for which the credit was approved by the department. [3.13.8.10 NMAC - N, 12/31/08; A, XXX]

**3.13.8.11 CARRY FORWARD OF UNUSED CREDITS:** Unused advanced energy tax credit [~~allowed by Section 7-9G-2-NMSA-1978~~] may be carried forward for ~~five~~ ten years from the end of the calendar year in which the credit was approved by the department. [3.13.8.11 NMAC - N, 12/31/08; A, XXX]

**3.13.8.12 USING THE CREDIT:**  
 A. Any amount of advanced energy tax credit claimed and approved may be applied by the ~~claimant only against the~~ approved claimant against any combination of the personal or corporate income tax, or the gross receipts, compensating and withholding ~~taxes~~ tax owed by the claimant.  
 B. Once the qualified generating facility or the interest owner in the qualified generating facility is approved, the credit amount may not be subsequently transferred to any other person, including an affiliate.

~~[B-] C.~~ Examples:  
 (1) Corporation T sets up a qualified generating facility in New Mexico. T subsequently qualifies for \$50,000 in advanced energy tax credit. After applying \$13,000 to its own gross receipts, compensating and withholding tax liabilities, T creates a subsidiary corporation, S, to own and operate all of T's New Mexico business, including the qualified generating facility. T may not transfer the \$37,000 remaining authorized advanced energy tax credit to S nor may S apply any of the remaining tax credit to S's corporate income tax liability, or gross receipts, compensating and withholding tax liability. T, to the extent T still has corporate income tax, or gross receipts, compensating and withholding tax obligations, may apply the \$37,000 balance against those obligations.

(2) When two or more corporations merge, the resultant corporation is a continuation of any predecessor corporation. When a business organization changes its form, as for example from a sole proprietorship to a corporation or from a corporation to a limited liability company, so that the resultant entity is a successor in business to the predecessor, the resultant entity shall be deemed a continuation of the predecessor for advanced energy tax credit purposes. In both cases, since there is no transfer, the resultant entity may claim any amount of approved but unclaimed advanced energy tax credit held by a predecessor. [3.13.8.12 NMAC - N, 12/31/08; A, XXX]

**3.13.8.13 LIMITATION ON OTHER CREDITS:** Expenditures for

which a taxpayer claims the advanced energy tax credit [~~pursuant to Section 7-9G-2-NMSA-1978~~] may not be used to qualify for or claim any other credit that may be applied against personal or corporate income tax, or gross receipts tax, compensating tax or withholding tax pursuant to any other state law. [3.13.8.13 NMAC - N, 12/31/08; A, XXX]

**NEW MEXICO TAXATION AND REVENUE DEPARTMENT**

**NEW MEXICO TAXATION AND REVENUE DEPARTMENT**

**NOTICE OF HEARING AND PROPOSED RULES**

The New Mexico Taxation and Revenue Department proposes to amend the following regulation:

**Gross Receipts and Compensating Tax Act**

3.2.1.18(I) NMAC Section 7-9-3.5 NMSA 1978  
*(Directors' or Trustees' Fees)*

The New Mexico Taxation and Revenue Department proposes to adopt the following regulation:

**Weight Distance Tax Act**

3.12.13.8 NMAC Section 7-15A-16 NMSA 1978  
*(When Civil Penalties are Imposed)*

These proposals were placed on file in the Office of the Secretary on October 16, 2009. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of these proposals, if filed, will be filed as required by law on or about December 31, 2009.

A public hearing will be held on these proposals on Tuesday, December 8, 2009, at 9:30 a.m. in the Secretary's Conference Room No. 3002/3137 of the Taxation and Revenue Department, Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico. Auxiliary aids and accessible copies of the proposals are available upon request; contact (505) 827-0928. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before December 8, 2009.

**TITLE 3: TAXATION  
 CHAPTER 12: HIGHWAY USE**

**TAXES AND FEES**

**PART 13: CIVIL PENALTIES - FAILURE TO CORRECTLY REPORT**

**3.12.13.1 ISSUING AGENCY:** Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630  
 [3.12.13.1 NMAC - N, XXX]

**3.12.13.2 SCOPE:** This part applies to all registrants, owners and operators of motor vehicles with a declared gross weight of 26,001 pounds or more if the motor vehicles are used or intended to be used on New Mexico highways, when the motor vehicle is registered with New Mexico.  
 [3.12.13.2 NMAC - N, XXX]

**3.12.13.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
 [3.12.13.3 NMAC - N, XXX]

**3.12.13.4 DURATION:** Permanent.  
 [3.12.13.4 NMAC - N, XXX]

**3.12.13.5 EFFECTIVE DATE:** XXX, unless a later date is cited at the end of a section, in which case the later date is the effective date.  
 [3.12.13.5 NMAC - N, XXX]

**3.12.13.6 OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Weight Distance Tax Act.  
 [3.12.13.6 NMAC - N, XXX]

**3.12.13.7 DEFINITIONS:** [Reserved.]

**3.12.13.8 WHEN CIVIL PENALTIES ARE IMPOSED:** The civil penalties under Section 7-15A-16 NMSA 1978 will only be imposed upon audits conducted by the New Mexico taxation and revenue department of a commercial motor carrier that has underreported declared gross vehicle weight or miles driven in New Mexico. The types of audits include, but are not limited to, field audits and limited scope audits. Amended returns prepared by the taxpayer or taxpayer's representative and managed audits will not be subject to the civil penalties under Section 7-15A-16 NMSA 1978.  
 [3.12.13.8 NMAC - N, XXX]

**3.2.1.18 GROSS RECEIPTS - SERVICES:**  
 I. **Directors' or trustees' fees.**  
 (1) The receipts of a member of a

board of directors or board of trustees from attending a directors' or trustees' meeting in New Mexico are receipts derived from performing a service in New Mexico and are subject to the gross receipts tax.

(2) *Example:* X is on the board of directors of a New Mexico corporation and a Texas corporation. X attends directors' meetings in Texas and New Mexico. For each directors' meeting that X attends, X is paid a fee of \$50.00. X is performing a service. The fee which X receives from performing this service in New Mexico is subject to the gross receipts tax. The fee which X receives from performing the service in Texas is not subject to the gross receipts tax. However, the burden is on X to segregate receipts which are not taxable from those which are taxable.

(3) *Example:* Y is on the board of trustees of Z, a New Mexico electric cooperative organized under the provisions of the Rural Electric Cooperative Act. Y receives \$85 a day for Y to attend Z's regular meetings in New Mexico, plus reimbursement for mileage to and from the meeting at the standard IRS rate. Y also receives \$85 a day for Y to attend no more than one other meeting, conference or training inside or outside New Mexico within any one month, plus reimbursement of actual expenses, including hotel, transportation, tips and reasonable expenses for meals and entertainment. Y is performing a service. The fees and reimbursements Y receives for attending meetings, conferences and trainings in New Mexico are subject to gross receipts tax. The fees and reimbursements Y receives for attending meetings, conferences and trainings outside New Mexico are not subject to gross receipts tax.

(a) See Paragraph (1) of Subsection C of 3.2.1.19 NMAC regarding reimbursed expenditures.

(b) Y is not a volunteer as defined in Paragraph (2) of Subsection D of 3.2.1.19 NMAC because Y receives compensation for Y's services in addition to reimbursement of Y's out-of-pocket expenses incurred in the performance of Y's services.

---

**End of Notices and Proposed  
Rules Section**

---

## Adopted Rules

### NEW MEXICO DEPARTMENT OF AGRICULTURE

This is an amendment to 21.17.28 NMAC, Sections 8 and 11, effective 10/30/2009.

**21.17.28.8 PECAN WEEVIL EXTERIOR QUARANTINE:** In order to prevent the introduction of the pecan weevil into New Mexico, the board of regents hereby orders and declares the regulated articles herein defined shall not be allowed to move from states or areas of states under quarantine, except under restrictions herein described.

A. Pests: pecan weevil, *Curculio [caryae] caryae* (horn).

B. Areas under quarantine: All states and districts of the United States except Arizona, California, El Paso and Hudspeth counties, Texas and that part of Culberson county, Texas south of 31 degrees 10' north latitude and west of 104 degrees 40' west longitude.

C. Regulated articles:

(1) Nuts of all species and varieties of pecan and hickory, and sacks used in harvesting, hulling, dehydrating, shelling, transporting or storing of any nuts or hulls. Extracted nut meats are not included.

(2) Boxes, containers, equipment, appliances, machinery and vehicles used in connection with harvesting, hulling, dehydrating, shelling, transporting or storing of any nuts or hulls.

(3) Whole, live trees or parts thereof with soil attached.

(4) Hulls, husks, shells and fragments of hulls, husks and shells of all species and varieties of pecan and hickory.

[7/1/97; 21.17.28.8 NMAC - Rn, 21 NMAC 17.28.8, 05/29/09; A, 10/30/09]

#### **21.17.28.11 TREATMENT OF REGULATED ARTICLES:**

A. Articles specified in Subsection C of 21.17.28.8 NMAC shall be:

(1) stored in an approved cold storage chamber at or below zero (0) degrees fahrenheit for a period of seven (7) consecutive days (one hundred sixty-eight (168) hours) after the entire lot reaches zero (0) degrees fahrenheit; or

(2) immersed in hot water for a period of five (5) minutes after-reaching a temperature of one hundred forty (140) degrees fahrenheit.

B. Articles specified in Subsection C of 21.17.28.8 NMAC shall be cleaned to remove debris, nuts, husks, hulls and shells, and steam treated.

C. Articles specified in

Subsection C of 21.17.28.8 NMAC shall be treated with a method approved by the director.

~~[D. — Articles specified in Subsection C of 21.17.28.8 NMAC shall be treated as specified in 21.17.28.11 NMAC or shall be treated by fumigation using either methyl bromide or aluminum phosphide as specified in the following schedule:~~

~~methyl bromide~~

~~2-3/4 lb./1000 ft.<sup>3</sup> for 2 hours at 70-79 degrees F;~~

~~33 oz minimum gas concentration at 1/2 hour;~~

~~22 oz minimum gas concentration at 2 hours;~~

~~3-1/4 lb./1000 ft.<sup>3</sup> for 2 hours at 60-69 degrees F;~~

~~39 oz minimum gas concentration at 1/2 hour;~~

~~27 oz minimum gas concentration at 2 hours;~~

~~3-3/4 lb./1000 ft.<sup>3</sup> for 2 hours at 50-59 degrees F;~~

~~45 oz minimum gas concentration at 1/2 hour;~~

~~30 oz minimum gas concentration at 2 hours;~~

~~4-1/4 lb./1000 ft.<sup>3</sup> for 2 hours at 40-49 degrees F;~~

~~51 oz minimum gas concentration at 1/2 hour~~

~~34 oz minimum gas concentration at 2 hours;~~

~~aluminum phosphide~~

~~100 pellets or 20 tablets/1000 ft.<sup>3</sup> for 96 hours at 60-68 degrees F;~~

~~100 pellets or 20 tablets/1000 ft.<sup>3</sup> for 72 hours at 68 degrees F; or higher.}]~~

~~[7/1/97; 21.17.28.11 NMAC - Rn, 21 NMAC 17.28.11, 05/29/09; A, 10/30/09]~~

### ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.47 NMAC, Sections 14 and 15, effective 11/16/2009.

#### **20.11.47.14 EMISSIONS INVENTORY REQUIREMENTS:**

##### **A. Applicability.**

20.11.47.14 NMAC applies to the owner or operator of every stationary source, located within Bernalillo county that:

(1) has an active permit issued pursuant to 20.11.41 NMAC, *Authority to Construct*, or 20.11.42 NMAC, *Operating Permits*; or

(2) is required to file a source registration pursuant to 20.11.40 NMAC, *Source Registration*.

##### **B. Reporting requirements.**

(1) A source that meets requirements under Paragraph (1) of Subsection A of 20.11.47.14 NMAC shall submit an emissions report annually. A source is not required to submit an emissions report more frequently than annually.

~~(2) A source that meets requirements under Paragraph (2) of Subsection A of 20.11.47.14 NMAC shall submit an emissions report if required by the department. A source is not required to submit an emissions report more frequently than annually.~~

~~(2)(3) The department will provide a complete copy of an owner or operator's submitted emissions report when requested in writing by the owner or operator.~~

~~(3)(4) The owner or operator shall submit to the department a complete, correct and current emissions report in the format specified by the department; the report shall state accurately the emissions of all air pollutants included in the permit requested for any specified calendar year.~~

~~(4)(5) Except as provided in Paragraph [(5)(6) of Subsection B of 20.11.47.14 NMAC, if the owner or operator is required to submit an emissions report to the department, the owner or operator shall submit the report by March 15 for the previous calendar year or any other calendar year.~~

~~(5)(6) Sources required by a permit to submit an annual emissions report on a specific date shall submit the report on the specified date.~~

**C. Content of emissions reports.** Emissions report contents for reports required by Subsection B of 20.11.47.14 NMAC shall include:

(1) the air quality stationary source permit number or source registration number;

(2) the name, address, if any, and physical location of the stationary source;

(3) the name and telephone number of the person to contact regarding the emissions report;

(4) a certification signed by the owner, or operator, or a responsible official or designated representative, attesting that the statements and information contained in the emissions report are true and accurate to the best knowledge and belief of the certifying official, and including the full name, title, signature, date of signature, and telephone number of the certifying official; for sources subject to 20.11.42 NMAC, the certification shall be made as required by 20.11.42 NMAC;

(5) for each emission point, in the

format required by the department:

(a) stack and exhaust gas parameters and location information;

(b) type of control equipment and estimated control efficiency;

(c) schedule of operation;

(d) annual process or fuel combustion rates;

(e) fuel heat, sulfur, and ash content;

(f) [estimated] actual emissions estimate in pounds per year of total suspended particulate, PM10, PM2.5, ammonia, sulfur oxides, nitrogen oxides, carbon monoxide, volatile organic compounds, and lead, including fugitive emissions and emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime;

(g) speciated hazardous air pollutants, if requested by the department; and

(h) a description of the methods utilized to make the estimates, including calculations;

(6) for smelters, an annual report of sulfur input stated in tons per year; and

(7) all information required by 40 CFR Part 51, Subpart A, Emissions Inventory Reporting Requirements, as amended.

**D. Additional content for emissions reports from sources in ozone nonattainment areas.** In addition to the contents required by Subsection C of 20.11.47.14 NMAC, emissions reports from sources located in ozone nonattainment areas that emit nitrogen oxides and volatile organic compounds shall also include the following information:

(1) typical daily process rate during the peak ozone season, where the peak ozone season is specified by the department;

(2) [estimated] actual emissions estimate of nitrogen oxides and volatile organic compounds in pounds per day for a typical day during the peak ozone season for:

(a) each emissions point; and

(b) for each process and fuel type contributing to emissions from each point.

**E. Waiver of reporting requirements for insignificant emissions.** The department may waive the requirements of Paragraph (5) of Subsection C of 20.11.47.14 NMAC for emissions that the department determines to be insignificant pursuant to 20.11.42 NMAC, except the following shall not be waived:

(1) for sources in nonattainment areas, reporting of emissions of pollutants for which the area is in nonattainment; and

(2) emissions reporting required by the federal act.

**F. Emission tracking requirements for sulfur dioxide emission inventories.** In addition to complying with the requirements of Subsections A through E of 20.11.47.14 NMAC, an owner may be

subject to 20.11.46 NMAC, *Sulfur Dioxide Emissions Inventory Requirements; Western Backstop Sulfur Dioxide Trading Program.*

[20.11.47.14 NMAC - N, 5/1/08; A, 11/16/09]

**20.11.47.15 GREENHOUSE GAS EMISSIONS INVENTORY REQUIREMENTS:**

**A. Applicability.**

20.11.47.15 NMAC applies to the owner or operator of every stationary source, located within Bernalillo county that emits a greenhouse gas as defined in Subsection J of 20.11.47.7 NMAC and:

(1) has an active permit issued pursuant to 20.11.41 NMAC, *Authority to Construct*, or 20.11.42 NMAC, *Operating Permits*; or

(2) is required to file a source registration pursuant to 20.11.40 NMAC, *Source Registration*.

**B. Reporting requirements.**

(1) **Any stationary source subject to 20.11.47.15 NMAC, if requested by the department, shall:**

(a) submit a greenhouse gas emissions inventory by the deadline and as required by the greenhouse gas emissions reporting procedures established by the department, but not more often than annually; or

(b) report greenhouse gas emissions from the stationary source in accordance with 20.11.48 NMAC; or

(c) provide the department with access to the requested information for the greenhouse gas emissions reporting year registered in either the climate registry or the California climate action registry.

(2) When the department determines the deadlines for submitting greenhouse gas emissions reports and reporting procedures, the department shall provide an opportunity for public comment, and shall consider:

(a) public comments regarding the schedule of the reports and greenhouse gas emissions reporting procedures;

(b) emissions quantification standards and best practices approved or recommended by federal and state agencies, by greenhouse gas emissions registries, and by non-governmental bodies having expertise in greenhouse gas emissions quantification;

(c) whether, considering the amount and chemical composition of the emissions, greenhouse gas emissions from a particular source or source type are expected to be insignificant relative to emissions from other sources or source types; and

(d) whether, considering the amount and chemical composition of the emissions, emissions of a particular greenhouse gas from a source or source type

are expected to be insignificant relative to the total greenhouse gas emissions from that source or source type.

**C. Content of greenhouse gas emissions reports.** If a greenhouse gas emissions report is required by Subparagraph (a) of Paragraph (1) of Subsection B of 20.11.47.15 NMAC, then the report shall contain the same information required by Paragraphs (1) through (4) of Subsection C of 20.11.47.14 NMAC as well as the following information: for each emission point, as required by the department under the greenhouse gas emissions reporting procedures or other methodologies and procedures approved by the department in advance and in writing, the [estimated] actual emissions estimate of greenhouse gases in pounds per year, including fugitive emissions and emissions occurring during maintenance, start-ups, shutdowns, upsets and downtime.

[20.11.47.15 NMAC - N, 5/1/08; A, 11/16/09]

---

**NEW MEXICO  
DEPARTMENT OF GAME  
AND FISH**

19.34.3 NMAC, Use of Department of Game and Fish Lands, filed January 18, 2005 is repealed and replaced with 19.34.3 NMAC, Use of Department of Game and Fish Lands, effective October 30, 2009.

---

**NEW MEXICO  
DEPARTMENT OF GAME  
AND FISH**

**TITLE 19      N A T U R A L  
RESOURCES AND WILDLIFE  
CHAPTER 34    WILDLIFE HABITAT  
AND LANDS  
PART 3        USE            OF  
DEPARTMENT OF GAME AND FISH  
LANDS**

**19.34.3.1      ISSUING AGENCY:**  
New Mexico Department of Game and Fish.  
[19.34.3.1 NMAC - Rp, 19.34.3.1 NMAC,  
10/30/09]

**19.34.3.2      SCOPE:**            General  
public.  
[19.34.3.2 NMAC - Rp, 19.34.3.2 NMAC,  
10/30/09]

**19.34.3.3      S T A T U T O R Y  
AUTHORITY:** Sections 17-1-1, 17-1-14,  
17-1-26 and 17-4-1, NMSA 1978, provide  
the New Mexico state game commission  
with the authority to acquire lands, to  
provide for use of game and fish for use and  
development for public recreation, and to  
establish rules that it may deem necessary to  
carry out the purposes of Chapter 17, NMSA

1978.

[19.34.3.3 NMAC - Rp, 19.34.3.3 NMAC, 10/30/09]

**19.34.3.4 DURATION:** Permanent.

[19.34.3.4 NMAC - Rp, 19.34.3.4 NMAC, 10/30/09]

**19.34.3.5 EFFECTIVE DATE:** October 30, 2009, unless a later date is cited at the end of this section.

[19.34.3.5 NMAC - Rp, 19.34.3.5 NMAC, 10/30/09]

**19.34.3.6 OBJECTIVE:** To establish terms and conditions for use of land owned, controlled or operated by the commission.

[19.34.3.6 NMAC - Rp, 19.34.3.6 NMAC, 10/30/09]

**19.34.3.7 DEFINITIONS:**

**A.** "Activity authorization" shall mean a department document or sign placed on designated land approved by the director that provides dates of use, allowable activities and restrictions or prohibitions applicable to a specific land.

**B.** "Commercial" means any wildlife associated activity conducted within land in which any consideration or anything of value is received, by an operator or operator's agent, except for hunting activities conducted by an outfitter registered with the department.

**C.** "Commission" shall mean the New Mexico state game commission.

**D.** "Director" shall mean the director of the New Mexico department of game and fish.

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

**F.** "Designated land" shall mean dommission owned, operated or controlled properties designated for GAIN activities in accordance with Subsection A of 19.34.3.11 NMAC.

**G.** "Gaining access into nature (GAIN)" shall mean a program to provide broadly based wildlife-associated recreation opportunity, not to include hunting, trapping or fishing.

**H.** "GAIN permit - annual" shall mean a permit purchased from the department or a license vendor authorizing the permit holder to access designated land for purposes of wildlife associated recreation subject to any restrictions and prohibitions in the activity authorization. Such permit shall be valid only during the license year in which it is issued.

**I.** "GAIN permit - temporary 5-day" shall mean a permit purchased from the department or a licensed

vendor authorizing the permit holder to access designated land for purposes of wildlife associated recreation subject to any restrictions and prohibitions in the activity authorization. Such permit shall be valid only during the 5-day period specified on the permit.

**J.** "Land" shall mean property owned, controlled or operated by the commission except for state parks operated by the energy, minerals, and natural resources department, state parks division on commission-owned property. Activities within state parks that the energy, minerals and natural resources department, state parks division operates on commission-owned property shall be subject to state parks division rules.

**K.** "License year" shall mean the period of April 1 through March 31.

**L.** "Operator" shall mean the owner of a business and their employees who operate a commercial activity on land pursuant to a commercial permit issued by the department.

**M.** "Permit" shall mean any annual, 5-day, or commercial GAIN permit. [19.34.3.7 NMAC - Rp, 19.34.3.7 NMAC, 10/30/09]

**19.34.3.8 DATES OF USE:** The dates of use as provided by a permit - annual, shall correspond to a license year.

[19.34.3.8 NMAC - Rp, 19.34.3.8 NMAC, 10/30/09]

**19.34.3.9 USE OF PROPERTIES:** Participation in GAIN activities on designated land is a privilege and the issuance of a permit for GAIN activities, including commercial permits, does not constitute a right of use for other uses of the properties and is subject to revocation upon violation of rules and conditions of the property or terms of the permit.

[19.34.3.9 NMAC - Rp, 19.34.3.9 NMAC, 10/30/09]

**19.34.3.10 PROHIBITION OF DISCRIMINATION:** No one shall be denied use of lands on the basis of race, color, religion, sex, disability, family status or national origin.

[19.34.3.10 NMAC - Rp, 19.34.3.10 NMAC, 10/30/09]

**19.34.3.11 PERMITTING PROCEDURE**

**A.** The director may designate land on which wildlife-associated recreation activities other than, or in addition to, hunting, fishing, and trapping may take place subject to commission rule. Such designation shall include the times and places when and where access for such activities is

available, terms and condition of access to the land, the activities authorized and the form of a waiver and release, if any, to be executed and delivered to the department as a condition to any access and shall be set forth on the activity authorization for such land.

**B.** Upon application on a form approved by the director the department shall issue a permit as requested authorizing the permittee to engage in the activities as designated by the activity authorization for designated land. Permits shall be subject to restrictions and limitations as determined by the department to protect habitat and wildlife interests associated with the property for which a permit is issued.

**C.** Applications for the Jamie Koch community shelter shall be accepted only at the main office in Santa Fe. Reservations are made on a first come first serve basis. The fee shall cover the day use shelter for a 24 hour period up to 4 consecutive days. The permit fee shall be established in the activity authorization.

**D.** The department may charge a fee for the issuance of permits in an amount that shall not exceed the costs to the department for administration associated with each permit, including any application processing costs. Those permit types and fees include the following, and may be less if department accounting indicates such reduced costs, but may not be more without commission approval.

(1) Accompany department wildlife management actions/surveys - \$81.

(2) Permit - annual \$20.

(3) Permit- temporary 5-day \$5.

(4) Department/cooperator-led wildlife viewing event - \$56.

(5) Department transported wildlife viewing - \$74.

(6) Commercial permit - to be determined by the director based on the scope of the proposed activity requested in the application.

(7) Daily per vehicle fee as designated in the activity authorization.

**E.** The director shall specify restrictions for each activity designated in Subsection A of 19.34.3.11 NMAC. Such restrictions shall be posted on each property on which a designated activity is permitted, and such restrictions shall be available on the department web-site ([www.wildlife.state.nm.us](http://www.wildlife.state.nm.us)).

**F.** A permit may be revoked by the department upon its determination that a permittee has persistently, flagrantly, or knowingly violated any terms, conditions, or limitations to which the permit is subject, any violations of terms and conditions set forth in the activity authorization, or a violation of any provision of Chapter 17, NMSA 1978 or of any of the rules enacted there under. A revocation under this

provision shall be subject to the procedural provisions of Section 17-3-34 NMSA 1978. Such revocation shall preclude issuance of a permit to the permittee for a period designated by the commission, upon recommendation by the department. [19.34.3.11 NMAC - Rp, 19.34.3.11 NMAC, 10/30/09]

#### **19.34.3.12 AUTHORITY OF**

**DIRECTOR:** The director shall have the authority to close, in whole or in part, or otherwise restrict the use of land when in the opinion of the director such closure or restriction is reasonably necessary for the protection of such land, wildlife, habitat, the public or otherwise, to respond to circumstances concerning such land. The director shall have the authority to authorize by permit an activity not otherwise specified by an activity authorization on land when in the opinion of the director such activity is not detrimental to the land, wildlife or purpose for which the land is managed.

[19.34.3.12 NMAC - Rp, 19.34.3.12 NMAC, 10/30/09]

#### **19.34.3.13 USE OF LAND:**

**A.** It shall be unlawful to conduct any activity on land unless provided for by commission rule, permit or agreement.

**B.** It shall be unlawful to operate any vehicle off of established roads or on closed roads within land, except as allowed by the director through permit or commission rule, or any county, state or federal law enforcement officer in the discharge of his/her official duties.

**C.** It shall be unlawful for any person 18 years of age or older to enter designated land without having in his or her possession either a current hunting, fishing, trapping or limited use license, a Permit, a valid park permit issued for a state park associated with that land, or special activity permit where required; and a habitat management and access validation (HMAV). A permit and HMAV shall not be required for that portion of a designated land upon which a New Mexico state park is operated.

