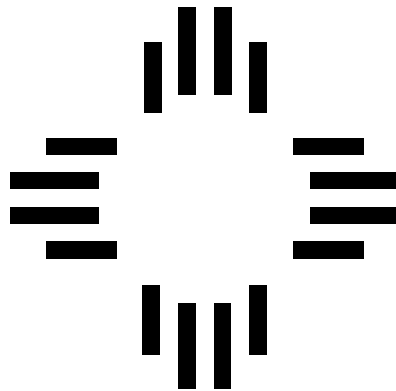


New Mexico Register

Volume XIII, Issue Number 17
September 16, 2002



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
2002

COPYRIGHT © 2002
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

New Mexico Register

Volume XIII, Number 17

September 16, 2002

Table of Contents

Notices of Rulemaking and Proposed Rules

Construction Industries Commission	
Notice of Regular Meeting	697
Dental Health Care, Board of	
Legal Notice	697
Finance and Administration, Department of	
Board of Finance	
Notice of Board of Finance Rule Change	697
Gaming Control Board	
Notice of Hearing on Proposed New Rule and Amendments	697
Human Services Department	
Income Support Division	
Notice of Public Hearing - New Mexico Works Cash Assistance Program	697
Notice of Extension of Comment Period	698
Livestock Board	
Notice of Rule Making Hearing and Regular Board Meeting	698
Oil Conservation Commission	
Notice of Rule Making	698
Notice of Rule Making	699
Notice of Rule Making	699

Adopted Rules and Regulations

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

Accountancy, Board of Public				
*	16.60.2 NMAC	A	Certified Public Accountant (CPA) Examination Requirements	701
*	16.60.3 NMAC	A	Licensure and Continuing Professional Education Requirements	701
Albuquerque / Bernalillo County Air Quality Control Board				
*	20.11.1 NMAC	Rn & A	General Provisions	702
*	20.11.4 NMAC	Rn & A	General Conformity	702
*	20.11.5 NMAC	Rn & A	Visible Air Contaminants	703
*	20.11.6 NMAC	Rn & A	Emergency Action Plan	703
*	20.11.7 NMAC	Rn & A	Variance Procedure	703
*	20.11.21 NMAC	Rn & A	Open Burning	703
*	20.11.22 NMAC	Rn & A	Woodburning	704
*	20.11.23 NMAC	Rn & A	Stratospheric Ozone Protection	704
*	20.11.40 NMAC	Rn & A	Source Registration	704
*	20.11.41 NMAC	Rn & A	Authority To Construct	704
*	20.11.42 NMAC	Rn & A	Operating Permits	704
*	20.11.43 NMAC	Rn & A	Stack Height Requirements	705
*	20.11.60 NMAC	Rn & A	Permitting In Nonattainment Areas	705
*	20.11.61 NMAC	Rn & A	Prevention of Significant Deterioration	705
*	20.11.62 NMAC	Rn & A	Acid Rain	706
*	20.11.63 NMAC	Rn & A	New Source Performance Standards For Stationary Sources	706
*	20.11.64 NMAC	Rn & A	Emission Standards for Hazardous Air Pollutants for Stationary Sources	706
*	20.11.65 NMAC	Rn & A	Volatile Organic Compounds	706

*	20.11.66 NMAC	Rn & A	Process Equipment	707
*	20.11.67 NMAC	Rn & A	Equipment, Emissions, Limitations	707
*	20.11.69 NMAC	Rn & A	Pathological Waste Destructors	707
*	20.11.90 NMAC	Rn & A	Administration, Enforcement, Inspection	707
*	20.11.100 NMAC	Rn & A	Motor Vehicle Inspection - Decentralized	708
*	20.11.101 NMAC	Rn & A	Motor Vehicle Inspection - Centralized	708
*	20.11.102 NMAC	Rn & A	Oxygenated Fuels	708
*	20.11.103 NMAC	Rn & A	Motor Vehicle Visible Emissions	708
Game and Fish, Department of				
*	19.31.6 NMAC	N / E	Waterfowl	709
*	19.31.4 NMAC	A / E	Fisheries	713
*	19.31.5 NMAC	A / E	Upland Game	713
*	19.31.8 NMAC	A / E	Big Game	715
Public Records, Commission of				
	1 NMAC 3.2.93.379	R	ERRDS, Public Employee Labor Relations Board	715
*	1.18.630 NMAC	R	ERRDS, Human Services Department	715
*	1.18.605 NMAC	N	ERRDS, Martin Luther King Jr. Commission.	715
	<i>Synopsis Approval Letter</i>		716
*	1.18.630 NMAC	N	<i>Synopsis</i> -- ERRDS, Human Services Department	717
*	1.19.3 NMAC	A	LGRRDS, Office of the County Clerk	717
Water Trust Board				
*	19.25.10 NMAC	N	Review and Eligibility of Proposed Water Projects.	717

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

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, except the first subscription from each New Mexico state agency may be ordered at \$85.00. 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 rules@rain.state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO CONSTRUCTION INDUSTRIES COMMISSION

CONSTRUCTION INDUSTRIES COMMISSION

Notice is hereby given that the Construction Industries Commission will hold a regular meeting on Friday, September 27, 2002 at 9:30 a.m., at the State Capitol, Room 321, Santa Fe, New Mexico. The Commission will consider pending agenda items and discuss such other business as may require formal action by the Commission. Anyone who requires special accommodations is requested to notify the Commission at 725 St. Michael's Drive, Santa Fe, New Mexico 87501 of such needs at least ten days prior to the meeting.

NEW MEXICO BOARD OF DENTAL HEALTH CARE

Legal Notice

Notice is hereby given that the New Mexico Board of Dental Health Care and the New Mexico Dental Hygienists Committee will convene a Rule Hearing to amend:

Title 16, Chapter 5, Part 17	Dentist and Dental Hygienists, Collaborative Practice
Title 16, Chapter 5, Part 18	Dental Hygienists, Fees
Title 16, Chapter 5, Part 19	Dental Hygienists, Licensure by Exam
Title 16, Chapter 5, Part 21	Dental Hygienists, Temporary Licensure
Title 16, Chapter 5, Part 25	Dental Hygienists, Retirement and Reinstatement
Title 16, Chapter 5, Part 33	Dental Assistants, Requirements for Certification

The following were not open for discussion at the July 26, 2002 New Mexico Board of Dental Health Care Meeting and New Mexico Dental Hygienists Committee Meeting, but will be opened for discussion for review and adoption:

Title 16, Chapter 5, Part 18	Dental Hygienists, Fees
Title 16, Chapter 5, Part 21	Dental Hygienists, Temporary Licensure

This Hearing will be held at the St. Joseph's Northeast Heights Hospital, 4701 Montgomery NE, Conference Room B, Albuquerque, NM, October 11 & October 12, 2002 at 8:30 a.m.

Following the Rule Hearing the Dental Hygienists Committee will convene a regu-

lar meeting. The New Mexico Board of Dental Health Care will convene a regular meeting following the Dental Hygienists Committee Meeting on October 12, 2002, beginning with Executive Session. The public portion of the meeting is anticipated to begin about 11:00 a.m. and end by 5:00 p.m.

Copies of the proposed rules are available on request from the Board office, P. O. Box 25101, Santa Fe, New Mexico, 87504-5101, or phone (505) 476-7125.

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 September 27, 2002 to allow time for distribution to the Board and Committee members. Individuals planning on testifying at the hearing must provide 14 copies of their testimony.

Final action on the proposed rules will be taken during the Board meeting. Portions of the Committee and Board meeting may be closed to the public while the Board and Committee are 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 and are in need of reasonable accommodations for their disabilities should contact the Board Administrator at least one week prior to the meeting.

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION BOARD OF FINANCE

NOTICE OF BOARD OF FINANCE RULE CHANGE

The state Board of Finance is in the process of revising one of its rules: Acceptance of Credit/Debit Cards and Use of Electronic Fund Transfers. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501. The Board will consider proposed changes at its November 12, 2002 meeting. Please mail or deliver written comments on the proposed changes to the same location by October 18, 2002 to Scott Stovall.

NEW MEXICO GAMING CONTROL BOARD

NEW MEXICO GAMING CONTROL BOARD

NOTICE OF HEARING ON PROPOSED NEW RULE AND AMEND- MENTS

The New Mexico Gaming Control Board ("Board") will hold a public hearing at 1:30 p.m. on October 1, 2002 at the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110, to consider proposed new rule: **15.1.26 NMAC, Temporary Possession of Gaming Devices by Public Post – Secondary Educational Institutions and Trade Shows** and amendments to **15.1.17 NMAC, Schedule of Penalties Under The Gaming Control Act** and **15.1.17.9 NMAC, Schedule of Fines and Penalties**.

Copies of the proposed rule and amendments are available on request to the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110, or by calling (505) 841-9733. The proposed new rule and amendments are also available on our website at www.nmgcb.org. The Board can provide public documents in various accessible formats.

The hearing will be held before a hearing officer appointed by the Board. All interested parties may attend the hearing and present their views or submit written comments prior to the hearing. Written comments should be directed to the Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110.

If you are an individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, please contact Barbara Palmier, Gaming Control Board, at least one week prior to the hearing at (505) 841-9756.

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to consider adopting revised rules in the New Mexico Works Cash Assistance Program. The hearing will

be held at 9:00 am on Tuesday October 15, 2002. The hearing will be held at the Income Support Division conference room, 2009 S. Pacheco St., Santa Fe, NM. The conference room is located in Room 120 on the lower level.

The Department proposes to revise NMW cash assistance regulations at 8.102 NMAC in order to adjust the gross income limits for cash assistance programs. The proposed regulations will accurately record 85% of Federal Poverty Guidelines for Cash Assistance Programs, and accurately record 100% of Federal Poverty Guidelines for Support Services. These standards will be effective from October 1, 2002 through September 30, 2003.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Department toll free at 1-800-432-6217, TDD 1-800-609-4TDD (4833), or through the New Mexico Relay System toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals wishing to testify or requesting a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling toll free 1-800-432-6217.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 PM on the date of the hearing. Please send comments to:

Robin Dozier Otten, Secretary-Designate
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to:
Sharon.Regensberg@state.nm.us

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF EXTENSION OF COMMENT PERIOD

The Human Services Department will extend the time period for accepting comments on proposed rules for Employment and Training work requirements, voluntary quit and disqualification, and Able Bodied Adults Without Dependent Children

(ABAWDs) for the Food Stamp Program. The proposed rule revisions are found at 8.139.410.12 NMAC and were published in the Human Services Register, Vol. 25, No. 25 on August 13, 2002.

The notice of public hearing was published in the New Mexico Register, Volume XIII, Number 14, and the Albuquerque Journal on July 31, 2002. The public hearing was held on September 3, 2002. Because the revisions are considered substantial, the comment period for the proposed revisions found at 8.139.410.12 NMAC will be extended until 5:00 pm on October 4, 2002. The final rules will become effective on December 1, 2002.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation, please contact the Department toll free at 1-800-432-6217, TDD 1-800-609-4TDD (4833), or through the New Mexico Relay System toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals requesting a copy of the proposed regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling toll free 1-800-432-6217.

Individuals may submit written or recorded comments. Please send comments to:

Robin Dozier Otten, Secretary-Designate
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to:
Sharon.Regensberg@state.nm.us

NEW MEXICO LIVESTOCK BOARD

NEW MEXICO LIVESTOCK BOARD

NOTICE OF RULE MAKING HEARING AND REGULAR BOARD MEETING

NOTICE IS HEREBY GIVEN that a rule making hearing and regular board meeting will be held on Wednesday September 18, 2002, in the Board Room of New Mexico Livestock Board, Albuquerque, New Mexico, at 9:00 a.m. The board will consider rules governing administration and office fees and other matters of general business in Accordance with Section 77-2-

7.

Copies of rules can be obtained by contacting John Wortman, Executive Director, New Mexico Livestock Board, 300 San Mateo, N. E., Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161. Interested persons may submit their views on the proposed rules to the Board at the above address and/or may appear at the scheduled hearing and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

NEW MEXICO OIL CONSERVATION COMMISSION

NOTICE OF RULE MAKING

STATE OF NEW MEXICO OIL CONSERVATION COMMISSION SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing and workshop at 9:00 A.M. on September 20, 2002 in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico concerning the amendment and renumbering of Section 118 from 19.15.3 NMAC to 19.15.2 NMAC. The proposed regulation concerns management of hydrogen sulfide gas arising from oil and gas exploration and production in the interest of public safety. Notice is also given of the regular meeting of the Oil Conservation Commission of September 27, 2002, when the amendment and renumbering of Section 118 from 19.15.3 NMAC to 19.15.2 NMAC will be considered by the Oil Conservation Commission. If you are an 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, please contact Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 immediately. A copy of the text of proposed regulation is available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

Given under the Seal of the

State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of August, 2002.

