

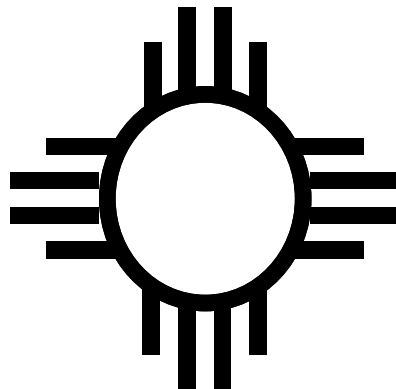
**NEW
MEXICO
REGISTER**



Volume XVI
Issue Number 19
October 17, 2005

New Mexico Register

**Volume XVI, Issue Number 19
October 17, 2005**



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
2005

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New Mexico Register

Volume XVI, Number 19

October 17, 2005

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Effective Date and Validity of Rule Filings

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

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

New Mexico Board of Examiners for Architects

PO Box 509
Santa Fe, NM
505-827-6375

Public Hearing Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, November 18, 2005. The meeting will be held in the Conference Room of the Board office, Lamy Building, 491 Old Santa Fe Trail, beginning at 9:00 a.m. A public rules hearing will also be held to amend the architectural rules. Content will be the Broadly Experienced Architect option. Proposed rules are available by contacting the Board office at (505) 827-6375.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 827-6375 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

Rule Hearing

Notice is hereby given that the New Mexico Counseling and Therapy Practice Board will convene a Rule Hearing on Thursday, November 17, 2005. The hearing will begin at 10:00 a.m. at the Nativo Lodge, Salon Classroom, 6000 Pan American Freeway NE, Albuquerque, NM. The purpose of this hearing is to hear public testimony and comments regarding the recommended proposed rules changes.

Regular Board Meeting

Notice is hereby given that the New Mexico Counseling and Therapy Practice Board will convene a Regular Board Meeting on Friday, November 18, 2005. The Regular Board Meeting will begin 10:00 a.m. at the

Nativo Lodge, Conference Room, 6000 Pan American Freeway NE, Albuquerque, NM. Persons desiring to present their views may appear in person at said time and place or send their written comments to the Board Office at P.O. Box 25101, Santa Fe, NM, 87504. Copies of the proposed changes may be requested by mail or by contacting the Board Office at (505) 476-4610.

The Board may go into closed session during the meeting to discuss licensing and disciplinary matters as permitted by the Open Meetings Act. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the board administrator at (505) 476-4610 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the board administrator if a summary or other type of accessible format is needed.

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT COAL SURFACE MINING COMMISSION

NOTICE OF RULE MAKING

STATE OF NEW MEXICO
ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
COAL SURFACE MINING
COMMISSION
SANTA FE, NEW MEXICO

The State of New Mexico, through its Coal Surface Mining Commission, hereby gives notice that the Commission will conduct a public hearing at 2:00 P.M. on **November 16, 2005**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning the adoption of amendments to 19.8 11 and 12 NMAC. The proposed amendments will make changes to the administrative and judicial review process for permitting actions, notices of violation, cessation orders and show cause orders. The proposed amendments will also clarify the procedures for petitioning for award of legal costs and attorneys' fees. Minor corrections and style adjustments to conform with the requirements of the Administrative Law Division are also proposed.

Copies of the text of the proposed amendments are available from Commission Clerk James O'Hara at (505)-476-3413 or from the Mining and Minerals Division web site at http://www.emnrd.state.nm.us/Mining/csmc/19.8_2005amend.pdf. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Mr. O'Hara at (505)-476-3413 as soon as possible.

Bill Brancard, Director
Mining and Minerals Division

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT MINING COMMISSION

NOTICE OF RULE MAKING

STATE OF NEW MEXICO
ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
NEW MEXICO MINING
COMMISSION
SANTA FE, NEW MEXICO

The New Mexico Mining Commission will hold a regular meeting and a public hearing at **9:00 A.M. Wednesday, November 16, 2005** in Porter Hall on the 1st floor of the Wendell Chino Building located at **1220 South Saint Francis Drive** in Santa Fe, NM.

During the meeting, the Mining Commission will conduct a public hearing on a petition for rulemaking submitted by the Mining and Minerals Division (MMD) on September 14, 2005 (Petition 05-01). The petition proposes to revise the Mining Act fees rule, 19.10.2 NMAC. At the conclusion of the hearing, the Mining Commission may deliberate and take action on the petition. The Mining Commission will also consider other items on its agenda which may include the adoption of an Open Meetings Act Resolution, a legislative update, and the Mining Act Reclamation Program's annual report.

Any person intending to present technical testimony at the public hearing must submit a notice of intent that identifies the party and the name of the technical witness, summarizes the testimony, includes any modifications to the regulatory proposal and lists all anticipated exhibits. Notices of intent to

present technical testimony must be received by the Clerk of the Mining Commission, C/O Mining and Minerals Division, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505 not later than 5 p.m. Friday, November 5, 2005 and should reference the petition number and the date of the hearing.

A copy of the petition and the proposed regulatory change can be obtained by contacting John Pfeil at 476-3400 or on the MMD website at <http://www.emnrd.state.nm.us/Mining/nmmc/default.htm>. A copy of the draft agenda for the meeting will be available by September 19 and may be obtained by contacting John Pfeil at 476-3400. If you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Pfeil at 476-3400 at least 48 hours prior to the hearing. Public documents can be provided in various accessible forms.

Bill Brancard, Director
Mining and Minerals Division

NEW MEXICO DEPARTMENT OF HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.27.2 NMAC "Licensing of Emergency Medical Services Personnel". The Hearing will be held on Monday, November 21, 2005 at 10:00 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to inform the emergency medical services community of licensure requirements for emergency medical services personnel.

A copy of the proposed regulation can be obtained from:

Charles Schroeder, EMS Licensing Coordinator
2500 Cerrillos Road
Santa Fe, NM 87505
(505) 827-1967

Please submit any written comments regarding the proposed regulation to:

Jim Derrick, EMS Operations Manager
2500 Cerrillos Road
Santa Fe, NM 87505

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in

the hearing, please contact Jim Derrick at 505-476-7824. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO DEPARTMENT OF HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.27.5 NMAC "Certification of Air Ambulance". The Hearing will be held on Monday, November 21, 2005 at 9:00 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to inform the public and air ambulance services about the requirements and standards for the certification of air ambulance services operating within New Mexico, and the process and procedures to become certified.

A copy of the proposed regulation can be obtained from:

Charles Schroeder
EMS Licensing Coordinator
2500 Cerrillos Road
Santa Fe, NM 87505
(505) 827-1967

Please submit any written comments regarding the proposed regulation to:

Jim Derrick
EMS Operations Manager
2500 Cerrillos Road
Santa Fe, NM 87505

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Jim Derrick at 505-476-7824. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO DEPARTMENT OF HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.27.6 NMAC "Emergency Medical Services Advance Directives". The Hearing will be held on Monday, November 21, 2005 at 1:00 p.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to

inform the public and New Mexico emergency medical services providers of the procedures to authorize the use of advance directives in pre-hospital and inter-facility settings.

A copy of the proposed regulation can be obtained from:

Charles Schroeder
EMS Licensing Coordinator
2500 Cerrillos Road
Santa Fe, NM 87505
(505) 827-1967

Please submit any written comments regarding the proposed regulation to:

Jim Derrick
EMS Operations Manager
2500 Cerrillos Road
Santa Fe, NM 87505

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Jim Derrick at 505-476-7824. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold 4 separate public hearings on November 17, 2005, at the New Mexico State Library, Room 2022 (1205 Camino Carlos Rey), Santa Fe, New Mexico.

From 10:00 - 11:00 a.m. the subject of the hearing will be Coordinated Service Contractor Appeals and Grievance.

The Human Services Department (HSD) proposes to create a new chapter in the Medicaid Program Policy Manual to provide direction to Coordinated Service Contractors (CSCs) and inform Medicaid recipients of the managing of appeals and grievances that pertain to the services that are provided in the coordinated service contracts.

From 11:00 a.m. - 12:00 p.m. the subject of the hearing will be General Benefit Description.

The Human Services Department (HSD) is proposing to update the general sections of Medicaid Program regulations to reflect changes previously made in specific program policies, such as foot care services and pregnancy termina-

tion procedures, and information on Coordinated Service Contractors.

Other changes are being made to correct citations and grammatical errors, remove outdated material, and correct age descriptions. No substantive changes in the Medicaid program are being made by these changes.

From 1:30 - 2:30 p.m. the subject of the hearing will be SSI Methodology.

Pursuant to final rules published in the *Federal Register*, Volume 70, Number 24, dated February 7, 2005, the treatment of certain resources in the SSI program will change effective March 9, 2005. Therefore, certain changes to the Supplemental Security Income (SSI) Methodology are necessary.

Specifically, the Social Security Administration is revising regulations that explain how an individual's income and resources are determined in order to achieve two program simplifications. These changes are:

1. Elimination of the dollar value of household goods and personal effects for purposes of establishing Medicaid eligibility, and;
2. Exclusion of the 'first' automobile (if more than one) from **Resources** regardless of value if it is used for transportation for either the recipient or a member of the recipient's household.

The Department is proposing to incorporate these policy changes to SSI Methodology. The programs primarily affected by these changes will be Institutional Care, Medicaid Extension, HCB Waivers, QMB, SLIMB, QI-1, and WDI. These changes were applied effective March 9, 2005.

From 2:30-3:30 p.m. the subject of the hearing will be Pharmacy Services.

The New Mexico Human Services Department is proposing a change in pharmacy services as a result of federal requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and new Centers for Medicare and Medicaid Services (CMS) guidance. Beginning January 1, 2006, individuals who are eligible for both Medicare and Medicaid (dually eligible individuals) must obtain covered Part D drugs through a Medicare Part D prescription drug program, rather than through Medicaid.

In Section 1860D-2(e)(2) of the MMA, the definition of covered Medicare Part D drugs specifically excluded the following drugs or classes of drugs, or their medical uses, with

the exception of smoking cessation agents: (1) agents when used for anorexia, weight loss, or weight gain; (2) agents when used to promote fertility; (3) agents when used for cosmetic purposes or hair growth; (4) agents when used for the symptomatic relief of cough and colds; (5) prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations; (6) non-prescription drugs; (7) outpatient drugs for which the manufacturer seeks to require that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee as a condition of sale; (8) barbiturates; and (9) benzodiazepines. Medicaid will provide coverage for drugs excluded from coverage under Part D, to the extent that Medicaid covers the excluded drug items for full benefit Medicaid recipients who are not dual eligibles.

Current regulations state that the Medicaid program does not cover drug items used to treat infertility. HSD has determined that drugs used to treat impotence are similar in purpose to drugs that treat infertility. Because these drugs are not required to be covered by Medicaid under federal law, the proposed regulations include a provision stating that the Medicaid program will not cover drugs used to treat sexual dysfunction.

Interested persons may submit written comments no later than 5:00 p.m., November 17, 2005, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

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

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

**NEW MEXICO
MEDICAL BOARD**

NEW MEXICO MEDICAL BOARD

Notice

The New Mexico Medical Board will convene a Public Rule hearing on Monday, October 31, 2005 at 4:30 p.m. in the Conference Room, 2055 S. Pacheco, Building 400, Santa Fe, New Mexico, before a hearing officer. A decision will be made on the proposed rules at a Regular board meeting on Thursday, November 10, 2005.

The purpose of the Rule Hearing is to consider amending 16.10.2 NMAC (Physicians: Licensure Requirements), 16.10.6 (Complaint Procedures and Institution of Disciplinary Action), 16.10.13 NMAC (Use of Devices & Procedures by Unlicensed Personnel), 16.10.15 NMAC (Physician Assistants: Licensure & Practice Requirements), and to add 16.10.17 NMAC (Management of Medical Records).

Changes to the physician licensing requirements will make permanent emergency rules facilitating the licensure of physicians from Federal disaster areas. Complaint procedures will be amended to eliminate the requirement for a notarized complaint. Changes to Part 13 will provide further clarification of the requirements for procedures performed by medical assistants under the supervision of a physician. Changes to the physician assistant rule will make permanent emergency rules that facilitate licensing of applicants from a Federal disaster area and add provisions for physician assistant practice during an emergency or disaster. The new rule will establish requirements for the management of medical records.

Copies of the proposed rules will be available on September 30th on request from the Board office at the address listed above, by phone (505) 476-7220, or on the Internet at www.nmmb@state.nm.us.

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m., October 24, 2005, to the board office, 2055 S. Pacheco, Building 400, Santa Fe, NM, 87505.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service in order to attend or participate in the hearing, please contact Lynnelle Tipton, Administrative Assistant at 2055 S. Pacheco, Building 400, Santa Fe, NM at least one week prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats.

**NEW MEXICO
OIL CONSERVATION
COMMISSION**

NOTICE OF RULEMAKING

**STATE OF NEW MEXICO
ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on **November 10, 2005**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning adoption of amendments to 19.15.2 and 19.15.9 NMAC. The proposed amendments will repeal Sections 709, 710 and 711 of 19.15.9 NMAC that presently govern transportation and disposal of produced water and surface waste management facilities, and add new Sections 51, 52 and 53 to 19.15.2 NMAC, which will govern transportation and disposal of produced water and other oilfield wastes and surface waste management facilities. The proposed amendments will extend permitting requirements for carriers of produced water and rules concerning surface disposition of produced water so that they will apply to all oilfield wastes, change the procedures for permitting new surface waste management facilities or modifications of existing facilities, prohibit disposal of salt-contaminated wastes in landfills, and adopt other detailed regulations concerning surface waste management facilities. Copies of the text of the proposed amendments are available from Commission Secretary, Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.nm.us/ocd/whatsnew.htm>. Written comments on the proposed amendments must be received no later than 5:00 P.M. on Thursday, November 3, 2005. Written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at 476-3462. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505)-476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 27th day of September, 2005.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

**Mark E. Fesmire, P.E.
Director, Oil Conservation Division**

**NEW MEXICO
PUBLIC REGULATION
COMMISSION**

**BEFORE THE NEW MEXICO PUBLIC
REGULATION COMMISSION**

IN THE MATTER OF
THE ADOPTION OF Case No.
RULES TO REGU- 05-00282-UT
LATE MID-SIZE
TELECOMMUNICA-
TIONS CARRIERS

NOTICE OF PROPOSED RULEMAKING

This matter comes before the New Mexico Public Regulation Commission ("Commission") as a follow-up to Valor's Submission of Mid-Size Carrier Rules on August 19, 2005. THE COMMISSION FINDS AND CONCLUDES:

1. In 2004, the New Mexico Legislature passed, and Governor Bill Richardson signed, House Bill 24, providing for the regulation of mid-size carriers, defined as telecommunications carriers with more than 50,000 but less than 75,000 access lines in the state. 2004 N.M. Laws, ch. 3. House Bill 24 has been codified at NMSA 1978, Section 63-9A-5.1 of the New Mexico Telecommunications Act ("Telecom Act").

2. Section 63-9A-5.2(B) ("Transition of regulation; report to legislature") of the Telecom Act requires the Commission to adopt rules to implement the provisions of Section 63-9A-5.1 the earlier of 60 days prior to the expiration of a mid-size carrier's alternative form of regulation plan ("AFOR") or 60 days prior to the commencement of operations in the state of a new mid-size carrier.

3. Currently Valor Telecommunications of Texas, LP, d/b/a VALOR Telecom ("Valor") is the only telecommunications carrier operating in New Mexico that falls within the definition of a mid-size carrier. Valor currently is regulated through an AFOR that was approved by the Commission on June 27, 2000 in Utility Case No. 3358. Valor's AFOR is for a term of five years, beginning April 1, 2001, and ending March 31, 2006. Proposed AFOR, as amended, for Valor, Section IV, attached as Exhibit A to the Final Order in Utility Case No. 3358, issued on June 27, 2000. Thus, under Section 63-9A-5.2(B), the Commission must adopt

rules to implement Section 63-9A-5.1 by January 30, 2006.

4. On July 19, 2005, this Commission issued its Order Requiring the Filing of a Proposed Rule, which required Valor, by August 19, 2005, to file a proposed rule with the Commission. Order Requiring the Filing of a Proposed Rule, ¶ A, at 3.

5. On August 19, 2005, Valor filed its Submission of Mid-Size Carrier Rules ("Valor's Submission"). In its submission, Valor recommends that the Commission issue a Notice of Proposed Rulemaking ("NOPR") that proposes adoption of Valor's proposed rules. Valor additionally recommends a variation on the Commission's typical rulemaking procedure. Valor recommends that, before the deadline for filing initial comments, the Commission hold workshops for the purpose of allowing Valor, with its consultants, to provide explanation and background on its proposed rules. Valor's Submission at 13.

6. Having considered Valor's proposed rules, the Commission has developed proposed rules that are attached as Exhibit 1 to this Notice of Proposed Rulemaking.

7. The Commission will accept written comments on the rules proposed in this Notice of Proposed Rulemaking from any interested person. Interested persons shall file their written comments on the proposed rules no later than Friday, November 11, 2005. Any response comments shall be filed no later than Wednesday, December 7, 2005. Comments suggesting changes to the proposed rules shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the proposed rules shall be in legislative format. Any proposed changes to the proposed rules shall be submitted in hard copy, and the Commission strongly encourages all persons proposing such changes to file an additional copy in electronic format (compact disc in Microsoft 2000 Word format). The label on the compact disc shall state the name of the person submitting the proposed changes and the docket number of this proceeding (Case No. 05-00282-UT). All pleadings, including comments and suggested changes to the proposed rules, shall bear the caption and docket number contained at the top of this Notice.

8. The Commission invites particular comment on the following issues:

a. whether to promulgate a customer protection rule applicable only to mid-size carriers - which

is proposed Rule 17.11.25 - or to not promulgate a customer protection rule applicable only to mid-size carriers and instead apply the existing general telecommunications customer protection rule - Rule 17.11.16 - to mid-size carriers;

b. whether to make mid-size carriers subject to customer deposit rules - as proposed in Rule 17.11.25 - or whether to not make mid-size carriers subject to customer deposit rules and instead allow mid-size carriers to include their customer deposit policies in their tariffs; and

c. whether to apply the held order definitions from the existing telecommunications quality of service standards rule to mid-size carriers - as proposed in Rule 17.11.24 - or whether to apply different held order definitions to mid-size carriers.

9. Written comments or written response comments shall be sent to: Melanie Sandoval
New Mexico Public Regulation Commission
Attention: Proposed Rule Relating to Regulation of Mid-Size Telecom Carriers
224 East Palace Avenue, Marian Hall
Santa Fe, NM 87501
Telephone: (505) 827-6968

10. Copies of the proposed rules may be downloaded from the Commission's web site, www.nmprc.state.nm.us, under "Meetings," then "Public Notices."

11. Valor may hold a workshop or workshops to explain its proposed rules to interested participants.

12. The Commission will review all timely submitted written comments and will hold public comment hearings on the following dates and at the following times and places:

a. Friday, November 4, 2005, beginning at 9:30 a.m. at New Mexico State University, Carlsbad Branch, 1500 University Drive, Room 101, Carlsbad, New Mexico;

b. Monday, November 7, 2005, beginning at 4:00 p.m. at the Inn at the Butte, 401 Highway 195, Elephant Butte, New Mexico;

c. Monday, November 21, 2005, beginning at 9:30 a.m. at the Commission's offices at Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico.

13. Interested persons should contact the Commission to confirm the date, time and place of any public hearing because hearings are occasionally rescheduled.

14. Any person with a disability requiring special assistance in order to participate in a hearing should contact Cecilia Rios at 827-4501 at least 48 hours

prior to the commencement of the hearing.

15. Commission Rule 1.2.3.7(B) ("Ex Parte Communications") draws a distinction applicable to rulemaking proceedings between communications occurring before the record has been closed and communications occurring after the record has been closed. It defines only the latter as "ex parte communications." In order to assure compliance with 1.2.3.7(B) NMAC, the Commission should set a date on which it will consider the record to be closed. The Commission finds such date should be January 6, 2006. The setting of that record closure date will permit Commissioners and Commission Counsel to conduct follow-up discussions with parties who have submitted initial or response comments to the Commission's proposed rules or responses to any bench requests. However, this action should not be interpreted as extending the time during which parties may file comments or responses comments, or as allowing the filing of other types of documents in this case.

16. Copies of this Notice should be sent to all persons on the attached Certificate of Service.

IT IS THEREFORE ORDERED:

A. The proposed rules, attached to this Notice of Proposed Rulemaking as Exhibit 1, are proposed for adoption as permanent rules as provided by this Notice.

B. Initial comments on the proposed rules must be filed by November 11, 2005, and response comments must be filed by December 7, 2005.

C. The record in this case, for purposes of 17.2.3.7(B) NMAC ("Ex Parte Communications") shall be closed at 5:00 p.m. on January 6, 2006.

D. Public comment hearings shall be held as provided in this Notice of Proposed Rulemaking.

E. A copy of this Notice, including Exhibit 1, shall be mailed to all persons listed on the attached Certificate of Service. This Notice, excluding Exhibit 1, shall be published in two newspapers of general circulation in the State and in the New Mexico Register. The Commission shall provide the Notice by e-mail or facsimile transmission to any persons who so request, and shall post a copy of the proposed rules on the Commission's web site.

F. This Notice is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, on September 29, 2005.

NEW MEXICO PUBLIC REGULATION COMMISSION

BEN R. LUJAN, CHAIRMAN

JASON MARKS, VICE CHAIRMAN

DAVID W. KING, COMMISSIONER

LYNDA M. LOVEJOY, COMMISSIONER

E. SHIRLEY BACA, COMMISSIONER

NEW MEXICO RACING COMMISSION

NEW MEXICO RACING COMMISSION NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a rulemaking and public hearing will be held in the Turf Club, Zia Park Racetrack, 2901 West Millen Dr., Hobbs, NM, commencing in executive session at 8:30 o'clock a.m. on Thursday, October 27, 2005. The public session will begin at 9:30 o'clock a.m. on Thursday, October 27, 2005. The Commission will consider adoption of proposed amended rule for incorporation into the Rules Governing Horse Racing in New Mexico No. 15.2.7.12 NMAC (regarding pick (n) pools)

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

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

Julian Luna
Agency Director

Dated: October 3, 2005

**NEW MEXICO
WORKERS'
COMPENSATION
ADMINISTRATION**

NOTICE OF PUBLIC HEARING

Notice is hereby given that on October 19, 2005, commencing at 1:30 p.m., the New Mexico Workers' Compensation Administration will conduct a public hearing on amendments to Part 12 of the WCA rules pertaining to the Uninsured Employers' Fund (UEF). The hearing will consider a cap of \$25,000 on workers' compensation benefits paid by the UEF, the posting of a bond by an employer against any benefits paid by the UEF up to \$25,000. The hearing will be conducted at the Workers' Compensation Administration, 2410 Centre Avenue S.E., Albuquerque, NM. Videoconferencing may also be made available in the WCA Field Offices. Please contact Renee Blechner at (505) 841-6083 by October 17, 2005, to reserve videoconferencing. Proposed rule changes will be available on Friday, September 30, 2005.

Comments made in writing and at the public hearing will be taken into consideration. Written comments pertaining to these issues will be accepted until the close of business on October 26, 2005.

For further information call (505) 841-6000. Please inquire at the WCA Clerk's Office, 2410 Centre Avenue S.E., Albuquerque, NM, 87106, (505) 841-6000, for copies of the proposed rules. If you intend to request a copy by mail, please inquire at the WCA Clerk's Office about the postage cost and envelope size needed to accommodate your request. Plan on including a post-paid, self-addressed envelope with your request.

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 aide or service to attend or participate in the hearing or meetings, please contact Renee Blechner at (505) 841-6083. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331.

**End of Notices and
Proposed Rules Section**

Adopted Rules

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

8.16.3 NMAC, Requirements Governing the Child Care Facility Loan Act, filed 2/15/2005 is repealed and replaced by 8.16.3 NMAC, Requirements Governing the Child Care Facility Loan Act, effective October 17, 2005.

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

**TITLE 8 SOCIAL SERVICES
CHAPTER 16 CHILD CARE
LICENSING
PART 3 REQUIREMENTS
GOVERNING THE CHILD CARE
FACILITY LOAN ACT**

8.16.3.1 ISSUING AGENCY:
Children, Youth and Families Department (CYFD).
[8.16.3.1 NMAC - Rp, 8.16.3.1 NMAC, 10/17/2005]

8.16.3.2 SCOPE: The Child Care Facility Loan Act fund program regulations shall apply to the use of funds by eligible applicants available pursuant to the Child Care Facility Loan Act, Section 24-24-1, et seq., NMSA 1978.
[8.16.3.2 NMAC - Rp, 8.16.3.2 NMAC, 10/17/2005]

8.16.3.3 STATUTORY AUTHORITY: The regulations set forth herein, have been promulgated by the secretary of the New Mexico children, youth and families department, by authority of the Children, Youth and Families Department Act, Section 9-2A-7 NMSA 1978, and the Child Care Facility Loan Act, Section 24-24-1 et seq NMSA 1978, in conjunction with the New Mexico finance authority.
[8.16.3.3 NMAC - Rp, 8.16.3.3 NMAC, 10/17/2005]

8.16.3.4 DURATION:
Permanent.
[8.16.3.4 NMAC - Rp, 8.16.3.4 NMAC, 10/17/2005]

8.16.3.5 EFFECTIVE DATE:
October 17, 2005 unless a later date is cited at the end of a section.
[8.16.3.5 NMAC - Rp, 8.16.3.5 NMAC, 10/17/2005]

8.16.3.6 OBJECTIVE: The objective of 8.16.3 NMAC is to establish standards and procedures for administering loans under the Child Care Facility Loan Act. The Child Care Facility Loan Act directs the children, youth and families department in conjunction with the New Mexico finance authority to adopt rules to administer and implement the Child Care Facility Loan Act. The child care facility revolving loan fund provides long term, low interest funding for purposes of physical improvement, repair, safety and maintenance of child care facilities that are licensed by the department.

[8.16.3.6 NMAC - Rp, 8.16.3.6 NMAC, 10/17/2005]

8.16.3.7 DEFINITIONS:

A. "Act" means the Child Care Facilities Loan Act (Sections 24-24-1 to 24-24-4 NMSA 1978).

B. "Agreement" means the document or documents signed by the authority and the eligible applicant that specifies the terms and conditions of a loan provided under the program.

C. "Applicant" means a provider which has filed a request for a loan with the department and the authority.

D. "Application" means a written document filed with the department and the authority by an applicant for the purpose of obtaining a loan. An application may include a form prescribed by the department and the authority, written responses to requests for information by the department and the authority, or other format as determined by the department and the authority.

E. "Application committee" means a six-member body, three members appointed by the executive director of the authority from the authority staff and three members appointed by the secretary of the department.

F. "Authority" means the New Mexico finance authority.

G. "Authorized representative" means one or more individuals authorized by the governing body of an applicant to act on behalf of the applicant in connection with its application. An authorized representative may act on behalf of the applicant to the extent provided by law.

H. "Board" means the New Mexico finance authority board as created by and set forth in the bylaws of the authority.

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

J. "Eligible applicant" means a provider:

(1) that has been licensed for

three or more years;

(2) that has not received a loan in the last five years, unless the loan has been repaid;

(3) who has completed repayment of a previous loan from the fund; and

(4) is not a head start grantee.

K. "Facility" means a child care facility operated by a provider, including both family home-based and center-based programs, licensed by the department to provide care to infants, toddlers, and children.

L. "Fund" means the child care facility revolving loan fund held by the authority pursuant to the act.

M. "Loan" means a loan from the fund.

N. "Project" means health and safety improvements to a facility, including space expansion, in order to maintain an adequate and appropriate environment for a provider's clients.

(1) "Project" includes:

(a) kitchen upgrades to meet environment department standards;

(b) air conditioning and heating upgrades or installation to meet licensing standards;

(c) renovations for natural lighting to meet licensing standards;

(d) renovations of floor surfaces to meet licensing standards;

(e) renovations of roofs and canals to meet licensing standards;

(f) plumbing upgrades including additional toilets and sinks to meet licensing standards or to increase capacity to serve more children, especially infants and toddlers;

(g) electrical upgrades to meet licensing standards;

(h) bike paths for playgrounds to meet licensing standards;

(i) installation of renovation of egress windows to meet licensing standards;

(j) playground equipment;

(k) replacement of inoperable drinking fountains;

(l) replacement of broken doors or windows;

(m) security systems, smoke alarms and fire alarms;

(n) accommodations to serve children with special needs;

(o) improvements made to comply with the American with Disabilities Act; and

(p) interior reconstruction to expand capacity to meet licensing standards.

(2) "Project" does not include:

(a) day-to-day operating costs such as salaries, rent, and food purchases;

(b) working capital to cover shortfalls or delays in payments to families, government agencies, or other funding sources;

(c) training expenses;

(d) purchase of televisions, video-cassette recorders, DVD players, or related equipment;

(e) vehicle or transportation expenses; and

(f) repayment of loans or reimbursement of previously incurred expenses.

O. "Provider" means a person licensed by the department to provide child care to infants, toddlers and children pursuant to 8.16.2 NMAC.

[8.16.3.7 NMAC - Rp, 8.16.3.7 NMAC, 10/17/2005]

8.16.3.8 LOAN APPLICATION PROCEDURES:

A. Contingent upon a sufficient balance in the fund, the department and the authority will accept applications and award loans on a semi-annual basis. At the beginning of any application cycle, the department will publish notice that applications are being accepted for financing of projects. The application submittal deadline for the first application cycle is December 1. The application submittal deadline for the second application cycle is May 1. Applications will be processed promptly.

B. The department and the authority will provide forms for a loan application and applications must be submitted on that form. Application forms may be obtained from the department. The application shall be signed by the authorized representative and submitted to the department. Only applications that are complete will be considered for a loan. The application shall include the following:

(1) evidence of the eligibility of the applicant as a provider;

(2) a detailed description of the circumstances that demonstrate the need for the project, including:

(a) a description of how the project will benefit the health and safety of provider's clients; and

(b) number of state subsidized and low-income family clients and total number of clients of the provider;

(3) a detailed description of the project to be financed; including:

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

(b) the estimated cost of the project;

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

(d) the estimated useful life of the project and selected components, as detailed on the application form;

(e) proof of applicable licenses and certifications for the provider and the facility; and

(f) other data as requested by the department or the authority;

(4) if applicant is an entity, a copy of the applicant's formation and governance documents (e.g., articles of incorporation and bylaws) and if applicable a certificate of good standing from the public regulation commission;

(5) a letter certifying that the project was duly authorized and approved by the applicant's governing body;

(6) identification of the source funds to complete the project if the loan requested is not sufficient to cover the full cost of the project;

(7) identification of the source of funds for repayment of the loan and the source of funds to operate and maintain the project over its useful life;

(8) the applicant's financial reports for the most recent three years and/or federal and state tax returns and the applicant's projected cash flows for 3 or 5 years, depending on the amount of the requested loan;

(9) the applicant's business plan that details strategies for obtaining adequate funding and the handling of money is accompanied by a budget that balances income and expenses and demonstrates that the applicant is in compliance with all local, state and federal laws regarding the reporting of income and management of money, if the requested loan is for \$20,000 or more;

(10) written assurance that the project is allowed by the owner of the facility, if the owner is not the applicant;

(11) the requested loan payback period;

(12) information on the current and proposed services of the applicant to state-subsidized clients and low-income families;

(13) additional information as requested by the department or board.

[8.16.3.8 NMAC - Rp, 8.16.3.9 NMAC, 10/17/2005]

8.16.3.9 EVALUATION OF APPLICANT AND PROJECT:

A. Evaluations and determinations by department.

(1) The department will determine whether an application is complete.

(2) Once the application is complete, the department will evaluate the applicant and the proposed project for eligibility and make a determination as to eligibility. An eligible applicant:

(a) may be a private, for-profit or non-profit provider;

(b) may be a family home that is a licensed facility;

(c) may be a provider moving to a

new facility;

(d) must comply with all applicable federal, state, and local laws and regulations; and

(e) must meet other requirements as determined by the department.

(3) If the department determines that an applicant is eligible, the department will determine the programmatic priority for each application. Priority for loans from the fund shall be given to eligible applicants that:

(a) have facilities serving a proportionately high number of state-subsidized clients and low-income families (by statute, this factor has priority over all others);

(b) intend to use the funds to increase the capacity of the facility;

(c) are non-profit organizations;

(d) intend to use the funds to serve children with special needs;

(e) intend to use the funds to reach levels 3, 4, and 5 of the department's stars program (please refer to 8.16.2 NMAC for further details regarding the department's stars program);

(f) intend to use the funds to increase their capacity to provide care during non-traditional hours;

(g) the department may consider other factors in determining the programmatic priorities of the project, including the proposed loan structure (percentage of equity contribution), programmatic need, loan size requested, and the length of time as a provider.

(4) Upon completion of its evaluation of eligibility and determination of programmatic priority, the department will refer the applications that have been determined eligible and have been assigned a programmatic priority to the authority.

B. Financing approval by the authority.

(1) The authority will perform an independent analysis of the financial feasibility of each application for a loan. In evaluating an application the authority will consider:

(a) the ability of the eligible applicant to secure financing from other sources;

(b) the costs of the loan;

(c) the applicant's ability to repay the loan; and

(d) the applicant's ability and agreement to satisfy any other requirements for approval of the loan as the authority requires by policy or otherwise.

(2) The evaluation must include a finding that the useful life of the project will meet or exceed the final maturity of loans made or bonds purchased or issued by the board and must meet standards for reasonable costs set by the board.

(3) Restrictions on loans:

(a) An applicant shall not be given

a loan if the applicant received a loan from the fund in the immediately preceding five years.

(b) An applicant shall not be given a loan if the applicant has not completed repayment of a previous loan from the fund.

(c) No more than twenty percent of the fund available for the funding cycle may be loaned to a single provider in a single loan.

(4) The authority will make a written recommendation to the application committee setting forth its recommendations for approval of specific applications.

C. Recommendations to board by application committee. Upon receipt of the authority's recommendation the application committee shall review and evaluate the loan applications and make a recommendation to the board. The application committee will review and evaluate the applications for eligibility, programmatic priority, feasibility and readiness to proceed. The application committee may confer with outside parties as necessary to obtain more information. The application committee will make a written recommendation to the board of the applications that are eligible, feasible and ready to proceed. The recommendation will include the estimated costs of the projects and may include recommendations for loan covenants necessary to ensure programmatic integrity and adjustments to the department's programmatic prioritization of applications.

D. Approval by board. Upon receipt of the application committee's recommendation the board will act on the recommended applications and any associated loan documents or agreements no later than the next regular board meeting at which such item may be properly considered. The board may approve all or part of any application recommended or may disapprove the application and deny funding. Board approval may specify, at the board's discretion, terms and conditions of the loan as necessary to ensure repayment, including but not limited to maximum loan term and maximum annual payments. The authority will notify the applicant of the approval or disapproval of its application by telephone and will mail written notification by mail within seven (7) working days of board action.

E. Communications regarding applications. All communications regarding an applicant's original application shall be directed to the department.

F. Project feasibility. Although the department, the authority and the application committee will analyze each project to determine whether the project is feasible, a loan by the authority does not constitute a warranty or other guarantee as to the feasibility of the project and the

authority shall not have any responsibility or liability with respect to any project.

[8.16.3.9 NMAC - Rp, 8.16.3.10 NMAC, 10/17/2005]

8.16.3.10 RECONSIDERATION OF DECISIONS BY DEPARTMENT AND BOARD:

A. Decision by department as to eligibility. An applicant may request reconsideration of a contrary decision by the department as to whether it is an eligible applicant under these regulations. Notice must be given to the department in writing within ten (10) working days of receipt of the department's decision as to eligibility. A request for reconsideration not timely or properly made will be barred. The department's secretary will promptly review each timely request for reconsideration. The decision of the department secretary as to eligibility is final.