**D.** It shall be unlawful to deface or remove rocks, minerals, plants, animals, firewood or man made feature from any land unless specifically allowed by commission rule.

**E.** It shall be unlawful for any person to excavate, injure, destroy, or remove any cultural resource or artifact from any land.

**F.** It shall be unlawful to violate the provisions of posted signs on land.

**G.** It shall be unlawful to camp in excess of nine consecutive days, except by licensed hunters and their guests concurrent with their permitted hunt; stay

limits on designated land upon which a New Mexico state park is operated shall conform to New Mexico state park rule.

**H.** It shall be unlawful to have an open fire unless safely contained.

**I.** It shall be unlawful to use or possess any hay or feed for domestic livestock use on land other than pelleted or grain feed, or feed certified as weed free.

**J.** It shall be unlawful to conduct a commercial activity on land without first obtaining a commercial permit as described in 19.34.3.14 NMAC.

**K.** Nothing in this rule shall prevent state employees or contract workers from performing administrative duties on land.

**L.** These restrictions are subject to terms and conditions imposed on state parks pursuant to agreements between the commission and the energy minerals and natural resources department.

**M.** It shall be unlawful for persons other than employees living on land to possess dogs or other pets on any land that are not leashed. Exception: dogs may be unleashed for permitted field trial or hunting purposes during established seasons only and only on land where use of dogs for hunting purposes is allowed by rule; dogs may be unleashed for authorized wildlife management activities.

[19.34.3.13 NMAC - Rp, 19.34.3.13 NMAC, 10/30/09]

#### **19.34.3.14 COMMERCIAL PERMITS:**

**A.** A commercial permit is required for any person or business to conduct a commercial activity as described above on designated land for which a fee is charged, compensation received or anything else of value is received by the person or business.

**B.** A commercial permit is valid from April 1st until March 31st each year unless specified otherwise on the commercial permit. Each commercial permit shall expire on March 31st regardless of the date it is issued.

**C.** Any person applying for a commercial permit may obtain an application at any department office or online. The application shall be completed and returned to the conservation services division in Santa Fe. All properly completed applications for commercial permits received shall be reviewed and processed within 30 days.

**D.** Operators and their employees are exempt from the requirement to purchase a permit when acting under the commercial permit, but shall possess a valid HMAV. A copy of the commercial permit must be in the possession of the operator or employee while on a land.

**E.** No commercial permit

shall be issued until the applicant has provided proof of insurance or bond in the amount of not less than \$1,000,000 naming the department, the commission and state of New Mexico as additional insureds.

**F.** Operators, their employees and their clients are subject to all applicable state and federal regulations.

**G.** Commercial permits are not transferable. A commercial permit cannot be sold or transferred for any reason. The department will not refund any portion of the commercial permit fee for any reason.

**H.** The director may limit the number and type of commercial permits in order to protect resources. The director may prescribe special requirements and conditions for commercial permits when it is in the best interests of the state to do so. Special requirements may include, but are not limited to: limitations on use of designated land, grounds and facilities; designation of a specific area within the designated land in which an operator is allowed to operate; designation of specific days or hours during which an operator is allowed to operate; number of participants, requirements for submission of use and price data; and training requirements.

**I.** No operator shall violate any condition of the commercial permit or restriction of the designated land. Violation of the commercial permit or a restriction may result in the immediate revocation of the commercial permit. Operators shall be subject to the procedural provisions of Section 17-3-34 NMSA 1978 and Subsection C of 19.31.2.10 NMAC, and 19.31.2.11 through 19.31.2.24 NMAC.

**J.** The director may deny any application for a commercial permit when in his sole discretion he finds that approval of such application would be contrary to best interests of management of the designated land.

**K.** A contract or permitted concessionaire or support group of the state parks division of the energy, minerals and natural resources department that has been approved by the commission is not required to obtain a commercial permit to operate activities authorized by the chairperson of the commission or their designee.

**L.** The director shall establish the fee for each individual commercial permit.

[19.34.3.14 NMAC - Rp, 19.34.3.14 NMAC, 10/30/09]

#### **HISTORY OF 19.34.3 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives: DGF 70-1, Regulation No. 510, Establishing Camping Fees on Department Controlled Lands, 1/19/70.

DGF 70-1, Amendment No. 1, Order No.



8-70, Amending State Game Commission's Regulation No. 510 and Repealing State Game Commission's Regulation No. 458, 1/14/71.

DGF 70-5, Regulation No. 515, Establishing Camping Fees on Department Controlled Lands, 4/20/70.

DGF 71-2, Regulation No. 519, Establishing Camping Fees on Department Controlled Lands, 3/9/71.

DGF 72-6.1, Regulation No. 537, Establishing Camping Fees on Department Controlled Lands, 6/6/72.

DGF 72-6.1, Amendment No. 1, Order No. 4-72, Amending State Game Commission Regulation No. 537, 8/16/72.

DGF 74-3, Regulation No. 553, Establishing Camping Fees on Department Controlled Lands, 1/11/74.

DGF 76-3, Regulation No. 574, Establishing Camping Fees on Department Controlled Lands, 3/16/76.

DGF 76-3, Amendment No. 1, Order No. 3-78, Amending Regulation No. 574, 2/15/78.

DGF 79-3, Regulation No. 598, Establishing Fees, Dates and Other Rules for Use of Department Controlled Lands, 6/27/79.

DGF 79-3, Amendment No. 1, Order No. 1-81, Amendment No. 1 to Regulation No. 598, 3/5/81.

Regulation No. 666, Establishing Fees, Dates and Other Rules for Use of Department Controlled Lands, 3/20/89.

Regulation No. 671, Establishing Fees, Dates and Other Rules for Use of Department Controlled Lands, 9/1/89.

Order No. 3-84, Amendment to Regulation No. 598, 3/16/84.

#### History of Repealed Material:

19.34.3 NMAC, Use of Department of Game and Fish Lands, filed 1/18/2005 - Repealed effective 10-30-09

### NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.4 NMAC, Section 9, effective 10-30-2009.

#### 19.30.4.9 G A M E MANAGEMENT SUB-UNITS AND PORTIONS OF UNITS:

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

**B. Sub-unit 2B:** That portion of GMU 2 east and north of the following line: from the junction of the New Mexico/Colorado state line and Pine river, then south along the Pine river to its junction with the San Juan river, then south and west along the San Juan river to its junction with Largo canyon, then south and east along the central wash of Largo canyon to its junction

with Cereza canyon, then south and east along the central wash of Cereza canyon to the Jicarilla Apache Indian reservation boundary.

**C. Sub-unit 5A the Freeman Davis unit:** That portion of GMU 5 beginning at the junction of the northwest boundary of the Santa Fe national forest and junction with the Jicarilla Apache Indian reservation north of Lindrith and following the forest boundary south towards Lindrith, then northeasterly past Llaves: thence southerly to its intersection with NM 96, then west along NM 96 to its junction with NM 595 north of Regina, then west along NM 595 to its intersection with the east boundary of the Jicarilla Apache Indian reservation, then following the reservation boundary north to its intersection with the northwest corner of the Santa Fe national forest boundary.

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

**E. Sub-unit 6A:** [Starting at the junction of interstate 25 and US 550 at Bernalillo and running northwest and west along US 550 past San Ysidro to its intersection with the boundary of the Zia Indian reservation, then south, west, and north along the Zia reservation boundary of the Jemez Indian reservation, then west, north, and east along Jemez Indian reservation boundary to its intersection with US 550 near La Ventana, then north and west along US 550 to its intersection with the south boundary of the Jicarilla Apache Indian reservation, then east along the south boundary of the Jicarilla Apache Indian reservation and north along its east boundary to its intersection with NM 595; then east along NM 595 to its junction with NM 96, then east along NM 96 to its junction with forest road (FR) 103, then south along FR 103 to its junction with FR 117, then south along FR 117 to its junction with FR 527 (Pipeline road), then east along FR 527 to its junction with the west boundary of the Valles Caldera national

preserve (formerly the Baca location #1), then south and east along the boundary of the Valles Caldera national preserve to its junction with FR 280 and NM 4, then south along FR 280 to its junction with forest service trail (FT) 140, then south along FT 140 to Peralta creek, then south and east along Peralta creek to its junction with FR 266, then south and east along FR 266 to its junction with NM 16, then along NM 16 to its junction with I-25, then south and west along I-25 to its junction with US 550 at Bernalillo.]

**(1) Effective through March 31, 2010:** Starting at the junction of interstate 25 and US 550 at Bernalillo and running northwest and west along US 550 past San Ysidro to its intersection with the boundary of the Zia Indian reservation, then south, west, and north along the Zia reservation boundary of the Jemez Indian reservation, then west, north, and east along Jemez Indian reservation boundary to its intersection with US 550 near La Ventana, then north and west along US 550 to its intersection with the south boundary of the Jicarilla Apache Indian reservation, then east along the south boundary of the Jicarilla Apache Indian reservation and north along its east boundary to its intersection with NM 595, then east along NM 595 to its junction with NM 96, then east along NM 96 to its junction with forest road (FR) 103, then south along FR 103 to its junction with FR 117, then south along FR 117 to its junction with FR 527 (Pipeline road), then east along FR 527 to its junction with the west boundary of the Valles Caldera national preserve, then south and east along the boundary of the Valles Caldera national preserve to its junction with FR 280 and NM 4, then south along FR 280 to its junction with forest service trail (FT) 140, then south along FT 140 to Peralta creek, then south and east along Peralta creek to its junction with FR 266, then south and east along FR 266 to its junction with NM 16, then along NM 16 to its junction with I-25, then south and west along I-25 to its junction with US 550 at Bernalillo.

**(2) Effective beginning April 1, 2010:** Starting at the junction of interstate 25 and US 550 at Bernalillo and running northwest and west along US 550 past San Ysidro to its intersection with the boundary of the Zia Indian reservation, then south, west, and north along the Zia reservation boundary of the Jemez Indian reservation, then west, north, and east along Jemez Indian reservation boundary to its intersection with US 550 near La Ventana, then north and west along US 550 to its intersection with the south boundary of the Jicarilla Apache Indian reservation, then east along the south boundary of the Jicarilla Apache Indian reservation and north along its east boundary to its intersection with NM 595, then east along NM 595 to its junction NM

96, then east along NM 96 to its junction with the Santa Fe national forest boundary, then south and west along the Santa Fe forest boundary to its intersection with the Coyote/Cuba ranger district boundary line, then southeast along the Coyote/Cuba ranger district boundary line to its junction with the boundary of the Valles Caldera national preserve, then west, south and east along the boundary of the Valles Caldera national preserve to its junction with FR 280 and NM 4, then south along FR 280 to its junction with forest service trail (FT) 140, then south along FT 140 to Peralta creek, then south and east along Peralta creek to its junction with FR 266, then south and east along FR 266 to its junction with NM 16, then along NM 16 to its junction with I-25, then south and west along I-25 to its junction with US 550 at Bernalillo.

**F. Sub-unit 6B:** All lands within the fenced or posted boundary of the Valles Caldera national preserve [(formerly the Baca location #1)] as fenced or posted by the United States forest service.

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

**(1) Effective through March 31, 2010:** Starting at the junction of NM 96 and forest road (FR) 103 east of Gallina and running south along FR 103 to its junction with FR 117, then south along FR 117 to its junction with FR 527 (Pipeline road), then east along FR 527 to its junction with the west boundary of the Valles Caldera national preserve, then north, east, south and west along the boundary of the Valles Caldera national preserve to its junction with NM 4 and FR 280, then south along FR 280 to its junction with forest service trail (FT) 1-40, then south along FT 140 to Peralta creek, then south and east along Peralta creek to its junction with FR 266, then south and east along FR 266 to its junction with NM 16, then south and east along NM 16 to its

junction with interstate I-25, then north along I-25 to its junction with US 84 at Santa Fe, then north along US 84 to its junction with NM 96 west of Abiquiu, then west along NM 96 to its junction with FR 103.

**(2) Effective beginning April 1, 2010:** Starting at the junction of NM 96 and the Santa Fe national forest boundary west of Gallina then south and west along the Santa Fe forest boundary to its intersection with the Coyote/Cuba ranger district boundary line, then southeast along the Coyote/Cuba ranger district boundary line to its junction with the boundary of the Valles Caldera national preserve, then west, south and east along the boundary of the Valles Caldera national preserve to its junction with NM 4 and FR 280, then south along FR 280 to its junction with forest service trail (FT) 1-40, then south along FT 140 to Peralta creek, then south and east along Peralta creek to its junction with FR 266, then south and east along FR 266 to its junction with NM 16, then south and east along NM 16 to its junction with interstate I-25, then north along I-25 to its junction with US 84 at Santa Fe, then north along US 84 to its junction with NM 96 west of Abiquiu, then west along NM 96 to its junction with the Santa Fe national forest boundary west of Gallina.

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

**I. Sub-unit 16B:** That portion of GMU 16 beginning at the junction of USFS road 152 and the Grant-Sierra

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

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

**K. Sub-unit 16D:** That

portion of GMU 16 beginning at Apache creek and continuing south and west along NM 12 to its junction with NM 435 at Reserve, then south along NM 435 to its junction with Negrito creek, then east along Negrito creek to its junction with the north fork of Negrito creek, then east along the north fork of Negrito creek to its junction with SFS road 94 at Collins park, then south along USFS road 94 to its junction with NM 28, then east along NM 28 to junction with USFS 30, then southeast along USFS road 30 to its intersection with USFS road 551, then north and west along USFS road 551 to its junction with USFS road 28, then north along USFS road 28 to its intersection with NM 12, then west on NM 12 to Apache creek.

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

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

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

**O. [RESERVED]**

**P. [RESERVED]**

**Q. Burro mountain hunt area,** as used herein, shall mean the big burro mountains portion of the Gila national forest in GMU 23 and shall include all private land lying within the national forest boundary.

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

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

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

**S. GMU 53 Cerro portion:** Shall mean that portion of GMU 53 beginning at the intersection of NM 522 and NM 378, then north on NM 522 approximately 3.1 miles to its intersection with CR B-041 (Buena Vista road), then west on CR B-041 1 mile to the dirt road on the boundary of townships T30N and

T29N, then west on that dirt road 2 miles to its intersection with CR B-048 (Sunshine-Jarosa road), then south on CR B-048 approximately 1.3 miles to its intersection with NM 378, then southeasterly on NM 378 approximately 3.5 miles to its intersection with NM 522.

**T. [RESERVED]**

**U. Sub-unit 55A:**

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

**V. Sub-unit 55B:**

Beginning at the junction of I-25 and US 64 south of Raton, then south and west along US 64 to its junction with NM 21 west of Cimarron, then south and east along NM 21 to its junction with I-25 south of Springer, then north along I-25 to its junction with US 64 south of Raton.

**W. [RESERVED]**

**X. [RESERVED]**

**Y. Sub-unit 2C:** That portion of GMU 2 south and west of the following line: from the junction of US 550 and the San Juan river at Bloomfield, then east along the San Juan river to its junction with Largo canyon, then south and east along the central wash of Largo canyon to its junction with Cereza canyon, then south and east along the central wash of Cereza canyon to the Jicarilla Apache Indian reservation boundary.

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

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

**BB. Portions of GMU 10:** That portion of GMU 10 beginning at the junction of interstate 40 and NM 400 east of Gallup and continuing south along NM 400 to its junction with the Cibola national forest boundary; then north along the Cibola national forest boundary to the Fort Wingate military depot boundary, then south and west along the Fort Wingate military depot boundary to the Zuni Indian reservation boundary, then south and east along the Zuni Indian Reservation boundary to its junction with the Rio Nutria, then east along the Rio

Nutria to Six Mile draw, then east and south along Six Mile draw to its junction with USFS road 157, then north along USFS road 157 to its junction with USFS road 459, then east on USFS road 459 to its junction with USFS road 50, then east and south on USFS road 50 to Cottonwood creek, then north and east along Cottonwood creek to its junction with the Cibola national forest boundary, then north and west along the Cibola national forest boundary to its junction with interstate 40 at Coolidge, then northwest along interstate 40 to its junction with NM 400.

[4-1-95; 12-31-96; 4-30-99; 19.30.4.9 NMAC - Rn & A, 19 NMAC 30.4.9, 2-14-01; A, 3-31-03; A, 4-1-05; A, 10-17-05; A, 4-1-07; A, 3-16-09; A, 10-30-09]

## NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an emergency order to 19.31.4 NMAC, Section 26, effective October 07, 2009

**19.31.4.26 EMERGENCY ORDER FOR FISH SALVAGE:** Under authority of 19.31.10.14 NMAC promulgated by the state game commission on April 1, 2007, I, TOD STEVENSON, director of the department of game and fish, hereby declare that an emergency exists within the Blue Hole Park Pond in Guadalupe county. The extent to which, fish life may be destroyed by a rapid decline in water levels, potentially causing death to all sport fish. Therefore, the method and manner of taking game fish will be relaxed for all licensed anglers and unlicensed juvenile anglers under the age of 12 years, with daily bag and possession limits mandated by regulation also being relaxed. This relaxation will go into effect at 12:00 a.m., October 07, 2009, and will remain in effect through 11:59 p.m., October 24, 2009.

[19.31.4.26 NMAC - N/E, 10-7-09]

## NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.12 NMAC, Sections 9 and 12, effective 10-30-2009.

**19.31.12.9 BARBARY SHEEP, ORYX, AND PERSIAN IBEX LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:**

**A. One license per Barbary sheep, oryx, or Persian ibex per year:** It shall be unlawful for anyone to hold

more than one permit or license for any Barbary sheep, oryx, or Persian ibex during a current license year unless otherwise allowed by rule. Multiple Persian ibex carcass tags are allowed to persons holding an official, valid license for the off-mountain Persian ibex hunt (IBX-1-528).

**B. Validity of license or permit:** All oryx, Barbary sheep and Persian ibex entry permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit, license, or carcass tag. Over-the counter licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by rule or regulation, except in conjunction with this subsection, if it is on state land where there is a valid agreement for unitizing state leased and privately owned or leased lands.

**C. Ibex once-in-a-lifetime:** It shall be unlawful for anyone to apply for an once-in-a-lifetime ibex license if he/she ever held a once in a lifetime license to hunt ibex. Persian ibex hunts for youth, muzzle-loading rifles, bows, year-round off-mountain hunts, and hunts for female or immature (F-IM) ibex, are not restricted to those persons that never held an once-in-a-lifetime Persian ibex hunting license.

**D. Oryx once-in-a lifetime:** It shall be unlawful, beginning April 1, 1993, for anyone to apply for a premier, or, once-in-a-lifetime, oryx license if he/she ever held an “once-in-a-lifetime” license to hunt oryx. Once-in-a-lifetime oryx hunts include all premier or trophy on-range, mobility impaired, and Iraq/Afghanistan veteran hunts. Hunts not once-in-a-lifetime include population management, WSMR security badged, broken-horned, youth, and incentive hunts. Anyone may apply for population management, youth, and incentive hunts regardless if they held a license for an once-in-a-lifetime hunt, if they have met the other applicable requirements or restrictions. Those who have held a once-in-a-lifetime oryx hunting license, may apply for broken-horned hunts.

**E. Mobility impaired (MI) oryx hunts:** It shall be unlawful for anyone to apply for a mobility impaired (MI) oryx license, except as allowed by 19.31.3.11 NMAC.

**F. Youth only (YO) oryx and Persian ibex hunts:** It shall be unlawful for anyone to apply for youth only (YO) oryx or Persian ibex license except as allowed by 19.31.3.11 NMAC.

**G. Military only Barbary sheep and oryx hunts:** It shall be unlawful for anyone to apply for a military only Barbary sheep or oryx license, except as allowed by 19.31.3.11 NMAC.

**H. Iraq/Afghanistan veterans hunts:** It shall be unlawful for anyone to apply for an Iraq/Afghanistan veteran oryx license, except as allowed by 19.31.3.11 NMAC.

[19.31.12.9 NMAC - Rp, 19.31.12.9 NMAC, 4-1-09; A, 10-30-09]

**19.31.12.12 ORYX HUNTING SEASONS:**

**A. Oryx premier hunts** for any legal weapon and shall be as indicated below, listing the open areas, eligibility requirements or restrictions, hunt dates, hunt code, number of licenses and bag limit. Two persons may apply on one application. These hunts are restricted; only those who have never held an oryx once-in-lifetime license may apply. Only New Mexico residents returning from military service in Iraq or Afghanistan are eligible to apply for oryx hunts designated as “Iraq/Afghanistan vets” or “I/A vets”. Proof of military service in Iraq or Afghanistan must accompany application or, if applying online, forwarded to the department by the application deadline date, pursuant to 19.31.3.11 NMAC.

open areas	2009-2010 hunt season		2010-2011 hunt season		hunt code	lic.	bag limit
	hunt start	hunt end	hunt start	hunt end			
Rhodes canyon	08/22/2009	08/23/2009	08/21/2010	08/22/2010	ORX-1-100	90	ES
Rhodes canyon I/A vets	08/22/2009	08/23/2009	08/21/2010	08/22/2010	ORX-1-101	5	ES
Rhodes canyon	10/10/2009	10/11/2009	10/09/2010	10/10/2010	ORX-1-102	90	ES
Rhodes canyon I/A vets	10/10/2009	10/11/2009	10/09/2010	10/10/2010	ORX-1-103	5	ES
Rhodes canyon	12/12/2009	12/13/2009	12/11/2010	12/12/2010	ORX-1-104	90	ES
Rhodes canyon I/A vets	12/12/2009	12/13/2009	12/11/2010	12/12/2010	ORX-1-105	5	ES
Rhodes canyon	01/30/2010	01/31/2010	01/29/2011	01/29/2011	ORX-1-106	90	ES
Rhodes canyon I/A vets	01/30/2010	01/31/2010	01/29/2011	01/29/2011	ORX-1-107	5	ES
Rhodes canyon	02/27/2010	02/28/2010	02/26/2011	02/27/2011	ORX-1-108	90	ES
Rhodes canyon I/A vets	02/27/2010	02/28/2010	02/26/2011	02/27/2011	ORX-1-109	5	ES
[small missile range] red canyon	09/26/2009	09/27/2009	09/25/2010	09/26/2010	ORX-1-110	[40] 25	ES
[small missile range] red canyon I/A vets	09/26/2009	09/27/2009	09/25/2010	09/26/2010	ORX-1-111	5	ES
[small missile range] red canyon	01/02/2010	01/03/2010	01/01/2011	01/02/2011	ORX-1-112	[40] 25	ES
[small missile range] red canyon I/A vets	01/02/2010	01/03/2010	01/01/2011	01/02/2011	ORX-1-113	5	ES
stallion range	08/15/2009	08/16/2009	08/14/2010	08/15/2010	ORX-1-114	90	ES
stallion range I/A vets	08/15/2009	08/16/2009	08/14/2010	08/15/2010	ORX-1-115	5	ES
stallion range	11/14/2009	11/15/2009	11/13/2010	11/14/2010	ORX-1-116	90	ES
stallion range I/A vets	11/14/2009	11/15/2009	11/13/2010	11/14/2010	ORX-1-117	5	ES
stallion range	01/16/2010	01/17/2010	01/15/2011	01/16/2011	ORX-1-118	90	ES
stallion range I/A vets	01/16/2010	01/17/2010	01/15/2011	01/16/2011	ORX-1-119	5	ES

stallion range	02/13/2010	02/14/2010	02/12/2011	02/13/2011	ORX-1-120	90	ES
stallion range I/A vets	02/13/2010	02/14/2010	02/12/2011	02/13/2011	ORX-1-121	5	ES
stallion range	03/20/2010	03/21/2010	03/19/2011	03/20/2011	ORX-1-122	90	ES
stallion range I/A vets	03/20/2010	03/21/2010	03/19/2011	03/20/2011	ORX-1-123	5	ES
mobility impaired	TBA	TBA	TBA	TBA	ORX-1-124	15	ES

**B. Oryx restricted on-range hunts**, shall be as indicated below or as specific dates and hunt areas are determined by the department. The following hunts have restrictions that must be met prior to application. These hunts are not once-in-a-lifetime oryx hunts. Oryx WSMR security-badged hunts are available only to personnel with official valid security badges, or their guests, in accordance with White Sands missile range provisions and pursuant to 19.31.3.11 NMAC. Youth hunters must provide hunter education certificate number on application.

open areas	2009-2010 hunt start and end dates		2010-2011 hunt start and end dates		hunt code	lic.	bag limit
WSMR security badged: TBA	05/01/2009	05/31/2009	05/01/2010	05/31/2010	ORX-1-130	40	ES
WSMR security badged: TBA	08/01/2009	08/31/2009	08/01/2010	08/31/2010	ORX-1-131	40	ES
WSMR security badged: TBA	09/01/2009	09/30/2009	09/01/2010	09/30/2010	ORX-1-132	40	ES
WSMR security badged: TBA	10/01/2009	10/31/2009	10/01/2010	10/31/2010	ORX-1-133	40	ES
WSMR security badged: TBA	11/01/2009	11/30/2009	11/01/2010	11/30/2010	ORX-1-134	40	ES
WSMR security badged: TBA	01/01/2010	01/31/2010	01/01/2011	01/31/2011	ORX-1-135	40	ES
WSMR security badged: TBA	02/01/2010	02/28/2010	02/01/2011	02/28/2011	ORX-1-136	40	ES
WSMR security badged: TBA	03/01/2010	03/31/2010	03/01/2011	03/31/2011	ORX-1-137	40	ES
stallion range, YO	09/12/2009	09/13/2009	09/11/2010	09/12/2010	ORX-1-138	20	ES
Rhodes canyon	08/22/2009	08/23/2009	08/21/2010	08/22/2010	ORX-1-139	15	BHO
Rhodes canyon	10/10/2009	10/11/2009	10/09/2010	10/10/2010	ORX-1-140	15	BHO
Rhodes canyon	12/12/2009	12/13/2009	12/11/2010	12/12/2010	ORX-1-141	15	BHO
Rhodes canyon	01/30/2010	01/31/2010	01/29/2011	01/30/2011	ORX-1-142	15	BHO
Rhodes canyon	02/27/2010	02/28/2010	02/26/2011	02/27/2011	ORX-1-143	15	BHO
[small missile range] red canyon	09/26/2009	09/27/2009	09/25/2010	09/26/2010	ORX-1-144	5	BHO
[small missile range] red canyon	01/02/2010	01/03/2010	01/01/2011	01/02/2011	ORX-1-145	5	BHO
stallion range	08/15/2009	08/16/2009	08/14/2010	08/15/2010	ORX-1-146	15	BHO
stallion range	11/14/2009	11/15/2009	11/13/2010	11/14/2010	ORX-1-147	15	BHO
stallion range	01/16/2010	01/17/2010	01/15/2011	01/16/2011	ORX-1-148	15	BHO
stallion range	02/13/2010	02/14/2010	02/12/2011	02/13/2011	ORX-1-149	15	BHO
stallion range	03/20/2010	03/21/2010	03/19/2011	03/20/2011	ORX-1-150	15	BHO

