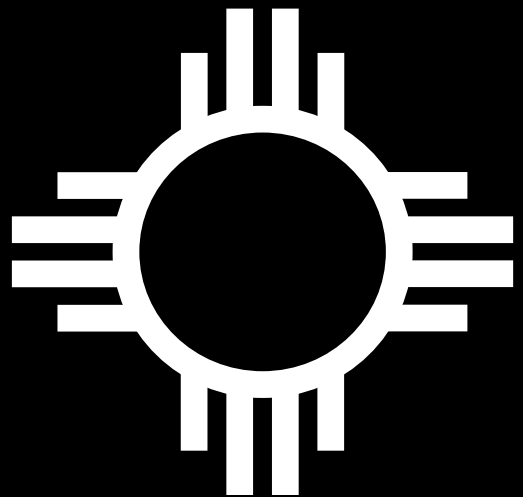


**NEW  
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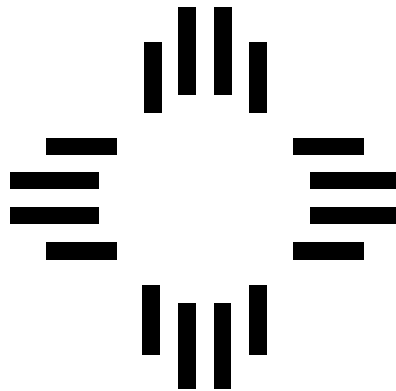


Volume XIV  
Issue Number 22  
November 26, 2003



# **New Mexico Register**

**Volume XIV, Issue Number 22**  
**November 26, 2003**



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

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Administrative Law Division  
Santa Fe, New Mexico  
2003

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# New Mexico Register

Volume XIV, Number 22

November 26, 2003

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### 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." Section 14-4-5 NMSA 1978.

***A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered***

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Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail [rules@rain.state.nm.us](mailto:rules@rain.state.nm.us).

# Notices of Rulemaking and Proposed Rules

## NEW MEXICO BOARD OF PUBLIC ACCOUNTANCY

### PUBLIC ACCOUNTANCY BOARD NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Accountancy Board ("Board") will convene on Friday, December 5, 2003. The meeting will be held at 8:30 a.m. in the New Mexico Society of CPAs Conference Room, 1650 University Blvd. NE, Suite 450, Albuquerque, New Mexico. Notice of the meeting is given in accordance with the Board's Open Meetings Policy. At 11:00 a.m., a public hearing will be held for the purpose of affording members of the public the opportunity to offer comments on proposed amendments to existing Board rules.

The Board staff will recommend that the Board adopt amendments to the following rules:

PROPOSED NMAC NUMBER	RULE NAME
16.60.1 NMAC	General Provisions
16.60.2 NMAC	Certified Public Accountants (CPA) Examination Requirements
16.60.3 NMAC	Licensure and Continuing Professional Education Requirements
16.60.4 NMAC	Firm Permit, Peer Review Requirements, and Business Name Prohibitions
16.60.5 NMAC	Code of Professional Conduct

Notice of the hearing has been published in the New Mexico Register and in the Albuquerque Journal. Interested parties may access the proposed amendments on the Board's website at [www.rld.state.nm.us/accountancy](http://www.rld.state.nm.us/accountancy). Copies may also be obtained by contacting the Board office at (505) 841-9108. Written comments regarding the proposed amendments should be directed to Ms. Patricia Soukup, Executive Director, Public Accountancy Board, 111 Lomas NW, Suite 510, Albuquerque, New Mexico 87102 or faxed to (505) 222-9155. Comments must be received by 5:00 p.m. on December 3, 2003; however, the submission of written comments as soon as possible is encouraged.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting should contact the Board office at (505) 841-9108 by 5:00 p.m. on December 1, 2003.

## NEW MEXICO AGING AND LONG-TERM CARE DEPARTMENT

### NOTICE OF PUBLIC RULE-MAKING HEARING

The New Mexico Aging and Long-Term Care Department hereby gives notice that a public hearing will be held on **Tuesday, January 6, 2004 at 8:30 a.m. in the Harold Runnels Building Auditorium, 1190 South Saint Francis Drive, Santa Fe, N.M.**

The purpose of the hearing will be to receive comments on two proposed new rules relating to the Long-Term Care Ombudsman Program: 9.2.21 NMAC - Civil Penalty Assessments by the State Long-Term Care Ombudsman; and 9.2.22 NMAC - Hearings to Challenge Civil Penalty Assessments by the State Long-

Term Care Ombudsman.

Any person requesting copies of the proposed rules or wishing to testify at the hearing should contact Andrea Allen by mail at 1410 San Pedro NE, Albuquerque, NM 87110, by toll-free telephone at 1-866-842-9230, or by e-mail at [Andrea.Allen@state.nm.us](mailto:Andrea.Allen@state.nm.us). Any person wishing to submit written or e-mail comments may do so by submitting them to Ms. Allen on or before the date of the hearing. No written or e-mail comments will be accepted after 5:00 p.m. on the date of the hearing.

Persons requiring special accommodations at the hearing are asked to contact Ms. Allen by December 12, 2003 so that arrangements can be made.

## NEW MEXICO LIVESTOCK BOARD

### NEW MEXICO LIVESTOCK BOARD

#### AMENDED 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 Thursday December 4, 2003, at the Albuquerque Hilton, Albuquerque, New Mexico, at 9:00 a.m. The board will consider rules governing livestock inspection and transportation of livestock from specific designated areas in response to a specific disease or emergency action in a given geographic area and other matters of general business in Accordance with Section 77-2-7.

Copies of rules can be obtained by contacting Daniel M. Manzanarez, 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. Copies of the agenda may be obtained at New Mexico Livestock Board office or by calling (505) 841-6161.

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 BOARD OF EXAMINERS IN OPTOMETRY

### PUBLIC RULE HEARING AND REGULAR BOARD MEETING

Notice is hereby given that the New Mexico Board of Examiners in Optometry will convene a public rule hearing at 9:00 a.m. on Sunday, January 11, 2004, followed by a regular business meeting hearing during which action will be taken on the proposed rules. During the regular meeting, the Board may enter into Executive Session to discuss licensing matters. The hearing and meeting will be held in the Conference Room at Northeast Heights Hospital located at 4701 Montgomery Blvd. NE. in Albuquerque, New Mexico.

The purpose of the rule hearing is to consider for adoption proposed amendments to the following Board Rules and Regulations in 16.16 NMAC: PART 2, "Fees"; PART 3, "Requirements for Licensure by Examination"; PART 4, "Requirements for Licensure by Endorsement"; PART 5, "Examination for Optometric Licensure"; PART 7, "Pharmaceutical Certification"; PART 10, "Renewal of New Mexico Optometry License"; PART 11, "License Expiration; Revocation Due to Non-Renewal; Reactivation" PART 12, "Retirement and Reinstatement of Optometry License"; PART 13, "Continuing Education"; PART 16, "Practice Location; Ownership"; PART 19, "Contact Lenses"; PART 21, "Unprofessional Conduct"; PART 22, "Disciplinary Proceedings"; and PART 24, "Disciplinary Guidelines For Impaired Practitioner". In addition, the Board will be considering for adoption two NEW regulations: PART 9, "Inactive Status" and PART 20, "Ophthalmic Lenses".

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at 2055 S. Pacheco, Suite 400, Santa Fe, New Mexico 87505; or call (505) 476-7121 or 476-7122; or access them in the "News" link on the Board's Website at [www.rld.state.nm.us/b&c/optometry](http://www.rld.state.nm.us/b&c/optometry) after December 1, 2003. All written comments, mailed to the Board office or e-mailed to [Optometrybd@state.nm.us](mailto:Optometrybd@state.nm.us) or [Carmen.payne@state.nm.us](mailto:Carmen.payne@state.nm.us), must be received no later than Friday, January 2, 2004, in order for the Board members to receive the comments in their meeting packets for review before the rule hearing. Persons wishing to present their comments at the hearing will need nine (9) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-7121 at least two weeks prior to the meeting or as soon as possible.

**NEW MEXICO  
COMMISSION OF  
PUBLIC RECORDS**

**NOTICE OF REGULAR MEETING**

The New Mexico Commission of Public Records has scheduled a regular meeting for Tuesday, December 2, 2003, at 9:00 A.M. The meeting will be held at the New Mexico State Records Center and Archives,

which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Ruben Rivera at 476-7926 by December 1, 2003. Public documents including the agenda and minutes can be provided in various accessible formats. A final copy of the agenda will be available 24 hours before the hearing.

**NOTICE OF RULEMAKING**

The Commission of Public Records may consider the following items of rulemaking at the meeting:

**Amend**

1.15.2 NMAC	GRRDS, General Administrative Records
1.15.3 NMAC	GRRDS, General Administrative Records (For use by Local Government and Educational Institutions)
1.17.244 NMAC	JRRDS, Bernalillo County Metropolitan Court
1.18.770 NMAC	ERRDS, Corrections Department
1.18.924 NMAC	ERRDS, Department of Education

**Repeal**

1.18.333 NMAC	ERRDS, Taxation and Revenue Department
1.18.378 NMAC	ERRDS, State Personnel Office
1.18.516 NMAC	ERRDS, Game and Fish Department
1.18.624 NMAC	ERRDS, State Agency on Aging

**New-Replacement**

1.18.333 NMAC	ERRDS, Taxation and Revenue Department
1.18.378 NMAC	ERRDS, State Personnel Office
1.18.516 NMAC	ERRDS, Game and Fish Department
1.18.624 NMAC	ERRDS, Aging and Long-term Care Department

**New**

1.18.356 NMAC	ERRDS, Office of the Governor
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**End of Notices and Proposed Rules Section**

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## Adopted Rules and Regulations

### NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

#### LOCAL GOVERNMENT DIVISION

This is an amendment to 2.40.3 NMAC, Section 18.

**2.40.3.18 PARTICIPATION IN COMMISSION MEETINGS:** A commissioner may participate in a meeting of the commission by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the commissioner to attend the meeting in person, and participation by such means shall constitute presence in person at the meeting. When a commissioner participates in a meeting by conference telephone or other similar communications equipment, (1) each commissioner participating by telephone must be able to be identified when speaking, (2) all participants must be able to hear each other at the same time, and (3) members of the public attending the meeting must be able to hear any commissioner who speaks during the meeting. Arrangements to attend a meeting by telephone must be made sufficiently in advance to allow LGD to secure the necessary equipment to provide for a suitable telephonic connection.  
[2.40.3.18 NMAC - N, 11/26/2003]

### NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.3 NMAC, Sections 8 and 11. Effective 11-26-03.

#### 19.31.3.8 PUBLIC LICENSES AND PERMITS - APPLICATION FOR:

##### A. Application form:

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

##### B. Application deadline(s):

Applications for all depredation hunts, turkey, antelope, elk, bighorn sheep, bear entry, deer entry, oryx, javelina, bison, and ibex hunts must be received, in the Santa Fe office only, by 5:00 p.m. on dates set by the state game commission.

##### C. Mailed application deadline:

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

##### D. One applicant per

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

##### E. Two applicants per

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

##### F. Four applicants per

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

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

##### H. Applications rejected:

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

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

##### I. More applications

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

##### J. Increase in licenses or

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

##### K. Additional choices:

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

##### L. Application categories:

Applications for special drawing hunts will be placed into the appropriate categories, as specified in 17-3-16 NMSA 1978 by department personnel or their designee. Special drawings shall continue to draw applicants from the appropriate drawing pool progressively for each respective hunt code, starting with first choice applicants, then proceeding to second and

subsequent choice applicants until the quota has been met or the pool of applicants has been exhausted.

**M. Resident and non-resident applications:**

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

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

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

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

#### 19.31.3.11 RESTRICTIONS:

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

**B. Valid dates of license or permit:** All permits or licenses shall be valid only during the dates specified and only in the area which is specified. Except that a permit or license will be valid on the contiguous deeded land of private property that extends into an adjacent GMU or AMU, that is open to hunting for that species, when the license holder is in possession of current, valid written permission from the appropriate landowner. This exception shall only apply when the adjacent unit has the same restrictions as to weapon type, bag limit, season dates and license availability.

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

**D. Desert bighorn sheep - once-in-a-lifetime:** It shall be unlawful for anyone to apply for a desert mountain bighorn sheep license if one has previously held a license to hunt desert mountain bighorn sheep in New Mexico. Exception:

Any resident, nonresident, or alien is eligible to submit a bid for the special bighorn permit S-1-488 (auction permit) and S-1-490 (lottery permit) regardless if he/she has previously held a permit to hunt Rocky Mountain or desert bighorn sheep in New Mexico.

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

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

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

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

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

(2) It shall be unlawful to hunt bear in the Valle Vidal area except for properly licensed bear hunters that possess a Valle Vidal elk hunting muzzleloader or rifle license and only during the dates of the elk hunt specified. No dogs shall be allowed to hunt bear on the Valle Vidal.

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

**J. Refunds** will not be made for any license or permit after it has been awarded or issued.

**K. More than one application:** It shall be unlawful to submit more than one application per species for any license issued through a special drawing, unless otherwise permitted by regulation. Exception: (1) An individual may apply for both a population reduction hunt on public or private land and a special drawing hunt. (2) An individual applying for game management sub-unit 6B (Valles Caldera national preserve) must submit a separate application form containing hunt codes for this area. Nothing in this

exemption shall prevent an applicant from applying for other public hunt codes within the state during the same license year. However, an applicant shall follow the application procedures outlined in 19.31.3.8 NMAC.

**L. Deer entry hunts:** It shall be unlawful for any deer entry hunter to hunt during any other deer season.

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

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

**O. Bison-once-in-a-lifetime:** It shall be unlawful for anyone to apply for a bison license if he/she ever held a license or authorization to purchase a license to hunt bison.

**P. Youth hunts:** Only applicants who have not reached their 18th birthday by the opening day of the hunt are eligible to apply for or participate in a youth only hunt.

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

**R. An individual making license application shall supply the department on the appropriate form with all required personal information including, but not limited to (i.e. name, address, date-of-birth, social security number etc) prior to an application form being processed or a license being awarded.**

[4-1-95, 10-14-95, 10-31-97; Rn, 19 NMAC 31.3.7, 2-28-98, A, 12-29-99, A, 5-14-99 A, 7-15-99, A, 10-15-99; 19.31.3.11

NMAC - Rn & A, 19 NMAC 31.3.11, 1-31-01, A, 12-14-01; A, 12-28-01, A, 11-27-02; A, 11-26-03]

## NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.8 NMAC, Sections 7, 20, 22, 24 and 27. Effective 11-26-03.

### 19.31.8.7 DEFINITIONS:

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

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

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

**D. "bearded turkey"** shall mean a turkey with a visible beard.

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

**F. "bighorn ram"** shall mean any male bighorn sheep.

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

**H. "deer license"** shall mean a resident deer, nonresident deer, resident general hunting, resident general hunting and fishing, resident senior general hunting, resident junior general hunting, or resident handicapped general hunting license issued for hunting deer in New Mexico during the current license year.

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

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

**K. "entry permit"** shall entitle the holder of a valid deer license to hunt deer when special permission is required.

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

**M. "F-IM or female or immature antelope"** shall mean an ante-

lope without horns or with both horns shorter than its ears.

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

**O.** "game management unit" or "GMU" shall mean those areas as described in the state game commission's rule 19.30.4

**NMAC Boundary Descriptions for Wildlife Management Areas.**

**P.** "license year" shall mean the period from April 1 through March 31.

**Q.** "male Persian ibex" shall mean any male Persian ibex.

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

**S.** "MB or mature buck antelope" shall mean an antelope with at least one horn longer than its ears.

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

**U.** "NT or non-typical oryx" shall mean an oryx of either sex with at least one horn broken off at the halfway point, or horns that deviate significantly from normal.

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

**W.** "Valles Caldera national preserve (VCNP)" shall mean the hunt area within game management sub-unit 6B.

[19.31.8.7 NMAC – Rp 19.31.8.7 NMAC, 4-1-2003; A, 11-26-2003]

**19.31.8.20 DEER (2004-2005):**

**A.** Over-the-counter deer hunts for any legal weapon, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas shall be as indicated below:

(1) Oct. 25 - 27, DER-1-001, unlimited, FAD, 8 (except Sandia ranger district of the Cibola national forest).

(2) Oct. 29 - 31, DER-1-002, unlimited, FAD, 8 (except Sandia ranger district of the Cibola national forest), 29, 30, 34.

(3) Nov. 3 - 5, DER-1-003, unlimited, FAD, 12, 13, 16, 18, 20, 21, 22, 23 (except the Burro mountain hunt area), 24, 25, 26, 29, 30, 34, 39, 41, 42, 43, 47.

(4) Nov. 10 - 14, DER-1-004, unlimited, FAD, 12, 13, 16, 18, 20, 21, 22, 23 (except the Burro mountain hunt area), 24, 25, 26.

(5) Nov. 12 - 14, DER-1-005, unlimited, FAD, 29, 30, 34.

(6) Nov. 9 - 11, DER-1-006, unlimited, FAD, 31 (including Brantley WMA excluding Seven rivers waterfowl management area), 32, 33 (excluding the W. S. Huey waterfowl management area), 36, 37, 38, and 40.

(7) Nov. 18 - 21, DER-1-007, unlimited, FAD, 31 (including Brantley WMA, excluding Seven rivers waterfowl management area), 32, 33 (excluding the W. S. Huey waterfowl management area), 36, 37, 38, and 40.

(8) Oct. 30 - Nov. 1, DER-1-008, unlimited, FAD, 39.

(9) Oct. 30 - 31, DER-1-009, unlimited, FAD, 41, 42, 43, 46, 47, 54, 55, 56 (except Sierra Grande hunt area), 57, 58.

(10) Nov. 3 - 7, DER-1-010, unlimited, FAD, 46, 54, 55, 56 (except Sierra Grande hunt area), 57, 58.

(11) Nov. 17 - 23, DER-1-011, unlimited, FAD, 54, 55, 56 (except Sierra Grande hunt area), 57, 58.

**B.** Over-the-counter deer hunts for bows, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas shall be as indicated below:

(1) Aug. 28 – Sept. 16 and Jan. 8 - 16, 2005, DER-2-001, unlimited, FAD, 12, 13, 15, 16, 18, 20, 21, 22, 23 (except Burro mountain hunt area), 24, 25, 26, 29, 30, 31 (including Brantley WMA, excluding Seven rivers waterfowl management area portion), 32, 33 (excluding the W. S. Huey waterfowl management area), 34, 36, 37, 38, 39, 40, 41, 42, 43, 46, 47, 54, 55, 56 (except Sierra Grande hunt area), 57 (except Sugarite canyon state park), 58. Hunters unsuccessful in the September hunt may hunt during the January hunt only in the same GMU validated on their license for the September hunt.

(2) Aug. 28 – Sept. 16, DER-2-002, unlimited, FAD, 48, 49, 50, 51, 52, 53.

**C.** Over-the-counter deer hunts for muzzle-loaders, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas shall be as indicated below:

(1) Sept. 27 – Oct. 3, DER-3-001, unlimited, FAD, 8 (except Sandia ranger district of the Cibola national forest), 12, 13, 15, 16, 18, 20, 21, 22, 23 (except the Burro mountain hunt area), 24, 25, 26.

(2) Oct. 23 - 27, DER-3-002, unlimited, FAD, 29, 30, 31 (including Brantley WMA, excluding Seven rivers waterfowl management area), 32, 33 (excluding the W. S. Huey waterfowl management area), 37, 38, 40.

(3) Oct. 2 - 6, DER-3-003, unlimited, FAD, 34, 36.

(4) Sept 18 - 27, DER-3-004, unlimited, FAD, 39, 41, 42, 43, 46, 47, 54, 55, 56 (except Sierra Grande hunt area), 57 (except Sugarite canyon state park), 58.

**D.** Deer entry hunts for any legal weapon, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas shall be as indicated below:

(1) Oct. 30 - 31, DER-1-101, 450, FAD, 2A.

(2) Oct. 30 - 31, DER-1-102, 50, FAD, 2A (youth only, must provide hunter education certification number on application).

(3) Oct. 23 - 24, DER-1-103, 620, FAD, 2B.

(4) Oct. 23 - 24, DER-1-104, 75, FAD, 2B (youth only, must provide hunter education certification number on application).

(5) Oct. 27 - 31, DER-1-105, 665, FAD, 2B.

(6) Nov. 3 - 9, DER-1-106, 665, FAD, 2B.

(7) Oct. 23 - 27, DER-1-107, 20, FAD, 4: Humphries-Rio Chama WMA's.