B. Decision by board as to funding. An applicant may request reconsideration of a decision by the board denying funding to an applicant by notifying the executive director of the authority in writing within forty-five (45) days of the date on which notice of an adverse decision is given by the authority to an applicant. Notice of an adverse decision is deemed to be given on the fifth business day following the date on which written notice of the adverse decision is mailed to the applicant by the authority by United States mail. A request for reconsideration is deemed to be given on the fifth business day following the date on which the request is mailed to the authority. A request for reconsideration not timely or properly made will be barred. The authority's executive director will promptly review each timely request for reconsideration and will recommend, at the next regular meeting of the board, action to be taken by the board. The board will review and take action on the request for reconsideration and will notify the applicant of the board's decision, in writing, within five (5) working days of the board's decision. The decision of the board is final.

[8.16.3.10 NMAC - Rp, 8.16.3.12 NMAC, 10/17/2005]

8.16.3.11 LOAN TERMS, DOCUMENTS AND ENFORCEMENT:

A. The authority and the eligible applicant will enter into an agreement and any other applicable documentation to establish the terms and conditions of the loan from the authority. The agreement will include the terms of repayment and sanctions available to the authority in the event of a default.

B. The board will establish the interest rate for loans. The authority will set the rate at the lowest legally permissible interest rate. The interest rate shall not

change during the term of the loan unless refinanced.

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

D. The agreement will contain a provision that the eligible applicant agrees that any contract or subcontract executed for the completion of any project shall contain a provision that there shall be no discrimination against any employee or applicant for employment because of race, color, creed, sex, religion, sexual preference, ancestry or national origin. The authority shall not be responsible for monitoring the contracts or subcontracts for inclusion of that provision or compliance with it.

E. In order to receive a loan greater than \$20,000.00 the applicant shall require any contractor of a project to post a performance and payment bond in accordance with the requirements of Section 13.4.18 NMSA 1978 and its subsequent amendments and successor provisions.

F. The authority will monitor the terms and conditions of the agreement in conjunction with the department and will enforce all terms and conditions thereof, including prompt notice and collection. The authority will take actions as necessary to ensure loan repayment and the integrity of the fund.

G. If any repayment of a loan is 30 days past due the authority and the department will report to each other and to the application committee as to the borrower's then current status as it relates to the loan, including licensure status and any reported or known violations of applicable laws or rules to which the facility is subject and any known change in financial status. If any repayment of a loan is 60 days past due the application committee shall develop a workout plan taking into account all actions, remedies and sanctions available to the department and the authority and will make recommendations to the department and the authority as needed to implement the workout plan. Any such workout plan and its implementation is in addition to and not instead of the courses of actions, remedies and sanctions available separately to the department or the authority under the act, these rules or the agreement or in any other manner available by law.

H. The department will monitor the performance of an eligible applicant under department licensure requirements and for programmatic requirements and will make the necessary site visits. The authority will not monitor the performance of an eligible applicant under department licensure requirements nor for programmatic requirements and will not

make site visits. The authority will not be responsible for any act or omission of the applicant upon which any claim, by or on behalf of any person, firm, corporation or other legal entity, may be made, arising from the loan or any establishment or modification of the project or otherwise.

I. In the event the loan recipient defaults, the authority may enforce its rights by suit or mandamus and may utilize all other available remedies under state and federal law.

J. If an eligible applicant that has received a loan ceases to maintain its provider status or ceases to provide child care to infants, toddlers and children, the state shall have the following remedies available to it:

(1) the acceleration of the loan requiring the immediate repayment of all amounts due, including all accrued and unpaid interest;

(2) any other remedies available at law or in equity.

[8.16.3.11 NMAC - Rp, 8.16.3.13 NMAC, 10/17/2005]

8.16.3.12 ADMINISTRATION OF THE CHILD CARE FACILITY REVOLVING LOAN:

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

B. Money from repayments of loans or payments on securities held by the authority for projects authorized specifically by law shall be deposited in the fund. The fund shall also consist of any other money appropriated, distributed or otherwise allocated to the fund for the purpose of financing projects authorized specifically by law.

C. The authority shall adopt a uniform accounting system for the fund and related accounts and sub-accounts established by the authority, based on generally accepted accounting principles.

[8.16.3.12 NMAC - Rp, 8.16.3.14 NMAC, 10/17/2005]

HISTORY OF 8.16.3 NMAC:

History of Repealed Material:

8.16.3 NMAC, Requirements Governing the Child Care Facility Loan Act, filed 2/15/2005 - Repealed effective 10/17/2005.

NEW MEXICO OFFICE OF THE STATE ENGINEER

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 27 UNDERGROUND**

WATER

PART 63 DECLARATION OF THE CLAYTON UNDERGROUND WATER BASIN AND EXTENSION OF THE CANADIAN RIVER UNDERGROUND WATER BASIN

19.27.63.1 ISSUING AGENCY: Office of the State Engineer.

[19.27.63.1 NMAC - N/E, 9/23/2005]

19.27.63.2 SCOPE: The appropriation and use of underground water within the Clayton underground water basin and the extended area of the Canadian river underground water basin, areas declared by the state engineer to have reasonably ascertainable boundaries.

[19.27.63.2 NMAC - N/E, 9/23/2005]

19.27.63.3 STATUTORY AUTHORITY: Chapter 72, Article 12, NMSA 1978. Section 72-1-1 NMSA 1978 provides that all natural waters flowing in streams and water courses belong to the public and are subject to appropriation for beneficial use. Section 72-2-1 NMSA 1978 gives the state engineer general supervision of waters of the state and of the measurement, appropriation and distribution thereof and such other duties as required. Section 72-2-8 NMSA 1978 gives the state engineer authority to adopt regulations and codes to implement and enforce any provision of any law administered by him and also provides the state engineer with authority to issue orders necessary to implement his decisions and to aid him in the accomplishment of his duties. Section 72-2-9 NMSA 1978 gives the state engineer authority over and supervision of the apportionment of water in this state according to the licenses issued by him and his predecessors and the adjudications of the courts.

[19.27.63.3 NMAC - N/E, 9/23/2005]

19.27.63.4 DURATION: Permanent.

[19.27.63.4 NMAC - N/E, 9/23/2005]

19.27.63.5 EFFECTIVE DATE: September 23, 2005, unless a later date is cited at the end of a section.

[19.27.63.5 NMAC - N/E, 9/23/2005]

19.27.63.6 OBJECTIVE: To establish administrative control over the appropriation and use of underground water within the Clayton underground water basin and the extended area of the Canadian river underground water basin, areas declared by the state engineer to have reasonably ascertainable boundaries.

[19.27.63.6 NMAC - N/E, 9/23/2005]

19.27.63.7 DEFINITIONS: [Reserved]

19.27.63.8 BOUNDARY DESCRIPTION OF THE CLAYTON UNDERGROUND WATER BASIN:

Beginning at the point where the eastern topographic drainage boundary of the Canadian river basin intersects the New Mexico and Colorado state line, being a point on the north line of section 21, township 32 north, range 25 east, NMPM, near state line mile corner 68; thence southerly along the east topographic drainage boundary of the Canadian river to the point common to the Carrizozo creek drainage boundary and the Ute creek drainage boundary near the northeast corner of section 16, township 27 north, range 26 east, NMPM; thence south along section line to the southeast corner of said section 16; thence easterly along the drainage boundary between Carrizozo creek and Palo Blanco creek to the southeast corner of section 14, township 27 north, range 26 east, NMPM; thence north along section line to the northeast corner of said section 14; thence east to the northeast corner of section 16, township 27 north, range 27 east, NMPM; thence south to the southeast corner of said section 16; thence east to the southeast corner of section 14, township 27 north, range 27 east, NMPM; thence south to the southeast corner of section 23, township 27 north, range 27 east, NMPM; thence east to the northeast corner of section 28, township 27 north, range 28 east, NMPM; thence south along section line west of Lonesome mountain to the southeast corner of said section 28; thence east to the northeast corner of section 36, township 27 north, range 28 east, NMPM; thence south to the southeast corner of said section 36; thence east to the northeast corner of section 6, township 26 north, range 29 east, NMPM; thence south to the southeast corner of section 7, township 26 north, range 29 east, NMPM; thence west to the southwest corner of said section 7; thence south along township line to the southwest corner of section 18, township 25 north, range 29 east, NMPM; thence east to the northwest corner of section 21, township 25 north, range 29 east, NMPM; thence south through the Don Carlos hills to the southwest corner of said section 21; thence east to the northwest corner of section 26, township 25 north, range 29 east, NMPM; thence south to the southwest corner of said section 26; thence east to the southeast corner of said section 26; thence south to northwest corner of section 13, township 24 north, range 29 east, NMPM; thence east to the northeast corner of said section 13; thence south along range line to the northwest corner of section 31, township 24 north, range 30 east, NMPM; thence east to the northeast corner of said section 31; thence south to the southeast corner of said section 31; thence east to the northeast corner of section 5, township 23 north, range

30 east, NMPM; thence south to the northwest corner of section 4, township 22 north, range 30 east, NMPM; thence east to the northeast corner of said section 4; thence south to the northwest corner of section 15, township 22 north, range 30 east, NMPM; thence east to the northwest corner of section 13, township 22 north, range 30 east, NMPM; thence south to the southwest corner of said section 13; thence east to the southeast corner of said section 13; thence in a southeasterly direction diagonally across sections 19, 29, and 33 township 22 north, range 31 east to the Union and Harding county line being the line between townships 21 north and 22 north, at the northwest corner of section 3, township 21 north, range 31 east, NMPM; thence east along said county line to the northeast corner of section 2, township 21 north, range 31 east, NMPM; thence south to the southeast corner of said section 2; thence east to the northwest corner of section 12, township 21 north, range 32 east, NMPM; thence south to the northwest corner of section 24, township 21 north, range 32 east, NMPM; thence east to the northeast corner of said section 24; thence south to the northwest corner of section 3 1, township 21 north, range 33 east, NMPM; thence east to the northeast corner of said section 31; thence south to the southeast corner of said section 31; thence east along township line to the northwest corner of section 4, township 20 north, range 33 east, NMPM; thence in a southeasterly direction diagonally across sections 4, 10, 14 and 24, township 20 north, range 33 east to the northwest corner of section 30, township 20 north, range 33 east, NMPM; thence south along Harding and Union county line, being the line between ranges 33 east and 34 east, to the northwest corner of section 18, township 19 north, range 34 east, NMPM; thence east to the northeast corner of Said section 18; thence south to the northeast corner of section 18, township 18 north, range 34 east, NMPM; thence west to the northwest corner of said section 18; thence south along Harding and Union county line and Harding and Quay county line to the southwest corner of section 6, township 17 north, range 34 east, NMPM; thence east to the northwest corner of section 10, township 17 north, range 34 east, NMPM; thence in a southeasterly direction diagonally across sections 10 and 14, township 17 north, range 34 east, NMPM, to the northwest corner of section 24, township 17 north, range 34 east, NMPM; thence east to the northeast corner of section 19, township 17 north, range 35 east, NMPM; thence to the southeast corner of said section 19; thence east to the northwest corner of section 26, township 17 north, range 35 east, NMPM; thence south to the southwest corner of said section 26;

thence east to the southeast corner of said section 26 near Kerlin hill; thence south to the southwest corner of section 36, township 17 north, range 35 east, NMPM; thence east along township line to the northwest corner of section 6, township 16 north, range 36 east, NMPM; thence south to the northwest corner of section 7, township 16 north, range 36 east, NMPM; thence east to the northeast corner of said section 7; thence south to the northwest corner of section 29, township 16 north, range 36 east, NMPM; thence east to the northeast corner of said section 29; thence south to the northwest corner of section 4, township 15 north, range 36 east, NMPM; thence east to the northeast corner of said section 4; thence south to the northwest corner of section 15, township 15 north, range 36 east, NMPM; thence in a southeasterly direction diagonally across sections 15 and 23 in township 15 north, range 36 east, NMPM, to the northwest corner of section 25, township 15 north, range 36 east, NMPM; thence south to the northwest corner of section 1, township 14 north, range 36 east, NMPM; thence in a southeasterly direction diagonally across section 1, township 14 north, range 36 east, NMPM, and section 7, township 14 north, range 37 east, NMPM, straight through the northwest corner of section 17, township 14 north, range 37 east, NMPM, to a point on the New Mexico and Texas state line; thence north along said state line to the northeast corner of the state of New Mexico; thence west along the New Mexico and Colorado state line to the eastern topographic drainage boundary of the Canadian river basin near state line mile corner 68, being a point on the north line of section 21, township 32 north, range 25 east, NMPM, being the point of origin.

[19.27.63.8 NMAC - N/E, 9/23/2005]

19.27.63.9 B O U N D A R Y DESCRIPTION OF THE EXTENDED AREA OF THE CANADIAN RIVER UNDERGROUND WATER BASIN:

Beginning at the southeast corner of section 3, township 8 north, range 24 east, a point on the existing boundary of the Fort Sumner underground water basin; thence west along section lines to the southwest corner of section 5, township 8 north, range 24 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence north along section line to the northwest corner of said section 5, a point on the existing boundary of the Fort Sumner underground water basin; thence east along section line to the southwest corner of section 32, township 9 north, range 24 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence north along section line to the northwest corner of said section 32, a point on the

existing boundary of the Fort Sumner underground water basin; thence west along section line to the southwest corner of section 30, township 9 north, range 24 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence north along range line to the northwest corner of section 19, township 9 north, range 24 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence west along section line to the southwest corner of section 13, township 9 north, range 23 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence north along section lines to the northwest corner of projected section 1, township 9 north, range 23 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence west along projected section lines to the southwest corner of projected section 31, township 10 north, range 23 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence north along projected range line to the southwest corner of projected section 18, township 10 north, range 23 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence west along projected section lines to the intersection with longitude 104°35' west, a point on the existing boundary of the Fort Sumner and upper Pecos underground water basins; thence north along longitude 104°35' west to the intersection with the Guadalupe - San Miguel county line, a point on the existing boundary of the upper Pecos underground water basin; thence west along the Guadalupe-San Miguel county line to the intersection with longitude 104°50' west, a point on the existing boundary of the upper Pecos underground water basin; thence north along longitude 104°50' west to the intersection with latitude 35°20' north, a point on the existing boundary of the upper Pecos underground water basin; thence west along latitude 35°20' north to the intersection with longitude 104°53' west, a point on the existing boundary of the upper Pecos underground water basin; thence north along longitude 104°53' west to the intersection with the northern boundary of the Antonio Ortiz grant, a point on the existing boundary of the upper Pecos underground water basin; thence west along the northern boundary of the Antonio Ortiz grant to the intersection with longitude 105°00' west, a point on the existing boundary of the upper Pecos underground water basin; thence north along longitude 105°00' west to the intersection with latitude 35°40' north, a point on the existing boundary of the upper Pecos and Canadian river underground water basins, thence east along latitude 35°40' north to the intersection with the

Mora grant boundary, a point on the existing boundary of the Canadian river underground water basin; thence south along the Mora grant Boundary to the northwest corner of section 5, township 16 north, range 21 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence east along township lines to the southwest corner of section 34, township 17 north, range 22 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence north along section line to the northwest corner of said section 34, a point on the existing boundary of the Canadian river underground water basin; thence east along section line to the northeast corner of said section 34, a point on the existing boundary of the Canadian river underground water basin; thence north along section line to the northwest corner of section 26, township 17 north, range 22 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence east along section lines to the northeast corner of section 25, township 17 north, range 22 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence north along section lines to the northwest corner of section 19, township 17 north, range 23 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence east along section lines to the northeast corner of section 21, township 17 north, range 23 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence north along section lines to the northwest corner of section 10, township 17 north, range 23 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence east along section lines to the northeast corner of section 12, township 17 north, range 25 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence north along range line to the northwest corner of section 31, township 18 north, range 26 east, NMPM, a point on the existing boundary of the Canadian river underground water basin; thence east along section lines to the northeast corner of section 32, township 18 north, range 26 east, NMPM; thence south along section lines to the northeast corner of section 8, township 17 north, range 26 east, NMPM; thence east along section lines to the intersection with longitude 104°09'45" west, a point on the north boundary of section 10, township 17 north, range 26 east, NMPM; thence south along longitude 104°09'45" west to the intersection with latitude 35°28'45" north, a point in the Pablo Montoya grant; thence west along latitude 35°28'45" north to the intersection with longitude 104°10'30"

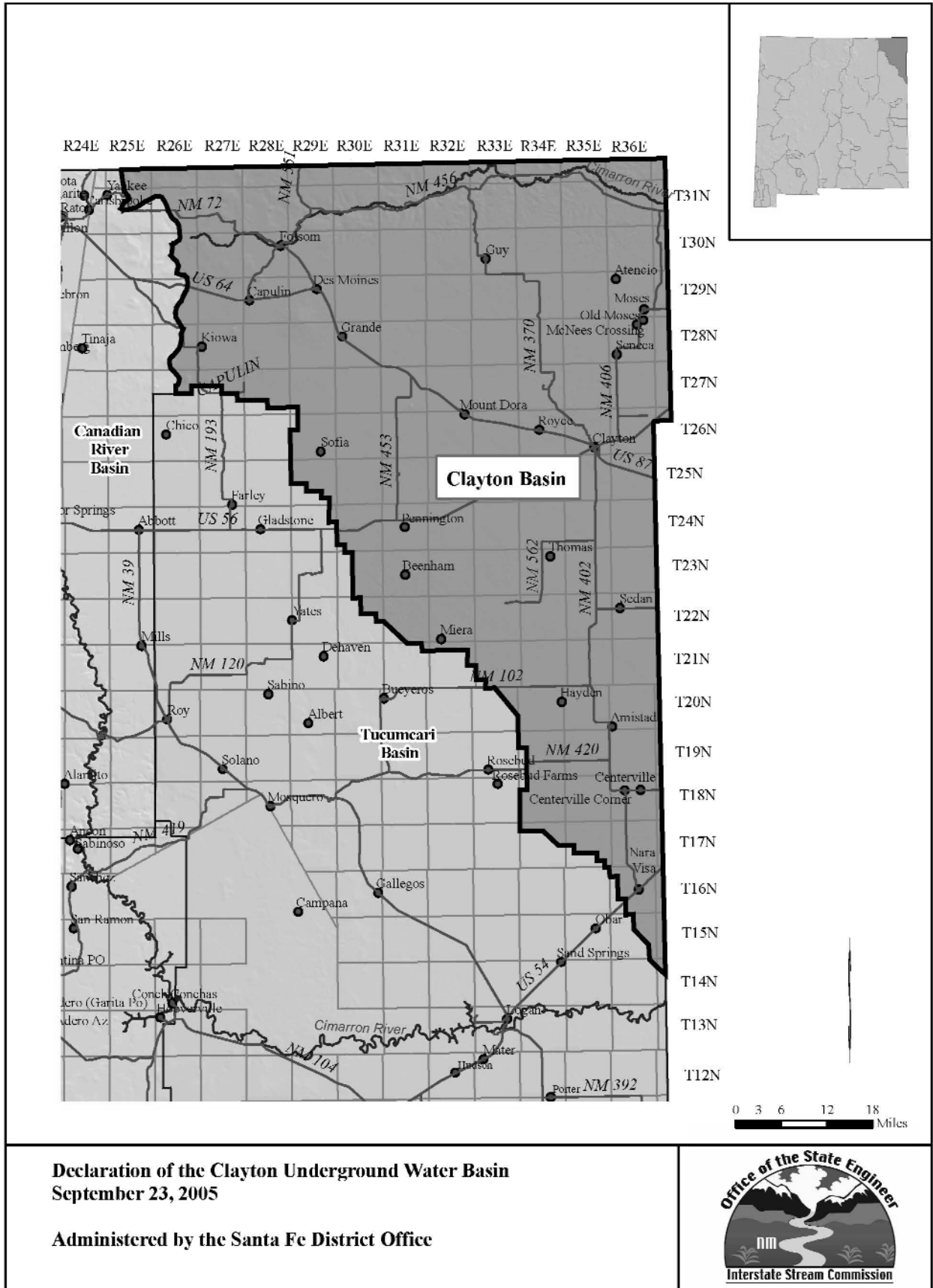
west, a point in the Pablo Montoya grant; thence south along longitude 104°10'30" west to the intersection with latitude 35°21'30" north, a point in the Pablo Montoya grant; thence west along latitude 35°21'30" north to the intersection with longitude 104°12'30" west, a point in the Pablo Montoya grant; thence south along longitude 104°12'30" west to the intersection with the north boundary of section 29, township 12 north, range 26 east, NMPM; thence east along section line to the northeast corner of said section 29; thence south along section lines to the southeast corner of section 17, township 11 north, range 26 east, NMPM; thence west along section line to the southeast corner of section 18, township 11 north, range 26 east, NMPM; thence south along section line to the southeast corner of section 19, township 11 north, range 26 east, NMPM; thence west along section lines to the southeast corner of section 23, township 11 north, range 25 east, NMPM; thence south along section line to the southeast corner of section 26, township 11 north, range 25 east, NMPM; thence west along section line to the southeast corner of section 27, township 11 north, range 25 east, NMPM; , thence south along section line to the southeast corner of section 34, township 11 north, range 25 east, NMPM; thence west along township line to the southeast corner of section 33, township 11 north, range 25 east, NMPM; thence south along section line to the southeast corner of section 4, township 10 north, range 25 east, NMPM; thence west along section line to the southeast corner of section 5, township 10 north, range 25 east, NMPM; thence south along section line to the southeast corner of section 8, township 10 north, range 25 east, NMPM; thence west along section lines to the southeast corner of section 12, township 10 north, range 24 east, NMPM; thence south along range line to the southeast corner of section 24, township 10 north, range 24 east, NMPM; thence west along section line to the southeast corner of section 23, township 10 north, range 24 east, NMPM; thence south along section lines to the southeast corner of section 35, township 10 north, range 24 east, NMPM; thence west along township line to the southeast corner of section 34, township 10 north, range 24 east, NMPM; thence south along section line to the southeast corner of section 3, township 9 north, range 24 east, NMPM; thence west along section line to the southeast corner of section 4, township 9 north, range 24 east, NMPM; thence south along section lines to the southeast corner of section 21, township 9 north, range 24 east, NMPM; thence east along section line to the northeast corner of section 27, township 9 north, range 24 east, NMPM; thence south along section lines to the southeast corner of

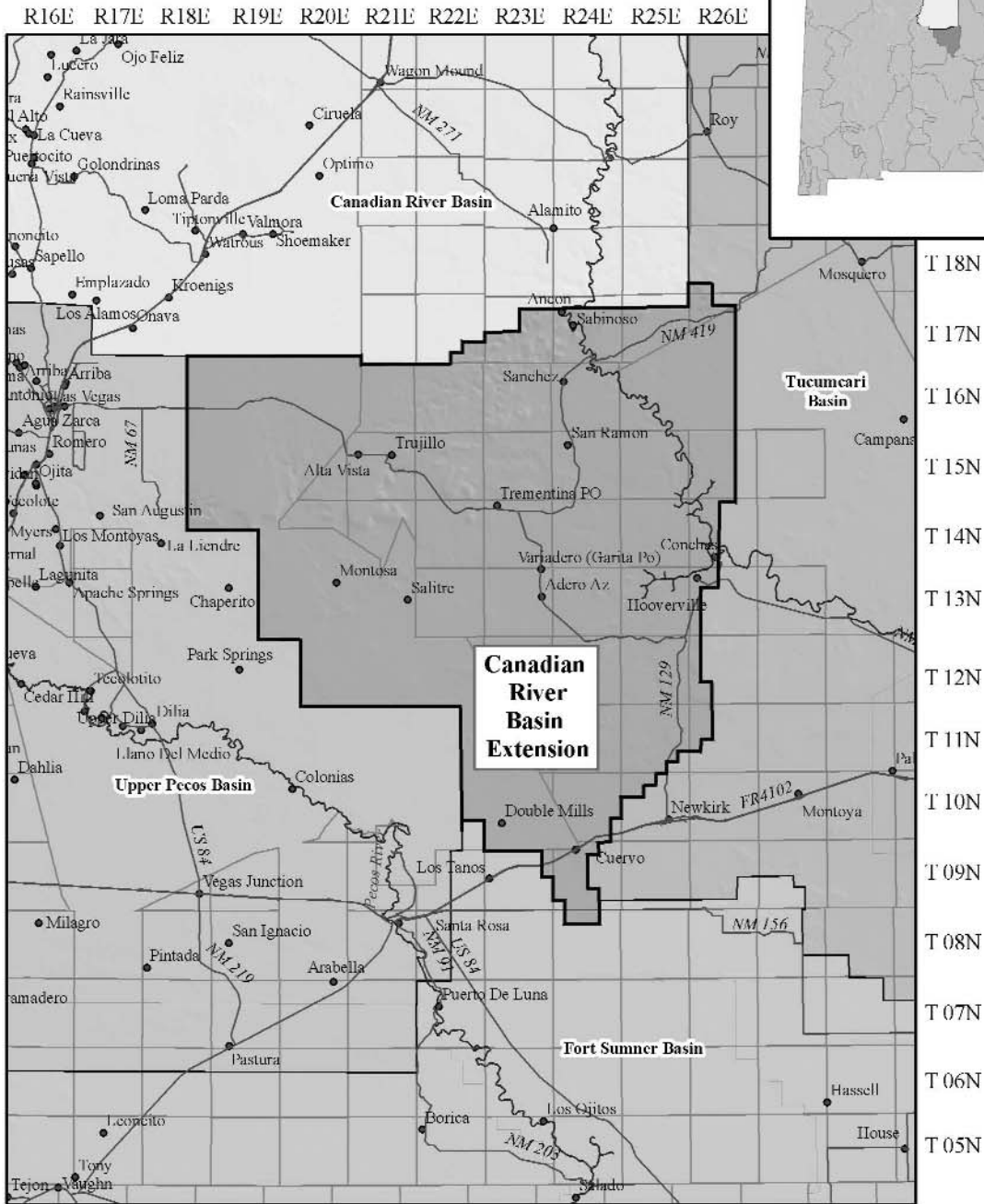
section 34, township 9 north, range 24 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence west along township line to the northeast corner of section 3, township 8 north, range 24 east, NMPM, a point on the existing boundary of the Fort Sumner underground water basin; thence south along section line to the southeast corner of said section 3, a point on the existing boundary of the Fort Sumner underground water basin, being the point of origin.

[19.27.63.9 NMAC - N/E, 9/23/2005]

HISTORY OF 19.27.63 NMAC:
[RESERVED]

[See Clayton basin map on page 1123 and Canadian river basin extension map on page 1124.]





**Extension of the Canadian River Underground Water Basin
September 23, 2005**

Administered by the Santa Fe District Office



**NEW MEXICO
OFFICE OF THE STATE
ENGINEER**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 27 UNDERGROUND
WATER
PART 64 EXTENSION OF
THE TULAROSA UNDERGROUND
WATER BASIN**

19.27.64.1 ISSUING AGENCY:
Office of the State Engineer.
[19.27.64.1 NMAC - N/E, 9/23/2005]

19.27.64.2 SCOPE: The appropriation and use of underground water within the extended area of the Tularosa underground water basin, an area declared by the state engineer to have reasonably ascertainable boundaries.
[19.27.64.2 NMAC - N/E, 9/23/2005]

**19.27.64.3 S T A T U T O R Y
AUTHORITY:** Chapter 72, Article 12, NMSA 1978. Section 72-1-1 NMSA 1978 provides that all natural waters flowing in streams and water courses belong to the public and are subject to appropriation for beneficial use. Section 72-2-1 NMSA 1978 gives the state engineer general supervision of waters of the state and of the measurement, appropriation and distribution thereof and such other duties as required. Section 72-2-8 NMSA 1978 gives the state engineer authority to adopt regulations and codes to implement and enforce any provision of any law administered by him and also provides the state engineer with authority to issue orders necessary to implement his decisions and to aid him in the accomplishment of his duties. Section 72-2-9 NMSA 1978 gives the state engineer authority over and supervision of the apportionment of water in this state according to the licenses issued by him and his predecessors and the adjudications of the courts.
[19.27.64.3 NMAC - N/E, 9/23/2005]

19.27.64.4 D U R A T I O N :
Permanent.
[19.27.64.4 NMAC - N/E, 9/23/2005]

19.27.64.5 EFFECTIVE DATE:
September 23, 2005, unless a later date is cited at the end of a section.
[19.27.64.5 NMAC - N/E, 9/23/2005]

19.27.64.6 OBJECTIVE: To establish administrative control over the appropriation and use of underground water within the extended area of the Tularosa underground water basin, an area declared by the state engineer to have reasonably ascertainable boundaries.

[19.27.64.6 NMAC - N/E, 9/23/2005]

19.27.64.7 D E F I N I T I O N S :
[Reserved]

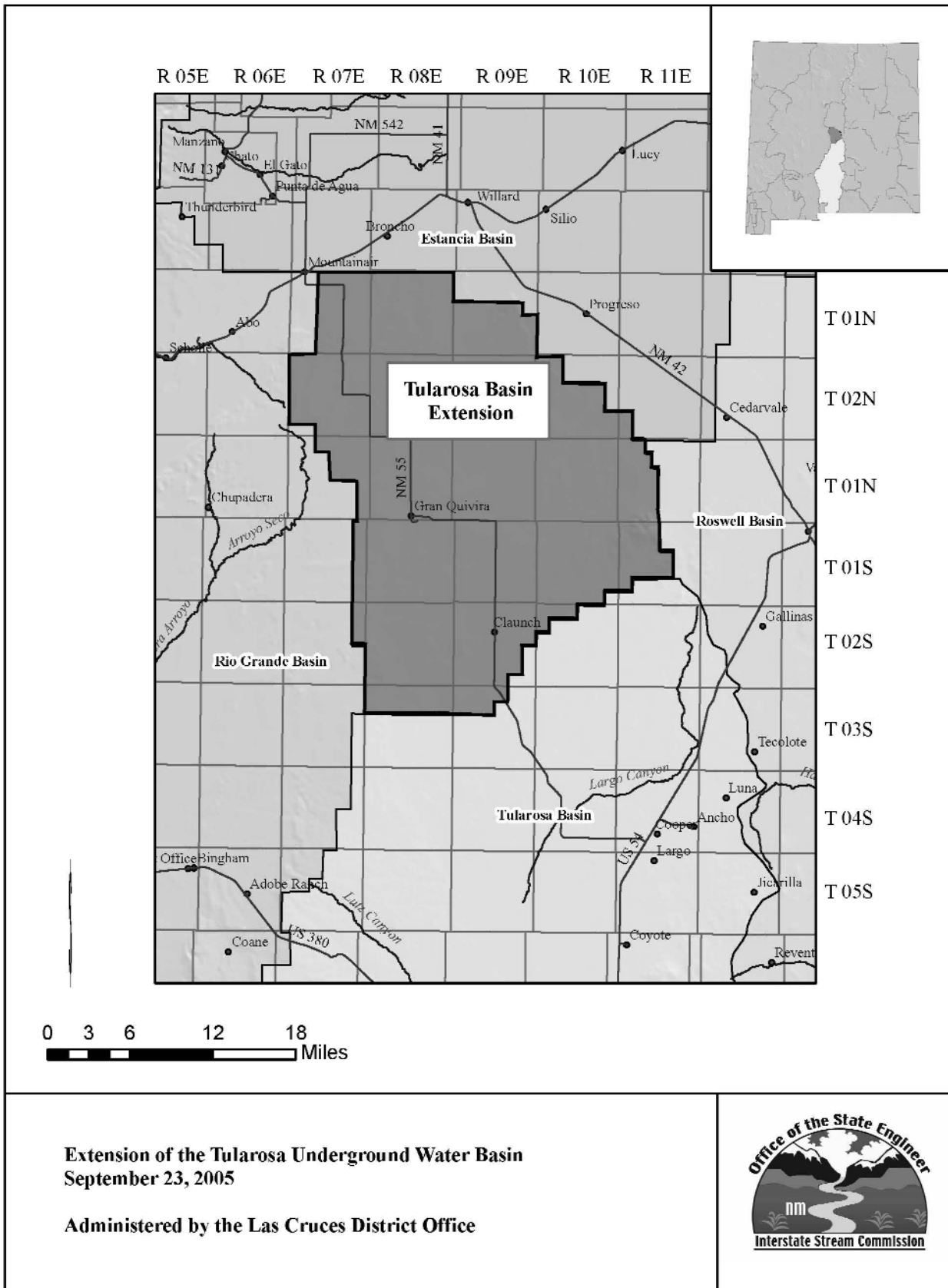
**19.27.64.8 B O U N D A R Y
DESCRIPTION OF THE EXTENDED
AREA OF THE TULAROSA UNDER-
GROUND WATER BASIN:** Beginning at the southeast corner of section 9, township 3 south, range 9 east, NMPM; thence west along section lines to the southeast corner of section 7, township 3 south, range 8 east, NMPM; thence north along range lines to the northwest corner of section 19, township 2 south, range 8 east, NMPM; thence west along section line to the southwest corner of section 13, township 2 south, range 7 east, NMPM; thence north along section line to the northwest corner of section 1, township 1 south, range 7 east, NMPM; thence east along section line to the southwest corner of section 36, township 1 north, range 7 east, NMPM; thence north along section lines to the northwest corner of section 24, township 1 north, range 7 east, NMPM; thence west along section lines to the southwest corner of section 15, township 1 north, range 7 east, NMPM; thence north along section lines to the northwest corner of section 10, township 1 north, range 7 east, NMPM; thence west along section line to the southwest corner of section 4, township 1 north, range 7 east, NMPM; thence north along section lines to the northwest corner of section 33, township 2 north, range 7 east, NMPM; thence west along section lines to the southwest corner of section 30, township 2 north, range 7 east, NMPM; thence north along range line to the northwest corner of section 6, township 2 north, range 7 east, NMPM; thence east along township line to the northeast corner of section 5, township 2 north, range 7 east, NMPM; thence north along section lines to the northwest corner of section 4, township 3 north, range 7 east, NMPM; thence east along township lines to the northeast corner of section 1, township 3 north, range 8 east, NMPM; thence south along range line to the southeast corner of section 12, township 3 north, range 8 east, NMPM; thence east along section lines to the northeast corner of section 14, township 3 north, range 9 east, NMPM; thence south along section line to the southeast corner of section 14, township 3 north, range 9 east, NMPM; thence east along section line to the northeast corner of section 24 township 3 north, range 9 east, NMPM; thence south along range line to the southeast corner of section 36, township 3 north, range 9 east, NMPM; thence east along township line to the northeast corner of section 5, township 2 north, range 10 east, NMPM; thence south along section lines to the southeast corner of section 8, township 2 north, range 10 east,

NMPM; thence east along section lines to the northeast corner of section 14, township 2 north, range 10 east, NMPM; thence south along section lines to the southeast corner of section 23, township 2 north, range 10 east, NMPM; thence east along section lines to the northeast corner of section 30, township 2 north, range 11 east, NMPM; thence south along section lines to the southeast corner of section 31, township 2 north, range 11 east, NMPM; thence east along township line to the northeast corner of section 5, township 1 north, range 11 east, NMPM; thence south along section line to the southeast corner of section 5, township 1 north, range 11 east, NMPM; thence east along section line approximately 0.5 mile to a point in the middle of the northern boundary line of section 9, township 1 north, range 11 east, NMPM; thence due south approximately one mile to a point in the middle of the southern boundary line of section 9, township 1 north, range 11 east, NMPM; thence east along section line to the northeast corner of section 16, township 1 north, range 11 east, NMPM; thence south along section lines to the southeast corner of section 9, township 1 south, range 11 east, NMPM; thence east along section line to the northeast corner of section 15, township 1 south, range 11 east, NMPM; thence south along section lines to the southeast corner of section 22, township 1 south, range 11 east, NMPM; thence west along section lines to the southwest corner of section 20, township 1 south, range 11 east, NMPM; thence south along section line to the southeast corner of section 30, township 1 south, range 11 east, NMPM; thence west along section lines to the southwest corner of section 25, township 1 south, range 10 east, NMPM; thence south along section line to the southeast corner of 35, township 1 south, range 10 east, NMPM; thence west along township line to the southwest corner of section 34, township 1 south, range 10 east, NMPM; thence south along section line to the southeast corner of section 4, township 2 south, range 10 east, NMPM; thence west along section lines to the southwest corner of section 5, township 2 south, range 10 east, NMPM; thence south along section line to the southeast corner of section 7, township 2 south, range 10 east, NMPM; thence west along section line to the southwest corner of section 7, township 2 south, range 10 east, NMPM; thence south along section line to the southeast corner of section 13, township 2 south, range 9 east, NMPM; thence west along section line to the southwest corner of section 13, township 2 south, range 9 east, NMPM; thence south along section lines to the southeast corner of section 26, township 2 south, range 9 east, NMPM; thence west along section line to the southwest corner of section 26, township 2 south, range 9 east,

NMPM; thence south along section lines to the southeast corner of section 3, township 3 south, range 9 east, NMPM; thence west along section line to the southwest corner of section 3, township 3 south, range 9 east,

NMPM; thence south along section line to the southeast corner of section 9, township 3 south, range 9 east, NMPM; being the point of origin. [19.27.64.8 NMAC - N/E, 9/23/2005]

HISTORY OF 19.27.64 NMAC: [RESERVED]



Extension of the Tularosa Underground Water Basin
September 23, 2005
Administered by the Las Cruces District Office



**NEW MEXICO
OFFICE OF THE STATE
ENGINEER**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 27 U N D E R G R O U N D
WATER**

**PART 65 D E C L A R A T I O N O F
THE MOUNT RILEY, HATCHITA,
CLOVERDALE, AND YAQUI UNDER-
GROUND WATER BASINS**

19.27.65.1 I S S U I N G A G E N C Y :
Office of the State Engineer.
[19.27.65.1 NMAC - N/E, 9/23/2005]

19.27.65.2 S C O P E : The appropri-
ation and use of underground water with-
in the Mount Riley underground water
basin, the Hatchita underground water
basin, the Cloverdale underground water
basin, and the Yaqui underground water
basin, areas declared by the state engineer
to have reasonably ascertainable bound-
aries.
[19.27.65.2 NMAC - N/E, 9/23/2005]

**19.27.65.3 S T A T U T O R Y
AUTHORITY:** Chapter 72, Article 12,
NMSA 1978. Section 72-1-1 NMSA 1978
provides that all natural waters flowing in
streams and water courses belong to the
public and are subject to appropriation for
beneficial use. Section 72-2-1 NMSA 1978
gives the state engineer general supervision
of waters of the state and of the measure-
ment, appropriation and distribution thereof
and such other duties as required. Section
72-2-8 NMSA 1978 gives the state engineer
authority to adopt regulations and codes to
implement and enforce any provision of any
law administered by him and also provides
the state engineer with authority to issue
orders necessary to implement his decisions
and to aid him in the accomplishment of his
duties. Section 72-2-9 NMSA 1978 gives
the state engineer authority over and super-
vision of the apportionment of water in this
state according to the licenses issued by him
and his predecessors and the adjudications
of the courts.
[19.27.65.3 NMAC - N/E, 9/23/2005]

19.27.65.4 D U R A T I O N :
Permanent.
[19.27.65.4 NMAC - N/E, 9/23/2005]

19.27.65.5 E F F E C T I V E D A T E :
September 23, 2005, unless a later date is
cited at the end of a section.
[19.27.65.5 NMAC - N/E, 9/23/2005]

19.27.65.6 O B J E C T I V E : To
establish administrative control over the

appropriation and use of underground water
within the Mount Riley underground water
basin, the Hatchita underground water
basin, the Cloverdale underground water
basin, and the Yaqui underground water
basin, areas declared by the state engineer
to have reasonably ascertainable bound-
aries.