STATE OF NEW MEXICO

OIL CONSERVATION DIVISION

Lori Wrotenbery, Director

S E A L

**NEW MEXICO OIL
CONSERVATION
COMMISSION**

NOTICE OF RULE MAKING

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at its regular monthly meeting on September 27, 2002, in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning adoption of proposed amendments to 19.15.5.303 NMAC and Subsection A of 19.15.5.309 NMAC; and the renumbering and amendment of Subsections B and C of 19.15.5.309 NMAC to a new section of 19.15.5.315 NMAC Surface Commingling. The proposed regulations concern surface commingling of oil and gas from different pools and leases and off-lease measurement and storage of production. If you are an 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, please contact Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 immediately. A copy of the text of proposed regulations is available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of August, 2002.

STATE OF NEW MEXICO

OIL CONSERVATION DIVISION

Lori Wrotenbery, Director

S E A L

**NEW MEXICO OIL
CONSERVATION
COMMISSION**

NOTICE OF RULE MAKING

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at its regular monthly meeting on September 27, 2002, in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning proposed repeal of 19.15.6.402 NMAC. The regulation proposed to be repealed presently requires all operators of gas wells in the State of New Mexico to conduct annual shut-in pressure tests on such wells, and prescribes the procedure for such tests. If you are an 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, please contact Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 immediately. A copy of the text of proposed regulations is available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of August, 2002.

STATE OF NEW MEXICO

OIL CONSERVATION DIVISION

Lori Wrotenbery, Director

S E A L

**End of Notices and Proposed
Rules Section**

This page intentionally left blank.

Adopted Rules and Regulations

NEW MEXICO BOARD OF PUBLIC ACCOUNTANCY

Explanatory paragraph: This is an amendment to 16.60.2.12 NMAC and to correct the numeration to conform to the current NMAC requirements:

16.60.2.12 CPA EXAMINATION

CHEATING: Cheating by an applicant in applying for or taking the examination will be deemed to invalidate any grade otherwise earned by a candidate on any part of the examination and may warrant summary expulsion from the examination and disqualification from taking the examination for a specified number of subsequent sittings.

~~[(+)]A.~~ For purposes of this rule, the following actions, among others, may be considered cheating:

~~[(+)](1)~~ Falsifying or misrepresenting educational credentials or other information required for admission to the examination;

~~[(+)](2)~~ Communication between candidates inside or outside the examination room ~~for copying another candidate's answers~~ while the examination is in progress;

~~[(+)](3)~~ Communication with others outside the examination room while the examination is in progress;

~~[(+)](4)~~ Substitution of another person to sit in the examination room in the stead of a candidate and write one or more of the examination papers; ~~or~~

~~[(+)](5)~~ Reference to crib sheets, textbooks, or other material inside or outside the examination room while the examination is in progress;

~~[(+)](6)~~ Possession of or reference to crib sheets, textbooks, electronic devices or other material inside or outside the examination room while the examination is in progress;

~~[(+)](7)~~ Copying or attempting to copy another candidate's answers;

~~[(+)](8)~~ Failure to cooperate with testing officials;

~~[(+)](9)~~ Any conduct that violates the standards of test administration or violates the verbal or written instructions given by examination administrators; or

~~[(+)](10)~~ Bringing prohibited items into the examination site.

~~[(+)]B.~~ In any case where it appears to a member of the board or its representative, while the examination is in progress, that cheating has or is occurring, the board may either summarily expel the candidate involved from the examination or

move the candidate to a position in the room away from other candidates where the candidate can be watched more closely,

~~[(+)]C.~~ In any case where the board believes that it has evidence that a candidate has cheated on the examination, and in every case where a candidate has been expelled from the examination, the board shall conduct a hearing expeditiously following the examination session for the purpose of determining whether or not there was cheating, and, if so, what remedy should be applied. In such hearings, the board shall decide:

~~[(+)](1)~~ whether the candidate shall be given credit for any portion of the examination completed in that session;

~~[(+)](2)~~ whether the candidate shall be allowed to continue taking the examination in any additional sessions that remain; and

~~[(+)](3)~~ whether the candidate shall be barred from taking the examination in future sittings, and if so, for how many sittings.

~~[(+)]D.~~ In any case where the board permits a candidate to continue taking the examination, it may, depending on the circumstances:

~~[(+)](1)~~ admonish the candidate;

~~[(+)](2)~~ seat the candidate in a segregated location for the rest of the examination;

~~[(+)](3)~~ keep a record of the candidate's seat location and identification number and the names and identification numbers of the candidates on either side of the candidate; and

~~[(+)](4)~~ notify the American Institute of Certified Public Accountants (AICPA) of the circumstances, furnishing the candidate's identification number, so that after the initial grading is completed the candidate's papers can be compared for unusual similarities with the papers of others who may have been involved.

~~[(+)]E.~~ In any case where a candidate is refused credit for parts of the examination taken or is expelled from the examination or disqualified from taking other parts, the board shall give the candidate a statement containing its findings, the evidence upon which the findings are based, and a notice of the right of the candidate to a formal rehearing by the board, with right of appeal, pursuant to the procedures provided in the Uniform Licensing Act, Sections 61-1-1 to 61-1-31 NMSA 1978, and in Section 7B of the Act, and after July 1, 2004, Section 8B of the Act.

~~[(+)]F.~~ In any case where a candidate is refused credit for any part of an examination taken, disqualified from taking

any part of the examination, or barred from taking the examination in future sittings, the board will provide information as to its findings and actions taken to the board of accountancy of any other state to which the candidate may apply for the examination.

[16.60.2.12 NMAC - Rp 16 NMAC 60.3.9, 02-14-2002; A, 09-16-2002]

NEW MEXICO BOARD OF PUBLIC ACCOUNTANCY

Explanatory paragraph: This is an amendment to 16.60.3.13 NMAC and a correction to the numeration in Paragraph (11) of Subsection D of 16.60.3.15 NMAC:

16.60.3.13 RECIPROCITY REQUIREMENTS:

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

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

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

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

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

(5) Has met the CPE requirement pursuant to the Act and board rules; and

(6) Has met the ethics examination requirements of the board.

B. The board may rely on the National Association of State Boards of Accountancy (NASBA), the American Institute of Certified Public Accountants (AICPA), or other professional bodies deemed acceptable to the board for evaluation of other state's CPA qualification requirements in making substantial equivalency determinations.

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

country.

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

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

(3) The board recognizes the existence of the International Qualifications Appraisal Board (IQAB), a joint body of NASBA and AICPA, which is charged with:

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

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

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

(5) The board recognizes the International Uniform CPA Qualification Examination (IQEX), written and graded by AICPA, as a measure of professional competency satisfactory to obtain a New Mexico certificate by reciprocity.

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

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

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

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

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

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

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

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

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

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

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

[16.60.3.13 NMAC - Rp 16 NMAC 60.4.9, 02-14-2002; A, 09-16-2002]

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.1 NMAC; Sections 5, 6, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during its May 8th, 2002 regular meeting. 20.11.1 NMAC was also renumbered and reformatted from 20 NMAC 11.01 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.1.5 EFFECTIVE DATE:

The effective date of this Part, or amendment to, and those following is the first day of the month after the Part or amendment has been filed with the State Records Center plus 30 days as required by the New Mexico Air Quality Control Act, December 1, 1995. The effective date of specific sections, ~~subsections, and paragraphs is~~ are located at the end of each section, ~~subsection, or~~

~~paragraph~~ within the historical brackets.

[12/1/95 . . . 8/1/96; 20.11.1.5 NMAC - Rn, 20 NMAC 11.01.1.5 & A, 10/1/02]

20.11.1.6 OBJECTIVE: The objective of this Part is to provide definitions and ambient air quality standards, which are generally applicable to Albuquerque/Bernalillo County Air Quality Control Board Regulations. ~~[codified at 20 NMAC 11.01 thru 11.119.]~~

[12/1/95; 20.11.1.6 NMAC - Rn, 20 NMAC 11.01.1.6 & A, 10/1/02]

20.11.1.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, ~~[One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102].~~

[12/1/95; 20.11.1.11 NMAC - Rn, 20 NMAC 11.01.1.11 & A, 10/1/02]

20.11.1.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:

~~This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Standard No. 1 - Ambient Air Quality Standards, filed November 12, 1981; and Regulations No. 1 - Resolution, filed June 18, 1986; No. 2 - Definitions, filed June 16, 1992; and No. 26 - Interpretation, filed March 24, 1982. All references to these regulations shall be understood as a reference to this Part.~~

20.11.1.12 [Reserved]

[12/1/95; 20.11.1.12 NMAC - Rn, 20 NMAC 11.01.I.12 & Repealed, 10/1/02; Rn, 20 NMAC 11.01.II.1, 10/1/02]

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.4 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during its May 8th, 2002 regular meeting. 20.11.4 NMAC was also renumbered and reformatted from 20 NMAC 11.04 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.4.5 EFFECTIVE DATE:

December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.4.5 NMAC - Rn, 20 NMAC 11.04.I.5 & A, 10/1/02]

20.11.4.11 DOCUMENTS :
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.4.11 NMAC – Rn, 20 NMAC 11.04.I.11 & A, 10/1/02]

~~**20.11.4.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 43 General Conformity, [filed on December 16, 1994. All references to this rule shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.5 NMAC, Sections 4, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.5 NMAC was also renumbered and reformatted from 20 NMAC 11.05 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.5.4 EFFECTIVE DATE:
November 1, 1995, unless a later date is cited at the end of a section.
[11/1/95; 20.11.5.4 NMAC – Rn, 20 NMAC 11.05.I.4, & A, 10/1/02]

20.11.5.11 DOCUMENTS :
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [11/1/95; 20.11.5.11 NMAC – Rn, 20 NMAC 11.05.I.11, & A, 10/1/02]

~~**20.11.5.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 05, Visible Air Contaminants, filed on November 28, 1989. All references to this rule shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.6 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.6 NMAC was also renumbered and reformatted from 20 NMAC 11.06 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.6.5 EFFECTIVE DATE:
December 1, 1995, unless a later date is cited at the end of a section.
[12/1/95; 20.11.6.5 NMAC – Rn, 20 NMAC 11.06.I.5, & A, 10/1/02]

20.11.6.11 DOCUMENTS :
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.6.11 NMAC – Rn, 20 NMAC 11.06.I.11, & A, 10/1/02]

~~**20.11.6.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 27 Emergency Action Plan, filed on March 24, 1982. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.7 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.7 NMAC was also renumbered and reformatted from 20 NMAC 11.07 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.7.5 EFFECTIVE DATE:
December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.7.5 NMAC – Rn, 20 NMAC 11.07.I.5 & A, 10/1/02]

20.11.7.11 DOCUMENTS :
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.7.11 NMAC – Rn, 20 NMAC 11.07.I.11 & A, 10/1/02]

~~**20.11.7.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 24, Variance Procedures, filed on November 27, 1991. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.21 NMAC, Sections 5, 9, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.21 NMAC was also renumbered and reformatted from 20 NMAC 11.21 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.21.5 EFFECTIVE DATE:
December 1, 1995, unless a later date is cited at the end of a section.
[12/1/95; 20.11.21.5 NMAC – Rn, 20 NMAC 11.21.I.5 & A, 10/1/02]

20.11.21.9 SAVINGS CLAUSE:
Any amendment to [~~Part 05~~] 20.11.21 NMAC, which is filed, with the State Records Center shall not affect actions pending for violation of a City or County ordinance, Air Quality Control Board Regulation [5] 3, or [~~Part 05~~] Part 21. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation was committed.
[12/1/95; 20.11.21.9 NMAC – Rn, 20 NMAC 11.21.I.9 & A, 10/1/02]

20.11.21.11 DOCUMENTS :
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One~~

~~Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.21.11 NMAC – Rn, 20 NMAC 11.21.I.11 & A, 10/1/02]~~

