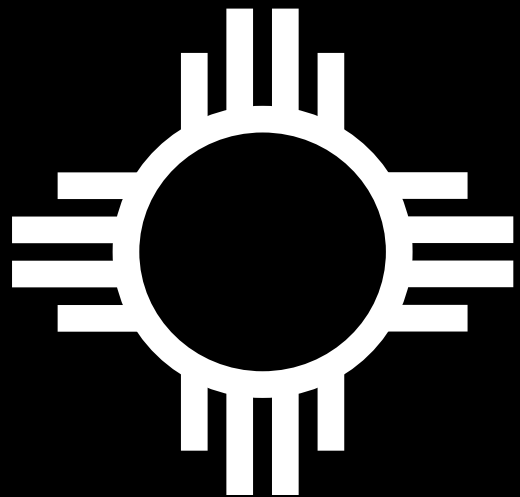


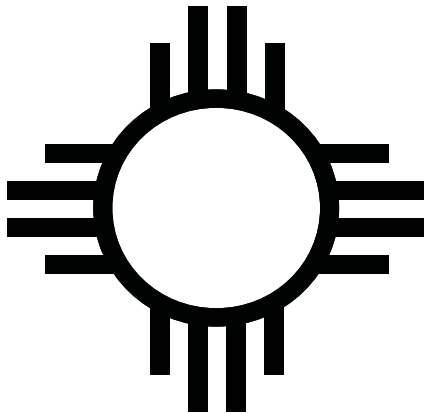
**NEW
MEXICO
REGISTER**



Volume XXV
Issue Number 17
September 15, 2014

New Mexico Register

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September 15, 2014



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
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2014

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New Mexico Register

Volume XXV, Number 17

September 15, 2014

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Adopted Rules

Effective Date and Validity of Rule Filings

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

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

On **Thursday, October 2, 2014**, beginning at 9:00 a.m., at the **New Mexico Tech-Macey Conference Center**, located at **801 Leroy Place, Socorro, NM 87801**, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: Revocations, Importations and Authorized Uses of Live Wildlife, Shooting Preserve Application, In-the-field Hunter Assistance, Deer, Elk, Donate Game Meat, Depredation and Nuisance Abatement, Bear and Cougar Harvest, License Sales, Closed Executive Session, Rio Abajo, Lisboa, Pecos Canyon, Broad Canyon, Rosa Properties, McGaffey Lake Decommissioning, GAIN Program, and Mentored-Youth Hunt.

Obtain a copy of the agenda from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504, or from the Department's website. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

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 Department at (505) 476-8000 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 Department at 505-476-8000 if a summary or other type of accessible format is needed.

NEW MEXICO HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The Higher Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at 2048 Galisteo, Santa Fe, NM 87505, on October 15, 2014, from 9:00 a.m. to 11:00 a.m. The purpose of the public hearing will

be to obtain input on the following rule(s):

5.55.2 NMAC Tribal College Dual
Credit Program
(New Rule)

Interested individuals may testify either at the public hearing or submit written comments regarding the proposed rulemaking to Mr. David Mathews, Office of General Counsel, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402 (telefax (505) 476-8454).

Written comments must be received no later than 5:00 pm on October 5, 2014 (10 days prior to hearing). However, the submission of written comments as soon as possible is encouraged. Any rule may be removed from the agenda prior to the scheduled hearing.

The proposed rulemaking action may be obtained, by request, from David Mathews, Office of General Counsel, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402(telefax (505) 476-8454). The proposed rule will be made available at least thirty (30) days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Higher Education Department as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO RACING COMMISSION

NEW MEXICO RACING COMMISSION NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the New Mexico Racing Commission will hold a Regular Meeting and Rule Hearing on September 25, 2014. The hearing will be held during the Commission's regular business meeting, beginning at 8:30 a.m. with executive session. Public session will begin at 10:30 a.m. The meeting will be held in the Boardroom at 4900 Alameda Blvd. NE, Albuquerque, NM.

The purpose of the Rule Hearing is to consider adoption of the proposed amendments and additions to the following Rules Governing Horse Racing in New Mexico No. 15.2.5 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

Copies of the proposed rules may be obtained from Vince Mares, Executive Director, New Mexico Racing Commission, 4900 Alameda Blvd NE, Albuquerque, New Mexico 87113, (505) 222-0700. 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.

Vince Mares
Executive Director

Dated: August 26, 2014

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF DENTAL HEALTH CARE

LEGAL NOTICE

Public Rule Hearing and Regular Board and Committee Meeting

The New Mexico Board of Dental Health Care will hold a Rule Hearing on Friday, October 17, 2014. Following the Rule Hearing the New Mexico Dental Hygienists Committee will convene a regular meeting; following the New Mexico Dental Hygienist Committee meeting the New Mexico Board of Dental Health Care will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Dental Health Care Rule Hearing will begin at 8:00 a.m. and the Regular Board Meetings will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, Toney Anaya Building, 2500 Cerrillos Road, Santa Fe, NM, 87505, in the Rio Grande Conference Room.