(8)	Oct. 30 - Nov. 3,	DER-1-108,	20,	FAD,	4: Humphries/Rio Chama WMA's.
(9)	Oct. 23 - 27,	DER-1-109,	5,	FAD,	4: Humphries-Rio Chama WMA's (youth only, must provide hunter education certification number on application).
(10)	Oct. 30 - Nov. 3,	DER-1-110,	5,	FAD,	4: Humphries/Rio Chama WMA's (youth only, must provide hunter education certification number on application).
(11)	Oct. 23 - 27,	DER-1-111,	175,	FAD,	4 private land only (application must be by special application obtained from a landowner).
(12)	Oct. 30 - Nov. 3,	DER-1-112,	175,	FAD,	4 private land only (application must be by special application obtained from a landowner).
(13)	Nov. 9 - 15,	DER-1-113,	30,	FAD,	5A public land only.
(14)	Nov. 9 - 15,	DER-1-114,	220,	FAD,	5A private land only (application must be by special application obtained from a landowner).
(15)	Oct. 9 - 13,	DER-1-115,	15,	FAD,	5B.
(16)	Oct. 9 - 13,	DER-1-116,	5,	FAD,	5B (youth only, must provide hunter education certification number on application).
(17)	Oct. 30 - Nov. 3,	DER-1-117,	50,	FAD,	6A and 6C.
(18)	Oct. 16 - 17,	DER-1-118,	25,	FAD,	7.
(19)	Oct. 23 - 24,	DER-1-119,	90,	FAD,	10.
(20)	Oct. 27 - 31,	DER-1-120,	90,	FAD,	10.
(21)	Nov. 3 - 7,	DER-1-121,	90,	FAD,	10.
(22)	Oct. 27 - 31,	DER-1-122,	25,	FAD,	14 (bow only, Sandia ranger district of the Cibola national forest).
(23)	Oct. 2 - 3,	DER-1-123,	25,	FAD,	17 (youth only, must provide hunter education certification number on application).
(24)	Oct. 23 - 27,	DER-1-124,	400,	FAD,	17.
(25)	Oct. 23 - 27,	DER-1-125,	25,	FAD,	23: Burro mountain portion of the Gila national forest (youth only, must provide hunter education number on application).
(26)	Nov. 18 - 20,	DER-1-126,	25,	FAD,	23: Burro mountain portion of the Gila national forest.
(27)	Dec. 4 - 6,	DER-1-127,	75,	FAD,	27.
(28)	Oct. 30 - 31,	DER-1-128,	50,	FAD,	28: McGregor range.
(29)	Oct. 30 - 31,	DER-1-129,	15,	FAD,	28: McGregor range (youth only, must provide hunter education certification number on application).
(30)	Oct. 30 - 31,	DER-1-130,	20,	FAD,	28: McGregor range (military only, must be full time active military and proof of military status must accompany application).
(31)	Nov. 6 - 8,	DER-1-131,	750,	FAD,	44/45.
(32)	Nov. 12 - 14,	DER-1-132,	750,	FAD,	44/45.
(33)	Sept. 20 - 22,	DER-1-133,	100,	FAD,	48.
(34)	Sept. 24 - 26,	DER-1-134,	100,	FAD,	48.
(35)	Sept. 20 - 22,	DER-1-135,	100,	FAD,	49.
(36)	Sept. 24 - 26,	DER-1-136,	100,	FAD,	49.
(37)	Sept. 20 - 22,	DER-1-137,	100,	FAD,	50.
(38)	Sept. 24 - 26,	DER-1-138,	100,	FAD,	50.
(39)	Sept. 20 - 22,	DER-1-139,	100,	FAD,	51.
(40)	Sept. 24 - 26,	DER-1-140,	100,	FAD,	51.
(41)	Sept. 20 - 22,	DER-1-141,	100,	FAD,	52.
(42)	Sept. 24 - 26,	DER-1-142,	100,	FAD,	52.
(43)	Sept. 20 - 24,	DER-1-143,	100,	FAD,	53.
(44)	Sept. 24 - 26,	DER-1-144,	100,	FAD,	53.
(45)	Nov. 6 - 7,	DER-1-145,	30,	FAD,	54/55: Colin Neblett WMA.
(46)	Nov. 10 - 14,	DER-1-146,	30,	FAD,	54/55: Colin Neblett WMA.
(47)	Nov. 17 - 23,	DER-1-147,	30,	FAD,	54/55: Colin Neblett WMA.
(48)	Nov. 6 - 7,	DER-1-148,	5,	FAD,	55: E. S. Barker WMA.
(49)	Nov. 10 - 14,	DER-1-149,	5,	FAD,	55: E.S. Barker WMA (youth only, must provide hunter education certification number on application).
(50)	Nov. 6 - 7,	DER-1-150,	10,	FAD,	55: Urraca WMA.
(51)	Nov. 10 - 14,	DER-1-151,	10,	FAD,	55: Urraca WMA.
(52)	Nov. 17 - 23,	DER-1-152,	10,	FAD,	55: Urraca WMA.
(53)	Nov. 6 - 7,	DER-1-153,	10,	FAD,	56: Sierra Grande hunt area.
(54)	Nov. 10 - 14,	DER-1-154,	10,	FAD,	56: Sierra Grande hunt area.
(55)	Nov. 17 - 23,	DER-1-155,	10,	FAD,	56: Sierra Grande hunt area.

**E.** Deer entry hunts for bows, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas, shall be as indicated below:

(1)	Aug. 28 - Sept. 16,	DER-2-101,	200,	FAD,	2.
(2)	Jan. 8 - 16, 2005,	DER-2-102,	50,	FAD,	2A.
(3)	Jan. 8 - 16, 2005,	DER-2-103,	150,	FAD,	2B.
(4)	Aug. 28 - Sept. 16,	DER-2-104,	150,	FAD,	4 private land only (application must be by special application obtained from a landowner).

- (5) Aug. 28 - Sept. 16, DER-2-105, 30, FAD, 5A public land only.
- (6) Aug. 28 - Sept. 16, DER-2-106, 220, FAD, 5A private land only (application must be by special application obtained from a landowner).
- (7) Aug. 28 - Sept. 16, DER-2-107, 100, FAD, 6A and 6C.
- (8) Aug. 28 - Sept. 16, DER-2-108, 10, FAD, 7.
- (9) Nov. 20 - Dec. 3, DER-2-109, 50, FAD, 8 (including Sandia ranger district, youth only, must provide hunter education certification number on application).
- (10) Jan. 8 - 16, 2005, DER-2-110, 50, FAD, 8 (including Sandia ranger district).
- (11) Aug. 28 - Sept. 16, DER-2-111, 90, FAD, 10.
- (12) Aug. 28 - Sept. 16, DER-2-112, 25, FAD, 14.
- (13) Aug. 28 - Sept. 16, DER-2-113, 400, FAD, 17.
- (14) Jan. 8 - 16, 2005, DER-2-114, 50, FAD, 23: Burro mountain portion of the Gila national forest.
- (15) Jan. 8 - 16, 2005, DER-2-115, 10, ES, 31/33: Brantley WMA and Seven rivers and Huey waterfowl management area's (youth only, must provide hunter education certification number on application).
- (16) Aug. 28 - Sept. 16, DER-2-116, 100, FAD, 44/45.
- (17) Aug. 28 - Sept. 16, DER-2-117, 10, FAD, 56: Sierra Grande hunt area.
- (18) Nov. 1 - 30, DER-2-118, 40, FAD, 57: Sugarite canyon state park.

F. Deer entry hunts for muzzle-loaders, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas, shall be as indicated below:

- (1) Sept. 18 - 27, DER-3-101, 350, FAD, 2.
- (2) Sept. 18 - 27, DER-3-102, 100, FAD, 4 private land only (application must be by special application obtained from a landowner).
- (3) Sept. 18 - 27, DER-3-103, 50, FAD, 6A and 6C.
- (4) Sept. 18 - 27, DER-3-104, 10, FAD, 7.
- (5) Sept. 18 - 27, DER-3-105, 90, FAD, 10.
- (6) Sept. 18 - 27, DER-3-106, 50, FAD, 14 (except Sandia ranger district of the Cibola national forest).
- (7) Sept. 25 - 30, DER-3-107, 400, FAD, 17.
- (8) Oct. 23 - 27, DER-3-108, 25, FAD, 19: Organ mountains.
- (9) Oct. 23 - 27, DER-3-109, 25, FAD, 27.
- (10) Nov. 26 - 28, DER-3-110, 30, ES, 31/33: Brantley WMA and Seven rivers and Huey waterfowl management area's (youth only, must provide hunter education certification number on application).
- (11) Sept. 18 - 27, DER-3-111, 150, FAD, 44/45.
- (12) Sept. 18 - 27, DER-3-112, 10, FAD, 56: Sierra Grande hunt area.

G. **Deer enhancement licenses. Deer enhancement licenses shall be valid from September 1 through December 31 for any legal weapon. These licenses shall be valid statewide only on public land where deer hunting is allowed, including the department's WMAs and private land with prior written permission. Bag limit shall be one fork-antlered. The hunt code shall be DER-1-400. License may be used either by the applicant or any individual of the selected applicant's choice through sale, barter, or gift.** [19.31.8.20 NMAC – Rp 19.31.8.20 NMAC, 4-1-2003; A, 11-26-2003]

#### 19.31.8.22 BEAR (2004-2005):

~~A. The bear seasons shall be as stated below, open areas are 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, 12, 13, 14 (bow only Sandia ranger district of the Cibola national forest), 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 34, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58. Dogs shall not be used to pursue bears in any WMA.~~

- ~~(1) Bear season for bows shall be August 28 – September 20. No dogs allowed.~~
- ~~(2) Bear season for any legal weapon shall be August 1 – 27 and September 25 through November 15, except in GMU's 8 and 14.~~

~~(3) Bear season for any legal weapon in GMU's 8 and 14 shall be October 15 through November 15, and shall only be allowed with the use of dogs to pursue the bear. The bag limit shall be one bear except any female and except any cub less than a year old.~~

~~(4) 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 WMA.~~
- ~~(b) August 1 – 31, BER 1-102, 5 William A. Humphries WMA.~~
- ~~(c) August 1 – 27, BER 1-103, 12 Elliot Barker/Colin Neblett WMA's.~~
- ~~(5) Any licensed bear hunter who is a recipient of a muzzleloader or rifle elk permit for the Valle Vidal area may harvest one bear during their allotted elk hunt period. Dogs shall not be allowed.~~

~~B. Bag limit shall be one bear except any female accompanied by a cub or cubs, and except any cubs less than a year old, unless otherwise indicated.~~

~~C. Legal weapons for taking bear in any open GMU, except in the Valle Vidal area, shall be any legal weapon. Legal weapons for taking bear in the Valle Vidal area 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.]~~

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

**(1)** Bow only bear season shall be Aug. 28-Sept. 19 in all zones (except Sargent, William A Humphries and Elliott Barker/Colin Neblet wildlife management areas). No dogs shall be used to pursue bear during bow seasons.

**(2)** Anly legal weapon season for bear shall be:

**(a)** Aug. 16-Aug. 25 and Sept. 27-Nov. 15, in zones 1, 2, 3, 5 and 6. Dogs may be used to pursue bears during the time frames and zones listed above.

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

**(3)** Bear entry only hunts for any legal weapon, listing the hunt date, hunt code, maximum number of licenses available, and open areas shall e as indicated below. Dogs shall not be used to pursue bears during bear entry hunts.

**(a)** August 1-31, BER-1-101, 10, Sargent WMA.

**(b)** August 1-31, BER-1-102, 5, William A. Humphries WMA.

**(c)** August 1-27, BER-1-103, 12, Elliot Barker/Colin Neblett WMA's.

**(4)** The Valle Vidal area is closed to bear hunting except to any licensed bear hunter who is a recipient of a rifle or muzzle loader for the Valle Vidal area may harvest one bear during their allotted elk hunt period. Legal weapons for taking bear in the Valle Vidal area shall be the legal weapon for the corresponding elk hunt. Dogs shall not be allowed to pursue bear in the Valle Vidal area.

**B.** The harvest limit for each bear zone is indicated below; if either the total limit (first number) or female sub-limit (italicized number) is reached the bear zone will close 72 hours thereafter. Bears taken from the Sargent WMA and William A. Humphries WMA in zone 1 or the Elliot Barker/Colin Neblett WMA's in zone 2 shall not count towards the harvest objective in that zone after the harvest limit has been reached.

**(1)** Zone 1, 77/49 GMU's 4, 5, 6, 7, 51, and 52.

**(2)** Zone 2, 156/101 GMU's 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57 and 58.

**(3)** Zone 3, 37/24, GMU's 9 and 10.

**(4)** Zone 4, 8/5 GMU's 8 and 14.

**(5)** Zone 5, 70/45 GMU's 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, and 27.

**(6)** Zone 6, 35/22 GMU's 34, 36, 37 and 38.

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

**D.** Bear hunters shall purchase their 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 by 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.

[19.31.8.22 NMAC – Rp 19.31.8.22 NMAC, 4-1-2003; A, 11-26-2003]

**19.31.8.24 ELK (2004-2005)**

**A.** The director, at his discretion, may adjust the number of public and/or private land elk permits up to 20 percent of the current permit numbers to address significant changes in population or harvest parameters and reissue unused landowner authorization certificates in GMU 4. **An individual must meet the requirements of VCNP to apply for hunts in game management sub-unit 6B.**

**B.** Public land elk hunts for any legal weapon, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas, shall be as indicated below:

- (1)** Oct. 9 - 13, ELK-1-101, 250, MB, 2.
- (2)** Oct. 9 - 13, ELK-1-102, 100, A, 2.
- (3)** Nov. 27 - Dec. 1, ELK-1-103, 330, A, 2.
- (4)** Oct. 2 - 6, ELK-1-104, 5, MB, 4: Sargent WMA.
- (5)** Oct. 9 -13, ELK-1-105, 15, MB, 4: Sargent WMA.
- (6)** Oct. 16 - 20, ELK-1-106, 15, MB, 4: Sargent WMA.
- (7)** Oct. 23 - 27, ELK-1-107, 15, MB, 4: Sargent WMA.
- (8)** Oct. 30 - Nov. 3, ELK-1-108, 15, A, 4: Sargent WMA.
- (9)** Oct. 30 - Nov. 3, ELK-1-109, 10, A, 4: Sargent WMA (youth only, must provide hunter education certification number on application).
- (10)** Nov. 6 - 10, ELK-1-110, 15, A, 4: Sargent WMA.
- (11)** Nov. 13 - 17, ELK-1-111, 10, A, 4: Sargent WMA.
- (12)** Oct. 2 - 6, ELK-1-112, 10, MB, 4: Humphries-Rio Chama WMA's.
- (13)** Oct. 9 - 13, ELK-1-113, 10, MB, 4: Humphries-Rio Chama WMA's.
- (14)** Oct. 16 - 20, ELK-1-114, 10, MB, 4: Humphries-Rio Chama WMA's.
- (15)** Nov. 6 - 10, ELK-1-115, 30, A, 4: Humphries-Rio Chama WMA's.
- (16)** Nov. 6 - 10, ELK-1-116, 10, A, 4: Humphries-Rio Chama WMA's (youth only, must provide hunter education certification number on application).
- (17)** Nov. 13 - 17, ELK-1-117, 30, A, 4: Humphries-Rio Chama WMA's.
- (18)** Oct. 2 - 6, ELK-1-118, 5, MB, 5A public land only.

(19)	Oct. 2 - 6,	ELK-1-119,	6,	A,	5A public land only.
(20)	Oct. 9 - 13,	ELK-1-120,	5,	MB,	5A public land only.
(21)	Oct. 9 - 13,	ELK-1-121,	6,	A,	5A public land only.
(22)	Oct. 16 - 20,	ELK-1-122,	5,	MB,	5A public land only.
(23)	Oct. 16 - 20,	ELK-1-123,	6,	A,	5A public land only.
(24)	Oct. 23 - 27,	ELK-1-124,	5,	MB,	5A public land only.
(25)	Oct. 23 - 27,	ELK-1-125,	6,	A,	5A public land only.
(26)	Oct. 30 - Nov. 3,	ELK-1-126,	11,	A,	5A public land only.
(27)	Oct. 2 - 6,	ELK-1-127,	100,	MB,	5B.
(28)	Oct. 16 - 20,	ELK-1-128,	100,	MB,	5B.
(29)	Oct. 30 - Nov. 3,	ELK-1-129,	100,	MB,	5B.
(30)	Oct. 23 - 27,	ELK-1-130,	160,	A,	5B.
(31)	Nov. 6 - 10,	ELK-1-131,	160,	A,	5B.
(32)	Nov. 13 - 17,	ELK-1-132,	160,	A,	5B.
(33)	Oct. 9 - 13,	ELK-1-133,	100,	MB,	6A.
(34)	Oct. 23 - 27,	ELK-1-134,	100,	MB,	6A.
(35)	Nov. 6 - 10,	ELK-1-135,	190,	A,	6A.
(36)	<del>[Oct. 2 - 6,]</del> <b>Oct 16-20,</b>	ELK-1-136,	<del>[3,]</del> <b>15</b>	MB,	6B Valles Caldera. <b>(application must be obtained from VCNP).</b>
(37)	<del>[Oct. 2 - 6,]</del> <b>Oct 16-20,</b>	ELK-1-137,	10,	A,	6B Valles Caldera. <b>(application must be obtained from VCNP).</b>
(38)	Oct. 9 - 13,	ELK-1-138,	<del>[3,]</del> <b>15</b>	MB,	6B Valles Caldera. <b>(application must be obtained from VCNP).</b>
(39)	Oct. 9 - 13,	ELK-1-139,	10,	A,	6B Valles Caldera. <b>(application must be obtained from VCNP).</b>
(40)	<del>[Oct. 23 - 25,]</del> <b>Oct 30-Nov 1</b>	ELK-1-140,	<del>[30,]</del> <b>20</b>	A,	6B Valles Caldera (youth only, must provide hunter education certification number on application. <b>(application must be obtained from VCNP).</b>
(41)	<del>[Nov. 6 - 8,]</del> <b>Nov. 13-15,</b>	ELK-1-141,	<del>[30,]</del> <b>20,</b>	A,	6B Valles Caldera (youth only, must provide hunter education certification number on application <b>(application must be obtained from VCNP).</b>
(42)	<del>[Nov. 13 - 15,]</del> <b>Nov. 27-29</b>	ELK-1-142,	<del>[35,]</del> <b>25,</b>	A,	6B Valles Caldera <b>(application must be obtained from VCNP).</b>
(43)	Nov. 20 - 22,	ELK-1-143,	<del>[35,]</del> <b>25,</b>	A,	6B Valles Caldera <b>(application must be obtained from VCNP).</b>
(44)	Oct. 9 - 13,	ELK-1-144,	100,	MB,	6C.
(45)	Oct. 16 - 20,	ELK-1-145,	100,	MB,	6C.
(46)	Nov. 13 - 17,	ELK-1-146,	125,	MB,	6C.
(47)	Nov. 20 - 24,	ELK-1-147,	125,	MB,	6C.
(48)	Nov. 27 - Dec. 1,	ELK-1-148,	200,	A,	6C.
(49)	Dec. 4 - 8,	ELK-1-149,	200,	A,	6C.
(50)	Dec. 11 - 15,	ELK-1-150,	150,	A,	6C.
(51)	Dec. 25 - 29,	ELK-1-151,	100,	A,	6C.
(52)	Jan. 8 - 12, 2005,	ELK-1-152,	75,	A,	6C.
(53)	Jan. 15 - 19, 2005,	ELK-1-153,	75,	A,	6C.
(54)	Oct. 9 - 13,	ELK-1-154,	30,	MB,	7.
(55)	Oct. 30 - Nov. 3,	ELK-1-155,	30,	MB,	7.
(56)	Oct. 23 - 27,	ELK-1-156,	120,	A,	7.
(57)	Nov. 6 - 10,	ELK-1-157,	120,	A,	7.
(58)	Jan. 15 - 19, 2005,	ELK-1-158,	120,	A,	7.
(59)	Nov. 6 - 10,	ELK-1-159,	200,	A,	9 (including Water canyon WMA, but not the Marquez WMA).
(60)	Nov. 6 - 10,	ELK-1-160,	5,	A,	9: Marquez WMA in 9.
(61)	Nov. 13 - 17,	ELK-1-161,	200,	A,	9 (including Water canyon WMA, but not the Marquez WMA).
(62)	Nov. 20 - 24,	ELK-1-162,	100,	A,	9 (including Water canyon WMA, but not the Marquez WMA).
(63)	Nov. 27 - Dec. 1,	ELK-1-163,	100,	A,	9 (including Water canyon WMA, but not the Marquez WMA).
(64)	Oct. 9 - 13,	ELK-1-164,	100,	MB,	10.
(65)	Oct. 16 - 20,	ELK-1-165,	300,	A,	10.
(66)	Oct. 2 - 6,	ELK-1-166,	100,	MB,	12.
(67)	Oct. 9 - 13,	ELK-1-167,	100,	MB,	12.
(68)	Oct. 16 - 20,	ELK-1-168,	100,	MB,	12.
(69)	Oct. 23 - 27,	ELK-1-169,	100,	MB,	12.
(70)	Oct. 30 - Nov. 3,	ELK-1-170,	200,	A,	12.
(71)	Nov. 13 - 17,	ELK-1-171,	200,	A,	12.
(72)	Nov. 20 - 24,	ELK-1-172,	200,	A,	12.
(73)	Nov. 27 - Dec. 1,	ELK-1-173,	200,	A,	12.
(74)	Oct. 2 - 6,	ELK-1-174,	50,	A,	16A (youth only, must provide hunter education certification number on application).
(75)	Oct. 9 - 13,	ELK-1-175,	100,	MB,	16A.
(76)	Oct. 16 - 20,	ELK-1-176,	150,	MB,	16A.