[19.27.65.6 NMAC - N/E, 9/23/2005]

19.27.65.7 D E F I N I T I O N S :
[Reserved]

**19.27.65.8 B O U N D A R Y
DESCRIPTION OF THE MOUNT
RILEY UNDERGROUND WATER
BASIN:** Beginning at the southeast corner
of section 13, township 29 south, range 2
west, NMPM, a point on the border between
the United States of America and Mexico;
thence west along said international border
to the southwest corner of section 18, town-
ship 29 south, range 4 west, NMPM; thence
north along range line to the northwest cor-
ner of section 7, township 29 south, range 4
west, NMPM; thence east along section line
to the northeast corner of section 7, town-
ship 29 south, range 4 west, NMPM; thence
north along section line approximately 0.5
mile to a point in the middle of the western
boundary line of section 5, township 29
south, range 4 west, NMPM; thence east
approximately 1.0 mile to a point in the
middle of the eastern boundary line of sec-
tion 5, township 29 south, range 4 west,
NMPM; thence north along section line to
the northeast corner of section 5, township
29 south, range 4 west, NMPM; thence east
along township line to the southwest corner
of section 35, township 28 south, range 4
west, NMPM; thence north along section
lines to the northwest corner of section 14,
township 28 south, range 4 west, NMPM;
thence east along section line to the north-
east corner of section 14, township 28
south, range 4 west, NMPM; thence north
along section lines to the northwest corner
of section 36, township 27 south, range 4
west, NMPM; thence east along section line
to the northeast corner of section 36, town-
ship 27 south, range 4 west, NMPM; thence
north along range line to the northwest cor-
ner of section 30, township 27 south, range
3 west, NMPM; thence east along section
lines to the northeast corner of section 27,
township 27 south, range 2 west, NMPM;
thence south along section lines to the
southeast corner of section 10, township 28
south, range 2 west, NMPM; thence east
along section line to the northeast corner of
section 14, township 28 south, range 2 west,
NMPM; thence south along section lines to
the southeast corner of section 26, township
28 south, range 2 west, NMPM; thence east
along section line to the northeast corner of
section 36, township 28 south, range 2 west,

NMPM; thence south along range line to the
southeast corner of section 13, township 29
south, range 2 west, NMPM, a point on the
border between the United States of
America and Mexico, being the point of ori-
gin.

[19.27.65.8 NMAC - N/E, 9/23/2005]

**19.27.65.9 B O U N D A R Y
DESCRIPTION OF THE HATCHITA
UNDERGROUND WATER BASIN:** Beginning at the southeast corner of section
15, township 29 south, range 11 west,
NMPM, a point on the border between the
United States of America and Mexico;
thence west along said international border
to the southwest corner of section 18, town-
ship 29 south, range 13 west, NMPM;
thence south along said international border
to the southeast corner of section 24, town-
ship 34 south, range 14 west, NMPM;
thence west along said international border
to the southwest corner of section 21, town-
ship 34 south, range 16 west, NMPM;
thence north along section lines to the
northwest corner of section 4, township 34
south, range 16 west, NMPM; thence east
along township line to the southwest corner
of section 36, township 33 south, range 16
west, NMPM; thence north along section
lines to the northwest corner of section 1,
township 33 south, range 16 west, NMPM;
thence east along section line to the north-
east corner of section 1, township 33 south,
range 16 west, NMPM; thence north along
range lines to the southeast corner of section
36, township 29 south, range 16 west,
NMPM; thence west along township line to
the southwest corner of section 35, town-
ship 29 south, range 16 west, NMPM;
thence north along section line to the north-
west corner of section 35, township 29
south, range 16 west, NMPM; thence west
along section line to the southwest corner of
section 27, township 29 south, range 16
west, NMPM; thence north along section
lines to the northwest corner of section 22,
township 29 south, range 16 west, NMPM;
thence west along section line to the south-
west corner of section 16, township 29
south, range 16 west, NMPM; thence north
along section lines to the northwest corner
of section 4, township 29 south, range 16
west, NMPM; thence west along township
line to the southwest corner of section 31,
township 28 south, range 16 west, NMPM;
thence north along range lines to the north-
west corner of section 6, township 27 south,
range 16 west, NMPM; thence east along
township lines to the northeast corner of
section 5, township 27 south, range 13 west,
NMPM; thence south along section lines to
the southeast corner of section 8, township
27 south, range 13 west, NMPM; thence
east along section lines to the northeast cor-
ner of section 15, township 27 south, range

13 west, NMPM; thence south along section line to the southeast corner of section 15, township 27 south, range 13 west, NMPM; thence east along section lines to the northeast corner of section 24, township 27 south, range 13 west, NMPM; thence south along range line to the southeast corner of section 24, township 27 south, range 13 west, NMPM; thence east along section line to the northeast corner of section 30, township 27 south, range 12 west, NMPM; thence south along section line to the southeast corner of section 30, township 27 south, range 12 west, NMPM; thence east along section line to the northeast corner of section 32, township 27 south, range 12 west, NMPM; thence south along section line to the southeast corner of section 32, township 27 south, range 12 west, NMPM; thence east along township line to the northeast corner of section 3, township 28 south, range 12 west, NMPM; thence south along section lines to the southeast corner of section 22, township 28 south, range 12 west, NMPM; thence east along section line to the northeast corner of section 26, township 28 south, range 12 west, NMPM; thence south along section line to the southeast corner of section 26, township 28 south, range 12 west, NMPM; thence east along section lines to the northeast corner of section 31, township 28 south, range 11 west, NMPM; thence south along section line to the southeast corner of section 31, township 28 south, range 11 west, NMPM; thence east along township line to the northeast corner of section 4, township 29 south, range 11 west, NMPM; thence south along section line to the southeast corner of section 4, township 29 south, range 11 west, NMPM; thence east along section line to the northeast corner of section 10, township 29 south, range 11 west, NMPM; thence south along section line to the southeast corner of section 15, township 29 south, range 11 west, NMPM, a point on the border between the United States of America and Mexico, being the point of origin.

[19.27.65.9 NMAC - N/E, 9/23/2005]

19.27.65.10 B O U N D A R Y DESCRIPTION OF THE CLOVERDALE UNDERGROUND WATER BASIN:

Beginning at the southern boundary of section 22, township 34 south, range 19 west, NMPM, at the point of the intersection of the of the international border between the United States and Mexico with the drainage divide between the Playas valley basin and the Animas river stream system; thence west along said international border approximately 13.5 miles to the intersection of the international border with the of drainage divide between the Cloverdale basin and the Yaqui river stream system; thence northerly along the drainage

divide between the Cloverdale basin and the Yaqui river stream system to its intersection with the northwest corner of section 32, township 32 south, range 21 west, NMPM; thence due east to the mid-point of the northern boundary of section 32, township 32 south, range 21 west, NMPM; thence south one mile to the mid-point of the southern boundary of section 32, township 32 south, range 21 west, NMPM; thence east to the northeast corner of section 5, township 33 south, range 21 west, NMPM; thence south to the mid-point of the eastern boundary of section 5, township 33 south, range 21 west, NMPM; thence east to the mid-point of the eastern boundary of section 4, township 33 south, range 21 west, NMPM; thence south to the southeast corner of section 4, township 33 south, range 21 west, NMPM; thence east along section line to the northeast corner of section 10, township 33 south, range 21 west, NMPM; thence south along section line to the mid-point of the eastern boundary of section 10, township 33 south, range 21 west, NMPM; thence east to the mid-point of the eastern boundary of section 11, township 33 south, range 21 west, NMPM; thence north along section lines to the mid-point of the western boundary of section 36, township 32 south, range 21 west, NMPM; thence east to the mid-point of the eastern boundary of section 31, township 32 south, range 20 west, NMPM; thence south to the southeast corner of section 31, township 32 south, range 20 west, NMPM; thence east along township line to the northeast corner of section 2, township 33 south, range 20 west, NMPM; thence north along section line to the mid-point of the western boundary of section 36, township 32 south, range 20 west, NMPM; thence east to the mid-point of the eastern boundary of section 31, township 33 south, range 20 west, NMPM; thence south along section line to the southeast corner of section 31, township 32 south, range 19 west, NMPM; thence east along township line to the intersection with the drainage divide between the Playas valley basin and the Animas river stream system, thence southerly along said drainage divide to the intersection of the of the drainage divide with the international border between the United States and Mexico, being the point of origin.

[19.27.65.10 NMAC - N/E, 9/23/2005]

19.27.65.11 B O U N D A R Y DESCRIPTION OF THE YAQUI UNDERGROUND WATER BASIN:

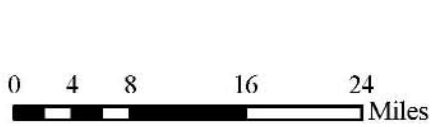
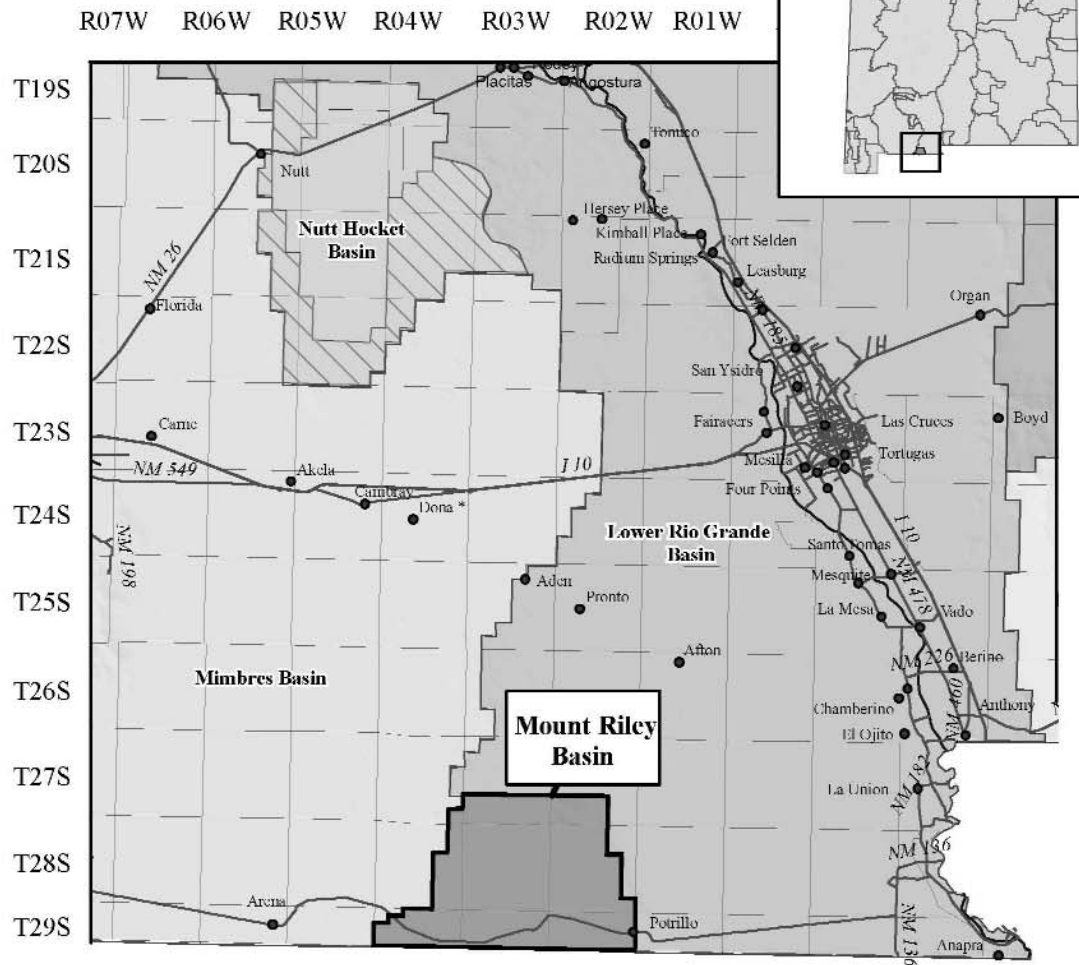
Beginning at the southern boundary of section 21, township 34 south, range 21 west, NMPM, at the point of the intersection of the of the international border between the United States and Mexico with the drainage divide between the Cloverdale basin and the


Yaqui river stream system; thence west along said international border approximately 3.7 miles to the intersection of the of the international border with the of state line between New Mexico and Arizona; thence north on the New Mexico - Arizona state line a distance of approximately 10.7 miles to its intersection with the northern boundary of projected section 35, township 32 south, range 22 west, NMPM; thence due east approximately 1.5 miles along projected section lines to the intersection with the drainage divide between the Cloverdale basin and the Yaqui river stream system; thence southeasterly along said drainage divide to the intersection with the international border between the United States and Mexico, a point on the southern boundary of section 21, township 34 south, range 21 west, NMPM, being the point of origin

[19.27.65.11 NMAC - N/E, 9/23/2005]

HISTORY OF 19.27.65 NMAC:
[RESERVED]

[See Mount Riley basin map on page 1129, Hatchita basin map on page 1130, Cloverdale basin map on page 1131 and Yaqui basin map on page 1132.]

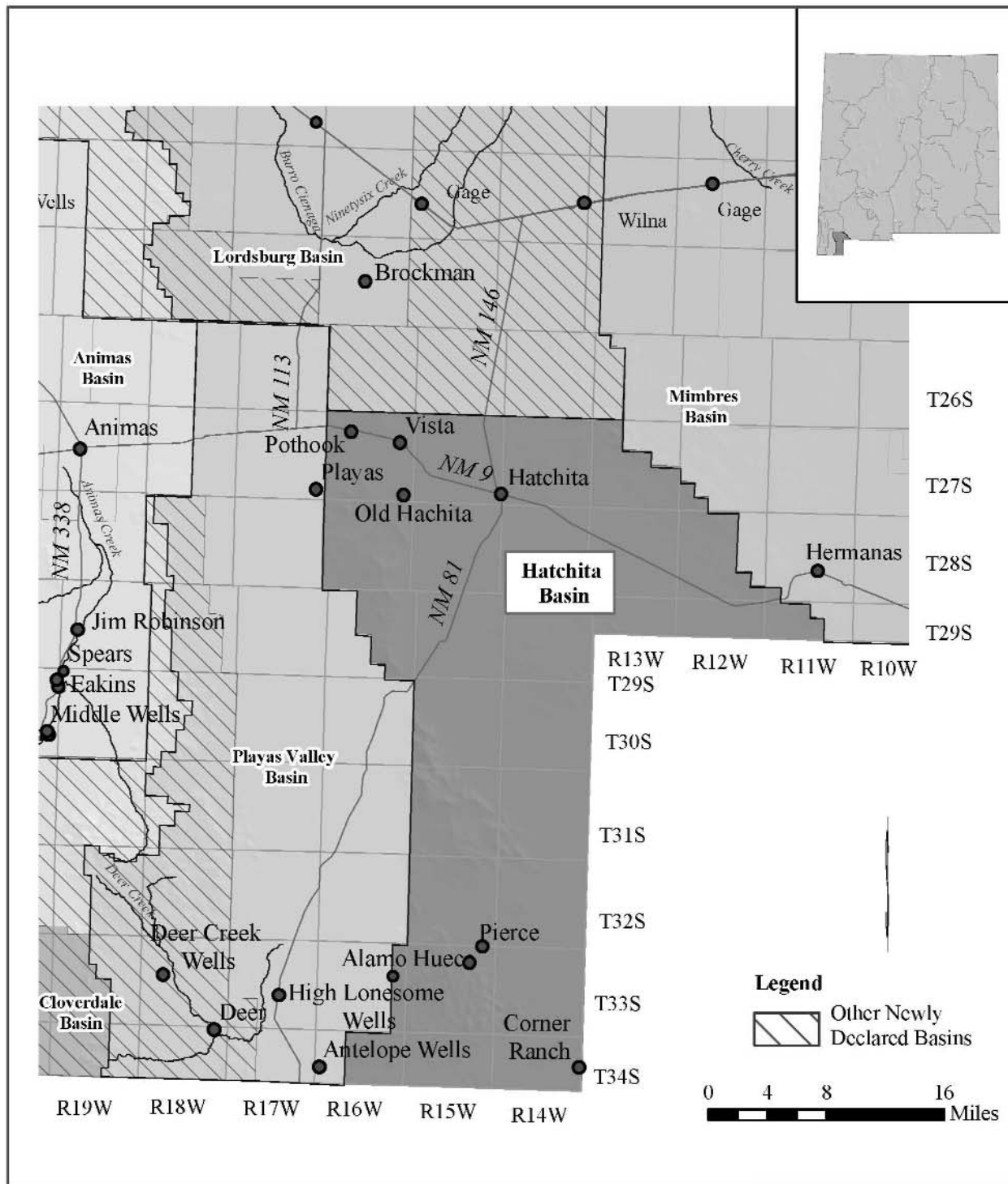


Legend
 Other Newly Declared Basins and Basin Extensions

Declaration of the Mount Riley Underwater Basin
 September 23, 2005

Administered by the Deming District Office

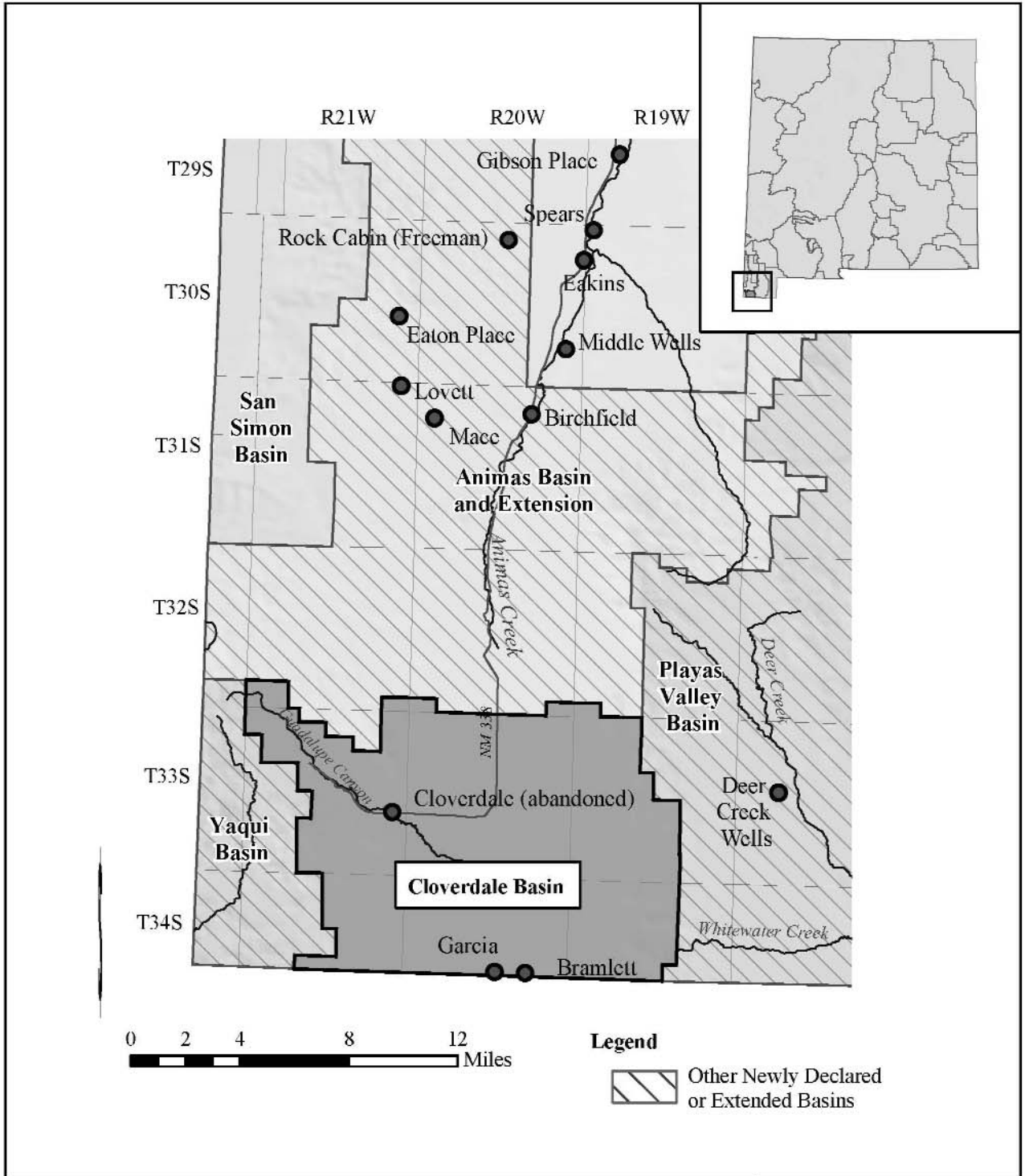




Declaration of the Hatchita Underwater Basin
September 23, 2005

Administered by the Deming District Office

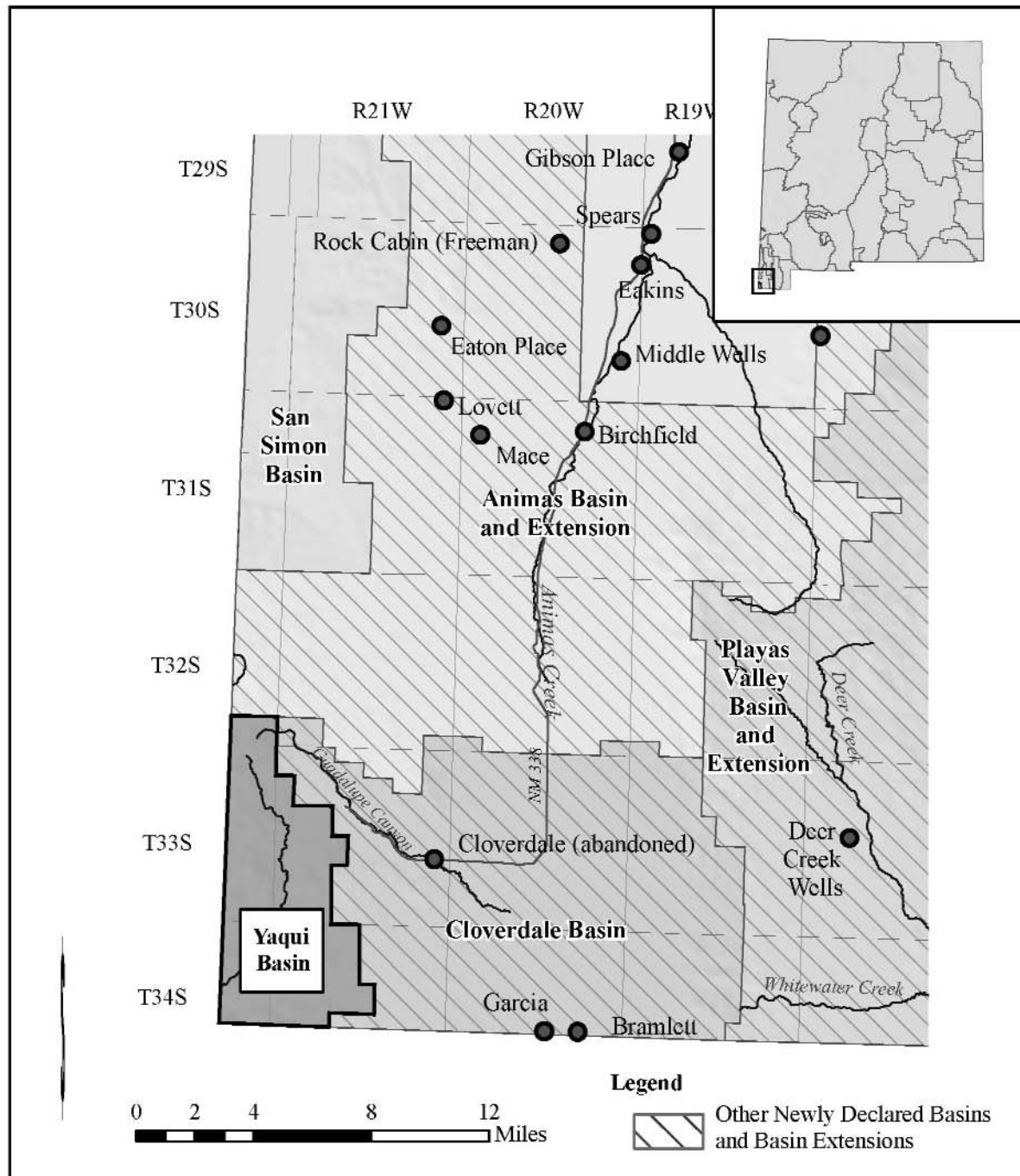




**Declaration of the Cloverdale Underground Water Basin
September 23, 2005**

Administered by the Deming District Office





**Declaration of the Yaqui Underwater Basin
September 23, 2005**

Administered by the Deming District Office



**NEW MEXICO
OFFICE OF THE STATE
ENGINEER**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 27 U N D E R G R O U N D
WATER
PART 66 E X T E N S I O N O F
THE LORDSBURG, NUTT-HOCKETT,
ANIMAS, AND PLAYAS U N D E R -
GROUND WATER BASINS**

19.27.66.1 I S S U I N G A G E N C Y :
Office of the State Engineer.
[19.27.66.1 NMAC - N/E, 9/23/2005]

19.27.66.2 S C O P E : The appropriation and use of underground water within the extended areas of the Lordsburg underground water basin, the extended areas of the Nutt-Hockett underground water basin, the extended areas of the Animas underground water basin, and the extended area of the Playas underground water basin, areas declared by the state engineer to have reasonably ascertainable boundaries.
[19.27.66.2 NMAC - N/E, 9/23/2005]

**19.27.66.3 S T A T U T O R Y
AUTHORITY:** Chapter 72, Article 12, NMSA 1978. Section 72-1-1 NMSA 1978 provides that all natural waters flowing in streams and water courses belong to the public and are subject to appropriation for beneficial use. Section 72-2-1 NMSA 1978 gives the state engineer general supervision of waters of the state and of the measurement, appropriation and distribution thereof and such other duties as required. Section 72-2-8 NMSA 1978 gives the state engineer authority to adopt regulations and codes to implement and enforce any provision of any law administered by him and also provides the state engineer with authority to issue orders necessary to implement his decisions and to aid him in the accomplishment of his duties. Section 72-2-9 NMSA 1978 gives the state engineer authority over and supervision of the apportionment of water in this state according to the licenses issued by him and his predecessors and the adjudications of the courts.
[19.27.66.3 NMAC - N/E, 9/23/2005]

19.27.66.4 D U R A T I O N :
Permanent.
[19.27.66.4 NMAC - N/E, 9/23/2005]

19.27.66.5 E F F E C T I V E D A T E :
September 23, 2005, unless a later date is cited at the end of a section.
[19.27.66.5 NMAC - N/E, 9/23/2005]

19.27.66.6 O B J E C T I V E : To establish administrative control over the appropriation and use of underground water within the extended areas of the Lordsburg underground water basin, the extended areas of the Nutt-Hockett underground water basin, the extended areas of the Animas underground water basin, and the extended area of the Playas underground water basin, areas declared by the state engineer to have reasonably ascertainable boundaries.
[19.27.66.6 NMAC - N/E, 9/23/2005]

19.27.66.7 D E F I N I T I O N S :
[Reserved]

**19.27.66.8 B O U N D A R Y
DESCRIPTION OF THE EXTENDED
AREAS OF THE LORDSBURG
UNDERGROUND WATER BASIN:** The following three areas are being added to the Lordsburg underground water basin.

**A. N o r t h e a s t e r n e x t e n -
sion:** Beginning at the southeast corner of section 32, township 26 south, range 13 west, NMPM; thence west along township lines to the southwest corner of section 31, township 26 south, range 16 west, NMPM; thence north along range line to the northwest corner of section 6, township 26 south, range 16 west, NMPM; thence east along township line to the southwest corner of section 31, township 25 south, range 15 west, NMPM; thence north along range lines to the northwest corner of section 6, township 23 south, range 15 west, NMPM; thence west along township line to the southwest corner of section 31, township 22 south, range 16 west, NMPM; thence north along range line to the northwest corner of section 19, township 22 south, range 16 west, NMPM; thence west along section lines to the southwest corner of section 18, township 22 south, range 17 west, NMPM; thence north along range line to the northwest corner of section 6, township 22 south, range 17 west, NMPM; thence west along township lines to the southwest corner of section 31, township 21 south, range 19 west, NMPM; thence north along range line to the northwest corner of section 6, township 21 south, range 19 west, NMPM; thence west along township lines to the southwest corner of section 31, township 20 south, range 19 west, NMPM; thence north along range line to the northwest corner of section 19, township 20 south, range 19 west, NMPM; thence east along section line to the northeast corner of section 19, township 20 south, range 19 west, NMPM; thence north along section line to the northwest corner of section 17, township 20 south, range 19 west, NMPM; thence east along section lines to the northeast corner of section 16, township 20 south, range 19

west, NMPM; thence north along section line to the northwest corner of section 10, township 20 south, range 19 west, NMPM; thence east along section lines to the northeast corner of section 11, township 20 south, range 19 west, NMPM; thence south along section line to the southeast corner of section 11, township 20 south, range 19 west, NMPM; thence east along section line to the northeast corner of section 13, township 20 south, range 19 west, NMPM; thence south along range line to the southeast corner of section 13, township 20 south, range 19 west, NMPM; thence east along township line to the northeast corner of section 24, township 20 south, range 18 west, NMPM; thence north along range line to the northwest corner of section 18, township 20 south, range 17 west, NMPM; thence east along section lines to the northeast corner of section 14, township 20 south, range 17 west, NMPM; thence north along section line to the northwest corner of section 12, township 20 south, range 17 west, NMPM; thence east along section lines to the northeast corner of section 12, township 20 south, range 17 west, NMPM; thence north along range line to the northwest corner of section 6, township 20 south, range 16 west, NMPM; thence east along township line to the northeast corner of section 5, township 20 south, range 16 west, NMPM; thence north along section line to the northwest corner of section 33, township 19 south, range 16 west, NMPM; thence east along section lines to the northeast corner of section 34, township 19 south, range 16 west, NMPM; thence south along section line to the southeast corner of section 34, township 19 south, range 16 west, NMPM; thence east along township line to the northeast corner of section 2, township 20 south, range 16 west, NMPM; thence south along section line to the southeast corner of section 2, township 20 south, range 16 west, NMPM; thence east along section lines to the northeast corner of section 7, township 20 south, range 15 west, NMPM; thence south along section lines to the southeast corner of section 30, township 20 south, range 15 west, NMPM; thence east along section line to the northeast corner of section 32, township 20 south, range 15 west, NMPM; thence east along section lines to the northeast corner of section 5, township 21 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 5, township 21 south, range 15 west, NMPM; thence east along section line to the northeast corner of section 9, township 21 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 9, township 21 south, range 15 west,

NMPM; thence east along section lines to the northeast corner of section 14, township 21 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 14, township 21 south, range 15 west, NMPM; thence east along section line to the northeast corner of section 24, township 21 south, range 15 west, NMPM; thence south along range line to the southeast corner of section 25, township 21 south, range 15 west, NMPM; thence east along section lines to the northeast corner of section 31, township 21 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 31, township 21 south, range 14 west, NMPM; thence east along township line to the northeast corner of section 4, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 4, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 10, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 10, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 14, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 14, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 24, township 22 south, range 14 west, NMPM; thence south along range line to the southeast corner of section 36, township 22 south, range 14 west, NMPM; thence east along township line to the northeast corner of section 6, township 23 south, range 13 west, NMPM; thence south along section lines to the southeast corner of section 31, township 25 south, range 13 west, NMPM; thence east along township line to the northeast corner of section 6, township 26 south, range 13 west, NMPM; thence south along section line to the southeast corner of section 6, township 26 south, range 13 west, NMPM; thence east along section lines to the northeast corner of section 8, township 26 south, range 13 west, NMPM; thence south along section lines to the southeast corner of section 32, township 26 south, range 13 west, NMPM, being the point of origin.