~~**20.11.21.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 03, Open Burning, filed on June 16, 1992. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.22 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.22 NMAC was also renumbered and reformatted from 20 NMAC 11.22 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.22.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.
[12/1/95; 20.11.22.5 NMAC – Rn, 20 NMAC 11.22.I.5 & A, 10/1/02]

20.11.22.11 DOCUMENTS : Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.22.11 NMAC – Rn, 20 NMAC 11.22.I.11 & A, 10/1/02]~~

~~**20.11.22.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 34 Wood burning, filed on December 16, 1994. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.23 NMAC, Sections 5, 11, and 12. The Albuquerque /

Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.23 NMAC was also renumbered and reformatted from 20 NMAC 11.23 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.23.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.
[12/1/95; 20.11.23.5 NMAC – Rn, 20 NMAC 11.23.I.5 & A, 10/1/02]

20.11.23.11 DOCUMENTS : Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.23.11 NMAC – Rn, 20 NMAC 11.23.I.11 & A, 10/1/02]~~

~~**20.11.23.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 37 Stratospheric Ozone Protection, filed on March 26, 1991. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.40 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.40 NMAC was also renumbered and reformatted from 20 NMAC 11.40 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.40.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of the section.
[12/1/95; 20.11.40.5 NMAC – Rn, 20 NMAC 11.40.I.5 & A, 10/1/02]

20.11.40.11 DOCUMENTS : Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza] 400 Marquette NW, [3rd Floor,~~

~~Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.40.11 NMAC – Rn, 20 NMAC 11.40.I.11 & A, 10/1/02]~~

~~**20.11.40.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 22 Registration of Air Contaminant Sources, filed on March 24, 1982. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.41 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.41 NMAC was also renumbered and reformatted from 20 NMAC 11.41 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.41.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.
[12/1/95; 20.11.41.5 NMAC – Rn, 20 NMAC 11.41.I.5 & A, 10/1/02]

20.11.41.11 DOCUMENTS : Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.41.11 NMAC – Rn, 20 NMAC 11.41.I.11 & A, 10/1/02]~~

~~**20.11.41.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 20, filed on December 16, 1994. All references to this regulation shall be understood as a reference to this Part.~~

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.42 NMAC, Sections 11, 12, and 14. The Albuquerque /

Bernalillo Air Quality Control Board adopted these amendments during its May 8th, 2002 regular meeting. 20.11.42 NMAC was also renumbered and reformatted from 20 NMAC 11.42 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.42.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.42.11 NMAC - Rn, 20 NMAC 11.42.I.11, & A, 10/1/02]

~~**20.11.42.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 41 filed on December 16, 1994. All references to this regulation shall be understood as a reference to this Part.~~

20.11.42.14 RADIONUCLIDES:
[Reserved]

[12/1/95; 20.11.42.14 NMAC - Rn, 20 NMAC 11.42.II.3 & A, 10/1/02]

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.43 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during its May 8th, 2002 regular meeting. 20.11.43 NMAC was also renumbered and reformatted from 20 NMAC 11.43 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.43.5 EFFECTIVE DATE:
December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.43.5 NMAC - Rn, 20 NMAC 11.43.I.5 & A, 10/1/02]

20.11.43.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102].

[12/1/95; 20.11.43.11 NMAC - Rn, 20 NMAC 11.43.I.11 & A, 10/1/02]

~~**20.11.43.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 33 Stack Height Requirements, filed on March 16, 1989. All references to this regulation shall be understood as a reference to this Part.~~

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.60 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during its May 8th, 2002 regular meeting. 20.11.60 NMAC was also renumbered and reformatted from 20 NMAC 11.60 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.60.5 EFFECTIVE DATE:
December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.60.5 NMAC - Rn, 20 NMAC 11.60.I.5 & A, 10/1/02]

20.11.60.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.60.11 NMAC - Rn, 20 NMAC 11.60.I.11 & A, 10/1/02]

~~**20.11.60.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 32 Construction Permits Nonattainment Areas filed on February 26, 1993. All references to this regulation shall be understood as a reference to this Part.~~

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.61 NMAC, Sections 2, 5, 8, 11, and 20. The Albuquerque / Bernalillo Air Quality

Control Board adopted these amendments during its May 8th, 2002 regular meeting. 20.11.61 NMAC was also renumbered and reformatted from 20 NMAC 11.61 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.61.2 SCOPE: Any person constructing any new major stationary source or major modification, as defined in this Part, that emits or will emit regulated pollutants in an attainment or unclassifiable area shall obtain a permit from the Department in accordance with the requirements of 20.11.41 NMAC, Authority-to-Construct, and this Part prior to the construction or modification.

A. Exempt:

(1) Sources within Bernalillo County which are located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control Board lacks jurisdiction;

(2) Each regulated pollutant that will be emitted within the area in which the source proposes to locate, if the area is designated as a nonattainment area for that pollutant. See 20.11.41 NMAC, Authority-to-Construct, and 20.11.60 NMAC, Permitting in Nonattainment Areas;

(3) After a public hearing, consistent with the public notice and participation provisions of 20.11.41 NMAC, Authority-to-Construct, the Board may exempt major stationary sources or major modifications that are part of nonprofit health or nonprofit educational institutions; or

(4) Sources or modifications that would be major only if quantifiable fugitive emissions are considered in calculating the potential to emit or net emissions increase, and the source does not belong to:

(a) any category in Table 1 of this Part, or

(b) any other stationary source category which on or after August 7, 1980, is being regulated under Section 111 or 112 of the federal Act.

B. Variances: The Director may grant a variance to any person constructing a major stationary source or major modification from the federal Class I maximum allowable increases consistent with the requirements listed in 40 CFR 52.21(p)(5).

[5/1/99; 20.11.61.2 NMAC - Rn, 20 NMAC 11.61.2 & A, 10/1/02]

20.11.61.5 EFFECTIVE DATE:
May 1, 1999, unless a later date is cited at the end of a section.

[5/1/99; 20.11.61.5 NMAC - Rn, 20

NMAC 11.61.5 & A, 10/1/02]

20.11.61.8 VARIANCES:
[Reserved]
[20.11.61.8 NMAC - N, 10/1/02]

20.11.61.11 DOCUMENTS:
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [5/1/99; 20.11.61.11 NMAC - Rn, 20 NMAC 11.61.10 & A, 10/1/02]

20.11.61.20 RESTRICTIONS ON AREA CLASSIFICATIONS:

A. The following areas which were in existence on August 7, 1977, shall be mandatory Class I areas and may not be redesignated:

- (1) National wilderness areas which exceed 5,000 acres in size,
- (2) National parks which exceed 6,000 acres in size,
- (3) National memorial parks which exceed 5,000 acres in size, and
- (4) International Parks.

B. The following federal Class I areas are within 100 kilometers of Bernalillo County:

- (1) Bandelier Wilderness (National Park Service)
- (2) Pecos Wilderness (USDA, Forest Service)
- (3) San Pedro Parks Wilderness (USDA, Forest Service)

C. The following areas may be redesignated only as Class I or II:

- (1) an area which exceeds 10,000 acres in size and is a national monument, national primitive area, national preserve, national recreational area, national wild and scenic river, national wildlife refuge, or
- (2) a national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

All other areas not designated as Class I shall be designated as Class II. Any designation other than Class II shall be subject to the redesignation procedures found in 40 CFR 51.166(g) which [~~hereby~~] are hereby incorporated by reference.

[5/1/99; 20.11.61.20 NMAC - Rn, 20 NMAC 11.61.19 & A, 10/1/02]

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.62 NMAC, Sections 5, 8, and 11. The Albuquerque / Bernalillo Air Quality Control Board adopt-

ed these amendments during it's May 8th, 2002 regular meeting. 20.11.62 NMAC was also renumbered and reformatted from 20 NMAC 11.62 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.62.5 EFFECTIVE DATE:
January 1, 1996, unless a later date is cited at the end of a section.

[1/1/96; 20.11.62.5 NMAC - Rn, 20 NMAC 11.62.I.5 & A, 10/1/02]

20.11.62.8 VARIANCES:
Reserved.
[20.11.62.8 NMAC - N, 10/1/02]

20.11.62.11 DOCUMENTS:
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [1/1/96; 20.11.62.11 NMAC - Rn, 20 NMAC 11.62.I.11 & A, 10/1/02]

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.63 NMAC, Sections 5 and 10. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.63 NMAC was also renumbered and reformatted from 20 NMAC 11.63 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.63.5 EFFECTIVE DATE:
December 1, 1999, unless a later date is cited at the end of a section [~~or paragraph~~]. [1/1/2000; 20.11.63.5 NMAC - Rn, 20 NMAC 11.63.5 & A 10/1/02]

20.11.63.10 DOCUMENTS:
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [1/1/2000; 20.11.63.10 NMAC - Rn, 20 NMAC 11.63.10 & A, 10/1/02]

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.64 NMAC, Sections 5 and 10. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.64 NMAC was also renumbered and reformatted from 20 NMAC 11.64 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.64.5 EFFECTIVE DATE:
December 1, 1999, unless a later date is cited at the end of a section [~~or paragraph~~]. [1/1/2000; 20.11.64.5 NMAC - Rn, 20 NMAC 11.64.5 & A, 10/1/02]

20.11.64.10 DOCUMENTS:
Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [1/1/2000; 20.11.64.10 NMAC - Rn, 20 NMAC 11.64.10 & A, 10/1/02]

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.65 NMAC, Sections 2, 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th 2002 regular meeting. 20.11.65 NMAC was also renumbered and reformatted from 20 NMAC 11.65 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.65.2 SCOPE: 20.11.65 NMAC is applicable to any source located within Bernalillo County.

A. Exempt: 20.11.65 NMAC does not apply to sources within Bernalillo County which are located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control Board lacks jurisdiction.

B. NSPS Facilities: Facilities, processes and equipment that are

subject to specific requirements or allowed exemption by the federal New Source Performance Standards per 40 CFR 60 shall be exempt from the requirements of 20.11.65 NMAC that would otherwise govern.

[3/23/87. . .12/1/95; 20.11.65.2 NMAC - Rn, 20 NMAC 11.65.I.2 & A, 10/1/02]

20.11.65.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.65.5 NMAC - Rn, 20 NMAC 11.65.I.5 & A, 10/1/02]

20.11.65.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.65.11 NMAC - Rn, 20 NMAC 11.65.I.11 & A, 10/1/02]

~~**20.11.65.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 11 Volatile Organic Compounds, filed on March 23, 1987. All references to this regulation shall be understood as a reference to this Part.~~

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.66 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.66 NMAC was also renumbered and reformatted from 20 NMAC 11.66 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.66.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.66.5 NMAC - Rn, 20 NMAC 11.66.I.5 & A, 10/1/02]

20.11.66.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]... [12/1/95; 20.11.66.11 NMAC - Rn, 20

NMAC 11.66.I.11 & A, 10/1/02]

~~**20.11.66.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 9 Process Equipment, filed on March 24, 1982. All references to this rule shall be understood as a reference to this Part.~~

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.67 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.67 NMAC was also renumbered and reformatted from 20 NMAC 11.67 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.67.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.67.5 NMAC - Rn, 20 NMAC 11.67.I.5 & A, 10/1/02]

20.11.67.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.67.11 NMAC - Rn, 20 NMAC 11.67.I.11 & A, 10/1/02]

~~**20.11.67.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 6 Orchard Heaters; Regulation No. 10 Kraft Mills; Regulation No. 12 Coal Burning Equipment - Nitrogen Dioxide; Regulation No. 13 Coal Burning Equipment - Sulfur Dioxide; Regulation No. 14 Coal Burning Equipment - Particulate Matter; Regulation No. 15 Oil Burning Equipment - Nitrogen Dioxide; Regulation No. 16 Oil Burning Equipment - Particulate Matter; Regulation No. 17 Oil Burning Equipment - Sulfur Dioxide; and Regulation No. 18 Gas Burning Equipment - Nitrogen Dioxide⁹⁵ filed on March 24, 1982. All references to these regulations shall be understood as a reference to this Part.~~

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.69 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.69 NMAC was also renumbered and reformatted from 20 NMAC 11.69 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.69.5 EFFECTIVE DATE: December 1, 1995, unless a later date is cited at the end of a section.