The purpose of the rule hearing is to consider adoption of proposed amendments, to the following Board Rules and Regulations in 16.5.1 General Provisions, 16.5.2 Impaired Practitioner Program, 16.5.5 Dentists, Fees, 16.5.6 Dentists, Licensure by Examination, 16.5.7 Dentists, Temporary or Public Service Licensure, 16.5.8 Dentists, Licensure by Credentials, 16.5.9 Non-Dentist Owners, 16.5.10 Dentists, Continuing Education Requirements, 16.5.14 Dentists, Adjunctive Dental Functions, 16.5.16 Dentists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Action, 16.5.17 Dentists and Dental Hygienists, Collaborative Practice, 16.5.19 Dental Hygienists, Licensure by Examination, 16.5.20 Dental Hygienists, Licensure by Credentials, 16.5.28 Dental Hygienists, Local Anesthesia Certification, 16.5.29 Dental Hygienists, Practice, 16.5.33 Dental Assistants Requirements for Certification, 16.5.57 Management of Pain with Controlled Substances, 16.5.58 Dental Amalgam Waste.

You can contact the board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87505, call (505) 476-4622 or copies of the proposed rules are available on the Dental board's website: www.RLD.state.nm.us. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing no later than October 3, 2014. Persons wishing to present their comments at the hearing will need fifteen (15) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4622 at least two weeks prior to the meeting or as soon as possible.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
MASSAGE THERAPY BOARD**

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Massage Therapy Board

will hold a Rule Hearing on Wednesday, October 22, 2014. Following the Rule Hearing the New Mexico Massage Therapy Board will convene for a regular meeting to adopt the rules and take care of regular business. The New Mexico Massage Therapy Board Rule Hearing will begin at 10:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, 2550 Cerrillos Rd, Santa Fe, NM 87505, Hearing Room I.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.7 NMAC: Part 1 General Provisions, Part 2 Professional Conduct, Part 3 Fees, Part 4 Requirements for Licensure, Part 5 Requirements for Schools, Part 6 Requirements for Instructors, Part 7 Students, Part 8 Licensure for Military Service Members, Spouses and Veterans, Part 10 Examinations, Part 11 Continuing Education, Part 12 License/Registration Renewal, Part 14 Complaints, Part 16 Parental Responsibility Act Compliance.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at, 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4890. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing no later than October 6, 2014. Persons wishing to present their comments at the hearing will need (7) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4890 at least two weeks prior to the meeting or as soon as possible.

Amanda Lewis
PO Box 25101- Santa Fe, New Mexico
87505

**End of Notices and Proposed
Rules Section**

Adopted Rules

NEW MEXICO DEPARTMENT OF GAME AND FISH

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND
FISHING
PART 6 MIGRATORY GAME BIRD**

19.31.6.1 ISSUING AGENCY:
New Mexico Department of Game and
Fish.
[19.31.6.1 NMAC - N/E, 8-29-2014]

19.31.6.2 SCOPE: Sportspersons
interested in migratory game bird
management and hunting. Additional
requirements may be found in Chapter
17 NMSA 1978 and Chapters 30 and 32
through 36 of Title 19.
[19.31.6.2 NMAC - N/E, 8-29-2014]

**19.31.6.3 STATUTORY
AUTHORITY:** 17-1-14 and 17-1-26
NMSA 1978 provide that the New Mexico
game commission has the authority to
establish rules and regulations that it may
deem necessary to carry out the purpose of
Chapter 17 NMSA 1978 and all other acts
pertaining to protected mammals, birds, and
fish.
[19.31.6.3 NMAC - N/E, 8-29-2014]

19.31.6.4 DURATION: August
29, 2014 - March 31, 2015.
[19.31.6.4 NMAC - N/E, 8-29-2014]

19.31.6.5 EFFECTIVE DATE:
August 29, 2014 unless a later date is cited
at end of individual sections.
[19.31.6.5 NMAC - N/E, 8-29-2014]

19.31.6.6 OBJECTIVE:
Establishing seasons on dove, band-tailed
pigeon, sandhill crane, American coot,
common moorhen, common snipe, ducks,
geese, sora, Virginia rail, and setting
falconry seasons for migratory game birds.
[19.31.6.6 NMAC - N/E, 8-29-2014]

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

A. "Adult/youth" (A/Y)
as used herein, shall mean that hunt
designation where the adult and youth are
permitted to hunt together.

B. "Arrows" shall
mean only those arrows or bolts having
broadheads with steel cutting edges.

C. "Baiting" shall
mean the placing, exposing, depositing,

distributing, or scattering of any salt, grain,
scent or other feed on or over areas where
hunters are attempting to take migratory
game birds.