(77)	Nov. 6 - 10,	ELK-1-177,	90,	A,	16A.
(78)	Dec. 4 - 8,	ELK-1-178,	90,	A,	16A.
(79)	Dec. 11 - 15,	ELK-1-179,	90,	A,	16A.
(80)	Oct. 9 - 13,	ELK-1-180,	200,	MB,	16B.
(81)	Oct. 16 - 20,	ELK-1-181,	200,	MB,	16B.
(82)	Oct. 30 - Nov.3,	ELK-1-182,	50,	A,	16B.
(83)	Oct. 9 - 13,	ELK-1-183,	65,	MB,	16C.
(84)	Oct. 16 - 20,	ELK-1-184,	70,	MB,	16C.
(85)	Oct. 30 - Nov.3,	ELK-1-185,	50,	A,	16C.
(86)	Nov. 6 - 10,	ELK-1-186,	45,	A,	16C.
(87)	Dec. 4 - 8,	ELK-1-187,	45,	A,	16C.
(88)	Oct. 2 - 6,	ELK-1-188,	50,	A,	16D (youth only, must provide hunter education certification number on application).
(89)	Oct. 9 - 13,	ELK-1-189,	50,	MB,	16D.
(90)	Oct. 16 - 20,	ELK-1-190,	50,	MB,	16D.
(91)	Nov. 6 - 10,	ELK-1-191,	50,	A,	16D.
(92)	Dec. 4 - 8,	ELK-1-192,	50,	A,	16D.
(93)	Dec. 11 - 15,	ELK-1-193,	50,	A,	16D.
(94)	Oct. 16 - 20,	ELK-1-194,	65,	MB,	16E.
(95)	Oct. 30 - Nov. 3,	ELK-1-195,	80,	A,	16E.
(96)	Nov. 6 - 10,	ELK-1-196,	80,	A,	16E.
(97)	Dec. 4 - 8,	ELK-1-197,	80,	A,	16E.
(98)	Dec. 11 - 15,	ELK-1-198,	80,	A,	16E.
(99)	Oct. 9 - 13,	ELK-1-199,	45,	MB,	21A.
(100)	Oct. 16 - 20,	ELK-1-200,	60,	MB,	21A.
(101)	Oct. 30 - Nov. 3,	ELK-1-201,	25,	A,	21A.
(102)	Oct. 9 - 13,	ELK-1-202,	80,	MB,	21B.
(103)	Oct. 16 - 20,	ELK-1-203,	40,	MB,	21B.
(104)	Oct. 30 - Nov. 3,	ELK-1-204,	30,	A,	21B.
(105)	Nov. 6 - 10,	ELK-1-205,	30,	A,	21B.
(106)	Dec. 4 - 8,	ELK-1-206,	30,	A,	21B.
(107)	Dec. 11 - 15,	ELK-1-207,	30,	A,	21B.
(108)	Oct. 16 - 20,	ELK-1-208,	10,	MB,	22A.
(109)	Nov. 6 - 10,	ELK-1-209,	10,	A,	22A.
(110)	Dec. 4 - 8,	ELK-1-210,	10,	A,	22A.
(111)	Dec. 11 - 15,	ELK-1-211,	10,	A,	22A.
(112)	Oct. 16 - 20,	ELK-1-212,	10,	MB,	22B.
(113)	Oct. 16 - 20,	ELK-1-213,	250,	MB,	23.
(114)	Nov. 6 - 10,	ELK-1-214,	50,	A,	23.
(115)	Dec. 4 - 8,	ELK-1-215,	50,	A,	23.
(116)	Dec. 11 - 15,	ELK-1-216,	50,	A,	23.
(117)	Oct. 2 - 6,	ELK-1-217,	10,	MB,	24 youth only (including Ft. Bayard, must provide hunter education certification number on application).
(118)	Oct. 16 - 20,	ELK-1-218,	10,	A,	24 youth only (including Ft. Bayard, must provide hunter education certification number on application).
(119)	Oct. 16 - 20,	ELK-1-219,	100,	MB,	24 (excluding Ft. Bayard).
(120)	Nov. 6 - 10,	ELK-1-220,	50,	A,	24 (excluding Ft. Bayard).
(121)	Dec. 4 - 8,	ELK-1-221,	50,	A,	24 (excluding Ft. Bayard).
(122)	Dec. 11 - 15,	ELK-1-222,	50,	A,	24 (excluding Ft. Bayard).
(123)	Oct. 9 - 13,	ELK-1-223,	112,	MBA,	34 (youth only, must provide hunter education certification number on application).
(124)	Oct. 16 - 20,	ELK-1-224,	150,	MB,	34.
(125)	Oct. 23 - 27,	ELK-1-225,	300,	A,	34.
(126)	Dec. 4 - 8,	ELK-1-226,	300,	A,	34.
(127)	Oct. 9 - 13,	ELK-1-227,	100,	MB,	36.
(128)	Oct. 9 - 13,	ELK-1-228,	50,	A,	36.
(129)	Oct. 16 - 20,	ELK-1-229,	100,	MB,	36.
(130)	Oct. 16 - 20,	ELK-1-230,	50,	A,	36.
(131)	Oct. 9 - 13,	ELK-1-231,	25,	MB,	37.
(132)	Oct. 9 - 13,	ELK-1-232,	25,	A,	37.
(133)	Oct. 2 - 6,	ELK-1-233,	unlimited,	ES,	43.
(134)	Oct. 9 - 13,	ELK-1-234,	140,	MB,	44/45.
(135)	Oct. 16 - 20,	ELK-1-235,	140,	MB,	44/45.
(136)	Oct. 23 - 27,	ELK-1-236,	50,	A,	44/45.
(137)	Oct. 16 - 20,	ELK-1-237,	55,	MB,	48.
(138)	Oct. 16 - 20,	ELK-1-238,	40,	A,	48.



(139)	Oct. 23 - 27,	ELK-1-239,	55,	MB,	48.
(140)	Oct. 23 - 27,	ELK-1-240,	40,	A,	48.
(141)	Dec. 4 - 8,	ELK-1-241,	55,	MB,	48.
(142)	Dec. 4 - 8,	ELK-1-242,	40,	A,	48.
(143)	Oct. 2 - 6,	ELK-1-243,	180,	MB,	49.
(144)	Oct. 9 - 13,	ELK-1-244,	95,	MB,	49.
(145)	Oct. 16 - 20,	ELK-1-245,	95,	MB,	49.
(146)	Nov. 13 - 17,	ELK-1-246,	60,	A,	49.
(147)	Oct. 9 - 13,	ELK-1-247,	100,	MB,	50.
(148)	Oct. 9 - 13,	ELK-1-248,	20,	A,	50.
(149)	Oct. 16 - 20,	ELK-1-249,	100,	MB,	50.
(150)	Oct. 16 - 20,	ELK-1-250,	20,	A,	50.
(151)	Dec. 6 - 10,	ELK-1-251,	50,	A,	50.
(152)	Oct. 2 - 6,	ELK-1-252,	200,	MB,	51.
(153)	Oct. 9 - 13,	ELK-1-253,	200,	MB,	51.
(154)	Oct. 16 - 20,	ELK-1-254,	200,	MB,	51.
(155)	Oct. 23 - 27,	ELK-1-255,	250,	A,	51.
(156)	Oct 30 - Nov 3,	ELK-1-256,	250,	A,	51.
(157)	Oct. 9 - 13,	ELK-1-257,	250,	MB,	52.
(158)	Oct. 16 - 20,	ELK-1-258,	200,	MB,	52.
(159)	Oct. 23 - 27,	ELK-1-259,	200,	MB,	52.
(160)	Oct 30 - Nov 3,	ELK-1-260,	100,	A,	52.
(161)	Nov. 6 - 10,	ELK-1-261,	100,	A,	52.
(162)	Nov. 13- 17,	ELK-1-262,	100,	A,	52.
(163)	Nov. 20 - 24,	ELK-1-263,	100,	A,	52.
(164)	Oct. 9 - 13,	ELK-1-264,	180,	MB,	53 (except Cerro portion).
(165)	Oct. 16 - 20,	ELK-1-265,	95,	MB,	53 (except Cerro portion).
(166)	Dec. 4 - 8,	ELK-1-266,	50,	A,	53 (except Cerro portion).
(167)	Dec. 11 - 15,	ELK-1-267,	50,	A,	53 (except Cerro portion).
(168)	Jan. 8 - 12,	ELK-1-268,	50,	A,	53 (except Cerro portion).
(169)	Oct. 9 - 13,	ELK-1-269,	20,	MB,	54: Colin Neblett WMA-south.
(170)	Oct. 16 - 20,	ELK-1-270,	20,	MB,	54: Colin Neblett WMA-south.
(171)	Oct. 23 - 27,	ELK-1-271,	20,	MB,	54: Colin Neblett WMA-south.
(172)	Nov. 20 - 24,	ELK-1-272,	20,	A,	54: Colin Neblett WMA-south.
(173)	Oct. 9 - 13,	ELK-1-273,	20,	MB,	55: Colin Neblett WMA-north.
(174)	Oct. 16 - 20,	ELK-1-274,	20,	MB,	55: Colin Neblett WMA-north.
(175)	Oct. 23 - 27,	ELK-1-275,	20,	MB,	55: Colin Neblett WMA-north.
(176)	Nov. 20 - 24,	ELK-1-276,	20,	A,	55: Colin Neblett WMA-north.
(177)	Oct. 2 - 6,	ELK-1-277,	10,	MB,	55: Urraca WWA.
(178)	Oct. 9 - 13,	ELK-1-278,	10,	MB,	55: Urraca WWA.
(179)	Oct. 16 - 20,	ELK-1-279,	10,	MB,	55: Urraca WWA.
(180)	Oct. 23 - 27,	ELK-1-280,	10,	MB,	55: Urraca WWA.
(181)	Dec. 4 - 8,	ELK-1-281,	15,	A,	55: Urraca WWA.
(182)	Jan 8 - 12, 2005,	ELK-1-282,	15,	A,	55: Urraca WWA.
(183)	Oct. 9 - 13,	ELK-1-283,	35,	MB,	55: Valle Vidal/Greenwood areas.
(184)	Oct. 9 - 13,	ELK-1-284,	30,	A,	55: Valle Vidal/Greenwood areas.
(185)	Oct. 16 - 20,	ELK-1-285,	35,	MB,	55: Valle Vidal/Greenwood area.
(186)	Oct. 16 - 20,	ELK-1-286,	30,	A,	55: Valle Vidal/Greenwood area.
(187)	Oct. 23 - 27,	ELK-1-287,	35,	MB,	55: Valle Vidal/Greenwood areas.
(188)	Oct. 23 - 27,	ELK-1-288,	30,	A,	55: Valle Vidal/Greenwood areas.
(189)	Oct. 30 - Nov 3,	ELK-1-289,	45,	A,	55: Valle Vidal/Greenwood areas.
(190)	Oct. 30 - Nov 3,	ELK-1-290,	10,	A,	55: Valle Vidal/Greenwood areas, youth only.
(191)	Nov. 13 - 17,	ELK-1-291,	45,	A,	55: Valle Vidal/Greenwood areas.
(192)	Oct. 2 - 6,	ELK-1-292,	5,	MB,	56: Sierra Grande hunt area.
(193)	Oct. 9 - 13,	ELK-1-293,	10,	A,	56: Sierra Grande hunt area.
(194)	<b>Sept. 18 - 22,</b>	<b>ELK-1-294,</b>	<b>7,</b>	<b>MB,</b>	<b>6B Valles Caldera (application must be obtained from</b>

**VCNP).**

C. Public land elk hunts for bows, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas, shall be as indicated below:

- |                    |  |            |      |                            |   |
|--------------------|--|------------|------|----------------------------|---|
| (1)                | Aug. 28-Sep. 16,                               | ELK-2-101, | 300  | ES,                        | 2.  |
| (2)                | Aug. 28-Sep. 16,                               | ELK-2-102, | 10,  | ES,                        | 5A (public land only).                                    |
| (3)                | Aug. 28-Sep. 16,                               | ELK-2-103, | 225, | ES,                        | 5B.   |
| (4)                | Aug. 28-Sep. 16,                               | ELK-2-104, | 150, | ES,                        | 6A.   |
| (5)                | <del>[Sept. 10 - 20]</del> <b>Sept. 11-16,</b> | ELK-2-105, |      | <del>[25]</del> <b>15,</b> | ES, 6B Valles Caldera <b>application must be obtained</b> |
| <b>from VCNP).</b> |  |            |      |                            |   |
| (6)                | <del>[Sept. 10 - 20]</del> <b>Sept. 11-16,</b> | ELK-2-106, |      | <del>[5]</del> <b>10,</b>  | A, 6B Valles Caldera <b>(application must be obtained</b> |

from VCNP).

(7)	Aug. 28-Sep. 16,	ELK-2-107,	350,	ES,	6C.
(8)	Aug. 28-Sep. 16,	ELK-2-108,	25,	ES,	7.
(9)	Aug. 28-Sep. 16,	ELK-2-109,	395,	ES,	9 (Including Water canyon WMA, but not the Marquez WMA).
(10)	Aug. 28-Sep. 16,	ELK-2-110,	5,	ES,	9: Marquez WMA.
(11)	Aug. 28-Sep. 16,	ELK-2-111,	250,	ES,	10.
(12)	Aug. 28-Sep. 16,	ELK-2-112,	100,	ES,	12.
(13)	Aug. 28-Sep. 11,	ELK-2-113,	90,	ES,	13.
(14)	Aug. 28-Sep. 11,	ELK-2-114,	40,	A,	13.
(15)	Sept. 12 - 20,	ELK-2-115,	70,	ES,	13.
(16)	Aug. 28-Sep. 11,	ELK-2-116,	575,	ES,	15.
(17)	Aug. 28-Sep. 11,	ELK-2-117,	125,	A,	15.
(18)	Sept. 12 - 20,	ELK-2-118,	240,	ES,	15.
(19)	Aug. 28-Sep. 11,	ELK-2-119,	260,	ES,	16A.
(20)	Aug. 28-Sep. 11,	ELK-2-120,	75,	A,	16A.
(21)	Sept. 12 - 20,	ELK-2-121,	130,	ES,	16A.
(22)	Aug. 28-Sep. 11,	ELK-2-122,	250,	ES,	16B.
(23)	Aug. 28-Sep. 11,	ELK-2-123,	75,	A,	16B.
(24)	Sept. 12 - 20,	ELK-2-124,	150,	ES,	16B.
(25)	Aug. 28-Sep. 11,	ELK-2-125,	150,	ES,	16C.
(26)	Aug. 28-Sep. 11,	ELK-2-126,	45,	A,	16C.
(27)	Sept. 12 - 20,	ELK-2-127,	100,	ES,	16C.
(28)	Aug. 28-Sep. 11,	ELK-2-128,	100,	ES,	16D.
(29)	Aug. 28-Sep. 11,	ELK-2-129,	40,	A,	16D.
(30)	Sept. 12 - 20,	ELK-2-130,	85,	ES,	16D.
(31)	Aug. 28-Sep. 11,	ELK-2-131,	70,	ES,	16E.
(32)	Aug. 28-Sep. 11,	ELK-2-132,	50,	A,	16E.
(33)	Sept. 12 - 20,	ELK-2-133,	50,	ES,	16E.
(34)	Aug. 28-Sep. 11,	ELK-2-134,	100,	ES,	17.
(35)	Aug. 28-Sep. 11,	ELK-2-135,	40,	A,	17.
(36)	Sept. 12 - 20,	ELK-2-136,	60,	ES,	17.
(37)	Aug. 30-Sep. 18,	ELK-2-137,	50,	ES,	18.
(38)	Aug. 28-Sep. 11,	ELK-2-138,	60,	ES,	21A.
(39)	Aug. 28-Sep. 11,	ELK-2-139,	20,	A,	21A.
(40)	Sept. 12 - 20,	ELK-2-140,	30,	ES,	21A.
(41)	Aug. 28-Sep. 11,	ELK-2-141,	50,	ES,	21B.
(42)	Aug. 28-Sep. 11,	ELK-2-142,	20,	A,	21B.
(43)	Sept. 12 - 20,	ELK-2-143,	40,	ES,	21B.
(44)	Aug. 28-Sep. 11,	ELK-2-144,	10,	ES,	22A.
(45)	Aug. 28-Sep. 11,	ELK-2-145,	10,	A,	22A.
(46)	Sept. 12 - 20,	ELK-2-146,	10,	ES,	22A.
(47)	Aug. 28-Sep. 11,	ELK-2-147,	10,	ES,	22B.
(48)	Aug. 28-Sep. 11,	ELK-2-148,	10,	A,	22B.
(49)	Sept. 12 - 20,	ELK-2-149,	10,	ES,	22B.
(50)	Aug. 28-Sep. 11,	ELK-2-150,	200,	ES,	23.
(51)	Aug. 28-Sep. 11,	ELK-2-151,	50,	A,	23.
(52)	Sept. 12 - 20,	ELK-2-152,	200,	ES,	23.
(53)	Aug. 28-Sep. 11,	ELK-2-153,	50,	ES,	24 (excluding Ft. Bayard).
(54)	Aug. 28-Sep. 11,	ELK-2-154,	25,	A,	24 (excluding Ft. Bayard).
(55)	Sept. 12 - 20,	ELK-2-155,	50,	ES,	24 (excluding Ft. Bayard).
(56)	Aug. 28-Sep. 16,	ELK-2-156,	300,	ES,	34.
(57)	Aug. 28-Sep. 16,	ELK-2-157,	175,	ES,	36.
(58)	Aug. 28-Sep. 16,	ELK-2-158,	40,	ES,	37.
(59)	Aug. 28-Sep. 16,	ELK-2-159,	150,	ES,	44/45.
(60)	Aug. 28-Sep. 16,	ELK-2-160,	200,	ES,	48.
(61)	Aug. 28-Sep. 16,	ELK-2-161,	120,	ES,	49.
(62)	Aug. 28-Sep. 16,	ELK-2-162,	120,	ES,	50.
(63)	Aug. 28-Sep. 16,	ELK-2-163,	200,	ES,	51.
(64)	Aug. 28-Sep. 16,	ELK-2-164,	350,	ES,	52.
(65)	Aug. 28-Sep. 16,	ELK-2-165,	150,	ES,	53.
(66)	Aug. 28-Sep. 16,	ELK-2-166,	35,	ES,	55: Valle Vidal/Greenwood areas.
(67)	Aug. 28-Sep. 16,	ELK-2-167,	10,	ES,	55: E.S. Barker WMA.
(68)	<b>Sept. 4-9,</b>	<b>ELK-2-168,</b>	<b>10,</b>	<b>ES,</b>	<b>6B: Valles Caldera (application must be obtained from VCNP).</b>
(69)	<b>Sept. 4-9,</b>	<b>ELK-2-169,</b>	<b>15,</b>	<b>A,</b>	<b>6B Valles Caldera (application must be obtained from VCNP).</b>

D. Public land elk hunts for muzzle-loaders, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas, shall be as indicated below:

(1)	Oct. 2 - 6,	ELK-3-101,	350,	MB,	2.
(2)	Oct. 2 - 6,	ELK-3-102,	100,	MB,	6A.
(3)	<del>[Oct. 23 - 27]</del> <b>Oct. 2-6,</b>	ELK-3-003,	[2] <b>10,</b>	MB,	6B Valles Caldera ( <b>application must be obtained from VCNP).</b>
(4)	<del>[Oct. 23 - 27]</del> <b>Oct 2-6,</b>	ELK-3-104,	15,	A,	6B Valles Caldera ( <b>application must be obtained from VCNP).</b>
(5)	Oct. 2 - 6,	ELK-3-105,	300,	MB,	6C.
(6)	Oct. 2 - 6,	ELK-3-106,	25,	MB,	7.
(7)	Oct. 2 - 6,	ELK-3-107,	200,	A,	9 (including Water canyon WMA, but not the Marquez WMA).
(8)	Oct. 9 - 13,	ELK-3-108,	150,	MB,	9 (including Water canyon WMA, but not the Marquez WMA).
(9)	Oct. 16 - 20,	ELK-3-109,	150,	MB,	9 (including Water canyon WMA, but not the Marquez WMA).
(10)	Oct. 23 - 27,	ELK-3-110,	150,	MB,	9 (including Water canyon WMA, but not the Marquez WMA).
(11)	Oct. 30 - Nov. 3,	ELK-3-111,	200,	A,	9 (including Water canyon WMA, but not the Marquez WMA).
(12)	Oct. 2 - 6,	ELK-3-112,	5,	A,	9: Marquez WMA.
(13)	Oct. 9 - 13,	ELK-3-113,	5,	MB,	9: Marquez WMA.
(14)	Oct. 16 - 20,	ELK-3-114,	5,	MB,	9: Marquez WMA.
(15)	Oct. 23 - 27,	ELK-3-115,	5,	MB,	9: Marquez WMA.
(16)	Oct. 30 - Nov. 3,	ELK-3-116,	5,	A,	9: Marquez WMA.
(17)	Oct. 2 - 6,	ELK-3-117,	100,	MB,	10.
(18)	Oct. 9 - 13,	ELK-3-118,	110,	MB,	13.
(19)	Oct. 16 - 20,	ELK-3-119,	160,	MB,	13.
(20)	Oct. 30 - Nov. 3,	ELK-3-120,	60,	A,	13.
(21)	Nov. 6 - 10,	ELK-3-121,	60,	A,	13.
(22)	Dec. 4 - 8,	ELK-3-122,	50,	A,	13.
(23)	Oct. 2 - 6,	ELK-3-123,	40,	A,	15 (youth only, must provide hunter education certification number on application).
(24)	Oct. 9 - 13,	ELK-3-124,	200,	MB,	15.
(25)	Oct. 16 - 20,	ELK-3-125,	350,	MB,	15.
(26)	Oct. 30 - Nov. 3,	ELK-3-126,	300,	A,	15.
(27)	Nov. 6 - 10,	ELK-3-127,	300,	A,	15.
(28)	Nov. 20 - 24,	ELK-3-128,	350,	MB,	15.
(29)	Dec. 6 - 10,	ELK-3-129,	300,	A,	15.
(30)	Dec. 11 - 15,	ELK-3-130,	300,	A,	15.
(31)	Oct. 9 - 13,	ELK-3-131,	50,	MB,	16E.
(32)	Oct. 9 - 13,	ELK-3-132,	80,	MB,	17.
(33)	Oct. 16 - 20,	ELK-3-133,	90,	MB,	17.
(34)	Oct. 30 - Nov. 3,	ELK-3-134,	110,	A,	17.
(35)	Nov. 6 - 10,	ELK-3-135,	110,	A,	17.
(36)	Dec. 4 - 8,	ELK-3-136,	115,	A,	17.
(37)	Dec. 11 - 15,	ELK-3-137,	115,	A,	17.
(38)	Oct. 9 - 13,	ELK-3-138,	10,	MB,	22A.
(39)	Oct. 9 - 13,	ELK-3-139,	10,	MB,	22B.
(40)	Oct. 9 - 13,	ELK-3-140,	250,	MB,	23.
(41)	Oct. 9 - 13,	ELK-3-141,	200,	MB,	24.
(42)	Oct. 2 - 6,	ELK-3-142,	250,	MB,	34.
(43)	Oct. 2 - 6,	ELK-3-143,	125,	MB,	36.
(44)	Oct. 2 - 6,	ELK-3-144,	25,	MB,	37.
(45)	Oct. 4 - 8,	ELK-3-145,	140,	MB,	44/45.
(46)	Nov 13 - 17,	ELK-3-146,	100,	A,	44/45.
(47)	Oct. 2 - 6,	ELK-3-147,	75,	MB,	48.
(48)	Oct. 9 - 13,	ELK-3-148,	60,	MB,	48.
(49)	Oct. 9 - 13,	ELK-3-149,	80,	A,	48.
(50)	Oct. 2 - 6,	ELK-3-150,	100,	MB,	52.
(51)	Oct. 2 - 6,	ELK-3-151,	150,	A,	52.
(52)	Oct. 2 - 6,	ELK-3-152,	100,	A,	53 (except Cerro portion).
(53)	Oct. 2 - 6,	ELK-3-153,	20,	MB,	54: Colin Neblett WMA-south.
(54)	Oct. 2 - 6,	ELK-3-154,	20,	MB,	55: Colin Neblett WMA-north.
(55)	Oct. 2 - 6,	ELK-3-155,	35,	ES,	55: Valle Vidal/Greenwood areas.
(56)	Oct. 2 - 6,	ELK-3-156,	10,	MB,	55: E.S. Barker WMA.

E. Public land elk hunts for handicapped hunters, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and open GMU's or areas, shall be as indicated below:

(1)	Nov. 6 - 8,	ELK-4-101,	<del>[30;]</del> <b>20,</b>	A,	<b>6B. (Valles Caldera (application must be obtained from VCNP).</b>
(2)	Nov. 6 - 10,	ELK-4-102,	30,	MB,	9 (including Water canyon WMA, but not the Marquez WMA).
(3)	Sept. 25 - 29,	ELK-4-103,	30,	MB,	16A.
(4)	Sept. 25 - 29,	ELK-4-104,	40,	A,	16A.

(5)	Sept. 25 - 29,	ELK-4-105,	30,	MB,	16D.
(6)	Sept. 25 - 29,	ELK-4-106,	40,	A,	16D.
(7)	Sept. 25 - 29,	ELK-4-107,	80,	MBA,	34.
(8)	Oct. 2 - 6,	ELK-4-108,	30,	MB,	50.
(9)	Oct. 2 - 6,	ELK-4-109,	30,	A,	50.

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

**G.** Private land elk hunts for ranches designated as “**RANCH ONLY**” shall be limited to the following season dates and weapon types: August 28 – September 20, **BOW ONLY**, in GMU’s 2, 4, 5A, 5B, 6A, 6C, 7, 9, 10, 12, 13, 15, 16A, 16B, 16C, 16D, 16E, 17, 18, 21A, 21B, 22A, 23, 24, 34, 36, 37, 42, 44/45, 46, 47, 48, 49, 50, 51, 52, 53, 54 (except northeast portion), 55A, 56A, 57, 58; **BOW or MUZZLELOADER**, October 2 through January 31 in GMU’s 2, 6A, 6C, 7, 9, 10, 34, 36, 37, 44/45, 48, 52, and 53 shall be limited to any consecutive 5 days, October 9 through January 31 in GMU’s 13, 15, 16E, 17, 22A, 22B, 23, and 24 shall be limited to any consecutive 5 days; **BOW, MUZZLELOADER or RIFLE**, October 2 through January 31 in GMU’s 4, 5A, 5B, 12, 41, 42, 43, 46, 47, 49, 51, 54 (except northeast portion), 55A, 56A, 56 Sierra Grande portion, 57, and 58 shall be limited to any consecutive 5 days, October 9 through January 31 in GMU’s 2, 6A, 6C, 7, 10, 16A, 16B, 16C, 16D, 21A, 21B, 36, 37, 44/45, 50, 52, and 53, shall be limited to any consecutive 5 days, October 16 through January 31 in GMU’s 16E, 22A, 22B, 23, 24, 34, and 48, shall be limited to any consecutive 5 days, and November 6 through January 31 in GMU 9 shall be limited to any consecutive 5 days; **HANDICAP HUNTERS ONLY**, September 25-29 in GMU’s 16A, 16D, and 34, October 2-6 in GMU 50, and November 6-10 in GMU 9 (including Water canyon, but not Marquez WMA). All private land handicap hunters must satisfy licensing requirements as stated in 19.31.3 NMAC, in order to hunt during the “Handicap Hunters” hunt periods.

**H.** Unlimited private land either-sex licenses valid for GMU’s 41, 42, 43, 54 (northeast portion only), and 55B shall be available over-the-counter or by mail without deadline at all department of game and fish offices. Season dates and weapon types shall be the same as specified in subsection G of 19.31.8.24 NMAC for GMU’s 41, 42, 43. Licenses issued for GMU’s 54 (northeast portion) and 55B shall be limited to any 30 consecutive day period from April 1 through March 31. Any legal weapon for taking elk may be used during these hunts.

**I.** Numbers of private land licenses for qualifying ranches shall be available to the level listed for the GMU’s and bag limits indicated below. For those ranches that do not qualify (except for GMU 4), private land ranch-only either-sex (ES) authorization certificates will be issued pursuant to subsection M of 19.30.5.8 NMAC. Non-qualifying ranches in GMU 4 will receive MB-A authorization certificates. The bag limits shall be:

	GMU,	MB-A,	MB,	A, and	ES.
(1)	2,	0,	114,	82,	0.
(2)	4,	875,	0,	875,	0.
(3)	5A,	0,	250,	360,	0.
(4)	5B,	0,	192,	307,	0.
(5)	6A,	0,	61,	39,	0.
(6)	6C,	0,	154,	164,	0.
(7)	7,	0,	70,	295,	0.
(8)	9,	0,	240,	735,	0.
(9)	10,	0,	50,	75,	0.
(10)	12,	0,	550,	1105,	0.
(11)	13,	0,	150,	90,	0.
(12)	15,	0,	207,	480,	0.
(13)	16A,	0,	8,	8,	0.
(14)	16B,	0,	4,	1,	0.
(15)	16C,	0,	20,	21,	0.
(16)	16D,	0,	11,	17,	0.
(17)	16E,	0,	31,	65,	0.
(18)	17,	0,	32,	86,	0.
(19)	21A,	0,	2,	1,	0.
(20)	21B,	0,	80,	80,	0.
(21)	22A,	0,	7,	11,	0.
(22)	22B,	0,	1,	0,	0.
(23)	23,	0,	25,	8,	0.
(24)	24,	0,	24,	12,	0.
(25)	34,	39,	92,	138,	0.
(26)	36,	0,	100,	120,	0.
(27)	37,	0,	13,	7,	0.
(28)	44/45,	0,	65,	25,	0.
(29)	46,	600,	0,	625,	0.
(30)	47,	50,	0,	50,	0.
(31)	48,	0,	215,	205,	0.
(32)	49,	0,	20,	10,	0.
(33)	50,	0,	65,	25,	0.
(34)	51,	0,	80,	60,	0.
(35)	52,	0,	70,	40,	0.
(36)	53,	0,	165,	50,	0.

(37)	54,	300,	0,	500,	0 (except northeast portion).
(38)	55A,	2500,	0,	2200,	0.
(39)	56A,	100,	0,	100,	0.
(40)	56,	0,	10,	10,	0, Sierra Grande portion only.
(41)	57,	400,	0,	800,	0.
(42)	58,	40,	0,	60,	0.

**J.** The director may allot private land elk bow licenses for use on ranches in GMU's whose owners or lessees sign a hunting agreement with the department. The GMU's or areas open, number of bow licenses available, and bag limit shall be as indicated below:

(1)	2,	57,	ES.
(2)	4,	350,	MB-A.
(3)	5A,	67,	ES.
(4)	5B,	144,	ES.
(5)	6A,	31,	ES.
(6)	6C,	72,	ES.
(7)	7,	20,	ES.
(8)	9,	370,	ES.
(9)	10,	63,	ES.
(10)	12,	140,	ES.
(11)	13,	90,	ES.
(12)	13,	16,	A.
(13)	15,	187,	ES.
(14)	15,	29,	A.
(15)	16A,	12,	ES.
(16)	16A,	2,	A.
(17)	16B,	4,	ES.
(18)	16B,	1,	A.
(19)	16C,	38,	ES.
(20)	16C,	7,	A.
(21)	16D,	20,	ES.
(22)	16D,	4,	A.
(23)	16E,	32,	ES.
(24)	16E,	14,	A.
(25)	17,	30,	ES.
(26)	17,	8,	A.
(27)	18,	30,	ES.
(28)	21A,	2,	ES.
(29)	21A,	1,	A.
(30)	21B,	60,	ES.
(31)	21B,	13,	A.
(32)	22A,	7,	ES.
(33)	22A,	4,	A.
(34)	22B,	1,	ES.
(35)	23,	20,	ES.
(36)	23,	3,	A.
(37)	24,	8,	ES.
(38)	24,	2,	A.
(39)	34,	69,	ES.
(40)	36,	53,	ES.
(41)	37,	10,	ES.
(42)	44/45,	25,	ES.
(43)	46,	100,	ES.
(44)	47,	10,	ES.
(45)	48,	230,	ES.
(46)	49,	5,	ES.
(47)	50,	35,	ES.
(48)	51,	25,	ES.
(49)	52,	40,	ES.
(50)	53,	75,	ES.
(51)	54,	300,	ES (except northeast portion).
(52)	55A,	700,	ES.
(53)	56A,	10,	ES.
(54)	57,	100,	ES.
(55)	58,	10,	ES.

**K.** Elk enhancement licenses. Elk enhancement licenses shall be valid from September 1 through December 31 for any legal weapon. These licenses shall be valid statewide only on public land where elk hunting is allowed, including the department's WMA's and private land with prior written permission. Bag limit shall be one mature bull. The hunt code shall be ELK-1-400. License may be

used either by the applicant or any individual of the selected applicant's choice through sale, barter, or gift.

L. Elk incentive authorizations.

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

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

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

(4) Elk incentive hunts shall be restricted to the Valle Vidal area of the Carson national forest in GMU 55 during the first mature bull hunt after October 1st, using any legal weapon.

~~1M. Valles Caldera national preserve access agreement licenses.~~

~~(1) Valles Caldera national preserve access agreement licenses hunt dates, permit numbers, bag limits, and legal weapon shall be allocated as specified below:~~

~~(a) Sept. 16 - 22, 5, MB, for any legal weapon.~~

~~(b) Oct. 2 - 6, 12, MB, for any legal weapon.~~

~~(c) Oct. 9 - 13, 12, MB, for any legal weapon.~~

~~(d) Sept. 7 - 16, 16, ES, for bows only.~~

~~(e) Oct. 16 - 20, 8, MB, for muzzleloaders only.~~

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

~~(3) Valles Caldera national preserve access agreement licenses shall be issued to the holders of Valles Caldera national preserve access agreements.~~

~~(4) The remaining available elk licenses allocated to GMU 6B shall be issued through public draw pursuant to 19.31.8.24 NMAC.~~

[19.31.8.24 NMAC - Rp 19.31.8.24 NMAC, 4-1-2003; A, 11-26-2003]

19.31.8.27 BIGHORN SHEEP (2004-2005):

A. Bighorn sheep hunts shall be as indicated below, listing the hunt date, hunt code, maximum number of licenses available, bag limit, and GMU's or areas open:

(1) Dec. 27 - Jan. 4, 2005, BHS-1-101, 1, any ram, 16B, 22, 24: Turkey creek area.

(2) Nov. 1 - 30, BHS-1-102, 1, any ram, 27: Peloncillo mountains.

(3) Sept. 4 - 12, BHS-1-103, 8, any ram, 44, 45: Pecos mountain.

(4) Sept. 8 - 19, BHS-1-104, 2, any ram, 53: portion south of NM 38.

(5) ~~[Auction hunt seasons]~~ **The auction hunter shall choose one of four available hunts and the dates** shall be Aug. 1 - Dec. 31 in the Peloncillo mountains in GMU 27, Turkey creek area in GMU's 16B, 22, and 24, and the Pecos mountains in GMU's 44 and 45, or Sept. 1 - Dec. 31 in the Wheeler peak area south of NM 38 in GMU 53. The bag limit is any one ram and the hunt code is BHS-1-500.

(6) **The raffle hunter shall choose one of the three remaining hunts not selected by the auction hunter.** Raffle hunt season shall be Aug. 1 - Dec. 31 in the Peloncillo mountains in GMU 27, Turkey creek area in GMU's 16B, 22, and 24, and the Pecos mountains in GMU's 44 and 45, or Sept. 1 - Dec. 31 in the Wheeler peak area south of NM 38 in GMU 53. The bag limit is any one ram and the hunt code is BHS-1-600.

B. It shall be illegal to kill any bighorn wearing a radio-collar in GMU 27.

[19.31.8.27 NMAC - Rp 19.31.8.27 NMAC, 4-1-2003; A, 11-26-2003]

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

This is an amendment to 8.302.1 NMAC, Section 7, which will be effective on December 1, 2003. The Medical Assistance Division amended the section in order to create a uniform definition for all programs in Medicaid.

**8.302.1.7 DEFINITIONS:**  
**Medically necessary services**

A. Medically necessary services are clinical and rehabilitative physical, mental or behavioral health services that:

(1) are essential to prevent, diagnose or treat medical conditions or are essential to enable the individual to attain, maintain or regain functional capacity;

(2) are delivered in the amount,

duration, scope and setting that is clinically appropriate to the specific physical, mental and behavioral health care needs of the individual;

(3) are provided within professionally accepted standards of practice and national guidelines;

(4) are required to meet the physical, mental and behavioral health needs of the individual and are not primarily for the convenience of the individual, the provider or the payor.

B. Application of the definition:

(1) A determination that a health care service is medically necessary does not mean that the health care service is a covered benefit or an amendment, modification or expansion of a covered benefit.

(2) The department or its designee making the determination of the medical necessity of clinical, rehabilitative and supportive services consistent with the medi-

caid benefit package applicable to an eligible individual shall do so by:

(a) evaluating individual physical, mental and behavioral health information provided by qualified professionals who have personally evaluated the individual within their scope of practice, who have taken into consideration the individual's clinical history including the impact of previous treatment and service interventions and who have consulted with other qualified health care professionals with applicable specialty training, as appropriate;

(b) considering the views and choices of the individual or the individual's legal guardian, agent or surrogate decision maker regarding the proposed covered service as provided by the clinician or through independent verification of those views; and

(c) considering the services being provided concurrently by other service delivery systems.

(3) Physical, mental and behavioral health services shall not be denied solely because the individual has a poor prognosis. Required services may not be arbitrarily denied or reduced in amount, duration or scope to an otherwise eligible individual solely because of the diagnosis, type of illness or condition.

(4) Decisions regarding benefit coverage for children shall be governed by the EPSDT coverage rules.

[8.302.1.7 NMAC - N, 12-1-03]

[Medically necessary services apply to all Medicaid policies]

## NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.310.6 NMAC, Sections 10 through 15, which will be effective on December 1, 2003. The Medical Assistance Division amended the sections to show that Medicaid now covers only one routine eye exam and one set of corrective lenses (including contact lenses) for an adult in a twelve-month period, unless an ophthalmologist or optometrist recommends a change in prescription due to a medical condition affecting vision. Also, this amendment provides that Medicaid will cover one frame for corrective lenses for an adult in a twenty-four month period. This rule was also renumbered and reformatted from 8 NMAC 4.MAD.715 to comply with NMAC requirements.

### 8.310.6.10 ELIGIBLE PROVIDERS:

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

(1) individuals licensed to practice [ophthalmology or optometry] medicine in New Mexico, who limit their practice to ophthalmology (ophthalmologists) and the groups, corporations, and professional associations they form; and

(2) individuals licensed [as opticians; opticians are eligible to participate as providers of eye glasses, contact lenses, supplies, and other materials] to practice optometry in New Mexico and the groups, corporations, and professional associations they form;

(3) individual licensed as optician; opticians are eligible to participate as providers of eyeglasses, contact lenses, supplies, and other vision related materials; and

(4) IHS or tribal facilities operating under Public Law 93-638.

B. Once enrolled,

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

[2/1/95; 8.310.6.10 NMAC - Rn, 8 NMAC 4.MAD.715.1 & A, 12/1/03]

### 8.310.6.11 PROVIDER RESPONSIBILITIES:

A. Providers who furnish services to Medicaid recipients must comply with all specified Medicaid participation requirements. See 8.302.1 NMAC, *General Provider Policies*.

B. Providers must verify that individuals are eligible for Medicaid at the time services are furnished and determine if Medicaid recipients have other health insurance.

C. Providers must maintain records [which] that are sufficient to fully disclose the extent and nature of the services provided to recipients. See 8.302.1 NMAC, *General Provider Policies*.

D. Providers must ensure that prescriptions for eyeglasses or contact lenses are accurate to the extent that the prescription corrects the recipient's vision to the degree of acuity indicated on the report of vision examination form.

E. [Eyeglasses] Eyeglass and contact [lenses] lens suppliers are responsible for verifying that the correct prescription is provided.

(1) If prescriptions are inaccurate and recipients are unable to use their eyeglasses, payment for both the eye examination and the eyeglasses or contact lenses is subject to recoupment.