[12/1/95; 20.11.69.5 NMAC - Rn, 20 NMAC 11.69.I.5 & A, 10/1/02]

20.11.69.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [~~One Civic Plaza~~] 400 Marquette NW, [~~3rd Floor, Room 3023~~], Albuquerque, NM [87102]. [12/1/95; 20.11.69.11 NMAC - Rn, 20 NMAC 11.69.I.11 & A, 10/1/02]

~~**20.11.69.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 39 Pathological Waste Destructors, filed on June 16, 1992. All references to this regulation shall be understood as a reference to this Part.~~

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.90 NMAC, Sections 5; 11; and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.90 NMAC was also renumbered and reformatted from 20 NMAC 11.90 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.90.5 EFFECTIVE DATE: December 1, 1995, unless a later date is

cited at the end of a section.

[12/1/95; 20.11.90.5 NMAC – Rn, 20 NMAC 11.90.I.5 & A, 10/1/02]

20.11.90.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.90.11 NMAC – Rn, 20 NMAC 11.90.I.11 & A, 10/1/02]

20.11.90.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:

This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 19 – Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance; Regulation No. 23 – Source Surveillance; and Regulation No. 25 – Administration and Enforcement filed on March 24, 1982. All references to this rule shall be understood as a reference to this Part.

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.100 NMAC, Sections 5 and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th 2002 regular meeting. 20.11.100 NMAC was also renumbered and reformatted from 20 NMAC 11.100 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.100.5 EFFECTIVE DATE:

[The reformatting of Part 100 will be Effective] December 1, 1995, unless a later date is cited at the end of a section. If no EPA confirmed violation (two exceedences) of the federal ambient carbon monoxide standards has occurred within Bernalillo County, the vehicle inspection frequency shall be biennial. If after July 1, 1995 any EPA confirmed violation of the federal ambient carbon monoxide standards occurs, then 120 days after the violation is confirmed by the EPA, the Program shall require annual testing of vehicles and the Program will be upgraded to meet the performance standards as outlined in 40 CFR Part 51.

[8/25/92. . .12/1/95; 20.11.100.5 NMAC – Rn, 20 NMAC 11.100.I.5 & A, 10/1/02]

20.11.100.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS: This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 28 – Motor Vehicle Inspection Decentralized, filed on September 23, 1994 and April 14, 1995. All references to this regulation shall be understood as a reference to this Part.

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.101 NMAC, Sections 5 and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.101 NMAC was also renumbered and reformatted from 20 NMAC 11.101 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.101.5 EFFECTIVE DATE:

[The reformatting of Regulation 40 as Part 101 shall] Shall become effective upon the date EPA issues notice requiring the Program to operate a centralized vehicle emissions inspection and maintenance program, in which case the centralized program established in 20.11.101 NMAC will be implemented. [8/31/94. . .12/1/95; 20.11.101.5 NMAC – Rn, 20 NMAC 11.101.I.5, 10/1/02]

20.11.101.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:

This Part amends [and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 40 – Motor Vehicle Inspection – Centralized, filed on November 16, 1993. All references to this regulation shall be understood as a reference to this Part.

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.102 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.102 NMAC was also renumbered and reformatted from 20 NMAC 11.102 to conform to the current NMAC requirements. For all reformatted

regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.102.5 EFFECTIVE DATE:

December 1, 1995, unless a later date is cited at the end of a section. [12/1/95; 20.11.102.5 NMAC – Rn, 20 NMAC 11.102.I.5 & A, 10/1/02]

20.11.102.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.102.11 NMAC – Rn, 20 NMAC 11.102.I.115 & A, 10/1/02]

20.11.102.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:

This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 35 – Oxygenated Fuels, filed on June 15, 1995. All references to this regulation shall be understood as a reference to this Part.

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

This is an amendment to 20.11.103 NMAC, Sections 5, 11, and 12. The Albuquerque / Bernalillo Air Quality Control Board adopted these amendments during it's May 8th, 2002 regular meeting. 20.11.103 NMAC was also renumbered and reformatted from 20 NMAC 11.103 to conform to the current NMAC requirements. For all reformatted regulations the Subpart distinction has been eliminated. (i.e. I GENERAL PROVISIONS, and II. APPLICABLE REQUIREMENTS)

20.11.103.5 EFFECTIVE DATE:

December 1, 1995, unless a later date is cited at the end of a section. [12/1/95; 20.11.103.5 NMAC – Rn, 20 NMAC 11.103.I.5 & A, 10/1/02]

20.11.103.11 DOCUMENTS :

Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, [One Civic Plaza] 400 Marquette NW, [3rd Floor, Room 3023], Albuquerque, NM [87102]. [12/1/95; 20.11.103.11 NMAC – Rn, 20 NMAC 11.103.I.11 & A, 10/1/02]

20.11.103.12 AMENDMENT AND SUPERSESION OF PRIOR REGULATIONS:

~~**TIONS:** This Part amends and supersedes Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 36 Motor Vehicle Visible Emissions, filed on November 28, 1989. All references to this regulation shall be understood as a reference to this Part.~~

**NEW MEXICO
DEPARTMENT OF GAME AND FISH**

**TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING REGULATIONS
PART 6 WATERFOWL**

19.31.6.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.31.6.1 NMAC - Rp, 19.31.6.1 NMAC, 8-27-2002]

19.31.6.2 SCOPE: Hunters of Waterfowl. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30 and 32 through 36 of Title 19.
[19.31.6.2 NMAC - Rp, 19.31.6.2 NMAC, 8-27-2002]

19.31.6.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico Game Commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.
[19.31.6.3 NMAC - Rp, 19.31.6.3 NMAC, 8-27-2002]

19.31.6.4 DURATION: August 27, 2002 - March 31, 2003.
[19.31.6.4 NMAC - Rp, 19.31.6.4 NMAC, 8-27-2002]

19.31.6.5 EFFECTIVE DATE: August 27, 2002 unless later date is cited at end of individual sections.
[19.31.6.5 NMAC - Rp, 19.31.6.5 NMAC, 8-27-2002]

19.31.6.6 OBJECTIVE: Establishing seasons on ducks, geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, and setting Falconry seasons.
[19.31.6.6 NMAC - Rp, 19.31.6.6 NMAC, 8-27-2002]

19.31.6.7 DEFINITIONS: Areas, species, non-toxic shot, and possession limit defined.

A. "Central flyway" as used herein, shall mean that portion of New Mexico east of the Continental Divide, with the exception of the Jicarilla Apache Indian Reservation.

B. "Pacific flyway" as used herein, shall mean that portion of New Mexico west of the Continental Divide including the Jicarilla Apache Indian Reservation.

C. "North zone" as used herein, shall mean that portion of the Pacific flyway north of I-40 from the Arizona-New Mexico border to the Continental Divide; and that portion of the central flyway north of I-40 from the Continental Divide to Tucumcari and U.S. 54 at its junction with I-40 at Tucumcari to the New Mexico-Texas border.

D. "South zone" as used herein, shall mean that portion of the Pacific flyway south of I-40 from the Arizona-New Mexico border to the Continental Divide; and that portion of the central flyway south of I-40 from the Continental Divide to Tucumcari and U.S. 54 at its junction with I-40 at Tucumcari to the New Mexico-Texas border.

E. "Nontoxic shot" as used herein, shall mean that non-toxic shot approved for use by the U. S. Fish and Wildlife Service.

F. "Possession limit" as used herein, shall mean twice the daily bag limit except where otherwise defined.

G. "Dark goose" as used herein, shall mean Canada Goose or Greater White-fronted Goose.

H. "Light goose" as used herein, shall mean Snow Goose (including blue phase) or Ross' Goose.

I. "Duck" as used herein, shall mean all species of ducks unless otherwise indicated.

[19.31.6.7 NMAC - Rp, 19.31.6.7 NMAC, 8-27-2002]

19.31.6.8 SPECIES, OPEN AREAS, SEASON DATES, AND DAILY BAG LIMITS:

A. 2002-2003 season; all dates are 2002 unless otherwise specified:

CENTRAL FLYWAY

<u>SPECIES</u>	<u>SEASON DATES</u>		<u>DAILY BAG LIMIT</u>
	<u>OPEN</u>	<u>CLOSED</u>	
Ducks: <u>North Zone:</u>	Oct. 5 -	Oct. 27 and Nov. 8 - Jan. 19, 2003	6-- which consists of no more than 5 Mallard (of which only 2 may be female Mallard); 2 Scaup; 2 Redhead; 2 Wood Duck; 1 Hooded Merganser

	Northern pintail Canvasback	Oct. 5 – 27 and Nov. 8 - 23 Season Closed	1 pintail may be in the daily bag
<u>South Zone:</u>		Oct. 16 - Jan. 19, 2003	
	Northern pintail Canvasback	Dec. 12 - Jan. 19, 2003 Season Closed	1 pintail may be in the daily bag
American Coot:		Same as above Zone dates	15

Common Moorhen:		Oct. 5 - Dec. 13	1
Common Snipe		Oct. 5 - Jan. 19, 2003	8
Virginia Rail & Sora		Oct. 5 - Dec. 13	10 daily (singly or in the aggregate)
Dark Goose: (Regular season closed in Bernalillo, Sandoval, Sierra, Socorro, and Valencia counties)		Oct. 17 - Jan. 31, 2003	4
Special MRGV season *Special permit required; See information in Section 14		Dec. 28 - Jan. 19, 2003	1 (season limit of 1)
Light Goose:		Oct. 17 - Jan. 31, 2003	20/80 possession

PACIFIC FLYWAY**SEASON DATES**

<u>SPECIES</u>	<u>OPEN</u>	<u>CLOSED</u>	<u>DAILY BAG LIMIT</u>
Ducks:	Oct. 7	Jan. 19, 2003	7-- which consists of no more than 2 female Mallard; 2 Redhead; 2 Scaup;
Northern pintail Canvasback	Oct. 7	Dec. 5 Season Closed	1 pintail may be in the daily bag
American Coot and Common Moorhen:	Oct. 7	Jan. 19, 2003	12 daily (singly or in the aggregate)
Common Snipe:	Oct. 5	Jan. 19, 2003	8
Virginia Rail & Sora:	Oct 5	Dec. 13	10 daily (singly or in the aggregate)
Goose: <u>North Zone:</u>	Sept. 28	Oct. 27 and Nov. 11 - Jan. 19, 2003	3 Dark geese, 1 Light goose
<u>South Zone:</u>	Oct. 12	Jan. 19, 2003	2 Dark geese, 1 Light goose

B. Light Goose Conservation Measures: Under the Director's discretion the Department may implement the light goose conservation measures approved by the U.S. Fish and Wildlife Service (USFWS). Methods, bag and possession limits, and dates allowed shall be those as approved by the USFWS.

CENTRAL FLYWAY**SEASON DATES**

<u>SPECIES</u>	<u>OPEN</u>	<u>CLOSE</u>	<u>DAILY BAG LIMIT</u>
Light Geese	Feb. 01, 2002 -	Mar. 10, 2003	No bag or possession limit

19.31.6.9 FALCONRY SEASONS:

- A. Species that can be taken, open areas, and hunting seasons:
 - (1) 2002-2003 season, all dates are 2002 unless otherwise specified:
 - (a) Duck and American Coot: *Central flyway* seasons for duck and American coot shall be as follows: North Zone - September 14 through September 22, September 28-29 (youth waterfowl days), October 5 through October 27, and November 8 through January 19, 2003; South Zone - September 14 through September 22, October 12-13 (youth waterfowl days), and October 16 through January 19, 2003. *Pacific flyway* seasons shall be as follows: October 05 through January 19, 2003.
 - (b) Light Goose: *Central flyway* seasons shall be open October 17 through January 31, 2003. *Pacific flyway* season shall be North Zone - September 28 through October 27, and November 4 through January 19, 2003; South Zone - October 5 through January 19, 2003.
 - (c) Dark Goose: *Central flyway* seasons shall be open October 17 through January 31, 2003. *Pacific flyway* season shall be North Zone - September 28 through October 27 and November 4 through January 19, 2003; South Zone - October 5 through January 19, 2003.
 - (d) Common Snipe, Common Moorhens, Sora and Virginia Rails: *Central and Pacific Flyways* seasons shall be: October 5-January 19, 2003.
 - (2) [RESERVED]
 - (3) [RESERVED]
 - (4) [RESERVED]
- B. Falconry on managed Waterfowl Areas (WMAs).
 - (1) Falconry hunting for waterfowl shall be permitted on those portions of the WMAs open to hunting during the seasons in sub section A in this section, except for Jackson Lake WMA.
 - (2) Falconry hunting for waterfowl shall be permitted on those portions of Jackson Lake WMA open to hunting during the seasons in sub section A in this section, including that portion east of N.M. 170.
- C. Daily bag limits: shall be three birds (in the aggregate) and possession limits shall be six birds (in the aggregate) as established herein.
- D. Provisions for possession: the falconry hunter shall not retain nor possess any protected species of bird taken by a raptor except those species of protected birds taken during open falconry season.
[19.31.6.9 NMAC - Rp, 19.31.6.9 NMAC, 8-27-2002]