B. Southwestern extension: Beginning at the southeast corner of section 36, township 25 south, range 17 west, NMPM; thence west along township lines to the southwest corner of section 33, township 25 south, range 18 west, NMPM; thence north along section lines to the mid-point of the western boundary of section 28, township 25 south, range 18 west, NMPM; thence due west to the center of section 29, township 25 south, range 18 west, NMPM; thence due north to the mid-point of the

northern boundary of said section 29, then west along section line to the southwest corner of section 20, township 25 south, range 18 west, NMPM; thence north along section lines to the mid-point of the western boundary of section 17, township 25 south, range 18 west, NMPM; thence due west to the center of section 18, township 25 south, range 18 west, NMPM; thence due north to the mid-point of the northern boundary of said section 18, thence west along section line to the southwest corner of section 7, township 25 south, range 18 west, NMPM; thence north along range line to the northwest corner of said section 7, thence east along section line to the mid-point of the northern boundary of said section 7, thence due north to the center of section 31, township 24 south, range 18 west, NMPM; thence due east to the center of section 32, township 24 south, range 18 west, NMPM; thence due north to the mid-point of the northern boundary of said section 32, thence east along section lines to the northeast corner of section 33, township 24 south, range 18 west, NMPM; thence south along section line to the southeast corner of said section 33, thence east along township line to the northeast corner of section 1, township 25 south, range 18 west, NMPM; thence south along range line to the southeast corner of section 13, township 25 south, range 18 west, NMPM; thence east along section lines to the northeast corner of section 24, township 25 south, range 17 west, NMPM; thence south along range line to the southeast corner of section 36, township 25 south, range 17 west, NMPM, being the point of origin.

C. Western extension: Beginning at the southeast corner of section 21, township 24 south, range 18 west, NMPM; thence west along section line to the mid-point of the southern boundary of said section 21, thence due north to the center point of said section 21, thence west to the mid-point of the western boundary of said section 21, thence north along section lines to the mid-point of the western boundary of section 9, township 24 south, range 18 west, NMPM; thence due west to the center point of section 8, township 24 south, range 18 west, NMPM; thence due north to the center point of section 5, township 24 south, range 18 west, NMPM; thence due west to the mid-point of the western boundary of said section 5, thence north along section line to the northwest corner of said section 5, thence west along township lines to the southwest corner of section 36, township 23 south, range 19 west, NMPM; thence north along section line to the mid-point of the western boundary of said section 36, thence due west to the center point of section 35, township 24 south, range 19 west, NMPM; thence due north to the mid-

point of the northern boundary of section 26, township 24 south, range 19 west, NMPM; thence east along section line to the northeast corner of said section 26, thence north along section line to the northwest corner of section 24, township 24 south, range 19 west, NMPM; thence east along section line to the mid-point of the northern boundary of said section 24, thence north to the mid-point of the northern boundary of section 12, township 24 south, range 19 west, NMPM; thence west along section line to the southwest corner of section 1, township 24 south, range 19 west, NMPM; thence north along section line to the northwest corner of said section 1, thence east along township line to the northeast corner of said section 1, thence south along range line to the southeast corner of said section 1, thence east along sections lines to the northeast corner of section 8, township 24 south, range 18 west, NMPM; thence south along section lines to the southeast corner of section 17, township 24 south, range 18 west, NMPM; thence east along section line to the northeast corner of section 21, township 24 south, range 18 west, NMPM; thence south along section line to the southeast corner of section 21, township 24 south, range 18 west, NMPM, being the point of origin.

[19.27.66.8 NMAC - N/E, 9/23/2005]

19.27.66.9 B O U N D A R Y DESCRIPTION OF THE EXTENDED AREAS OF THE NUTT-HOCKETT UNDERGROUND WATER BASIN: The following two areas are being added to the Nutt-Hockett underground water basin.

A. Main extension (south, east, and west): Beginning at the southeast corner of section 35, township 22 south, range 5 west, NMPM; thence west along township lines to the southwest corner of section 36, township 22 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 12, township 22 south, range 6 west, NMPM; thence west along section line to the southwest corner of section 2, township 22 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 23, township 21 south, range 6 west, NMPM; thence west along section line to the southwest corner of section 15, township 21 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 3, township 21 south, range 6 west, NMPM; thence east along section lines to the northeast corner of section 2, township 21 south, range 6 west, NMPM; thence south along section lines to the southeast corner of section 14, township 21 south, range 6 west, NMPM; thence east along section line to the northeast corner of section 24, township 21 south, range 6 west, NMPM; thence south along section lines to

the southeast corner of section 36, township 21 south, range 6 west, NMPM; thence east along section line to the northeast corner of section 6, township 22 south, range 5 west, NMPM; thence south along section lines to the southeast corner of section 18, township 22 south, range 5 west, NMPM; thence east along section lines to the northeast corner of section 23, township 22 south, range 5 west, NMPM; thence north along section line to the northwest corner of section 13, township 22 south, range 5 west, NMPM; thence east along section line to the northeast corner of section 13, township 22 south, range 5 west, NMPM; thence north along section lines to the northwest corner of section 31, township 20 south, range 4 west, NMPM; thence east along section line to the northeast corner of section 31, township 20 south, range 4 west, NMPM; thence north along section line to the northwest corner of section 29, township 20 south, range 4 west, NMPM; thence east along section line to the northeast corner of section 29, township 20 south, range 4 west, NMPM; thence north along section lines to the northwest corner of section 21, township 20 south, range 4 west, NMPM; thence east along section line to the northeast corner of section 21, township 20 south, range 4 west, NMPM; thence north along section line to a point on the east section line of section 15, township 20 south, range 4 west, NMPM; thence south easterly along the drainage divide between the Nutt-Hockett basin and the Rio Grande stream system to its intersection with the northern boundary of section 22, township 21 south, range 3 west, NMPM; thence west along section lines to the southwest corner of section 23, township 21 south, range 4 west, NMPM; thence south along section lines to the northeast corner of section 3, township 22 south, range 4 west, NMPM; thence east along section lines to the northwest corner of section 4, township 22 south, range 4 west, NMPM; thence south along section lines to the southeast corner of section 8, township 22 south, range 4 west, NMPM; thence west along section line to the southwest corner of section 8, township 22 south, range 4 west, NMPM; thence south along section line to the southeast corner of section 18, township 22 south, range 4 west, NMPM; thence west along section line to the southwest corner of section 18, township 22 south, range 4 west, NMPM; thence south along section lines to the southeast corner of section 25, township 22 south, range 5 west, NMPM; thence west along section line to the southwest corner of section 25, township 22 south, range 5 west, NMPM; thence south along section line to the southeast corner of section 35, township 22 south, range 5 west, NMPM, being the point of origin.

B. Northwestern exten-

sion of underground basin: Beginning at the southeast corner of section 12, township 20 south, range 6 west, NMPM; thence west along section lines to the southwest corner of section 11, township 20 south, range 6 west, NMPM; thence south along section lines to the southeast corner of section 27, township 20 south, range 6 west, NMPM; thence west along section line to the southwest corner of section 27, township 20 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 22, township 20 south, range 6 west, NMPM; thence east along section line approximately one half mile to the middle of the southern boundary line of section 15, township 20 south, range 6 west, NMPM; thence due north one mile to the intersection with the northern boundary of section 15, township 20 south, range 6 west, NMPM; thence east along section line to the southwest corner of section 11, township 20 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 23, township 19 south, range 6 west, NMPM; thence east along section lines to the northeast corner of section 19, township 19 south, range 5 west, NMPM; thence south along section lines to the southeast corner of section 6, township 20 south, range 5 west, NMPM; thence west along section line to the southwest corner of section 6, township 20 south, range 5 west, NMPM; thence south along section line to the southeast corner of section 12, township 20 south, range 6 west, NMPM, being the point of origin.

[19.27.66.9 NMAC - N/E, 9/23/2005]

19.27.66.10 B O U N D A R Y DESCRIPTION OF THE EXTENDED AREA OF THE PLAYAS UNDERGROUND WATER BASIN: Beginning at the southeast corner of section 20, township 34 south, range 17 west, NMPM, a point on the border between the United States of America and Mexico; thence west along said border a distance of approximately 10.5 miles to the intersection of the of the international border with the of drainage divide between the Playas valley basin and the Animas river stream system; thence northerly along the drainage divide between the Playas valley basin and the Animas river stream system to its intersection with the northern boundary of section 6, township 28 south, range 18 west, NMPM; thence east along township line to the northeast corner of section 3, township 28 south, range 18 west, NMPM; thence south along section lines to the southeast corner of section 34, township 28 south, range 18 west, NMPM; thence east along township line to the northeast corner of section 3, township 29 south, range 18 west, NMPM; thence south along section lines to the southeast corner of sec-

tion 10, township 29 south, range 18 west, NMPM; thence east along section line to the northeast corner of section 14, township 29 south, range 18 west, NMPM; thence south along section lines to the southeast corner of section 35, township 29 south, range 18 west, NMPM; thence east along township line to the northeast corner of section 1, township 30 south, range 18 west, NMPM; thence south along range lines to the southeast corner of section 24, township 33 south, range 18 west, NMPM; thence east along section lines to the northeast corner of section 29, township 33 south, range 17 west, NMPM; thence south along section lines to the southeast corner of section 20, township 34 south, range 17 west, NMPM, a point on the border between the United States of America and Mexico, being the point of origin.

[19.27.66.10 NMAC - N/E, 9/23/2005]

19.27.66.11 B O U N D A R Y DESCRIPTION OF THE EXTENDED AREAS OF THE ANIMAS UNDERGROUND WATER BASIN: The following three areas are being added to the Animas underground water basin.

A. Upper Animas extension: Beginning at the intersection of the southern boundary of section 33, township 32 south, range 19 west, NMPM, with the drainage divide between the Playas valley basin and the Animas river stream system; thence west along township line to the southwest corner of section 32, township 32 south, range 19 west, NMPM; thence north along section line one-half mile to the mid-point of the western boundary of said section 32, thence west to the mid-point of the western boundary of section 36, township 32 south, range 20 west, NMPM; thence south along section line to the southwest corner of section 36, township 32 south, range 20 west, NMPM; thence west along township line to the southwest corner of section 32, township 32 south, range 20 west, NMPM; thence north along section line one-half mile to the mid-point of the western boundary of said section 32, thence due west to the mid-point of the eastern boundary of section 35, township 32 south, range 21 west, NMPM; thence south along section lines to the mid-point of the eastern boundary of section 11, township 33 south, range 21 west, NMPM; thence due west to the mid-point of the western boundary of said section, thence north along section line to the northwest corner of said section, thence west along section line to the southwest corner of section 3, township 33 south, range 21 west, NMPM; thence north along section line one-half mile to the mid-point of the western boundary of section 3, township 33 south, range 21 west, NMPM; thence due west to the mid-point of the

western boundary of section 4, township 33 south, range 21 west, NMPM; thence north along section line to the northwest corner of said section 4, thence west along township line one-half mile to the mid-point of the southern boundary of section 32, township 32 south, range 21 west, NMPM; thence due north to the midpoint of the northern boundary of said section 32, then west along section lines and projected section lines to the intersection with the state line between the states of Arizona and New Mexico, thence north along said state line to its intersection with the southwest corner of section 35, township 31 south, range 22 west, NMPM; thence east along township line to the northeast corner of section 4, township 32 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 22, township 31 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 16, township 31 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 28, township 30 south, range 21 west, NMPM; thence east along section line to the northeast corner of said section 28, then north along section line to the northwest corner of section 22, township 30 south, range 21 west, NMPM; thence east along section line to the northeast corner of said section 22, thence north along section lines to the northwest corner of section 26, township 29 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 22, township 29 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 3, township 29 south, range 21 west, NMPM; thence east along township line to the southwest corner of section 36, township 28 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 24, township 28 south, range 21 west, NMPM; thence east along section lines to the northeast corner of section 19, township 28 south, range 20 west, NMPM; thence north along section lines to the northwest corner of section 8, township 28 south, range 20 west, NMPM; thence east along section line to the northeast corner of said section 8, then north along section line to the northwest corner of section 4, township 28 south, range 20 west, NMPM; thence east along township line to the northeast corner of section 3, township 28 south, range 20 west, NMPM; thence south along section lines to the southeast corner of section 34, township 28 south, range 20 west, NMPM; thence east along township line to the northeast corner of section 3, township 29 south, range 20 west, NMPM; thence south along section lines to the southeast corner of section 34, township 30 south, range 20 west, NMPM; thence east along

township line to the northeast corner of section 1, township 31 south, range 19 west, NMPM; thence north along range line to the northwest corner of section 6, township 29 south, range 18 west, NMPM; thence west along range line to the southwest corner of section 31, township 28 south, range 18 west, NMPM; thence north along township line to the northwest corner of section 6, township 28 south, range 18 west, NMPM; thence east approximately one-half mile along township line to the intersection of the township line with the drainage divide between the Playas valley basin and the Animas river stream system, thence southerly along the drainage divide between the Playas valley basin and the Animas river stream system to its intersection with the southern boundary of section 33, township 32 south, range 19 west, NMPM, being the point of origin.

B. Lower Animas extension: Beginning at the southeast corner of section 32, township 25 south, range 18 west, NMPM; thence west along township line to the southwest corner of section 33, township 25 south, range 19 west, NMPM; thence north along section lines to the northwest corner of section 4, township 24 south, range 19 west, NMPM; thence west along township line to the southwest corner of section 31, township 23 south, range 20 west, NMPM; thence south along range line to the southeast corner of section 36, township 25 south, range 21 west, NMPM; thence west along township line to the northeast corner of section 2, township 26 south, range 21 west, NMPM; thence south along section line to the southeast corner of section 2, township 26 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 2, township 26 south, range 21 west, NMPM; thence north along section line to the northwest corner of section 2, township 26 south, range 21 west, NMPM; thence east along township line to the southwest corner of section 36, township 25 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 13, township 25 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 11, township 25 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 11, township 24 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 3, township 24 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 34, township 23 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 28, township 23 south, range 21 west, NMPM; thence north along section lines to the northwest corner of section 9,

township 23 south, range 21 west, NMPM; thence west along section line to the southwest corner of section 6, township 23 south, range 21 west, NMPM; thence north along the New Mexico-Arizona state line to the northwest corner of section 6, township 22 south, range 21 west, NMPM; thence east along township line to the northeast corner of section 6, township 22 south, range 21 west, NMPM; thence north along section line to the northwest corner of section 32, township 21 south, range 21 west, NMPM; thence east along section line to the northeast corner of section 32, township 21 south, range 21 west, NMPM; thence north along section line to the northwest corner of section 28, township 21 south, range 21 west, NMPM; thence east along section line to the northeast corner of section 28, township 21 south, range 21 west, NMPM; thence north along section line to the northwest corner of section 22, township 21 south, range 21 west, NMPM; thence east along section line to the northeast corner of section 22, township 21 south, range 21 west, NMPM; thence north along section line to the northwest corner of section 14, township 21 south, range 21 west, NMPM; thence east along section lines to the northeast corner of section 13, township 21 south, range 21 west, NMPM; thence north along range line to the northwest corner of section 6, township 21 south, range 20 west, NMPM; thence east along township line to the southwest corner of section 32, township 20 south, range 20 west, NMPM; thence north along section line to the northwest corner of section 32, township 20 south, range 20 west, NMPM; thence east along section line to the northeast corner of section 32, township 20 south, range 20 west, NMPM; thence north along section line to the northwest corner of section 28, township 20 south, range 20 west, NMPM; thence east along section line to the northeast corner of section 28, township 20 south, range 20 west, NMPM; thence north along section line to the northwest corner of section 22, township 20 south, range 20 west, NMPM; thence east along section lines to the northeast corner of section 24, township 20 south, range 20 west, NMPM; thence south along section lines to the southeast corner of section 36, township 20 south, range 20 west, NMPM; thence east along section lines to the northeast corner of section 1, township 21 south, range 20 west, NMPM; thence south along range line to the southeast corner of section 36, township 22 south, range 20 west, NMPM; thence east along township line to the northeast corner of section 2, township 23 south, range 19 west, NMPM; thence south along section line to the southeast corner of said section 2, thence east along section line to the midpoint of the northern boundary of section

12, township 23 south, range 19 west, NMPM; thence due south to the mid-point of the southern boundary of section 13, township 23 south, range 19 west, NMPM; thence west along section line to the southwest corner of said section 13, thence south along section line to the southeast corner of section 23, township 23 south, range 19 west, NMPM; thence west along section line to the mid-point of the southern boundary of section 23, township 23 south, range 19 west, NMPM; thence due south to the center point of section 35, township 23 south, range 19 west, NMPM; thence due east to the mid-point of the eastern boundary of said section 35, thence south along section line to the southeast corner of said section 35, thence east along township line to the northeast corner of section 6, township 24 south, range 18 west, NMPM; thence south along section line to the mid-point of the eastern boundary of said section 6, thence due east to the center point of section 5, township 24 south, range 18 west, NMPM; thence due south to the center point of section 8, township 24 south, range 18 west, NMPM; thence due east to the mid-point of the eastern boundary of said section 8, thence south along section lines to the mid-point of the eastern boundary of section 20, township 24 south, range 18 west, NMPM; thence due east to the center point of section 21, township 24 south, range 18 west, NMPM; thence due south to the mid-point of the southern boundary of said section 21, thence east along section line to the northeast corner of section 28, township 24 south, range 18 west, NMPM; thence south along section line to the southeast corner of said section 28, thence west along section lines to the mid-point of the southern boundary of section 29, township 24 south, range 18 west, NMPM; thence due south to the center point of section 32, township 24 south, range 18 west, NMPM; thence due west to the center point of section 31, township 24 south, range 18 west, NMPM; thence south to the mid-point of the southern boundary of section 6, township 25 south, range 18 west, NMPM; thence west along section line to the southwest corner of said section 6, thence south along range line to the southeast corner of section 12, township 25 south, range 19 west, NMPM; thence east along section line to the mid-point of the northern boundary of section 18, township 25 south, range 18 west, NMPM; thence due south to the center point of said section 18, thence due east to the mid-point of the eastern boundary of said section 18, thence south along section lines to the southeast corner of section 19, township 25 south, range 18 west, NMPM; thence east along section line to the mid-point of the northern boundary of section

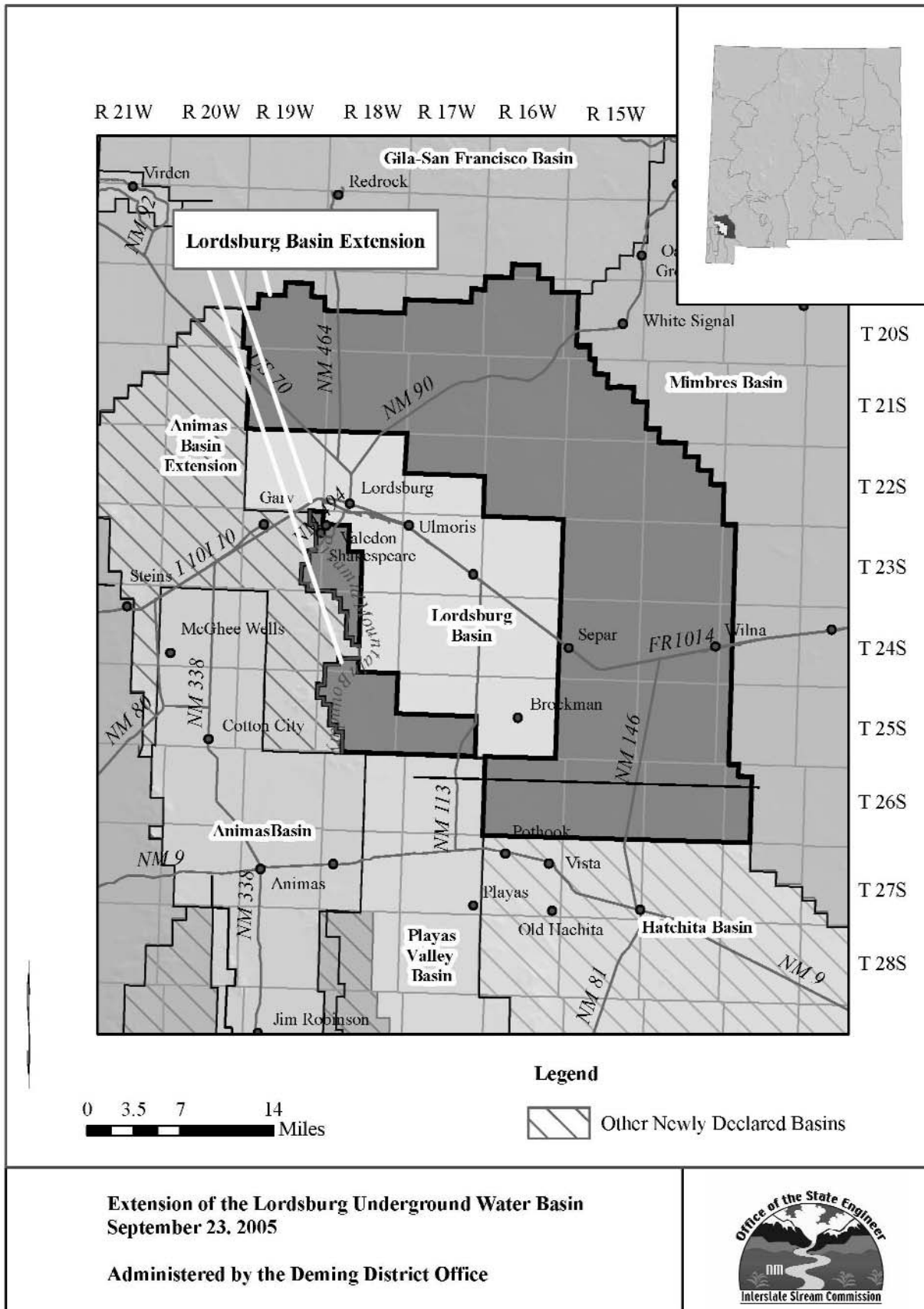
29, township 25 south, range 18 west, NMPM; thence due south to the center point of said section 29, thence due east to the mid-point of the eastern boundary of said section 29, thence south along section lines to the southeast corner of section 32, township 25 south, range 18 west, NMPM, being the point of origin.

C. Lower Animas extension (additional section): The Animas underground water basin is extended to include section 1 of township 27 south, range 21 west, NMPM.

[19.27.66.11 NMAC - N/E, 9/23/2005]

HISTORY OF 19.27.66 NMAC:
[RESERVED]

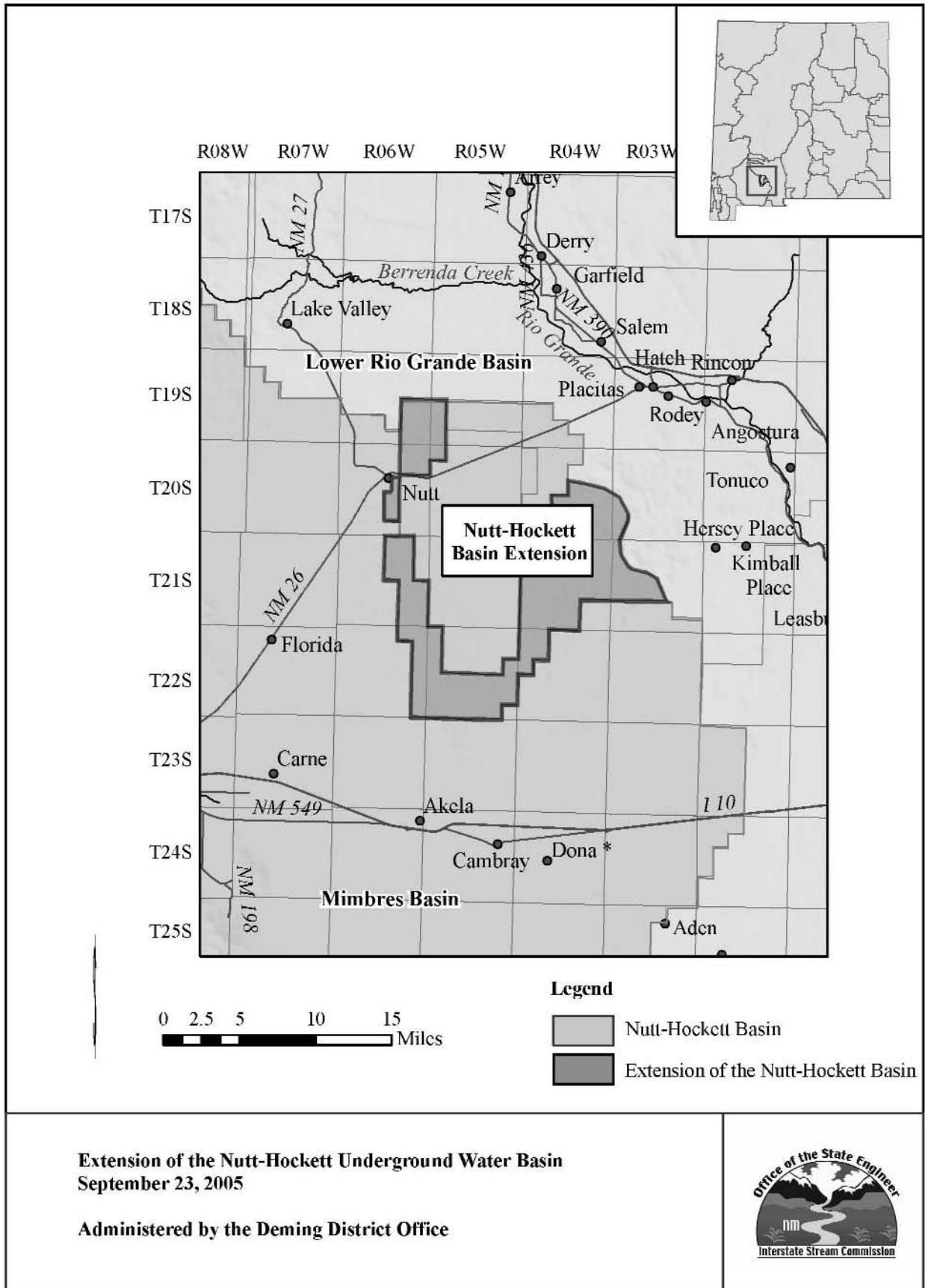
[See Lordsburg basin extension map on page 1138, Nutt-Hockett basin extension map on page 1139, Upper Animas basin extension map on page 1140, Lower Animas basin extension map on page 1141 and Playas basin extension map on page 1142.]

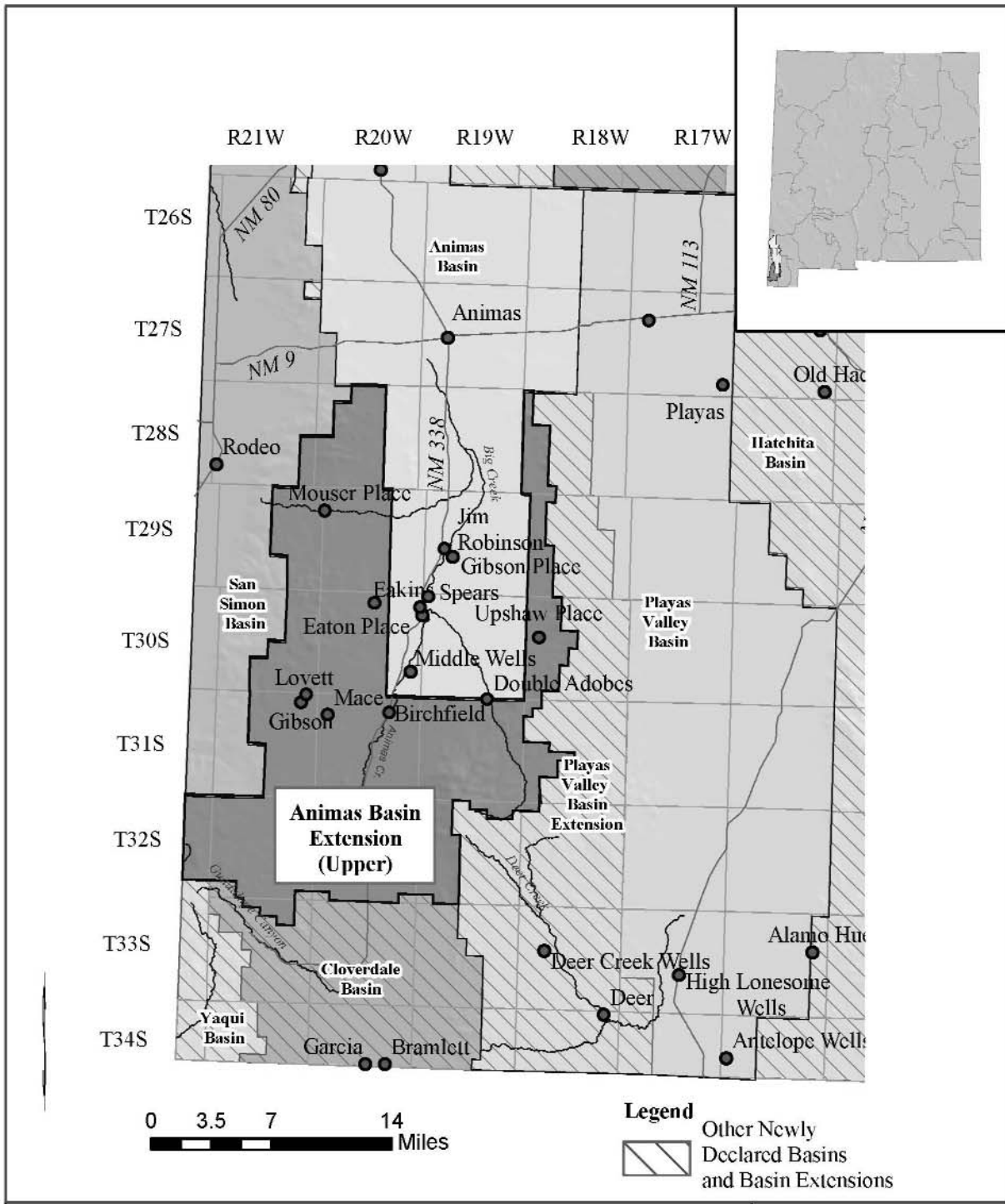


Extension of the Lordsburg Underground Water Basin
September 23, 2005

Administered by the Deming District Office



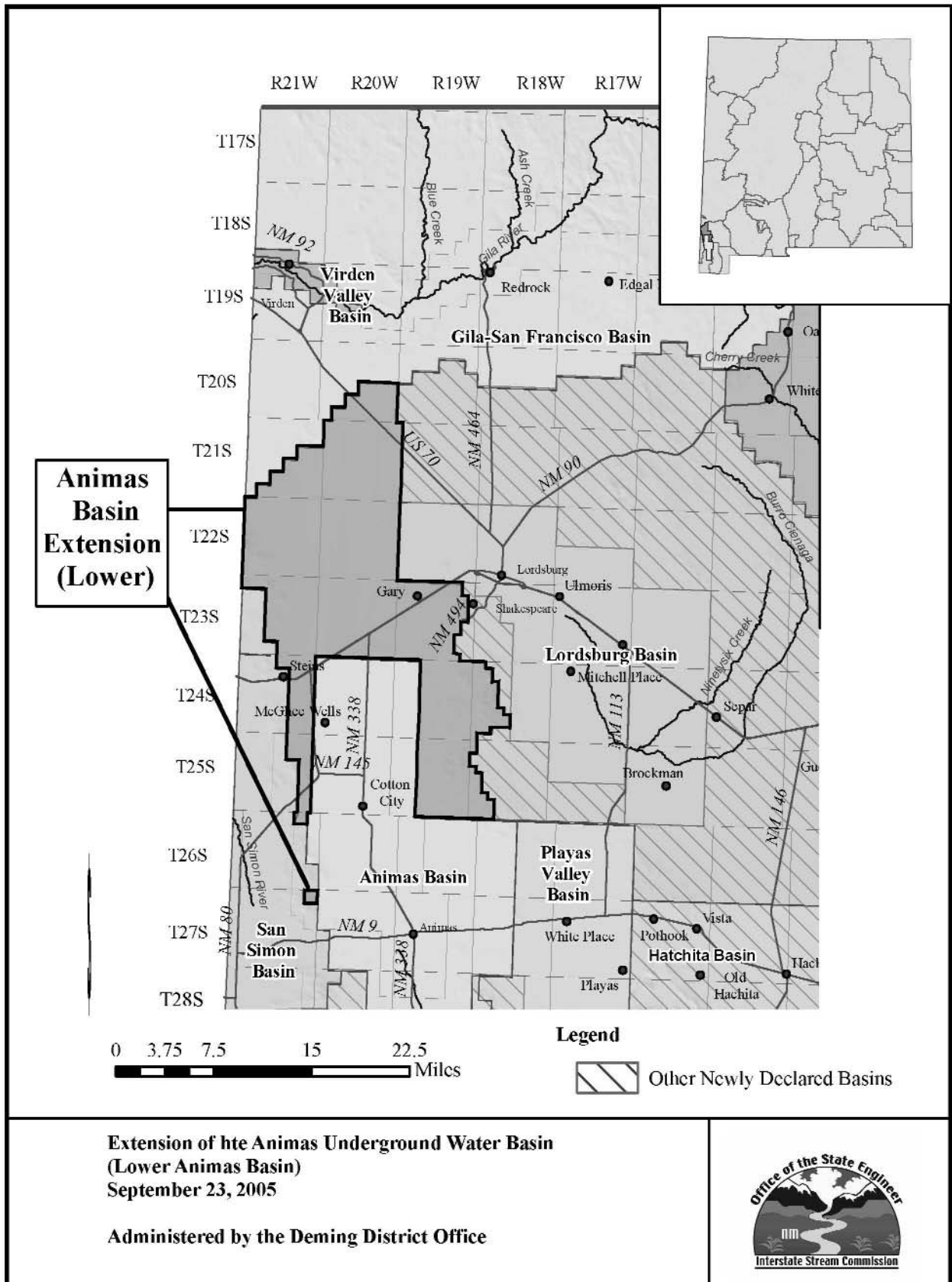


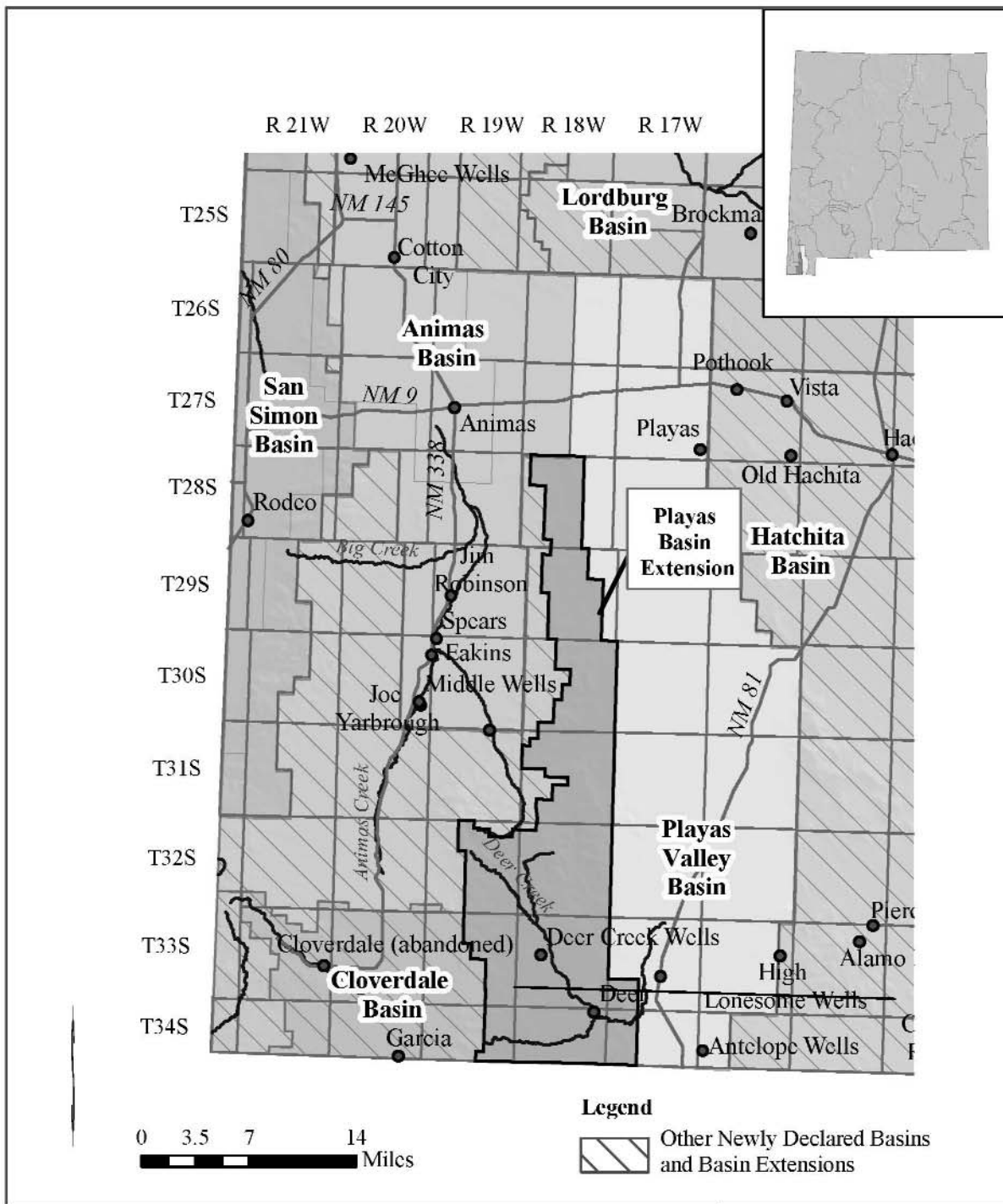


**Extension of the Animas Underground Water Basin
(Upper Animas)**
September 23, 2005

Administered by the Deming District Office







**Extension of the Playas Underground Water Basin
September 23, 2005**

Administered by the Deming District Office



**NEW MEXICO
OFFICE OF THE STATE
ENGINEER**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 27 U N D E R G R O U N D
WATER
PART 67 D E C L A R A T I O N O F
THE CAUSEY LINGO U N D E R -
GROUND WATER BASIN**

19.27.67.1 I S S U I N G A G E N C Y :
Office of the State Engineer.
[19.27.67.1 NMAC - N/E, 9/23/2005]

19.27.67.2 S C O P E : The appro-
priation and use of underground water with-
in the Causey Lingo underground water
basin, an area declared by the state engineer
to have a reasonably ascertainable bound-
ary.
[19.27.67.2 NMAC - N/E, 9/23/2005]

**19.27.67.3 S T A T U T O R Y
AUTHORITY:** Chapter 72, Article 12,
NMSA 1978. Section 72-1-1 NMSA 1978
provides that all natural waters flowing in
streams and water courses belong to the
public and are subject to appropriation for
beneficial use. Section 72-2-1 NMSA 1978
gives the state engineer general supervision
of waters of the state and of the measure-
ment, appropriation and distribution thereof
and such other duties as required. Section
72-2-8 NMSA 1978 gives the state engineer
authority to adopt regulations and codes to
implement and enforce any provision of any
law administered by him and also provides
the state engineer with authority to issue
orders necessary to implement his decisions
and to aid him in the accomplishment of his
duties. Section 72-2-9 NMSA 1978 gives
the state engineer authority over and super-
vision of the apportionment of water in this
state according to the licenses issued by him
and his predecessors and the adjudications
of the courts.
[19.27.67.3 NMAC - N/E, 9/23/2005]

19.27.67.4 D U R A T I O N :
Permanent.
[19.27.67.4 NMAC - N/E, 9/23/2005]

19.27.67.5 E F F E C T I V E D A T E :
September 23, 2005, unless a later date is
cited at the end of a section.
[19.27.67.5 NMAC - N/E, 9/23/2005]

19.27.67.6 O B J E C T I V E : To
establish administrative control over the
appropriation and use of underground water
within the Causey Lingo underground water
basin, an area declared by the state engineer
to have a reasonably ascertainable bound-
ary.