(2) If the eyeglasses or contact lenses are not ground to the correct prescription, payment for the eyeglasses or contact lenses is subject to recoupment.

[2/1/95; 8.310.6.11 NMAC - Rn, 8 NMAC 4.MAD.715.2 & A, 12/1/03]

### 8.310.6.12 COVERED SERVICES:

Medicaid covers specific vision care services [which] that are medically necessary for the diagnosis and treatment of eye diseases, and for the correction of refractive errors [and visual impairments], as required by the condition of the recipient. All services must be furnished within the limits of Medicaid benefits, within the scope and practice of the medical professional as defined by state law and in accordance with applicable federal, state, and local laws and regulations.

A. Exam: Medicaid covers one routine eye exam for an adult in a twelve month period.

B. Eyeglasses: Medicaid covers [~~frames and lenses~~] one set of corrective lenses for an adult in a twelve-month period, unless an ophthalmologist optometrist recommends a change in prescription due to a medical condition affecting vision. The vision prescription must be appropriately recorded on the visual examination form.

(1) For the purchase of eyeglasses, the diopter correction must meet or exceed one of the following [, which is called the diopter correction purchase criterion] diopter correction criteria:

(a) -1.00 myopia (nearsightedness);

(b) + 1.00 for hyperopia (farsightedness);

(c) [+/- .75] +0.75 astigmatism (distorted vision); [or]

(d)  $\pm 1.00$  for presbyopia (farsightedness of aging); or

(e) +2.00 for Diplopia (double vision) - prism lenses.

(2) If an existing prescription is updated, there must be a minimum [-.75] 0.75 diopter change in the prescription. Exceptions are considered with prior [approval for recipients with cataracts and recipients under twenty-one (21) years of age who are in school.] authorization for the following:

(a) recipients with cataracts; or

(b) recipients under twenty-one (21) years of age.

(3) Medicaid covers one frame for corrective lenses for an adult in a twenty-four month period.

(4) [If a recipient's] Eyeglasses or contact lenses that are lost, broken or have deteriorated to the point [where] that, in the examiner's opinion, they have become unusable to the recipient, [the policy for replacement is as follows] may be replaced for the following:

(a) recipients under twenty-one (21) years of age; or

(b) recipients twenty-one (21) years of age or older who have developmental disabilities.

(5) Documentation for replacement:

(a) the eyeglass or contact lens (or lenses) must meet the diopter correction purchase criterion and must be recorded on the report of visual examination form; and

(b) the loss, deterioration or breakage must be documented in the appropriate section of the visual examination form.

(6) Medicaid covers bifocal lenses with a correction of [-.25] 0.25 or more for distance vision and 1 diopter or more for add power (bifocal lens correction). [Medicaid covers prism lenses with a total correction of 2.00 diopters or more. The

~~dioptric correction purchase criterion does not apply.]~~

(7) Medicaid covers tinted lenses with filtered or photochromic lenses if the examiner documents one or more of the following disease entities, injuries, syndromes or anomalies in the "comments" section of the visual examination form, and the prescription meets the ~~[dioptric]~~ dioptric correction purchase criteria.

- (a) aniridia;
- (b) albinism, ocular;
- (c) traumatic defect in iris;
- (d) iris coloboma, congenital;
- (e) chronic keratitis;
- (f) Sjogren's syndrome;
- (g) aphakia, U.V. filter only if

~~[I.O.L.]~~ intraocular lens is not U.V. filtered; and

- (h) rod monochromaly.

**C. Balance lenses:**

Medicaid covers balance lenses without prior ~~[approval]~~ authorization in the following situations:

- (1) lenses used to balance an aphakic eyeglass lens; or
- (2) recipient is blind in one eye and the visual acuity in the ~~[seeing]~~ eye requiring correction meets the dioptric correction purchase criteria.

**D. Contact lenses:**

Medicaid covers contact lenses, either the original prescription or replacement, only with prior authorization. Requests for prior authorization will be evaluated on dioptric criteria and/or visual acuity, the recipient's social or occupational need for contact lenses, and special medical need. The criteria for authorization of contact lenses are as follows:

(1) the recipient must have a diagnosis of keratoconus or dioptric correction of +/- -6.00 or higher in any meridian, at least 3.00 diopters of anisometropia.

(2) monocular aphakias may be provided with one contact lens and a pair of bifocal glasses.

**E. Prisms:** All prisms are covered if medically indicated to prevent diplopia (double vision). Documentation is required on the visual examination form.

**F. Lens tempering:** Medicaid covers lens tempering ~~[only when it is billed on the same claim form as a new pair of glasses or lenses]~~ on new glass lenses only.

**G. Lens edging:** Medicaid covers lens edging and lens insertion.

**H. Minor repairs:** Medicaid covers minor repairs to eyeglasses.

**I. Dispensing fee:** Medicaid pays a dispensing fee ~~[which is paid]~~ to ophthalmologists, optometrists, or opticians for dispensing a combination of

lenses and new frames. The fee is not paid when contact lenses are dispensed.

**J. Eye prosthesis:**

Medicaid covers eye prostheses (artificial eyes).

[2/1/95; 8.310.6.12 NMAC - Rn, 8 NMAC 4.MAD.715.3 & A, 12/1/03]

**8.310.6.13 PRIOR ~~[APPROVAL]~~**

**AUTHORIZATION AND UTILIZATION REVIEW:**

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

**A. Prior ~~[approval]~~**

**authorization:** Certain procedures or services can require prior ~~[approval]~~ authorization from MAD or its designee. Contact lenses, either the original prescription, or replacement, require prior ~~[approval]~~ authorization. Services for which prior ~~[approval]~~ authorization was obtained remain subject to utilization review at any point in the payment process.

**B. Eligibility determination:**

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

**C. Reconsideration:**

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

[2/1/95; 8.310.6.13 NMAC - Rn, 8 NMAC 4.MAD.715.4 & A, 12/1/03]

**8.310.6.14 NON COVERED**

**SERVICES:** Vision services are subject to the limitations and coverage restrictions ~~[which]~~ that exist for other medicaid services. See 8.301.3 NMAC, *General Noncovered Services*. Medicaid does not cover the following specific vision services:

A. orthoptic assessment and treatment;

B. photographic procedures, such as fundus or retinal photography and external ocular photography;

C. ~~[photochromic lenses or tint]~~ tinted or photochromic lenses, except in cases of documented medical necessity. See Paragraph (5) of Subsection B of 8.310.6.12 NMAC above. If a recipi-

ent desires tinted or ~~[photogray]~~ photo-gray lenses, the recipient pays the difference between the cost of the tinted or ~~[photogray]~~ photo-gray lenses and the cost of clear lenses;

D. additional reimbursement for oversize frames and oversize lenses; the recipient pays the difference between the cost of the oversized frames and/or lenses and the cost of regular sized frames and/or lenses;

E. low vision aids;

F. eyeglass cases;

G. eyeglass or contact lens insurance; and

H. ~~[photographic procedures, such as fundus or retinal photography and external ocular photography; and]~~ anti-scratch coating.

[2/1/95; 8.310.6.14 NMAC - Rn, 8 NMAC 4.MAD.715.5 & A, 12/1/03]

**8.310.6.15 REIMBURSEMENT:**

A. Vision service providers, except IHS and 638 facilities, must submit claims for reimbursement on the HCFA-1500 claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services*. Once enrolled, providers receive ~~[instructions on documentation, billing, and claims processing]~~ a packet of information, including medicaid program policies, billing instructions, utilization review instructions, and other pertinent material from MAD.

B. Reimbursement to vision providers for covered services, procedures and other vision service appliances is made at the lesser of the following:

- (1) the provider's billed charge;

or

- (2) the MAD fee schedule for the specific service or procedure.

(a) The provider's billed ~~[charge]~~ charges must be ~~[their]~~ the usual and customary charge for services.

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

[2/1/95; 8.310.6.15 NMAC - Rn, 8 NMAC 4.MAD.715.6 & A, 12/1/03]

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

This is an amendment to 8.320.4 NMAC, Sections 9 through 17, which will be effective on December 1, 2003. The Medical Assistance Division amended the sections in order to comply with the Health Insurance Portability and Accountability Act (HIPAA). This rule was also renumbered and reformatted from 8 NMAC



4.MAD.743 to comply with NMAC requirements.

**8.320.4.9 SPECIAL REHABILITATION SERVICES:** The New Mexico medicaid program (medicaid) pays for medically necessary health services furnished to eligible recipients. To help young New Mexico medicaid recipients receive necessary service, the New Mexico medical assistance division (MAD) pays for special rehabilitation services as part of early and periodic screening, diagnosis, and treatment (EPSDT) services [42 CFR Section 441.57]. The need for special rehabilitation services may be identified in the tot to teen healthcheck screen or other diagnostic evaluation furnished through a healthcheck referral, or a developmental evaluation which includes an assessment by a physician. This part describes eligible providers, covered services, service limitations, and general reimbursement methodology. If the need for special rehabilitation is identified outside of the tot to teen healthcheck process a referral from the child's ~~[primary care physician with]~~ physician or primary care provider (PCP) must be made for appropriate screening and follow-up. [3/1/99; 8.320.4.9 NMAC - Rn, 8 NMAC 4.MAD.743 & A, 12/1/03]

**8.320.4.10 ELIGIBLE PROVIDERS:** Upon approval of New Mexico medical assistance program provider participation contract by MAD, agencies certified by the New Mexico department of health (DOH) as approved special rehabilitation services provider agencies are eligible to be reimbursed for furnishing special rehabilitation services to eligible medicaid recipients. Individual professionals providing special rehabilitation services who are employed by or contracted to approved special rehabilitation provider agencies must meet applicable DOH standards. Once enrolled, approved providers receive a packet of information, including medicaid program policies, billing instructions, utilization review instructions, and ~~[the]~~ pertinent material from MAD. Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from MAD. [3/1/99; 8.320.4.10 NMAC - Rn, 8 NMAC 4.MAD.743.1 & A, 12/1/03]

**8.320.4.11 PROVIDER RESPONSIBILITIES:** Providers who furnish services to medicaid recipients must comply with all specified medicaid participation requirements. See 8.302.1 NMAC, *General Provider Policies*. Providers must verify that individuals are eligible for medicaid at the time services are furnished and

determine if medicaid recipients have other health insurance. Providers must maintain records ~~[which]~~ that are sufficient to fully disclose the extent and nature of the services provided to recipients. See 8.302.1 NMAC, *General Provider Policies*. [3/1/99; 8.320.4.11 NMAC - Rn, 8 NMAC 4.MAD.743.2 & A, 12/1/03]

**8.320.4.12 ELIGIBLE RECIPIENTS:** Medicaid enrolled children who have been determined through ~~[an early intervention development evaluation to]~~ a multidisciplinary developmental evaluation to have, or be at risk for developmental delay and to be in need of special rehabilitative services as defined by DOH are eligible to receive special rehabilitation services. Children diagnosed as mentally retarded or developmentally disabled are not eligible for special rehabilitation services. [3/1/99; 8.320.4.12 NMAC - Rn, 8 NMAC 4.MAD.743.3 & A, 12/1/03]

**8.320.4.13 COVERED SERVICES:**

A. Medicaid only covers special rehabilitation services necessary to enhance development in one or more of the following developmental domains:

- (1) physical/motor;
- (2) communication;
- (3) adaptive;
- (4) cognitive;
- (5) social or emotional; or
- (6) sensory.

B. Special rehabilitation services generally involve the family and are designed to support and enhance the eligible child's development. Services, include the following:

(1) Speech, language and hearing ~~[These]~~ services are provided by or under the direction of a speech pathologist or audiologist, as the result of a referral by a physician ~~[These]~~ or primary care provider (PCP). Speech, language and hearing services mean evaluations to determine an individual's need for these services and recommendations for a course of treatment; and treatments provided to an individual with a diagnosed speech, language or hearing disorder adversely affecting the functioning of the individual. Services also include consultations with the family and other professional staff.

(2) Occupational therapy ~~[These]~~ services are ~~[prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice and]~~ provided by or under the direction of a qualified occupational therapist ~~[as defined in 42 CFR 440.110(b) These]~~ as the result of a referral from a physician or primary care provider (PCP).

Occupational therapy services mean evaluations of problems interfering with an individual's functional performance and the provision of therapies ~~[which]~~ that are rehabilitative, active or restorative, and designed to correct or compensate for a medical problem interfering with age appropriate functional performance. Services also include consultation with the family and other professional staff.

(3) Physical therapy ~~[These]~~ services are ~~[prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice and]~~ provided by or under the direction of a qualified physical therapist ~~[as defined in 42 CFR 440.110(a) These]~~ as a result of a referral from a physician or primary care provider (PCP). Physical therapy services mean evaluations to determine an individual's need for physical therapy and the provision of therapies ~~[which]~~ that are rehabilitative, active or restorative, and designed to correct or compensate for a medical problem. Services also include consultation with the family and other professional staff.

(4) Psychological, counseling and social work: These services mean diagnostic or active treatments with the intent to reasonably improve the individual's physical or mental condition as ~~[prescribed by a physician or other licensed practitioner of the healing arts]~~ the result of a referral from a physician or primary care provider (PCP) within the scope of his or her practice. ~~[They]~~ Services are provided to individuals whose condition or functioning can be expected to improve with these interventions. ~~[These]~~ Psychological, counseling and social work services are performed by ~~[a]~~ licensed or equivalent psychological, counseling and social work staff acting within their scope of practice. These services include but are not limited to testing and evaluation that appraise cognitive, emotional and social functioning and self concept; therapy and treatment that ~~[is]~~ includes planning, managing and providing a program of psychological services to individuals with diagnosed psychological problems; and consultation with the family and other professional staff.

(5) Developmental evaluation and rehabilitation ~~[These]~~ services mean ~~[testing]~~ assessments performed to determine if motor, speech, language and psychological problems exist or to detect the presence of any developmental lags. Services include diagnostic, evaluative and consultative services for the purposes of identifying or determining the nature and extent of, and rehabilitating an individual's medical or other health-related condition. Services also include consultation with the family and other professional staff. These services are ~~[performed by or under the supervision]~~

of a licensed physician or other provider acting within their scope of practice] provided as the result of a referral from a physician or primary care provider (PCP).

(6) Nursing [~~These~~] services are performed by a [~~nurse practitioner, registered nurse, or licensed practical nurse~~] certified nurse practitioner (CNP), registered nurse or licensed practical nurse within the scope of his/her practice relevant to the medical and rehabilitative needs of the individual. [~~They are prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice.~~] These services are provided as the result of a referral from a physician or primary care provider (PCP). Services include administration and monitoring of medication, [administration/monitoring,] catheterization, tube feeding, suctioning, screening and referral for health needs, [and explanations of] Nursing services also include explanations to the family or other professional staff concerning treatments, therapies, and physical or mental conditions [with family or other professional staff].

C. Providers of special rehabilitation services must be certified by the department of health and approved for participation and enrolled in the New Mexico medicaid program. Services are provided directly by the special rehabilitation service provider or through [~~subcontractors and~~] contractors with the special rehabilitation agency. Providers shall:

(1) provide special rehabilitation services under the direction of professionals acting within their scope of practice as defined by state law; [~~and~~]

(2) provide special rehabilitation services in the most appropriate least restrictive environment; [~~and~~]

(3) assure that claiming for special rehabilitation services does not duplicate claiming for EPSDT administrative outreach services or services funded under the state general fund contract with the department of health.

[3/1/99; 8.320.4.13 NMAC - Rn, 8 NMAC 4.MAD.743.4 & A, 12/1/03]

#### 8.320.4.14 NONCOVERED SERVICES:

Special rehabilitation services are subject to the limitations and coverage restrictions [~~which~~] that exist for other medicaid services. See 8.301.3 NMAC, *General Noncovered Services*. Medicaid does not cover the following specific services furnished by special rehabilitation providers:

A. services furnished to individuals who are not medicaid eligible;

B. services furnished [~~which~~] that are not within the scope of practice of the professional performing them or supervising the activity; [~~and~~]

C. services [~~which~~] that are not included in the current treatment plan or individual family service plan (IFSP); and

D. services that are not medically necessary.

[3/1/99; 8.320.4.14 NMAC - Rn, 8 NMAC 4.MAD.743.5 & A, 12/1/03]

#### 8.320.4.15 TREATMENT PLAN:

The need for special rehabilitation services must be documented in a treatment plan [~~and/or~~] or individualized family service plan (IFSP) developed in accordance with [~~the~~] applicable policies and procedures of the department of health and regulations governing Part C of the Individuals with Disabilities Education Act [~~and the New Mexico Children's Code~~]. The treatment plan or IFSP must be developed within forty-five (45) days of the initiation of services and reviewed every six (6) months or more often as indicated. The following must be contained in the treatment plan or IFSP documents [~~used in the development of the treatment plan. The treatment plan and all supporting documentation~~] and must be available for review in the recipient's file:

A. statement of the child's present levels of physical development including vision, hearing, and health status;

B. communications development;

C. social or emotional development;

D. cognitive development;

E. adaptive development;

F. family history and other relevant family information;

G. description of intermediate and long-range goals, with a projected timetable for their attainment, and dates, duration and scope of services;

H. procedures and time lines to determine the [~~degree to which~~] progress made toward achieving the outcomes [~~is being made~~] and whether modifications to or revision of the outcomes or services are needed; and

I. statement of the specific special rehabilitation services needed to meet the unique needs of the child to achieve the outcomes specified, including the frequency, intensity and method of delivering the services, the environment in which services will be provided, and the location of the services.

[3/1/99; 8.320.4.15 NMAC - Rn, 8 NMAC 4.MAD.743.6 & A, 12/1/03]

#### 8.320.4.16 PRIOR APPROVAL AND UTILIZATION REVIEW:

All medicaid services are subject to utilization review for medical necessity and program compliance. Reviews may be performed

before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Approval and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior approval and claims processing. Services for which prior approval was obtained remain subject to utilization review at any point in the payment process.

A. [~~A "unit" of special rehabilitation service for purposes of reimbursement is thirty (30) minutes.~~] A maximum of [~~thirty-eight (38) units~~] nineteen (19) hours per month of special rehabilitation services can be furnished by providers before prior approval from the New Mexico department of health is required. [~~Services for which prior approval was obtained remain subject to utilization review at any point in the payment process.~~]

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

C. Providers who disagree with prior approval request denials or other review decisions can request a re-review and a reconsideration. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions*.

[3/1/99; 8.320.4.16 NMAC - Rn, 8 NMAC 4.MAD.743.7 & A, 12/1/03]

#### 8.320.4.17 REIMBURSEMENT:

Providers of special rehabilitation services must submit claims for reimbursement on the HCFA-1500 claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services*. Once enrolled, providers receive instructions on documentation, billing, and claims processing. Reimbursement to providers is made at the lesser of the following:

A. the provider's billed charge; or

B. the MAD fee schedule for the specific service or procedure.

(1) The provider's billed charge must be their usual and customary charge for the service or procedure.

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

(3) [~~The unit of reimbursement for special rehabilitation services is thirty (30) minutes.~~] The rate of reimbursement is based on the setting where the services are furnished and the type of services furnished by providers.

[~~B. The following represents the three (3) medicaid reimbursement~~

~~rates for special rehabilitation services:~~

~~(1) special rehabilitation services furnished on an individual basis to recipients in a special rehabilitation services center;~~

~~(2) special rehabilitation services furnished on a group basis to recipients in a special rehabilitation services center; and~~

~~(3) special rehabilitation services furnished on an individual basis in the recipient's home or other appropriate community setting.]~~

[3/1/99; 8.320.4.17 NMAC - Rn, 8 NMAC 4.MAD.743.8 & A, 12/1/03]

## NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.325.10 NMAC, Sections 11, 12, 13, 15, and 16, which will be effective on December 1, 2003. The Medical Assistance Division amended the sections to update language to reflect changes in labor and delivery services, non-covered services, and eligibility for services. This rule was also renumbered and reformatted from 8 NMAC 4.MAD.769 to comply with NMAC requirements.

**8.325.10.11 PROVIDER RESPONSIBILITIES:** Providers who furnish services to medicaid recipients must comply with all specified medicaid participation requirements. See 8.302.1 NMAC, *General Provider Policies*. Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance. Providers must maintain records ~~[which]~~ that are sufficient to fully disclose the extent and nature of the services furnished to recipients. See 8.302.1 NMAC, *General Provider Policies*.  
[2/1/95; 8.325.10.11 NMAC - Rn, 8 NMAC 4.MAD.769.2 & A, 12/1/03]

### 8.325.10.12 ELIGIBLE INDIVIDUALS:

A. Individuals who are undocumented, illegal, and non-immigrant aliens and who meet all the eligibility criteria for ~~[aid to families with dependent children (category 002)]~~ JUL Medicaid (category 072), children meeting applicable age requirements (category 032), medicaid for pregnant women (category 030 or 035), or supplemental security income (SSI), except for citizenship or legal alien status, are eligible to receive emergency services.