**C. Oryx hunts off of White Sands missile range** shall be as indicated below, listing the open areas, eligibility requirements or restrictions, hunt dates, hunt code, number of licenses and bag limit.

open areas	2009-2010 hunt start and end dates		2010-2011 hunt start and end dates		hunt code	lic.	bag limit
statewide, off-range	04/01/2009	04/30/2009	04/01/2010	04/30/2010	ORX-1-200	50	ES
statewide, off-range; YO	04/01/2009	04/30/2009	04/01/2010	04/30/2010	ORX-1-201	15	ES
statewide, off-range	05/01/2009	05/31/2009	05/01/2010	05/31/2010	ORX-1-202	50	ES
statewide, off-range; YO	05/01/2009	05/31/2009	05/01/2010	05/31/2010	ORX-1-203	15	ES
statewide, off-range	06/01/2009	06/30/2009	06/01/2010	06/30/2010	ORX-1-204	50	ES
statewide, off-range; YO	06/01/2009	06/30/2009	06/01/2010	06/30/2010	ORX-1-205	15	ES
statewide, off-range	07/01/2009	07/31/2009	07/01/2010	07/31/2010	ORX-1-206	50	ES
statewide, off-range; YO	07/01/2009	07/31/2009	07/01/2010	07/31/2010	ORX-1-207	15	ES
statewide, off-range	08/01/2009	08/31/2009	08/01/2010	08/31/2010	ORX-1-208	50	ES
statewide, off-range; YO	08/01/2009	08/31/2009	08/01/2010	08/31/2010	ORX-1-209	15	ES
statewide, off-range	09/01/2009	09/30/2009	09/01/2010	09/30/2010	ORX-1-210	50	ES

statewide, off-range; YO	09/01/2009	09/30/2009	09/01/2010	09/30/2010	ORX-1-211	15	ES
statewide, off-range	10/01/2009	10/31/2009	10/01/2010	10/31/2010	ORX-1-212	50	ES
statewide, off-range; YO	10/01/2009	10/31/2009	10/01/2010	10/31/2010	ORX-1-213	15	ES
statewide, off-range	11/01/2009	11/30/2009	11/01/2010	11/30/2010	ORX-1-214	50	ES
statewide, off-range; YO	11/01/2009	11/30/2009	11/01/2010	11/30/2010	ORX-1-215	15	ES
statewide, off-range	12/01/2009	12/31/2009	12/01/2010	12/31/2010	ORX-1-216	50	ES
statewide, off-range; YO	12/01/2009	12/31/2009	12/01/2010	12/31/2010	ORX-1-217	15	ES
statewide, off-range	01/01/2010	01/31/2010	01/01/2011	01/31/2011	ORX-1-218	50	ES
statewide, off-range; YO	01/01/2010	01/31/2010	01/01/2011	01/31/2011	ORX-1-219	15	ES
statewide, off-range	02/01/2010	02/28/2010	02/01/2011	02/28/2011	ORX-1-220	50	ES
statewide, off-range; YO	02/01/2010	02/28/2010	02/01/2011	02/28/2011	ORX-1-221	15	ES
statewide, off-range	03/01/2010	03/31/2010	03/01/2011	03/31/2011	ORX-1-222	50	ES
statewide, off-range; YO	03/01/2010	03/31/2010	03/01/2011	03/31/2011	ORX-1-223	15	ES
McGregor range	01/09/2010	01/10/2010	01/08/2011	01/09/2011	ORX-1-224	25	ES
McGregor range, military only	01/09/2010	01/10/2010	01/08/2011	01/09/2011	ORX-1-225	25	ES
McGregor range	02/06/2010	02/07/2010	02/05/2011	02/06/2011	ORX-1-226	25	ES
McGregor range, military only	02/06/2010	02/07/2010	02/05/2011	02/06/2011	ORX-1-227	25	ES

**D. Private land-only oryx hunts:** Private land-only oryx licenses shall be valid only on deeded private land and restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the public land hunt codes listed 19.31.12.12 NMAC above. The number of private land-only oryx licenses shall be unlimited and available only through department offices or department's web site.

**E. Oryx population management hunts:**

(1) The respective area chief may authorize population management hunts for 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 oryx 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) Application may be made either on-line or through the special hunt application form provided by the department. On-line applications must be submitted by the deadline date set by the department. Application forms postmarked by the deadline date will be accepted up to five working days after the deadline date.

(5) Applications for 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) No more than one person may apply under each application.

(8) Population management hunts for oryx may be anywhere in the state with dates, number of licenses, bag limit, and specific hunt areas to be determined by the department. The hunt codes to apply for oryx population management hunts shall be as indicated in the table below.

open areas	2009-2010 hunt start and end dates		2010-2011 hunt start and end dates		hunt code	licenses	bag limit
standard management hunt, TBA	TBA	TBA	TBA	TBA	ORX-5-510	250	ES
Fort Bliss (west of US highway 54) management hunt, TBA	TBA	TBA	TBA	TBA	ORX-5-511	30	ES

(9) Military only hunters must be full time active military and proof of military status must accompany application or, if applying online, forwarded to the department by the application deadline date.

(10) The oryx population management hunt ORX-5-511 is restricted to Fort Bliss military personnel only. Proof of assignment to Fort Bliss must accompany application or, if applying online, forwarded to the department by the application deadline.

(11) In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunter's names to the department for licensing consideration. No more than ½ of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

**F. Oryx incentive authorizations:** The director may annually allow up to two (2) oryx authorizations to be issued by drawing to elk and deer hunters reporting their prior year's harvest information as well as trappers reporting their trapping activities by the published deadline using the department's established website. These incentives may also be available for deer and elk hunters submitting their legally harvested animal for CWD testing. 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. Oryx incentive hunts shall be any one (1) premier oryx season (excluding population management hunts) of the hunter's choice. Bag limit shall be either sex with the legal sporting arms and hunt area of the selected hunt.

[19.31.12.12 NMAC - Rp, 19.31.12.12 NMAC, 4-1-09; A, 10-30-09]

**NEW MEXICO DEPARTMENT OF GAME AND FISH**

This is an amendment to 19.31.14 NMAC, Section 15, effective 10-30-2009.

**19.31.14.15 ELK HUNTS in COER GMUs:** This section lists elk management information and subsequent hunting opportunities for GMUs in elk regions where a core occupied elk range has been established. The listed information includes regional elk population information, management goals, harvest objectives, total number of hunting opportunities, GMUs or areas open for hunting, season dates, hunt codes, bag limits, legal weapons, number of licenses available in the public draw and the number and type of authorization certificates available for private lands within the COER of each GMU. Hunt codes for elk hunts allowing the “any legal weapon” type shall be designated ELK-1, hunt codes for elk hunts allowing the “bow only” weapon type shall be designated as ELK-2, hunt codes for elk hunts allowing the “muzzle loading rifles or bow” weapon type shall be designated as ELK-3. Youth hunters must provide hunter education certification number on application. Military only hunters must be full time active military and proof of military status must accompany application. Proof of this service is required. Mobility impaired hunt applicants shall meet eligibility requirements, as designated by the director, prior to applying for mobility impaired hunts.

**A. Elk management goals:**

**(1) Quality hunt management (QHM):**

(a) Elk harvest in regional populations, herd units or GMUs within a region results in the trend of annual bull mortality rates to be below 35%.

(b) Seasons should be designed to ensure timing and length of hunts is desirable.

(c) At least 2/3 of all hunters are “satisfied” with the experience.

**(2) Optimal opportunity management (OOM):**

(a) Elk harvest in regional populations, herd units or GMUs within a region results in the trend of annual bull mortality rates to be below 45%, and harvest near optimal sustainable yield.

(b) Season structure should be designed to ensure timing and length of hunts provides significant amount of opportunity.

(c) At least 1/3 of all hunters are “satisfied” with the experience.

**B. Northwest region: GMUs 2, 5A, 9 and 10.**

(1) Quality hunt management within COER area in GMU 2.

(2) Optimal opportunity management within COER areas in GMUs 5A, 9 and 10.

(3) Foundational resource information for the northwest region is indicated below.

northwest region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
San Juan (GMU 2)	500-1100	37:100:39	37-80	45-99
Lindrieth (GMU 5A)	950-1150	34:100:36	75-91	81-99
Mt. Taylor (GMU 9)	4734-6336	36:100:31	340-441	356-476
Zuni (GMU 10)	565 – 860	27:100:38	49-74	53-80

GMU	mgmt goal	total licenses by bag limit				maximum projected harvest	
		MB	A	ES bow	total lic.	bulls	cows
2	QHM	235	294	282	811	107	122
5A	OOM	267	238	71	576	145	136
9	OOM	356	1096	4492	1944	312	353
10	OOM	206	471	368	1045	112	144
total		1064	2099	1213	4376	677	754

(4) Public land elk hunts listing the eligibility requirements or restrictions, GMU or area, hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009-2010 hunt seasons		2010-2011 hunt seasons		hunt code	licenses	bag limit
	hunt start	hunt end	hunt start	hunt end			
2	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-100	120	ES
2	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-101	120	ES
2	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-102	125	MB
2	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-103	75	MB
2	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-104	100	A
2 YO	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-105	50	A
2 web sale	TBD	TBD	TBD	TBD	ELK-1-106	100	A
5A public land only	09/01/2009	09/22/2009	09/01/2010	09/22/2010	ELK-2-107	11	ES
5A public land only	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-1-108	10	MB
5A public land only	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-1-109	10	A
5A public land only	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-110	11	MB

5A public land only	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-111	10	A
5A public land only	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-112	11	MB
5A public land only	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-113	10	A
5A public land only	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-114	11	MB
5A public land only	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-115	8	A
5A web sale	TBD	TBD	TBD	TBD	ELK-1-116	0	A
9: Marquez WMA	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-117	5	ES
9: Marquez WMA	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-118	5	ES
9: Marquez WMA	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-119	5	MB
9: Marquez WMA	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-120	5	MB
9: Marquez WMA	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-121	5	MB
9: Marquez WMA	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-3-122	5	A
9: Marquez WMA	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-3-123	5	A
9: Marquez WMA	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-3-124	5	A
9: (including Water canyon WMA)	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-125	158	ES
9: (including Water canyon WMA)	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-126	157	ES
9: (including Water canyon WMA) <b>MI</b>	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-127	40	ES
9: (including Water canyon WMA)	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-128	70	MB
9: (including Water canyon WMA)	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-129	70	MB
9: (including Water canyon WMA)	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-3-130	40	MB
9: (including Water canyon WMA) crossbows allowed	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-131	200	A
9: (including Water canyon WMA)	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-132	200	A
9 web sale	TBD	TBD	TBD	TBD	ELK-1-133	308	A
10	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-134	125	ES
10	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-135	125	ES
10	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-136	70	MB
10	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-137	70	MB
10 <b>YO</b>	11/07/2009	11/11/2009	11/06/2010	11/10/2010	ELK-1-138	120	A
10	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-139	100	A
10 web sale	TBD	TBD	TBD	TBD	ELK-1-140	100	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt season				2010 - 2011 hunt season			
	MB	A	ES bow only	total	MB	A	ES bow only	total
2	35	44	42	121	35	44	42	121
5A	224	200	60	484	224	200	60	484
9	121	373	167	661	121	373	167	661
10	66	151	118	335	66	151	118	335
total	446	768	387	1601	446	768	387	1601

(6) Private land elk hunts for ranches designated as "ranch only" shall be limited to the following eligibility requirements or restrictions, 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	2009-2010 hunt dates	2010-2011 hunt dates
bows only	5A	09/01/2009 - 09/22/2009	09/01/2010 - 09/22/2010
bows only	2, 9, 10	09/01/2009 - 09/15/2009	09/01/2010 - 09/15/2010
bows only	2, 9, 10	09/16/2009 - 09/22/2009	09/16/2010 - 09/22/2010
muzzle loading rifles and bows	2, 10	any 5 consecutive days, 10/03/2009 - 12/31/2009	any 5 consecutive days, 10/02/2010 - 12/31/2010
muzzle loading rifles and bows, <b>MI</b>	9	10/03/2009 - 10/07/2009	10/02/2010 - 10/06/2010
muzzle loading rifles and bows	9	any 5 consecutive days, 10/10/2009 - 12/31/2009	any 5 consecutive days, 10/09/2010 - 12/31/2010
any legal sporting arms, <b>antlerless ONLY</b>	9	any 5 consecutive days, 10/31/2009 - 12/31/2009	any 5 consecutive days, 10/30/2010 - 12/31/2010
any legal sporting arms	2, 10	any 5 consecutive days, 10/10/2009 - 12/31/2009	any 5 consecutive days, 10/09/2010 - 12/31/2010
any legal sporting arms	5A	any 5 consecutive days, 10/03/2009 - 12/31/2009	any 5 consecutive days, 10/02/2010 - 12/31/2010

**C. North central region:** COER areas of GMU's 4, 5B, 50, 51 and 52.

(1) Optimal opportunity management within COER areas in GMUs 4, 5B, 50, 51 and 52.

(2) Foundational resource information for the north central region shall be as indicated below.

north central region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Chama-San Antonio (GMUs 4, 5B, 50, 51, and 52 )	18060-22584	47:100:32	1260-1537	1402-1658

GMU	mgmt goal	total licenses by bag limit				maximum projected harvest	
		MB	A	ES bow	total lic.	bulls	cows
4	OOM	1175	533	476	2184	900	361
5B	OOM	362	318	159	839	78	54
50	OOM	328	159	152	639	111	58
51	OOM	963	876	424	2263	323	298
52	OOM	680	671	500	1851	339	300
Total		3508	2557	1711	7776	1751	1071

(3) Public land elk hunts listing the eligibility requirements or restrictions, GMU or area, hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009-2010		2010-2011		hunt code	licenses	bag limit
	hunt start	hunt end	hunt start	hunt end			
4:Sargent WMA	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-141	10	ES
4:Sargent WMA	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-142	11	ES
4:Sargent WMA	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-1-143	10	MB
4:Sargent WMA	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-144	10	MB
4:Sargent WMA	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-145	10	MB
4:Sargent WMA	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-146	10	MB
4:Sargent WMA	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-147	10	A
4:Sargent WMA, <b>YO</b>	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-148	10	A
4:Humphries WMA only	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-149	10	ES
4:Humphries WMA only	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-150	10	ES
4:Humphries/Rio Chama WMAs	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-1-151	15	MB
4:Humphries/Rio Chama WMAs	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-152	15	MB
4:Humphries/Rio Chama WMAs	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-153	10	A

4:Humphries/Rio Chama WMAs, YO	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-154	15	A
5B	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-155	75	ES
5B	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-156	75	ES
5B	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-157	165	MB
5B	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-158	100	A
5B	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-159	165	MB
5B	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-160	100	A
5B	12/19/2009	12/23/2009	12/18/2010	12/22/2010	ELK-1-161	12	MB
5B web sale	TBD	TBD	TBD	TBD	ELK-1-162	100	A
50	09/01/2009	09/22/2009	09/01/2010	09/22/2010	ELK-2-163	117	ES
50	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-164	127	MB
50	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-165	13	A
50	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-166	125	MB
50	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-167	10	A
50 web sale	TBD	TBD	TBD	TBD	ELK-1-168	100	A
51	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-169	176	ES
51	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-170	176	ES
51	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-171	218	MB
51	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-172	218	MB
51	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-173	219	MB
51	11/07/2009	11/11/2009	11/06/2010	11/10/2010	ELK-1-174	238	A
51	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-175	239	A
51	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-3-176	145	ES
51 web sale	TBD	TBD	TBD	TBD	ELK-1-177	250	A
52	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-178	230	ES
52	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-179	230	ES
52 MI	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-180	50	MB
52	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-181	120	MB
52	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-182	50	A
52	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-183	227	MB
52	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-184	227	MB
52 YO	11/07/2009	11/11/2009	11/06/2010	11/10/2010	ELK-1-185	50	A
52 MI	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-186	50	A
52	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-187	60	A
52	11/21/2009	11/25/2009	11/20/2010	11/24/2010	ELK-1-188	151	A
52 web sale	TBD	TBD	TBD	TBD	ELK-1-189	256	A

(4) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt season				2010 - 2011 hunt season			
	bull	antlerless	ES bow only	total	bull	antlerless	ES bow only	total
4	1105	488	435	2028	1105	488	435	2028
5B	20	18	9	47	20	18	9	47
50	76	36	35	147	76	36	35	147
51	163	149	72	384	163	149	72	384
52	56	54	40	150	56	54	40	150
total	1420	745	591	2756	1420	745	591	2756

(5) Private land elk hunts for ranches designated as "ranch only" shall be limited to the following eligibility requirements or restrictions, 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 areas	2009-2010 hunt dates	2010-2011 hunt dates
bows only	5B, 51, 52	09/01/2009 - 09/15/2009	09/01/2010 - 09/15/2010
bows only	5B, 51, 52	09/16/2009 - 09/22/2009	09/16/2010 - 09/22/2010
bows only	4, 50	09/01/2009 - 09/22/2009	09/01/2010 - 09/22/2010
any legal sporting arms, MI only	52	10/03/2009 - 10/07/2009	10/02/2010 - 10/06/2010
muzzle loading rifles and bows	52	any 5 consecutive days, 10/03/2009 - 12/31/2009	any 5 consecutive days, 10/02/2010 - 12/31/2010
any legal sporting arms	4	any 5 consecutive days, 10/01/2009 - 12/31/2009	any 5 consecutive days, 10/01/2010 - 12/31/2010
any legal sporting arms	5B, 50, 51, 52	any 5 consecutive days, 10/10/2009 - 12/31/2009	any 5 consecutive days, 10/09/2010 - 12/31/2010

**D. Jemez region:** COER areas of GMU's 6A, 6B, 6C and 7.

- (1) Quality hunt management goals for GMU 6A and 6B.
- (2) Optimal opportunity management within COER areas in GMU 6C and 7.
- (3) Foundational resource information for the Jemez region shall be as indicated below.

Jemez region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Jemez (GMUs 6A, 6B, 6C and 7)	5824-8412	45:100:27	276-389	366-529

GMU	mgmt goal	total licenses by bag limit				maximum projected harvest	
		MB	A	ES bow	total lic.	bulls	cows
6A	QHM	[36+] 329	[+20] 109	[300] 273	[78+] 711	148	40
6B	QHM	42	248	35	325	55	105
6C	OOM	[488] 522	[522] 559	[34+] 365	[+35+] 1446	129	143
7	OOM	68	185	31	284	19	21
total		[959] 961	[+075] 1101	[707] 704	[274+] 2766	351	309

(4) Public land elk hunts listing the eligibility requirements or restrictions, GMU or area, hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009-2010 hunt season		2010-2011 hunt season		hunt code	licenses	bag limit
	hunt start	hunt end	hunt start	hunt end			
6A	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-190	[+50] 130	ES
6A	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-191	[+05] 99	ES
6A	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-192	[+10] 100	MB
6A	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-193	[+00] 89	MB
6A	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-194	[+00] 88	MB
6A	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-195	[+02] 92	A
6A web sale	TBD	TBD	TBD	TBD	ELK-1-196	0	A
6B:VCNP	09/02/2009	09/08/2009	09/01/2010	09/07/2010	ELK-2-197	20	ES
6B:VCNP	09/12/2009	09/16/2009	09/11/2010	09/15/2010	ELK-2-198	15	ES
6B:VCNP mzl only	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-199	12	MB
6B:VCNP mzl only	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-200	10	A
6B:VCNP	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-201	15	MB
6B:VCNP	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-202	8	A
6B:VCNP	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-203	15	MB
6B:VCNP	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-204	8	A
6B:VCNP MI	10/24/2009	10/26/2009	10/23/2010	10/25/2010	ELK-1-205	15	A
6B:VCNP YO-mentor	10/31/2009	11/02/2009	10/30/2010	11/01/2010	ELK-1-206	28	A
6B:VCNP YO-mentor	11/07/2009	11/09/2009	11/06/2010	11/08/2010	ELK-1-207	28	A
6B:VCNP 2-person	11/14/2009	11/16/2009	11/13/2010	11/15/2010	ELK-1-208	26	A
6B:VCNP	11/21/2009	11/23/2009	11/20/2010	11/22/2010	ELK-1-209	25	A
6B:VCNP	11/28/2009	11/30/2009	11/27/2010	11/29/2010	ELK-1-210	25	A

6B:VCNP web sale	TBD	TBD	TBD	TBD	ELK-1-211	75	A
6C	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-212	[145] 159	ES
6C	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-213	[145] 158	ES
6C crossbow allowed	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-214	[172] 190	MB
6C	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-215	[144] 160	MB
6C	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-216	[94] 104	MB
6C	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-217	[146] 156	A
6C	11/28/2009	12/02/2009	11/27/2010	12/01/2010	ELK-1-218	[147] 157	A
6C	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-219	[100] 108	A
6C web sale	TBD	TBD	TBD	TBD	ELK-1-220	[61] 65	A
7	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-221	13	ES
7	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-222	12	ES
7	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-223	25	MB
7	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-224	30	MB
7	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-225	50	A
7 web sale	TBD	TBD	TBD	TBD	ELK-1-226	100	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt season				2010 - 2011 hunt season			
	bull	antlerless	ES bow only	total	bull	antlerless	ES bow only	total
6A	51	17	42	110	[51] 52	17	[42] 44	[110] 113
6C	78	68	51	197	[78] 68	[68] 73	[51] 48	[197] 189
7	13	35	6	54	13	35	6	54
total	142	120	99	361	[142] 133	[120] 125	[99] 98	[361] 356

(6) Private land elk hunts for ranches designated as "ranch only" shall be limited to the following eligibility requirements or restrictions, 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	2009 hunt dates	2010 hunt dates
bows only	6A, 6C, 7	09/01/2009 - 09/15/2009	09/01/2010 - 09/15/2010
bows only	6A, 6C, 7	09/16/2009 - 09/22/2009	09/16/2010 - 09/22/2010
muzzle loading rifles and bows	6A, 6C, 7	any 5 consecutive days, 10/10/2009 - 12/31/2009	any 5 consecutive days, 10/09/2010 - 12/31/2010
any legal weapon	6A, 6C, 7	any 5 consecutive days, 10/17/2007 - 12/31/2009	any 5 consecutive days, [10/18/2010] 10/16/2010 - 12/31/2010

**E. Southwest region:**

- (1) Quality hunt management for COER areas of GMU's 13, 15, 16A, 16B/22, 16C, 16D, 16E and 17.
- (2) Optimal opportunity management for COER areas of GMUs 21A, 21B and 23.
- (3) Foundational resource information for the southwest region shall be as indicated below.

southwest region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Datil (GMU 13)	2211-3465	40:100:60	218-342	236-369
greater Gila (GMUs 15, 16A-E)	15749-18610	46:100:52	1551-1833	1675-1833
lesser Gila (GMUs 21A, 21B, 22, 23, 24)	1000-1800	33:100:30	69-124	75-134
San Mateo (GMU 17)	1022-1863	52:100:60	108-198	117-214

GMU	mgmt goal	total licenses by bag limit				maximum projected harvest	
		MB	A	ES bow	total lic.	bulls	cows
13	QHM	580	185	556	1321	347	100
15	QHM	922	641	769	2332	487	231
16A	QHM	232	155	412	799	257	108
16B/22	QHM	323	0	387	710	173	11

16C	QHM	201	118	294	613	132	76
16D	QHM	146	114	171	431	131	74
16E	QHM	242	217	195	654	199	162
totals (15, 16A-E)		2066	1245	2228	5539	1379	662
17	QHM	258	233	233	724	132	80
21A	OOM	102	0	102	204	44	4
21B	OOM	94	113	94	301	71	69
23	OOM	129	0	206	335	61	6
24	OOM	11	0	0	11	6	1
totals (21A, 21B, 23, 24)		336	113	402	851	182	80
southwest region total		3240	1776	3419	8435	2040	922

(4) Public land elk hunts listing the eligibility requirements or restrictions, hunt dates, hunt code, number of licenses, bag limits, and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt seasons		2010 - 2011 hunt season		hunt code	licenses	bag limit
	hunt start	hunt end	hunt start	hunt end			
13	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-227	125	ES
13	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-228	100	ES
13	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-229	75	ES
13 YO	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-230	25	ES
13	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-231	75	MB
13	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-3-232	113	MB
13	11/21/2009	11/25/2009	11/20/2010	11/24/2010	ELK-3-233	100	MB
13	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-3-234	100	A
13 web sale	TBD	TBD	TBD	TBD	ELK-3-235	0	A
15	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-236	250	ES
15	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-237	200	ES
15	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-238	150	ES
15 YO	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-239	25	ES
15	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-240	200	MB
15	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-3-241	244	MB
15	11/21/2009	11/25/2009	11/20/2010	11/24/2010	ELK-3-242	250	MB
15	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-3-243	250	A
15	12/12/2009	12/16/2009	12/11/2010	12/15/2010	ELK-3-244	250	A
15 web sale	TBD	TBD	TBD	TBD	ELK-3-245	0	A
16A	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-246	150	ES
16A	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-247	150	ES
16A	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-248	100	ES
16A MI	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-249	25	MB
16A	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-250	75	MB
16A	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-251	125	MB
16A	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-252	150	A
16A web sale	TBD	TBD	TBD	TBD	ELK-1-253	0	A
16B/22	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-254	128	ES
16B/22	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-255	128	ES
16B/22	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-256	127	ES
16B/22	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-257	160	MB
16B/22	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-258	160	MB
16B/22 web sale	TBD	TBD	TBD	TBD	ELK-1-259	0	A
16C	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-260	100	ES
16C	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-261	75	ES
16C	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-262	75	ES
16C YO	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-263	25	ES