D. "Bernardo pond unit"
shall mean that portion of Bernardo wildlife
management area 600 feet south of U.S. 60
and west of the unit 7 drain.

E. "Bow" shall mean
compound, recurve, or long bow. Sights on
bows shall not project light nor magnify.

F. "Central flyway" shall
mean that portion of New Mexico east of
the continental divide, with the exception of
the Jicarilla Apache Indian reservation.

G. "Crossbows" shall
mean a device with a bow limb or band
of flexible material that is attached
horizontally to a stock and has a mechanism
to hold the string in a cocked position.
Sights on crossbows shall not project light
nor magnify.

H. "Dark goose" shall
mean Canada goose or white-fronted goose.

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

J. "Department offices"
shall mean department offices in Santa
Fe, Albuquerque, Raton, Las Cruces, or
Roswell.

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

L. "Dove north zone"
(north zone) shall mean that portion of New
Mexico north of I-40 from the Arizona-New
Mexico border to Tucumcari and U.S. 54
at its junction with I-40 at Tucumcari to the
New Mexico-Texas border.

M. "Dove south zone"
(south zone) shall mean that portion of New
Mexico south of I-40 from the Arizona-New
Mexico border to Tucumcari and U.S. 54
at its junction with I-40 at Tucumcari to the
New Mexico-Texas border.

**N. "Eastern New Mexico
sandhill crane hunt area" (eastern) shall**
mean that area in the following counties:
Chaves, Curry, De Baca, Eddy, Lea, Quay,
and Roosevelt.

O. "Established road" is
defined as follows:

(1) a road,
built or maintained by equipment, which
shows no evidence of ever being closed to
vehicular traffic by such means as berms,
ripping, scarification, reseeding, fencing,
gates, barricades or posted closures;

(2) a two-
track road completely void of vegetation
in the tracks which shows use prior to
hunting seasons for other purposes such as
recreation, mining, logging, and ranching

and shows no evidence of ever being closed
to vehicular traffic by such means as berms,
ripping, scarification, reseeding, fencing,
gates, barricades or posted closures.

**P. "Estancia valley
sandhill crane hunt area" (EV) shall mean**
that area beginning at Mountainair bounded
on the west by N.M. highway 55 north to
N.M. 337, north to N.M. 14, and north to
Interstate 25; on the north by Interstate
25 east to U.S. 285; on the east by U.S.
285 south to U.S. 60; and on the south by
U.S. 60 from U.S. 285 west to N.M. 55 in
Mountainair.

Q. "Falconry" shall mean
hunting migratory game birds using raptors.

**R. "Federal youth
waterfowl hunting days" shall mean the**
special seasons where only those under 16
years of age may hunt ducks and geese.
A supervising adult must accompany the
youth hunter. The adult may not hunt
ducks; but may participate in other seasons
that are open on the special youth days.

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

T. "Light geese" shall
mean snow geese, blue phase snow geese,
and Ross's geese.

**U. "Light geese
conservation order" shall mean those**
methods, bag and possession limits, and
dates approved by the U. S. fish and wildlife
service (USFWS) towards reducing over-
abundant light geese populations.

**V. "Middle Rio Grande
valley dark goose hunt area" shall mean**
Sierra, Socorro and Valencia counties.

**W. "Middle Rio Grande
valley sandhill crane hunt area" (MRGV)**
shall mean Valencia and Socorro counties.

**X. "Migratory game
bird" shall mean band-tailed pigeon,
mourning dove, white-winged dove,
sandhill crane, American coot, common
moorhen, common snipe, ducks, geese,
sora, and Virginia rail.**

Y. "Modern firearms"
shall mean center-fire firearms, not to
include any fully automatic firearms. Legal
shotguns shall be only those shotguns
capable of being fired from the shoulder.

**Z. "Muzzle-loader or
muzzle-loading firearms" shall mean those**
rifles and shotguns in which the charge and
projectile are loaded through the muzzle.
Only blackpowder, pyrodex or equivalent
blackpowder substitute may be used. Use
of smokeless powder is prohibited. Legal
muzzle-loader shotguns shall be only those
shotguns capable of being fired from the
shoulder.

AA. "Non-toxic shot" shall

mean that non-toxic shot approved for use by the USFWS.

BB. "North zone" shall mean that portion of the Pacific flyway north of I-40 from the Arizona-New Mexico border to the continental divide; and that portion of the central flyway north of I-40 from the continental divide to Tukumcari and U.S. 54 at its junction with I-40 at Tukumcari to the New Mexico-Texas border.

CC. "Pacific flyway" shall mean that portion of New Mexico west of the continental divide including the Jicarilla Apache Indian reservation.

DD. "Permanent mobility limitation" shall mean an individual that permanently has restricted movement in both arms, or is restricted to the use of a walker, wheelchair, or two crutches to walk, or has a combination of disabilities that cause comparable substantial functional limitations. **EXCEPTION:** For the purposes of hunting migratory game birds from a vehicle, mobility limitation individuals are those that have permanently lost one or both legs.