19.31.6.10 PARTS TO REMAIN WITH EACH BIRD UNTIL STORAGE AT PERSONAL ABODE OR IN STORAGE FACILITY: One fully-feathered wing or the head shall remain attached to each goose, duck, Common Moorhen, and American Coot taken until the bird has arrived at the personal abode of the possessor or storage facility.
[19.31.6.10 NMAC - Rp, 19.31.6.10 NMAC, 8-27-2002]

19.31.6.11 STATE WATERFOWL AREAS OPEN TO HUNTING, SPECIES THAT CAN BE HUNTED, AND DAYS HUNTING OPEN:

- A. State Waterfowl areas open, species that can be hunted, and days hunting open:

DAYS OF WEEK OPEN FOR HUNTING

<u>AREA</u>	<u>SPECIES</u>	<u>SUN</u>	<u>MON</u>	<u>TUE</u>	<u>WED</u>	<u>THU</u>	<u>FRI</u>	<u>SAT</u>
Bernardo WMA (See note below) (600 feet S of US-60; W of unit 7 drain)	Group 1*	X		X		X		
(600 feet S of US-60; E of unit 7 drain)	Group 1		X		X			X
La Joya WMA (south portion of refuge)	Group 1	X		X		X		
La Joya WMA (north portion of refuge)	Group 1		X		X			X
Jackson Lake WMA (W of NM-170)	Group 2**		X		X			X
William S. Huey WMA	Group 2		X		X			X
Seven Rivers WMA (portion of Brantley WMA-- see specific closure in 19.31.6.15.A.3)	Group 2		X		X			X
Tucumcari WMA	Group 2	X			X			X

Salt Lake and Charette Lake WMAS	Group 2	X	X	X
McAllister Lake WMA	Group 3***	X	X	X

*Group 1 Ducks, light geese, dark geese if in possession of a MRGV dark goose permit, Virginia Rail, Sora, Common Moorhen, American Coot, and Common Snipe.

**Group 2 Ducks, geese, Virginia Rail, Sora, Common Moorhen, American Coot, and Common Snipe.

***Group 3 Ducks, light geese, Virginia Rail, Sora, Common Moorhen, American Coot, and Common Snipe.

Note: Bernardo, and Casa Colorada WMAs will be open for light goose hunting by permit only, on the following dates: December 2, 4, 6, 8, 29, 31 and January 2, 4, 25, 27, and 29. On these dates all of Bernardo will be closed to duck hunting. For the remaining dates of the waterfowl seasons, hunting at Bernardo WMA, south of U.S. Highway 60 only shall follow the schedule described in the table above. During the Light Goose Conservation Order, designated areas north of U.S. Highway 60 are open and shall follow the schedule described in the table above.

B. The Wildlife Management Areas open during the youth waterfowl days shall be Bernardo WMA (all portions south of U.S. Highway 60), all portions of La Joya WMA, Seven Rivers WMA, William S. Huey WMA, Salt Lake WMA, Charette Lake WMA, McAllister Lake WMA and Tucumcari WMA.

[19.31.6.11 NMAC - Rp, 19.31.6.11 NMAC, 8-27-2002]

19.31.6.12 REQUIREMENTS AND PERMITS FOR BERNARDO AND CASA COLORADA LIGHT GOOSE HUNT:

A. The Bernardo and Casa Colorada WMAs will be open for light goose hunting by permit only on December 2, 4, 6, 8, 29, 31, and January 2, 4, 25, 27, 29.

B. Up to 40 permits, at Bernardo WMA, and up to 40 permits, at Casa Colorada, per hunting day, will be available (except Bernardo WMA on December 29; see Section 19.31.6.13 below).

C. Applications for Bernardo/Casa Colorada light goose hunts shall be submitted on the appropriate application form. A six-dollar (\$6.00) application fee shall be required of each applicant. Up to four persons may apply per application. Applicants may designate up to three hunt choices. Only one choice may be awarded. The deadline date for application shall be on the second Saturday in September. All applications must be mailed to the Santa Fe office. Applications that have been mailed and postmarked by the deadline, but not delivered, will be accepted by the Santa Fe office up to five working days after that deadline.

Hunt packages for the Bernardo and Casa Colorada light goose hunts.

(B: refers to hunts on Bernardo WMA, C: refers to Casa Colorada WMA)

LTG-O-101 B-12/2 C-12/8 C-12/31 B-1/29

LTG-O-102 C-12/2 B-12/31 B-1/4 C-1/29

LTG-O-103 C-12/4 B-12/8 C-12/29 B-1/27

LTG-O-104 B-12/6 C-1/2 B-1/25 C-1/27

LTG-O-105 B-12/4 C-12/6 B-1/2 C-1/25

D. Hunters will be required to successfully pass a waterfowl identification examination prior to hunting. Hunters may take this examination only once per year. Hunters must have in their possession proof of successfully passing this examination while hunting.

E. While hunting light geese, hunters participating in this season must have in their possession a valid hunting license and a special permit issued by the Department.

F. While hunting, hunters shall have in their possession only nontoxic shot. Only 25 rounds per hunter will be allowed at the blinds.

G. Designated areas open for light goose hunting on Bernardo and Casa Colorada WMAs by permit only are Bernardo WMA--all areas north of U.S. 60 Casa Colorada WMA--all open.

[19.31.6.12 NMAC - Rp, 19.31.6.12 NMAC, 8-27-2002]

19.31.6.13 REQUIREMENTS AND PERMITS FOR BERNARDO YOUTH-ONLY LIGHT GOOSE HUNT:

A. Up to 20 permits will be available for the youth-only light goose hunt at Bernardo WMA. A six-dollar fee shall be required by each applicant for each permit purchased.

B. Refer to the Hunting and Fishing License Application Rule (19.31.3 NMAC, Section 11—Restrictions) for criteria qualifying an applicant for this youth hunt license.

C. Applications for the December 29 (YLG-O-101) Bernardo youth-only light goose hunt shall be submitted on the appropriate application form. A six-dollar (\$6.00) application fee shall be required of each applicant. Up to three youth hunters may apply per application. The deadline date for application shall be on the second Saturday in September. All applications must be mailed to the Santa Fe office. Applications that have been mailed and postmarked by the deadline, but not delivered, will be accepted by the Santa Fe office up to 5 working days after that deadline.

D. Hunters will be required to successfully pass a waterfowl identification examination prior to hunting. Hunters may take this examination only once per year. Hunters must have in their possession proof of successfully passing this examination while hunting.

E. While hunting light geese, hunters participating in this season must have in their possession a valid hunting license and a special permit issued by the Department.

F. While hunting, hunters shall have in their possession only nontoxic shot. Only 25 rounds per hunter will be allowed at the blinds.

G. Designated areas open for light goose hunting on Bernardo WMA by permit only are--all areas north of U. S. 60.
[19.31.6.13 NMAC - Rp, 19.31.6.13 NMAC, 8-27-2002]

19.31.6.14 REQUIREMENTS AND PERMITS FOR THE SPECIAL MIDDLE RIO GRANDE VALLEY DARK GOOSE SEASON:

A. Up to 300 permits will be available to hunt dark geese in a selected portion of the Middle Rio Grande Valley with a daily bag limit of one dark goose and a season limit of one dark goose.

B. While hunting, hunters participating in this hunt must have in their possession a special permit issued by the Department.

C. Applications for the DKG-O-101 MRGV dark goose permits shall be submitted on the appropriate application form. A six-dollar (\$6.00) application fee shall be required of each applicant. The deadline date for application shall be on the second Saturday in September. All applications must be mailed to the Santa Fe office. Applications that have been mailed and postmarked by the deadline, but not delivered, will be accepted by the Santa Fe office up to five working days after that deadline.

D. No more than four persons may apply per application.

E. Applications for permits may be returned to the sender if such applications are not on the proper form or do not supply adequate information.

F. It shall be unlawful to submit more than one application for a permit for this hunt. If any permits remain after the original deadline, the Director may authorize a new deadline. A person who is not awarded a permit for which he applied may submit a new application for a permit if such permits remain available.

G. If applications for permits exceed the number of available permits, as herein established, the available permits shall be allotted by means of a random public drawing in the Santa Fe office of the Department of Game and Fish.

H. The area open for the special dark goose season shall be Sierra, Socorro and Valencia counties.
[19.31.6.14 NMAC - Rp, 19.31.6.14 NMAC, 8-27-2002]

19.31.6.15 ADDITIONAL CLOSED AREAS: No hunting of migratory game birds shall be permitted in the following areas:

A. That portion of the Canadian River arm of Ute Reservoir lying

between lines running parallel to and 100 feet above the high-water marks on each side of the Canadian arm and extending from the San Miguel and Quay County line to a posted buoy line across Horseshoe Bend.

B. That portion of the stilling basin below Navajo Dam lying within a line starting from N. M. 511 at the crest of the bluff west of the Navajo Dam spillway and running west along the fence approximately 1/4 mile downstream, southwest along the fence to N. M. 511 to the Navajo Dam spillway, across the spillway, and to the crest of the bluff.

C. The Old McMillan Lake spillway arm of Brantley Lake extending from the mouth of South Seven Rivers Draw north to the railroad trestle shall be closed to all hunting from January 1 through February 28.

[19.31.6.15 NMAC - Rp, 19.31.6.15 NMAC, 8-27-2002]

19.31.6.16 LEGAL HUNTING HOURS:

A. Hunting hours, as used herein, shall mean from one-half hour before sunrise to sunset except where listed otherwise.

B. On State Game Commissioned owned or managed Waterfowl Management Areas (WMA)s, as listed herein, hunting hours shall mean from one-half hour before sunrise to 1:00 p.m.

[19.31.6.16 NMAC - Rp, 19.31.6.16 NMAC, 8-27-2002]

19.31.6.17 YOUTH WATERFOWL HUNTING DAYS:

A. Requirements for youth hunters to participate in this hunt are as follows:

(1) Youth hunters must be under 16 years old.

(2) Youth hunters must be fully licensed as required to hunt waterfowl (hunters under 16 are not required to have the federal duck stamp).

(3) An adult, at least 18 years old, must accompany the youth hunter in the field (the adult may not hunt ducks; but may participate in other seasons that are open on the special youth day).

(4) Only ducks and coots may be taken by the youth hunter (Sandhill cranes, geese or any other waterfowl species may not be taken).

B. Season dates for youth waterfowl days:

Central Flyway: North Zone:
September 28-29

South Zone:
October 12-13

Pacific Flyway: October 5-6

C. The bag limit for youth waterfowl days shall be the same as the regular season in the respective flyways.
[19.31.6.17 NMAC - Rp, 19.31.6.17 NMAC, 8-27-2002]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an emergency order to 19.31.4 NMAC.

19.31.4.20 EMERGENCY ORDER FOR FISH SALVAGE:

Under authority of 19.31.10.18 promulgated by the State Game Commission on September 15, 1994, I, LARRY G. BELL, Director of the Department of Game and Fish, hereby declare that an emergency exists in the Rio Chama between El Vado Dam and the headwaters of Abiquiu Reservoir to the extent that fish life will be destroyed by drying out of this river reach due to required water releases. Therefore, the method and manner of taking game fish will be relaxed to grappling, spears, gigs, bows, and seines 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. Bag limits on sport fish will be unlimited. This relaxation will go into effect at 12:01 a.m., September 2, 2002, and will remain in effect through 11:59 p.m., September 15, 2002.

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.5 NMAC, Sections 8 and 16.

19.31.5.8 OPEN AREAS, SPECIES, SEASONS DATES, AND DAILY BAG LIMITS:

2002-2003 season: all dates are 2002 unless otherwise specified.

Please see chart on page 714.