[19.27.67.6 NMAC - N/E, 9/23/2005]

19.27.67.7 D E F I N I T I O N S :
[Reserved]

**19.27.67.8 B O U N D A R Y
DESCRIPTION OF THE CAUSEY
LINGO UNDERGROUND WATER
BASIN:** The area included in the Causey
Lingo basin begins at the northeast corner
of section 15, township 3 south, range 37
east, NMPM, a point on the New Mexico
and Texas state line; thence south along
said state line to the southeast corner of
section 33, township 8 south, range 38
east, NMPM, being a point on the northern
county line for Lea county, New Mexico;
thence west along the county line of Lea
county to the southwest corner of section
35, township 8 south, range 32 east, NMPM;
thence north along section line to the
northwest corner of section 2, township 8
south, range 32 east, NMPM; thence west
along section line to the southwest corner
of section 34, township 7 south, range 32
east, NMPM; thence north along section
line to the northwest corner of section 27,
township 7 south, range 32 east, NMPM;
thence west along section line to the
southwest corner of section 21, township 7
south, range 32 east, NMPM; thence north
along the section line to the northwest
corner of section 16, township 7 south,
range 32 east, NMPM; thence west along
section line to the southwest corner of
section 8, township 7 south, range 32
east, NMPM; thence north along section
line to the northwest corner of section 5,
township 7 south, range 32 east, NMPM;
thence west along township line to the
southwest corner of township 6 south,
range 32 east, NMPM; thence north along
range line to the northwest corner of
township 6 south, range 32 east, NMPM;
thence west along township line to the
southwest corner of township 5 south,
range 31 east, NMPM; thence north along
range line to the northwest corner of
section 18, township 5 south, range 31
east, NMPM; thence west along section
line to the southwest corner of section 11,
township 5 south, range 30 east, NMPM;
thence north along section line to the
northwest corner of section 11, township
5 south, range 30 east, NMPM; thence west
along section line to the southwest corner
of section 3, township 5 south, range 30
east, NMPM; thence north along section
line to the northwest corner of section 15,
township 4 south, range 30 east, NMPM;
thence east along section line to the
northeast corner of section 15, township
4 south, range 30 east, NMPM; thence
north along section line to the northwest
corner of section 23, township 3 south,
range 30 east, NMPM; thence west along
section line to the southwest corner of
section 15, township 3 south, range 30
east, NMPM; thence north along section
line to the northwest corner of sec-

tion 15, township 3 south, range 30 east,
NMPM; thence west along section line to
the southwest corner of section 9, township
3 south, range 30 east, NMPM; thence north
along section line to the northwest corner
of section 33, township 2 south, range 30
east, NMPM; thence east along section line
to the northeast corner of section 33,
township 2 south, range 30 east, NMPM;
thence north along section line to the
northwest corner of section 15, township
2 south, range 30 east, NMPM; thence west
along section line to the southwest corner
of section 9, township 2 south, range 30
east, NMPM; thence north along section
lines to the northwest corner of section 4,
township 2 south, range 30 east, NMPM;
thence west along township line to the
southwest corner of section 32, township
1 south, range 30 east, NMPM; thence
north along section lines to the northwest
corner of section 17, township 1 south,
range 30 east, NMPM; thence west along
section lines to the southwest corner
of section 7, township 1 south, range 30
east, NMPM; thence north along range
line to the northwest corner of section 19,
township 1 north, range 30 east, NMPM;
thence east along section lines to the
northeast corner of section 23, township
1 north, range 30 east, NMPM; thence
south along section line to the southeast
corner of section 26, township 1 north,
range 30 east, NMPM; thence east along
section lines to the northeast corner of
section 32, township 1 north, range 31
east, NMPM; thence south along section
line to the southeast corner of section 32,
township 1 north, range 31 east, NMPM;
thence east along township line to the
northeast corner of section 4, township
1 south, range 31 east, NMPM; thence
south along section line to the southeast
corner of section 4, township 1 south,
range 31 east, NMPM; thence east along
section lines to the northeast corner of
section 11, township 1 south, range 31
east, NMPM; thence south along section
line to the southeast corner of section 11,
township 1 south, range 31 east, NMPM;
thence east along section line to the
northeast corner of section 13, township
1 south, range 31 east, NMPM; thence
south along range line to the southeast
corner of section 13, township 1 south,
range 31 east, NMPM; thence east along
section lines to the northeast corner of
section 21, township 1 south, range 32
east, NMPM; thence south along section
lines to the southeast corner of section 21,
township 1 south, range 32 east, NMPM;
thence east along section line to the
northeast corner of section 27, township
2 south, range 32 east, NMPM; thence
south along section line to the southeast
corner of section 3, township 2 south,
range 32 east, NMPM; thence west along
section line to the southwest corner of
section 3, township 2 south, range 32
east, NMPM; thence south along section
lines to the southeast corner of section 16,
township 2 south, range 32 east,

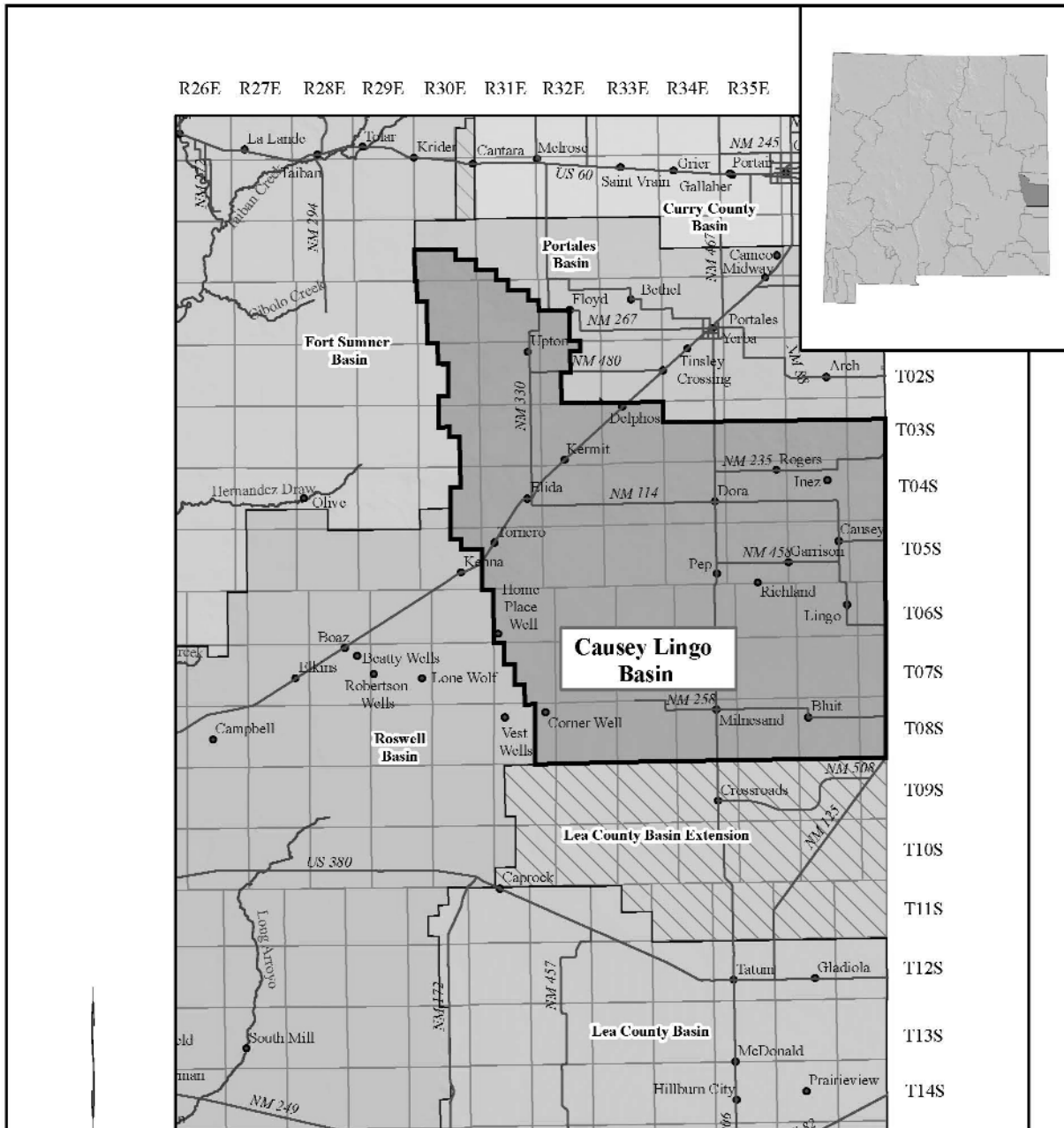
NMPM; thence west along section line to the southwest corner of section 16, township 2 south, range 32 east, NMPM; thence south along section lines to the southeast corner of section 32, township 2 south, range 32 east, NMPM; thence east along

township lines to the northeast corner of township 3 south, range 33 east, NMPM; thence south along range line to the southeast corner of section 12, township 3 south, range 33 east, NMPM; thence east along section lines to the northeast corner of sec-

tion 15, township 3 south, range 37 east, NMPM, being the point of origin.

[19.27.67.8 NMAC - N/E, 9/23/2005]

HISTORY OF 19.27.67 NMAC: [RESERVED]



Legend



Other Newly Declared Basins

0 4 8 16 24
Miles

**Declaration of the Causey Lingo Underground Water Basin
September 23, 2005**

Administered by the Roswell District Office



**NEW MEXICO
OFFICE OF THE STATE
ENGINEER**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 27 UNDERGROUND
WATER
PART 68 EXTENSION OF
THE LEA COUNTY, FORT SUMNER
AND CURRY COUNTY UNDER-
GROUND WATER BASINS**

19.27.68.1 ISSUING AGENCY:
Office of the State Engineer.
[19.27.68.1 NMAC - N/E, 9/23/2005]

19.27.68.2 SCOPE: The appropriation and use of underground water within the extended area of the Lea county underground water basin, the extended area of the Fort Sumner underground water basin, and the extended area of the Curry county underground water basin, areas declared by the state engineer to have reasonably ascertainable boundaries.
[19.27.68.2 NMAC - N/E, 9/23/2005]

**19.27.68.3 S T A T U T O R Y
AUTHORITY:** Chapter 72, Article 12, NMSA 1978. Section 72-1-1 NMSA 1978 provides that all natural waters flowing in streams and water courses belong to the public and are subject to appropriation for beneficial use. Section 72-2-1 NMSA 1978 gives the state engineer general supervision of waters of the state and of the measurement, appropriation and distribution thereof and such other duties as required. Section 72-2-8 NMSA 1978 gives the state engineer authority to adopt regulations and codes to implement and enforce any provision of any law administered by him and also provides the state engineer with authority to issue orders necessary to implement his decisions and to aid him in the accomplishment of his duties. Section 72-2-9 NMSA 1978 gives the state engineer authority over and supervision of the apportionment of water in this state according to the licenses issued by him and his predecessors and the adjudications of the courts.
[19.27.68.3 NMAC - N/E, 9/23/2005]

19.27.68.4 D U R A T I O N :
Permanent.
[19.27.68.4 NMAC - N/E, 9/23/2005]

19.27.68.5 EFFECTIVE DATE:
September 23, 2005, unless a later date is cited at the end of a section.
[19.27.68.5 NMAC - N/E, 9/23/2005]

19.27.68.6 OBJECTIVE: To establish administrative control over the appropriation and use of underground water

within the extended area of the Lea county underground water basin, the extended area of the Fort Sumner underground water basin, and the extended area of the Curry county underground water basin, areas declared by the state engineer to have reasonably ascertainable boundaries.
[19.27.68.6 NMAC - N/E, 9/23/2005]

19.27.68.7 D E F I N I T I O N S :
[Reserved]

**19.27.68.8 B O U N D A R Y
DESCRIPTION OF THE EXTENDED
AREA OF THE LEA COUNTY UNDER-
GROUND WATER BASIN:** Beginning at the southwest corner of township 10 south, range 32 east, NMPM; thence north along range line to the northwest corner of section 30, township 10 south, range 32 east, NMPM; thence east along section lines to the northeast corner of section 29, township 10 south, range 32 east, NMPM; thence north along section lines to the northwest corner of section 33, township 9 south, range 32 east, NMPM; thence west along section line to the southwest corner of section 29, township 9 south, range 32 east, NMPM; thence north along section lines to the northwest corner of section 5, township 9 south, range 32 east, NMPM; thence east along township lines, and the Lea county line, to the northeast corner of township 9 south, range 38 east, NMPM, a point on the New Mexico-Texas state line; thence south along said state line to the southeast corner of township 11 south, range 38 east, NMPM; thence west along township lines to the southwest corner of township 11 south, range 35 east, NMPM; thence north along range line to the northwest corner of section 19, township 11 south, range 35 east, NMPM; thence west along section lines to the southwest corner of section 15, township 11 south, range 34 east, NMPM; thence north along section lines to the northwest corner of section 3, township 11 south, range 34 east, NMPM; thence west along township lines to the southwest corner of township 10 south, range 32 east, NMPM, being the point of origin.
[19.27.68.8 NMAC - N/E, 9/23/2005]

**19.27.68.9 B O U N D A R Y
DESCRIPTION OF THE EXTENDED
AREA OF THE FORT SUMNER
UNDERGROUND WATER BASIN:** Beginning at the southwest corner of section 35, township 2 north, range 30 east, NMPM; thence north along section lines to the northwest corner of section 23, township 3 north, range 30 east, NMPM; thence east along section line to the northeast corner of section 23, township 3 north, range 30 east, NMPM; thence north along section line to the northwest corner of section 13, township 3 north, range 30 east, NMPM;

thence east along section line to the northeast corner of section 13, township 3 north, range 30 east, NMPM; thence south along range lines to the southeast corner of section 36, township 2 north, range 30 east, NMPM; thence west along township line to the southwest corner of section 35, township 2 north, range 30 east, NMPM, being the point of origin.
[19.27.68.9 NMAC - N/E, 9/23/2005]

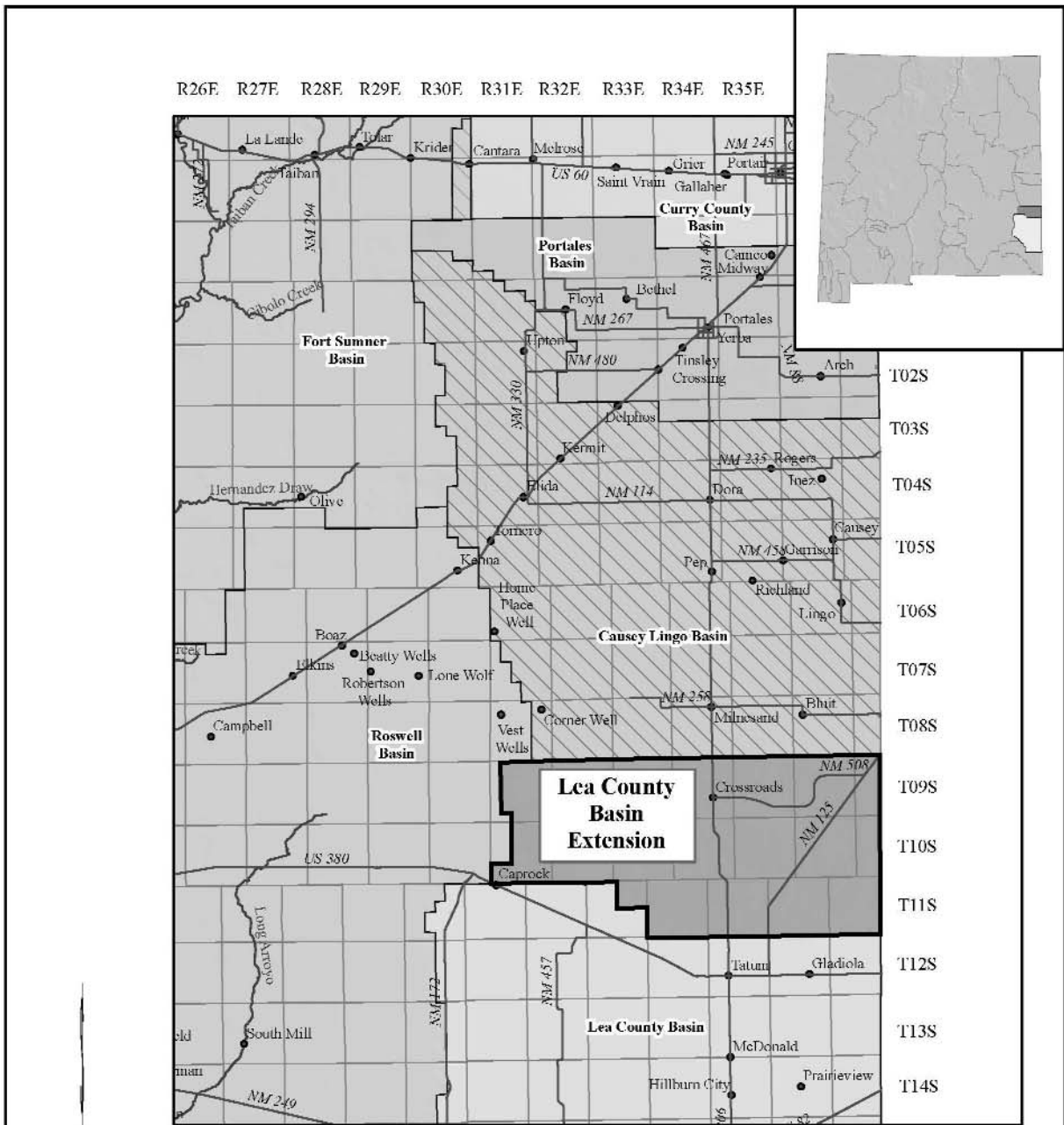
**19.27.68.10 B O U N D A R Y
DESCRIPTION OF THE EXTENDED
AREA OF THE CURRY COUNTY
UNDERGROUND WATER BASIN:** Beginning at the southeast corner of section 36, township 8 north, range 34 east, NMPM; thence west along township lines to the southeast corner of section 36, township 8 north, range 33 east, NMPM; thence south along range lines to the southeast corner of section 36, township 7 north, range 33 east, NMPM; thence west along township lines to the southeast corner of section 36, township 7 north, range 32 east, NMPM; thence south along range lines to the southeast corner of section 36, township 6 north, range 32 east, NMPM; thence west along township lines to the southwest corner of section 35, township 6 north, range 31 east, NMPM; thence north along section line to the northwest corner of section 35, township 6 north, range 31 east, NMPM; thence west along section line to the southwest corner of section 27, township 6 north, range 31 east, NMPM; thence north along section line to the northwest corner of section 27, township 6 north, range 31 east, NMPM; thence west along section line to the southwest corner of section 21, township 6 north, range 31 east, NMPM; thence north along section line to the northwest corner of section 21, township 6 north, range 31 east, NMPM; thence west along section lines to the southwest corner of section 18, township 6 north, range 31 east, NMPM; thence north along range line to the northwest corner of section 18, township 6 north, range 31 east, NMPM; thence west along section lines to the southwest corner of section 11, township 6 north, range 30 east, NMPM; thence north along section line to the northwest corner of section 2, township 6 north, range 30 east, NMPM; thence west along township line to the southwest corner of section 33, township 7 north, range 30 east, NMPM; thence north along section lines to the northwest corner of section 28, township 7 north, range 30 east, NMPM; thence west along section line to the southwest corner of section 20, township 7 north, range 30 east, NMPM; thence north along section lines to the northwest corner of section 17, township 7 north, range 30 east, NMPM; thence east along section lines to the northeast corner of section 15, township 7 north, range 30 east,

NMPM; thence north along section lines to the northwest corner of section 11, township 7 north, range 30 east, NMPM; thence east along section lines to the northeast corner of section 9, township 7 north, range 31 east, NMPM; thence north along section lines to the northwest corner of section 3, township 7 north, range 31 east, NMPM; thence east along township lines to the northeast corner of section 4, township 7 north, range 32 east, NMPM; thence north along section line to the northwest corner of section 34, township 8 north, range 32 east, NMPM; thence east along section lines to the northeast corner of section 36, township 8 north, range 32 east, NMPM; thence north along range line to the northwest corner of section 19, township 8 north, range 33 east, NMPM; thence east along section lines to the northeast corner of section 21, township 8 north, range 33 east, NMPM; thence north along section lines to the northwest corner of section 3, township 8 north, range 33 east, NMPM; thence east along township line to the southwest corner of section 34, township 9 north, range 33 east, NMPM; thence north along section line to the northwest corner of section 34, township 9 north, range 33 east, NMPM; thence east along section lines to the northeast corner of section 31, township 9 north, range 35 east, NMPM; thence south along section line to the southeast corner of section 31, township 9 north, range 35 east, NMPM; thence west along township line to the northeast corner of section 1, township 8 north, range 34 east, NMPM; thence south along range line to the southeast corner of section 36, township 8 north, range 34 east, NMPM, being the point of origin.

[19.27.68.10 NMAC - N/E, 9/23/2005]

HISTORY OF 19.27.68 NMAC:
[RESERVED]

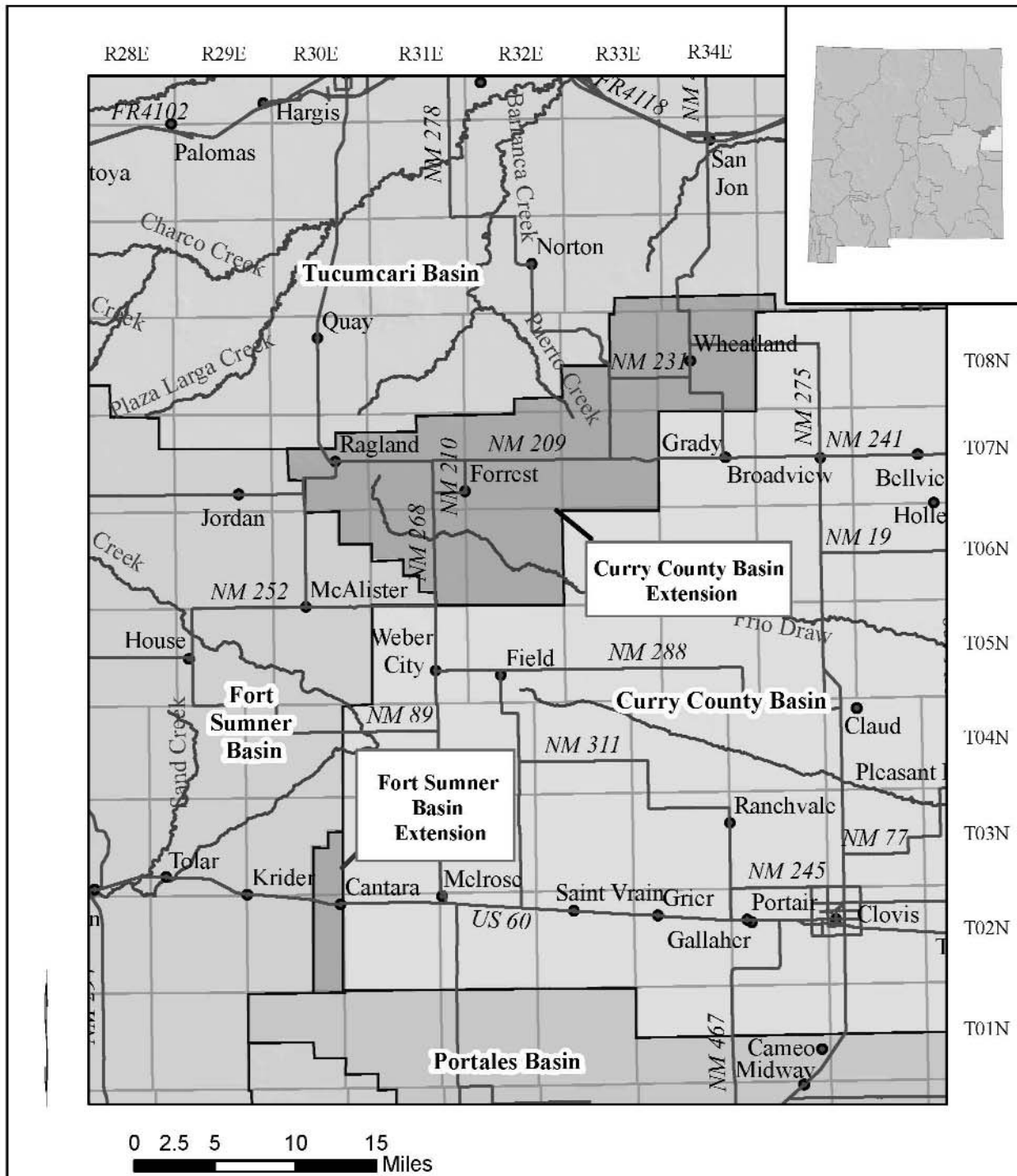
[See Lea County basin expansion map on page 1147 and Curry County / Fort Sumner basins extensions map on page 1148]



**Extension of the Lea County Underground Water Basin
 September 23, 2005**

Administered by the Roswell District Office





**Extension of the Curry County Underground Water Basin
and
Extension of the Fort Sumner Underground Water Basin
September 23, 2005**

Administered by the Roswell District Office



**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

19.30.5 NMAC, Private Land Elk License Allocation, filed January 4, 2001 is hereby repealed and replaced by 19.30.5 NMAC, Private Land Elk License Allocation, effective October 17, 2005.

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 30 WILDLIFE ADMIN-
ISTRATION
PART 5 P R I V A T E L A N D
ELK LICENSE ALLOCATION**

19.30.5.1 ISSUING AGENCY:
New Mexico Department of Game and Fish
[19.30.5.1 NMAC - Rp, 19.30.5.1 NMAC,
10-17-2005]

19.30.5.2 SCOPE: Landowners who provide meaningful benefit to elk and accept elk on their properties and all elk hunters who wish to recreate on deeded lands or public lands within New Mexico's exterior boundaries. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30, 31, 32, and 33 of Title 19.
[19.30.5.2 NMAC - Rp, 19.30.5.2 NMAC,
10-17-2005]

**19.30.5.3 S T A T U T O R Y
AUTHORITY:** 17-1-14 and 17-1-26
NMSA 1978 provide the New Mexico game commission with the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish. Statute 17-3-14.1 NMSA 1978 authorizes the director to issue landowner permits for the lawful taking of elk.
[19.30.5.3 NMAC - Rp, 19.30.5.3 NMAC,
10-17-2005]

19.30.5.4 D U R A T I O N :
Permanent.
[19.30.5.4 NMAC - Rp, 19.30.5.4 NMAC,
10-17-2005]

19.30.5.5 EFFECTIVE DATE:
October 17, 2005, unless a later date is cited at the end of a section.
[19.30.5.5 NMAC - Rp, 19.30.5.5 NMAC,
10-17-2005]

19.30.5.6 O B J E C T I V E :
Establish an equitable and flexible system

that recognizes the contributions of private lands and landowners to the management of elk and their habitats, while providing for economic benefit and an appropriate, biologically sound, and effective harvest through sport hunting.
[19.30.5.6 NMAC - Rp, 19.30.5.6 NMAC,
10-17-2005]

19.30.5.7 DEFINITIONS:

A. "Review" is a period of time during which an applicant, or active ranch, may be suspended from participation until the department review concludes that all participation requirements have been met.

B. "Authorized ranch contact" is the person designated by the landowner to be responsible for following procedures including forwarding documents, making changes and updates to the property.

C. "Inactivation" is the New Mexico department of game and fish (department) procedure that immediately stops all issuance of authorizations and eligibility for participation in the program.

D. "Core occupied elk range" shall mean the portion of land within the boundaries of a game management unit (GMU) that is designated by the department as containing the majority of routine and substantial elk use. This shall be the area that elk management goals and subsequent harvest objectives are based on.

E. "Occupied deeded acres" will mean privately owned acres that are within the designated core occupied elk range and occupied by elk.

F. "Private weighted acres" will mean the product of a specific property's occupied deeded acres multiplied by the elk contribution rating assigned to that specific property.

G. "Percent occupied weighted acres" will mean the quotient of a specific property's private weighted acres divided by the total private weighted acres.

H. "Private land authorization certificate" will mean the document generated by the department and issued to a private landowner that authorizes the holder to purchase a specified license to hunt elk.

I. "Percent public land" will mean the percentage of the area within a game management unit designated as core occupied elk range that is public land.

J. "Public land elk opportunity" will mean the portion of the unit's harvest objective translated to public draw licenses.

K. "Percent private land" will mean the percentage of the area within a game management unit designated as core occupied elk range that is private land.

L. "Private land elk

opportunity" will mean the portion of the unit's harvest objective translated to private land authorizations.

M. "Elk harvest success rate" will mean the success rate of elk hunters who hunted pursuant to licenses issued through the conversion of private land authorizations and public draw licenses in each game management unit as determined by hunter harvest surveys.

N. "Public land" will mean those lands held by state or public land use agencies.

O. "Ranch" will mean those deeded lands as enrolled in the program.

P. "Ranch-only authorization certificate" will mean a type of private land authorization that allows a person to purchase a license to hunt those deeded lands within the designated ranch exterior boundaries.

Q. "Unit-wide authorization certificate" will mean a type of private land authorization that allows a person to purchase a license to hunt legally accessible public lands and "unit-wide ranches" within the unit.

R. "Unit-wide ranch" will mean a ranch whose owner has selected the unit-wide hunting option on their hunting agreement with the department.

S. "Ranch only ranch" will mean a ranch whose owner has selected the ranch only hunting option on their agreement with the department or whose ranch is located in a unit designated as ranch only.

T. "Elk contribution rating (ECR)" will mean the rating assigned to each ranch based on the contribution a ranch is making to elk as determined by the level and frequency of elk presence on the ranch. The district officer or area game manager shall assign each ranch an "elk contribution rating" based on the following: "occasional elk presence" - ECR of 1, "frequent elk presence" - ECR of 1.25, "continuous elk presence" - ECR of 1.5.

U. "Small contributing property" will mean those ranches that meet the minimum qualifications to participate, but are unable to qualify for authorizations pursuant to the allocation formula based on weighted acreage alone.

V. "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.**

W. "Meaningful benefit to elk" shall mean properties that lie within the area designated as a core occupied elk range and contain various elk habitat components that are known to be beneficial to elk during some time of the year. Properties

that provide "meaningful benefit" to elk must also exhibit physical evidence that elk are present at least occasionally throughout one or more seasons of the year.

[19.30.5.7 NMAC - Rp, 19.30.5.7 NMAC, 10-17-2005]

19.30.5.8 PARTICIPATION REQUIREMENTS:

A. Minimum qualifications:

(1) Private lands that lie within core occupied elk range.

(2) Private lands that provide meaningful benefits to elk, at least occasionally, as determined by the appropriate district officer or game manager.