EE. "Possession limit" shall mean three times the daily bag limit one can have in their ownership, except where otherwise defined.

FF. "Protected species" shall mean any of the following animals:
(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 New Mexico Statutes Annotated 1978 Compilation;

(2) all animals listed as endangered species or subspecies as stated in regulation(s) set by the state game commission.

GG. "Quagmire" shall mean that portion of Bernardo wildlife management area 600 feet south of U.S. 60 and east of the unit 7 drain.

HH. "Regular band-tailed pigeon hunting area" (regular BPHA) shall mean that portion of New Mexico not included in the southwest band-tailed pigeon hunt area.

II. "Retention" or "retain" shall mean the holding of in captivity.

JJ. "South zone" shall mean that portion of the Pacific flyway south of I-40 from the Arizona-New Mexico border to the continental divide; and that portion of the central flyway south of I-40 from the continental divide to Tukumcari and U.S. 54 at its junction with I-40 at Tukumcari to the New Mexico-Texas border.

KK. "Southwest band-tailed pigeon hunting area" (southwest BPHA) shall mean that portion of New Mexico both south of U.S. 60 and west of

I-25.

LL. "Southwest New Mexico sandhill crane hunt area" (SW) shall mean that area bounded on the south by the New Mexico/Mexico border; on the west by the New Mexico/Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to N.M. 26, east to N.M. 27, north to N.M. 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna county line, and south to the New Mexico/Mexico border.

MM. "State game commission owned properties" shall mean all department owned or managed wildlife management areas (WMAs), Sandhills prairie conservation area, and lesser prairie-chicken areas as described in state game commission rule 19.34.5 NMAC WILDLIFE MANAGEMENT AREAS.

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

OO. "Youth" shall mean those less than 18 years of age except where otherwise defined.
[19.31.6.7 NMAC - N/E, 8-29-2014]

19.31.16.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS:

The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, authorizations, or harvest limits, up or down by no more than 20% to address significant changes in population levels or habitat availability. This adjustment may be applied to any or all of the entry hunt codes
[19.31.6.8 NMAC - N/E, 8-29-2014]

19.31.6.9 LICENSE AND APPLICATION REQUIREMENTS:

A. License: It shall be unlawful to hunt migratory game birds without having purchased a valid license for the current license year. A migratory bird permit number shall be required. Waterfowl hunters 16 years of age and older are required to have in their possession a federal migratory bird hunting and conservation stamp (duck stamp).

(1) For eastern sandhill crane hunting and falconry: in addition to a valid license, a free federal sandhill crane hunting permit obtained from department offices or website shall be required.

(2) For EV sandhill crane, MRGV sandhill crane, MRGV youth-only sandhill crane, SW sandhill crane, and Bernardo pond unit youth waterfowl hunting; in addition to a valid license, a special permit obtained by

drawing shall be required.

(3) For the light goose conservation order: in addition to a valid license, a free light goose conservation order permit obtained from department offices or website shall be required.

B. Valid dates of license or permit: All permits or licenses shall be valid only for the dates, legal sporting arms, bag limit and area printed on the permit or license.

C. Applications: Applications for Bernardo pond unit youth waterfowl, EV sandhill crane, MRGV sandhill crane, SW sandhill crane, and MRGV youth-only sandhill crane hunt permits shall be submitted via the department website.

(1) For permits issued by drawing, the appropriate application fee as defined by 19.30.9 NMAC shall be required by each applicant per application submitted.

(2) No more than four persons may apply per application. For the MRGV youth-only sandhill crane hunt, no more than two persons may apply per application.

(3) It shall be unlawful to submit more than one application per species per year, unless otherwise specifically allowed by rule. Those submitting more than one application per species will result in the rejection of all applications for that species.

(4) Applications may be rejected if such applications do not supply adequate information.

(5) Applicants may apply for a first, second and third choice of seasons, if applicable. A maximum of one permit per species hunt code will be awarded to successful applicants unless otherwise specifically allowed by rule.

(6) All applications must be submitted via the department website unless otherwise specifically allowed by rule.

(7) The application deadline date for the Bernardo pond unit youth waterfowl; and EV, MRGV, MRGV youth-only, and SW sandhill crane hunt permits shall be on date(s) set by the state game commission.

(a) For the Bernardo pond unit youth waterfowl hunt permits, no more than one person may apply per application.

(b) If any permits are available after the drawing, a person may submit a new application; up to three additional hunt choices may be awarded.

(c) Hunters may have a maximum of four Bernardo pond unit youth waterfowl

permits per license year.

(d)

Up to eight applications per hunt code will be drawn, or issued after the drawing for the Bernardo pond unit youth waterfowl permits.