16C	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-264	50	MB
16C	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-265	96	MB
16C	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-266	100	A
16C web sale	TBD	TBD	TBD	TBD	ELK-1-267	0	A
16D	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-268	60	ES
16D	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-269	50	ES
16D	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-270	40	ES
16D <b>MI</b>	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-271	25	MB
16D	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-272	53	MB
16D	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-273	50	MB
16D	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-274	100	A
16D web sale	TBD	TBD	TBD	TBD	ELK-1-275	0	A
16E	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-276	50	ES
16E	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-277	50	ES
16E	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-278	50	ES
16E <b>YO</b>	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-279	25	ES
16E	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-280	71	MB
16E	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-281	71	MB
16E	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-282	75	A
16E	12/12/2009	12/16/2009	12/11/2010	12/15/2010	ELK-1-283	75	A
16E web sale	TBD	TBD	TBD	TBD	ELK-1-284	0	A
17	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-285	75	ES
17	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-286	75	ES
17	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-287	50	ES
17 <b>YO</b>	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-288	25	ES
17	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-289	97	MB
17	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-3-290	100	MB
17	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-3-291	100	A
17	12/12/2009	12/16/2009	12/11/2010	12/15/2010	ELK-3-292	100	A
17 web sale	TBD	TBD	TBD	TBD	ELK-3-293	0	A
21A	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-294	50	ES
21A	09/16/2009	09/24/2009	09/16/2010	09/24/2010	ELK-2-295	50	ES
21A	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-296	50	MB
21A	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-297	50	MB
21A web sale	TBD	TBD	TBD	TBD	ELK-1-298	0	A
21B	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-299	25	ES
21B	09/16/2009	09/24/2009	09/16/2010	09/24/2010	ELK-2-300	25	ES
21B	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-301	25	MB
21B	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-302	25	MB
21B	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-303	15	A
21B	11/21/2009	11/25/2009	11/20/2010	11/24/2010	ELK-1-304	15	A
21B	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-305	15	A
21B	12/12/2009	12/16/2009	12/11/2010	12/15/2010	ELK-1-306	15	A
23	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-307	75	ES
23	09/11/2009	09/18/2009	09/11/2010	09/18/2010	ELK-2-308	75	ES
23	09/19/2009	09/24/2009	09/19/2010	09/24/2010	ELK-2-309	50	ES
23 <b>YO</b>	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-310	25	ES
23	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-3-311	50	MB
23	10/24/2009	10/28/2009	10/23/2010	10/27/2010	ELK-1-312	50	MB
23 web sale	TBD	TBD	TBD	TBD	ELK-1-313	0	A
24 <b>YO</b>	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-314	10	ES

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt season				2010 - 2011 hunt season			
	bull	antlerless	ES bow only	total	bull	antlerless	ES bow only	total
13	267	85	256	608	267	85	256	608
15	203	141	169	513	203	141	169	513
16A	7	5	12	24	7	5	12	24
16B	3	0	4	7	3	0	4	7
16C	30	18	44	92	30	18	44	92
16D	18	14	21	53	18	14	21	53
16E	75	67	67	209	75	67	67	209
17	36	33	33	102	36	33	33	102
21A	2	0	2	4	2	0	2	4
21B	44	53	44	141	44	53	44	141
23	4	0	6	10	4	0	6	10
24	1	0	0	1	1	0	0	1
Total	690	416	658	1764	690	416	658	1764

(6) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, 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	2009 hunt dates	2010 hunt dates
bows only	21A, 21B	09/01/2009 - 09/15/2009	09/01/2010 - 09/15/2010
bows only	21A, 21B	09/16/2009 - 09/24/2009	09/16/2010 - 09/24/2010
bows only	13, 15, 16A, 16B/22, 16C,16D, 16E, 17, 23	09/01/2009 - 09/10/2009	09/01/2010 - 09/10/2010
bows only	13, 15, 16A, 16B/22, 16C,16D, 16E, 17, 23	09/11/2009 - 09/18/2009	09/11/2010 - 09/18/2010
bows only	13, 15, 16A, 16B/22, 16C,16D, 16E, 17, 23	09/19/2009 - 09/24/2009	09/19/2010 - 09/24/2010
muzzle loading rifles and bows	13, 15, 16E, 17, 23	any 5 consecutive days, 10/17/2009 - 12/31/2009	any 5 consecutive days, 10/16/2010 - 12/31/2010
muzzle loading rifles and bows, YO	13, 15, 17	10/10/2009 - 10/14/2009	10/09/2010 - 10/13/2010
muzzle loading rifles only with approval of SW area chief and state game commission chairman. <b>antlerless elk only</b>	13	any 5 consecutive days 01/01/2010 -01/31/2010	any 5 consecutive days 01/01/2011 -01/31/2011
any legal sporting arms	16A, 16B/22, 16C, 16D, 21A, 21B	any 5 consecutive days 10/17/2009 - 12/31/2009	any 5 consecutive days, 10/16/2010 - 12/31/2010
any legal sporting arms	16E, 23	any 5 consecutive days 10/24/2009 - 12/31/2009	any 5 consecutive days, 10/23/2010 - 12/31/2010
any legal sporting arms, <b>YO</b> (except GMU 24 not restricted to YO)	16C, 16E, 23, 24	10/10/2009 - 10/14/2009	10/09/2010 - 10/13/2010
any legal sporting arms, <b>MI</b>	16A, 16D	10/10/2009 - 10/14/2009	10/09/2010 - 10/13/2010

**F. South central region:** GMUs 34 and 36.

- (1) Quality hunt management for GMU 36.
- (2) Optimal opportunity management goals for GMU 34.
- (3) Foundational resource information for the south central region shall be as indicated below.

northeast region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Sacramento (GMU 34)	3013-4322	41:100:41	255-265	275-394
Ruidoso (GMU 36)	2503-3557	46:100:42	210-298	226-322

GMU	mgmt goal	total licenses by bag limit				maximum projected harvest	
		MB	A	ES bow	total lic.	bull	cow
34	OOM	690	690	460	1840	454	424
36	QHM	425	208	228	861	309	104
total		1115	898	688	2701	763	528

(4) Public land elk hunts listing the hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt seasons		2010 - 2011 hunt seasons		hunt code	licenses	bag limit
	hunt start	hunt end	hunt start	hunt end			
34	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-315	200	ES
34	09/13/2009	09/22/2009	09/13/2010	09/22/2010	ELK-2-316	200	ES
34 YO	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-1-317	150	ES
34 MI	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-1-318	50	ES
34	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-319	250	MB
34	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-320	150	MB
34	11/28/2009	12/02/2009	11/27/2010	12/01/2010	ELK-1-321	250	A
34	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-322	250	A
34 web sale	TBD	TBD	TBD	TBD	ELK-1-323	100	A
36	09/01/2009	09/10/2009	09/01/2010	09/10/2010	ELK-2-324	82	ES
36	09/13/2009	09/22/2009	09/13/2010	09/22/2010	ELK-2-325	82	ES
36	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-326	135	MB
36	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-327	85	MB
36	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-328	75	A
36	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-329	86	MB
36	10/31/2009	11/04/2009	10/30/2010	11/03/2010	ELK-1-330	75	A
36 web sale	TBD	TBD	TBD	TBD	ELK-1-331	0	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt season				2010 - 2011 hunt season			
	bull	antlerless	ES bow only	total	bull	antlerless	ES bow only	total
34	90	90	60	240	90	90	60	240
36	119	58	64	241	119	58	64	241
Total	209	148	124	481	209	148	124	481

(6) Private land elk hunts for ranches designated as "ranch only" shall be limited to the following eligibility requirements or restrictions, 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	2009 - 2010 hunt dates	2010 - 2011 hunt dates
bows only	34, 36	09/01/2009 - 09/10/2009	09/01/2010 - 09/10/2010
bows only	34, 36	09/13/2009 - 09/22/2009	09/13/2010 - 09/22/2010
any legal sporting arms, YO & MI only	34	10/03/2009 - 10/07/2009	10/02/2010 - 10/06/2010
muzzle loading rifles and bows	34, 36	any 5 consecutive days, 10/10/2009 - 12/31/2009	any 5 consecutive days, 10/09/2010 - 12/31/2010
any legal sporting arms	34, 36	any 5 consecutive days, 10/17/2009 - 12/31/2009	any 5 consecutive days, 10/16/2010 - 12/31/2010
rifles only with approval of SE area chief and state game commission chairman. antlerless elk only	36	any 5 consecutive days 01/01/2010 - 01/31/2010	any 5 consecutive days 01/01/2011 - 01/31/2011

**G. Northeast region:**

- (1) Quality hunt management for COER areas of GMU 45.
- (2) Optimal opportunity management goals for GMU's COERs of 48, 49 and 53.
- (3) Foundational resource information for the northeast region shall be as indicated below.



northeast region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Pecos (GMU 45)	1665-2604	27:100:27	109-160	118-185
Whites peak (GMU 48)	630 – 1400	32:100:44	55-123	64-142
Penasco (GMU 49)	350 – 1030	28:100:24	25-73	27-79
Ute-Midnight-San Cristobal (GMU 53)	800 – 1400	27:100:47	76-132	88-153

GMU	mgmt goal	total licenses by bag limit				maximum projected harvest	
		MB	A	ES bow	total lic.	bulls	cows
45	QHM	457	82	163	702	154	20
48	OOM	273	232	202	707	91	76
49	OOM	161	211	125	497	61	73
53	OOM	362	322	174	858	131	187
total		1253	847	664	2764	473	356

(4) Public land elk hunts listing the hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2009 - 2010 hunt season		2010 - 2011 hunt season		hunt code	licenses	bag limit
	hunt start	hunt end	hunt start	hunt end			
45	09/01/2009	09/22/2009	09/01/2010	09/22/2010	ELK-2-332	150	ES
45	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-333	140	MB
45	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-334	140	MB
45	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-335	140	MB
45	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-3-336	50	A
45 web sale	TBD	TBD	TBD	TBD	ELK-1-337	25	A
48	09/01/2009	09/15/2009	09/01/2010	09/15/2010	ELK-2-338	90	ES
48	09/16/2009	09/22/2009	09/16/2010	09/22/2010	ELK-2-339	85	ES
48 crossbows allowed	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-340	30	MB
48	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-3-341	65	MB
48	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-342	35	MB
48	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-343	40	A
48	12/05/2009	12/09/2009	12/04/2010	12/08/2010	ELK-1-344	35	MB
48	12/05/2009	12/09/2009	12/04/2010	<del>12/08/2008</del> 12/08/2010	ELK-1-345	60	A
48 web sale	TBD	TBD	TBD	TBD	ELK-1-346	46	A
49	09/01/2009	09/22/2009	09/01/2010	09/22/2010	ELK-2-347	120	ES
49	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-348	80	MB
49	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-349	75	MB
49	11/07/2009	11/11/2009	11/06/2010	11/10/2010	ELK-1-350	80	A
49	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-351	75	A
49 web sale	TBD	TBD	TBD	TBD	ELK-1-352	48	A
53	09/01/2009	09/22/2009	09/01/2010	09/22/2010	ELK-2-353	120	ES
53 (exc. Cerro portion)	10/03/2009	10/07/2009	10/02/2010	10/06/2010	ELK-3-354	50	ES
53 (exc. Cerro portion)	10/10/2009	10/14/2009	10/09/2010	10/13/2010	ELK-1-355	75	MB
53 (exc. Cerro portion)	10/17/2009	10/21/2009	10/16/2010	10/20/2010	ELK-1-356	125	MB
53 (exc. Cerro portion)	11/07/2009	11/11/2009	11/06/2010	11/10/2010	ELK-1-357	60	A
53 (exc. Cerro portion)	11/14/2009	11/18/2009	11/13/2010	11/17/2010	ELK-1-358	70	A

53 (exc. Cerro portion) web sale	TBD	TBD	TBD	TBD	ELK-1-359	100	A
----------------------------------	-----	-----	-----	-----	-----------	-----	---

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs and areas	2009 - 2010 hunt season				2010 - 2011 hunt seasons			
	MB	A	ES bow only	total	MB	A	ES bow only	total
45	37	7	13	57	37	7	13	57
48	108	86	117	311	108	86	117	311
49	6	8	5	19	6	8	5	19
53	112	92	54	258	112	92	54	258
total	263	193	189	645	263	193	189	645

(6) Private land elk hunts for ranches designated as "ranch only" shall be limited to the following eligibility requirements or restrictions, 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 "mobility impaired" or "youth only" hunt periods.

legal sporting arms	open GMUs or area	2009 - 2010 hunt dates	2010 - 2011 hunt dates
bows only	45, 49, 53	09/01/2009 - 09/22/2009	09/01/2010 - 09/22/2010
bows only	48	09/01/2009 - 09/15/2009	09/01/2010 - 09/15/2010
bows only	48	09/16/2009 - 09/22/2009	09/16/2010 - 09/22/2010
muzzle loading rifles and bows	45, 48, 53	any 5 consecutive days, 10/03/2009 - 12/31/2009	any 5 consecutive days, 10/02/2010 - 12/31/2010
any legal sporting arms	45, 49, 53	any 5 consecutive days, 10/10/2009 - 12/31/2009	any 5 consecutive days, 10/09/2010 - 12/31/2010
any legal sporting arms	48	any 5 consecutive days 10/17/2009 - 12/31/2009	any 5 consecutive days, 10/16/2010 - 12/31/2010
rifles only with approval of NE area chief and state game commission chairman. <b>antlerless elk only</b>	48	any 5 consecutive days 01/01/2010 -01/31/2010	any 5 consecutive days 01/01/2011 -01/31/2011

[19.31.14.15 NMAC - Rp, 19.31.14.15 NMAC, 4-1-09; A, 10-30-09]

**NEW MEXICO DEPARTMENT OF GAME AND FISH**

This is an amendment to 19.31.15 NMAC, Section 13, effective 10-30-2009.

**19.31.15.13 PRONGHORN ANTELOPE HUNTING SEASONS:**

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 for the 2009-2010 hunt season 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
3, 5, 10, 12, 13, 15, 16, 17, 18, 20.	10/03/2009	10/05/2009	ANT-1-100	100	MB
3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 43, <b>MI.</b>	08/01/2009	08/02/2009	ANT-1-101	45	MB
12, <b>MI.</b>	07/31/2009	08/02/2009	ANT-1-102	2	MB
13, <b>MI.</b>	07/31/2009	08/02/2009	ANT-1-103	5	MB
16, <b>MI.</b>	07/31/2009	08/02/2009	ANT-1-104	2	MB
18, <b>MI.</b>	07/31/2009	08/02/2009	ANT-1-105	5	MB
6, 23, 24, 25, 26, 27, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/12/2009	09/13/2009	ANT-1-106	300	MB
selected ranches in SE area, <b>YO.</b>	09/19/2009	09/20/2009	ANT-1-107	75	F-IM
19 Stallion range of WSMR.	09/12/2009	09/13/2009	ANT-1-108	5	MB
19 Stallion range of WSMR, <b>YO.</b>	09/12/2009	09/13/2009	ANT-1-109	5	MB
19 Stallion range of WSMR, <b>MI.</b>	09/12/2009	09/13/2009	ANT-1-110	5	MB
20, <b>MI.</b>	07/31/2009	08/02/2009	ANT-1-111	2	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58, <b>MI.</b>	08/01/2009	08/02/2009	ANT-1-112	25	MB
selected ranches in NE area, <b>YO.</b>	08/22/2009	08/24/2009	ANT-1-113	20	MB

41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	08/22/2009	08/24/2009	ANT-1-114	500	MB
selected ranches in NE area, <b>YO</b> .	08/29/2009	08/30/2009	ANT-1-115	50	F-IM

**B.** Pronghorn antelope hunts for bows, listing the open AMUs, hunt dates, hunt code, number of licenses and bag limit for the 2009-2010 hunt season shall be as indicated below:

open AMUs or areas	hunt start	hunt end	hunt code	licenses	bag limit
3, 5, 10.	08/15/2009	08/23/2009	ANT-2-100	10	MB
12.	08/15/2009	08/23/2009	ANT-2-101	15	MB
13.	08/15/2009	08/23/2009	ANT-2-102	30	MB
16.	08/15/2009	08/23/2009	ANT-2-103	25	MB
17.	08/15/2009	08/23/2009	ANT-2-104	2	MB
20.	08/15/2009	08/23/2009	ANT-2-105	30	MB
6, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	08/15/2009	08/19/2009	ANT-2-106	200	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	08/08/2009	08/12/2009	ANT-2-107	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 for the 2009-2010 hunt season shall be as indicated below. Military only hunters must be full time active military and proof of military status must accompany application or, if applying online, forwarded to the department by the application deadline date. Mentor/youth only hunts are restricted to applications that combine one adult hunter with up to three youth hunters pursuant to 19.31.3.11 NMAC. Youth hunters must provide hunter education certificate number on application.

open AMUs or areas	hunt start	hunt end	hunt code	licenses	bag limit
11.	10/03/2009	10/05/2009	ANT-3-100	25	MB
29.	09/05/2009	09/06/2009	ANT-3-101	40	MB
29 McGregor range, <b>YO</b> .	09/05/2009	09/06/2009	ANT-3-102	10	MB
29 McGregor range, military only.	09/05/2009	09/06/2009	ANT-3-103	10	MB
29 selected ranches, mentor/youth only.	09/05/2009	09/06/2009	ANT-3-104	10	MB
52 portion west of the Rio Grande, <b>YO</b> .	08/15/2009	08/18/2009	ANT-3-105	25	MB
52 portion west of the Rio Grande.	08/15/2009	08/18/2009	ANT-3-106	150	MB

**D. A-PLUS pronghorn antelope hunts:** The director may allot A-PLUS pronghorn antelope authorization certificates for use on those ranches whose owners, manager, or lessees sign and return a hunting agreement with the department. Private land hunt dates for the 2009-2010 hunt season 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
3, 5, 10, 12, 13, 15, 16, 17, 18, 20.	10/03/2009	10/05/2009	ANT-1-700	TBD	MB
selected ranches in AMUs 3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/12/2009	09/13/2009	ANT-1-701	TBD	F-IM
selected ranches in AMUs 3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/12/2009	09/13/2009	ANT-1-702	TBD	MB
selected ranches in AMUs 3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/19/2009	09/20/2009	ANT-1-703	TBD	F-IM
selected ranches in SE Area, <b>YO</b> .	09/19/2009	09/20/2009	ANT-1-704	TBD	ES
selected ranches in AMUs 41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	08/22/2009	08/24/2009	ANT-1-705	TBD	MB
selected ranches in AMUs 41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	09/12/2009	09/14/2009	ANT-1-706	TBD	MB
selected ranches in NE area.	08/29/2009	08/30/2009	ANT-1-707	TBD	F-IM

**E.** Pronghorn antelope hunts for any legal sporting arms, listing the open areas or AMUs, hunt dates, hunt code, number of licenses and bag limit for the 2010-2011 hunt season 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
3, 5, 10, 12, 13, 15, 16, 17, 18, 20.	10/02/2010	10/04/2010	ANT-1-100	100	MB
3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 43, <b>MI</b> .	07/31/2010	08/01/2010	ANT-1-101	45	MB

12, <u>MI.</u>	07/30/2010	08/01/2010	ANT-1-102	2	MB
13, <u>MI.</u>	07/30/2010	08/01/2010	ANT-1-103	5	MB
16, <u>MI.</u>	07/30/2010	08/01/2010	ANT-1-104	2	MB
18, <u>MI.</u>	07/30/2010	08/01/2010	ANT-1-105	5	MB
6, 23, 24, 25, 26, 27, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/11/2010	09/12/2010	ANT-1-106	300	MB
selected ranches in SE area, <u>YO.</u>	09/18/2010	09/19/2010	ANT-1-107	75	F-IM
20, <u>MI.</u>	07/30/2010	08/01/2010	ANT-1-111	2	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58, <u>MI.</u>	07/31/2010	08/01/2010	ANT-1-112	25	MB
selected ranches in NE area, <u>YO.</u>	08/21/2010	08/23/2010	ANT-1-113	20	MB
41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	08/21/2010	08/23/2010	ANT-1-114	500	MB
selected ranches in NE area, <u>YO.</u>	08/28/2010	08/29/2010	ANT-1-115	50	F-IM

**F.** Pronghorn antelope hunts for bows, listing the open AMUs, hunt dates, hunt code, number of licenses and bag limit for the 2010-2011 hunt season shall be as indicated below:

<u>open AMUs or areas</u>	<u>hunt start</u>	<u>hunt end</u>	<u>hunt code</u>	<u>licenses</u>	<u>bag limit</u>
3, 5, 10.	08/14/2010	08/22/2010	ANT-2-100	10	MB
12.	08/14/2010	08/22/2010	ANT-2-101	15	MB
13.	08/14/2010	08/22/2010	ANT-2-102	30	MB
16.	08/14/2010	08/22/2010	ANT-2-103	25	MB
17.	08/14/2010	08/22/2010	ANT-2-104	2	MB
20.	08/14/2010	08/22/2010	ANT-2-105	30	MB
6, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	08/14/2010	08/18/2010	ANT-2-106	200	MB
42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	08/07/2010	08/11/2010	ANT-2-107	100	MB

**G.** 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 for the 2010-2011 hunt season shall be as indicated below. Military only hunters must be full time active military and proof of military status must accompany application or, if applying online, forwarded to the department by the application deadline date. Mentor/youth only hunts are restricted to applications that combine one adult hunter with up to three youth hunters pursuant to 19.31.3.11 NMAC. Youth hunters must provide hunter education certificate number on application.

<u>open AMUs or areas</u>	<u>hunt start</u>	<u>hunt end</u>	<u>hunt code</u>	<u>licenses</u>	<u>bag limit</u>
11.	10/02/2010	10/04/2010	ANT-3-100	25	MB
29.	09/04/2010	09/05/2010	ANT-3-101	40	MB
29 McGregor range, <u>YO.</u>	09/04/2010	09/05/2010	ANT-3-102	10	MB
29 McGregor range, military only.	09/04/2010	09/05/2010	ANT-3-103	10	MB
29 selected ranches, mentor/youth only.	09/04/2010	09/05/2010	ANT-3-104	10	MB
52 portion west of the Rio Grande, <u>YO.</u>	08/14/2010	08/17/2010	ANT-3-105	25	MB
52 portion west of the Rio Grande.	08/14/2010	08/17/2010	ANT-3-106	150	MB

**H. A-PLUS pronghorn antelope hunts:** The director may allot A-PLUS pronghorn antelope authorization certificates for use on those ranches whose owners, manager, or lessees sign and return a hunting agreement with the department. Private land hunt dates for the 2010-2011 hunt season shall be as indicated below, listing areas or AMUs open, the hunt date, hunt code, number of licenses and bag limit:

<u>open AMUs or areas</u>	<u>hunt start</u>	<u>hunt end</u>	<u>hunt code</u>	<u>licenses</u>	<u>bag limit</u>
3, 5, 10, 12, 13, 15, 16, 17, 18, 20.	10/02/2010	10/04/2010	ANT-1-700	TBD	MB
selected ranches in AMUs 3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/11/2010	09/12/2010	ANT-1-701	TBD	F-IM
selected ranches in AMUs 3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/11/2010	09/12/2010	ANT-1-702	TBD	MB
selected ranches in AMUs 3, 5, 6, 10, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 40, 43.	09/18/2010	09/19/2010	ANT-1-703	TBD	F-IM
selected ranches in SE Area, <u>YO.</u>	09/18/2010	09/19/2010	ANT-1-704	TBD	ES
selected ranches in AMUs 41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	08/21/2010	08/23/2010	ANT-1-705	TBD	MB
selected ranches in AMUs 41, 42, 44, 45, 46, 47, 48, 49, 53, 54, 55, 56, 57, 58.	09/11/2010	09/13/2010	ANT-1-706	TBD	MB

selected ranches in NE area.	08/28/2010	08/29/2010	ANT-1-707	TBD	F-IM
[19.31.15.13 NMAC – Rp, 19.31.15.13 NMAC, 4-1-09; A, 10-30-09]					

**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

This as an amendment making corrections to section 8 of 8.102.500 NMAC of the previous emergency amendment, effective October 30, 2009.

**8.102.500.8 G E N E R A L REQUIREMENTS:**

**A. Need determination process:** Eligibility for NMW and EWP cash assistance based on need requires a finding that:

- (1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;
- (2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;
- (3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;
- (4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

**B. Gross income limits:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.  
 (2) The gross income limit for the size of the benefit group is as follows:

- (a) one person \$ 768
- (b) two persons \$1,033
- (c) three persons [ ~~\$1,298~~ ] \$1,297
- (d) four persons [ ~~\$1,563~~ ] \$1,562
- (e) five persons \$1,828
- (f) six persons \$2,092
- (g) seven persons [ ~~\$2,358~~ ] \$2,357
- (h) eight persons [ ~~\$2,623~~ ] \$2,622
- (i) add [ \$233 ] \$265 for each additional person.

**C. Eligibility for support services only:** Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than 100% of the federal poverty guidelines applicable to the size of the benefit group

may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

- (1) one person \$ 903
- (2) two persons \$1,215
- (3) three persons \$1,526
- (4) four persons \$1,838
- (5) five persons \$2,150
- (6) six persons \$2,461
- (7) seven persons \$2,773
- (8) eight persons \$3,085
- (9) add \$312 for each additional

person.

**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$91 per month for each participant in the benefit group.

(4) The standard of need for the NMW, and EWP cash assistance benefit group is:

- (a) one person \$ 266
- (b) two persons \$ 357
- (c) three persons \$ 447
- (d) four persons \$ 539
- (e) five persons \$ 630
- (f) six persons \$ 721
- (g) seven persons \$ 812
- (h) eight persons \$ 922
- (i) add \$91 for each additional

person.

**E. Special needs:**

**(1) Special clothing allowance:**

In order to assist in preparing a child for school, a special clothing allowance is made each year in the amount of \$100 for the months of August and January subject to the availability of state or federal funds.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, or EWP cash assistance benefit group for the months of August and January subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP or EWP cash assistance.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by

no later than the end of the month following the month in which the child is born.

**(3) Special circumstance:**

Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal guardian in benefit group:**

Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group. [8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009]

**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

This as an amendment making corrections to section 8 of 8.106.500 NMAC of the previous emergency amendment, effective October 30, 2009.