SPECIES	<u>OPEN AREAS</u>	<u>SEASON OPEN</u>	<u>DAILY BAG LIMIT</u>
Teal	Central Flyway portion of state	[Sept. 21-29] <u>Sept. 14-22</u>	4 (singly or in aggregate)
Pheasant	Statewide, excluding Valencia County	Dec. 12-15	3(males)
	Valencia County	Dec. 14	3(males)
Youth-only Pheasant hunt *See information; Section 19.31.5.14	Seven Rivers WMA	Dec. 7	3(males)
Pheasant (special permit) *See information; Section 19.31.5.14	Seven Rivers WMA and W.S. Huey WMA	Dec. 14	3(males)
Blue Grouse	GS-1 GS-2	Sept. 1-30	3
		Oct. 1-31	3
Lesser Prairie-Chicken	SEASON CLOSED		
Quail: Gambel's, scaled, Northern Bobwhite and Montezuma (Mearns)	Statewide	Nov. 15 - Feb. 15, 2003	15 (singly or in aggregate; no more than 5 shall be Mearns)
Sandhill Crane *Special permit required; See information Section 19.31.5.11	MRGV	Oct. 26-27	1 (2 per season)
	EV	Oct. 26-27	2 (4 per season)
	MRGV	Nov. 16-17	1 (2 per season)
	MRGV	Dec. 07-08	1 (2 per season)
	Southwest	Nov. 02-03 and Jan. 04-05, 2003	2 (8 per season)
	MRGV	Jan. 11-12, 2003	1 (2 per season) (Possession-6, regular and special seasons combined)
Sandhill Crane *Special permit required; See information Section 19.31.5.12	Eastern	Oct. 31- Jan. 31, 2003	3
Band-tailed Pigeon	Southwest. BPHA	Oct. 1-20	5
	Regular BPHA	Sept. 1-20	5
Dove	North zone	Sept. 1-Oct.30	15 (singly or in aggregate)
	South zone	Sept. 1-30 and Dec. 1-30	15 (singly or in aggregate)
Tree Squirrel	GS-1	Sept. 1-Oct. 31	8 (singly or in aggregate)
	GS-2	Oct. 1-Nov. 30	

A. The William S. Huey WMA shall be open for dove, quail, and Sandhill Crane hunting only on Monday, Wednesday, and Saturday during established statewide seasons. Use of vehicles will be restricted to designated areas.

B. The Brantley Wildlife Management Area (excluding the Seven Rivers Waterfowl Management Area portion, as posted) shall be open for dove, quail, pheasant, September teal, and Sandhill Crane hunting during established statewide seasons. Use of vehicles will be restricted to designated areas.

C. The Seven Rivers WMA shall be open for dove, quail, September teal, and Sandhill Crane hunting only on Monday, Wednesday, and Saturday during established statewide seasons. Use of vehicles will be restricted to designated areas.

[19.31.5.8 NMAC - Rp, 19.31.5.8 NMAC, 8-15-2002; A, 8-27-2002]

19.31.5.16 FALCONRY SEASONS:

A. Open areas and season dates.

(1) 2002-2003 season, all dates are 2002 unless otherwise specified.

(a) The season for pheasants, Blue Grouse, quail, Abert's squirrel, and red squirrel shall be statewide and shall be open September 1 through February 28, 2003.

(b) The season for dove shall be statewide and shall be open September 1 through November 12 and November 27 through December 30.

(c) The season for Band-tailed Pigeon shall be September 1 through December 16 for the regular hunting area and October 1 through January 15, 2003 for the southwest hunting area.

(d) The season for Sandhill Crane shall be in the eastern New Mexico Sandhill Crane hunt area and shall be open from October 17 through January 31, 2003.

(e) The season for any duck species and American Coot during the September Teal season within the Central Flyway portion of the state shall be open ~~September 21-29~~ September 14-22.

(2) [RESERVED]

B. Daily bag and possession limits.

(1) Daily bag limits shall be 3 birds (in the aggregate) and 3 squirrels (in the aggregate) and possession limits shall be: pheasant-6; Blue Grouse-6; quail 30 (singly or in the aggregate); tree squirrel-16 (singly or in the aggregate) as listed herein.

(2) Daily bag limit for dove, ducks, Band-tailed Pigeon, and Sandhill Crane shall be 3 birds (in the aggregate) and possession limits shall be 6 birds (in the aggregate) as listed herein.

C. Provisions for possession: The falconry hunter shall not retain nor possess any protected mammal taken by a raptor except Abert's squirrels and red squirrels legally taken during open falconry season. The falconry hunter shall not retain nor possess any protected birds taken by a raptor except those species listed herein that were legally taken during the open falconry season.

[19.31.5.16 NMAC - Rp, 19.31.5.16 NMAC, 8-15-2002; A, 8-27-2002]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

This is an emergency amendment to 19.31.8 NMAC, Section 22

19.31.8.22 BEAR (2002-2003):

A. The bear seasons shall be as stated below:

(1) August 1 through August 31 and September 25 through November 15 in GMU's 4, 5, 6, 7, 8 (Sandia Ranger District of the Cibola National Forest shall be open for hunting with bow only), 9 (including Marquez and Water Canyon WMA's), 10, 13, 14, 15, 16, 17, 21, 22, 23, 24, 26, 27, 34, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58.

(2) Bear entry hunts, listing the hunt date, hunt code, maximum number of licenses available, and open areas shall be as indicated below. Dogs may not be used to pursue bears during bear entry hunts.

(a) August 1-31 BER-1-101 10 Sargent Wildlife Area.

(b) August 1-31 BER-1-102 5 William A. Humphries Wildlife Area.

(c) August 1-31 BER- 1-103 12 Elliot Barker/Colin Neblett Wildlife Areas.

(3) Any licensed bear hunter who is a recipient of a muzzleloader or rifle elk permit for the Valle Vidal may harvest one bear in the Valle Vidal during their allotted elk hunt period. Dogs may not be used to pursue bears in the Valle Vidal.

(4) Effective August 27, 2002, bear hunting in Units 8 and 14 shall only be allowed with the use of dogs to pursue the bear.

B. Bag limit shall be as indicated below:

(1) One bear except any female accompanied by a cub or cubs, and except any cubs less than a year old.

(2) A second bear, except any female accompanied by a cub or cubs, and except any cubs less than a year old may be harvested in GMU's 4 (except Sargent and W.A. Humphries Wildlife Areas), 24, 36, 53, 54, and 55 (except E.S. Barker and Colin Neblett Wildlife Areas).

(3) Effective August 27, 2002, the bag limit for Units 8 and 14 shall be one bear, except any female, and except any cub less than a year old.

C. Legal weapons for taking bear in any open units except in the Valle Vidal shall be any legal weapon. Legal weapons for taking bear in the Valle Vidal shall be the legal weapon for the corresponding elk hunt.

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

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

[4-1-95, A, 8-15-95; R 3-14-98; Re-pr, 3-15-99; 19.31.8.22 NMAC - Rn & A, 19 NMAC 31.8.22, 3-14-2001; A, 12-28-01; A, 02-14-02; A, 8-27-02]

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

1 NMAC 3.2.93.379, ERRDS, Public Employee Labor Relations Board filed 4/18/1997, is hereby repealed effective 9/30/2002.

1.18.630 NMAC, ERRDS, Human Services Department, filed 3/18/2002, is hereby repealed and replaced by 1.18.630 NMAC, ERRDS, Human Services Department, effective 9/30/2002.

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

**TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 18 EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)
PART 605 ERRDS, MARTIN LUTHER KING JR COMMISSION**

1.18.605.1 ISSUING AGENCY:
New Mexico Commission of Public Records - State Records Center and

Archives

[1.18.605.1 NMAC - N, 09/30/02]

1.18.605.2 SCOPE: Martin Luther King Jr Commission
[1.18.605.2 NMAC - N, 09/30/02]

1.18.605.3 STATUTORY AUTHORITY: The administrator shall establish a record management program and shall establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the Public Records Act. Records disposal schedules shall not become effective until thirty days after the filing date, Section 14-3-6 NMSA 1978.
[1.18.605.3 NMAC - N, 09/30/02]

1.18.605.4 DURATION: Permanent
[1.18.605.4 NMAC - N, 09/30/02]

1.18.605.5 EFFECTIVE DATE: September 30, 2002 unless a later date is specified at the end of a section.
[1.18.605.5 NMAC - N, 09/30/02]

1.18.605.6 OBJECTIVE: To establish records disposal schedules for the orderly retirement of records, Section 14-3-6 NMSA 1978.
[1.18.605.6 NMAC - N, 09/30/02]

1.18.605.7 DEFINITIONS:
A. "Administrator" means the state records administrator. (Section 14-3-2, NMSA 1978)

B. "Agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico. (Section 14-3-2, NMSA 1978)

C. "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

D. "Commission" means the state commission of public records. (Section 14-3-2, NMSA 1978)

E. "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.

F. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

G. "Records retention period" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other

purposes.

H. "Records retention schedule" means a document prepared as part of a records retention program that lists the period of time for retaining records.
[1.18.605.7 NMAC - N, 09/30/02]

1.18.605.8 [RESERVED]

1.18.605.9 INSTRUCTIONS:

A. For records of an administrative nature, refer to the Records Retention and Disposition Schedule for General Administrative Records, 1.15.2 NMAC.

B. For records of a financial nature, refer to the Records Retention and Disposition Schedule for General Financial Records, 1.15.4 NMAC.

C. For records of a personnel nature, refer to the Records Retention and Disposition Schedule for General Personnel Records, 1.15.6 NMAC.

D. For records of a medical nature, refer to the Records Retention and Disposition Schedule for General Medical Records, 1.15.8 NMAC.

E. Retention periods shall be extended until six months after all current or pending litigation, current claims, audit exceptions or court orders involving a record have been resolved or concluded.

F. The descriptions of files are intended to be illustrative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

G. Confidentiality is denoted for files likely to contain confidential materials, but files without a confidentiality note nonetheless may contain confidential or privileged materials and failure to include an express confidentiality note in the description of a file does not waive the confidential or privileged nature of those materials. Refer questions concerning the confidentiality of a file or portions of a file to legal counsel for the agency.

H. Access to confidential documents or confidential files shall be only by authorization of agency or attorney general or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

I. All records, papers or documents may be photographed, micro-filmed, microphotographed or reproduced on film. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for

all purposes, including introduction in evidence in all courts or administrative agencies. (Section 14-1-5, 14-1-6 NMSA 1978)

J. Electronic records. Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention and disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said record shall be electronically over-written on the machine readable media on which it is stored (or media destroyed). (See also 1.13.70 NMAC: Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems).
[1.18.605.9 NMAC - N, 09/30/02]

1.18.605.10 - 1.18.605.100 [RESERVED]

1.18.605.101 YOUTH ANTI - VIOLENCE PROGRAM FILE:

A. Program: youth anti - violence program

B. Maintenance system: alphabetical by project title

C. Description: record of anti-violence education program activities. File may contain program activity dates; program objectives and synopsis; program agenda and topics; names and titles of participants; sponsors name; program flyers and handouts; correspondence, etc.

D. Retention: three years after close of state fiscal year in which created

[1.18.605.101 - N, 09/30/02]

HISTORY of 1.18.605 NMAC:
[RESERVED]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

August 28, 2002

Donald L. Padilla, Records Management
Division Director
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

Mr. Padilla:

You recently requested to publish a synopsis in lieu of publishing the full content of 1.18.630 NMAC, ERRDS, Human Services Department.

A review of these rules shows that their most impact is limited to the individual agencies to which they pertain, and they are "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for each is approved.

Sincerely,

L. Elaine Olah
State Records Administrator

LEO/dlp

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

**SYNOPSIS
1.18.630 NMAC
EXECUTIVE RECORDS RETENTION
AND DISPOSITION SCHEDULE
(ERRDS)
HUMAN SERVICES DEPARTMENT**

1. **Subject matter:** 1.18.630 NMAC. Executive Records Retention and Disposition Schedule for the Human Services Department. This rule repeals and replaces 1.18.630 NMAC, filed on March 18, 2002. This ERRDS is a timetable for the management of specific program records in a series. It describes the life cycle of each series listed on it by indicating the retention period of the records and their final disposition. This ERRDS also distinguishes between traditional hard copy files and electronic filing systems as well as input and output documentation. In addition to those items commonly found on an ERRDS (i.e. record name, record description, record filing system, etc.), the ERRDS also indicates record confidentiality and output records frequency and distribution. The ERRDS provisions in this schedule are based on the legal requirements uses of the records and on their administrative, legal, fiscal and archival values. This records retention and disposition schedule was developed by the Records Management Division of the State Records Center and Archives (NM Commission of Public Records), and approved by the State Records Administrator, the Human Services Department, and legal counsel for the Human Service Department.