(3) Only landowners or lessees who agree in writing to accept elk on their property will be considered. Any landowner that files a depredation complaint regarding elk or takes action pursuant to Section 17-2-7.2 NMSA 1978 shall have automatically elected to become ineligible for continued participation in this program. Exceptions to this may be allowed when short-term or unusual circumstances that are typically not associated with the normal presence of elk using land and forage on the property exist. In these instances, if the landowner desires to continue contributing to elk, the department may allow the landowner to continue participating in this system while seeking resolution to the short-term or unusual damage pursuant to the depredation program. Evidence of depredation may be used as documentation of elk presence to ensure the appropriate ECR has been assigned.

(4) Landowner must agree that participation is voluntary, is based on annual variation in habitat and elk populations, and there is no guarantee of a specific number of authorizations issued each year.

(5) All participating properties annually will be subject to the requirements found in this Section.

(6) Private lands that lie within villages, towns or recorded subdivisions with covenants or ordinances that prohibit hunting and/or the discharge of firearms will be ineligible to participate unless part of a combined property choice under Paragraph (8) of Subsection E of 19.30.5.9 NMAC.

(7) Private lands that if hunted, would result in safety concerns as determined by the district officer will be ineligible to participate unless allowed pursuant to a specific agreement containing provisions for minimizing safety concerns.

B. Enrollment process:

(1) Initial application:

(a) Landowners who choose to enroll in the system must submit a completed application form approved by the department. Application must include all documentation requested on application form.

(b) Application must be submitted to the department, hand delivered or post marked, no later than February 1 of each year. Applications received without all required documentation or hand delivered or post marked after February 1 shall be rejected. Rejected applications may be corrected and resubmitted through March 1 to be included that year if the original application was submitted by the February 1 deadline but the applicant mistakenly omitted necessary documentation or a documented family emergency, sickness or death resulted in the application deadline being missed.

(c) Accepted applications will be forwarded by the department to the appropriate area game manager and district officer so that a determination can be made as to the application satisfying the requirements set forth in Subsection A, 19.30.5.8 NMAC.

(d) Properties meeting the requirements set forth in Subsection A, 19.30.5.8 NMAC will be assigned an elk contribution rating and be eligible for authorization certificates pursuant to the processes set forth in Sections 9 and 12 of 19.30.5 NMAC.

(e) Landowners with properties that do not meet the requirements set forth in Subsection A, 19.30.5.8 NMAC will be advised and provided options and alternatives including the right to appeal the department's decision with regard to meeting the minimum requirements for participation.

(f) Area game managers and district officers may place newly enrolling properties on review for a period of time not to exceed 12 months to allow sufficient time to determine if the minimum requirements have been met and assign the proper elk contribution rating.

(2) Participating ranches:

(a) All authorized ranch contacts for participating ranches will receive an agreement and affidavit of ownership form annually.

(b) The agreement and affidavit of ownership form will list the name, address, and phone number of the authorized ranch contact, the number of deeded acres considered, and the elk contribution rating assigned. It will provide the opportunity to appeal the listed acreage and the assigned elk contribution rating and allow for the authorized ranch contact to notify the department of appropriate changes. If changes include the addition or reduction of deeded acreage, a new property boundary map must be submitted with the form. The agreement portion of the form will set out the terms for participation and provide the ability to elect the "ranch only" option.

(c) The agreement and affidavit of ownership form must be signed and initialed where designated and returned to the

department via hand delivery or post marked no later than February 1 each year. Failure to meet these requirements will result in the ranch being placed on review until the following year when the process begins again. If circumstances beyond the control of the authorized ranch contact or a documented family emergency, sickness or death, resulted in this deadline being missed, the department may accept completed agreement and affidavit of ownership forms through March 1.

(d) If the department determines there has been a breach of the terms set forth in the agreement, false representation of a property's deeded acreage, rightful ownership, or legal representation of a property, the department shall immediately inactivate the property, void all unconverted authorizations issued to the ranch and the owner or authorized ranch contact will be subject to the processes set forth in 19.31.2 NMAC.

(e) After 2 years of non-receipt of affidavits, the department will inactivate the respective ranch until a new initial application has been submitted by the following February 1 deadline.

(f) Requests to add occupied deeded acreage for the upcoming season must include a map showing the new property boundary and be included with the agreement and affidavit of ownership form submitted by the February 1 deadline.

(g) Properties that are sold or transferred to new ownership must re-apply as required for initial enrollment by the February 1 deadline. The previous owner must report any reduction in acreage resulting from sale or transfer, on their annual affidavit of ownership and provide an updated map documenting the acreage reduction. Properties, or portions of properties, that have been reported by the previous owner as sold or transferred will be considered un-enrolled until the new owners apply as an initial signup.

(h) The department may make reasonable accommodations in circumstances where transfer of ownership occurs after the February 1 deadline.

(i) All participating ranches that the department determines do not meet minimum requirements for participation shall be sent written notice of inactivation in the system for the following license year.

(j) District officers and game managers may adjust the elk contribution rating for any participating ranch annually. In the case an adjustment is warranted, the landowner will be contacted and notified of the rating change.

[19.30.5.8 NMAC - N, 10-17-2005]

19.30.5.9 DETERMINATION AND DISTRIBUTION OF PRIVATE LAND AUTHORIZATIONS AND

PUBLIC LAND LICENSES:

A. The department will determine the area considered core occupied elk range within each GMU and will determine the number and kind of hunting opportunities by bag limit and weapon type available in each GMU based on harvest objectives and harvest success rates for that GMU.

B. Public land elk licenses will be set for each unit as follows:

(1) The elk harvest objective for the core occupied elk range of the GMU is divided by the average harvest success rate to derive the total number of elk hunting opportunities.

(2) The total number of elk hunting opportunities multiplied by the proportion of the core occupied elk range that is public land equals the number of public draw elk hunting licenses.

C. Private land elk authorization certificates will be set for each unit as follows: The total number of elk hunting opportunities multiplied by the proportion of the core occupied elk range that is private land equals the number of private land elk authorization certificates.

D. The base number and type of elk authorization certificates per ranch will be set as follows:

(1) A ranch's occupied deeded acres multiplied by that ranch's elk contribution rating equals ranch weighted acres.

(2) A ranch's weighted acres divided by total private land weighted acres in the unit's core occupied elk range equals percent occupied ranch weighted acres.

(3) Percent occupied ranch weighted acres multiplied by the number of available private land authorization certificates of each type for the unit equal the number of authorization certificates per ranch.

E. In each GMU, a pool of authorization certificates will be identified as follows:

(1) The number and type of authorization certificates allocated to private lands not enrolled in the system.

(2) The number and type of private land authorization certificates allocated to enrolled properties but not converted to licenses (based on the previous 2 years average if permit levels were similar).

(3) The number and type of authorization certificates that result from the consolidation of the weighted acres of all small contributing properties.

(4) A portion of this pool of authorization certificates may be distributed to small contributing properties pursuant to voluntary participation in a drawing or other equitable distribution process each year.

(5) A portion of this pool of authorization certificates may be distributed

to qualifying properties in the form of "bonus" authorization certificates issued pursuant to the allocation formula.

(6) A portion of this pool of authorization certificates may be distributed to specific properties in the form of "incentive" authorization certificates issued in recognition of significant habitat enhancement for elk.

(7) Small contributing ranches that are unable to compete for authorization certificates pursuant to the allocation formula in 19.30.5.9 NMAC may choose to allow their ranch to be enrolled in a drawing for "unit wide" authorization certificates available pursuant to that unit's pool of authorization certificates as described above, enroll in a drawing for "unit wide" authorization certificates from other specified GMUs when such are available, or cooperate with other properties per Paragraph (8) of Subsection E below of this section. Once a small contributing property has been successful in drawing a unit-wide mature bull/antler point restriction authorization certificate for the GMU in which the property participates, it will be ineligible to participate in subsequent drawings for unit wide mature bull/antler point restriction elk authorization certificates in that GMU until such time as all small contributing properties in that GMU have successfully drawn a unit-wide mature bull/antler point restriction elk authorization certificate.

(8) Throughout this allocation process, the department will encourage landowners to cooperate and combine acreage to the extent possible on a willing basis to help them qualify for the most beneficial or useful issuance of authorization certificates.

F. All authorization certificates issued to private lands pursuant to this section will be considered "unit wide" unless otherwise requested by the landowner. [19.30.5.9 NMAC - N, 10-17-2005]

19.30.5.10 PRIVATE LAND ONLY UNITS

A. In GMUs 46, 47, 54, 55A, 56A, 57, and 58, the department will use input from landowners to develop appropriate numbers and bag limits for ranch-only authorization certificates needed to achieve the desired and proper harvest within the exterior boundaries of participating ranches.

B. In GMUs 4 and 5A, the department will allocate authorizations pursuant to 19.30.5.9 NMAC.

C. All authorizations issued to private lands in GMUs 4, 5A and 46 will be transferable with written permission. Licenses resulting from converting these authorizations will be valid only on

the deeded property for which the authorization was issued or other private land in the unit if the license holder has written permission from the landowner, or person in control of the land to hunt the private property except "ranch only" authorizations issued pursuant to Sections 11 and 12 of 19.30.5 NMAC below. [19.30.5.10 NMAC - N, 10-17-2005]

19.30.5.11 LANDS OUTSIDE THE CORE OCCUPIED ELK RANGE

A. For private lands that are not within core occupied elk range or private lands that lay within GMUs with no designated core occupied elk range, the department may use input from landowners to develop appropriate numbers and bag limits for private land hunting needed to achieve the desired and proper harvest within the exterior boundaries of participating ranches.

B. For public lands in GMUs with no designated core occupied elk range, the department may determine public hunting opportunities through the processes set forth in 19.31.8 NMAC. [19.30.5.11 NMAC - N, 10-17-2005]

19.30.5.12 SPECIAL MANAGEMENT PROPERTIES:

In all GMUs, the department may treat specifically identified or unique properties of any practical size as special management areas and allocate authorization certificates to these properties based on a required elk conservation ranch management plan developed in conjunction with the landowner and approved by the department. authorization certificates issued pursuant to these management plans shall be ranch only authorization certificates, will be calculated based on habitat benefits and associated elk opportunity accrued, and will be in addition to those allocated for public and private hunters in the GMU. Deadline for management plans to be completed and approved will be April 15th each year. Properties that elect to participate pursuant to this Section shall be ineligible for any appeal process. [19.30.5.12 NMAC - N, 10-17-2005]

19.30.5.13 LANDOWNER RIGHT TO APPEAL:

A. Landowners shall have the right to appeal only the following:

(1) The number of deeded acres of elk occupied range.

(2) The elk contribution rating assigned to the property.

(3) A decision by the department that a property does not meet the minimum requirements to participate.

B. Appeals based on deeded acres or the elk contribution rating shall be submitted with the annual affidavit.

C. Appeals for newly enrolling properties that are based on failure to meet the minimum requirements to participate shall be submitted to the department in writing and post marked no later than April 1.

D. The department may take the necessary amount of time needed to properly consider any appeals, but no more than 12 months.

E. In all cases of appeal, the landowner shall be responsible for providing the appropriate documentation, photographic or physical proof required substantiating the claim.

F. All participating ranches that the department determines do not meet minimum requirements for participation shall be sent written notice of inactivation in the system for the following license year. These ranches shall be afforded the opportunity to appeal this decision by submission of documentation, photographic or physical evidence proving the minimum requirements have been met. The department must receive these appeals post marked or hand delivered no later than August 1 each year. Properties that appeal a decision by the department that their property does not meet the minimum requirements will be afforded the necessary amount of time needed to provide the department with photographic or physical confirmation of their property's contribution to elk, but no more than 12 months.

G. All appeals will be made to the respective area chief. If an appeal is not resolved at the area chief level, the landowner may request a hearing conducted by a panel consisting of the director and 3 game commissioners, appointed by the chairman of the state game commission. The commission representatives on the panel should reflect commissioner districts and geographic areas of elk range. Recommendations of this panel shall be provided to the director, whose decision shall be based on the panel's recommendation. The decision of the director shall be final pursuant to 17-3-14.1 NMSA 1978. All requests for hearings must be made no later than April 1 of each year.

[19.30.5.13 NMAC - N, 10-17-2005]

19.30.5.14 DEPARTMENT RIGHT TO REQUEST UPDATED DOCUMENTATION AND CONDUCT AUDITS. The department reserves the right to request the submission of complete ownership documentation, including but not limited to deeds and tax valuation and legal description, at any time during the year. Each request shall consist of a telephone notification and a written request. Each notification shall include a reasonable deadline for compliance and any failure to com-

ply shall result in the property being placed on review until such time as the department receives the requested documentation and the property can be issued authorizations without affecting allocations to other participating properties.

[19.30.5.14 NMAC - N, 10-17-2005]

HISTORY OF 19.30.5 NMAC:

Pre-NMAC History:

Regulation No. 658, Establishing A System For Allocating Elk Licenses On Private And Public Lands Within Game Management Units, 6-1-88.

Regulation No. 667, Establishing A System For Allocating Elk Licenses On Private And Public Lands Within Game Management Units, 9-1-89.

History of Repealed Material:

19.30.5 NMAC, Private Land Elk License Allocation, filed January 4, 2001 is hereby repealed and replaced by 19.30.5 NMAC, Private Land Elk License Allocation, effective 10-17-2005.

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.4 NMAC, Section 9, effective 10-17-2005.

19.30.4.9 GAME MANAGEMENT SUB-UNITS AND PORTIONS OF UNITS:

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

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

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

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

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

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

F. Sub-unit 6B: all lands

within the fenced and/or posted boundary of the Valles Caldera national preserve (formerly the Baca location #1) as fenced and/or posted by the United States forest service.

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

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

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

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

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

with USFS road 150 in Railroad canyon.

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

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

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

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

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

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

along forest trail 182 to its junction with forest trail 224 at the west fork saddle, then south on forest trail 224 down the west fork of Mogollon creek to its junction with the main Mogollon creek, then easterly along Mogollon creek to the junction of forest trail 158 at Woodrow canyon, then south along forest trail 158 to main Turkey creek, then south along Turkey creek to its junction with the Gila river, then southwest along the Gila river to its junction with Gila national forest boundary, then north and west along the Gila national forest boundary to its junction with the Gila wilderness boundary and forest trail 189, then north and west along the Gila wilderness boundary to its junction with forest trail 207, then northwest along forest trail 207 to its junction with forest trail 41, then northwest along forest trail 41 to its junction with Bursum road at Windy point.

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

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

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

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

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

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

U. Sub-unit 55A: beginning at the junction of NM 58 and US 64 at Cimarron and running west and south along US 64 to the Colfax-Taos county line at Palo Flechado pass; then north along the Colfax county line to the south boundary of

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

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

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

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

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

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

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

BB. Portions of GMU 10: That portion of GMU 10 beginning at the junction of interstate 40 and NM 400 east of Gallup and continuing south along NM 400 to its junction with the Cibola

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

[4-1-95; 12-31-96; 4-30-99; 19.30.4.9 NMAC - Rn & A, 19 NMAC 30.4.9, 2-14-2001; A, 3-31-2003; A, 4-1-2005; A, 10-17-2005]

NEW MEXICO DEPARTMENT OF GAME AND FISH

Explanatory paragraph: This is an amendment to 19.31.8 NMAC, Section 24, Subsection A, effective 10-17-2005. The amendment reduces the available licenses in hunt code ELK-1-145 and ELK-1-146 from 200 to 180 and from 100 to 80, respectively for GMU 10. In addition, the amendment adds hunt codes ELK-1-254 (youth only), ELK-1-255, and ELK-1-256 in portions of GMU 10 including hunt dates, licenses, and bag limits.

19.31.8.24 ELK (2006-2007):

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

Open GMUs or areas	Hunt start	Hunt end	Hunt code	Licenses	Bag limit
2	10/14/2006	10/18/2006	ELK-1-100	100	MB
2	12/02/2006	12/06/2006	ELK-1-101	75	MB
2	12/02/2006	12/06/2006	ELK-1-102	200	A
2 youth only	12/02/2006	12/06/2006	ELK-1-103	25	A
4: Sargent WMA	09/30/2006	10/04/2006	ELK-1-104	5	APRE/6
4: Sargent WMA	10/07/2006	10/11/2006	ELK-1-105	15	APRE
4: Sargent WMA	10/14/2006	10/18/2006	ELK-1-106	15	APRE
4: Sargent WMA	10/21/2006	10/25/2006	ELK-1-107	15	APRE
4: Sargent WMA	10/28/2006	11/01/2006	ELK-1-108	15	A
4: Sargent WMA, youth only	10/28/2006	11/01/2006	ELK-1-109	10	A
4: Sargent WMA	11/04/2006	11/08/2006	ELK-1-110	15	A
4: Humphries/Rio Chama WMAs	10/07/2006	10/11/2006	ELK-1-111	10	APRE
4: Humphries/Rio Chama WMAs	10/14/2006	10/18/2006	ELK-1-112	10	APRE
4: Humphries/Rio Chama WMAs	11/04/2006	11/08/2006	ELK-1-113	30	A
4: Humphries/Rio Chama WMAs, youth only	11/04/2006	11/08/2006	ELK-1-114	10	A
5A public land only	09/30/2006	10/04/2006	ELK-1-115	5	MB
5A public land only	09/30/2006	10/04/2006	ELK-1-116	6	A
5A public land only	10/07/2006	10/11/2006	ELK-1-117	5	MB
5A public land only	10/07/2006	10/11/2006	ELK-1-118	6	A
5A public land only	10/14/2006	10/18/2006	ELK-1-119	5	MB
5A public land only	10/14/2006	10/18/2006	ELK-1-120	6	A
5A public land only	10/21/2006	10/25/2006	ELK-1-121	5	MB
5A public land only	10/21/2006	10/25/2006	ELK-1-122	6	A
5A public land only	10/28/2006	11/01/2006	ELK-1-123	11	A
5B	10/07/2006	10/11/2006	ELK-1-124	150	MB
5B	10/14/2006	10/18/2006	ELK-1-125	100	A
5B	10/21/2006	10/25/2006	ELK-1-126	150	MB
5B	10/28/2006	11/01/2006	ELK-1-127	100	A
5B	11/04/2006	11/08/2006	ELK-1-128	100	A
6A	10/14/2006	10/18/2006	ELK-1-129	100	MB
6A	10/28/2006	11/01/2006	ELK-1-130	100	MB
6A	11/04/2006	11/08/2006	ELK-1-131	100	A
6C	10/14/2006	10/18/2006	ELK-1-132	150	MB
6C	10/21/2006	10/25/2006	ELK-1-133	150	MB
6C	11/04/2006	11/08/2006	ELK-1-134	150	MB
6C	11/18/2006	11/26/2006	ELK-1-135	200	A
6C	12/02/2006	12/10/2006	ELK-1-136	300	A
6C	12/16/2006	12/24/2006	ELK-1-137	300	A
7	10/14/2006	10/18/2006	ELK-1-138	30	MB
7	10/21/2006	10/25/2006	ELK-1-139	30	MB
7	11/04/2006	11/08/2006	ELK-1-140	90	A
7	12/09/2006	12/13/2006	ELK-1-141	90	A
9 (including Water canyon but not Marquez WMAs)	11/04/2006	11/08/2006	ELK-1-142	200	A
9: Marquez WMA	11/04/2006	11/08/2006	ELK-1-143	5	A
10	10/07/2006	10/11/2006	ELK-1-144	100	MB
10	10/14/2006	10/18/2006	ELK-1-145	200 160	A
10 youth only	10/14/2006	10/18/2006	ELK-1-146	100 80	A
12	09/30/2006	10/04/2006	ELK-1-147	25	MB
12	10/07/2006	10/11/2006	ELK-1-148	25	MB
12	10/14/2006	10/18/2006	ELK-1-149	25	MB
12	10/21/2006	10/25/2006	ELK-1-150	25	MB
12	10/28/2006	11/01/2006	ELK-1-151	100	A
12	11/18/2006	11/22/2006	ELK-1-152	100	A
16A youth only	10/07/2006	10/11/2006	ELK-1-153	50	A
16A	10/14/2006	10/18/2006	ELK-1-154	100	APRE
16A	10/21/2006	10/25/2006	ELK-1-155	150	APRE
16A	12/02/2006	12/06/2006	ELK-1-156	150	A
16B	10/14/2006	10/18/2006	ELK-1-157	150	APRE
16B	10/21/2006	10/25/2006	ELK-1-158	150	APRE
16C	10/14/2006	10/18/2006	ELK-1-159	50	APRE
16C	10/21/2006	10/25/2006	ELK-1-160	100	APRE
16C	12/02/2006	12/06/2006	ELK-1-161	100	A

16D youth only	10/07/2006	10/11/2006	ELK-1-162	50	A
16D	10/14/2006	10/18/2006	ELK-1-163	50	APRE
16D	10/21/2006	10/25/2006	ELK-1-164	50	APRE
16D	12/02/2006	12/06/2006	ELK-1-165	100	A
16E	10/21/2006	10/25/2006	ELK-1-166	100	APRE
16E	12/02/2006	12/06/2006	ELK-1-167	150	A
16E	12/09/2006	12/13/2006	ELK-1-168	150	A
21A	10/14/2006	10/18/2006	ELK-1-169	50	MB
21A	10/21/2006	10/25/2006	ELK-1-170	50	MB
21B	10/14/2006	10/18/2006	ELK-1-171	50	MB
21B	10/21/2006	10/25/2006	ELK-1-172	50	MB
21B	11/18/2006	11/22/2006	ELK-1-173	30	A
21B	11/25/2006	11/29/2006	ELK-1-174	30	A
21B	12/02/2006	12/06/2006	ELK-1-175	30	A
21B	12/09/2006	12/13/2006	ELK-1-176	30	A
22	10/21/2006	10/25/2006	ELK-1-177	25	MB
22	12/02/2006	12/06/2006	ELK-1-178	25	A
23	10/21/2006	10/25/2006	ELK-1-179	150	MB
23	12/02/2006	12/06/2006	ELK-1-180	50	A
24 (including Fort Bayard) youth only	10/07/2006	10/11/2006	ELK-1-181	10	MB
24 (except Fort Bayard)	10/21/2006	10/25/2006	ELK-1-182	50	MB
34 youth only	09/23/2006	09/27/2006	ELK-1-183	75	MB
34 youth only	09/23/2006	09/27/2006	ELK-1-184	75	A
34	10/07/2006	10/11/2006	ELK-1-185	150	APRE
34	11/25/2006	11/29/2006	ELK-1-186	300	A
34	12/02/2006	12/06/2006	ELK-1-187	300	A
36	10/07/2006	10/11/2006	ELK-1-188	100	MB
36	10/07/2006	10/11/2006	ELK-1-189	50	A
36	10/14/2006	10/18/2006	ELK-1-190	100	MB
36	10/14/2006	10/18/2006	ELK-1-191	50	A
37	10/07/2006	10/11/2006	ELK-1-192	25	MB
37	10/07/2006	10/11/2006	ELK-1-193	25	A
43	09/30/2006	10/04/2006	ELK-1-194	unlimited	ES
44/45	10/07/2006	10/11/2006	ELK-1-195	140	MB
44/45	10/14/2006	10/18/2006	ELK-1-196	140	MB
44/45	10/21/2006	10/25/2006	ELK-1-197	25	A
48	10/14/2006	10/18/2006	ELK-1-198	55	MB
48	10/14/2006	10/18/2006	ELK-1-199	40	A
48	10/21/2006	10/25/2006	ELK-1-200	55	MB
48	10/21/2006	10/25/2006	ELK-1-201	40	A
48	12/02/2006	12/06/2006	ELK-1-202	55	MB
48	12/02/2006	12/06/2006	ELK-1-203	40	A
49	09/30/2006	10/04/2006	ELK-1-204	180	MB
49	10/07/2006	10/11/2006	ELK-1-205	95	MB
49	10/14/2006	10/18/2006	ELK-1-206	95	MB
49	11/11/2006	11/15/2006	ELK-1-207	60	A
50	10/07/2006	10/11/2006	ELK-1-208	100	MB
50	10/07/2006	10/11/2006	ELK-1-209	20	A
50	10/14/2006	10/18/2006	ELK-1-210	100	MB
50	10/14/2006	10/18/2006	ELK-1-211	20	A
50	12/02/2006	12/06/2006	ELK-1-212	50	A
51	10/07/2006	10/11/2006	ELK-1-213	200	MB
51	10/14/2006	10/18/2006	ELK-1-214	200	MB
51	10/21/2006	10/25/2006	ELK-1-215	200	MB
51	11/11/2006	11/15/2006	ELK-1-216	250	A
51	11/18/2006	11/22/2006	ELK-1-217	250	A
52	10/07/2006	10/11/2006	ELK-1-218	250	MB
52	10/14/2006	10/18/2006	ELK-1-219	200	MB
52	10/21/2006	10/26/2006	ELK-1-220	150	A
52	11/11/2006	11/15/2006	ELK-1-221	125	A
52	11/18/2006	11/22/2006	ELK-1-222	100	A
52 youth only	11/18/2006	11/22/2006	ELK-1-223	25	A
53 (except Cerro portion)	10/07/2006	10/11/2006	ELK-1-224	180	MB
53 (except Cerro portion)	10/14/2006	10/18/2006	ELK-1-225	95	MB

53 (except Cerro portion)	12/02/2006	12/06/2006	ELK-1-226	50	A
53 (except Cerro portion)	12/09/2006	12/13/2006	ELK-1-227	50	A
54: Colin Neblett WMA/south	10/07/2006	10/11/2006	ELK-1-228	20	MB
54: Colin Neblett WMA/south	10/14/2006	10/18/2006	ELK-1-229	20	MB
54: Colin Neblett WMA/south	10/21/2006	10/25/2006	ELK-1-230	20	MB
54: Colin Neblett WMA/south	11/18/2006	11/22/2006	ELK-1-231	20	A
55: Colin Neblett WMA/north	10/07/2006	10/11/2006	ELK-1-232	20	MB
55: Colin Neblett WMA/north	10/14/2006	10/18/2006	ELK-1-233	20	MB
55: Colin Neblett WMA/north	10/21/2006	10/25/2006	ELK-1-234	20	MB
55: Colin Neblett WMA/north	11/18/2006	11/22/2006	ELK-1-235	20	A
55: Urraca WMA	09/30/2006	10/04/2006	ELK-1-236	10	MB
55: Urraca WMA	10/07/2006	10/11/2006	ELK-1-237	10	MB
55: Urraca WMA	10/14/2006	10/18/2006	ELK-1-238	10	MB
55: Urraca WMA	10/21/2006	10/25/2006	ELK-1-239	10	MB
55: Urraca WMA	11/18/2006	11/22/2006	ELK-1-240	15	A
55: Urraca WMA	12/02/2006	12/06/2006	ELK-1-241	15	A
55: Valle Vidal/Greenwood areas	10/07/2006	10/11/2006	ELK-1-242	30	MB
55: Valle Vidal/Greenwood areas, youth only	10/07/2006	10/11/2006	ELK-1-243	20	ES
55: Valle Vidal/Greenwood areas	10/14/2006	10/18/2006	ELK-1-244	35	MB
55: Valle Vidal/Greenwood areas	10/21/2006	10/25/2006	ELK-1-245	35	MB
55: Valle Vidal/Greenwood areas	10/28/2006	11/01/2006	ELK-1-246	30	A
55: Valle Vidal/Greenwood areas, youth only	10/28/2006	11/01/2006	ELK-1-247	20	A
55: Valle Vidal/Greenwood areas	11/04/2006	11/08/2006	ELK-1-248	30	A
55: Valle Vidal/Greenwood areas, youth only	11/04/2006	11/08/2006	ELK-1-249	20	A
55: Valle Vidal/Greenwood areas	11/11/2006	11/15/2006	ELK-1-250	45	A
55: Valle Vidal/Greenwood areas	11/18/2006	11/22/2006	ELK-1-251	35	A
56: Sierra Grande hunt area	09/30/2006	10/04/2006	ELK-1-252	5	MB
56: Sierra Grande hunt area	10/07/2006	10/11/2006	ELK-1-253	10	A
10: (portions of) youth only	11/18/2006	11/22/2006	ELK-1-254	20	A
10 (portions of)	12/2/2006	12/6/2006	ELK-1-255	20	A
10 (portions of)	12/9/2006	12/13/2006	ELK-1-256	20	A

[19.31.8.24 NMAC - Rp, 19.31.8.24 NMAC, 4-1-2005 A; 6-30-2005; A, 10-17-2005]

**NEW MEXICO
INFORMATION
TECHNOLOGY
COMMISSION**

**TITLE 1 GENERAL GOV-
ERNMENT ADMINISTRATION
CHAPTER 12 INFORMATION
TECHNOLOGY
PART 9 PROJECT CERTIFI-
CATION OF TECHNOLOGY PRO-
JECTS**

1.12.9.1 ISSUING AGENCY.
Information Technology Commission.
[1.12.9.1 NMAC - N, 10/17/2005]

1.12.9.2 SCOPE. This rule
applies to certification of all information
technology projects or programs undertaken
by executive agencies.
[1.12.9.2 NMAC - N, 10/17/2005]

**1.12.9.3 STATUTORY
AUTHORITY.** Sections 15-1C-5 and 15-
1C-8 NMSA, 1978.
[1.12.9.3 NMAC - N, 10/17/2005]

1.12.9.4 DURATION.
Permanent.
[1.12.9.4 NMAC - N, 10/17/2005]

1.12.9.5 EFFECTIVE DATE.
October 17, 2005, unless a later date is cited
at the end of a section.
[1.12.9.5 NMAC - N, 10/17/2005]

1.12.9.6 OBJECTIVE. The
purpose of this rule is to set forth executive
agency information technology project cer-
tification responsibilities.
[1.12.9.6 NMAC - N, 10/17/2005]

1.12.9.7 DEFINITIONS.
A. "Agency" means a
state organizational entity of the executive
branch, used interchangeably with depart-
ment.

B. "Certification" means
a process that releases project funds. The
ITC certifies projects except as otherwise
provided for in Section 1.12.9.10(c). The
PCC is the subcommittee charged with
making recommendations for certification
to the ITC.

**C. "Emergency condi-
tion"** is a situation that creates a threat to
public health, welfare, safety or property
such as may arise by reason of floods, epi-
demics, riots, equipment failures or similar
events. The existence of the emergency
condition creates an immediate and serious
need for services, construction or items of
tangible personal property that cannot be

met through normal procurement methods
and the lack of which would seriously
threaten the:

- (1) functioning of government;
- (2) preservation or protection of
property; or
- (3) health or safety of any person.

**D. "Independent verifi-
cation and validation (IV&V)"** means the
process of evaluating a system to determine
compliance with specified requirements and
the process of determining whether the
products of a given development phase ful-
fill the requirements established during the
previous stage, both of which are performed
by an organization independent of the
development organization.

**E. "Information technol-
ogy project"** means the development, pur-
chase, replacement, or modification of a
hardware or software system.

F. "ITC" means informa-
tion technology commission.

G. "Mission critical"
means a system (either hardware or soft-
ware) that is pivotal to supporting the mis-
sion of the agency and without which the
agency would have difficulty providing key
business services.

H. "PCC" means project
certification committee a subcommittee of
the ITC.

I. "Project costs" means all hardware, software, development, testing and training expenditures, both planned and actual.

J. "Project lifecycle" means the period of time commencing with conception of an information technology project and culminating with the acceptance and operation of products produced by the project.

K. "Program" means a group of related projects managed in a coordinated manner.

L. "Qualified" means demonstrated experience successfully managing information technology projects.

M. "Quality" means the degree to which a system, system component, or process meets specified requirements, customer needs, and user expectations.

N. "Quality assurance" means a planned and systematic pattern of all actions necessary to provide adequate confidence that a product or system component conforms to established requirements.

O. "Strategy" means a plan of action for achieving a goal.

P. "Validation" means ensuring a system meets documented performance outcomes and requirements of the project.

Q. "Verification" means application of an appropriate test yielding documentable, measurable evidence that ensures a process executed or the technical system developed produces required performance outcomes.

[1.12.9.7 NMAC - N, 10/17/2005]

1.12.9.8 RESPONSIBILITIES OF THE PCC. The PCC is a subcommittee of the ITC and shall perform the following responsibilities.

A. Have the authority to recommend certification of information technology projects that meet one or more of the following:

- (1) mission criticality;
- (2) project cost equal to or exceeding \$1,000,000;
- (3) impact to customer on-line access; or
- (4) projects the committee deems appropriate.

B. Develop procedural requirements on how to recommend certification or to recertify projects, including documentation requirements, meeting specifics, timelines and support services. The PCC shall convene at the call of the chair, but at least monthly to consider agency projects for certification.

C. Report certification recommendations to the ITC.

D. Review and comment on agency information technology project's

consolidation efforts and opportunities.
[1.12.9.8 NMAC - N, 10/17/2005]

1.12.9.9 PCC MEMBERSHIP.

A. The PCC shall consist of members of the ITC appointed by the ITC chair.

B. The ITC chair shall appoint the chair of the PCC.

C. The PCC will select a vice chair from its membership.
[1.12.9.9 NMAC - N, 10/17/2005]

1.12.9.10 CERTIFICATION PROCESS.

A. PCC certification generally. At a minimum, project certification shall be required at a project's initiation, during its implementation and closeout. The PCC may require additional certification phases, events or deliverables based on the progress, complexity, risk or size of the project. Project certification shall be required before funds can be released for any of the above certification phases. Regarding phased release of funds, project managers shall present the distinct components of a phased approach, with approval of what constitutes appropriate phases for a particular project to then be approved or modified by the office and the PCC.

B. Agency request. A report by the agency requesting approval of a project requiring certification must be submitted in writing for all certification phases specified by the PCC. The PCC shall determine the components of the reports and criteria for issuing certification.

C. Verification. The PCC shall verify that the project has been reviewed by the architectural committee and the office as appropriate.

D. PCC recommendation. The PCC shall make a recommendation to the ITC to issue or deny project certification or may provide contingent certification subject to the agency providing specific information. The PCC shall notify the agency submitting the project in writing of its decision. In the case of recommendation for denial of the project for certification, the PCC will cite the reasons for its decision and the recommended actions needed to be taken by the agency for resubmission of the project for certification.

E. Office pre-certification. The office shall release "phase zero" pre-certification planning phase funds to develop project phasing, IV&V or an overall project plan.

F. Emergency Certification Review. The PCC will make every effort, within reason, to review projects in a timely manner. If at any time the PCC cannot convene, and a project faces significant time constraints and major risks to the project an emergency certification

review may be implemented. The emergency review is for circumstances outside of control of the agency and every effort should have been made to work within the existing process. All members of the PCC will be provided an opportunity for comment. Documentation will be sent to the PCC electronically with notification of response timeline. Any comments from the PCC members must be sent electronically to the chair of the PCC. The CIO, PCC chair and the ITC chair shall have the authority to issue or deny certification for a particular phase of the project. If a certification is approved or denied, without convening the PCC, justification of the action shall be provided at the next regularly scheduled meeting of the ITC.
[1.12.9.10 NMAC - N, 10/17/2005]

1.12.9.11 AGENCY RESPONSIBILITIES.

A. An executive agency shall:

(1) prepare a written project certification report prior to certification for large projects that are equal to or exceeding \$1,000,000, high-risk projects or at the request of the PCC;

(2) schedule a certification review and provide documentation in a timely manner to the PCC;

(3) prepare a presentation to the PCC and answer questions prior to certification for large or high-risk projects or at the request of the PCC;

(4) shall keep a copy of each project status report on file;

(5) prepare a written risk assessment report at the concept phase of the project, at the end of each project phase, and following the culmination of each development lifecycle phase, or more frequently for large and high-risk projects;

(6) provide an independent verification and validation (IV&V) report to the PCC;

(7) be prepared to identify the value of the information technology project, as well as, relationship in support and consolidation with other information technology projects and agencies; and

(8) keep a copy of each risk assessment report on file.