**8.106.500.8 GA - GENERAL REQUIREMENTS:**

**A. Lack of availability** of state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

**B. Need determination process:** Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1500 liquid or \$2000 non-liquid resource limit;

(2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent (85%) of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

**C. GA payment**

**determination:** The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

**D. Gross income test:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent (85%) of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

- (a) one person \$ 768
- (b) two persons \$1,033
- (c) three persons [~~\$1,298~~]  
\$1,297
- (d) four persons [~~\$1,563~~]  
\$1,562
- (e) five persons \$1,828
- (f) six persons \$2,092
- (g) seven persons [~~\$2,358~~]  
\$2,357

(h) eight persons [~~\$2,623~~]  
\$2,622

(i) add [~~\$233~~] \$265 for each additional person.

**E. Standard of need:**

(1) The standard of need is based on the availability of state funds and the number of individuals included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) The financial standard includes approximately \$84 per month for each individual in the benefit group.

(4) The standard of need, based on the availability of state funds for the GA cash assistance benefit group is:

- (a) one person \$245
- (b) two persons \$329
- (c) three persons \$412
- (d) four persons \$496
- (e) five persons \$580
- (f) six persons \$664
- (g) seven persons \$748
- (h) eight persons \$849

(i) add \$84 for each additional person.

**F. Net income test:**

The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group.

**G. Special clothing allowance for school-age dependent children:**

In order to assist in preparing a child for school, a special clothing allowance is made each year in the amount of \$100 for the months of August and January subject to the availability of state or federal funds.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age

nineteen (19) by the end of August.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group for the months of August and January subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

**H. Supplemental issuance:** A one time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the human services department and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

[8.106.500.8 NMAC - N, 07/01/2004; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 01/01/2008; A, 06/16/2008; A/E, 10/01/2008; A, 07/01/2009; A/E, 10/01/2009; A, 10/30/2009]

**NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

This as an amendment making corrections to section 8 of 8.139.500 NMAC of the previous emergency amendment, effective October 30, 2009.

**8.139.500.8 BASIS OF ISSUANCE**

**A. Income standards:**

Determination of need in the food stamp program is based on federal guidelines. Participation in the program is limited to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are based on the federal income poverty levels established in the Community Services Block Grant Act [42 USC 9902(2)].

**B. Gross income standards:**

The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands is 130 percent (130%) of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent (130%) of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by 130%, divided by 12, and the results rounded upward if necessary.

**C. Net income standards:**

The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if

necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

**D. Yearly adjustment:**

Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 contiguous states and the District of Columbia.

[Continued on following page]

**E. Issuance table:** The issuance table lists applicable income guidelines used to determine food stamp (FS) eligibility based on household size. Some amounts are increased to meet the needs of certain categorically eligible households. Some of the net income amounts listed are higher than the income limits for some household sizes. Households not categorically eligible for FS benefits must have income below the appropriate gross income limit for household size.

Household Size	Maximum Gross Monthly Income Elderly/Disabled Separate Status at 165% of Poverty	Maximum Gross Monthly Income At 130% of Poverty	Maximum Net Monthly Income At 100% of Poverty	Maximum Allotment (benefit amount)
1	\$1,490	\$1,174	\$ 903	\$200
2	\$2,004	\$1,579	\$1,215	\$367
3	\$2,518	\$1,984	\$1,526	\$526
4	\$3,032	\$2,389	<del>[\$1,839]</del> \$1,838	\$668
5	\$3,547	\$2,794	\$2,150	\$793
6	\$4,061	\$3,200	\$2,461	\$952
7	\$4,575	\$3,605	\$2,773	\$1,052
8	\$5,089	\$4,010	\$3,085	\$1,202
\$Each Additional Member	+\$515	+\$406	+\$312	+\$150

**F. Deductions and standards:**

**(1) Determination:** Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households eligible based on income and resource guidelines, and other relevant eligibility factors, are allowed certain deductions to determine countable income.

**(2) Yearly adjustment:** The expense and standard deductions may change each year. If federal guidelines mandate a change, it is effective each October 1st.

**(3) Expense deductions and standards table:**

Standard Deduction for Household Size of 1 through 3	\$141.00
Standard Deduction for Household of 4	\$153.00
Standard Deduction for Household Size of 5	\$179.00
Standard Deduction for Household Size of 6 or more	\$205.00
Earned Income Deduction (EID)	20%
Dependent Care Deduction	Actual Amount
Heating/Cooling Standard Utility Allowance (HCSUA)	\$278.00
Limited Utility Allowance (LUA)	\$101.00
Telephone Standard (TS)	\$ 32.00
Excess Shelter Cost Deduction Limit for Non-Elderly/Disabled Households	\$459.00
Homeless Household Shelter Standard	\$ 143.00
Minimum Allotment for Eligible One-and Two-Person Households	\$ 16.00

[02/1/95, 10/01/95, 02/29/96, 10/01/96, 3/15/97, 01/15/98,11/15/98, 12/15/99, 01/01/01, 03/01/01; 8.139.500.8 NMAC - Rn, 8 NMAC 3.FSP.501, 05/15/2001; A, 10/01/2001; A, 10/01/2002, A, 09/01/2003; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A/E, 10/01/2006; A/E, 10/01/2007; A/E, 10/01/2008; A/E, 04/01/2009; A/E, 10/01/2009; A, 10/30/2009]

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

This is an amendment to 8.200.400 NMAC, Section 14, effective October 30, 2009.

**8.200.400.14 12 MONTHS CONTINUOUS ELIGIBILITY FOR CHILDREN:** Children eligible for medicaid under category of ~~eligibility 032 and families under category of eligibility 072~~ eligibility: 032, 072, HCBS waivers, IV-E, and SSI-004, and 003 will remain eligible for a period of 12 months, regardless of changes in income. This provision applies even if it is reported that the family income exceeds the applicable federal income poverty guidelines. The 12 months of continuous medicaid starts with the month of approval or redetermination and is separate from any months of presumptive or retroactive eligibility. This provision does not apply to children who move out of state during the 12-month period or who turn 19 years of age during the 12-month period.

[8.200.400.14 NMAC - N/E, 10-1-09; A, 10-30-09]

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

This is an amendment to 8.200.450 NMAC, Section 9, effective October 30, 2009.

**8.200.450.9 REPORTING REQUIREMENTS:** A medicaid applicant/recipient must report any change in circumstances which might affect his/her eligibility within 10 days after the change to the local income support division (ISD) office. This provision does not apply to children's medicaid (category of eligibility 032) [or family medicaid (category 072)]. See 8.232.600.14 NMAC, *changes in eligibility*.

[2-1-95; 8.200.450.9 NMAC - Rn, 8 NMAC 4.MAD.430.450, 1-1-01; A/E, 10-1-09; A, 10-30-09]

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

This is an amendment to 8.232.600 NMAC, Section 14, effective October 30, 2009.

**8.232.600.14 CHANGES IN ELIGIBILITY:**

A. **Eligibility termination when age limit reached:** If a recipient's eligibility ends because he/she turns 19 years of age and the recipient is receiving inpatient services in an acute care hospital on the date he/she turns 19 years of age, the recipient's eligibility continues until the end of that admission. If the recipient is an inpatient in a free-standing psychiatric facility or other residential facility, the recipient's eligibility continues until the end of the month in which the recipient turns 19 years of age. The income support division worker verifies that the closure is caused by the recipient's turning 19 years of age and terminates medicaid eligibility at the end of the applicable time period.

B. **Ongoing eligibility:** A redetermination of eligibility is made every 12 months. Changes in eligibility status will be effective the first day of the following month.

C. **Continuous eligibility:** Eligibility will continue for the 12-month certification period, regardless of changes in income, as long as the recipient retains New Mexico residency and is less than 19 years of age. This provision applies even if it is reported that the family income exceeds the applicable federal income poverty guidelines. The 12 months of continuous medicaid starts with the month of approval or redetermination and is separate from any months of presumptive or retroactive

eligibility.

[2/1/95; 4/1/95; 6/30/98; 8.232.600.14 NMAC - Rn, 8 NMAC 4.KID.630 & A, 7/1/04; A, 7/1/06; A/E, 10/1/09; A, 10/30/09]

**NEW MEXICO INTERIOR  
DESIGN BOARD**

This is an amendment to 16.42.1 NMAC, Sections 1 and 12, effective 11/14/2009.

**16.42.1.1 ISSUING AGENCY:** Regulation and Licensing Department, [~~New Mexico Board of Interior Design~~] New Mexico Interior Design Board, P.O. Box 25101, Santa Fe, New Mexico 87504. [11/10/97; 16.42.1.1 NMAC - Rn, 16 NMAC 42.1.1, 10/26/2002; A, 11/14/2009]

**16.42.1.12 ADVERTISING:**

A. Each licensed interior designer (LID), shall include their name, state and license number in any newspaper, telephone directory, or any other advertising medium used by the LID. A sole proprietorship, corporation, limited liability company or partnership advertising interior design services is required to display the name, state and license number of a least one LID employed by or working within that business entity.

B. Definition:

(1) When using the words "licensed interior designer" or "licensed interior design" in any advertising medium, LIDs shall include their position, job description, or title and include the state and license number. A license number is not required unless the individual is a LID and using the terms "licensed interior design" or "licensed interior designer".

(2) The term "newspaper, telephone directory, or other advertising medium" as used in [Section] Subsection A, shall mean any of the following when paid for or produced by or for a licensed interior designer (LID) (telephone business directory listings are deemed to be produced for a LID notwithstanding whether the listings are paid for):

- (a) telephone directory listings;
- (b) construction site signs;
- (c) airwave transmissions;
- (d) handbills;
- (e) all billboards, on or off site;
- (f) shopping and service guides;
- (g) magazine advertisements (including trade association publications);
- (h) classified advertisements;
- (i) signs on vehicles;
- (j) promotional materials such as video tapes, flyers, brochures;

[(f)] (k) business stationary: when using business stationary as an advertising medium, the LID shall include name or signature, position, job description or title of

the individual and shall include the state and license number;

[(k)] (l) business cards;

(m) television advertisement;

(n) internet advertisement;

(o) compact disc (cd) or digital video disk (dvd).

(3) The term shall not apply to the following:

(a) on-site signage used for identification, i.e., on facade, front door, or location of business;

(b) information identifying a charitable donation to any organization exempt from federal income tax;

(c) telephone directory listings for professional interior design organizations.

(4) Effective date of this rule is November 10, 1997.

[11/10/97; 16.42.1.12 NMAC - Rn, 16 NMAC 42.1.12, 10/26/2002; A, 11/14/2009]

**NEW MEXICO INTERIOR  
DESIGN BOARD**

This is an amendment to 16.42.2 NMAC, Sections 1, 2, 6, and 8, effective 11/14/2009.

**16.42.2.1 ISSUING AGENCY:** Regulation and Licensing Department, [~~New Mexico Board of Interior Design~~], New Mexico Interior Design Board, P.O. Box 25101, Santa Fe, New Mexico 87504. [11/10/97; 16.42.2.1 NMAC - Rn, 16 NMAC 42.2.1, 10/26/2002; A, 11/14/2009]

**16.42.2.2 SCOPE:** The licensed interior designer shall be governed by the professional code of conduct whenever providing interior design services in any context. This code shall apply to the conduct of all licensees and applicants.

[11/10/97; 16.42.2.2 NMAC - Rn, 16 NMAC 42.2.2, 10/26/2002; A, 11/14/2009]

**16.42.2.6 OBJECTIVE:** This part constitutes the standards against which the required professional conduct of [an] a licensed interior designer is measured. A violation of this part is sufficient reason for disciplinary action pursuant to the Interior Design Act.

[11/10/97; 16.42.2.6 NMAC - Rn, 16 NMAC 42.2.6, 10/26/2002; A, 11/14/2009]

**16.42.2.8 CODE OF PROFESSIONAL CONDUCT:**

A. Responsibility to the public:

(1) Licensed interior designers (LIDs) shall comply with all existing applicable laws, regulations, and codes governing business practices and procedures and the practice of interior design as established by federal, state, and local jurisdictions in which they practice.



(2) LIDs shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by LIDs of good standing, practicing in the same locality.

(3) LIDs shall not engage in any form of false or misleading advertising ~~[or]~~ promotional activities and shall not imply through advertising or other means that persons associated with them or their business entity are ~~[qualified]~~ licensed interior designers unless licensed by the state of New Mexico.

(4) LIDs shall neither offer nor make any payment or gift to a local, state, or federal official, appointed or elected, with the intent of influencing the official's judgment in connection with an existing or prospective project in which the LID is interested.

(5) LIDs serving in a public capacity shall not accept payments or gifts which are intended to influence their judgment. A person serving in a "public capacity" is defined as anyone working for or on behalf of any government entity.

(6) LIDs shall not engage in conduct involving fraud or flagrant disregard of the rights of others.

(7) LIDs shall not assist, abet, or counsel others to commit fraudulent, negligent, or illegal conduct in connection with a project.

(8) LIDs shall not discriminate in their professional activities on the basis of race, religion gender, national origin, age, sexual orientation, or non-disqualifying disability.

B. Responsibilities to the client:

(1) Interior design contract documents prepared under the direction of a LID shall contain the following statement: "This document is not an architectural or engineering study, drawing, specification, or design and is not to be used as the basis for construction of any load-bearing framing, wall, or structure construction." This shall not apply to LIDs who are licensed professionals in ~~[a-related]~~ such field. "Contract documents" shall be interpreted to mean final contracts, drawings and specifications for and interior design project.

(2) The contract between a LID and a client shall clearly set forth the scope and nature of the project, general description of materials involved, the services to be performed, and the method of compensation for those services. LIDs shall not materially alter the score or objectives of a project without the client's consent.

(3) LIDs shall fully disclose to the client all methods of compensation which the LID shall receive in connection with the project and shall not accept any form, of undisclosed compensation from any person or firm with whom the LID deals in

connection with the project.

(4) LIDs shall not accept compensation for their services from more than one party on a project unless the circumstances are fully disclosed and agreed to in writing by all interested parties.

(5) If LIDs have any business association, direct or indirect financial interest, or other interest which could be substantial enough to influence their judgment in connection with their performance of professional services, the LID shall fully disclose in writing to their clients or employers the nature of interest. If the clients or employers object to such association, financial interest, or other interest, the LID will either terminate such association or interest or decline the commission or employment.

(6) LIDs shall not intentionally or recklessly mislead existing or prospective clients about the results that can be achieved through the use of the LIDs service, nor shall the members state that they can achieve results by means that violate applicable laws or this code.

(7) LIDs shall not divulge any confidential information about the client or the client's project, or utilize photographs of the project without the express written permission of the client. LID's shall disclose in writing to the client the specifications or drawings over which the LID retains proprietary rights, and which do not require client permission prior to use.

(8) LIDs when rendering interior design services shall disclose in writing to the client whether or not they have professional insurance. If they have professional insurance, LIDs shall fully disclose in writing to the client the nature and extent of all insurance coverage, including workman's compensation and bonds, covering subcontractors employed by the LID.

[11/10/97; 16.42.2.8 NMAC - Rn, 16 NMAC 42.2.8, 10/26/2002; A, 11/14/2009]

## NEW MEXICO INTERIOR DESIGN BOARD

This is an amendment to 16.42.3 NMAC, Sections 1, 6, 8, 9, 10, and addition of new sections 7, 13, 14, and 15, effective 11/14/2009.

**16.42.3.1 ISSUING AGENCY:** Regulation and Licensing Department, ~~[New Mexico Board of Interior Design]~~, New Mexico Interior Design Board, P.O. Box 25101, Santa Fe, New Mexico 87504.

[11/10/97; 16.42.3.1 NMAC - Rn, 16 NMAC 42.3.1, 10/26/2002; A, 11/14/2009]

**16.42.3.6 OBJECTIVE:** This part is to establish the minimum requirements

for applicants applying for licensure as ~~[an interior designer. This part further defines licensure without an examination:]~~ a licensed interior designer.

[11/10/97; 16.42.3.6 NMAC - Rn, 16 NMAC 42.3.6, 10/26/2002; A, 11/14/2009]

### 16.42.3.7 DEFINITIONS: [RESERVED]

A. "Accredited institution" means a school, college, university, or other institution of higher education that is accredited by a national or regional independent educational institution accrediting body or by a state department of education or similar state agency. The accrediting body evaluates institutions and recognizes institutions as meeting acceptable levels of quality and performance according to a prescribed standard. If the school, college, university, or other institution of higher education is not listed in the accredited institutions of postsecondary education, a directory published by the American council on education (ACE) for the council for higher education accreditation (CHEA), the applicant shall provide evidence of accreditation status from the appropriate accrediting body that is satisfactory to the board. The board may verify the accreditation status of a specific institution from the appropriate accrediting body.

B. "Interior design program" means a program that meets one of the following criteria:

(1) is a program offered in an accredited institution that is clearly identified and labeled as an interior design program; such program must specify in institutional catalogues and brochures its intent to educate and train professional interior designers, must maintain a recognizable organizational entity within the institution, must have a curriculum with an integrated, organized sequence of study, and must have an identifiable faculty; or

(2) is an interior design program accredited by the council for interior design accreditation (CIDA); or

(3) is a design curriculum program.  
[16.42.3.7 NMAC - N, 11/14/2009]

### 16.42.3.8 LICENSURE:

A. License required: Effective June 16, 1989, no person shall represent themselves as ~~[an]~~ a licensed interior designer unless they are licensed pursuant to the Interior Design Act.

B. Applications and qualifications for licensure: Any person desiring licensure as an interior designer shall apply ~~[to the board on a form prescribed by the board, pay the required application fee, and furnish evidence to the board documenting that the applicant meets the requirement for licensure]~~ as indicated in

16.42.3.9 NMAC, licensure by examination, or 16.42.3.10 NMAC, licensure by credentials.

[C.] The following definitions shall apply to determine if an applicant satisfies the educational requirements of Section 61-24C-8 NMSA 1978:

(1) "Accredited institution" means a school, college, university, or other institution of higher education that is accredited by a national or regional independent educational institution accrediting body or by a state department of education or similar state agency. The accrediting body evaluates institutions and recognizes institutions as meeting acceptable levels of quality and performance according to a prescribed standard. If the school, college, university, or other institution of higher education is not listed in the accredited institutions of postsecondary education, a directory published by the American council on education (ACE) for the council for higher education accreditation (CHEA), the applicant shall provide evidence of accreditation status from the appropriate accrediting body that is satisfactory to the board. The board may verify the accreditation status of a specific institution from the appropriate accrediting body.

(2) "Interior design program" means a program that meets one of the following criteria:

(a) is a program offered in an accredited institution that is clearly identified and labeled as an interior design program; such program must specify in institutional catalogues and brochures its intent to educate and train professional interior designers, must maintain a recognizable organizational entity within the institution; must have a curriculum with an integrated, organized sequence of study, and must have an identifiable faculty; or

(b) is an interior design program accredited by the foundation for interior design education research (FIDER); or

(c) is a design curriculum program.]

[D.] C. To be eligible for consideration as a design curriculum program, the applicant's post secondary course of study shall contain interior design or design related course hours earned at an accredited institution that include or cover the topics or subject matter described in Subsection [G] E of 16.42.3.8 NMAC. The board will evaluate the applicant's transcript(s) and the course topic or subject matter shall be verified by official course descriptions from the institution's catalogues or brochures in force at the beginning of the term in which the course was taken or the hours earned or course descriptions from other official institutional source. The board

may consider evidence other than official institutional sources if it is impossible to verify course descriptions from an official institutional source. The applicant shall be responsible for providing to the board the official course description. The applicant shall have the burden to prove to the board that courses claimed as eligible for design curriculum program hours are bona fide courses that include or cover the topic or subject matter described in Subsection [G] E of 16.42.3.8 NMAC. The board will not investigate the course topic or subject matter or contact the institution or any person on behalf of the applicant. The applicant shall have the sole responsibility to provide sufficient evidence satisfactory to the board that the course includes or covers the allowable topic or subject matter. A particular course will be counted in only one topic or subject matter category, but more than one course may be included under a particular topic or subject matter category.

[E.] D. A graduate of a five, four, or two year program that is either clearly identified and labeled an interior design program as defined above or is accredited or approved by FIDER meets the educational requirements of Section 61-24C-8 (A), (B), or (D), respectively.

[F.] E. A design curriculum program shall be calculated as follows.

(1) A graduate of a five (5) year program must have completed at least 90 semester hours or 135 quarter hours of which must be in the area of interior design or design related courses.

(2) A graduate of a four (4) year program must have completed at least 60 semester hours or 90 quarter hours must be in the area of interior design or design related courses.

(3) An applicant of a three (3) year program must have completed at least 60 semester hours or 90 quarter hours in the area of interior design or design related courses.

(4) A graduate of a two (2) year program must have completed at least 40 semester hours or 60 quarter hours of interior design or design related course.

[G.] E. In order for the board to consider whether an applicant's post secondary course of study qualifies as a design curriculum program, the applicant shall complete supplemental application form(s) provided by the board and submit official course descriptions or other documentation satisfactory to the board of the interior design or design related course. To qualify as an allowable interior design or design related course for the design curriculum program, the course must include or cover one of the topic or subject matter categories described below as verified by the institution's official course description.

(1) Basic and creative arts: An

understanding of studio based achievements in two and three dimensional design fundamentals.

(2) Theory: An understanding of the elements of design and composition, color theory, human environment, proxemics, behavior, design theories and spatial composition.

(3) Interior design: An understanding of design process, programming, conceptualization, problem solving and evaluation, space planning, furniture layout and selection and design attributes of materials, lighting, furniture, textiles and color. An awareness of design for special concerns such as environment and ecology and competency in human factors such as anthropometrics and ergonomics. An understanding of special populations such as the disabled, elderly, children, low income and special purposes such as the historic preservation and adaptive reuse.

(4) Technical knowledge: An understanding of detailing furniture, cabinetry and interiors and materials such as surfaces and structural materials, soft goods and textiles and laws related to building codes and ordinances, life safety and fire. An understanding of structure and construction, building systems, HVAC, electrical plumbing, acoustics, energy conservation, passive solar energy.

(5) Communication skills: An understanding of presentation skills such as sketching, delineation, rendering, models and photography and presentation skills such as written and oral, graphic, signage, lettering, drafting and working drawings. An awareness of computer systems such as CADD and word processors.

(6) Profession: An understanding of the interior design profession and organizations, ethics and related professions, business practices, specifications, industry, product safety standards and estimating and business management or architecture and drawing or an understanding.

(7) History: An understanding of interiors, furniture and accessories and history of art or architecture.

(8) Electives: Includes any of the foregoing categories or an awareness of theories and methods of research related to experimental, survey, literature search and observation.

[H.] G. The experience requirement of Section 61-24C-8 NMSA 1978 shall be evaluated as follows: "Diversified interior design experience" shall mean that the applicant has been engaged in three (3) or more of the following activities of enhancing the function and quality of interior space:

(1) analysis of a client's needs, goals, and life safety requirements for the interior space of a structure;

(2) integration of findings with

knowledge of interior design;

(3) formulation of preliminary design concepts that are appropriate, functional, and aesthetic;

(4) development and presentation of final design recommendations through presentation media;

(5) preparation of working drawings and specifications for non-load bearing interior construction, materials, finishes, space planning, furnishing, fixtures, and equipment;

(6) collaboration with professional services of other licensed practitioners in the technical areas of mechanical, electrical, and load-bearing design required for regulatory approval;

(7) preparation and administration of bids and contract documents as the client's agent; and

(8) review and evaluation of design solutions during implementation and upon completion.

[F:] H. An applicant shall have worked at least one thousand six hundred hours (1,600) hours in a calendar year to obtain credit for a year's worth of diversified interior design experience.

[F:] I. Diversified interior design experience shall be demonstrated to the board by the applicant who shall furnish the following:

(1) an affidavit by the applicant attesting that the applicant has engaged in the practice of interior design for the number of years for which the applicant is claiming experience; and

(2) three (3) references, on forms provided by the board, certifying that the applicant has provided interior design services for the period of experience claimed by the applicant;

(3) if the applicant was self employed, (out of state applicants only) applicant must send documentation to prove a legitimate business for each year of experience needed with application; send copies of three (3) of the following:

- (a) business license;
- (b) resale tax certificate;
- (c) voided business check;
- (d) corporation papers;
- (e) business advertisement.

[11/10/97, 7/8/98; 16.42.3.8 NMAC - Rn, 16 NMAC 42.3.8, 10/26/2002; A, 11/14/2009]

### **16.42.3.9 LICENSURE BY EXAMINATION:**

[A.] In order to qualify for licensure an applicant must demonstrate professional competency by passing the national council for interior design qualification examination (NCIDQ):

B. Applicants desiring to take the examination must submit the appropriate fees and forms directly to NCIDQ:

C. If an applicant has successfully passed the NCIDQ examination; it is the applicant's responsibility to provide evidence of certification of passing the NCIDQ examination to the board office.]:

Any person desiring licensure by examination as an interior designer shall apply to the board on a form prescribed by the board, pay the required application fee, and furnish evidence to the board documenting that the applicant meets the requirement for licensure. The following are the requirements for licensure.

A. Completed application form, prescribed by the board. All areas of the form must be filled out and the application must be signed and notarized. Application must be accompanied by application fee.

B. Official transcripts from all colleges or universities attended; must be received directly from the certifying institution. Courses indicated must satisfy the educational requirements for licensure. The official transcript must be certified with a school seal.

C. Three letters of reference must be submitted to the board office, certifying that the applicant has provided interior design services for the period of experience claimed by the applicant. Reference letters must be from employers or clients.

D. Candidate experience form must be completed and submitted to the board office.

E. Verification of passing the NCIDQ examination must be submitted to the board office.

[11/10/97, 7/8/98; 16.42.3.9 NMAC - Rn, 16 NMAC 42.3.9, 10/26/2002, A, 11/14/2009]

### **16.42.3.10 [ LICENSURE WITHOUT EXAMINATION:**

A. Application requirements:

(1) The board will consider the application only when all supporting material has been submitted. It is the responsibility of the applicant to verify that all documents have been received by the board.

(2) Applications which are incomplete at the end of two years from the submission date of the initial document will be purged.

(3) Official transcripts must be received directly from the certifying institution:

B. Licensure by credential: Applicants for licensure must be accompanied by proof of current licensure in another state:

C. Licensure by documentation: Applicants must show proof of passing the NCIDQ exam in lieu of meeting other requirements for licensure without examination.]:

**LICENSURE BY CREDENTIALS:** Any

person desiring licensure by credentials as an interior designer shall apply to the board on a form prescribed by the board, pay the required application fee, and furnish evidence to the board documenting that the applicant meets the requirement for licensure. The following are the requirements for licensure.