(8) If applications

for permits exceed the number of available permits, as herein established, the available permits shall be allotted by means of a random public drawing in the Santa Fe office of the department.

(9) If any permits remain

after the original deadline, the director may authorize a new deadline. A person who is not awarded a permit for which he applied may submit a new application for a permit if such permits remain available.

D. Youth hunts: Only applicants who have not reached their 18th birthday by the opening day of the hunt are eligible to apply for or participate in a youth-only hunt, except that during the federal youth waterfowl hunt days only those who have not reached their 16th birthday may hunt waterfowl. During the Bernardo pond unit youth hunt, applicant must be accompanied by a supervising adult, who if properly licensed, may participate in the hunt.

[19.31.6.9 NMAC - N/E, 8-29-2014]

19.31.6.10 MANNER AND METHODS FOR MIGRATORY GAME BIRDS:

A. Season and hours:

Migratory game birds may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to sunset, unless otherwise specifically allowed by rule.

(1) On most wildlife management areas, the lesser prairie-chicken areas, and the Sandhills prairie conservation area, hunting hours shall be from one-half hour before sunrise to sunset.

(2) On the following wildlife management areas: Bernardo, Casa Colorada, Charette Lake, Jackson Lake, La Joya, McAllister Lake, Wagon Mound, Tucumcari, and W.S. Huey; and the Bottomless lakes overflow, hunting hours shall mean from one-half hour before sunrise to 1:00 p.m. unless otherwise stated in rule. For hunting September teal on Bernardo and La Joya WMAs, hunting hours are from one-half hour before sunrise to sunset.

(3) During the light goose conservation order hunt dates, hunting hours shall mean from one-half hour before sunrise to one-half hour after sunset, excluding the WMAs listed in (2) above.

B. Bag limit: It is unlawful for any person to hunt for or take

more than one daily bag limit allowed by regulation, unless otherwise specifically allowed by rule. There shall be no daily bag or possession limit for light geese during the light goose conservation order hunt dates.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of any migratory game birds that are illegally obtained.

D. Use of bait: It shall be unlawful for anyone to take or attempt to take any migratory game bird by use of bait such as grain, salt or other feed.

E. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any migratory game bird.

F. Use of calling devices: It shall be unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any migratory game bird, unless otherwise specifically allowed by rule. During the light goose conservation order hunt dates, electronic calling devices are allowed.

G. Killing out-of-season: It shall be unlawful to kill any migratory game bird out-of-season.

H. Legal sporting arms and ammunition:

(1) The following are legal sporting arms for migratory game birds:

(a) shotguns no larger than 10 gauge firing shot, shotguns shall not be capable of holding more than three shells;

(b) muzzle-loading shotguns firing shot;

(c) bows and arrows;

(d) crossbows; and

(e) during the light goose conservation order hunt dates, as listed herein, shotguns capable of holding more than three shells are lawful.

(2) Non-toxic shot use is required for hunting:

(a) all migratory game bird species, excluding dove, band-tailed pigeons, and eastern sandhill cranes; and

(b) on all state game commission owned lands.

(3) Use of lead shot: It shall be unlawful for any person hunting migratory game birds, other than dove, band-tailed pigeon and eastern sandhill crane, to hunt with or be in possession of any shotgun shells loaded with toxic shot or for any person using a muzzleloader to be in possession of lead shot.

I. Drugs and explosives:

It shall be unlawful to use any form of drug on an arrow or use arrows driven by explosives.

J. Proof of species or sex:

One fully feathered wing must remain attached to all migratory game birds, except dove and band-tailed pigeon, until the bird has arrived at the personal abode of the possessor or storage facility.

K. Possession or sale of migratory game bird: It shall be unlawful to possess, sell, or offer for sale all or part of any migratory game bird except as provided below.

(1) License or permit: A person may possess migratory game bird or parts thereof they have lawfully taken (killed) under license or permit.

(2) Game taken by another: Any person may have in their possession or under their control any migratory game bird or parts thereof that have been lawfully taken by another person if they possess a written statement which shall be provided by the donor of the migratory game bird, or parts thereof, and which shall contain the following:

(a) the kind and number of game parts donated;

(b) the date and county where the game was lawfully taken;

(c) the donor's name, address, and the number of the hunting license under which the game was lawfully taken; and

(d) the date and place of the donation.

(3) Retention of live animals: It shall be unlawful to retain migratory game birds in a live condition except under permit or license issued by the director for the following purposes:

(a) zoos open for public display;

(b) in class A parks;

(c) in projects for scientific research and propagation;

(d) a rehabilitation permit;

(e) under a falconry permit, only those birds listed on the permit;

(f) under a scientific collection permit, one may collect and possess only those migratory game bird species listed on the permit; and

(g) in transit through New Mexico when the transporter can demonstrate proof of legal possession of the migratory game bird being transported.