B. Eligibility determinations are made by local county income support division (ISD) offices after the receipt of emergency services. The individual is responsible for completing an application at

the local county ISD office and for providing all necessary documentation to prove that he or she meets the applicable eligibility criteria.

(1) Individuals must apply for medicaid coverage at the ISD office no later than the last day of the third month following the month in which the alleged emergency services were received.

(2) Individuals are responsible for notifying providers of the approval or denial of a medicaid application.

(3) If an application is denied or an application for medicaid coverage is not filed by the last day of the third month following the month in which the alleged emergency services were received, the individual is responsible for payment of the provider bill.

(4) If ~~[reimbursed]~~ reimbursement for services is denied by medicaid, the individual is responsible for payment and can be billed directly for payment by the provider.

[2/1/95; 8.325.10.12 NMAC - Rn, 8 NMAC 4.MAD.769.3 & A, 12/1/03]

### 8.325.10.13 COVERAGE CRITERIA:

A. "Emergency" is defined as a medical condition, including all emergency labor and delivery, which includes emergency inductions and unscheduled cesarean sections, manifesting itself by acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in one of the following:

- (1) individual's death;
- (2) placement of the individual's health in serious jeopardy;
- (3) serious impairment of bodily functions; or
- (4) serious dysfunction of any bodily organ or part.

B. Only medical services ~~[which]~~ that are necessary to treat and/or evaluate a condition that meets the definition of emergency are covered for the duration of the emergency.

C. After delivery, a child can have legally documented or citizenship status because of its birth in the United States and, therefore, is not eligible for emergency services for undocumented aliens. The child ~~[can]~~ may be eligible for another medicaid category of ~~[medicaid in its own right]~~ eligibility on his/her own.

D. Determination of coverage is made by MAD or its designee.  
[2/1/95; 8.325.10.13 NMAC - Rn, 8 NMAC 4.MAD.769.4 & A, 12/1/03]

**8.325.10.15 NON COVERED SERVICES:** Medicaid does not cover any medical service ~~[which]~~ that is not neces-

sary to treat and/or evaluate a condition for an individual who is an undocumented alien that does not meet the definition of emergency. Medicaid does not cover the following specific services:

- A. long term care;
- B. organ transplants;
- C. rehabilitation services;
- D. ~~[surgeries other than unscheduled emergency procedures, including scheduled Caesarian sections and deliveries]~~ surgical procedures, including scheduled cesarean sections, other than unscheduled emergency procedures;
- E. psychiatric or psychological services;
- F. durable medical equipment or supplies;
- G. eyeglasses;
- H. hearing aids;
- I. outpatient prescriptions;
- J. podiatry services;
- K. prenatal care;
- L. well child care;
- M. routine dental care;
- N. routine dialysis services, ~~[and]~~

O. any medical service furnished by a border or out-of-state provider;

P. non-emergency transportation; and

Q. preventive care.  
[2/1/95; 8.325.10.15 NMAC - Rn, 8 NMAC 4.MAD.769.6 & A, 12/1/03]

**8.325.10.16 UTILIZATION REVIEW:** All claims for services furnished to individuals who are undocumented aliens are reviewed by MAD or its designee before payment to determine if the circumstances warrant coverage. If the MAD medical director or another physician ~~[appointment]~~ appointed by MAD to perform this specific task determined that the services were furnished in a non-emergency situation, a claim for services is denied and payment for services becomes the responsibility of the individual.

A. **Eligibility determination:** Undocumented aliens who request medicaid coverage for services must meet specific categorical eligibility requirements. Eligibility determinations by local county ISD offices must be made before the review for medical necessity.

B. **Reconsideration:** Providers and undocumented aliens are given notice of the denial of medicaid payment. Providers or aliens can request a review and reconsideration of denied medical claims. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions*.

[2/1/95; 8.325.10.16 NMAC - Rn, 8 NMAC

4.MAD.769.7 & A, 12/1/03]

**NEW MEXICO  
DEPARTMENT OF  
PUBLIC SAFETY**

**TITLE 10 PUBLIC SAFETY  
AND LAW ENFORCEMENT  
CHAPTER 8 WEAPONS AND  
EXPLOSIVES  
PART 2 CARRYING CONCEALED HANDGUNS**

**10.8.2.1 ISSUING AGENCY:**  
Department of Public Safety.  
[10.8.2.1 NMAC – N, 11-26-03]

**10.8.2.2 SCOPE:** This rule applies to all persons who wish to carry a concealed handgun or to become an approved instructor in New Mexico.  
[10.8.2.2 NMAC – N, 11-26-03]

**10.8.2.3 STATUTORY AUTHORITY:** NMSA 1978 Section 29-19-12.  
[10.8.2.3 NMAC – N, 11-26-03]

**10.8.2.4 DURATION:** Permanent.  
[10.8.2.4 NMAC – N, 11-26-03]

**10.8.2.5 EFFECTIVE DATE:** November 26, 2003, unless a later date is cited at the end of a section.  
[10.8.2.5 NMAC – N, 11-26-03]

**10.8.2.6 OBJECTIVE:** The purpose of this rule is to implement the Concealed Handgun Carry act by establishing requirements and procedures for issuing licenses to carry concealed handguns and approving instructors and firearms training courses.  
[10.8.2.6 NMAC – N, 11-26-03]

**10.8.2.7 DEFINITIONS:** In addition to the definitions in NMSA 1978 Section 29-19-2, unless the context clearly indicates otherwise, as used in this rule:

**A. act** means the Concealed Handgun Carry Act, NMSA 1978 Sections 29-19-1 et seq.

**B. approved instructor** means a person to whom the department has issued a permit to provide all or any part of classroom and/or firing range instruction.

**C. controlled substance** has the meaning given in the New Mexico Controlled Substances Act or a similar act of any other jurisdiction.

**D. conviction,** when used in connection with a misdemeanor offense involving driving under the influence of intoxicating liquor or drugs, has the mean-

ing given in NMSA 1978 Section 66-8-102;

**E. court** means any federal, state, county, municipal, or tribal court;

**F. instructor applicant** means a person seeking a permit as an approved instructor.

**G. peace officer** has the meaning given in NMSA 1978 Section 30-1-12.

**H. person** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any legal or commercial entity.

**I. respondent** means, in the context of 10.8.2.26 NMAC, an applicant, instructor applicant, approved instructor, or licensee.

**J. revocation or revoked** means the involuntary permanent termination of a license or permit by the department for cause.

**K. secretary** means the secretary of the department of public safety or his designee.

**L. suspended or suspension** means the involuntary termination of a license or permit by the department for cause for a specified period of time.  
[10.8.2.7 NMAC – N, 11-26-03]

**10.8.2.8 FILINGS AND CORRESPONDENCE:**

**A. To the department.**  
(1) A person shall address all filings and correspondence relating to hearings held pursuant to this rule to the New Mexico Department of Public Safety, Post Office Box 1628, Santa Fe, New Mexico 87504-1628, Attention: Office of Legal Affairs-Concealed Handgun Section.

(2) A person shall address all filings and correspondence relating to licenses, instructor approval, and all other matters to the New Mexico Department of Public Safety, Concealed Handgun Licensing Unit, 6301 Indian School Road NE, Suite 310, Albuquerque, New Mexico 87110.

**B. From the department.**  
The department will send all legal notices and orders required by the act and this rule by certified mail to the last address reported to the department by an applicant, instructor applicant, licensee, or approved instructor; the department will send all other correspondence by regular mail. If a legal notice or order is returned to the department as undeliverable, the department may publish the legal notice or order once in a newspaper of general circulation in the state. The department may take the action proposed in the legal notice or order on the 31st day after the date legal notice is published.  
[10.8.2.8 NMAC – N, 11-26-03]

**10.8.2.9 INCOMPLETE FIL-**

**INGS:** The department may refuse to consider an incomplete filing. A filing will be considered incomplete if:

**A.** it is unsigned;  
**B.** documents that are required to be certified or notarized are not certified or notarized;

**C.** it omits any information required by law or department rule, form, or order;

**D.** it is not filed on a department-prescribed form and a form exists for that purpose; or

**E.** the required fee is not filed with the application or is not in the form prescribed in Subsection B of 10.8.2.11 NMAC.  
[10.8.2.9 NMAC – N, 11-26-03].

**10.8.2.10 DEPARTMENT-PRESCRIBED FORMS:**

**A. Use required.** The department has prescribed forms to carry out certain requirements of this rule. The most current version of a department form must be used when a form exists for that purpose, unless the department waives this requirement.

**B. How to obtain.** Department-prescribed forms may be obtained:

(1) at New Mexico state police offices throughout the state; and

(2) from the department's website at [www.dps.nm.org](http://www.dps.nm.org).  
[10.8.2.10 NMAC – N, 11-26-03]

**10.8.2.11 APPLICATION REQUIREMENTS FOR A LICENSE:**

**A. Filing.** An applicant must file an application for a license with the department in person or by mail.

**B. Fees.** All fees required by the act or this rule to be paid to the department shall be in the form of a personal check, cashier's check, certified check, or money order made payable to the New Mexico Department of Public Safety. The department will not accept cash.

**C. Completeness.** All applications must be complete and legible.

(1) If an application is incomplete, the department will return the application and a letter outlining the deficiencies in the application to the applicant by regular mail. The applicant will have 45 calendar days from the date the letter is postmarked to cure the deficiencies. If the applicant fails to return the application to the department within 45 calendar days from the date the letter was postmarked, the application will be deemed abandoned, the application file will be closed, and all fees paid will be forfeited to the state. The department will send a letter notifying the applicant that the application has been deemed abandoned,

the file has been closed, and all fees paid have been forfeited to the state.

(2) If the applicant returns the application to the department within 45 calendar days from the date the initial letter was postmarked but the application is still deficient, the department will return the application and a second letter outlining the deficiencies in the application to the applicant by regular mail. The applicant will have 30 calendar days from the date the second letter is postmarked to cure the deficiencies. If the applicant fails to return the application to the department within 30 calendar days from the date the second letter was postmarked, or returns the application but it is still deficient, the application will be deemed abandoned, the application file will be closed, and all fees paid will be forfeited to the state. The department will send a letter notifying the applicant that the application has been deemed abandoned, the file has been closed, and all fees paid have been forfeited to the state.

[10.8.2.11 NMAC – N, 11-26-03]

**10.8.2.12 OTHER REQUIRED DOCUMENTS FOR A LICENSE:** In addition to the application form, each applicant shall file copies of other documents required by Subsection B of NMSA 1978 Section 29-19-5 or this rule with the department. The copies must clearly show the name of the applicant and all signatures and pertinent information. The department will not accept copies that are too dark, too light, blurry, or otherwise unreadable. An applicant should not file original documents, and the department will not return them.

**A. Proof of citizenship.** In accordance with Paragraph 6 of Subsection B of NMSA 1978 Section 29-19-5, an applicant may prove United States citizenship by filing a certified copy of a birth certificate or proof of United States citizenship, if the applicant was not born in the United States.

**B. Proof of residency.** (1) An applicant may prove residency in New Mexico by filing a copy of a valid New Mexico driver's license or personal identification card issued by the motor vehicle division of the taxation and revenue department and one of the following:

- (a) proof that the applicant is registered to vote in New Mexico;
- (b) a New Mexico income tax return filed within the last year;
- (c) a United States armed forces identification card and orders of permanent duty station in New Mexico; or
- (d) other proof acceptable to the department.

(2) Possession by an applicant of a driver's license issued by another state shall create a rebuttable presumption of res-

idency in such other state.

**C. Proof of age.** An applicant may prove that he or she is 25 or more years of age by filing:

- (1) a copy of a valid government-issued identification card stating the person's age, or
- (2) a certified copy of his or her birth certificate.

**D. Proof of handgun competency.** Pursuant to Paragraph (4) of Subsection B of NMSA 1978 Section 29-19-5, an applicant shall prove that he or she can competently and safely fire a handgun by filing a certified copy of a certificate of completion for a firearms training course approved by the department issued by an approved instructor not more than 90 calendar days prior to the date the application is filed.

**E. Photographs.** To streamline the application process, the department may obtain digital color photographs of an applicant from the motor vehicle division of the taxation and revenue department or another government agency. If the department requests an applicant to provide photographs pursuant to Paragraph (5) of Subsection B of NMSA 1978 Section 29-19-5, the photographs shall be in color, be a minimum of 3 inches by 3 inches, and be a full frontal view of the applicant without a hat, sunglasses, or any other item that would obstruct or alter the features of the applicant. The department will not accept photographs that are too dark, too bright, fuzzy, out of focus, or unclear.

**F. Fingerprints.** An applicant shall submit 2 full sets of fingerprints that comply with the requirements in NMSA 1978 Section 29-19-5 and 10.8.2.14 NMAC.

**G. Application fee.** An applicant shall file a non-refundable application fee of \$100.00.  
[10.8.2.12 NMAC – N, 11-26-03]

**10.8.2.13 LICENSE APPLICATION REVIEW AND ISSUANCE:**

**A. Time period for review.** In accordance with Subsection A of NMSA 1978 Section 29-19-6, the department shall review the application, conduct a national criminal background check of each applicant, and make a determination within 30 days of the date the department receives a complete application and background check.

**B. Determination by department.**

(1) **Approval.** If the department finds that the applicant meets the requirements in the act and this rule for issuance of a license, the department shall issue a license.

(2) **Denial.** If the department

finds that the applicant does not meet the requirements for issuance of a license, the department shall issue an order of denial in accordance with 10.8.2.26 NMAC. The order of denial shall cite the particular requirements of the act or this rule that the applicant has failed to meet.

**C. Information on license.** In addition to the information required by Subsection C of NMSA 1978 Section 29-19-6, a license to carry a concealed handgun may include:

(1) a physical description of the licensee, including his or her race or national origin, sex, hair color, eye color, height, and weight;

(2) the state seal; and

(3) instructions to the licensee.

**D. Effective date and term of license.** Original and renewed licenses are effective for two years from the date of issuance by the department. Replacement licenses and licenses that have been endorsed to add another category or caliber of handgun shall expire on the date the replaced license would have expired.

**E. Dual licenses prohibited.** A licensee may not own or possess more than one New Mexico license to carry a concealed handgun. A license to carry a concealed handgun shall indicate all categories and calibers of handguns the licensee is authorized to carry concealed in New Mexico.

[10.8.2.13 NMAC – N, 11-26-03]

**10.8.2.14 FINGERPRINTING OF APPLICANTS:** In accordance with Paragraph (3) of Subsection B of NMSA 1978 Section 29-19-5, an applicant shall submit two full sets of fingerprints. The department may refuse to accept fingerprints it determines are not legible and classifiable.

**A. Responsibilities of applicant.** The applicant must present the following documents to the person recording his or her fingerprints:

(1) a valid government-issued photographic identification card; and

(2) the two blank fingerprint cards and instruction page supplied by the department.

**B. Responsibilities of person recording the fingerprints.** The person who records the applicant's fingerprints shall:

(1) verify that the government-issued photographic identification card is of the person being fingerprinted;

(2) either complete or verify the accuracy of the non-fingerprint data being filed on the card;

(3) record the applicant's fingerprints on the card, in a manner consistent with that normally required for an arrest fin-

gerprint card, including the simultaneous impressions;

(4) obtain the signature of the applicant on both fingerprint cards;

(5) sign the fingerprint card; and

(6) return all documents to the applicant who shall forward them to the department.

[10.8.2.14 NMAC – N, 11-26-03]

#### 10.8.2.15 FIREARMS TRAINING FOR APPLICANTS AND LICENSEES:

##### A. Department approved firearms training course.

(1) An applicant seeking a license shall satisfactorily complete an initial firearms training course approved by the department that includes at least 15 hours of classroom and firing range instruction on the subjects specified in Subsection A of NMSA 1978 Section 29-19-7.

(2) A licensee seeking renewal of a license shall satisfactorily complete a refresher firearms training course approved by the department that includes at least 4 hours of classroom and firing range instruction on the subjects specified in Subsection A of NMSA 1978 Section 29-19-7.

##### B. Competency demonstration.

(1) An applicant or licensee shall demonstrate competency in the safe use of each category and caliber of handgun for which he or she seeks certification by firing the handgun with live ammunition at a target no larger than 12 inches wide and 18 inches high.

(2) An applicant or licensee shall fire 15 rounds from three yards and 10 rounds from seven yards.

(3) An applicant or licensee shall score 4 points for each shot that hits within the scoring line and zero points for each shot that hits outside the scoring line. An applicant must obtain a score of 72% to pass the competency demonstration.

**C. Determination of competency.** An approved instructor shall determine whether or not to issue a certificate of completion based on the applicant or licensee's score on the competency demonstration and the applicant or licensee's knowledge and understanding of the subjects specified in Subsection A of NMSA 1978 Section 29-19-7.

**D. Certificates of completion.** An approved instructor shall issue a certificate of completion to each applicant who demonstrates competency in the safe use of the categories and calibers of handguns for which he or she seeks licensure as prescribed in Subsections B and C of this section. The certificate of completion shall include the name and date of birth of the applicant, the printed name and signature of

the approved instructor who scored the competency demonstration, the date the applicant completed the firearms training course, all categories and calibers of handguns for which the applicant demonstrated competency, and a unique number consisting of the instructor number assigned by the department and a sequential number.

[10.8.2.15 NMAC – N, 11-26-03]

#### 10.8.2.16 TERMS AND CONDITIONS OF LICENSE:

**A. Carrying only handguns listed on license.** No person shall carry a concealed handgun of a different category or caliber than is indicated on the license issued to that person by the department.

**B. Carrying while impaired.** Pursuant to NMSA 1978 Section 30-7-4, no person shall carry a concealed handgun while impaired by the use of alcohol, controlled substances, or over-the-counter or prescribed medications.

**C. Display of license on demand.** A licensee carrying a concealed handgun on or about his person in public shall, upon demand by a peace officer, display his license to carry a concealed handgun.

**D. Prohibited acts.** A licensee shall not deface, alter, mutilate, reproduce, lend, transfer, or sell a license. A licensee shall adhere to NMSA 1978 Section 30-7-4 as it pertains to negligent use of a deadly weapon.

**E. Carrying prohibited on private property.** In addition to other limitations stated in the act, a licensee may not carry a concealed handgun on or about his person on private property that has signs posted prohibiting the carrying of concealed weapons or when verbally told so by a person lawfully in possession of the property.

**F. Carrying prohibited in preschools.** As used in Subsection C of NMSA 1978 Section 29-19-8, preschool means a child care facility, whether home-based or center-based, whether or not the facility is licensed, registered, or regulated, that provides care to infants, toddlers, and children aged 5 and younger.

**G. Indicia of licensure.** No person may carry a badge, patch, card, or any other indication of authority to carry a concealed handgun in New Mexico other than the license issued by the department.

**H. Notice of change in circumstances.** A licensee shall, within 10 calendar days, notify the department in writing of any of the following:

(1) adjudication of mental incompetence;

(2) commitment to a facility for the treatment of mental illness;

(3) commitment to a facility for

treatment of addiction to alcohol, controlled substances, or other drugs;

(4) issuance of an order of protection by a court; or

(5) indictment for or charge with a felony or one of the misdemeanor offenses described in Subsection B of NMSA 1978 Section 29-19-4.

[10.8.2.16 NMAC – N, 11-26-03]

#### 10.8.2.17 LICENSE RENEWAL AND TRANSFER:

**A. To renew a New Mexico license.** A licensee may file an application for a renewed license on the form prescribed by the department.

(1) The licensee may file the application anytime from 60 calendar days before the license expires until 60 calendar days after the license expires. If the license has expired, a licensee shall not carry a concealed handgun until he receives his renewed license.

(2) The licensee shall complete a refresher firearms training course prior to filing the application.

(3) The licensee shall file with the department:

(a) 2 full sets of fingerprints as required by NMSA 1978 Section 29-19-5 and 10.8.2.14 NMAC;

(b) a certified copy of a certificate of completion for a refresher firearms training course approved by the department issued by an approved instructor not more than 90 days prior to the date the application is filed; and

(c) a nonrefundable \$50.00 renewal fee.

**B. To transfer a license from another state.** A person seeking to transfer a license from another state may file an application for a New Mexico renewed license on the form prescribed by the department. An applicant for transfer shall not carry a concealed handgun in New Mexico until the applicant receives a New Mexico license.