A. Completed application form, prescribed by the board. All areas of the form must be filled out and the application must be signed and notarized. Application must be accompanied by application fee.

B. Verification of passing the NCIDQ examination must be submitted to the board office.

C. Verification of having a current license in another state or country must be submitted to the board office.

[11/10/97; 16.42.3.10 NMAC - Rn, 16 NMAC 42.3.10, 10/26/2002; A, 11/14/2009]

### **16.42.3.13 LICENSURE RENEWAL:**

A. All licenses issued by the board expire October 1<sup>st</sup> of each year and shall be renewed by submitting a completed renewal application, accompanied by the required fees, on the application form prescribed by the board.

B. Each licensed interior designer must have completed no less than eight continuing education board-approved hours of educational instruction or training in interior design subjects or courses of study, within each renewal period, as defined in 16.42.6.8 NMAC.

[16.42.3.13 NMAC - N, 11/14/2009]

### **16.42.3.14 EXPIRED LICENSE:**

In the event a licensee fails to renew his license by the expiration date, the board may reinstate the license upon payment of a renewal fee of two hundred fifty (\$250.00) per year of expiration, a late fee of one hundred dollars (\$100.00) per year of expiration and any outstanding fees, proof of compliance with all other requirements, and in additions, the board may require the former licensee to appear before the board, or successfully pass an examination approved by the board prior to reinstating the license.

[16.42.3.14 NMAC - N, 11/14/2009]

### **16.42.3.15 INACTIVE STATUS:**

A. A license in good standing may be transferred to inactive status upon written request to the board. Such request shall be made prior to the expiration of the license.

(1) No license will automatically be placed on inactive status by failure of the licensee to renew his license.

(2) No license shall be placed on inactive status if the licensee is under investigation or if disciplinary proceedings have been initiated.

B. An annual inactive fee

must be submitted to the board office by October 1<sup>st</sup> of each year.

C. Any person who desires to reinstate his license must notify the board of his desire to reinstate the inactive license. Upon receipt of such notice, the board office will send the inactive licensee an application for reinstatement.

D. The inactive licensee shall submit the application for reinstatement together with the applicable fee(s) and proof of no less than eight continuing education hours for the year of reinstatement, as defined in 16.42.6.8 NMAC.

[16.42.3.15 NMAC - N, 11/14/2009]

## NEW MEXICO INTERIOR DESIGN BOARD

This is an amendment to 16.42.4 NMAC, Sections 1 and 9, effective 11/14/2009. The part name is also amended.

### PART 4 COMPLAINTS AND DISCIPLINARY ACTIONS

#### 16.42.4.1 ISSUING AGENCY:

Regulation and Licensing Department, [New Mexico Board of Interior Design] New Mexico Interior Design Board, P.O. Box 25101, Santa Fe, New Mexico 87504.

[11/10/97; 16.42.4.1 NMAC - Rn, 16 NMAC 42.4.1, 10/26/2002; A, 11/14/2009]

#### 16.42.4.9 [ D E N I A L , SUSPENSION FAILURE:

A. Licensure failure: No certificate of licensure will be issued to an applicant failing to meet the qualifications for licensure, failing to pass the examination, failing to meet the requirements for licensure without examination, or failing to pay all required fees.

B. Unprofessional conduct: With the respect to the grounds for denial, suspension or revocation of a certificate of registration under NMSA 1978, Section 61-24C-10 (G), unprofessional conduct shall be deemed to include, but not limited to, violations of the code of professional conduct for interior design.]

**DISCIPLINE:** Disciplinary procedure is governed by NMSA 61-1-1 et. seq.

A. Grounds for discipline: License denial will be issued when an applicant fails to meet the qualifications for licensure or fails to pay the fees or where the applicant's conduct meets the requirements of Section 61-24C-10 (G) or Subsection B of this section.

B. Unprofessional conduct is grounds for denial, suspension or revocation of a license under NMSA 1978, Section 61-24C-10 (G), unprofessional conduct shall be deemed to include, but not limited to, violations of the code of

professional conduct for interior design.

[11/10/97; 16.42.4.9 NMAC - Rn, 16 NMAC 42.4.9, 10/26/2002; A, 11/14/2009]

## NEW MEXICO INTERIOR DESIGN BOARD

This is an amendment to 16.42.5 NMAC, Sections 1 and 8, effective 11/14/2009.

#### 16.42.5.1 ISSUING AGENCY:

Regulation and Licensing Department, [New Mexico Board of Interior Design], New Mexico Interior Design Board, P.O. Box 25101, Santa Fe, New Mexico, 87504.

[11/10/97; 16.42.5.1 NMAC - Rn, 16 NMAC 42.5.1, 10/26/2002; A, 11/14/2009]

#### 16.42.5.8 FEES:

A. An applicant for licensure may request an application packet from the board. The application must be accompanied by one hundred dollars (\$100.00) non-refundable administrative application fee.

B. The initial certificate of licensure shall be two hundred dollars (\$200.00).

C. The renewal fee shall be two hundred fifty dollars (\$250.00) ~~due on the first day of December of each year. In the event a licensee fails to renew his license by December of any year, the board may reinstate the license upon payment of a late fee of one hundred dollars (\$100.00) and any outstanding fees, proof of compliance with all other requirements, and in additions, the board may require the former licensee to appear before the board, and/or successfully pass an examination prior to reinstating the license.~~

D. The late fee shall be one hundred dollars (\$100.00).

~~[D:] E. The fee for a duplicate original certificate of licensure to replace a lost certificate of licensure, or a replacement certificate of licensure with a new name, or for a board-verified copy of a certificate of licensure shall be twenty-five dollars (\$25.00).~~

[11/10/97; 16.42.5.8 NMAC - Rn & A, 16 NMAC 42.5.8, 10/26/2002; A, 11/14/2009]

## NEW MEXICO JUVENILE PUBLIC SAFETY ADVISORY BOARD

22.510.100 NMAC, Juvenile Parole Board, filed June 1, 2004, is repealed effective October 30, 2009 and replaced by 22.510.100 NMAC, Juvenile Public Safety Advisory Board, effective October 30, 2009.

## NEW MEXICO JUVENILE PUBLIC SAFETY ADVISORY BOARD

### TITLE 22 COURTS CHAPTER 510 PAROLE PART 100 JUVENILE PUBLIC SAFETY ADVISORY BOARD

#### 22.510.100.1 ISSUING AGENCY:

New Mexico Juvenile Public Safety Advisory Board.

[22.510.100.1 NMAC - Rp, 22.510.100.1 NMAC, 10/30/09]

#### 22.510.100.2 SCOPE:

This policy applies to members and employees of the juvenile public safety advisory board and to all juvenile offenders, including youthful offenders, who are eligible to be considered for supervised release by the department.

[22.510.100.2 NMAC - Rp, 22.510.100.2 NMAC, 10/30/09]

#### 22.510.100.3 S T A T U T O R Y

**AUTHORITY:** These regulations are adopted pursuant to authority granted to the juvenile public safety advisory board in 1978 N.M. Stat. Ann. Section 32A-7-6(A) (5) 2009.

[22.510.100.3 NMAC - Rp, 22.510.100.3 NMAC, 10/30/09]

#### 22.510.100.4 D U R A T I O N :

Permanent.

[22.510.100.4 NMAC - Rp, 22.510.100.4 NMAC, 10/30/09]

#### 22.510.100.5 EFFECTIVE DATE:

October 30, 2009, unless a later date is cited at end of a section.

[22.510.100.5 NMAC - Rp, 22.510.100.5 NMAC, 10/30/09]

#### 22.510.100.6 OBJECTIVE:

To establish standards and procedures for the juvenile public safety advisory board and its staff to conduct investigations, examinations, interviews, and such other procedures as may be necessary for the effectual discharge of the duties of the board.

[22.510.100.6 NMAC - Rp, 22.510.100.6 NMAC, 10/30/09]

#### 22.510.100.7 DEFINITIONS:

In these definitions, all references to males are understood to include females. As used in these regulations:

A. "Administrative review" means a review conducted by the director or other designated juvenile public safety advisory board hearing officer as authorized by the chairperson.

B. "Agenda" means the list of juvenile offenders who are to be

considered for supervised release at the department's regular release consideration meetings.

**C. "Board"** means the juvenile public safety advisory board whose members are appointed pursuant to the Juvenile Public Safety Advisory Board Act, 1978 NMSA Sections 32A-7A-1 to 32A-7A-8.

**D. "Department"** means the New Mexico children, youth and families department.

**E. "Director"** means the administrative officer of the juvenile public safety advisory board appointed by the governor; the director shall employ other staff as necessary to carry out the administrative duties of the board.

**F. "Facility"** refers to a facility operated by or on behalf of CYFD's juvenile justice services for purposes of housing and providing care and rehabilitation for clients committed to the custody of CYFD.

**G. "Facility release panel (panel)"** is the departmental secretary-designated releasing authority that considers juveniles for supervised release.

**H. "Facility transition coordinator (FTC)"** means a department employee who works with the client and the client's multi-disciplinary team, juvenile probation officer, classification officer and regional transition coordinator to coordinate the client's care while in the facility and ensures that the required tasks of the client's supervised release or extension track are occurring in a timely manner.

**I. "Hearing officer"** means an employee of the board charged with carrying out approved duties of the board.

**J. "Home study"** means the assessment of the living environment where the juvenile offender may reside during the term of supervised release; the assessment is conducted by the department; specific strengths and weaknesses of the living environment are identified through the home study process.

**K. "Juvenile offender"** means a child committed to the custody of the department pursuant to the Delinquency Act, 1978 NMSA Section 32A-2-1 through 32A-2-32; the term "juvenile offender" in this regulation includes those individuals who are committed as youthful offenders.

**L. "Release consideration meeting"** means a proceeding conducted by the panel for purposes of deciding whether to grant, deny, defer or revoke supervised release.

**M. "Release plan"** means the department's recommendation for the conditions the juvenile offender should be required to fulfill if released, and presents workable methods of dealing with the

juvenile offender's problems and needs throughout the community intervention.

**N. "Release agreement"** means the conditions of supervised release as established by the panel. The juvenile is required to agree in writing to the conditions as a prerequisite to being placed on release status.

**O. "Secretary"** means the secretary of the children, youth and families department.

**P. "Structured decision making (SDM)"** means a system designed for use in case management of the juvenile population, and used by the department in the classification of committed juvenile offenders.

**Q. "Supervised release"** refers to the release of a juvenile, whose terms of commitment has not expired, from a facility for the care and rehabilitation of adjudicated delinquent children, with specified conditions to protect public safety and promote successful transition and reintegration into the community. A juvenile on supervised release is subject to monitoring by the department until the terms of commitment has expired, and may be returned to custody for violating conditions of release.

**R. "Supervised release plan"** means the department's recommendation for the conditions the juvenile offender should be required to fulfill if released and presents workable methods of dealing with the juvenile offender's problems and needs through community intervention.

**S. "Supervised release recommendation report"** is the report prepared by the FTC/designee to inform the panel of the juvenile's progress while committed and the juvenile's readiness for release through summaries of all the disciplines in the juvenile's plan of care and the plan for the juvenile if he or she is granted supervised release.

[22.510.100.7 NMAC - Rp, 22.510.100.7 NMAC, 10/30/09]

#### **22.510.100.8 ADMINISTRATIVE REVIEWS**

**A. Administrative review.** At intervals, the director or a hearing officer designated as hearing officer reviews the juvenile offender's progress or lack thereof. The administrative review may be based solely on documentation. Whenever possible, it is preferable for the administrative review to include an interview with the juvenile offender at the facility where he or she is housed.

(1) The first administrative review must occur not later than forty days after the date that the juvenile offender is committed to the department's custody, and may occur at the juvenile's initial MDT.

(2) Subsequent administrative reviews occur at regular intervals thereafter, until such time as the juvenile offender is placed on the agenda for a release hearing, or is otherwise discharged.

**B. After each administrative review, the staff prepares a report of the juvenile offender's progress with recommendation as to readiness for supervised release. The reports are compiled and provided to board members prior to a juvenile's appearance at a release consideration meeting. Any board member may direct the staff to obtain additional information regarding any child at any time, and may review the case of any child at any time. Staff also provide copies of the board's reviews to the facilities, with any recommendations, also prior to a juvenile's appearance at a release consideration meeting.**

[22.510.100.8 NMAC - Rp, 22.510.100.8 NMAC, 10/30/09]

#### **22.510.100.9 FACILITY VISITS AND OTHER DUTIES**

**A. At least once per year, the board visits each departmental facility for purposes of evaluating the conditions of the facilities and any other matters pertinent to the care of committed juveniles.**

**B. After the board visits the department's facilities, it shall prepare a written report on the conditions found, including recommendations for programs and facilities. The report shall be provided to:**

(1) the secretary of the children, youth and families department;

(2) the director of the juvenile justice division; and

(3) the governor.

**C. At least twice per year, the board meets with the secretary or the secretary's designee to review the activities of the department.**

**D. A quorum of the board participates in final supervised release revocation hearings. At the hearings the quorum confers on decisions and votes.**

[22.510.100.9 NMAC - N, 10/30/09]

#### **22.510.100.10 INFORMATION REQUIRED FOR BOARD PARTICIPATION IN RELEASE DECISIONS:**

In order for the board to effectually participate in release panel decisions, the board obtains information on the juvenile being considered for release from the facilities.

**A. For the initial administrative review (the forty day review), the board attends the juvenile's initial MDT at the facility to obtain the following information:**

(1) a complete history of the juvenile offender's delinquent acts and any

resulting consequences;

(2) the juvenile offender’s family history;

(3) the juvenile offender’s social history;

(4) the juvenile offender’s academic, vocational and educational history;

(5) the juvenile offender’s psychological and psychiatric history, including all diagnostic center reports;

(6) relevant medical reports for the juvenile offender;

(7) the commitment order for the current commitment and petition;

(8) the pre-disposition report for the current commitment;

(9) the facility’s plan for care and rehabilitation;

(10) the facility’s identification sheets or case record sheets;

(11) designation of home study recipient; and

(12) the juvenile offender’s social security number.

**B.** After the initial administrative review, the board reviews the juvenile’s FACTS entries and as necessary, contacts the juvenile’s classification officer or other facility staff familiar with the juvenile or visits the juvenile as necessary to obtain the following information:

- (1) monthly or bi-monthly progress reports and SDM, including reports and SDM on those juvenile offenders who are in programs outside the facility;
- (2) psychological and psychiatric reports and evaluations on the juvenile offender, including for juvenile offenders who are in programs outside the facility;
- (3) homestudies and any facility requests for homestudies;
- (4) a current and updated facility face sheet;
- (5) any court-ordered restitution payment plan or social restitution plan;
- (6) a wilderness and urban experience evaluation report if applicable;
- (7) special incident reports, such as reports of the juvenile offender having been placed in a crisis intervention unit or adjustment unit;
- (8) any information relating to an out-of-state supervised release plan, as required by interstate compact provisions;
- (9) all information pertaining to furloughs, passes, transfers and pre-supervised releases; and
- (10) any special reports that the board may request.

**C.** Thirty days prior to the regularly-scheduled release hearings, the board obtains an updated supervised release recommendation report from the facility for each juvenile offender on the agenda. For special parole hearings or for the juvenile offenders who are added to the agenda, the

board receives the updated supervised release recommendation report as soon as practicable. [22.510.100.10 NMAC - Rp, 22.510.100.19 NMAC, 10/30/09]

**22.510.100.11 SUPERVISED RELEASE CONSIDERATION MEETINGS:** The board participates in release consideration meeting held by the department. A quorum of the board attends each regular and special release consideration meeting. At the meetings, the quorum confers on decisions and votes. The board also advises the department on criteria to be used to decide whether to release a juvenile. [22.510.100.11 NMAC - N, 10/30/09]

**22.510.100.12 CONFIDENTIALITY:** All juvenile records in the possession of the board or its staff are maintained confidential in accordance with 1978 NMSA Section 32A-2-32. [22.510.100.12 NMAC - Rp, 22.510.100.20 NMAC, 10/30/09]

**HISTORY OF 22.510.100 NMAC:**  
 Pre-NMAC History: Material in this part was derived from that previously filed with the State Records Center:  
 JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/2/85.  
 JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/13/92.

History of Repealed Material:  
 JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/13/92 - Repealed effective 6/15/2004.  
 22.510.100 NMAC, Juvenile Parole Board, filed 6/1/2004 - Repealed effective 10/30/2009.

**NEW MEXICO MINING SAFETY BOARD**

This is an amendment to 19.6.2 NMAC, Sections 7 and 11, effective 1/01/10.

**19.6.2.7 DEFINITIONS:**

- A.** “Accident” means accident as defined in Title 30 CFR 50.2(h).
- B.** “CFR” means Code of Federal Regulations.
- C.** “Hours worked” means hours reported to MSHA on the 7000-2 form or for an OSHA regulated site on the OSHA form 300-A, for the previous calendar year.
- [E:] D.** “Mine” means mine as defined in Title 30 CFR 50.2(a). [N, 08/31/06; 19.6.2.7 NMAC - Rn, 11.8.2.7 NMAC & A, 9/30/08; A, 1/01/10]

**19.6.2.11 FAILURE TO PROVIDE TIMELY NOTICE:**

- A.** The state mine inspector shall impose a civil penalty of up to one hundred thousand dollars (\$100,000) on the operator of a mine if it is determined that the operator failed to give immediate notice as required in 19.6.2.10 NMAC. The inspector may waive imposition of the civil penalty at any time if the inspector finds that the failure to give immediate notice was caused by circumstances outside the control of the operator.
- B.** In determining the amount of the penalty, the inspector shall consider all relevant factors including whether notice was provided at all to the inspector or, if notice was provided, the lateness of such notice and the seriousness of the accident. The inspector shall utilize the penalty structure approved by the mining safety board.
  - (1) Penalty points for coal mining operators based on coal production.

Annual tonnage of coal mine failing to provide timely notice	Penalty points
0 to 15,000	0
Over 15,000 to 30,000	1
Over 30,000 to 50,000	2
Over 50,000 to 100,000	3
Over 100,000 to 200,000	4
Over 200,000 to 300,000	5
Over 300,000 to 500,000	6
Over 500,000 to 800,000	7
Over 800,000 to 1.1 million	8
Over 1.1 million to 2 million	9
Over 2 million	10

- (2) Penalty points for coal mining operators based on the coal production in New Mexico of the controlling entity.

Annual coal tonnage produced in New Mexico of controlling entity	Penalty points
0 to 100,000	0
Over 100,000 to 700,000	1
Over 700,000 to 1.5 million	2
Over 1.5 million to 5 million	3
Over 5 million to 10 million	4
Over 10 million	5

(3) Penalty points for metal/non-metal operators based on hours worked.

Annual hours worked at a M/NM mine failing to provide timely notice	Penalty points
0 to 10,000	0
Over 10,000 to 20,000	1
Over 20,000 to 30,000	2
Over 30,000 to 60,000	3
Over 60,000 to 100,000	4
Over 100,000 to 200,000	5
Over 200,000 to 300,000	6
Over 300,000 to 500,000	7
Over 500,000 to 700,000	8
Over 700,000 to 1 million	9
Over 1 million	10

(4) Penalty points for metal/non-metal operators based on annual hours worked in New Mexico by controlling entity of a M/NM mine.

Annual hours worked in New Mexico by controlling entity of a M/NM mine	Penalty points
0 to 60,000	0
Over 60,000 to 400,000	1
Over 400,000 to 900,000	2
Over 900,000 to 3 million	3
Over 3 million to 6 million	4
Over 6 million	5

(5) Penalty points based on operator negligence.

Negligence		
Categories	Penalty points	
	Persons endangered	No endangerment
Low negligence - The operator failed to report the accident within the required 30 minutes but did report within 1 hour.	10	5
Moderate negligence - The operator failed to report the accident for more than 1 hour and less than 4 hours.	15	7
High negligence - The operator failed to report the accident for more 4 hours and less than 12 hours.	20	10
Reckless disregard - The operator failed to report the accident for greater than 12 hours, or the operator was previously fined for failure to report an accident within one year of the occurrence.	25	12

(6) Points based on type of accident.

Type of accident (as prescribed in 30CFR, Part 50.2 h(1) - (12) <i>There could be more than one category where the penalty points are accrued i.e., a fire at a mine that burns for more than 30 minutes and results in a fatality, would equal 40 penalty points.</i>	Penalty points	
	Persons endangered	No endangerment
Fatality	25	N/A
An injury at a mine that has a reasonable potential to cause death	20	N/A

An entrapment of an individual for more than 30 minutes	10	5
An unplanned inundation of a mine by a liquid or gas	10	5
An unplanned ignition or explosion of gas or dust	15	5
An unplanned mine fire not extinguished within 30 minutes of discovery	15	7
An unplanned ignition or explosion of blasting agent or explosive	20	10
An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use; or, an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage	10	N/A
A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour	15	N/A
An unstable condition at an impoundment, refuse pile, or culm bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area; or, failure of an impoundment, refuse pile, or culm bank	10	N/A
Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty minutes	10	5
An event at a mine that causes death or bodily injury to an individual not at the mine at the time the event occurs	20	N/A

(7) Penalty amounts based on total points.

Penalty conversion table	
Penalty points	Penalty
0 to 15 points	\$5,000
16 to 25 points	\$10,000
26 to 35 points	\$20,000
36 to 45 points	\$50,000
46 to 55 points	\$65,000
56 to 65 points	\$85,000
66 to 70 points	\$95,000
71 or more points	\$100,000

**C.** If the state mine inspector determines that notice was not timely provided, the inspector shall within 90 days after notification of an accident or, if notice was not provided to the inspector, after ascertaining that an accident did occur at a mine, mail a notice of violation with a proposed penalty to the operator.

(1) The operator shall pay the penalty within 30 days after receipt of the notice.

(2) If the operator wishes to challenge the violation or request that the penalty be adjusted or waived, the operator must submit a written petition to the inspector within 20 days after receipt of the notice. Filing of a petition stays the requirement to pay the penalty. The operator may also submit written documentation in support of his petition and may request a meeting with the inspector to discuss the circumstances of the violation.

(3) Within 60 days after receipt of a petition, the inspector shall issue a final decision upholding, amending or rescinding the notice of violation and penalty. The inspector may consider actions of the mining company in response to the violation when considering amending the penalty. If the final decision contains a penalty, the operator shall pay the penalty within 30 days after receipt of the notice.

**D.** In determining whether to adjust or waive imposition of the penalty, the inspector may consider factors such as, but not limited to:

(1) whether the mine was idled for any reason at the time of the accident;

(2) whether the mine operator encountered communications problems that made it impossible to provide timely notice;

(3) whether medical personnel determined that an injury was not considered life threatening immediately after an accident; if injury becomes life threatening, then notice requirements would be triggered when operator learns of a change in status from a medical authority;

(4) whether a fatality of mine personnel that occurs after an accident is associated with a specific accident; ~~and~~

(5) whether the need to provide emergency medical treatment or emergency rescue and recovery efforts reasonably precluded the mine operator from timely providing notice; and

(6) whether the penalty creates an undue financial hardship on the mine.

[N, 08/31/06; 19.6.2.11 NMAC - Rn, 11.8.2.11 NMAC & A, 9/30/08; A, 1/01/10]



**NEW MEXICO  
COMMISSIONER OF  
PUBLIC LANDS**

**TITLE 19      N A T U R A L  
RESOURCES AND WILDLIFE  
CHAPTER 2    STATE      TRUST  
LANDS  
PART 22      PLANNING      AND  
DEVELOPMENT LEASES**

**19.2.22.1      ISSUING AGENCY:**  
Commissioner of Public Lands - New Mexico State land office - 310 Old Santa Fe Trail - P. O. Box 1148 - Santa Fe, New Mexico 87501.  
[19.2.22.1 NMAC - N, 10-30-2009]

**19.2.22.2      SCOPE:** Pursuant to Article XIII, Section 2, of the New Mexico Constitution, the commissioner has jurisdiction over all lands and related resources that the United States granted and confirmed to New Mexico under the New Mexico Enabling Act. This rule, 19.2.22 NMAC, governs the granting of planning and development leases, on those lands within the commissioner's constitutional jurisdiction.  
[19.2.22.2 NMAC - N, 10-30-2009]

**19.2.22.3      S T A T U T O R Y  
AUTHORITY:** N.M. Const. Art. XIII; Section 19-1-1 et seq. NMSA 1978; Section 19-7-1 et seq. NMSA 1978.  
[19.2.22.3 NMAC - N, 10-30-2009]

**19.2.22.4      D U R A T I O N :**  
Permanent.  
[19.2.22.4 NMAC - N, 10-30-2009]

**19.2.22.5      EFFECTIVE DATE:**  
October 30, 2009, unless a later date is cited at the end of a section.  
[19.2.22.5 NMAC - N, 10-30-2009]

**19.2.22.6      OBJECTIVE:** The objectives of 19.2.22 NMAC are to generate value to the trust by planning and development of trust land for future sale, lease, or exchange thru the process of obtaining government approvals and other infrastructure pertinent to the planning and development of the land; to assure protection and maintenance of trust assets and lands; to provide planning and development lease terms and conditions; and to provide an efficient process for such leasing.  
[19.2.22.6 NMAC - N, 10-30-2009]

**19.2.22.7      DEFINITIONS:** As used in 19.2.22 NMAC, the following terms have the meaning set forth in this section. A planning and development lease may add detail to a definition to accommodate lease specific issues.

**A.      "Approval / approved"**  
means written approval and includes only that which has been expressly approved and nothing further which might be implied.

**B.      "Assignment"** means any direct or indirect transfer of all or part of a lessee's interest in a planning and development lease, including, but not limited to, any conditional transfer or transfer by operation of law, but does not include a sublease.

**C.      "Base appraisal value"** means the first round appraisal value (defined in Paragraph (1) of Subsection C of 19.2.22.17 NMAC below) adjusted upward annually from the date of the lease by a percentage, to be negotiated and included in the planning and development lease, reflecting the reasonable inflation in comparable raw land values.

**D.      "Collateral assignment"** means the conditional assignment to a creditor as security for a debt of a lessee's personal property interest in a planning and development lease, infrastructure, governmental approvals, or planning development credit.

**E.      "Commissioner"** means the New Mexico commissioner of public lands. The commissioner is the executive officer of the state land office and may delegate to state land office staff the performance of duties required of the commissioner under this rule.

**F.      "Concurrent lease"** means a planning or development lease, or any other lease of trust land, granted in addition to an existing lease of state trust land.