(4) Sale of game

animal parts: It shall be unlawful to sell or barter any parts or feathers from migratory game birds.

(5) Falconry provisions for possession: The falconry hunter shall not retain nor possess any migratory game bird of bird taken by a raptor except those species of protected birds taken during open falconry season.

L. Release of wildlife: It shall be unlawful for any person or persons to release, intentionally or otherwise, or cause to be released in this state any migratory game bird, without first obtaining a permit from the department of game and fish.

M. Use of vehicles and roads in hunting migratory game birds:

(1) Roads: It shall be unlawful to shoot at, wound, take, attempt to take, or kill any migratory game bird on, from, or across any graded paved, or maintained public road and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences.

(2) Vehicles, boats, aircraft: It shall be unlawful to shoot at any migratory game bird from within a motor vehicle, power boat, sailboat, or aircraft. EXCEPTION: Migratory game birds may be taken from a motor-driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.

(3) Harassing migratory game birds: It shall be unlawful, at any time, to pursue, harass, harr, drive, or rally any migratory game bird by use of or from a motor-driven vehicle, powerboat, sailboat, or aircraft.

(4) Vehicle off of established road: During the seasons established for any migratory game bird, it shall be unlawful to drive or ride in a motor vehicle which is driven off an established road when the vehicle bears a licensed hunter, fisherman or trapper. EXCEPTION: 1) snowmobiles; and 2) all landowners, lessees or their employees, while on their owned or leased lands in connection with legitimate agricultural activities.

(5) Closed roads: During the seasons established for any migratory game bird, it shall be unlawful to knowingly occupy, drive, or cause to be driven any motor vehicle on a closed road when the vehicle bears a licensed hunter, angler or trapper.

(6) Mobility impaired:

(a) Shooting from a vehicle: The holder of a mobility impaired card is authorized to

shoot at and kill migratory game birds during their respective open seasons from a stationary motor-driven vehicle that is not on a public road or highway. The director may issue permits to shoot from a stationary vehicle to applicants who provide certification that the applicant is disabled in accordance with the American Disability Act. Such certification shall be signed by an M.D. or O.D. licensed to practice in the applicant's state of residence.

(b) Driving off established roads: Holders of a mobility impaired card may, with permission of the landowner, lessee, or land management agency, drive off established roads to hunt for or take migratory game birds, during open seasons.

(c) Assistance for mobility impaired hunter: The holder of a mobility impaired card may be accompanied by another person to assist in reducing to possession any migratory game bird which has clearly been wounded by the licensed mobility impaired hunter. Persons assisting in reducing to possession any wounded migratory game birds shall be fully licensed.

N. Lands and waters owned, administered, controlled, or managed by the state game commission:

(1) Posting of signs: The state game commission may prohibit, modify, condition, or otherwise control the use of areas under its control by posting of signs as may be required in any particular area.

(2) Violating provisions of posted signs: It shall be unlawful to violate the provisions of posted signs on areas under the control of the state game commission.

(3) Trespass on state game commission owned lands: It shall be unlawful to hunt migratory game birds, camp, or trespass upon state game commission owned lands unless otherwise specifically allowed by rule.

(4) State wildlife management areas open, species that can be hunted, and days open for hunting (use of vehicles will be restricted to designated areas):

(a) Bernardo WMA:

(i) That portion of the Bernardo WMA south of U.S. 60 is open to teal hunting each day of the September teal season and the federal youth waterfowl days. That portion of the Bernardo WMA north of U.S. 60 is closed except during the light goose conservation order.

(ii) The Quagmire shall be open only on Tuesday, Thursday, and Sunday to hunt ducks, geese, Virginia rail, sora, common

moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(iii) The Bernardo pond unit shall be open for youth waterfowl hunting from one-half hour before sunrise to 3:00 p.m. on select dates and for general waterfowl hunting from one-half hour before sunrise to 1:00 p.m. on Monday, Wednesday and Saturday when there is no youth hunt scheduled to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(b) The Charette lake WMA shall be open each day of the federal youth waterfowl days and on Monday, Wednesday, and Saturday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons. Charette lake WMA is closed during the September teal season.

(c) The Edward Sargent, W. A. Humphries, Rio Chama, Urraca, Colin Neblett, Water canyon, Marquez, and Elliot S. Barker wildlife management areas shall be open for hunting dove and band-tailed pigeon during established seasons.

(d) The portion of Jackson lake WMA west of N.M. 170 shall be open on Mondays, Wednesdays, and Saturdays to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe. The portion of Jackson lake WMA east of N.M. 170 shall be open to falconry only migratory game bird hunting during established seasons.

(e) The lesser prairie-chicken management areas and Sandhills prairie conservation area shall be open to hunt dove during established seasons.

(f) La Joya WMA:

(i) The entire La Joya WMA shall be open to teal hunting each day of the September teal season and each day of the federal youth waterfowl days.