(1) In addition to the filings required by Paragraph 3 of Subsection A of this section, the applicant for transfer shall file:

(a) proof of citizenship as provided in Subsection A of 10.8.2.12 NMAC;

(b) proof of residency as provided in Subsection B of 10.8.2.12 NMAC;

(c) proof of age as provided in Subsection C of 10.8.2.12 NMAC; and

(d) a photocopy of the license being transferred.

(2) The applicant for transfer shall complete:

(a) a refresher firearms training course if the firearms training required by the other state meets or exceeds New Mexico firearms training requirements and

the licensee completed firearms training not more than 1 year prior to filing the application; or

(b) an initial firearms training course if the firearms training required by the other state does not meet New Mexico firearms training requirements or the licensee completed firearms training more than 1 year prior to filing the application.

(3) The applicant for transfer must meet all other requirements for obtaining a license in New Mexico by showing either that:

(a) the requirements for licensure in the other state meet or exceed the requirements for issuance of a license in New Mexico; or

(b) the applicant has satisfactorily completed the requirements for issuance of a license in New Mexico that were not applicable in the other state.

**C. Time period for review.** As prescribed in Subsection A of NMSA 1978 Section 29-19-6, the department shall review the application for a renewed license, conduct a national criminal background check of each applicant for a renewed license or transfer of a license from another state, and make a determination within 30 days of the date the department receives a complete application and background check.

**D. Determination by department.**

(1) **Approval.** If the department finds that the applicant for a renewed license or transfer of a license from another state meets the requirements in the act and this rule for a renewed license, the department shall issue a license.

(2) **Denial.** If the department finds that the applicant does not meet the requirements for a renewed license or transfer of a license from another state, the department shall issue an order of denial in accordance with 10.8.2.26 NMAC. The order of denial shall cite the particular requirements of the act or this rule that the applicant has failed to meet.

[10.8.2.17 NMAC – N, 11-26-03]

**10.8.2.18 ADDITIONAL HANDGUN ENDORSEMENT:** If a licensee wishes to add another category or additional calibers of handguns to his license, the licensee shall file with the department an application for a renewed license. The licensee shall also submit a certified copy of a certificate of completion from an approved instructor stating that the licensee has demonstrated competency on a firing range for each additional category and caliber of handgun, his current license, and a \$5.00 processing fee. The licensee need not retake the classroom portion of the firearms training course. The department

shall issue a renewed license within 10 days of receipt of the application. The renewed license shall expire on the same date as the original license would have expired. In accordance with NMSA 1978 Section 29-19-9, a licensee shall not carry a concealed handgun until he receives the renewed license.

[10.8.2.18 NMAC – N, 11-26-03]

**10.8.2.19 REPLACEMENT LICENSE:**

**A. Change of name or address.**

(1) A licensee who changes his or her name or address shall file:

(a) an application for a replacement license on the form prescribed by the department;

(b) if applicable, a certified copy of a legal document proving the change of name; and

(c) a nonrefundable \$5.00 processing fee.

(2) The department will issue a replacement license within 10 days of receipt of the application.

**B. Loss, theft, or destruction of license:** A licensee who loses his license or whose license is stolen or destroyed shall file a police report within 7 working days of the date the licensee discovers the loss, theft, or destruction of the license. The licensee shall not carry a concealed handgun until he obtains a replacement license. A licensee who seeks to replace a license that is lost, stolen, or destroyed shall file with the department:

(1) an application for a replacement license on the form prescribed by the department;

(2) a copy of the police report;

(3) a notarized statement made under oath that the license was lost, stolen or destroyed; and

(4) a nonrefundable \$5.00 processing fee.

[10.8.2.19 NMAC – N, 11-26-03]

**10.8.2.20 ENFORCEMENT:**

**A. Authority to disarm.**

A peace officer acting in the lawful discharge of his official duties is authorized to disarm a licensee at any time the peace officer has probable cause to believe it is necessary for the protection of the licensee, peace officer or other individual. The peace officer shall return the handgun to the licensee before dismissing the licensee from the scene when the peace officer has determined that the licensee is not a threat to himself, the peace officer, or other individuals, provided that the licensee has not violated any provision of the act or this rule, or committed any other violation which could result in arrest of the licensee. If the peace

officer has probable cause to believe that the handgun is stolen, has an altered serial number, or has been used in the commission of a crime, the peace officer shall hold the handgun in evidence and shall submit a copy of his or her agency report to the department within 10 working days.

**B. Authority to confiscate license.** A peace officer may confiscate a license if the licensee has violated any provision of the act or this rule, or committed any other violation that could result in arrest of the licensee. If the licensee has committed a violation of the act or rule warranting suspension or revocation of the license, the officer shall file an affidavit of violation as provided in Subsection B of 10.8.2.21 NMAC.

[10.8.2.20 NMAC – N, 11-26-03]

**10.8.2.21 SUSPENSION AND REVOCATION OF A LICENSE:**

**A. Grounds.** The department may suspend or revoke a license if the licensee:

(1) is found to have violated any provision of the act or this rule;

(2) is a fugitive from justice, in accordance with Paragraph (4) of Subsection A of NMSA 1978 Section 29-19-4;

(3) is convicted of a felony, in accordance with Paragraph (5) of Subsection A of NMSA 1978 Section 29-19-4;

(4) is under indictment for a felony criminal offense, in accordance with Paragraph (6) of Subsection A of NMSA 1978 Section 29-19-4;

(5) is prohibited by law from purchasing or possessing a firearm, in accordance with Paragraph (7) of Subsection A of NMSA 1978 Section 29-19-4;

(6) is adjudicated mentally incompetent or committed to a mental institution, in accordance with Paragraph (8) of Subsection A of NMSA 1978 Section 29-19-4;

(7) is addicted to alcohol or controlled substances, in accordance with Paragraph (9) of Subsection A of NMSA 1978 Section 29-19-4;

(8) receives a conditional discharge, a diversion or a deferment or is convicted of, pleads guilty to or enters a plea of nolo contendere to a misdemeanor offense involving a crime of violence, in accordance with Paragraph (1) of Subsection B of NMSA 1978 Section 29-19-4;

(9) is convicted of a misdemeanor offense involving driving while under the influence of intoxicating liquor or drugs, in accordance with Paragraph (2) of Subsection B of NMSA 1978 Section 29-19-4;

(10) is convicted of a misde-

meanor offense involving the possession or abuse of a controlled substance, in accordance with Paragraph (3) of Subsection B of NMSA 1978 Section 29-19-4;

(11) is convicted of a misdemeanor offense involving assault, battery or battery against a household member, in accordance with Paragraph (4) of Subsection B of NMSA 1978 Section 29-19-4; or

(12) is subject to a valid protective order issued by a court.

**B. Affidavit of violation by a licensee.** If a peace officer believes there is probable cause to suspend or revoke a license, the peace officer shall prepare an affidavit on a form prescribed by the department. The affidavit shall cite the provision of law that was violated. The peace officer shall file the affidavit and any other reports or information relating to the licensee available to the officer with the department within 10 working days of the date the peace officer learns of the violation.

**C. Notice of suspension or revocation and surrender of license.** The department shall review the affidavit and attachments, and, if the department finds probable cause to suspend or revoke the license, may issue an order of suspension or revocation to the licensee advising the licensee of his right to a hearing in accordance with 10.8.2.26 NMAC. If the licensee elects not to request a hearing, the licensee shall surrender his license to the department within 15 calendar days of the expiration of the period for requesting a hearing.

**D. Term of suspension or revocation and reapplication.**

(1) The department may suspend a license for up to one year. The licensee may file an application to renew the license upon expiration of the term of suspension.

(2) The department may revoke a license. The person whose license was revoked may file an application for another license no earlier than one year from the date the license was revoked.

[10.8.2.21 NMAC – N, 11-26-03]

### 10.8.2.22 DEPARTMENT APPROVAL OF INSTRUCTORS AND FIREARMS TRAINING COURSES:

**A. Application required.** Any person seeking to instruct firearms training courses pursuant to this rule shall file an application with the department to become an approved instructor. Application shall be made on the form prescribed by the department, and shall be typewritten or legibly handwritten in ink. A person who is not an approved instructor may not instruct a firearms training course pursuant to this rule.

**B. Requirements for**

**approval.** In order to be approved as an instructor, an instructor applicant must:

(1) agree to be subject to New Mexico jurisdiction for the limited purpose of enforcing the act and this rule.

(2) submit 2 full sets of fingerprints that comply with the requirements in NMSA 1978 Section 29-19-5 and 10.8.2.14 NMAC for positive identification purposes;

(3) submit an authorization for release of information form provided by the department;

(4) submit to the department the curriculum and course materials for a firearms training course that has been certified or sponsored by a federal or state law enforcement agency, a college, a firearms training school, or a nationally recognized organization, approved by the department, that customarily offers firearms training and a copy of the letter or other document approving the course from the certifying or sponsoring entity. An instructor applicant may develop his own curriculum and materials but must have them certified or sponsored by one of the entities identified in Subsection A of NMSA 1978 Section 29-19-7.

(5) provide a description of the instructor applicant's experience in offering firearms training. An instructor-applicant who wishes to conduct firing range instruction must possess a certificate of completion of a firearms instructor-training program approved by the department that was issued or renewed not more than 5 years prior to the date the application is filed.

(6) submit a list of all persons the instructor applicant proposes to engage as instructors and the subject each will be engaged to teach.

(7) agree to be responsible for the actions and omissions of all persons engaged by the approved instructor for the purpose of conducting firearms training courses pursuant to this rule.

**C. Time period for review.** As prescribed in Subsection A of NMSA 1978 Section 29-19-6, the department shall review the application of each instructor applicant and make a determination within 30 days of the date the department receives a complete application and background check.

**D. Determination by the department.**

(1) **Approval.**

(a) **Instructor.** If the department finds that the instructor applicant meets the requirements specified in Subsection B of this section, the department shall issue a permit that shall be valid for 4 years. The permit shall include the approved instructor's name, business address, and date of birth, the expiration date of the permit, and the instructor number assigned by the

department.

(b) **Curriculum.** If the department finds that the proposed curriculum and course materials for the firearms training course meet the requirements of NMSA 1978 Section 29-19-7 and this rule, the department shall approve the proposed firearms training course in writing. The department's approval shall remain in effect for the shortest of:

(i) one year;

(ii) until the approved instructor significantly changes the curriculum or course materials;

(iii) the requirements in the act or this rule are changed.

(2) **Denial.** If the department finds either that the instructor applicant or the proposed firearms training course do not meet the requirements of NMSA 1978 Section 29-19-7 or this rule, the department shall issue an order of denial in accordance with 10.8.2.26 NMAC. The order of denial shall cite the particular requirements of the act or this rule that the instructor applicant or proposed firearm training course has failed to meet.

**E. Renewal.** An approved instructor seeking to renew his permit shall file with the department at least 60 calendar days before the date his permit expires:

(1) an application for renewal on the form prescribed by the department;

(2) the curriculum and course materials for a firearms training course that is certified or sponsored by a federal or state law enforcement agency, a college, a firearms training school, or a nationally recognized organization, approved by the department, that customarily offers firearms training and a copy of the letter or other document approving the course from the certifying or sponsoring entity.

(3) a list of all persons the instructor applicant proposes to engage as instructors and the subject each will be engaged to teach.

**F. No authority to carry.** An approved instructor is not authorized to carry a concealed handgun unless the approved instructor obtains a license from the department pursuant to 29-19-4 of the act and this rule. If an instructor applicant wishes to apply for a license at the same time he applies for a permit, he may do so by checking the appropriate boxes on the instructor application form, complying with all requirements for a license in the act and this rule, and enclosing the license application fee and all documents required by 10.8.2.12 NMAC with the application for a permit.

**G. List of approved instructors.** The department shall maintain and make available to the public a list of approved instructors. An approved instruc-



tor may request to be removed from the list, but shall remain subject to a request for inspection of public records pursuant to NMSA 1978, Chapter 14, Article 2.  
[10.8.2.22 NMAC – N, 11-26-03]

**10.8.2.23 BACKGROUND INVESTIGATIONS OF APPLICANTS AND INSTRUCTOR APPLICANTS:**

**A. Central office.** The department shall conduct a state and national criminal background check, and a court records check for protective orders, of each applicant for an original or renewed license. The department shall conduct a state criminal background check, and a court records check for protective orders, of each instructor applicant for an original or renewed permit. The department may require certain applicants to provide information or execute documents to enable the department to obtain criminal history records of disposition of charges. The department may conduct such other investigation of an applicant as the department deems necessary to determine an applicant's suitability for a license or permit.

**B. In the field.** The department may assign an agent or police officer to conduct a field background investigation of an applicant or instructor applicant. Upon completion of the investigation, the agent or police officer shall prepare a report of the results of the investigation.  
[10.8.2.23 NMAC – N, 11-26-03]

**10.8.2.24 RESPONSIBILITIES OF APPROVED INSTRUCTORS:**

**A. Minimum standards for instruction.** An approved instructor shall:

(1) engage as instructors only those persons who have been issued a permit by the department, except as provided in Subsection C of this section.

(2) have no more students in the classroom or on an indoor firing range than the maximum occupancy allowed by the state or local fire code.

(3) use classroom facilities that comply with all federal, state, and local laws relating to persons with disabilities, public health, safety, and sanitation, including restroom facilities.

(4) use only the curriculum, course materials, handouts, and videos approved by the department.

(5) display the permit issued by the department in an appropriate and visible location.

(6) not permit a student to begin a firearms training course until the student has received written information stating all fees, including incidental costs, charged for the course, policies for passing and failing, refund and reschedule policies, and atten-

dance requirements.

**B. Minimum standards for firing range instruction.** An approved instructor shall:

(1) not permit a student to participate in firing range instruction until the student has completed the classroom portion of the firearms training course;

(2) conduct firing range instruction under various light conditions when possible;

(3) have no more students firing a handgun on the firing range than the instructor can effectively and safely instruct and monitor.

**C. Guest instructors.**

(1) An approved instructor may use guest instructors who are not approved instructors to teach various parts of a firearms training course, but only with the prior written approval of the department. An approved instructor must file a request for approval to use a guest instructor at least 30 days prior to the date the guest instructor will teach for the first time. The department will not conduct background investigations of guest instructors.

(2) A guest instructor may teach a maximum of 3 times in a calendar year. No guest instructor may teach all of a firearms training course. Any person wishing to instruct firearms training courses more than 3 times in a calendar year must apply for and obtain a permit from the department.

(3) An approved instructor shall maintain a file on each guest instructor who teaches a portion of the firearms training course. The file shall include a list of the dates and portions of the course each guest instructor has taught, and appropriate documents showing the education, experience, licenses or certifications that qualify the guest instructor to teach the portions of the course he has taught.

**D. Monitoring by the department.** The department may monitor all aspects of firearms training courses. Approved instructors shall cooperate with the department in its efforts to monitor the training of applicants.

**E. Reports.** An approved instructor shall file the following information with the department within 5 working days after the end of each firearms training course on the form prescribed by the department:

(1) the name, address, and date of birth of each applicant who attended the course;

(2) for each applicant, the score the applicant achieved in the handgun competency demonstration;

(3) for each applicant, the category and caliber of each handgun for which the applicant demonstrated competency; and

(4) for each applicant, whether or not the approved instructor issued a certificate of completion and each category and caliber for which the certificate was issued.

**F. Records.** An approved instructor shall maintain the records required by this Subsection for a period of three years from the date of completion of each firearms training course. The records shall be stored in a safe and secure place and shall be available for inspection by the department upon request. An approved instructor shall maintain:

(1) a record of each handgun competency certificate issued;

(2) a record of the following information for each course:

(a) name, address, and date of birth of each applicant who attended the course;

(b) for each applicant, the score the applicant achieved in the handgun competency demonstration;

(c) for each applicant, the category and caliber, of each handgun for which the applicant demonstrated competency; and

(d) an indication of whether or not the approved instructor issued a certificate of completion to that applicant;

(3) a record of the dates and number of hours of each firearms training course;

(4) a record of the curriculum and course materials used in each course; and

(5) copies of documents and correspondence filed with the department.  
[10.8.2.24 NMAC – N, 11-26-03]

**10.8.2.25 SUSPENSION AND REVOCATION OF AN INSTRUCTOR PERMIT:**

**A. Grounds.** The department may suspend or revoke a permit if:

(1) the approved instructor is the subject of valid complaints from applicants, licensees, or other approved instructors; or

(2) for any of the grounds stated in Subsection A of 10.8.2.21 NMAC with respect to a license.

**B. Notice of suspension or revocation and surrender of permit.**

The department shall investigate all allegations concerning grounds for suspension or revocations of permits. If the department finds probable cause to suspend or revoke the permit, the department may issue an order of suspension or revocation to the approved instructor advising the approved instructor of his right to a hearing in accordance with 10.8.2.26 NMAC. If the approved instructor elects not to request a hearing, the approved instructor shall surrender his permit to the department within 15 calendar days of the expiration of the period for requesting a hearing and shall

cease offering firearms training courses pursuant to this rule.

**C. Immediate suspension of firearms training course and refund of tuition.**

(1) The department may immediately suspend, without notice or a prior hearing, a firearms training course whenever the department finds that the person teaching the course:

(a) is not an approved instructor;

(b) is impaired by the use of alcohol, controlled substances, or over-the-counter or prescribed medications; or

(c) is teaching something that is contrary to law or accepted safety practices.

(2) The approved instructor shall be given the opportunity to request a hearing before the department pursuant to 10.8.2.26 NMAC.

(3) If the department finds, after notice and a public hearing, that the person teaching the course was not an approved instructor, was impaired, or was teaching something contrary to law or accepted safety practices, the department may order the person to refund to every student in the class the person was teaching any fees paid by the student to take the class. If the department finds that all or any portion of the firearms training course was deficient because the instructor was not an approved instructor, was impaired, or was teaching something contrary to law or safety, the department may require the students in that class to retake the portions that were deficient. The department may also initiate proceedings to suspend or revoke the approved instructor's permit.

**D. Term of suspension or revocation and reapplication.**

(1) The department may suspend a permit for up to one year. The approved instructor may file an application to renew the permit upon expiration of the term of suspension.

(2) The department may revoke a permit. The instructor whose permit was revoked may file an application for a new permit no earlier than one year from the date the permit was revoked.

[10.8.2.25 NMAC – N, 11-26-03]

**10.8.2.26 HEARING PROCEDURES:**

**A. Written notice required.** The department shall mail an order of denial, suspension, or revocation and instructions for requesting a hearing to the respondent in accordance with Subsection B of 10.8.2.8 NMAC. The order shall become final on the 35th day after the date the notice was postmarked unless the department receives a request for a hearing, or the notice is returned to the department as undeliverable, before that date.

**B. Request for hearing.**

A respondent who seeks reconsideration of an order of denial, suspension, or revocation shall file a request for hearing. The request for hearing shall:

(1) be in writing

(2) be received by the department within 35 days of the date the notice is postmarked;

(3) state with specificity the basis for challenging the order; and

(4) provide any additional documentation to support the challenge.

**C. Hearing date.** Within 30 days of receipt of a request for hearing, the department will mail a notice of hearing to the respondent. The hearing shall be held within a reasonable period of time, but in no case sooner than 20 days after the notice is postmarked or later than 90 days from the date the department receives the request for hearing. The department may extend the time for a hearing one time for up to an additional 60 days. The department shall not unreasonably deny a request for postponement of the hearing made by a respondent.

**D. Contents of notice.**

The notice shall include:

(1) the date, time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction pursuant to which the hearing is being held;

(3) reference to the particular sections of the act or this rule that were cited as the basis for the denial, suspension, or revocation;

(4) a statement of the matters or issues involved; and

(5) a statement of the rights specified in Subsection I of this section.

**E. Nature of hearing.**

The hearing shall be conducted in an informal manner. The hearing may be conducted in person or by telephone conference call, video conferencing, or other appropriate technology at the department's expense.

**F. Hearing examiner.**

The department shall designate a hearing examiner who shall regulate the proceedings and perform all acts and take all measures necessary or proper for the efficient conduct of the hearing. The hearing examiner may:

(1) administer oaths;

(2) issue subpoenas for the attendance of witnesses and the production of relevant books, documents, and records;

(3) exclude any irrelevant, immaterial, or unduly repetitious evidence;

(4) take notice of judicially cognizable facts and of recognized technical or scientific facts within the department's specialized knowledge;

(5) hear evidence from the

respondent and the department. The department may introduce into evidence copies of government records needed to establish the existence of certain facts which could result in denial, suspension, or revocation of a license or permit, including but not limited to records regarding convictions, judgments regarding mental competency or chemical dependency, or other matters that may be established by government records;

(6) call and examine the respondent or other witnesses; and

(7) utilize the department's experience, technical competence, and specialized knowledge in evaluating the evidence.