**G.      "Government approvals"** means legal rights granted by governments or agencies that run with the leased land including but not limited to planning, zoning, water and sewer service agreements, development agreements, platting, archaeological clearances or mitigation, and such other rights as may be required for the further development, improvement or use of the trust land; any property, rights, approvals, or privileges obtained or developed for the benefit of, or made appurtenant to, trust land and any other rights, permits or privileges obtained or developed in connection with a lessee's use of the leased trust land including, but not limited to, development rights and approvals.

**H.      "Infrastructure"** means any item of property or actual benefit developed, placed, created or constructed on trust land including, but not limited to utilities, structures, erosion control structures and flood control structures, roadways, equipment, and other enhancements of whatever kind.

**I.      "Lessee"** means the party of record at the state land office, who leases trust land from the commissioner

under a planning and development lease.

**J.      "Lessor"** means the commissioner acting by and through the state land office.

**K.      "Lessee percentage"** means the percentage, to be determined, in the commissioner's discretion, by negotiation or bidding, which is applied to the gross credit to establish the amount of the planning development credit, as described in Subparagraph (b) of Paragraph (3) of Subsection C of 19.2.22.17 NMAC below.

**L.      "Nominator"** means the person or entity first applying to nominate trust land for a planning and development lease.

**M.      "Planning and development lease"** means a written lease of trust land issued under this part, 19.2.22 NMAC, designed to improve the value of trust land for future sale, lease, or exchange. The commissioner, in his discretion, shall determine the development potential of trust land.

**N.      "Planning development credit"** means a credit granted by the commissioner to a lessee for increased value to trust land as a result of the lessee's placement of infrastructure or procurement of government approvals. This credit will be granted upon subsequent lease, sale, or exchange of the benefitted trust land.

**O.      "Reasonable project costs"** means those sums paid or credited in acquiring the lease at auction less any bonus bid amounts, plus any costs approved by the commissioner incurred in securing government approvals or infrastructure through professional services as well as costs associated with the development of physical infrastructure.

**P.      "Rent"** means the total of estimated rent payments, including all periodic rents with applicable rent adjustments, percentage rents, initial or periodic fees, or any other incentive payment due during the lease term, and any other payments identified as rent in a planning and development lease.

**Q.      "Rent adjustment"** means a periodic increase of any rent amount.

**R.      "Sale appraisal value"** means the second round appraisal value adjusted as defined in Paragraph (2) of Subsection C of 19.2.22.17 NMAC below.

**S.      "Schedule of fees"** means a list of administrative fees which is published on the state land office website and revised by the commissioner from time to time.

**T.      "State land office"** means the New Mexico state land office.

**U.      "Sublease"** means a transaction or arrangement whereby a planning and development lessee transfers to another any interest in the use, possession,

management or control of all or part of leased trust land.

**V. "Termination"** means the end of a planning and development lease whether by cancellation, relinquishment or the expiration of the lease term.

**W. "Trust"** means the land trust established by the Enabling Act (Act of June 20, 1910, 36 Statutes at Large 557, Chapter 310), and that trust's assets, which are administered through the state land office by the commissioner.

**X. "Trust land"** means all land owned by the trust.

**Y. "Unapproved infrastructure and government approvals"** means infrastructure and governmental approvals that have not received the commissioner's approval. [19.2.22.7 NMAC - N, 10-30-2009]

#### **19.2.22.8 LEASING STANDARDS:**

**A.** The surface estate of any trust land may be leased under a planning and development lease at the discretion of the commissioner. A planning and development lease may include more than one use, and may encompass more than one parcel of trust land.

**B.** After receipt of a nomination as provided in 19.2.22.9 NMAC, or on his own initiative, the commissioner may offer to lease trust land under a planning and development lease.

**C.** Notwithstanding any other provision of 19.2.22 NMAC, and at any time before the execution of a planning and development lease, the commissioner may, at the commissioner's discretion, reject any application or bid submitted under 19.2.22 NMAC. [19.2.22.8 NMAC - N, 10-30-2009]

**19.2.22.9 NOMINATION TO LEASE:** Any legal resident of New Mexico, any corporation or other legal entity registered with the New Mexico public regulations commission, or any other legal entity authorized to do business in New Mexico, may nominate any trust land for a planning and development lease by submitting an application on forms prescribed by the commissioner.

**A.** The nomination shall, at a minimum, be made under oath and shall identify the nominator's full name and contact information, shall state the county, general location and acreage of the trust land proposed for leasing, and describe the proposed uses of the trust land, indicating the benefits to the trust.

**B.** For lands already under any surface lease, the nominator shall additionally comply with the procedures in 19.2.22.18 NMAC.

**C.** Any nominator may

withdraw a nomination for a planning and development lease at any time.

**D.** Criteria for the evaluation of the nomination by the commissioner will include but not be limited to:

(1) estimation of present and future value created for the trust;

(2) anticipated impact on trust land adjacent or near the nominated trust land;

(3) feasibility of the proposed project; and

(4) any other factors the commissioner deems relevant.

**E.** The nomination shall include a nonrefundable nomination fee in the amount established by the commissioner.

**F.** If, in the commissioner's opinion, the nominated land is found suitable for planning and development lease, the nominator will provide:

(1) an appraisal of the nominated trust land by a licensed appraiser approved by the commissioner at the nominator's expense; once approved, this appraisal shall be the first round appraisal defined in 19.2.22.17 NMAC;

(2) a survey of the nominated land, conducted according to New Mexico minimum survey standards including a legal description in both aliquot parts and survey metes and bounds.

**G.** If the nominator is not the successful bidder and the lease is awarded to another party, the successful bidder shall reimburse the nominator for the cost of the appraisal, survey and additional costs incurred by the nominator related to the auction required by the commissioner and born by the nominator. [19.2.22.9 NMAC - N, 10-30-2009]

#### **19.2.22.10 SUPPLEMENTAL INFORMATION:**

After review of a nomination and before entering into a planning and development lease auction, the commissioner may require additional information or documentation from the nominator. [19.2.22.10 NMAC - N, 10-30-2009]

#### **19.2.22.11 BID PROCESS:**

The commissioner may, under the following procedures, offer a planning and development lease to the highest and best bidder at a public auction.

**A. Advertisement.** A notice of the lease auction shall be published once each week for ten (10) consecutive weeks in a newspaper of general circulation published in Santa Fe, and in a newspaper of general circulation published nearest the offered land. The notice of lease sale shall contain:

(1) the date, time and place of the auction;

(2) a description of the trust land

offered for lease and any limitations on the uses of the land including any local land use restrictions, covenants, master plans or any restrictions established by the commissioner; and

(3) the name of the person to contact at the state land office for additional information on the auction and the trust land being offered for lease.

**B. Bid information packet.** Anyone requesting information on the auction shall be provided with a bid information packet which shall include:

(1) a copy of the proposed lease;

(2) any requirements or qualifications for bidders;

(3) the amounts that a bidder must deposit to pay the costs of the lease sale, the first rental payment and any other required deposits;

(4) the name of a person to contact at the state land office for additional information on the auction and the trust land offered for lease;

(5) the appraised value of the land; and

(6) a statement of the criteria established by the commissioner for determining the highest and best bidder at the auction.

**C. Deposit.** To qualify as a bidder, the prospective bidder shall deposit with the commissioner before the auction or at such other time provided in the notice of lease auction, the following amounts which shall be listed in the notice:

(1) the costs of the lease auction and the related expense, whether incurred by the state land office or by another entity at the request of the state land office; such costs and expenses may include, but are not limited to, the costs of appraisals, surveys, advertising, land use planning, and brokerage or other real estate fees;

(2) the first rental payment under the planning and development lease; and

(3) if the offered trust land includes infrastructure or government approvals;

(a) either a sum equal to the planning development credit; or

(b) a bill of sale; or

(c) a waiver of payment signed by the holder of the planning development credit, or a bond or letter of credit sufficient to cover the value of the infrastructure or government approvals, unless the prospective bidder is the holder of the planning development credit; upon completion of the lease auction, the commissioner shall return any deposits from unsuccessful bidders.

**D. Qualification of bidders.** The commissioner may establish additional qualifications for bidders based on the nature of the lease and the proposed uses of the offered trust land.

**E. Due diligence.** All bidders must undertake their own due

diligence in preparation for the lease auction, including, but not limited to, inspecting the offered trust land and reviewing pertinent records and files of the state land office and other public agencies. A prospective bidder must obtain the approval of the commissioner before entering on trust land.

**F. Auction.** The auction may be conducted by the acceptance of oral or sealed bids. If awarded at all, the planning and development lease shall be awarded to the highest and best bidder.

[19.2.22.11 NMAC - N, 10-30-2009]

#### **19.2.22.12 PLANNING AND DEVELOPMENT LEASE:**

**A. Leases.** All planning and development leases shall contain such provisions as may be prescribed by the commissioner and shall comply with all pertinent statutes and state land office rules in effect at the time of lease execution.

**B. Conditions.** The commissioner shall establish conditions in a planning and development lease necessary for providing a secure return to the trust, managing the trust land in an economically reasonable manner and protecting the trust land and any natural and cultural resources on the trust land from waste. Each lessee under a planning and development lease shall have an affirmative duty to diligently prevent and protect against trespass and waste on trust land.

**C. Uses.** A planning and development lease shall designate the allowable uses of the leased trust land. The commissioner may establish restrictions on the uses of the trust land, including restrictions contained in local land use rules, covenants, or land use plans.

**D. Rent.** Unless otherwise provided in a lease, rent shall be paid in advance in annual installments.

(1) If a planning and development lease has a term of more than five years, the lease shall provide for a rent adjustment of any fixed periodic rent to occur no less often than every five years.

(2) If a planning and development lessee is in default for failure to pay rent due, the commissioner may invoke Section 19-7-34 NMSA 1978, to pay the unpaid rental together with all costs incurred.

(3) The commissioner may, upon request and upon provision of adequate security as determined by the commissioner, agree to withhold enforcement of the rental lien. Adequate security may include prepayment of lease rent or some other acceptable form of financial assurance.

**E. Mineral reservation.** Each planning and development lease shall reserve the mineral estate, geothermal resources, water, and pore spaces for exploration, development, conservation and production and all related rights of

access over, through or across trust land. The commissioner may, in a planning and development lease, agree, upon payment of a negotiated fee, not to exercise the lease the trust's reserved rights during the term of the lease. The fee shall be sufficient to compensate the trust based on the commissioner's evaluation of the potential value of the reserved rights.

**F. Easements and rights of way.** Each planning and development lease shall reserve to the commissioner the right to grant easements and right of way across trust land for any legal purpose. A planning and development lease may provide that any easements or right of way granted across leased trust land shall be located to avoid, to the extent practicable, unreasonable interference with the uses allowed under the lease. A planning and development lease may require that the lessee purchase at full value from the commissioner easements or right of way necessary for the development of the trust land and may also require or allow the lessee to assign or dedicate its interest in easements or right of way to a public entity provided the entity has purchased, or made satisfactory commitments for the purchase of the easements or rights of way.

**G. Fish and game easement; recreational access permit.** Unless specifically stated otherwise, a planning and development lease shall be withdrawn by the commissioner from public use under a fish and game easement or under recreational access permit.

**H. Water rights.** Water rights developed under a planning and development lease shall be developed and held in the name of the commissioner as follows: "(lessee) for the benefit of the commissioner of public lands".

[19.2.22.12 NMAC - N, 10-30-2009]

#### **19.2.22.13 SUBLEASE AND ASSIGNMENT:**

**A.** Any assignment or sublease for use of trust land is void without the approval of the commissioner. The commissioner's approval may be conditioned upon such terms or requirements as are deemed to be in the best interests of the trust. The commissioner may, in a lease, pre-approve certain assignments or subleases that he deems to be in the best interests of the trust.

(1) No assignment or sublease of trust land under a planning and development lease shall be approved unless the lessee is in compliance with the terms of the lease.

(2) The commissioner's approval of a sublease or assignment shall not relieve the lessee from any liability that may have arisen before the sublease or assignment. The commissioner's approval of a sublease shall not release the lessee from its continuing and primary liability for performance of all terms

and obligations under the lease.

(3) The commissioner's approval of a sublease or assignment will not constitute approval of any subsequent sublease or assignment.

**B.** Applications to sublease or assign shall be made by the current lessee under oath, on forms prescribed by the commissioner, and shall be accompanied by the fees shown on the schedule of fees.

**C.** No assignment or sublease shall extend the term of a planning and development lease and the lessee shall inform its sublessee or assignee of the terms and conditions of the lessee's planning and development lease.

**D.** The termination of a planning and development lease shall automatically, and without notice, terminate any sublease, unless otherwise agreed to in writing by the commissioner.

**E.** A lessee or sublessee may not transfer, change the purpose or use, or move the point of diversion of any water rights that are appurtenant to trust land without the prior approval of the commissioner.

[19.2.22.13 NMAC - N, 10-30-2009]

#### **19.2.22.14 COLLATERAL ASSIGNMENTS:**

**A.** Unless otherwise provided in a planning and development lease, and subject to the prior approval of the commissioner, a lessee's interest in a planning and development lease or infrastructure may be collaterally assigned by the lessee. An approved collateral assignee shall not have a lien on the commissioner's interest in the trust land, the lease, any infrastructure, or the commissioner's reversionary interest in the real and personal property subject to the lease. Any attempt to collaterally assign a lessee's interest in a planning and development lease, or in any infrastructure, without the approval of the commissioner, shall be void and shall not vest the purported collateral assignee with any right, title, interest, claim or privilege with respect to such lease or infrastructure.

(1) Prior to making any collateral assignment a lessee shall apply to the commissioner, under oath, and on such form as may be prescribed by the commissioner. The lessee shall include a copy of the proposed collateral assignment and pay any applicable fees set out in the schedule of fees.

(2) The commissioner may approve the collateral assignment subject to such terms and conditions that he deems to be in the best interests of the trust.

**B.** If the commissioner gives written notice to a planning and development lessee of a breach of the lease by the lessee, the commissioner shall also give written notice of the breach to an approved

collateral assignee of the development planning lessee. Such notice shall be sent by certified mail to the most current name and address of the collateral assignee in the official lease file of the commissioner and no proof of receipt of such notice by the collateral assignee shall be required.

**C.** An approved collateral assignee shall have the right to cure a lessee's breach within the time periods provided to the lessee under the lease. A planning and development lease may provide that a collateral assignee may succeed to the rights and duties of the lessee of the planning and development lease under such conditions as are provided in the lease. The commissioner's approval of a collateral assignment of infrastructure does not change the status of any infrastructure as approved, unapproved, removable or permanent infrastructure.

**D.** A collateral assignee shall take its interest subject to the following terms and conditions, and the lessee is required to give notice of such terms and conditions to its collateral assignee upon making a collateral assignment.

(1) The commissioner is entitled to notice of all proceedings, judicial or non-judicial, to enforce or foreclose the collateral assignment;

(2) Any successor in interest to a lessee's interest in a planning and development lease, or in any infrastructure, that acquires an interest in such property as the result of the enforcement or foreclosure of a collateral assignment, or an assignment or conveyance in lieu of such enforcement or foreclosure, shall be deemed to be an assignee under 19.2.22.13 NMAC, and will be subject to the approval of the commissioner. Such approval will not be unreasonably withheld; but no successor in interest will be approved by the commissioner unless all sums due under the terms of the lease have been paid in full, and all other pending duties discharged, or unless arrangements satisfactory to the commissioner are made to fully pay such sums or discharge such duties.

[19.2.22.14 NMAC - N, 10-30-2009]

**19.2.22.15 APPROVAL OF GOVERNMENT APPROVALS AND INFRASTRUCTURE:** No government approvals or infrastructure shall be placed, developed, created or constructed on trust land, or obtained or developed for the benefit of trust land, or made appurtenant to trust land without prior approval. Such approval will not be unreasonably withheld and may be conditioned upon certain requirements imposed by the commissioner which may include, without limitation, the provision of a bond or other adequate security to assure proper removal of infrastructure from trust land and the restoration of trust land.

**A.** A request for the

commissioner's approval shall be made in writing on such forms and in such manner as may be required by the commissioner, and shall be accompanied by the fee set forth in the schedule of fees. The commissioner shall not be obligated to approve any infrastructure or government approvals.

**B.** A planning and development lease may approve existing and proposed infrastructure or government approvals when the commissioner determines it is in the best interests of the trust.

**C.** If the lessee fails to obtain the commissioner's prior approval for infrastructure or government approvals, the commissioner may, in the best interests of the trust, approve such items after they have been placed, developed, created or constructed on, obtained or developed for the benefit of, or made appurtenant to trust land.

[19.2.22.15 NMAC - N, 10-30-2009]

**19.2.22.16 REMOVAL OF PROPERTY:**

**A.** Upon the termination of a planning and development lease, all unapproved infrastructure shall be removed from the trust land unless otherwise provided in the lease or in writing by the commissioner.

(1) No item of infrastructure may be removed without the commissioner's approval if a lessee owes rent or any other sums to the commissioner or if any material duties required under the lease remain unperformed.

(2) The commissioner may require, in writing, that designated unapproved infrastructure be left in place. Such infrastructure shall become the property of the commissioner and no person shall be entitled to any planning development credit for such infrastructure, and the lessee shall be deemed to have waived any claim of government taking or other damages.

(3) Any infrastructure left on trust land without the commissioner's approval shall remain the property and liability of the lessee and shall constitute a nuisance until removed or abandoned. The commissioner may elect to take any necessary action to abate such nuisance. All costs and fees incurred during abatement shall constitute additional rent due from the lessee under the lease. Additionally, the commissioner may declare the property abandoned and ownership transferred to the commissioner and the lessee shall be deemed to have waived any claim of government taking or other damages.

**B.** In all cases where infrastructure is removed from trust land, the lessee shall be solely liable for the restoration of the trust land to its condition prior to the placement of such infrastructure. The

lessee's obligation to remove infrastructure and to restore the trust land shall survive the termination of the lease.

**C.** All costs, fines and fees incurred by the commissioner as a result of infrastructure left on trust land without the commissioner's approval, and all costs, fines and fees incurred as a result of damage or waste to trust land during the term of the lease, or arising from or in connection with the lessee's use and occupancy of the trust land, shall remain the sole liability of the lessee and shall be deemed additional rent due at the time incurred.

[19.2.22.16 NMAC - N, 10-30-2009]

**19.2.22.17 SUBSEQUENT AUCTION:**

**A. Reasonable project costs; sale price.** When a planning and development lease terminates, the land will be offered, by auction, for sale or lease. Prospective bidders will be required to tender, in cash or its equivalent, the reasonable project costs as one of the requirements to qualify to bid; provided, however, the lessee will be credited with the reasonable project costs. The auction price for sale will be the sale appraisal value described in Paragraph (2) of Subsection C of 19.2.22.17 NMAC below plus any additional amount determined by the commissioner to be appropriate.

**B. Planning development credit; when payable.** When trust land are sold or leased to a person other than the holder of any planning development credit, the commissioner shall pay the amount, if any, of the planning development credit from the sale proceeds or the deposit described in Subsection C of 19.2.22.11 NMAC above less any rent, costs, or damages owed to the commissioner. However, no payment of the planning development credit shall be made if a successor in interest files with the commissioner a bill of sale or waiver of payment signed by the holder of the planning development credit.

(1) Except for the transfer of funds for a planning development credit paid by a successor in interest as provided in this subsection, the commissioner shall not be liable for the payment of any planning development credits. The commissioner may require a release or indemnity from the party receiving payment of the planning development credit.

(2) The holder of the planning development credit must be identified in the records of the state land office. Unless otherwise provided in a lease or in an assignment, when there is a collateral assignment of the planning development credit or infrastructure approved by the commissioner and filed with the state land office, the commissioner shall treat the lessee, not the collateral assignee, as the

holder of the planning development credit and the party entitled to payment, if any, of the planning development credit.

**C. Calculation of planning development credit.** Subject to the conditions and restrictions set forth in this provision, the lessee shall be entitled to planning development credit determined by the following appraisal procedures and calculations.

(1) First round appraisal. Prior to the effective date of the planning and development lease, the nominator, at the nominator's expense, shall cause an appraisal of the trust land to be performed by a New Mexico appraiser holding a general state certification, to be approved by the lessor; or, at lessor's sole discretion, an existing recent appraisal may be substituted. The appraisal shall be conducted in accordance with the uniform standards of professional appraisal practice. This first round appraisal shall be used to establish the first round appraisal value. The first round appraisal value will be adjusted annually, throughout the term of the planning and development lease, as provided in Subsection C of 19.2.22.7 NMAC above, to arrive at the base appraisal value (BAV). Such annual adjustments shall not be pro-rated.

(2) Second round appraisal. On or before 60 days prior to the expiration of this lease or, at lessor's discretion, within 60 days after securing master plan approval or other critical project-related land use approval, lessee, at lessee's expense, shall cause an appraisal of the trust land to be performed by a New Mexico appraiser holding a general state certification in accordance with the standards set forth above; the appraiser shall be approved by the lessor. In the event the lessee or lessor disputes the resulting second round appraisal value of the trust land, the disputing party, at its expense, may have a second appraisal performed by a second New Mexico appraiser with the aforementioned credentials, acceptable to the other party, in accordance with the aforementioned professional standards. If the second appraisal reflects an appraised value within ten percent (10%) of the first appraisal, the second round appraisal value shall be equal to the average of the values reflected by the two appraisals. If the second appraisal does not reflect such values, the appraisers who performed the first and second appraisals shall select a third appraiser to perform a third appraisal. The third appraiser shall possess the credentials set forth above and shall perform an appraisal in accordance with the standards set forth above. The third appraisal shall be made at lessee's expense. The second round appraisal value shall then be the average of the values reflected in the three appraisals. The value established by the second round appraisal shall be used to establish the sale appraisal value (SAV).

The second round appraisal value shall be reduced by the amount of reasonable project costs to arrive at the sale appraisal value (SAV).

(3) Calculations. Subject to the conditions and restrictions set forth in this provision, the planning development credit shall be calculated as follows:

(a) The SAV shall be reduced by subtracting the BAV to yield a gross credit.  $SAV - BAV = \text{gross credit}$ .

(b) The planning development credit is then calculated by multiplying the gross credit by the lessee percentage (LP).  $\text{Gross credit} \times LP = \text{planning development credit}$ .

(c) However, and notwithstanding the foregoing calculation if there is no increase in land value during the lease term, there shall be no planning development credit (if gross credit is equal to zero or less,  $PDC = 0$ )

(4) A planning and development lease may provide that a planning development credit may be lost or depreciated over a stated time if, after termination of the planning and development lease, there is no successor in interest other than the commissioner.

[19.2.22.17 NMAC - N, 10-30-2009]

**19.2.22.18 CONCURRENT LEASES:** As provided in this section, the commissioner may allow a concurrent lease pursuant to the requirements and procedures set forth in this part above in addition to the provisions set out below. The person or entity granted a concurrent lease is referred to herein as a "concurrent lessee". The existing lessee and concurrent lessee may come to any arrangement that proves satisfactory to them to accommodate the use or uses of the concurrent lessee, including but not limited to relinquishment by the existing lessee for consideration. In the event such arrangements cannot be satisfactorily concluded within such time as the commissioner deems practical and necessary, then the following provisions shall apply.

**A.** The concurrent lessee shall compensate the existing lessee for the reasonable measure of the loss of use of the existing lessee's approved improvements in the areas occupied or directly impacted by the new lease. The amount of compensation, if any, will be determined by the commissioner pursuant to Sections 19-7-14, 16, and 17 NMSA 1978. As used herein, "approved improvements" means improvements (as defined in Sections 19-7-15 and 51 NMSA 1978) already identified in the existing lessee's lease as being approved by the commissioner and which add compensable value to the trust land.

**B.** The existing lessee may also be compensated by the concurrent lessee

for any temporary or permanent loss of the use of any acreage that is occupied by the concurrent lessee, provided that the amount of such compensation shall be reasonable, as determined in the commissioner's discretion, and does not exceed the lease rental paid or due by the existing lessee to the state land office for the acreage lost.

**C.** The existing lessee may be further compensated by the concurrent lessee for the reasonable measure of the present value of demonstrable, realistic business losses attributable to the loss of acreage or infrastructure to the concurrent lessee. Such losses cannot be speculative, and must be shown to be part of an existing business plan, or established by equivalent documentation, for the remainder of the existing lease term. The amount of such compensation shall be determined in the commissioner's discretion.

**D.** The uses and rights being granted to the concurrent lessee shall not, in the commissioner's discretion, materially interfere with the uses and rights of the existing lessee. The commissioner can determine that any compensation or reasonable accommodations required of the concurrent lessee adequately offset any material interference. "Reasonable accommodations" may include, but will not be limited to, the re-grading or re-establishment of roadways, the installation of shared wells or ponds, the construction of fences or other barriers sufficient to segregate the existing and concurrent lease uses when necessary, or the temporary removal of livestock during construction when necessary.

**E.** At least sixty (60) days prior to the granting of a concurrent lease, the commissioner will give written notice, sent by certified mail, to the existing lessee of the full name and contact information of the concurrent lessee as well as the compensation or accommodations being required of the concurrent lessee. No proof of receipt shall be required. Thereafter, the existing lessee may, within thirty (30) days of the date of the notice, provide written comment or make written application to the commissioner regarding any additional compensation or accommodations believed to be necessary. Before the expiration of the thirty (30) days, the commissioner will determine in his discretion whether to allow such additional compensation or accommodations. The commissioner's decision on these matters shall be an "agency determination" for purposes of 19.2.15 NMAC.

**F.** The commissioner shall, pursuant to applicable laws and rules, grant the concurrent lease if he determines it is in the best interests of the trust to do so, regardless of whether the new lease is granted prior to or during any negotiations, contest, or any other proceedings regarding

compensation or accommodations sought by the existing lessee. Prior to the granting of the concurrent lease, proof shall be due from the concurrent lessee that the concurrent lessee has tendered the compensation required by the commissioner, if any, and made satisfactory arrangements for such accommodations as may then be required by the commissioner. If the amount of compensation owed the existing lessee is in dispute, the concurrent lessee shall deposit in the land office suspense fund the amount of compensation stated in the agency determination until the dispute is resolved through negotiations or pursuant to 19.2.15 NMAC.