(ii) That portion of La Joya WMA north of the main east/west entrance road and west of the railroad tracks shall be open on Saturdays, Mondays, and Wednesdays to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(iii) That portion of La Joya WMA south of the main east/west entrance road and west of the railroad tracks shall be open on Sunday,

Tuesday and Thursday to hunt ducks, geese, Virginia rail, Sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(iv)

That portion of La Joya WMA east of the railroad tracks shall be open to hunt dove, ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons.

(g) The

McAllister lake WMA shall be open each day of the federal youth waterfowl days and on Monday, Wednesday, and Saturday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons.

(h)

The Wagon Mound WMA shall be open to teal hunting each day of the September teal season and federal youth waterfowl days and open on Monday, Wednesday, and Saturday for ducks, geese, Virginia rail, sora, common moorhen, American coot and common Snipe during established seasons.

(i) The

Socorro-Escondida wildlife management area shall be open for migratory game bird hunting.

(j)

The Tucumcari WMA shall be open each day of the September teal and federal youth waterfowl days and on Saturday, Sunday, and Wednesday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons.

(k) The

William S. Huey WMA shall be open for dove hunting only on Monday, Wednesday, and Saturday during established statewide seasons.

(5) The Big

Hatchet mountain special management area shall be open for dove hunting during established seasons.

(6) The Brantley

WMA (excluding the Seven Rivers portion, as posted) shall be open for all migratory game bird hunting during established statewide seasons.

(7) Seven Rivers

shall be open each day of the federal youth waterfowl days and for migratory game bird hunting in designated areas as posted only on Monday, Wednesday, and Saturday during established statewide seasons.

(8) The Sandia

ranger district of the Cibola national forest shall be open to archery only migratory game bird hunting during established seasons.

(9) All wildlife

management areas shall be open to falconry waterfowl hunting each day of the established falconry season, unless

otherwise restricted by rule.

O. Areas closed to migratory game bird hunting: All areas noted in 19.31.10.16 NMAC shall remain closed to hunting, except as permitted by regulation.

(1) That portion

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

(2) Areas within

Valencia county may be closed to migratory game bird hunting that meets the following criteria:

(a)

The discharge of a shotgun in the area has been identified by department personnel as a public safety risk because of its proximity to an inhabited area. For the purpose of this section, "public safety risk" shall be defined as a reasonable potential risk of injury at an occupied place of residence.

(b)

The discharge of a shotgun in the area is not prohibited by any other statute, rule, regulation or ordinance.

(c)

These areas shall be designated by posting of signs and identified on the department website.

P. Regulations pertaining to boats, other floating devices, and motors:

(1) On Bernardo,

La Joya, Wagon Mound and Jackson lake WMAs, only boats and other floating devices using no motors shall be permitted during waterfowl season.

(2) On Tucumcari

WMA, only boats and other floating devices using electric motors or with motors that are not in use shall be permitted.

(3) On Charette

and McAllister lakes boats and other floating devices with or without motors shall be permitted; provided, however, that boats or floating devices shall not be operated at greater than normal trolling speed.

(4) Department

of game and fish personnel or persons authorized by the director may use gasoline powered outboard motors on all lakes mentioned in this chapter while performing official duties.

[19.31.6.10 NMAC - N/E, 8-29-2014]

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

A. 2014-2015 season; all

dates are 2014 unless otherwise specified.

Possession limits are three times the daily bag limit unless otherwise specified.

[Continued on page 610]