**G. Testimony.** Testimony at the hearing shall be taken under oath.

**H. Record of hearing.** The hearing shall be recorded at the department's expense. In addition, the department shall make a written record of:

(1) the style of the proceedings;

(2) the nature of the proceedings including copies of the affidavit of violation, the order of denial, suspension, or revocation, and the notice of hearing;

(3) the place, date, and time of the hearing and all continuances or recesses of the hearing;

(4) the appearance or nonappearance of the respondent;

(5) if the respondent appears with an attorney or other representative, the name and address of the attorney or representative;

(6) all evidence and testimony and a copy of all exhibits introduced into evidence;

(7) the findings of fact, conclusions of law, and recommended decision of the hearing examiner; and

(8) the decision of the secretary.

**I. Rights of applicant, instructor applicant, approved instructor, or licensee.** The respondent has the right to:

(1) attend the hearing;

(2) file evidence in open hearing;

(3) recuse a hearing examiner for cause;

(4) be assisted or represented by an attorney or other person at his own expense; and

(5) call, examine and cross-examine witnesses.

**J. Stipulation.** The respondent shall stipulate in writing on a form prescribed by the department that the hearing examiner shall be released from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of the hearing. Failure to so stipulate shall result in termination of the hearing and continuation of the order issued by the department.

**K. Deliberation.** At the

close of the hearing, the hearing examiner shall review and consider the entire record, prepare findings of fact, conclusions of law, and a recommended decision, and submit them to the secretary not later than 20 calendar days after the close of the hearing. The hearing examiner shall make a finding on each ground for denial, suspension, or revocation alleged. The recommended decision shall be based upon substantial, competent, and relevant evidence and testimony appearing in the record of hearing.

**L. Final order.** Within 20 calendar days of receipt of the recommended decision, the secretary shall review the record of the hearing and issue a final order affirming the denial of an application for, or suspension or revocation of, a license or permit or reversing the denial, suspension, or revocation and authorizing issuance or reinstatement of a license or permit. The department shall mail a copy of the final order to the respondent. The final order shall be based upon substantial, competent, and relevant evidence and testimony appearing in the record of hearing.

**M. Appeals.** A respondent adversely affected by a final order of the department may file a petition for a writ of certiorari in the district court in the county where the respondent resides within 30 days of the date the final order was postmarked. The appellant shall bear the costs of the appeal.

[10.8.2.26 NMAC – N, 11-26-03]

**10.8.2.27 PROHIBITING THE CARRYING OF CONCEALED HANDGUNS ON PRIVATE PROPERTY:** Pursuant to Subsection C of NMSA 1978 Section 29-19-12, any person lawfully in possession of private property may prohibit the carrying of concealed handguns on such private property by posting notice in accordance with NMSA 1978 Section 30-14-6 or by verbally notifying persons entering upon the property.

[10.8.2.27 NMAC – N, 11-26-03]

**10.8.2.28 DEPARTMENTAL IMMUNITY:** The department, or any employee of the department, shall not be criminally or civilly liable for acts:

**A.** performed by the department or employee in good faith based on information available to the department or employee at the time the act was performed;

**B.** committed by a licensee unless the department or employee had actual knowledge at the time the license was issued that the licensee was prohibited by law from being issued a license; or

**C.** committed by a person approved by the department or employee to offer a firearms training course.

[10.8.2.28 NMAC – N, 11-26-03]

**HISTORY OF 10.8.2 NMAC:**

**History of repealed material.**

10.8.2 NMAC, Carrying Concealed Handguns, filed on 9-4-01, was removed from the New Mexico Administrative Code pursuant to Supreme Court Opinion 2002 NMSC-017.

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
FINANCIAL INSTITUTIONS  
DIVISION**

**TITLE 12 TRADE, COMMERCE AND BANKING  
CHAPTER 18 LOAN COMPANIES  
PART 5 ANNUAL DATA  
REPORT FOR PAYDAY LOAN  
LENDERS**

**12.18.5.1 ISSUING AGENCY:** Financial Institutions Division of the Regulation and Licensing Department.  
[12.18.5.1 NMAC - N, 1/1/2004]

**12.18.5.2 SCOPE:** Loan companies conducting payday loan business in the state of New Mexico.  
[12.18.5.2 NMAC - N, 1/1/2004]

**12.18.5.3 STATUTORY AUTHORITY:** Section 58-15-10 NMSA 1978.  
[12.18.5.3 NMAC - N, 1/1/2004]

**12.18.5.4 DURATION:** Permanent.  
[12.18.5.4 NMAC - N, 1/1/2004]

**12.18.5.5 EFFECTIVE DATE:** January 1, 2004 unless a later date is cited at the end of a section.  
[12.18.5.5 NMAC - N, 1/1/2004]

**12.18.5.6 OBJECTIVE:** The objective of this part is to require a small loan licensee that issues payday loans to file an annual report with the financial institutions division for data collection purposes.  
[12.18.5.6 NMAC - N, 1/1/2004]

**12.18.5.7 DEFINITIONS:**  
**A. "Payday loan"** means a loan where the licensee cashes a personal check tendered by the customer and agrees in writing to defer presentment of that check until the customer's next payday, or another date agreed to by the licensee and the customer.

**B. "Director"** means the director of the financial institutions division

of the regulation and licensing department.

**C. "Division"** means the financial institutions division of the regulation and licensing department.  
[12.18.5.7 NMAC - N, 1/1/2004]

**12.18.5.8 ANNUAL DATA REPORT FOR PAYDAY LENDERS:** Beginning with the annual report required to be filed with the division on or before March 31, 2005 under Section 58-15-10 NMSA 1978, small loan licensees shall include in the annual report information pertaining to payday loans they made during the preceding calendar year in a form prescribed by the director.  
[12.18.5.8 NMAC - N, 1/1/2004]

**HISTORY OF 12.18.5 NMAC:  
[RESERVED]**

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
FINANCIAL INSTITUTIONS  
DIVISION**

**TITLE 12 TRADE, COMMERCE AND BANKING  
CHAPTER 18 LOAN COMPANIES  
PART 6 ANNUAL DATA  
REPORT FOR TITLE LOAN COMPANIES**

**12.18.6.1 ISSUING AGENCY:** Financial Institutions Division of the Regulation and Licensing Department.  
[12.18.6.1 NMAC - N, 1/1/2004]

**12.18.6.2 SCOPE:** Loan companies conducting title loan business in the state of New Mexico.  
[12.18.6.2 NMAC - N, 1/1/2004]

**12.18.6.3 STATUTORY AUTHORITY:** Section 58-15-10 NMSA 1978.  
[12.18.6.3 NMAC - N, 1/1/2004]

**12.18.6.4 DURATION:** Permanent.  
[12.18.6.4 NMAC - N, 1/1/2004]

**12.18.6.5 EFFECTIVE DATE:** January 1, 2004 unless a later date is cited at the end of a section.  
[12.18.6.5 NMAC - N, 1/1/2004]

**12.18.6.6 OBJECTIVE:** The objective of this part is to require a small loan licensee that issues title loans to file an annual report with the financial institutions division for data collection purposes.  
[12.18.6.6 NMAC - N, 1/1/2004]

**12.18.6.7 DEFINITIONS:**

**A. "Title loan"** means a loan secured by the borrower's vehicle title, which is structured to be a short term fixed rate, closed end transaction usually paid in one installment.

**B. "Director"** means the director of the financial institutions division of the regulation and licensing department.

**C. "Division"** means the financial institutions division of the regulation and licensing department.

[12.18.6.7 NMAC - N, 1/1/2004]

**12.18.6.8 ANNUAL DATA REPORT FOR TITLE LOAN COMPANIES:**

Beginning with the annual report required to be filed with the division on or before March 31, 2005 under Section 58-15-10 NMSA 1978, small loan licensees shall include in the annual report information pertaining to title loans they made during the preceding calendar year in a form prescribed by the director.

[12.18.6.8 NMAC - N, 1/1/2004]

**HISTORY OF 12.18.6 NMAC: [RESERVED]**

**NEW MEXICO SOIL AND WATER CONSERVATION COMMISSION**

**NOTICE OF REPEAL**

21 NMAC 9.2, Conducting an Election of District Supervisors, is hereby repealed and replaced by 21.9.2 NMAC, effective November 26, 2003.

**NEW MEXICO SOIL AND WATER CONSERVATION COMMISSION**

**TITLE 21 AGRICULTURE AND RANCHING  
CHAPTER 9 SOIL AND WATER CONSERVATION DISTRICTS  
PART 2 CONDUCTING AN ELECTION OF DISTRICT SUPERVISORS**

**21.9.2.1 ISSUING AGENCY:**

New Mexico Soil and Water Conservation Commission

[21.9.2.1 NMAC - Rp 21 NMAC 9.2.1, 11-26-03]

**21.9.2.2 SCOPE:**

This Part applies to supervisor elections in all soil and water conservation districts.

[21.9.2.2 NMAC - Rp 21 NMAC 9.2.2, 11-26-03]

**21.9.2.3 STATUTORY AUTHORITY:**

This Part is adopted pursuant to the Soil and Water Conservation District Act, Sections 73-20-25, et. seq. NMSA 1978.

[21.9.2.3 NMAC - Rp 21 NMAC 9.2.3, 11-26-03]

**21.9.2.4 DURATION:**

Permanent

[21.9.2.4 NMAC - Rp 21 NMAC 9.2.4, 11-26-03]

**21.9.2.5 EFFECTIVE DATE:**

November 26, 2003 unless a later date is cited at the end of a section.

[21.9.2.5 NMAC - Rp 21 NMAC 9.2.5, 11-26-03]

**21.9.2.6 OBJECTIVE:**

The objective of Part 2 of Chapter 9 is to provide standard procedures for the election of supervisors in accordance with law.

[21.9.2.6 NMAC - Rp 21 NMAC 9.2.6, 11-26-03]

**21.9.2.7 DEFINITIONS:**

Terms defined in Section 73-20-27 NMSA 1978 have the same definition in this Part. Terms not defined in Section 73-20-27 NMSA 1978 are defined below:

**A. "ELIGIBLE VOTER"** shall mean a person who is registered to vote in New Mexico pursuant to the provisions of the election code, and resides within the soil and water conservation district for which the election is being conducted.

**B. "ELECTION"** shall mean an election held at one or more designated polling places which will be open a minimum of eight hours. Due notice must be given. Absentee voting as provided in these rules is permitted.

**C. "ELECTION SUPERINTENDENT"** shall mean the person appointed to conduct the election for supervisors.

**D. "CANVASSING BOARD"** shall mean the persons appointed by the commission to certify and publish the election results, and give the commission notice of their canvass.

[21.9.2.7 NMAC - Rp 21 NMAC 9.2.7, 11-26-03]

**21.9.2.8 [RESERVED]**

**21.9.2.9 DUTIES OF COMMISSION OR BOARD OF SUPERVISORS:**

**A.** Conduct a supervisor election on the first Tuesday in February of even-numbered years to fill positions designated by the soil and water conservation commission as being eligible for election.

**B.** Provide for "due notice" of the election. There must be two notices: the first notice between 51 and 65 days before the election and the second notice between 23 and 37 days before the election. The notice shall include but is not limited to:

(1) geographical area affected, including zone within the district if applicable;

(2) declare which terms expire by name of incumbent and position number, and zone represented if the district is zoned. Supervisors serving positions #1, #2, #3, and #4, or candidates for those positions, must be resident owners of land within the district, and within the zone if the district is zoned. Position #5 is the supervisor-at-large who does not have to be an owner of land but must be resident within the district.

(3) instructions on how to file a declaration of candidacy, including:

(a) dates, times and address where declarations of candidacy and declarations of intent to be a write-in candidate may be obtained and filed;

(b) the date on which declarations of candidacy must be filed;

(c) the date on which declarations of intent to be a write-in candidate must be filed;

(4) date, time and place ballots may be cast;

(5) instructions for absentee balloting, including the hours and days of the week that absentee ballot applications will be available;

(6) documentation required by the election officials to confirm eligibility to vote. This will normally be a voter registration card, utility bill or other proof of residency within the district;

(7) questions to be submitted to voters on the same ballot, if any; and

(8) name and telephone number of a person to contact in case of questions about the election.

**C.** Prepare and make available declaration of candidacy forms to persons who request them. Declarations of candidacy must be delivered in person by the candidate to the designated place 49 days before the election, and shall take substantially the following form:

[Please see Form, page 837]

## “Declaration of Candidacy

Name of candidate (as it should appear on the ballot): \_\_\_\_\_

Candidate’s residence physical address: \_\_\_\_\_

Candidate’s mailing address: \_\_\_\_\_

Candidate’s phone number: \_\_\_\_\_

Description of land owned within the \_\_\_\_\_ soil and water conservation district, if different from physical address above: \_\_\_\_\_

I desire to become a candidate for the office of supervisor, position number \_\_\_\_, at the election of supervisors to be held on the date set by law. I will be eligible to hold this office at the beginning of its term. I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

Declarant’s signature: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Received by (signature, date, time): \_\_\_\_\_”

D. Prepare ballots for the election. The names of persons for whom a declaration of candidacy was successfully completed shall appear on the ballot. The ballot must provide for write-in votes if any persons have declared their intent to be a write-in candidate on the appropriate declaration form filed 21 days prior to the election. Such persons shall not be entitled to have their name printed on the ballot.

E. In the event that no more than one candidate has filed a declaration of candidacy for each position to be filled, the board of supervisors shall certify such facts to the canvassing board. If there are no other questions on the ballot the canvassing board shall cancel the election as provided by these rules. The election superintendent shall notify applicants for absentee ballots of the cancellation. Unopposed candidates will assume the office of supervisor according to the Soil and Water Conservation District Act. In the case that there are no candidates for a position, incumbent supervisors continue in office until their successors are elected or appointed as in the case of any other vacancy.

F. At least 60 days prior to the election, appoint an election superintendent who must take the following oath of office before performing the required duties: “I, (name of person), do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the state of New Mexico, and I will faithfully discharge the duties of the office of election superintendent for the (name of district) soil and water conservation district.”

G. Assure that candidates for office do not serve as election superintendent or on the canvassing board.

H. Assure that all polling places are staffed with at least two polling officials during the entire voting period. At least one of the officials must not be a district supervisor, district employee, candidate, or immediate family member of any of the aforementioned. Arrange for substitutes if necessary. Polling officials and substitutes must take an oath of office similar to that of the election superintendent before assuming their duties.

I. Maintain a file of all records pertaining to the election for six years, in compliance with the state records retention schedule.

[21.9.2.9 NMAC - Rp 21 NMAC 9.2.9, 11-26-03]

**21.9.2.10 ABSENTEE BALLOTING:** Eligible voters wishing to vote absentee must fill out an absentee ballot application. Applications for absentee ballots must be requested by mail, by phone, and in person only, beginning 30 days before the election until 20 days before the election. Only one absentee ballot application may be issued per eligible voter.

A. Upon receipt of the completed application and determination of the voter’s eligibility an absentee ballot will be furnished.

B. The district must mail out requested absentee ballots at least 15 days before the election.

C. Absentee ballots must be distributed by the district with two envelopes, with a serial number and voter certification information on the outside of the larger envelope. Districts shall maintain an absentee ballot register by serial number.

D. Absentee ballots returned by mail and received by the district on election day or before will be counted. Absentee ballots received after election day will not be opened or counted, but will be kept with the election records.

E. All unused absentee ballots shall be destroyed immediately following the close of the absentee balloting period. The destruction shall be certified by the election superintendent and one polling official.

F. Absentee ballots will not be issued if the election is cancelled pursuant to these rules.

[21.9.2.10 NMAC - Rp 21 NMAC 9.2.9, 11-26-03]

**21.9.2.11 ELECTION SUPERINTENDENT DUTIES:**

A. Assure that all absentee ballots requested by eligible voters in writing were sent as indicated in the election notice, unless the election is cancelled, in which case eligible voters shall be notified. All applications will be compared with the absentee ballot register.

B. Conduct the voting during the period stated in the election notice.

C. If paper ballots are used, place all ballots in a sealed ballot box.

D. Prepare a complete list of all persons voting and those applying for a ballot and determined ineligible to vote.

E. Prepare documentation regarding all challenges of voter ineligibility.

F. Assist the canvassing board in properly securing, transporting, and storing ballot boxes, and cooperate fully with the canvassing board to determine voting results in a timely manner.

G. Prepare a list of eligible voters 30 days prior to the election. The eligible voter list must be completed and available for inspection at least five days before the election.

[21.9.2.11 NMAC - Rp 21 NMAC 9.2.10, 11-26-03]

**21.9.2.12 CHALLENGE BALLOTS:** Persons who are not on the eligible voter list and cannot show proof of eligibility must

complete a challenge ballot.

A. A challenge ballot shall consist of a paper ballot, a plain envelope, and a voter certification form printed on a larger envelope.

B. Marked ballots must be sealed in the plain envelope. The plain envelope must be sealed in the larger envelope. Voters are determined to be eligible or ineligible using the voter certification information on the larger envelope, and supporting documentation provided by the voter.

C. The larger envelopes shall be opened only after all ineligible voters are given an opportunity to prove eligibility. The larger envelope of ineligible voters shall not be opened. All of the larger envelopes of eligible voters shall be opened and the plain envelopes placed in the ballot box. The plain envelopes are then removed from the ballot box and ballots are counted. The plain envelopes may be destroyed after the vote is counted, but the larger envelopes and the ballots must be maintained with the election records.

D. Persons who are determined to be ineligible to vote by polling officials must be notified by the polling officials using the most expedient means of communication. When contacted, ineligible voters must be informed of their right to challenge. Challenges must be in writing and be delivered to the contact person shown on the election notice no later than four days following the election.

[21.9.2.12 NMAC - Rp 21 NMAC 9.2.10, 11-26-03]

**21.9.2.13 VOTER CERTIFICATION:**

I am a registered voter of precinct no. \_\_\_\_\_ of the county of \_\_\_\_\_, state of New Mexico. I reside at \_\_\_\_\_, within the boundaries of the \_\_\_\_\_ soil and water conservation district;

I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

\_\_\_\_\_  
(Voter) Printed name and signature

\_\_\_\_\_  
(Mailing address)

\_\_\_\_\_  
(Residence address)

\_\_\_\_\_  
Telephone number (if voter wishes to be notified of ineligibility to vote)

NOTE: print the above information on a number 12-business size envelope. Use separate envelope for each voter. Use number 10 envelopes for ballots, only one ballot per envelope. [21.9.2.13 NMAC - Rp 21 NMAC 9.2.11, 11-26-03]

**21.9.2.14 CANVASSING BOARD:**

A. The canvassing board shall be composed of a minimum of two members:

- (1) an owner of land within the district who is not a supervisor or employee of the district or members of their immediate family;
- (2) a supervisor of the district.

B. The canvassing board will:

(1) cancel the election upon being notified by the board of supervisors that no more than one candidate has filed a declaration of candidacy for each position to be filled, and there are no other questions on the ballot, and give due notice of such cancellation;

(2) establish appropriate procedures for securing, transporting, storing and tallying ballots;

(3) resolve any challenges of voter eligibility or conduct of election;

(4) certify election results and report results to soil and water conservation commission in Las Cruces within seven calendar days following completion of their canvass. A canvass is considered complete when all challenges have been resolved to the satisfaction of the canvassing board. For each position, the candidate with the highest number of votes shall be declared the winner without a runoff vote. A tie vote will be broken by lot.

[21.9.2.14 NMAC - N, 11-26-03]

**HISTORY OF 21.9.2 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

SSCC-200, Outline of Instructions for Conducting District Elections, filed 8/11/69.

SWCD 85-2, Procedures for Conducting an Election of Supervisors in Soil and Water Conservation Districts, filed 7/1/85.

SWCC 90-I, Rules for Conducting an Election of District Supervisors in Soil and Water Conservation Districts, filed 7/2/90.

**History of Repealed Material:**

21 NMAC 9.2, Conducting an Election of District Supervisors, filed 12/17/96 - Repealed effective 11/26/2003.

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**End of Adopted Rules Section**

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**Other Material Related to Administrative Law**

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**NEW MEXICO  
CONSTRUCTION  
INDUSTRIES COMMISSION**

**CONSTRUCTION INDUSTRIES  
COMMISSION**

Notice is hereby given that the Construction Industries Commission will hold a Special meeting on Friday, December 19, 2003 at 9:30 a.m., in Room 307, State Capitol Building, 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.

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**End of Other Related  
Material Section**

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**SUBMITTAL DEADLINES AND PUBLICATION DATES****2003**

<b>Volume XIV</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

**2004**

<b>Volume XV</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 30
Issue Number 3	February 2	February 13
Issue Number 4	February 16	February 27
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 3	May 14
Issue Number 10	May 17	May 28
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
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Issue Number 15	August 2	August 13
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 14
Issue Number 20	October 15	October 29
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 14
Issue Number 24	December 15	December 30

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