2. **Persons affected:** Record producing and record keeping personnel of the Human Services Department. Persons and entities normally subject to the rules and regulations of the Human Services Department may also be directly or indirectly affected by this rule, including all dis-

trict offices for the Human Services Department.

3. **Interests of persons affected:** Corporations, individuals and employees of the Human Services Department.

4. **Geographical applicability:** Areas within the State of New Mexico associated with the Human Services Department. Any person or entity outside the covered geographical area that conducts business with the Human Services Department.

5. **Commercially published material incorporated:** New Mexico Statutes Annotated 1978 and the Code of Federal Regulations were used as reference in the development of this rule; however, these references are not a substantial portion of the rule.

6. **Telephone number and address of issuing agency:** New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505; telephone number: (505) 476-7900.

7. **Effective date of this rule:** September 30, 2002

Certification

As legal counsel for the NM State Records Center and Archives, I certify that this synopsis provides adequate notice of the content within the ERRDS for the Human Services Department.

Roberta D. Joe Date
Assistant Attorney General

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

This is an amendment to 1.19.3 NMAC, Section 139.

1.19.3.139 ABSENT VOTER REGISTER (NMAV-4A)

A. **Program:** bureau of elections

B. **Maintenance System:** local government preference

C. **Description:** [shows] election record of absentee voters. Register may contain date, county, election, number of registered voters, number of absent uniformed service voters, number of federal qualified electors, number of overseas citizen voters, total number of late absentee ballots received, county clerk signature,

seal, etc.

D. **Retention:** [until superseded by new instructions] three years after election to which they apply
[1-10-97; 1.19.3.139 NMAC - Rn, 1 NMAC 3.2.94.200.20.119, 1-6-02; A, 9-30-02]

**NEW MEXICO WATER
TRUST BOARD**

**TITLE 19: N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 25: ADMINISTRATION
AND USE OF WATER-GENERAL
PROVISIONS**

**PART 10: REVIEW AND ELI-
GIBILITY OF PROPOSED WATER
PROJECTS**

19.25.10.1 ISSUING AGENCY:
New Mexico Water Trust Board.
[19.25.10.1 NMAC - N, 09/16/02]

19.25.10.2 SCOPE: All persons applying for financial assistance under the Water Project Fund from the New Mexico Finance Authority, NMSA 1978, 72-4A-5 and NMSA 1978 72-4A-9.
[19.25.10.3 NMAC - N, 09/16/02]

**19.25.10.3 S T A T U T O R Y
AUTHORITY:** NMSA 1978, 72-4A-5 and NMSA 1978 72-4A-9.
[19.25.10.3 NMAC - N, 09/16/02]

19.25.10.4 D U R A T I O N :
Permanent.
[19.25.10.4 NMAC - N, 09/16/02]

19.25.10.5 EFFECTIVE DATE:
September 16, 2002, unless a later date is cited at the end of a section.
[19.25.10.5 NMAC - N, 09/16/02]

19.25.10.6 OBJECTIVES:
A. The New Mexico Water Trust Board is required to adopt rules governing terms and conditions of grants and loans recommended by the board for appropriation by the State Legislature from the water project fund pursuant to Section 72-4A-5, NMSA 1978. Section 72-4A-9, NMSA 1978, creates the "water project fund" within the New Mexico Finance Authority and authorizes the authority to establish procedures and rules as required to administer the water project fund. The authority may adopt separate procedures and rules for administration of the water project fund and to recover from the water project fund costs of administering the water project fund and originating financial assistance.

B. Section 72-4A-5, NMSA 1978, provides that the board shall

give priority to qualifying water projects that (i) have urgent needs; (ii) have been identified for implementation of a completed regional water plan that is accepted by the interstate stream commission; and (iii) have matching contributions from federal or local funding sources. The purpose of these rules is to set forth the intent of the board and to outline, in general terms, the criteria and procedures to be used in evaluating and funding qualifying water projects.

[19.25.10.6 NMAC - N, 09/16/02]

19.25.10.7 DEFINITIONS:

A. "act" means the Water Project Finance Act, Sections 72-4A-1 through 72-4A-10, NMSA 1978, as the same may be amended and supplemented.

B. "agreement" means the document or documents signed by the board and a qualified entity which specify the terms and conditions of obtaining financial assistance from the water project fund.

C. "applicant" means a qualified entity which has filed a water project proposal with the authority for initial review and referral to the project committee.

D. "authority" means the New Mexico Finance Authority.

E. "authorized representative" means one or more individuals duly authorized to act on behalf of the qualified entity in connection with its financial application, water project proposal or agreement.

F. "board" means the New Mexico Water Trust Board created by the act.

G. "bylaws" means the bylaws of the board adopted on September 25, 2001, as amended and supplemented.

H. "financial application" means a written document filed with the authority by an applicant for the purpose of evaluating the applicant's qualifications for types of financial assistance which may be provided by the board.

I. "financial assistance" means loans, grants and any other type of assistance authorized by the act, or a combination thereof, provided from the water project fund to a qualified entity for the financing of a qualifying water project.

J. "political subdivision" means a municipality, county, irrigation district, conservancy district, special district, acequia or soil and water conservation district, or any combination thereof operating pursuant to a joint powers agreement.

K. "qualified entity" means a political subdivision or a state agency.

L. "qualifying water project" means a water project for (i) storage, conveyance or delivery of water to end

users; (ii) implementation of Endangered Species Act collaborative programs; (iii) restoration and management of watersheds; or (iv) flood prevention and which has been recommended by the board for funding by the state legislature and which has been approved by the state legislature pursuant to Section 72-4A-9(B), NMSA 1978.

M. "state" means the State of New Mexico.

N. "state agency" means any agency or institution of the state.

O. "water project account" means a fund designated by a qualified entity exclusively for receipt of financial assistance.

P. "water project fund" means the fund of that name created in the authority by Section 72-4A-9, NMSA 1978.

Q. "water project proposal" means a written proposal submitted by a qualified entity for review by the project review committee.

R. "water project review committee" means a standing committee, appointed by the chairman of the board from the members of the board pursuant to the bylaws to review water projects to be recommended for funding from the water project fund.

S. "water trust fund" means the fund of that name created in the state treasury by Section 72-4A-8, NMSA 1978.

[19.25.10.7 NMAC - N, 09/16/02]

19.25.10.8 ELIGIBILITY: PRIORITY OF WATER PROJECTS: The board will develop and consider a variety of factors in reviewing and evaluating water project proposals to determine which water projects to recommend as qualifying water projects for appropriation by the state legislature. In addition to other factors deemed relevant by the board, those factors will include the items described in this Section 19.25.10.8 NMAC.

A. Regional Dispersion. The board will consider the location of the water project in the State of New Mexico and will attempt to ensure that qualifying water projects are dispersed throughout the state to the benefit of all citizens of the state.

B. Local Effort. The amount of local financial, in-kind-contribution, political and infrastructure support and resources given to the water project will be evaluated by the board. Water projects must demonstrate significant local support, especially in the area of committed financial resources and in-kind-contributions (including contributions by individual property owners as well as public contributions) to meet local cost share requirements. When evaluating local support, the board will con-

sider and evaluate the support and available resources of the local entities affected by the proposed water project when the proposed water project is located in or overlaps more than one jurisdiction.

C. Ability to Pay. A water project that benefits or is suggested by a qualified entity that has ability to pay will be expected to receive a loan instead of a grant in order to maximize the number of qualifying water projects that can be funded from the limited financial resources expected to be available in the water project fund. Water projects that do not benefit a definitive group or entity or that are suggested by a qualified entity without the ability to repay a loan may receive a grant instead of a loan. The ability to pay will be evaluated by the authority in accordance with the financial application submitted by the qualified entity.

D. Ability to Leverage Federal Funds. The board will analyze the amount of federal funding committed or likely to be committed for construction and completion of the water project. If federal funding is not anticipated to be available within 3 years of the estimated start date of the water project, no consideration will be given to federal funding for the particular water project.

E. Priority. Projects which:

(1) have urgent needs;

(2) have been identified for implementation of a completed regional water plan that is accepted by the interstate stream commission, and

(3) have matching contributions from federal or local funding sources may be given priority by the board.

F. Scientific, Hydrologic and Biological Studies. Water projects must be backed by sound and established scientific, hydrologic and biological studies prepared by registered engineers, hydrologists, biologists or other consultants acceptable to the board which demonstrate that the water project will accomplish its planned objectives.

G. Comprehensive Solution/Measurable Outcome. The planned objective of a water project must be comprehensive in scope, address all of the component parts necessary to accomplish its planned objective and lead to measurable outcomes.

H. Immediate Threats to Public Health, Safety and Welfare. Water projects required to eliminate an immediate threat to public health, safety and welfare may be given priority consideration by the board; however, the board expects most qualifying water projects will address long term water uses and needs.

I. Readiness to Proceed. An applicant should demonstrate that adequate planning, engineering, evaluation and study have been or are scheduled to be completed for the water project to allow construction or implementation to begin upon receipt of financial assistance.

J. Cost-Effectiveness of Water Project. An applicant should demonstrate that the water project is the most cost-effective method of accomplishing its planned objective. The board expects that alternative methods and cost analysis of accomplishing the planned objective will be explored by an applicant prior to submitting a water project to the board. A summary of the alternatives will be reviewed by the board and the board may consult independent advisors regarding alternative methods of accomplishing the planned objectives of a water project.

K. Life of Water Project. The planned objective of a water project should provide a solution to the need for the predicted life of the water project. Projections and forecasts supporting the adequacy of a storage, delivery or conveyance project to address the water needs for 40 years should be provided by the applicant. Water projects addressing other objectives should be supported by projections and forecasts demonstrating the expected life of the water project.

L. Urgent Needs. Water projects intended to address problems that are expected to become severe within five (5) years of the date of application shall be considered as addressing urgent needs as described in the act.

M. Water Rights. An applicant proposing a storage, delivery or conveyance water project must demonstrate that adequate water rights are or will be owned or controlled to allow the water project to accomplish its planned objectives. [19.25.10.8 NMAC - N, 09/16/02]

19.25.10.9 WATER PROJECT PROPOSAL, PROCEDURES AND APPROVAL PROCESS:

A. The board and the authority will administer an outreach program to notify qualified entities that water project proposals are being accepted to identify water projects for review by the water project review committee and the board for recommendation for funding to the state legislature as qualifying water projects.

B. The authority will provide forms and/or guidelines for water project proposals and financial applications. A water project proposal and financial application must include the following:

- (1) information required to allow

the board to give the water project a priority ranking pursuant to Section 19.25.10.8 of these Rules;

- (2) type of financial assistance being sought and itemization of the proposed uses of the financial assistance;

- (3) detailed description of the water project to be evaluated, which information must include:

- (a) description of the scope of work of the water project;

- (b) estimated cost of the water project;

- (c) target date for the initiation of the water project and the estimated time to completion;

- (d) estimated cost/benefit analysis for the water project;

- (e) estimated life of the water project;

- (f) the availability of performance bonds and insurance for the water project; and

- (g) other financial and technical data as requested by the authority or the board;

- (4) letter certifying that the water project was duly approved by the applicant's governing body;

- (5) identification of the source of funds for repayment of the financial assistance and the source of funds to operate and maintain the water project over its useful life;

- (6) requested type of financial assistance, *i.e.*, loan or grant; and

- (7) additional information as requested by the authority or the board.

C. The authority staff will forward all completed water project proposals to the water project review committee. The water project review committee will consider the water project and may confer with outside parties, including any local interdisciplinary teams familiar with the water project, as necessary to obtain more information on the feasibility, merit, and cost of the water project. The water project review committee will make a written recommendation to the board on each water project proposal. Such recommendation will include approval or disapproval of specific water project proposals as qualifying water projects.

D. Once a recommendation has been made on the water project proposal by the water project review committee, the board will act on the water project proposal no later than the next regular board meeting at which such item may be properly considered. The board may approve all or part of the water project proposal as recommended by the water project review committee.

E. Commencing in 2003, a qualified entity shall submit its water proj-

ect proposal and financial application to the authority no later than first day of June of any year for review if the water project is to be considered at the next regular legislative session. After completion of the review process and approval of the water project proposal by the water project review committee and the board and receipt of a favorable recommendation on the water project proposal, the water project will be recommended by the board for approval by the state legislature at the next regular session of the state legislature, which recommendation and approval are required by Sections 72-4A-5 and 72-4A-9, NMSA 1978. Water projects intended to address urgent needs may be submitted after the first day of June of any year and may still be considered at the next regular legislative session.