[19.2.22.18 NMAC - N, 10-30-2009]

HISTORY of 19.2.22 NMAC: [RESERVED]

**NEW MEXICO**  
**DEPARTMENT OF PUBLIC**  
**SAFETY**  
**TRAINING AND RECRUITING**  
**DIVISION**  
Law Enforcement Academy

**TITLE 10 PUBLIC SAFETY**  
**AND LAW ENFORCEMENT**  
**CHAPTER 29 L A W**  
**ENFORCEMENT ACADEMY**  
**PART 8 O F F I C E R**  
**TRANSITION TRAINING PROGRAM**

**10.29.8.1 ISSUING AGENCY:** New Mexico Law Enforcement Academy - Training and Recruiting Division.  
[10.29.8.1 NMAC - N, 11/30/09]  
[Department of Public Safety, 4491 Cerrillos Road, Santa Fe, New Mexico 87505]

**10.29.8.2 SCOPE:** All police officers and law enforcement agencies in the state of New Mexico.  
[10.29.8.2 NMAC - N, 11/30/09]

**10.29.8.3 S T A T U T O R Y**  
**AUTHORITY:** NMSA 1978, Section 29-7-4 (B) (C) (F) (Repl. Pamp. 1994), NMSA 1978, Section 29-7-5 (E) (F) (Repl. Pamp. 1994), NMSA 1978, Section 29-7-6 (A) (4) (6) (Repl. Pamp. 1994), NMSA 1978, Section 29-7-7.1 (Repl. Pamp. 1994), NMSA 1978, Section 29-7-7.2 (Repl. Pamp. 1994), NMSA 1978, Section 29-7-10 (Repl. Pamp. 1994)  
[10.29.8.3 NMAC - N, 11/30/09]

**10.29.8.4 D U R A T I O N :** Permanent.  
[10.29.8.4 NMAC - N, 11/30/09]

**10.29.8.5 EFFECTIVE DATE:** November 30, 2009, unless a later date is cited at the end of a section.  
[10.29.8.5 NMAC - N, 11/30/09]

**10.29.8.6 OBJECTIVE:** The purpose and intent of this rule is to provide the ability for New Mexico reserve police officers to attain New Mexico law enforcement certification. These rules do not require the certification of a reserve program, nor do they require any agency or individual currently involved as a law enforcement reserve to attain such certification. The objectives of Part 8 are to:

**A.** establish minimum standards of training for police officer certification of officers obtaining certification by the police officer transition training program;

**B.** establish criteria for applicants to attend a police officer transition training program;

**C.** identify criteria for medical and psychological evaluations required under law and fingerprint clearance; and

**D.** establish entry level and requalification firearms training requirements.

[10.29.8.6 NMAC - N, 11/30/09]

**10.29.8.7 DEFINITIONS:**

**A.** "Reserve officer" means a commissioned person who is not a certified police officer by the New Mexico law enforcement academy that assists law enforcement agencies in the state of New Mexico.

**B.** "Certified officer" means a commissioned person who assists law enforcement agencies in the state of New Mexico who has met all the requirements for law enforcement certification as established by the Article 7, New Mexico Law Enforcement Training Act, NMSA 1978 Section 29-7-1 to 29-7-13 and is commissioned and employed by a recognized New Mexico law enforcement agency.

**C.** "Transition officer student" means a person that has made application and been approved by the director for obtaining law enforcement certification through the police officer transition training program. This person may not be employed as a certified police officer by any law enforcement agency in this state until the person satisfies the qualifications for certification set forth in 29-7-6, Subsection A, and is awarded a certificate by the director attesting to that fact.

**D.** "Police officer transition training program" means a program approved by the New Mexico law enforcement academy equivalent to the existing standards established under 10.29.9.8 NMAC that allows for police officer certification.

**E.** "Certification by prior basic reserve training" means the validation and approval of a comparable basic training program for prior reserve training conducted

in New Mexico as recognized and approved by the director through December 31, 2011. Effective January 1st 2012 no credit will be given for law enforcement certification purposes for any basic reserve training conducted outside of the officer transition training program.

[10.29.8.7 NMAC - N, 11/30/09]

**10.29.8.8 POLICE OFFICER TRANSITION MINIMUM STANDARDS OF TRAINING:**

**A.** The training standards as established under 10.29.9.8 NMAC are the minimum standards of training for police officer transition certification except as noted in Subsection B of this section.

**B.** Block 3: Physical and emotional readiness for transition programs; 76 total block hours - this unit of instruction will instruct the student in health and physical fitness concepts, flexibility, strength, body composition and cardiovascular endurance. The student will be expected to successfully complete both entrance and exit standards of fitness and exit standards of job-related agility. The subjects and standards include.

(1) Physical fitness/wellness; 1 hour.

(a) Academy entry standard: This standard is based on cooper clinic studies, data and recommendations. Each academy entry student will be pre-assessed on five fitness/wellness evaluations: (1) 1.5 mile run (altitude adjusted); (2) 1 minute sit-up; (3) 1 minute push-up; (4) sit and reach; and (5) 300 meter run. Entry evaluations 1 through 5 will be measured relative to age and gender norms. Each academy entry candidate must score in the 40th percentile or better, in each of the five designated fitness/wellness evaluations, to be eligible for entry into state-certified law enforcement basic transition training academies.

(b) Academy exit goal: For each academy student the goal, through participation in the physical fitness program, is to be able to score in the 60th percentile in each of the above five fitness/wellness evaluations.

(2) Physical performance requirements; 72 hours.

(a) Fitness program: Each student will participate in a fitness program approved by the director within six months of the projected completion date of all basic training program requirements.

(b) Academy fitness exit standard: Complete the 1.5 mile run and 300 meter run at the 60th percentile.

(c) Academy agility course #1 - Pursuit and control exit standard: Score passing time (3 minutes, 5 seconds) on agility course while wearing 10 pounds of extra weight.

(i) Officer is seated in a vehicle with seatbelt in use. As the timed

exercise begins, the officer will undo the seatbelt and open the vehicle door.

(ii) Run 30 feet and open a building door.

(iii) Cross the threshold (4 feet) and run up two flights of stairs and pause for 60 seconds. (A rise and run of 7 inches by 11 inches is standard; 8 inches by 10 inches or 6 inches by 12 inches are acceptable variations. Standard floor landings are 10 feet high.) It is appropriate, if only one floor is available, to run up, run down, run up and pause. There is no restriction on how the officer negotiates the stairs.

(iv) Run down the stairs and out the door.

(v) Run 100 feet from the door to a 5-foot high platform; run up steps to the top of the 5-foot platform and jump down. A ladder or ramp are acceptable variations to getting on top of the platform.

(vi) Run 37.5 feet; turn and reverse; run 37.5 feet; turn and reverse; run 25 feet to a 6-foot high wall and scale it. The wall is constructed of cinder block, unpainted with a smooth top. If the applicant chooses, he or she may drag a rigid aid or object 10 feet from the side of the wall and use it as a platform to scale the wall. The rigid aid or object will have handles, a flat top, weigh 50 pounds and be 25 inches tall.

(vii) After scaling the wall, run 50 feet to a handcuff/arrest simulator; pull the arms down; touch the ends and hold for 60 seconds. The arrest simulator is 5 feet high with 60 pounds resistance in the right arm and 40 pounds in the left arm.

(d) Academy agility course #2 - Rescue exit standard: Score passing time (42 seconds) on agility course while wearing 10 pounds of extra weight.

(i) Officer is standing at starting point wearing a 10-pound weight belt around the waist to simulate a gun belt. On signal the officer will run 30 feet straight ahead and jump across a 4-foot wide barrier. The barrier is low to the ground, e.g., a ditch, highway divider, etc.

(ii) Run 12.5 feet and climb, jump or hurdle over a 3-foot high barrier. The barrier is to resemble a fence or low wall, no more than 4 inches wide and at least 8 feet long, made of metal or wood.

(iii) Run 12.5 feet to the back of a vehicle equivalent to a full-sized police vehicle and push it 30 feet on a flat surface in the direction of a clear area where a victim extraction will take place. The car is occupied by a dummy (victim) wearing a seatbelt and weighing 190 pounds plus or minus 10 pounds. The dummy must meet standards established by the New Mexico law enforcement academy.

(iv) Approach the victim's door; open the door; undo the

seatbelt; pull the victim out of the vehicle and drag them 20 feet perpendicular to the direction of the vehicle.

(3) Emotional health and stress management; 2 hours.

(4) Nutrition; 1 hour.

[10.29.8.8 NMAC - N, 11/30/09]

#### **10.29.8.9 S T U D E N T HANDBOOK, PROCEDURES, AND RULES:**

Due to the need to insure that students attending a regional law enforcement academy will comply with rules and regulations, the director of the New Mexico law enforcement regional academy is hereby instructed to prepare a handbook covering student rules and regulations, policies and procedures.

[10.29.8.9 NMAC - N, 11/30/09]

#### **10.29.8.10 T R A N S I T I O N PROGRAM APPLICATION FOR ADMISSION:**

**A.** Compliance with the reporting requirements listed in 10.29.9.10 NMAC is required.

**B.** Phase one application requirements.

(1) An applicant for training or certification, or his department, must submit the following application forms for admission or certification and all necessary paperwork 60 days prior to the basic training program start date.

(a) LEA-1A - application for admission to transition training program.

(b) LEA-5 - fingerprint affidavit.

(c) LEA-6 - applicant affidavit.

(d) LEA-9 - release of information.

(e) LEA-11 - employment history.

(f) LEA-12 - affidavit of United States citizenship.

(g) LEA-14 - entry physical fitness verification.

(h) LEA-82 - agency employment action.

(i) Notarized copy of current valid driver's license.

(j) Notarized copy of military DD214 (if applicant has had military service) must have character of service.

(k) Notarized copy of high school diploma, G.E.D. certificate or college diploma.

(2) Non-compliance with the 60 day application requirement will result denial of admission to the selected training.

(3) Applicants who falsify any information on their application for admission or certification will not be considered for admission or certification.

**C.** Phase two application requirements.

(1) An applicant for basic certification, or his department, must submit the following application forms for certification and all necessary paperwork no

less than six months prior to the completion of the basic training program.

(a) LEA-3 - medical examination.

(b) LEA-4 - current psychological examination.

(2) Non-compliance with the six month submission requirement will result denial of eligibility to take the law enforcement certification examination.

(3) Applicants who falsify any information on their application for admission or certification will not be considered for admission or certification.

**D.** Phase three, certification by waiver training program requirement. An applicant for basic certification must complete the certification by waiver training program no less than six months after the completion of the basic transition training program.

[10.29.8.10 NMAC - N, 11/30/09]

#### **10.29.8.11 PSYCHOLOGICAL EXAMINATION:**

Prior to certification as a law enforcement officer in the state of New Mexico, it shall be necessary for each applicant to be examined by a licensed/certified psychologist who shall certify to the individual's emotional and mental condition on a form prescribed by the director and entitled "mental examination certification". Compliance with the provisions set forth in 10.29.9.12 NMAC is required.

[10.29.8.11 NMAC - N, 11/30/09]

#### **10.29.8.12 FINGERPRINT CLEARANCE FOR ADMISSION/ CERTIFICATION:**

Prior to admission or certification as a law enforcement officer in the state of New Mexico, it shall be necessary for all New Mexico police officer applicants for certification must receive a fingerprint clearance from the department of public safety technical and emergency support division and the federal bureau of investigation. Compliance with the provisions set forth in 10.29.9.13 NMAC is required.

[10.29.8.12 NMAC - N, 11/30/09]

#### **10.29.8.13 REQUALIFICATION FIREARMS TRAINING:**

All New Mexico police officer applicants for certification must comply with the provisions set forth in 10.29.9.14 NMAC.

[10.29.8.13 NMAC - N, 11/30/09]

#### **10.29.8.14 MEDICAL REVIEW PROCEDURES:**

In accordance with the provisions of the Law Enforcement Training Act, Section 29-7-6, an applicant for certification or training must be examined by a licensed physician and be found to be free of any physical condition that might adversely affect his/her performance as a police officer or prohibit him/her from successfully completing a prescribed

basic law enforcement training course. Compliance with the provisions set forth in 10.29.9.17 NMAC is required.

[10.29.8.14 NMAC - N, 11/30/09]

**10.29.8.15 L A W ENFORCEMENT OFFICER CERTIFICATION EXAMINATION; TIME LIMITATIONS:**

**A.** Students who successfully complete a New Mexico police officer transition training program, and certification by waiver training program, and are determined to have met all of the requirements for law enforcement certification, will be allowed to take the law enforcement officer certification exam. Only those students who have successfully completed all requirements under the minimum standards of training, as determined by the director of the department of public safety training and recruiting division, will be administered the law enforcement officer certification exam.

(1) Students will be allowed two opportunities in which to pass the law enforcement officer certification exam within 60 days from the date of completion of the training program. Students who fail the exam two times must attend and successfully complete the New Mexico law enforcement academy's basic police training program. Students will not be allowed to attend a regional/satellite program to obtain certification.

(2) Students who achieve a passing score on the law enforcement officer certification exam are eligible for certification upon submission of form LEA-15 by the employing New Mexico law enforcement agency.

**B.** Students who have successfully completed a New Mexico police officer transition training program, the certification by waiver program, and passed the law enforcement officer certification exam, will be provided a letter from the director of the department of public safety training and recruiting division attesting to the student's eligibility for certification as a police officer in New Mexico.

**C.** When all paperwork is completed to the satisfaction of the director of the department of public safety training and recruiting division for any student requesting certification by successful completion of a New Mexico police officer transition training program, the request will be submitted to the New Mexico law enforcement academy board for final approval and award of certification under NMSA 1978, Section 29-7-1 et. al., (Repl. Pamp. 1994).

[10.29.8.15 NMAC - N, 11/30/09]

**10.29.8.16 CERTIFICATION:**

**A.** The New Mexico law

enforcement academy board determines the maximum number of satellite academies which may be certified at any given time. Only approved satellite academy programs may conduct New Mexico police officer transition training programs.

**B.** The following procedures must be adhered to by all New Mexico police officer transition training programs for the training program to be approved for certification in accordance with NMSA 1978, Section 29-7-1 et. al., (Repl. Pamp. 1997).

[10.29.8.16 NMAC - N, 11/30/09]

**10.29.8.17 P R O G R A M IMPLEMENTATION:**

**A.** The accredited academy will ensure that the facilities, instructors, program management, and curriculum meet or exceed the standards and expectations established by the board and the director.

**B.** All regional academies requesting approval for each transition basic training program must notify the department of public safety training and recruiting division and supply the following information for review and approval prior to any such program's implementation.

(1) Curriculum which must correspond with the current minimum standards of training for the requested program as set forth in 10.29.9.8 and 10.29.8.8 NMAC. Curriculum is subject to change at the discretion of the New Mexico law enforcement academy board.

(2) List of department of public safety training and recruiting division certified instructors and their assigned course(s). Instructors must be certified through the department of public safety training and recruiting division, or instruction conducted by a non-certified instructor must be monitored by the department of public safety training and recruiting division certified instructor. Technical or high risk areas must be instructed by certified department of public safety training and recruiting division instructors; for example, firearms training - qualification must be conducted by a certified department of public safety training and recruiting division firearms instructor.

(3) Schedule of classes for the entire training period.

(4) Roster of students' full names, dates of birth, and social security numbers.

**C.** For New Mexico police officer transition training program, comparable training facilities for the below listed proficiency areas must be available or contracted for by the requesting agency or instructor and inspected by the department of public safety training and recruiting division prior to approval.

(1) Comparable driving track facility.

(2) Comparable firearms range facility.

(3) Comparable obstacle/agility course facility.

**D.** Upon receipt of this information, a thorough evaluation will be made and notification sent to the regional academy advising the decision of the department of public safety training and recruiting division. In the event that the program is not approved, notification and recommendations will be sent advising the agency or institution of the program deficiencies. Once these deficiencies have been corrected, the program will again be examined and notification will be sent as to final disposition.

**E.** Once approval is granted, the agency or institution can conduct the program with the assurance that the program is comparable to or exceeds the minimum standards of training as established by the New Mexico law enforcement academy board. Any deviation from the previously approved program must be submitted to the department of public safety training and recruiting division for review and approval pending final certification of the program conducted.

**F.** 60 days prior to the regional academy start date, all fitness assessment scores, and the phase one student application packet shall be received by the department of public safety training and recruiting division.

**G.** Class size will be determined by each regional academy, however, an appropriate instructor to student ratio must be maintained. This is especially important in the critical skill areas of physical fitness, firearms, defensive tactics, emergency vehicle operations, and situational training exercises. The certification of students completing an academy program is important. A low certification percentage, as determined by the board, will be grounds for non-renewal of academy accreditation.

**H.** The board will establish minimum guidelines for instructor and student conduct.

**I.** The board will determine which academies are authorized to conduct transition law enforcement training. The type of student allowed to attend a satellite academy transition training program must meet the criteria listed on form LEA-1A.

[10.29.8.17 NMAC - N, 11/30/09]

**10.29.8.18 P R O G R A M COMPLETION:**

Upon completion of the satellite program, the agency/institution must provide the following information to the department of public safety training and recruiting division prior to administration of the law enforcement officer certification examination (LEOCE).



**A.** Phase two application forms for certification and all necessary paperwork shall be submitted no less than six months prior to the projected completion of the basic training program.

**B.** Final (revised) student roster: full name, date of birth, social security number, and mailing address of each student.

**C.** Final (revised) class schedule: dates, time, and length of instruction. Each block of the minimum standards of training will be included.

**D.** Final (revised) listing of instructors: instructors must be certified through the department of public safety training and recruiting division certified instructor. Technical or high risk areas must be instructed by a certified department of public safety training and recruiting division instructor for the specific areas instructed; example, firearms training - qualification must be conducted by a certified department of public safety training and recruiting division firearms instructor.

**E.** Block test scores must be provided for each instructional area, as well as scoring for the skill proficiency areas, i.e., firearms, defensive tactics, patrol fitness (1.5 mile run and obstacle course), and driving program. A roster of student names and test scores attested to by the satellite program director is sufficient to meet the department of public safety training and recruiting division testing requirements. Department of public safety training and recruiting division testing requirements and minimum scores for the various block and skill proficiency areas are the only acceptable testing criteria.

**F.** Final attendance roster for students of the training program.  
[10.29.8.18 NMAC - N, 11/30/09]

#### **10.29.8.19 PROGRAM MONITORING AND EVALUATION:**

**A.** Department of public safety training and recruiting division director, or his designee, has the authority to visit the satellite training program at any time to monitor and evaluate the training conducted to ensure that the program meets the established minimum standards of training.

**B.** The department of public safety training and recruiting division director, or his designee, will investigate any reported information concerning the operation of the satellite academy and delivery of training programs. At any time that information on program deficiency is verified, the director can request decertification of the satellite program.

(1) The decertification procedures will require a written report on program deficiencies to the director of the satellite program allowing for correction of noted

deficiencies.

(2) If the corrections are not made to the department of public safety training and recruiting division director's satisfaction, decertification will be recommended to the New Mexico law enforcement academy board.

(3) All efforts will be made by the director of the department of public safety training and recruiting division and the satellite program director to resolve program deficiencies prior to initiation of any decertification proceedings.

(4) The satellite program director may appear before the New Mexico law enforcement academy board to appeal, or defend against, program certification recommendations.

[10.29.8.19 NMAC - N, 11/30/09]

#### **10.29.8.20 CERTIFICATION OF PRIOR NON-ACCREDITED BASIC TRAINING:**

Students who have successfully completed a non-accredited police officer basic training academy not previously recognized by the New Mexico law enforcement academy, will be allowed to request recognition and approval of this training in partial fulfillment of the training requirements as established under the New Mexico police officer transition training program until 1/01/12. Each applicant must meet the following conditions and the listed documentation must be submitted.

**A.** Reserve academy daily class student attendance rosters.

**B.** Class schedule: dates, time, length of instruction, and a copy of each lesson plan.

**C.** On a form approved by the director, a listing will be submitted to the director of each completed block and sub-topic of training and the corresponding state approved standard of training that has been fulfilled, noting any deficiencies.

**D.** Listing of instructors: instructors must be certified through the department of public safety training and recruiting division certified instructor. Technical or high risk areas must be instructed by a certified department of public safety training and recruiting division instructor for the specific areas instructed; example, firearms training - qualification must be conducted by a certified department of public safety training and recruiting division firearms instructor.

**E.** Block test scores must be provided for each instructional area, as well as scoring for the skill proficiency areas, i.e., firearms, defensive tactics, patrol fitness (1.5 mile run and obstacle course), and driving program. A roster of student names and test scores attested to by the satellite program director is sufficient to meet the department of public safety training and recruiting division testing requirements.

Department of public safety training and recruiting division testing requirements and minimum scores for the various block and skill proficiency areas are the only acceptable testing criteria.

**F.** Certificate of completion and total hours of training successfully completed.

**G.** Final roster for students of the training program.

**H.** Proof of advance training courses completed may be submitted for fulfillment of related deficient basic training hours. It will be the sole discretion of the director to approve any such training hours submitted.

**I.** Department of public safety training and recruiting division director, or his designee, will evaluate the basic and advance training completed and determine the training hours that will be recognized for basic law enforcement certification and the deficient hours that must be completed to meet the established minimum standards of training. Upon completion of the established minimum standards of training, a formal basic training transcript will be created and the individual will be eligible for attendance of the certification by waiver program.

**J.** An applicant for certification by waiver, or his department, must submit the application forms identified in phase one and phase two of 10.29.8.10 and LEA-15 for admission to the certification by waiver course.

[10.29.8.20 NMAC - N, 11/30/09]

#### **HISTORY OF 10.29.8 NMAC: [RESERVED]**

---

### **NEW MEXICO DEPARTMENT OF PUBLIC SAFETY TRAINING AND RECRUITING DIVISION Law Enforcement Academy**

This is an amendment to 10.29.6 NMAC, Section 10, effective November 30, 2009.

#### **10.29.6.10 ELIGIBILITY OF RETIREES:**

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

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

**B.** Separation period shall not exceed twenty (20) years.

**C.** Separation must be

under honorable conditions.

~~D.~~ [Biennial training shall be complete and current:

~~E.]~~ Applicant shall complete current DPS/TRD basic firearms qualifications.

~~[F.] E.~~ Complete all other conditions required under the current certification by waiver of basic training, except for the physical fitness and agility requirements.

~~[G.] E.~~ Complete any other requirements imposed on applicant by sponsoring agency.

[10.29.6.10 NMAC - N, 07-01-03; A, 02-28-05; A, 11-30-09]

## NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 3.9.1 NMAC, Sections 19 through 22 effective 10/30/09.

### 3.9.1.19 POSSESSION OF CONTRABAND CIGARETTES;

SEIZURE: Cigarettes in the possession of any person which are contraband cigarettes pursuant to Subsection B of Section 7-12-2 NMSA 1978 may be immediately seized by the department. The department shall not be required to obtain a warrant or court order prior to the seizure of contraband cigarettes. [3.9.1.19 NMAC - N, 10/30/09]

### 3.9.1.20 RIGHT OF APPEAL:

Any person may appeal the department's determination that cigarettes seized are contraband under Subsection B of Section 7-12-2 NMSA 1978, and any imposition of civil penalties authorized by Section 7-12-13.1 NMSA 1978. Any person may appeal the department's decision to deny, suspend or revoke the issuance of a cigarette distributor or manufacturer license.

[3.9.1.20 NMAC - N, 10/30/09]

### 3.9.1.21 A P P E A L PROCEDURES: The following are the procedures for appeals filed pursuant to 3.9.1.20 NMAC:

A. Appeals shall be submitted in writing to the office of the secretary of the taxation and revenue department. Appeals must be received by the office of the secretary or, if mailed, must bear a postmark date, within 10 days after the date cigarettes are seized by the department, the date of a notice of denial, suspension or revocation of a license, or the date of a notice of imposition of civil penalties or, where the tenth day falls on a Saturday, Sunday or legal state holiday, the next business day following the tenth day.

B. Contents of appeal. The

appeal shall:

(1) include the name and address of the appellant;

(2) contain a statement of the grounds for appeal, including any law to support the grounds for appeal; and

(3) include supporting exhibits, evidence or documents to substantiate the appellant's claim.

C. Upon the receipt of a timely appeal, the secretary shall review the materials submitted and shall issue a written decision granting or denying the appeal.

(1) In the event that an appeal is granted with respect to seized cigarettes, the cigarettes seized by the department shall be released to the appellant.

(2) In the event that an appeal is denied, the secretary's decision shall include the reasons for the denial of the appeal.

D. A person from whom more than 2,500 cigarettes were seized or upon whom a civil penalty has been imposed may request an evidentiary hearing on the seizure and forfeiture of the cigarettes or the civil penalty if the appeal provided above is denied. The hearing request must be in writing, addressed to the office of the secretary and received or, if mailed, postmarked within 10 days of the date that the secretary's decision has been mailed to the person. The hearing will be conducted as provided in 3.1.8.8 through 3.1.8.16 NMAC. The secretary may designate a hearing officer to conduct the hearing.

E. The decision of the secretary to grant or deny an appeal shall become final and conclusive 30 days from the date the written decision is mailed by the department to the appellant unless a request for hearing as allowed by Subsection D above has been filed. If a request for hearing is filed, the decision of the secretary or hearing officer shall become final and conclusive 30 days from the date the written decision is mailed by the secretary or hearing officer to the appellant.

[3.9.1.21 NMAC - N, 10/30/09]

3.9.1.22 FORFEITURE: In the absence of the filing of a timely appeal of a seizure of contraband cigarettes or when a decision has become final under Subsection E of 3.9.1.21 NMAC, the cigarettes seized by the department shall be deemed forfeited and shall be destroyed by the department unless needed for evidence in other proceedings.

[3.9.1.22 NMAC - N, 10/30/09]

---

**End of Adopted Rules Section**

---

## Submittal Deadlines and Publication Dates 2009

<b>Volume XX</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 21	November 2	November 13
Issue Number 22	November 16	December 1
Issue Number 23	December 2	December 15
Issue Number 24	December 16	December 31

## Submittal Deadlines and Publication Dates 2010

<b>Volume XXI</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 4	January 15
Issue Number 2	January 19	January 29
Issue Number 3	February 1	February 12
Issue Number 4	February 15	February 26
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 3	May 14
Issue Number 10	May 17	May 28
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 16	July 30
Issue Number 15	August 2	August 16
Issue Number 16	August 17	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 18	October 29
Issue Number 21	November 1	November 15
Issue Number 22	November 16	December 1
Issue Number 23	December 2	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.