B. The agency project manager, the contract project manager, if appropriate, and the project team shall regularly review the status and progress of an information technology project throughout its lifecycle.

[1.12.9.11 NMAC - N, 10/17/2005]

1.12.9.12 PROJECT PLANS.

A. Plan Required. An agency shall prepare, in accordance with instructions contained in the project management guidelines and best practices docu-

ment prepared by eth office, a project plan for every IT project regardless of its scope or cost. The agency project manager shall document the plan and all revisions to the plan, and shall keep it on file until the system is removed from operation.

B. Plan contents. The plan shall contain at a minimum:

- (1) a description of the project;
- (2) a description of the functions the system will provide;
- (3) a description of the development lifecycle methodology;
- (4) an initial risk assessment;
- (5) risk management strategies, including mitigation actions;
- (6) quality assurance strategies or plan;
- (7) human and financial resource requirements and allocation;
- (8) a project review schedule;
- (9) IV&V plan and reports;
- (10) project deliverables;
- (11) a project schedule; and
- (12) appropriate security planning for at least data, disaster recovery, and system back-up.

C. Plan approval. For projects meeting the selection criteria, the agency shall submit the plan to the office prior to initiation of the project or release of funding by the department of finance and administration. The office shall review the internal plan for sufficiency and in accordance with criteria specified by the PCC, and shall make recommendations to the PCC for certification. The PCC will review the documentation and provide the agency an opportunity to present the information technology project to the PCC for certification. The PCC meets monthly and will schedule presentation at each meeting. It the agency's responsibility to assure timely submission of materials and schedule certification review. The PCC will identify areas of improvement to the agency if the plan does not meet initial approval of the PCC. The PCC shall make their recommendation to the ITC.

D. Right to appeal. If an agency requesting certification for any phase is denied certification, the agency may appeal the decision by submitting a written intent to appeal within five (5) business days of receipt of denial. The written intent to appeal shall be submitted to the chair of the ITC with a courtesy copy provided to the chair of the PCC. It shall be the responsibility of the agency to comply with the ITC agenda and meeting rules to present its appeal.

[1.12.9.12 NMAC - N, 10/17/2005]

HISTORY OF 1.12.9 NMAC:
[RESERVED]

**NEW MEXICO
INFORMATION
TECHNOLOGY
COMMISSION**

**TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 12 INFORMATION TECHNOLOGY
PART 12 APPLICATION SOFTWARE SELECTION**

1.12.12.1 ISSUING AGENCY. Information Technology Commission.
[1.12.12.1 NMAC - N, 10/17/2005]

1.12.12.2 SCOPE. This rule applies to extended sourcing technology by executive agencies.
[1.12.12.2 NMAC - N, 10/17/2005]

1.12.12.3 STATUTORY AUTHORITY. Sections 15-1C-5 and 15-1C-8 NMSA, 1978.
[1.12.12.3 NMAC - N, 10/17/2005]

1.12.12.4 DURATION. Permanent.
[1.12.12.4 NMAC - N, 10/17/2005]

1.12.12.5 EFFECTIVE DATE. October 17, 2005, unless a later date is cited at the end of a section.
[1.12.12.5 NMAC - N, 10/17/2005]

1.12.12.6 OBJECTIVE. The purpose of this rule is to select enterprise-wide programs, applications, and application systems that do not inhibit or create barriers to necessary interaction, collaboration and information sharing among governmental agencies.
[1.12.12.6 NMAC - N, 10/17/2005]

1.12.12.7 DEFINITIONS.

A. "Application" means the software, including code and processes that address specific business needs; separate from the operating system software.

B. "Commercial off the shelf (COTS)" means commercially available software designed to meet specific business needs and generally maintained by a commercial vendor.

C. "Enterprise-wide" means effecting the entire organization.

D. "Platform" means the modules of computer code that perform specific functions with the application.

E. "Program" means the modules of computer code that perform specific functions with the application.

F. "Source code" means the computer code from which the application and programs may be recovered.

G. "Total cost of ownership (TCO)" means all costs to purchase, implement and train users on an application system. The TCO also includes ongoing maintenance, in service training and network costs.
[1.12.12.7 NMAC - N, 10/17/2005]

1.12.12.8 POLICY. When selecting software, the following principles apply.

A. The user base of the particular "sourced" application is growing, commercial interest and support is evident and a certified peer support group is active.

B. Source code and application platforms are well supported and business functionality can be clearly demonstrated.

C. A timely schedule has been established for new version updates and bug fixes for the application.

D. Proposals from state entities must demonstrate that an infrastructure of support exists to manage applications, implementation and ongoing maintenance.

E. Total cost of ownership for proposed application must be equivalent to or less than a commercial solution and should present a value driven methodology, TCO (as developed elsewhere) must always address costs of implementation, ongoing technical support, training, etc. COTS procurement must be equal to or less than the cost of in-house developed systems.

F. Training for the implementation and ongoing use of the software is readily available and can be provided on a reasonable schedule and cost.

G. Applications development practices are of high quality, well-documented and easily applied.

H. The vendor is financially stable and could be expected to remain a viable entity under state guidelines.

I. In-house developed application software will adhere to items B through G above.
[1.12.12.8 NMAC - N, 10/17/2005]

HISTORY OF 1.12.12 NMAC:
[RESERVED]

**NEW MEXICO
MEDICAL BOARD**

This is an emergency amendment to 16.10.2 NMAC, Section 16, Effective September 22, 2005.

16.10.2.16 PROVISIONS FOR PHYSICIAN LICENSURE DURING A DECLARED DISASTER.

A. Emergency provisions for license by examination. Physicians

currently licensed in a state in which a federal disaster has been declared may be licensed by examination in New Mexico during the four months following the declared disaster at no cost. The board may waive the specific forms required under Subsection B of 16.10.2.9 NMAC if the applicant is unable to obtain documentation from the federal declared disaster areas. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.10.2.9 NMAC.

B. Emergency provisions for license by endorsement. Physicians currently licensed in a state in which a federal disaster has been declared may be licensed by endorsement in New Mexico during the four months following the declared disaster at no cost with the following requirements:

(1) receipt of a completed application which has been signed and notarized accompanied by proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental entity;

(2) the board will consider the required three years of practice experience to be met through any combination of postgraduate medical education and actual work experience;

(3) the board may waive any requirements for recommendation forms or verification of work experience forms;

(4) other required verification will be obtained online by board staff to include: current licensure status, national practitioners data bank, federation of state medical board disciplinary database, American medical association records of education and postgraduate training, and the records of the American board of medical specialties to confirm board certification status; and

(5) nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.10.2.10 NMAC.

C. License expiration. Medical licenses issued under 16.10.2.16 NMAC shall expire on October 1, 2006, unless a renewal application is approved by the board or an agent of the board. Applications for renewal shall be made on or before July 1, 2006 to avoid late renewal fees. The board reserves the right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving license renewal.

[16.10.2.16 NMAC - N/E, 9/22/05]

NEW MEXICO MEDICAL BOARD

This is an emergency amendment to 16.10.15 NMAC, Sections 18 and 19, Effective September 22, 2005.

16.10.15.18 PROVISIONS FOR PHYSICIAN ASSISTANT LICENSURE DURING A DECLARED DISASTER.

Physician assistants currently licensed in a state in which a federal disaster has been declared may be licensed in New Mexico during the four months following the declared disaster at no cost. The requirement for letters of recommendation may be waived and online license verification may be accepted for applicants under this provision.

[16.10.15.18 NMAC - N/E, 9/22/05]

16.10.15.19 SERVICES PERFORMED DURING AN EMERGENCY OR DISASTER

A. The supervision and delegation requirements of 16.10.15.12 NMAC and Sections 61-6-7 through 61-6-10 NMSA 1978 do not apply to medical tasks performed by a physician assistant during a federally declared disaster.

B. A physician assistant may provide medical services and perform tasks described by 16.10.15.12 NMAC and Sections 61-6-7 NMSA 1978 while:

(1) under the supervision of any physician who is also performing volunteer work in the disaster; or

(2) without the supervision of a physician, if a physician is not currently available to provide supervision.

C. The physician assistant is responsible for notifying the board of the following information by email, fax or by mail, within 30 days of initiation of the activity:

(1) the name of the supervising physician(s);

(2) a general description of the time period; and

(3) the location of the emergency duties.

D. There are no limits on the number of physician assistants who may be supervised by the emergency supervising physician.

[16.10.15.19 NMAC - N/E, 9/22/05]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 30 EDUCATIONAL
STANDARDS - GENERAL REQUIRE-

MENTS

PART 6 SUSPENSION OF AUTHORITY OF A LOCAL SCHOOL BOARD, SUPERINTENDENT OR PRINCIPAL

6.30.6.1 ISSUING AGENCY:
Public Education Department
[6.30.6.1 NMAC - N, 10-17-05]

6.30.6.2 SCOPE: All local school boards, superintendents, principals and their counterparts in charter schools.
[6.30.6.2 NMAC - N, 10-17-05]

6.30.6.3 STATUTORY AUTHORITY: NMSA 1978, Sections 22-2-1, Subsection C of 22-2-2, 22-2-14 and 9-24-8.
[6.30.6.3 NMAC - N, 10-17-05]

6.30.6.4 DURATION:
Permanent
[6.30.6.4 NMAC - N, 10-17-05]

6.30.6.5 EFFECTIVE DATE:
October 17, 2005, unless a later date is cited at the end of a section.
[6.30.6.5 NMAC - N, 10-17-05]

6.30.6.6 OBJECTIVE: This rule establishes the process for suspending the authority of local school boards, superintendents, principals, and their counterparts in charter schools failing to attain and maintain the requirements of law, standards, or rules of the public education department.
[6.30.6.6 NMAC - N, 10-17-05]

6.30.6.7 DEFINITIONS:
A. "Charter school" means a conversion school or start-up school within a school district authorized by the local school board to operate as a charter school;

B. "Public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school; and

C. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.
[6.30.6.7 NMAC - N, 10-17-05]

6.30.6.8 FACTORS IN DETERMINING SUSPENSION BY THE SECRETARY:

A. Suspending the authority of local school boards, superintendents, principals, and their counterparts in charter

schools is warranted whenever there has been a failure to meet requirements of law, standards or rules of the public education department as to any part of the school district or charter school under their respective control. Whether or not to commence the suspension process under this rule shall be at the discretion of the secretary who will make this determination on a case by case basis. Generally:

(1) money budgeted by a school district shall be spent first to attain and maintain the requirements for a school district as prescribed by law and by standards and rules as prescribed by the department; and

(2) money budgeted by or provided to a charter school counterpart shall be spent first to attain and maintain the requirements for a charter school as prescribed by state or federal law and by standards and rules as prescribed by the department; and

(3) the department may disapprove instructional units or administrative functions that it determines to be detrimental to the educational process.

B. The secretary, after consultation with the commission, may suspend from authority and responsibility a local school board, local superintendent, school principal, or their counterparts in charter schools that has had notice of disapproval and fails to comply with the requirements or procedures of Subsection B of 6.30.6.9 NMAC. If suspension is ordered, the department shall act in lieu of the suspended local school board, local superintendent, school principal or their counterparts in charter schools until the secretary removes the suspension.

C. To determine a failure to meet the requirements of law, department standards, or department rules, the secretary shall consider the following factors:

(1) the existence of a pattern of noncompliance with requirements of any applicable law, department standards, state or federal rules or department directives;

(2) the nature and severity of any identified area or areas of noncompliance with requirements of any applicable law, department standards, state or federal rules or department directives;

(3) the nature and type of notice given by the department to the applicable local school board, superintendent, principal, and their charter school counterparts, regarding the area or areas of noncompliance with requirements of law, department standards, or department directives;

(4) the opportunity to correct the area or areas of noncompliance, if correction is possible under the circumstances;

(5) the extent of any efforts to correct the area or areas of noncompliance; and

(6) the reasons given by the local

school board, superintendent, principal, or charter school counterparts for failing to comply with NMSA 1978, Subsection B of Section 22-2-14 or with other requirements of law, department standards, and department directives, leading to the proposed suspension.

D. If suspension is ordered, the department shall act in lieu of the suspended local school board, local school superintendent, school principal, or their counterparts if the school is a charter school. The department shall execute all the legal authority of the local school board, the superintendent, school principal, or their charter school counterparts. The secretary may delegate authority to act in lieu of the suspended local school board, local school superintendent, school principal, or their counterparts in a charter school, provided that there shall be no contract with a private entity for the management of a public school, school district, or charter school.

[6.30.6.8 NMAC - N, 10-17-05]

6.30.6.9 PROCEDURES FOR SUSPENSION OF AUTHORITY:

A. When suspension is contemplated, the department shall deliver written notification to a local school board or charter school counterpart of any failure to meet requirements of laws, rules or standards. The notice shall describe the requirements of laws, rules or standards that have not been followed.

B. Within thirty (30) calendar days after the receipt of the notice of failure to meet requirements, the local school board, charter school governing authority, or specifically affected administrator, shall:

(1) comply with the specific and attendant requirements in order to remove the cause for disapproval; or

(2) submit plans satisfactory to the department to meet the requirements and remove the cause for disapproval.

C. At any time prior to the entry of a permanent order of suspension, the secretary shall consult with the public education commission at a public meeting to discuss the reasons for and purpose of the proposed suspension. The commission may recommend other alternatives to suspension, which the secretary may consider in rendering a final decision in the process.

D. If after thirty (30) calendar days from receipt of a notice of failure to meet requirements, the school authority or official has failed or refused to comply with the specific and attendant requirements set forth in the notice, including submitting a satisfactory plan of compliance to the department, an alternative order of suspension that states the cause(s) for the suspension, the effective date and time the suspension will begin, any other information

deemed relevant by the secretary shall be issued. The alternative order of suspension shall be delivered to the local school board or charter school governing body.

E. The alternative order shall also contain notice of a time, date and place for a public hearing, prior to the beginning of suspension, to be conducted by the secretary, at which the local school board, a local school superintendent, a local school principal, or their charter school counterparts, may appear and show cause why the suspension should not be put into effect.

(1) The hearing shall be held within sixty (60) calendar days of the date the alternative order is issued.

(2) The school authority or official subject to the alternative order may be represented by counsel.

(3) The school authority or official subject to the alternative order shall, within thirty (30) calendar days of the date the order is issued, submit to the secretary a written statement with supporting documentation stating why the secretary should not impose a suspension. The written statement shall address only the cause(s) for suspension specified in the alternative order and the reasons for opposing the suspension, which shall address the factors outlined in Subsection C of 6.30.6.8 NMAC. Three copies of the written statement with supporting documentation shall be submitted to the department's general counsel.

(4) The secretary may designate department staff to review all information resulting in the alternative order and all information submitted by the school authority or official subject to the alternative order for the purpose of preparing and submitting to the secretary a report recommending that the suspension proceed or not proceed and the reasons for that recommendation. The report shall contain, as appropriate, legal authority for the department staff's recommendation. The report shall be delivered to the secretary no later than seven (7) business days before the scheduled hearing, with a copy provided to the school authority or official subject to the alternative order or counsel, if any.

(5) The secretary may have the department's legal counsel present at the hearing and may seek that counsel's advice before, during, and after the hearing.

(6) The secretary may designate a person as a point of contact for receiving documents and addressing procedural issues. However, except for brief inquiries about scheduling, logistics, procedure or similar questions that do not affect the merits of the case, the school authority or official subject to the alternative order shall not communicate with or encourage others to communicate with the secretary or any staff member of the department about the case

prior to the hearing.

(7) The hearing shall be presided over by the secretary or a hearing officer designated by the secretary and shall be opened to the public. A hearing officer shall, within two (2) business days after the hearing, or sooner as requested by the secretary, submit to the secretary a report setting forth findings of fact.

(8) An official transcript of proceedings shall be made, which may be in the form of an audio recording. Either party may have a copy of the transcript at their expense.

(9) The secretary shall open the hearing and start with opening statements, first by the department staff and then from the school authority or official subject to the alternative order. Unless extended by the secretary, the oral arguments shall be no longer than twenty minutes each and may not raise any issues that have not been brought forth in the alternative order, the written statement of the school authority or official subject to the alternative order, or the department's written recommendation.

(10) The secretary may question the school authority or official subject to the alternative order and/or department staff regarding the causes for the alternative order and the reasons stated by the recipient for opposing the suspension.

(11) The department and the school authority or official subject to the alternative order may put forth witnesses to address the secretary only on the causes stated in the alternative order and the reasons stated by the recipient of the alternative order for opposing the suspension. Witnesses shall be sworn. The witnesses may testify only if they have personal knowledge of the facts leading to the causes stated in the alternative order of suspension through professional assignments.

(12) No later than five (5) business days before the hearing the department staff and the school authority or official subject to the alternative order shall file with the secretary a list of witnesses and a detailed description of the testimony that each witness will provide. The department staff and recipient will provide each other copies of the witness list.

(13) The department's witnesses shall first be presented to the secretary, after which the school authority or official subject to the alternative order may present witnesses. The secretary may establish parameters for the testimony of witnesses and may exclude any testimony that is repetitive or not relevant to the causes leading to the alternative order of suspension or the reasons set forth by the recipient for opposing the suspension. The department and the school authority or official subject to the alternative order shall have the right to cross-examine witnesses.

(14) The rules of evidence and rules of civil procedure shall not apply to the hearing. Prehearing matters including motions may be filed by mail or facsimile.

(15) Unless extended by the secretary, the department and the school authority or official subject to the alternative order of suspension, shall each have no more than ten (10) minutes to present closing arguments, after which the secretary shall close the hearing.

(16) The secretary shall make permanent, modify, or withdraw the alternative order within five (5) business days after the hearing date. The secretary's decision shall be in writing and delivered to the school authority or official subject to the alternative order, the public education commission, and applicable department staff.

(17) The secretary's written decision shall contain findings, reasons, conclusions, and legal authority to make permanent, modify, or withdraw the alternative order. The decision shall also address the requirements for removing the suspension and timelines for completing all requirements for removing the suspension.

(18) The secretary's decision to modify an alternative order shall also include the specific administrative and school functions for which the department shall be responsible until the suspension is lifted.

(19) The school authority or official subject to the alternative order of suspension may waive the timelines provided in this rule so long as such waiver is in writing and signed by a person with authority.

(20) The matter may be settled by the parties at any time prior to the conclusion of the show cause hearing. Any such agreement shall address the timelines provided in this rule.

F. In addition to the above-stated procedures the secretary may suspend a local school board, local superintendent, school principal, or its charter school counterpart when the local school board, local superintendent, school principal, or its charter school counterpart has been notified in writing of disapproval status and when the department has sufficient reason to believe that the educational process in the school district or public school has been severely impaired or halted as a result of deficiencies so severe as to warrant disapproved status before a public hearing can be held. A public hearing shall still be held as soon as practicable on the matter following the procedures established in this rule and after notice is provided to the school authority or official subject to the suspension. However, the department shall immediately take control of the local school board, local superintendent or school principal, or its charter school counterpart upon issuing written notice of its intent to impose

a suspension on the basis that the educational process has been severely impaired or halted as a result of deficiencies so severe as to warrant disapproved status before a public hearing can be held.

G. The school authority or official subject to the suspension who is aggrieved by the secretary's decision may appeal to the district court pursuant to the provisions of NMSA 1978 Section 39-3-1.1.

H. No suspension shall be used to bring about a consolidation or reorganization of a school district without the approval of the local board of that district. [6.30.6.9 NMAC - N, 10-17-05]

6.30.6.10 DURATION OF SUSPENSION: Suspension of a local school board, school superintendent, school principal, or its charter school counterpart shall continue until requirements of law, standards or rules have been met, compliance is assured, and the secretary removes the suspension. Nothing in this rule shall in any way limit the term of office, membership, election, re-election or recall of a local school board or charter school governing body. [6.30.6.10 NMAC - N, 10-17-05]

6.30.6.11 IMPLEMENTATION:

A. The secretary may use any or all of the following groups or individuals in executing its legal authority over a suspended local school board, local superintendent, school principal, or their charter school counterparts:

- (1) the department;
- (2) contracted consultants;
- (3) contracted management other

than with private entities (e.g., another school district, state educational institution, regional educational cooperatives, including contracts for the services of individuals regularly employed by such entities).

(4) any combination of the foregoing.

B. While it shall not be the express purpose of a suspension under this rule to terminate, discharge, or replace licensed or unlicensed district or charter school employees, the secretary shall possess and execute all the legal authority and responsibility of the suspended local school board, charter school governing body, or designated administrator subject to the following restrictions:

(1) The retention of existing district administrators and employees shall be considered.

(2) Any termination or discharge of district employees must be conducted in accordance with the applicable sections of the School Personnel Act [NMSA 1978, Section 22-10A-1 et seq.].

(3) Any adverse personnel action of any licensed or unlicensed district employee shall be limited to the authority set forth in the suspended district's policies.

(4) The secretary shall not be obligated to honor any district employment plans or letters of intent issued pursuant to NMSA 1978, Section 22-10A-14 (2003) that involve the hiring of an individual holding or seeking a certificate of waiver.

[6.30.6.11 NMAC - N, 10-17-05]

6.30.6.12 PERIODIC STATUS REPORT:

The secretary shall advise the public education commission of all suspensions in effect at each commission meeting. Additionally, the secretary shall advise the commission when a suspension is terminated at the next meeting after which the suspension was terminated.

[6.30.6.12 NMAC - N, 10-17-05]

6.30.6.13 SEVERABILITY:

If any part or application of this rule is held invalid by a court of competent jurisdiction, the remainder or its application to other situations shall not be affected.

[6.30.6.13 NMAC - N, 10-17-05]

HISTORY OF 6.30.6 NMAC: [Reserved]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 69 SCHOOL PERSON- NEL - PERFORMANCE PART 5 PERFORMANCE EVALUATION SYSTEM REQUIRE- MENTS FOR LIBRARIAN-TEACH- ERS

6.69.5.1 ISSUING AGENCY:

Public Education Department.

[6.69.5.1 NMAC - N, 10/17/05]

6.69.5.2 SCOPE:

Chapter 69, Part 5 governs performance evaluation system requirements for librarian-teachers.

[6.69.5.2 NMAC - N, 10/17/05]

6.69.5.3 STATUTORY

AUTHORITY: Sections 22-2-1, 22-2-2, and 22-10A-1, et seq., NMSA 1978.

[6.69.5.3 NMAC-N, 10/17/05]

6.69.5.4 DURATION:

Permanent.

[6.69.5.4 NMAC - N, 10/17/05]

6.69.5.5 EFFECTIVE DATE:

October 17, 2005, unless a later date is specified at the end of a section.

[6.69.5.5 NMAC - N, 10/17/05]

6.69.5.6 OBJECTIVE: This regulation governs the requirements for a high objective statewide standard of evaluation for librarian-teachers from kindergarten through grade twelve. This regulation identifies the specific evaluation/supervision standards and indicators and requirements for a competency based evaluation system for librarian-teachers.

[6.69.5.6 NMAC - N, 10/17/05]

6.69.5.7 DEFINITIONS:

"Librarian-teacher" means a licensed teacher with a library/media endorsement performing work in a public school or charter school that requires that endorsement.

[6.69.5.7 NMAC - N, 10/17/05]

6.69.5.8 REQUIREMENTS:

A. Every public school librarian-teacher must have an annual performance evaluation based on an annual professional development plan that meets the requirements of the state's high objective uniform standard of evaluation as provided in 6.69.5.9 NMAC. The format for this evaluation shall be established by the department and shall be uniform throughout the state in all public school districts.

B. In order for a librarian-teacher to advance from licensure level I to level II and from licensure level II to level III-A a librarian-teacher who applies for licensure after June 30, 2005 must successfully meet the requirements of the state's high objective uniform standard of evaluation as provided in 6.69.5.10 NMAC.

C. On the effective date of this rule, librarian-teachers holding level I, level II, or level III licenses will continue to hold those licenses at the same level and shall meet the requirements for their level of licensure as provided in 6.69.5.11 NMAC by September 1, 2006, as established through local annual evaluations.

[6.69.5.8 NMAC - N, 10/17/05]

6.69.5.9 IMPLEMENTATION OF THE HIGH OBJECTIVE UNIFORM STANDARD OF EVALUATION-ANNUAL:

A. No later than June 30, 2006, each school district adopt policies, guidelines, and procedures for annual librarian-teacher performance evaluation that meet the requirements of this regulation. The annual evaluation plan will be combined with the evaluation plan for licensure advancement provided in Subsection A of 6.69.5.10 NMAC to form an overall system for librarian-teacher evaluation and support.

B. No later than forty school days after the first of school of each school year, each librarian-teacher and his or her school principal shall establish a professional development plan for the librari-

an-teacher, with measurable objectives, for the coming year based on, among other things:

(1) the public education department's (PED) eleven librarian-teacher competencies and indicators for the librarian-teacher's licensure level; and

(2) the previous year's annual evaluation, if applicable.

C. Annual performance evaluations shall be based on, among other things, how well the professional development plan was carried out and the measurable objectives were achieved.

D. The school principal shall observe each librarian-teacher's program practice at least once annually to determine the librarian-teacher's ability to demonstrate state adopted competencies and indicators for each librarian-teacher's licensure level.

E. If a level II or level III-A librarian-teacher does not demonstrate essential competencies for a given school year, the school district shall provide the librarian-teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of that school year the librarian-teacher still fails to demonstrate essential competencies, a district may choose not to contract with that librarian-teacher.

F. If a level III-A librarian-teacher does not demonstrate essential competencies at level III-A for a given school year, the school district shall provide the librarian-teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of the following school year the librarian-teacher still fails to demonstrate essential level III-A competencies, the superintendent may recommend to the secretary of education that the librarian-teacher's level III-A license be suspended until such time as the librarian-teacher demonstrates the essential competencies at level III-A. Depending on the outcome of any due process proceeding under the Uniform Licensing Act, Sections 61-1-1 through 61-1-31, NMSA 1978, and if the superintendent verifies that the librarian-teacher meets the standards for a level II license, the librarian-teacher may be issued a level II license during the period of level III-A licensure suspension. A suspended level III-A license may be reinstated by the secretary of education either upon verification by a local superintendent that the librarian-teacher now demonstrates the essential competencies at level III-A or through the process described in 6.69.5.10 NMAC.

G. Any librarian-teacher who held a level II or level III-A license prior to July 1, 2005, shall meet the requirements of the high objective uniform stan-

dard of evaluation for his/her level of licensure through the annual evaluation process by September 1, 2006 or shall not be eligible for the increased base salary provided in 22-10A-11(C), NMSA 1978.
[6.69.5.9 NMAC - N, 10/17/05]

6.69.5.10 IMPLEMENTATION OF THE HIGH OBJECTIVE UNIFORM STANDARD OF EVALUATION FOR ADVANCEMENT TO LEVEL II OR LEVEL III LICENSURE:

A. No later than June 30, 2006, each school district shall adopt policies, guidelines, and procedures for librarian-teacher performance evaluation for licensure advancement that meet the requirements of this regulation. The licensure advancement plan will be combined with the annual evaluation plan provided in Subsection A of 6.69.5.9 NMAC to form an overall system for librarian-teacher evaluation and support.

B. The librarian-teacher shall develop and submit a professional development dossier (PDD) according to the following schedule:

(1) if advancing to level II, not earlier than three months prior to the completion of the third year at level I;

(2) if advancing to level III, not earlier than three months prior to the completion of the third year at level II.

C. The PDD shall include:

(1) evidence of competence that may be collected over multiple school years, including the year the PDD is being developed;

(2) evidence in the following format that demonstrates how the librarian-teacher meets the PED's eleven librarian-teacher competencies and indicators for the level of licensure to which the librarian-teacher is advancing; evidence that demonstrates how the librarian-teacher meets competencies related to a:

(a) teaching and learning strand (competencies 1-6); and a

(b) program development and management/information access and delivery strand (competencies 7-9); and a

(c) professional learning strand (competencies 10 and 11).

(3) evidence from an evaluation strand that includes the librarian-teacher's annual evaluations from at least the two years prior to the application for advancement and the superintendent's recommendation for advancement to the next licensure level;

(4) a verification strand that includes:

(a) for a level I librarian-teacher advancing to level II:

(i) verification of participation in a district's formal mentorship program;

(ii) verification of three years successful librarian-teaching experience at level I;

(iii) verification by the superintendent that the work product in the dossier is that of the librarian-teacher and that the data submitted is accurate.

(b) for a level II teacher advancing to level IIIA:

(i) verification of a post baccalaureate degree or national board professional teaching certification;

(ii) verification of a minimum three years of successful librarian-teaching experience at level II;

(iii) verification by the superintendent that the work product in the dossier is that of the librarian-teacher and that the data submitted is accurate;

D. Evidence in the PDD competency strands:

(1) The teaching and learning strand shall include evidence of:

(a) student achievement data; and
(b) assessment techniques and procedures; and

(c) instructional plans and materials; and

(d) examples of student work and performance; and

(e) evidence of implementation of state curriculum standards;

(2) The program development and management/information access and delivery strand shall include mandatory evidence and may include optional evidence as follows:

(a) the student learning strand shall include evidence of:

(i) adaptations/modification for diverse learners; and

(ii) evidence of effective classroom management strategies and procedures; and

(iii) classroom observation reports; and

(iv) evidence of communication with students and parents.

(b) the student learning strand may include evidence in the form of:

(i) student surveys; and/or

(ii) video tapes with reflections/analysis.

(3) The professional learning strand shall include evidence of at least one of the following:

(a) professional development activities associated with the teachers annual professional development plan (PDP); or

(b) evidence of collaborating with professional community; or

(c) parent surveys; or

(d) research publications; or

(e) professional presentations.

(4) Evidence comparable and equivalent to Paragraphs (1), (2) and (3) of

Subsection E of this section may be developed through certification by the national board of professional teaching standards (NBPTS).

E. Unless special accommodations are requested in writing to the PED 30 days in advance of a submission, the PDD and associated fees in Subsection C of 6.60.7.8 NMAC shall be submitted electronically following procedures established by the PED.

F. The PDD shall be evaluated by the superintendent of the teacher's school district and by two external reviewers, one of whom shall hold a library/media endorsement, as follows:

(1) The superintendent will complete the verification and evaluation strands in order to make his recommendation for licensure advancement and the two external reviewers will rate the three competency strands as "exceeds standards," "meets standards" or "does not meet standards in order to make their recommendations for licensure advancement."

(2) Each one of the three competency strands of a librarian-teacher's PDD reviewed by the independent reviewers must be rated as either "exceeds standards" or "meets standards" and each one of the strands completed by the superintendent must be verified and have a positive recommendation in order for the librarian-teacher to advance to the next higher level of licensure.

(3) The superintendent and the reviewers will submit the PDD to the PED or its contractor with their ratings.

(4) PED will evaluate the ratings of the superintendent and the external reviewers and approve or deny the teacher's application for licensure advancement.

(a) If one of the external reviewers rates one of the competency strands of the PDD as "exceeds standards" and the other external reviewer rates the same strand as "meets standards", the strand will be deemed passed.

(b) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "exceeds standards", the finding will be that the candidate "meets standards" and the strand will be deemed passed.

(c) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "meets standards," a third reviewer will resolve the discrepancy in order to determine if the strand will be passed.

(d) If both of the external reviewers rate the competency strand(s) of PDD the same, that rating will be their finding. If, however, both of the external reviewers rate the competency strand(s) of the PDD as

“does not meet standards,” a third trainer/reviewer may review the strand(s) to confirm or reject their ratings.

G. A candidate for licensure advancement who is not successful in the PDD may continue to submit a new PDD.

H. If a candidate for licensure advancement meets or exceeds standards in one or some of the strands, but not in all of them, the librarian-teacher’s score(s) of “meets standards” or “exceeds standards” may be retained for a period of two calendar years. Any resubmission of a PDD during that two-year period need only address those strands rated “does not meet standards” in order to determine a final passing score for all strands for licensure advancement.

[6.69.5.10 NMAC - N, 10/17/05]

6.69.5.11 NEW MEXICO LIBRARIAN-TEACHER COMPETENCIES AND INDICATORS FOR LICENSURE LEVELS I, II, III:

A. New Mexico is one of the most diverse states in the nation, and this diversity is reflected in the strengths and needs of New Mexico’s students. The ability of a highly qualified librarian-teacher to address the learning needs of all of New Mexico’s students, including those who learn differently as a result of disability, culture, language, or socioeconomic status, forms the framework for the New Mexico librarian-teacher competencies for licensure levels I, II, and III assessment criteria indicators.

B. With the adoption of this rule, the high objective statewide standard of evaluation for librarian-teachers shall include the following standards and indicators as part of the evaluation criteria for level I librarian-teachers.

(1) The librarian-teacher demonstrates knowledge of the library content area and established curriculum:

(a) utilizes and enhances established library curriculum;

(b) gives clear explanations relating to lesson content and procedure;

(c) communicates accurately in the library content area;

(d) articulates to students the interrelatedness of content areas.

(2) The librarian-teacher appropriately utilizes a variety of teaching methods:

(a) provides opportunities for students to work independently, in small groups and in large groups;

(b) uses a variety of teaching methods such as demonstrations, lecture, student-initiated work, group work, questioning, and independent practice;

(c) uses a variety of resources, such as print and non-print materials,

manipulatives, on-line resources, and technology;

(d) provides opportunities for students to apply, practice, and demonstrate knowledge and skills;

(e) implements necessary modifications and adaptations in instruction and library curriculum so that students with disabilities have access in the least restrictive environment.

(3) The librarian-teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) explains and/or demonstrates the relevance of topics and activities;

(b) communicates to students the instructional intent, directions or plan;

(c) establishes and states expectations for student performance

(d) clarifies actions, directions and explanations when students do not understand.

(4) The librarian-teacher effectively utilizes student assessment techniques and procedures:

(a) solicits communication from students about their learning;

(b) uses a variety of strategies in instructional planning using ongoing assessment;

(c) documents observations of student learning using tools such as anecdotal records, consultations with teachers and/or logs.

(5) The librarian-teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) instructs students in the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making;

(b) uses teaching techniques that address student learning levels, rates, styles, and special needs, as well as diverse interests and backgrounds;

(c) uses materials and media that address student learning levels, rates, styles, and special needs, as well as diverse interests and backgrounds.

(6) The librarian-teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) demonstrates sensitivity and responsiveness to the personal ideas, learning needs, interests, and feelings of students with disabilities, and/or from culturally and linguistically diverse backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups);

(b) understands how students differ in their approaches to learning and adjusts instruction to meet diverse needs;

(c) provides opportunities for each student to succeed;

(d) provides students with opportunities that promote creativity as well as critical and divergent thinking;

(e) provides opportunities for students to be responsible for their own behavior and learning;

(f) promotes positive student/teacher relationships;

(g) encourages high expectations for all students.

(7) The librarian-teacher models and promotes collaborative planning:

(a) participates in informal collaborative curriculum planning with the teaching staff;

(b) collaborates with teaching staff to identify student information needs;

(c) identifies potential areas of collaborative opportunities to design authentic learning tasks and informal assessments.

(8) The librarian-teacher organizes and manages the library in accordance with established written policies and procedures:

(a) organizes the library to meet patron needs;

(b) selects resources that support instructional priorities as well as recreational and informational needs of the patrons;

(c) applies collection development techniques including needs analysis, evaluation, selection, and deselection of resources.

(d) assesses collection annually based on currency, size and balance;

(e) maintains inventory of library resources;

(f) evaluates and adjusts library program and services;

(g) promotes effective use of the library and its services.

(9) The librarian-teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) serves as a model for constructive behavior patterns;

(b) establishes and states expectations for student behavior in the library;

(c) makes transitions in instruction effectively;

(d) prepares and arranges instructional material in advance for easy student accessibility;

(e) implements a classroom management system that promotes acceptable and appropriate student behavior;

(f) identifies hazards, assesses risks, and takes appropriate action.