[19.25.10.9 NMAC - N, 09/16/02]

19.25.10.10 EVALUATION OF FINANCIAL APPLICATION AND WATER PROJECT PROPOSAL:

A. The authority staff will complete an initial evaluation of the financial application and water project proposal upon receipt. Such evaluation will include, to the extent applicable, an evaluation of water project feasibility, administrative capacity, financial position, debt management and economic and demographic factors.

(1) **Water Project Proposal Evaluation.** The authority staff will conduct an initial analysis of each water project proposed to determine whether the water project proposal is complete. If necessary, additional information will be requested from the applicant. Upon completion of the analysis by the authority staff and receipt of any requested additional information, the water project proposal will be forwarded to the water project review committee. The water project review committee and the authority staff may collaborate with other state agencies or consultants to analyze water project proposals when needed to address scientific, biological or hydrologic issues.

(2) **Recommendation of approval of the water project or the extension of financial assistance by the board does not constitute a warranty or other guarantee as to the feasibility of the water project.**

B. **Financial Application Evaluation.** The authority staff will evaluate each financial application to determine the financial, administrative and technical capacity of an applicant in accordance with rules adopted by the authority to determine the type of financial assistance to be recommended for each qualifying water project. The evaluation of the financial application by the authority staff may occur concurrently with the evaluation of the water project

proposal or may occur after review of the water project proposal by the water project review committee or after approval of the water project for funding as a qualifying water project from the water project fund by the state legislature. Final recommendation to the board for the type of financial assistance to be provided to an applicant for a qualifying water project may be made by the authority board of directors.

[19.25.10.10 NMAC - N, 09/16/02]

19.25.10.11 QUALIFYING WATER PROJECTS AND ELIGIBLE COSTS:

A. The board and the authority may provide financial assistance from the water project fund to qualified entities only for qualifying water projects. As provided by Section 72-4A-7, NMSA 1978, eligible items which may be financed from the water project fund include:

- (1) matching requirements for federal and local cost shares;
 - (2) engineering feasibility reports;
 - (3) contracted engineering design;
 - (4) inspection of construction;
 - (5) special engineering services;
 - (6) environmental or archeological surveys;
 - (7) construction;
 - (8) land acquisition;
 - (9) easements and rights of way;
- and
- (10) legal costs and fiscal agent fees.

B. A qualified entity which has had financial assistance approved by the state legislature for financing a qualifying water project may apply to the board to redirect the financial assistance to a different water project made necessary by unanticipated events. The decision to redirect the financial assistance to a different qualifying water project will be at the sole discretion of the board and subject to approval of the state legislature as required by Section 72-4A-9(B), NMSA 1978.

[19.25.10.11 NMAC - N, 09/16/02]

19.25.10.12 QUALIFYING WATER PROJECT FINANCING:

The authority may structure financial assistance packages that include loans, grants and any other type of assistance authorized by the authority. The structure, terms and conditions of the financial assistance will be determined by the authority. Financial assistance for qualifying water projects may be pooled, at the discretion of the authority. Financial assistance packages may consist of the following, or a combination thereof:

A. Bond-Funded Loans.

Loans may be funded through the sale of revenue bonds payable from the proceeds of loan repayments made into the water project fund upon a determination by the authority that issuance of bonds is necessary to replenish the principal balance of the water project fund. The costs of issuing and administering the bonds, and of funding a debt service reserve, may be paid from the proceeds of the bonds or from the water project fund. Loan interest rates may reflect actual bond issue costs of capital, including issuance and administrative costs, or the authority may offer lower loan interest rates using direct loans or other funds in the water project fund. Estimated rates for loans for planning purposes may be made available by the authority. The estimated rates will be set to reflect current bond market conditions.

B. Direct Loans. Qualifying water projects may be eligible for loans made directly from available funds in the water project fund. The authority may make direct loans available when amount of the required financial assistance is insufficient to support a bond issue, credit flexibility for a qualifying water project is needed or other factors indicate a direct loan is appropriate. Interest rates on direct loans may be established at any level determined to be appropriate by the authority. Repayments of a direct loan may be pledged by the authority for debt service on bonds or other obligations payable from the water project fund.

C. Combination Loans and Grants. For qualifying water projects financed with a combination of loans or grants from available moneys in the water project fund, there shall be no restriction on the total amount of financial assistance that may come from a grant from the water project fund.

D. Grants. Grants or conditional grants (deferred payment loans) may be available as part of an overall financial assistance package. Grants are available only when the applicant demonstrates, to the satisfaction of the board based on analysis of the financial application by the authority staff and the recommendation of the authority board of directors, economic need and inability to afford debt financing for the qualifying water project.

[19.25.10.12 NMAC - N, 09/16/02]

19.25.10.13 FINANCING APPROVAL REQUIREMENTS:

Based on the priority and evaluation factors set forth in Sections 19.25.10.8 and 19.25.10.10, the board may recommend approval of the qualifying water project and financial assistance to the applicant provided the following requirements are satisfied:

A. In approving an application for financial assistance, the board shall find that the qualifying water project is important to the overall needs of the state and its citizens.

B. In determining the qualification for financial assistance, the board shall consider the ability of a qualified entity to secure financing from other sources and the costs of the financial assistance.

C. In approving a grant application, the board shall first consider if the applicant has the ability to repay a loan.

D. In approving a loan application, the board must find that the useful life of the qualifying water project will meet or exceed the maturity of the loan made.

F. In approving a loan application, the board must find that the applicant has the financial capability to ensure that sufficient revenues will be available to operate and maintain the qualifying water project for its useful life and to repay the loan.

G. To be eligible for financial assistance, the applicant must agree to properly maintain separate project accounts and financial records in accordance with generally accepted accounting principles during the construction or implementation of the qualifying water project and, in the case of a loan, to conduct an annual audit of the qualifying water project's financial records during its useful life.

H. In order to receive financial assistance, the applicant must provide title insurance with respect to the qualifying water project or a written assurance, signed by an attorney, that the qualified entity has or will acquire proper title, easements and rights-of-way to the property upon or through which the qualifying water project is to be constructed or extended.

I. Any contract or sub-contract executed for the completion of any qualifying water project shall contain a provision that there shall be no discrimination against any employee or applicant for employment because of race, color, creed, sex, religion, sexual preference, ancestry or national origin.

J. In order to receive financial assistance, the applicant must require any contractor providing construction services for a qualifying water project to post a performance and payment bond in accordance with the requirements of Section 13-4-18, NMSA 1978.

K. In order to receive financial assistance, the qualified entity must agree to operate and maintain a qualifying water project addressing storage, conveyance and delivery needs so that it will function properly over the structural and

material design life, which shall not be less than 20 years.

L. In order to receive financial assistance, the qualified entity must agree to pay the costs of originating grants and loans from the proceeds of the grant or loan or from other legally available moneys of the qualified entity.

M. In order to receive financial assistance, the qualified entity must agree to provide plans and specifications for the qualifying water project to the board for approval before any financial assistance disbursements are made for the qualifying water project.

N. In addition to the foregoing, a qualified entity must satisfy any other requirements as may be determined by the board.

[19.25.10.13 NMAC - N, 09/16/02]

19.25.10.14 APPEALS. Any applicant or qualified entity may appeal a decision of the board by notifying the board in writing within forty-five days of the date on which notice of an adverse decision is given by the board to an applicant. Notice is deemed to be given on the fifth business day following the date on which written notice is mailed to the applicant by the board by U.S. mail. Appeals not timely or properly made will be barred thereafter. The chairman of the board will promptly review each timely appeal and will recommend, at the next regular meeting of the board, action to be taken by the board on the appeal. The board will review and take action on the appeal and will notify the applicant or qualified entity of the board's decision, in writing, within five working days of the board's decision. The decision of the board is final.

[19.25.10.14 NMAC - N, 09/16/02]

19.25.10.15 FINANCIAL ASSISTANCE AGREEMENT:

A. The board and the qualified entity will enter into an agreement to establish the terms and conditions of financial assistance from the board. The agreement will include the terms of repayment and remedies available to the board in the event of a default. The board, or the authority, on behalf of the board, will monitor terms of the agreement and enforce or cause to be enforced all terms and conditions thereof, including prompt notice and collection.

B. The interest on any financial assistance extended shall be determined by the authority based on the cost of funds and ability of a qualified entity to repay a loan. The interest rate shall not change during the term of the financial assistance unless refinanced or unless the financial assistance is structured as a variable rate obligation.

C. The agreement will contain provisions which require financial assistance recipients to comply with all applicable federal, state and local laws and regulations.

D. In the event of default under a financial assistance agreement by a qualified entity, the board, or the authority, on behalf of the board, may enforce its rights by suit or mandamus and may utilize all other available remedies under state and applicable federal law.

[19.25.10.15 NMAC - N, 09/16/02]

19.25.10.16 ADMINISTRATIVE FEES:

A. The board may impose and collect a reasonable fee in connection with the filing of a water project proposal or a financial application for approval of a water project and for financial assistance with the board and the authority. The board also may impose and collect an administrative fee from each qualified entity that receives financial assistance from the water project fund. If an administrative fee is assessed, the administrative fee will be a percentage of the principal amount of the financial assistance provided to a qualified entity. The administrative fee may be withheld from the principal amount of the financial assistance and will be retained in the water project fund. Alternatively, the board may levy an annual fee equal to a percentage of the outstanding principal amount of a loan. Specific percentages will be based on, among other things, the volume of financial assistance being provided to qualified entities, the administrative costs of the board and the authority, and the availability of other revenue sources to cover the board's and the authority's administrative costs. The filing and administrative fee or fees may be used for, among other purposes, reimbursing the board or the authority for all or part of the costs of issuing bonds and other administrative costs, including any audits of the water project fund and the water trust fund.

B. The board and the authority may establish such other charges, premiums, fees and penalties deemed necessary for the administration of the water project fund and the water trust fund.

[19.25.10.16 NMAC - N, 09/16/02]

19.25.10.17 ADMINISTRATION OF THE WATER TRUST FUND:

A. The water trust fund shall be administered by the state treasurer's office and shall be invested by the state investment officer in the same manner as land grant permanent funds are invested under state law. All investment earnings on the water trust fund shall be credited to the water trust fund. The water trust fund shall

not be expended for any purpose.

B. Annual distributions to the water project fund from the water trust fund shall be made as required by the authority.

[19.25.10.17 NMAC - N, 09/16/02]

19.25.10.18 ADMINISTRATION OF THE WATER PROJECT FUND:

A. The water project fund shall be administered by the authority as a separate account, but may consist of such subaccounts as the authority deems necessary to carry out the purposes of the fund.

B. Money from repayments of loans made by the board for qualifying water projects shall be deposited in the water project fund. The water project fund shall also consist of any other money appropriated, distributed or otherwise allocated to the water project fund for the purpose of financing qualifying water projects.

C. The authority shall adopt a uniform accounting system for the water project fund and each account and subaccount established by the authority, based on generally accepted accounting principles.

[19.25.10.18 NMAC - N, 09/16/02]

19.25.10.19 BOND ISSUANCE:

A. The authority may issue and sell revenue bonds as required to provide funds to:

(1) replenish the principal balance of the water project fund;

(2) pay, fund or refund the principal of or interest or redemption premiums, if any, on bonds issued by the authority whether the bonds or interest to be paid, funded or refunded have or have not become due;

(3) establish or increase reserve funds to secure bonds; and

(4) pay the costs and expenses incident to the issuance of bonds.

B. The authority will consider market and other economic conditions in determining the type of sale and the timing of the issuance of bonds.

[19.25.10.19 NMAC - N, 09/16/02]

19.25.10.20 AMENDMENT OF RULES: This rule may be amended or repealed at any time by a majority vote of a quorum of the board.

[19.25.10.20 NMAC - N, 09/16/02]

History of 19.25.10 NMAC:
[RESERVED]

End of Adopted Rules and Regulations Section

2002
SUBMITTAL DEADLINES AND PUBLICATION DATES

Volume XIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 18	March 29
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 3	June 14
Issue Number 12	June 17	June 28
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	September 3	September 16
Issue Number 18	September 17	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
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 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.