(10) The librarian-teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) seeks professional development opportunities to identify relevant

strategies in education and librarianship to improve the quality of learning;

(b) participates in instructional improvement and school reform initiatives.

(11) The librarian-teacher works productivity with colleagues, parents, and community members:

(a) actively promotes collegial relations with other school personnel;

(b) invites parents and community to the library;

(c) communicates in a professional manner with colleagues, parents, and community members.

C. With the adoption of this rule, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level II librarian-teachers.

(1) The librarian-teacher demonstrates knowledge of the library content area and established curriculum.

(a) enhances and extends established library curriculum;

(b) gives clear explanations relating to lesson content and procedure;

(c) communicates accurately in the library content area;

(d) demonstrates the interrelatedness of content areas.

(2) The librarian-teacher appropriately utilizes a variety of teaching methods:

(a) designs appropriate opportunities for students to work independently, in small groups and in large groups;

(b) selects from a variety of teaching methods such as demonstrations, lecture, student-initiated work, group work, questioning, and independent practice for specific instructional goals and purposes;

(c) integrates into instruction a variety of resources such as print and non-print materials, manipulatives, on-line resources, and technology;

(d) demonstrates understanding and appropriate application of learning styles, modalities, and intelligence theories;

(e) designs and implements necessary modifications and adaptations in instruction and library curriculum so that students with disabilities have access in the least restrictive environment.

(3) The librarian-teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) explains, demonstrates, or communicates the relevance of topics and activities;

(b) consistently communicates to students the instructional intent, directions or plan;

(c) establishes and states expectations for student performance;

(d) presents directions and explanations in a variety of ways to ensure stu-

dent understanding.

(4) The librarian-teacher effectively utilizes student assessment techniques and procedures:

(a) communicates with students about their learning;

(b) selects appropriate strategies for specific learning outcomes and adjusts instruction using ongoing assessment;

(c) documents observations of student learning using tools such as anecdotal records, consultations with teachers and/or logs.

(5) The librarian-teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) integrates into instruction cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making;

(b) adapts teaching techniques that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds;

(c) adapts materials and media that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds.

(6) The librarian-teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) acknowledges and validates the ideas, learning needs, interests, and feelings of students with disabilities, and/or from culturally and linguistically diverse backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups);

(b) demonstrates an awareness of the influences of context, disability, language and culture on students learning;

(c) designs opportunities for each student to succeed based on individual learning needs;

(d) designs learning experiences that promote creativity as well as critical and divergent thinking;

(e) designs opportunities that require and reinforce student responsibility for their own behavior and learning;

(f) develops students' self-esteem, motivation, character, and sense of civic responsibility;

(g) establishes and communicates high expectations for all students.

(7) The librarian-teacher models and promotes collaborative planning:

(a) participates in informal or formal collaborative curriculum planning with teaching staff;

(b) collaborates with teaching staff to identify student information needs;

(c) promotes collaborative oppor-

tunities to design authentic learning tasks and informal assessments.

(8) The librarian-teacher organizes and manages the library in accordance with established written policies and procedures:

(a) adjusts the organization of the library according to observation of patron needs;

(b) solicits patron input to select resources that support instructional priorities as well as recreational and informational needs of patrons;

(c) applies collection development techniques including needs analysis, evaluation, selection and deselection of resources;

(d) assesses the collection annually based on currency, size and balance and develops a collection development plan;

(e) conducts regular periodic inventories and analyzes inventory reports;

(f) seeks input from learning community on perceived needs for library improvement and adjusts library program and services accordingly;

(g) develops library awareness through promotional materials.

(9) The librarian-teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) identifies, explains and models constructive behavior patterns;

(b) establishes and reinforces expectations for student behavior in the library;

(c) makes transitions in instruction effectively;

(d) prepares and arranges instructional material in advance for easy student accessibility;

(e) implements a classroom management system that promotes acceptable and appropriate student behavior;

(f) identifies hazards, assesses risks, and takes appropriate action.

(10) The librarian-teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) uses professional development opportunities to identify relevant strategies in education and librarianship to improve the quality of learning;

(b) contributes to instructional improvement and school reform initiatives.

(11) The librarian-teacher works productivity with colleagues, parents, and community members:

(a) collaborates with colleagues;

(b) promotes active roles for parents and community members in the library;

(c) provides a system for interactive communication in a professional manner with colleagues, parents, and community members.

D. With the adoption of

this rule, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level III librarian-teachers.

(1) The librarian-teacher demonstrates knowledge of the library content area and established curriculum.

(a) contributes to the refinement and development of the library curriculum;

(b) provides clear explanations relating to lesson content and procedures in multiple ways and is aware of knowledge and preconceptions that students can bring to the subject;

(c) communicates accurately in the library content area and creates multiple paths to the subject matter;

(d) integrates other content areas and the library curriculum.

(2) The librarian-teacher appropriately utilizes a variety of teaching methods:

(a) engages students in activities designed for small groups, large groups, and independent work;

(b) demonstrates effective selection and use of a variety of teaching methods to make information accessible to all students;

(c) demonstrates effective integration of a variety of resources into instruction, such as print and non-print materials, manipulatives, on-line resources, and technology;

(d) designs opportunities for students to apply, practice, and demonstrate knowledge and skills based on learning modalities, style preferences and intelligences;

(e) engages with colleagues to implement necessary modifications and adaptations in instruction and library curriculum so that students with disabilities have access in the least restrictive environment.

(3) The librarian-teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) engages students in explaining or demonstrating the relevance of topics and activities;

(b) engages students in instructional directions and plans using techniques such as query, survey, or instructional choice;

(c) establishes and states expectations for student performance;

(d) presents directions and explanations in a variety of ways to ensure student understanding.

(4) The librarian-teacher effectively utilizes student assessment techniques and procedures:

(a) involves students in the analysis and evaluation of their learning;

(b) designs appropriate strategies

for specific learning outcomes and adjusts instruction using ongoing assessment;

(c) documents observations of student learning using tools such as anecdotal records, consultations with teachers and/or logs.

(5) The librarian-teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) consistently integrates into instruction cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making;

(b) integrates into instruction the most effective techniques that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds;

(c) integrates into instruction materials and media that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds.

(6) The librarian-teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) acknowledges and integrates the ideas, learning needs, interests, and feelings of students with disabilities, and/or from culturally and linguistically diverse backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups);

(b) creates an environment that encourages the awareness of the influences of context, disability, language, and culture on student learning;

(c) provides accommodations and interventions that allow each student to succeed based on individual learning needs;

(d) engages students in learning experiences that promote creativity as well as critical and divergent thinking;

(e) designs opportunities that require and reinforce student responsibility for their behavior and learning;

(f) fosters the development of respect for individual, cultural, linguistic, ability, and religious differences;

(g) assists students in setting high standards for their performance.

(7) The librarian-teacher models and promotes collaborative planning:

(a) participates in formal collaborative curriculum planning with the teaching staff;

(b) collaborates with the teaching staff to identify student information needs;

(c) collaborates in designing authentic learning tasks and informal assessments.

(8) The librarian-teacher organiz-

es and manages the library in accordance with established written policies and procedures:

(a) plans for long-range improvements of library organization based on evaluation of patron needs, using indicators such as usage patterns, traffic flow and circulation;

(b) forms and leads library advisory committee to assist in the selection of resources that support instructional priorities as well as recreational and informational needs of patrons;

(c) applies collection development techniques including needs analysis, evaluation, selection and deselection of resources;

(d) assesses the collection annually based on currency, size and balance and develops a long-range collection development plan;

(e) uses analysis of inventory reports as a component of collection development;

(f) responds effectively to learning community needs for library program and services;

(g) analyzes and revises promotional materials for effectiveness and currency.

(9) The librarian-teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) integrates the teaching of constructive, pro-social behaviors into regular instruction;

(b) engages students in establishing expectations for building a learning community in the library;

(c) makes transitions in instruction effectively;

(d) prepares and arranges instructional material in advance for easy student accessibility;

(e) implements a classroom management system that promotes acceptable and appropriate student behavior;

(f) identifies hazards, assesses risks, and takes appropriate action.

(10) The librarian-teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) contributes to the professional community by sharing relevant strategies in education and librarianship;

(b) assumes a leadership role in the study and implementation of instructional improvement and school reform initiatives.

(11) The librarian-teacher works productively with colleagues, parents, and community members:

(a) serves as a role model for collaborative working relations across the profession;

(b) promotes active roles for par-

ents and community members in the library;

(c) provides a system for interactive communication in a professional manner with colleagues, parents, and community members.

E. A school district may select and/or develop additional standards and indicators determined appropriate by the local school district to complete the local librarian-teacher performance evaluation system.

F. Each school district shall provide training in evaluation of performance, program observation techniques, conference skills, and growth planning to all librarian-teacher and personnel assigned performance evaluation duties.

G. Librarian-teacher whose leadership roles are primarily outside of the library will be evaluated on their ability to lead other librarian-teachers in meeting the competencies and indicators in their level of licensure.

[6.69.5.11 NMAC - N, 10/17/05]

HISTORY OF 6.69.5 NMAC:

HISTORY OF REPEALED MATERIAL:

6.69.3.10 NMAC, Evaluation of Library/Media Specialist Performance, Filed 6/01/01 - Repealed 10/17/05

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.10.3 NMAC (COMPLAINT PROCEDURE) effective October 17, 2005. Sections 1 (ISSUING AGENCY), 2 (SCOPE), 3 (STATUTORY AUTHORITY), 6 (OBJECTIVE), 7 (DEFINITIONS), 8 (FILING A COMPLAINT), 9 (COMPLAINTS AGAINST AN AGENCY OR CONSORTIUM OF AGENCIES), 10 (COMPLAINTS AGAINST THE DEPARTMENT), 11 (EXTENSION OF TIME LIMIT), 12 (NOTICE TO PARENTS) and 13 (CONFLICTS) are amended. Numerous words and punctuation throughout the rule have also been changed to conform to the state records center and archives' requirements with respect to use of the upper case and lower case and punctuation.

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 10 PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS PART 3 COMPLAINT PRO- CEDURE

6.10.3.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[12-31-98, 07-30-99; 6.10.3.1 NMAC - Rn, 6 NMAC 1.5.1.1, 11-30-00; A, 10-17-05]

6.10.3.2 SCOPE: ~~[State Department of]~~ Public education department, local educational agencies, charter schools, public agencies, or consortia of agencies.

[12-31-98; 6.10.3.2 NMAC - Rn, 6 NMAC 1.5.1.2 & A, 11-30-00; A, 10-17-05]

6.10.3.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and 22-9-3 NMSA 1978; 20 US Code Sections 1681 et seq; 34 Code of Federal Regulations [Part 299] Parts 106 and 299.

[12-31-98; 6.10.3.3 NMAC - Rn, 6 NMAC 1.5.1.3 & A, 11-30-00; A, 10-17-05]

6.10.3.4 DURATION: Permanent

[12-31-98; 6.10.3.4 NMAC - Rn, 6 NMAC 1.5.1.4, 11-30-00]

6.10.3.5 EFFECTIVE DATE: December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.10.3.5 NMAC - Rn, 6 NMAC 1.5.1.5 & A, 11-30-00]

6.10.3.6 OBJECTIVE: This rule establishes written procedures for:

A. receiving and resolving a complaint from an individual or organization that the ~~[State Department of]~~ public education department or an agency or consortium of agencies is violating a federal statute or regulation that applies to an applicable or covered program;

B. reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint; ~~and~~

C. conducting an independent on-site investigation of a complaint if the ~~[State Department of]~~ public education department determines that an on-site investigation is necessary; and

D. resolving complaints of discrimination based on sex regarding educational programs of the public education department that are alleged to be a violation of Title IX of the Education Amendments of 1972.

[12-31-98; 6.10.3.6 NMAC - Rn, 6 NMAC 1.5.1.6 & A, 11-30-00; A, 10-17-05]

[Complaints alleging violations of statutes or regulations governing special education and related services for children with disabilities are covered under Subsection H of 6.31.2.13 NMAC.]

6.10.3.7 DEFINITIONS:

A. "Applicable program"

means any of the following Elementary and Secondary Education Act (20 U.S.C. 2701 et. seq.) programs:

(1) Part A of Title I (Improving Basic Programs Operated by Local Educational Agencies);

(2) Part B of Title I [~~Even Start Family Literacy Programs~~] (other than ~~federally administered direct grants for Indian tribes and tribal organizations, children of migratory workers, statewide family literacy initiatives, and a prison that houses women and children~~) (Student Reading Skills Improvement Grants);

(3) Part C of Title I [~~Migrant Education~~] (Education of Migratory Children);

(4) Part D of Title I [~~Children and Youth Who Are Neglected, Delinquent, or At Risk of Dropping Out~~] (Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk);

(5) Title II [~~Eisenhower Professional Development Program (other than the National Teacher Training Project and the Professional Development Demonstration Project)~~] (Preparing, Training, and Recruiting High Quality Teachers and Principals);

(6) [~~Subpart 2 of Part A of Title III (State and Local Programs for School Technology Resources)~~] (Language Instruction for Limited English Proficient and Immigrant Students);

(7) [~~Part A of Title IV (Safe and Drug-Free Schools and Communities) (other than Governor's Programs)~~] (Title IV (21st Century Schools (other than Subpart 2 of Part A, National Programs));

(8) [~~Title VI (Innovative Education program Strategies)~~] (Title V (Promoting Informed Parental Choice and Innovative Programs) (other than Subpart 8 and Subpart 12); and

(9) [~~Part C of Title VII (Emergency Immigrant Education)~~] (Part A of Title VII (Indian, Native Hawaiian, and Alaska Native Education)).

B. "Covered program" means a federal program not defined as an applicable program for which the State educational agency is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by ~~[State Board of Education rule]~~ public education department rule.

C. "Department" means the ~~[State Department of]~~ public education department.

D. "Title IX" means Title IX of the Education Amendments of 1972, codified as 20 US Code Sections 1681 et seq, which provides in part that, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any education program or activity receiving federal financial assistance.

[12-31-98; 6.10.3.7 NMAC - Rn, 6 NMAC 1.5.1.7 & A, 11-30-00; A, 10-17-05]

6.10.3.8 FILING A COMPLAINT: ~~[A.]~~ The department will accept and investigate complaints from organizations or individuals with respect to applicable or covered programs. The complaint must:

~~[(+)]~~ A. be written;

~~[(+)]~~ B. be signed by the complaining party or his or her designated representative;

~~[(+)]~~ C. contain a statement that the department or an agency or consortium of agencies has violated a requirement of a federal statute or regulation that applies to the program; ~~[and]~~

~~[(+)]~~ D. contain a statement of the facts on which the complaint is based and the specific requirement alleged to have been violated; ~~and~~

~~[(+)]~~ E. in the case of Title IX, must contain a statement that the department or any of its employees, has discriminated against the complainant on the basis of sex in regard to an education program or activity operated or managed by the department given that the department is a recipient of federal financial assistance.

[12-31-98; 6.10.3.8 NMAC - Rn, 6 NMAC 1.5.1.8 & A, 11-30-00; A, 10-17-05]

6.10.3.9 COMPLAINTS AGAINST AN AGENCY OR CONSORTIUM OF AGENCIES:

A. Impartial review. Upon receipt of a complaint which meets the requirements of Section 6.10.3.8 of this rule, the department will:

(1) acknowledge receipt of the complaint in writing;

(2) provide written notice to the agency or consortium of agencies against which the violation has been alleged;

(3) conduct an impartial investigation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if determined necessary by the department;

(4) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and

(5) review all relevant information and make an independent determination as to whether the agency or consortium of agencies is violating a requirement of an applicable federal statute or regulation.

B. Decision. A written decision, which includes findings of fact, conclusions, and the reasons for the decision and which addresses each allegation in

the complaint, shall be issued by the ~~[State Superintendent of Public Instruction]~~ secretary of education or designee and mailed to the parties within sixty (60) calendar days of receipt of the written complaint. Such decision will further include:

(1) procedures for effective implementation of the final decision, if needed, including technical assistance, negotiations, and, if corrective action is required, such action shall be designated and the decision shall include the time line for correction and the possible consequences for continued noncompliance;

(2) a statement of the right to request the secretary of the United States department of education to review the final decision at the secretary's discretion; complaints regarding participation by private school children must be appealed to the secretary no later than thirty (30) days after the department issues its decision; an appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

C. Failure or refusal to comply. If the agency or consortium of agencies fails or refuses to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance may be effected by the department by any means authorized by state or federal statute or regulation. The department will retain jurisdiction over the issue of noncompliance with the law or regulations and will retain jurisdiction over the implementation of any corrective action required.

D. Nothing herein shall preclude the availability of an informal resolution between the complainant and the agency or consortium of agencies, nor shall this rule preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

[12-31-98; 6.10.3.9 NMAC - Rn, 6 NMAC 1.5.1.9 & A, 11-30-00; A, 10-17-05]

6.10.3.10 COMPLAINTS AGAINST THE DEPARTMENT:

A. If the complaint concerns a violation by the department and meets the applicable requirements of 6.10.3.8 NMAC, the ~~[State Superintendent of Public Instruction]~~ secretary of education or designee will appoint an impartial person or impartial persons to conduct an investigation.

B. Investigation. The person or persons appointed pursuant to this section will:

(1) acknowledge receipt of the complaint in writing;

(2) undertake an impartial investi-

gation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if necessary;

(3) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and

(4) review all relevant information and make an independent determination as to whether the department is violating a requirement of an applicable federal statute or regulation.

C. Decision. A written decision, including findings of fact, conclusions, and the reasons for the decision and addressing each allegation in the complaint, shall be issued by the person or persons appointed pursuant to this section and mailed to the parties within sixty (60) calendar days of receipt of the written complaint. The decision will include a statement of the right to request the secretary of the United States department of education to review the final decision at the secretary's discretion. Complaints regarding participation by private school children must be appealed to the secretary no later than thirty (30) days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

D. Nothing herein shall preclude the availability of an informal resolution between the complainant and the department, nor shall this rule preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

[12-31-98; 6.10.3.10 NMAC - Rn, 6 NMAC 1.5.1.10 & A, 11-30-00; A, 10-17-05]

6.10.3.11 EXTENSION OF TIME LIMIT:

An extension of the time limit under 6.10.3.9 NMAC and 6.10.3.10 NMAC of this rule will be permitted by the ~~[State Superintendent of Public Instruction]~~ secretary of education or designee only if exceptional circumstances exist with respect to a particular complaint.

[12-31-98; 6.10.3.11 NMAC - Rn, 6 NMAC 1.5.1.11 & A, 11-30-00; A, 10-17-05]

6.10.3.12 NOTICE TO PARENTS:

Public school districts, charter schools and agencies will disseminate, free of charge, adequate information about the complaint procedures to parents of students, and appropriate private school officials or representatives.

[6.10.3.12 NMAC - N, 11-30-00; A, 10-17-05]

6.10.3.13 CONFLICTS: If any statute or regulation governing any federal program subject to this rule affords proce-

dural rights to a complainant exceeding those set forth in this rule, such statutory or regulatory right(s) shall be afforded to the complainant. In acknowledging receipt of the complaint in such a case, the ~~[State Superintendent of Public Instruction]~~ secretary of education or designee shall identify the procedures applicable to that complaint. [12-31-98; 6.10.3.13 NMAC - Rn, 6 NMAC 1.5.1.12 & A, 11-30-00; A, 10-17-05]

HISTORY OF 6.10.3 NMAC:

PRE-NMAC HISTORY: The material in this Part is derived from that previously filed with the State Records Center and Archives under: State Board of Education (SBE) Regulation No. 85 1, Complaint Procedure, filed April 17, 1985 and State Board of Education (SBE) Regulation No. 94 4, Complaint Procedure, filed October 3, 1994.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.60.9 NMAC, Sections 1, 2, 3, 6 and 9 through 12 effective 10-17-05.

6.60.9.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[6.60.9.1 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.2 SCOPE: All licensed personnel. The New Mexico ~~[state board of education (SBE)]~~ public education department (PED) hereby sets minimal standards of accepted ethical behavior and professional conduct in education that are applicable to all licensed school personnel, instructional personnel under contract, including any other person who provides instructional services in a school but who does not hold a standard license and whose presence is authorized by the ~~[SBE]~~ PED through a waiver, substandard license, substitute license, or an educational plan approved by the ~~[SBE]~~ PED.

[6.60.9.2 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.3 STATUTORY AUTHORITY: ~~[Sections 22-2-1, 22-2-2, 22-10-9, and 22-10-22, NMSA 1978]~~ Sections 22-2-1B, 22-2-2J and 22-10A-31 NMSA 1978.

[6.60.9.3 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.6 OBJECTIVE: The ~~[SBE]~~ PED seeks to make ethical values and ethical leadership an integral part of the day to day activities of schools, and holds

all persons within the scope of this regulation accountable for adhering to minimal standards of accepted professional conduct and ethical behavior. The ~~[SBE]~~ PED accepts the recommendations of its professional practices and standards [commission] council and the ethics subcommittee that a code of ethics and standards of professional conduct applicable to the education profession will infuse the learning environment with choices and values designed to assist in shaping young minds into educated, responsible citizens.

[6.60.9.6 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.9 STANDARDS OF PROFESSIONAL CONDUCT:

A. Preamble

(1) We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and ~~[a reflection on how we would view]~~ our position on the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.

(2) Moral values are to ethical leadership what years of experience are to a successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.

(3) In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, but also it stimulates us ~~[into discussing]~~ to discuss the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted stan-

dards of professional conduct in education.

B. Standard I: Duty to the student. We endeavor to stimulate students to think and to learn while at the same time we seek to protect them from any harm. Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but also by consistent and justifiable personal example. To satisfy this obligation, we:

(1) shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 *et seq.*, 34 C.F.R. Part 300), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 *et seq.*, NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;

(2) shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

(3) shall avoid using our ~~[position as a]~~ positions as licensed school ~~[employee]~~ employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;

(4) shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;

(5) shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason;

(6) shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;

(7) shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:

(a) all forms of sexual touching, sexual relations or romantic relations;

(b) inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;

(c) any open displays of affection toward mostly-boys or mostly-girls; and

(d) offering or giving a ride to a student unless absolutely unavoidable, such as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;

(8) shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, ~~and~~ any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and

(b) creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

C. Standard II: Duty to the profession. The education profession has been vested by the public with an awesome trust and responsibility. To live up to that lofty expectation, we must continually engender public confidence in the integrity of our profession, and must strive consistently in educating the children of New Mexico, all of whom will one-day shape the future. To satisfy this obligation, we:

(1) shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;

(2) shall not orally or in writing misrepresent our professional qualifications;

(3) shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;

(4) shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;

(5) shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;

(6) shall not disclose personal,

medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;

(7) shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;

(8) shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100 and which compromises the integrity of the licensed educator, excluding approved educational awards, honoraria, plaques, trophies, and prizes;

(9) shall avoid conduct connected with official duties that is unfair, ~~or is~~ improper, illegal or gives the appearance of being improper or illegal;

(10) shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;

(b) making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent or they actually initiate the activity;

(c) displaying or distributing any sexually oriented materials where the above-named individuals can see them; and

(d) creating an intimidating, hostile, or offensive work/school environment by ~~at a minimum not~~ engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;

(11) shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the EEOC guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 *et seq.*), or contacting appropriate school human resources personnel;

(12) shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;

(13) shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;

(14) shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;

(15) shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

(16) shall not engage in any outside employment:

(a) the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;

(b) where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties; and

(c) that impairs our physical ability to perform our school duties;

(17) shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:

(a) in connection with our official school duties;

(b) in connection with another licensed person's official school duties;

(c) in connection with any standardized or non-standardized testing;

(d) in connection with any school application or disclosure process; and

(e) in connection with any writing submitted to the ~~[department of education]~~ public education department related to our initial or continued licensure, including endorsements;

(18) shall not in connection with any state board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;

(19) shall not~~;~~ engage in any conduct or make any statement:

(a) that would breach the security of any standardized or non-standardized tests;

(b) that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;

(c) that would give students an unfair advantage in taking a standardized or non-standardized test;

(d) that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and

(e) that would assist students in obtaining services or benefits ~~[to]~~ for which they do not qualify or are not entitled; and

(20) shall not, when on school property or off campus while representing the school or attending a school function,

engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.

[6.60.9.9 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.10 FAILURE TO COMPLY WITH THIS CODE: The [SBE] PED finds that adherence to this code of ethical responsibility has a significant bearing on licensed personnel's competence, turpitude or the proper performance of their duties. It makes the same finding for any other person providing instructional services in a school who does not hold a standard license but whose presence is authorized by the [SBE] PED through a waiver, substandard license, substitute license, or an educational plan approved by the [SBE] PED. Both the code of ethics and standards of professional conduct are intended to provide a valuable framework of personal ethics to assist educators and administrators in their interaction with colleagues, students and parents. However, the standards of professional conduct establish minimal standards of [accepted] acceptable professional conduct with which all educators and administrators are required to comply. Therefore, the [SBE] PED through the professional licensure [unit] bureau ["licensure unit"] of the state department of public education (SDE); ["licensure bureau"] may revoke or suspend the licensure of any person, or may deny applications for initial licensure or relicensure continuing licensure to any person, who is within the scope of this regulation, and who after hearing, is found to have failed to comply with one or more of the enumerated provisions of the standards of professional conduct set forth in 6.60.9.9 NMAC, above, exclusive of the preamble. All hearings and attendant notices shall be conducted and served pursuant to either 6 NMAC 4.2.4.4 or 6 NMAC 4.2.4.5.

[6.60.9.10 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.11 DISSEMINATION OF THIS CODE: The licensure [unit] bureau shall adopt measures to ensure that this code of ethical responsibility receives the widest possible dissemination to all persons falling within its scope. Such measures include but are not [be] limited to:

A. providing information about the code of ethical responsibility directly through the licensure [unit's] bureau's application process;

B. providing information about the code of ethical responsibility to all school districts, charter schools, and non-public schools accredited by the [SBE] PED;

C. notifying any school

district, charter school or private school accredited by the [SBE] PED of the decision and order of the [SBE] PED after the [SBE] PED has taken final licensure action against one of their employees based in whole or in part on a failure to comply with the standards of professional conduct;

D. any other reasonable measure that is calculated to result in the widest dissemination of the [SBE's] PED's code of ethics and notification of the consequences of failure to comply with the standards of professional conduct.

[6.60.9.11 NMAC - N, 04-30-01; A, 10-17-05]

6.60.9.12 REPORTING REQUIREMENT: It is the duty of each school superintendent to provide written notification to the director of the licensure [unit] bureau after taking final action to discharge or terminate the employment, based in whole or in part on a violation of the standards of professional conduct, of any certified school employee, or any other person providing instructional services in a school who does not hold a standard license but whose presence was authorized by the [SBE] PED through a waiver, substandard license, substitute license, or an educational plan approved by the [SBE] PED.

[6.60.9.12 NMAC - N, 04-30-01; A, 10-17-05]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.7 NMAC, Sections 1, 8 and 9 effective 10-17-05.

6.63.7.1 ISSUING AGENCY: [State Board of Education] Public Education Department

[11-14-98; 07-30-99; 6.63.7.1 NMAC - Rn, 6 NMAC 4.2.3.13.1, 10-31-01; A, 10-17-05]

6.63.7.8 REQUIREMENTS: Persons seeking licensure in school social work, grades K-12 pursuant to the provisions of this regulation shall meet the following requirements of Subsections A or B or C of 6.63.7.8 NMAC;

A. Level 1, entry level school social worker

(1) Bachelor's or master's degree in social work from a regionally accredited college or university and meeting the applicable program requirements as follows:

(a) the bachelor's or master's degree awarded by a New Mexico college or university must incorporate the New Mexico [state board of education's] public education department's (PED) approved competencies in the area of social work; OR

(b) the bachelor's or master's degree awarded by a college or university outside of New Mexico must be for a social work program approved by the [New Mexico state board of education] PED; AND

(2) valid social work license issued by the New Mexico social work examiners board.

B. Level 2, school social worker

(1) valid level 1 school social work license;

(2) verification by the superintendent of the local school district or the governing authority of the private school or state institution that the social worker has satisfactorily demonstrated the entry level social work competencies approved by the [New Mexico state board of education] PED; AND

(3) valid social work license issued by the New Mexico social work examiners board.

C. Level [3A] 3, independent school social worker

(1) master's degree in social work from a regionally accredited college or university;

(2) valid level 2 school social work license;

(3) valid independent social worker license issued by the New Mexico board of social work examiners with specializations in [BOTH] clinical social work [and] or school social work;

(4) evidence of a minimum of 875 hours of supervised experience in providing therapeutic services to children, including children with severe emotional disturbances and behavioral disorders, in the school setting; AND

(5) verification by the superintendent of the local school district or the governing authority of the private school or state institution that the social worker has satisfactorily demonstrated the independent social worker competencies approved by the [New Mexico state board of education] PED.

[11-14-98; 6.63.7.8 NMAC - Rn, 6 NMAC 4.2.3.13.8, 10-31-01; A, 10-17-05]

6.63.7.9 IMPLEMENTATION: All persons holding a valid [New Mexico state board of education] PED license in school social work and a valid social work license issued by the New Mexico board of social work examiners on June 30, 1993 shall be entitled to licensure in school social work, K-12. Such licensure may be continued pursuant to regulation(s) established by the [New Mexico state board of education] PED.

[11-14-98; 6.63.7.9 NMAC - Rn, 6 NMAC 4.2.3.13.9, 10-31-01; A, 10-17-05]

**NEW MEXICO
PUBLIC EDUCATION
DEPARTMENT**

This is an amendment to 6.69.3 NMAC, Sections 1, 2, 6, 10 and 12 effective 10-17-05.

PART 3 PERFORMANCE EVALUATION REQUIREMENTS FOR ADMINISTRATORS, [LIBRARY MEDIA SPECIALISTS] AND COUNSELORS

6.69.3.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department
[01-15-99, 07-30-99; 6.69.3.1 NMAC - Rn, 6 NMAC 4.5.2.1, 06-14-01; A, 10-17-05]

6.69.3.2 SCOPE: Chapter 69, Part 3, governs performance evaluation requirements for administrators [~~library media specialists,~~] and counselors.
[01-15-99; 6.69.3.2 NMAC - Rn, 6 NMAC 4.5.2.2, 06-14-01; A, 09-30-03; A, 10-17-05]

6.69.3.6 OBJECTIVE: This regulation governs the requirements for the performance evaluation system for administrators [~~library media specialists,~~] and counselors, grades K-12. This regulation identifies the specific evaluation/supervision competencies and indicators for administrators [~~library media specialists,~~] and counselors.
[01-15-99; 6.69.3.6 NMAC - Rn, 6 NMAC 4.5.2.6, 06-14-01; A, 09-30-03; A, 10-17-05]

6.69.3.10 [EVALUATION OF LIBRARY/MEDIA SPECIALIST PERFORMANCE]:

A. ~~Beginning August 1, 1994, each school district shall implement a system of library/media specialist performance evaluation which meets the requirements of this regulation.~~

B. ~~Each evaluation/supervision system shall include the following competencies as part of the evaluation criteria.~~

~~(1) The library/media specialist, in conjunction with teachers and administrators, plan and implements a program of user guidance and a sequential program of library skills instruction.~~

~~(a) Consults with teachers to relate the library skills instruction to the curriculum.~~

~~(i) Plans library units within specific disciplines.~~

~~(ii) Plans presentation of library skills through classes.~~

~~(b) Provides individual or group~~

~~instruction and user guidance in the organization and location of resources in the library media center.~~

~~(i) Orients users to the availability, location, and use of library media center resources.~~

~~(ii) Utilizes a variety of teaching methods and materials which address student learning rates, level, and styles.~~

~~(iii) Provides opportunities and materials for students to practice skills and use the library media center.~~

~~(e) Provides individual or group instruction and user guidance in reference/study skills and systematic research techniques either initiating or supporting classroom activities.~~

~~(i) Teaches identification and use of parts of books.~~

~~(ii) Teaches identification and use of reference books.~~

~~(iii) Teaches identification and use of specialized indexes.~~

~~(d) Provides individual or group instruction and user guidance in print and nonprint media interpretation skills.~~

~~(i) Teaches users to distinguish between fiction and nonfiction.~~

~~(ii) Teaches recognition of various forms of fiction (i.e., mystery, historical fiction, science fiction, and fantasy).~~

~~(iii) Teaches recognition of various forms of nonfiction (i.e., science, biography, and history).~~

~~(iv) Encourages the development of critical reading, viewing, and listening skills.~~

~~(2) The library/media specialist organizes and manages the library media center in accordance with established written policies and procedures.~~

~~(a) Organizes the library media center to help users' needs.~~

~~(i) Provides adequate circulation system for all media.~~

~~(ii) Provides for the processing of new materials, including classification and cataloging.~~

~~(iii) Maintains bookshelves and audiovisual storage areas for efficient use.~~

~~(b) Selects resources which reflect the priorities of the instructional program, as well as the recreational reading needs of the patrons.~~

~~(i) Identifies needed resources.~~

~~(ii) Evaluates media for quality and for instructional relevance.~~

~~(iii) Acquires media which support the instructional program.~~

~~(c) Maintains an inventory of the library media center's resources.~~

~~(i) Keeps accurate shelf list of all media.~~

~~(ii) Keeps accurate equipment inventory.~~

~~(iii) Keeps separate records of all media and/or equipment purchased with federal funds.~~

~~(d) Adheres to established timelines and procedures.~~

~~(i) Establishes long and short range goals based on assessed program needs.~~

~~(ii) Plans and expends budget allocations within established timelines.~~

~~(iii) Completes reports accurately and on time.~~

~~(iv) Follows district policies and procedures.~~

~~(e) Trains and supervises the library media center's student assistants, volunteers, and/or library clerks.~~

~~(f) Evaluates and adjusts library media center program and services.~~

~~(i) Conducts program assessment.~~

~~(ii) Analyzes data and modifies program.~~

~~(3) The library media specialist promotes effective use of the library media center and its services.~~

~~(a) Maintains positive public relations and accessibility by scheduling services and resources.~~

~~(i) Informs faculty of the resources and services of the library media center.~~

~~(ii) Publicizes the services of the library media center.~~

~~(b) Creates an appropriate learning environment in the library media center.~~

~~C. The library/media specialist performance evaluation plan shall include at least the following components:~~

~~(1) conduct and document multiple observations of the library/media specialist's performance to determine the presence and extent of competencies demonstrated;~~

~~(2) confer with the library/media specialist prior to each observation and as soon as possible after each observation to ensure the adequacy, accuracy, and completeness of the information obtained;~~

~~(3) identify strengths and areas of the library/media specialist's performance where growth can occur;~~

~~(4) collaborate with the library/media specialist on development of a written plan for improvement or growth. The plan should include observations and conferences with the library/media specialist to determine progress toward completion of the plan;~~

~~(5) provide assistance to the library/media specialist through individual guidance, workshops, classes, or other such means for completing the growth plan.]~~

[RESERVED]

[01-15-99; 6.69.3.10 NMAC - Rn, 6 NMAC
4.5.2.10, 06-14-01; A, 09-30-03; Repealed,
10-17-05]

6.69.3.12 ~~[LOCAL — PLAN
APPROVAL: On or before July 1, 1994,
each school district shall submit to the State
Superintendent of Public Instruction for
approval, a local plan for implementing
Sections 6.69.3.8 NMAC and 6.69.3.9
NMAC of this regulation.] [RESERVED]~~
[01-15-99; 6.69.3.12 NMAC - Rn, 6 NMAC
4.5.2.12, 06-14-01; Repealed, 10-17-05]

End of Adopted Rules Section

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