species	open areas	season dates	daily bag limit
mourning and white-winged dove	north zone	Sept. 1 - Nov. 9	15 (singly or in aggregate)
	south zone	Sept. 1 - Oct. 13 and Dec. 5 - 31	
band-tailed pigeon	southwest BPHA	Oct. 1 - 20	5
	regular BPHA	Sept. 1 - 20	
regular season sandhill crane (free permit required)	eastern	Oct. 31 - Jan. 31, 2015	3 (6 in possession)
special season sandhill crane (special draw permit required)	MRGV	Oct. 25 - Oct. 26	2 per season
	EV	Oct. 25 - Nov. 2	
	southwest	Oct. 25 - Nov. 2	
	MRGV	Nov. 15 - 16	
	MRGV	Nov. 29 - Nov. 30	
	southwest	Jan. 3 - 4, 2015	
	MRGV	Jan. 10 - 11, 2015	
	MRGV youth-only	Nov. 8	2
CENTRAL FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.			
species	season dates	daily bag limit	
September teal: blue-winged teal, green-winged teal, and cinnamon teal	Sept. 13 - 28	6 (singly or in the aggregate)	
Ducks	north zone: Oct. 4 - Jan. 2, 2015	6 (singly or in the aggregate); that consists of no more than 5 mallard (of which only 2 may be female mallard, [Mexican-like ducks are included towards the mallard bag limit]), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 2 pintail, and 1 canvasback	
	south zone: Oct. 23 - Jan. 19, 2015		
youth waterfowl days	north zone: Sept. 27 - 28	6 (singly or in the aggregate); that consists of no more than 5 mallard (of which only 2 may be female mallard, [Mexican-like ducks are included towards the mallard bag limit]), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 2 pintail, and 1 canvasback	
	south zone: Oct. 11 - 12		
American coot	north zone: Oct. 4 - Jan. 2, 2015	15	
	south zone: Oct. 23 - Jan. 19, 2015		
common moorhen	Sept. 27 - Dec. 5	1	
common snipe	Oct. 25 - Feb. 8, 2015	8	
Virginia rail & sora	Sept. 13 - Nov. 21	10 (singly or in the aggregate); 20 in possession	
dark goose: Canada & white-fronted geese (regular season closed in Bernalillo, Sandoval, Sierra, Socorro, and Valencia counties)	Oct. 11 - Jan. 25, 2015	5	
dark goose: special MRGV season	Dec. 27 - Jan. 20, 2015	2 (2 per season)	
light goose: Ross's & snow geese	Oct. 11 - Jan. 25, 2015	50 (no possession limit)	
light goose conservation order	Feb. 1 - Mar. 10, 2015	no bag or possession limit	
PACIFIC FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.			
Species	season dates	daily bag limit	
youth waterfowl days	Oct. 4 - 5	7 (singly or in the aggregate); that consists of no more than 2 female mallard, 2 redhead, 2 pintail, and 1 canvasback	
Ducks	Oct. 11 - Jan. 23, 2015		
Scaup	Oct. 11 - Jan. 4, 2015	3 (as part of the aggregate duck bag)	
American coot and common moorhen	Oct. 11 - Jan. 23, 2015	25 daily (singly or in the aggregate)	
common snipe	Oct. 25 - Feb 8, 2015	8	
Virginia rail & sora	Sept. 13 - Nov. 21	25 daily (singly or in the aggregate)	
Goose	north zone: Sept. 27 - Oct. 12 and Oct. 26 - Jan. 24, 2015	3 Canada geese, 10 white-fronted geese, and 20 light geese	
	south zone: Oct. 11 - Jan. 25, 2015		

B. Light goose conservation measures: Under the director's discretion with the verbal concurrence of the state game commission chairman or his designee, the department may implement the light goose conservation measures approved by the USFWS. Methods, bag and possession limits, and dates allowed shall be those as approved by the USFWS. A free permit is required. [19.31.6.11 NMAC - N/E, 8-29-2014]

19.31.6.12 FALCONRY SEASONS: 2014-2015 season, all dates are 2014 unless otherwise specified. Bag limits are three singly or in the aggregate and nine in possession unless otherwise specified.

CENTRAL FLYWAY		
species	open areas	season dates
mourning and white-winged dove	all	Sept. 1 - Nov. 12 and Nov. 28 - Dec. 31
band-tailed pigeon	southwest BPHA	Oct. 1 - Jan. 15, 2015
	regular BPHA	Sept. 1 - Dec. 16
sora and Virginia rail	all	Sept. 13 - Dec. 28
common snipe	all	Oct. 25 - Feb. 8, 2015
common moorhen	all	Sept. 27 - Jan. 11, 2015
ducks	north	Sept. 13 - 21, Sept. 27 - 28, and Oct. 4 - Jan. 2, 2015
	south	Sept. 13 - 21, Sept. 27 - 28, and Oct. 23 - Jan. 19, 2015
goose (light and dark)	all	Oct. 11 - Jan. 25, 2015
goose (dark)	MRGV	Dec. 27 - Jan. 20, 2015
sandhill crane	regular (eastern)	Oct. 17 - Jan. 31, 2015; (6 in possession)
	Estancia Valley	Oct. 25 - Dec. 23; (2 per season)
PACIFIC FLYWAY		
species	open areas	season dates
mourning and white-winged dove	all	Sept. 1 - Nov. 12 and Nov. 28 - Dec. 31
band-tailed pigeon	southwest BPHA	Oct. 1 - Jan. 15, 2015
	regular BPHA	Sept. 1 - Dec. 16
duck	all	Oct. 4 - 5 and Oct. 11 - Jan. 23, 2015
scaup	all	Oct. 11 - Jan. 4, 2015
light goose	north	Sept. 27 - Oct. 12 and Oct. 26 - Jan. 24, 2015
	south	Oct. 11 - Jan. 25, 2015
dark goose	north	Sept. 27 - Oct. 12 and Oct. 26 - Jan. 24, 2015
	south	Oct. 11 - Jan. 25, 2015
common snipe	all	Oct. 25 - Feb. 8, 2015
common moorhen	all	Oct. 4 - 5 and Sept. 27 - Dec 5
sora and Virginia rail	all	Sept. 13 - Nov. 21

[19.31.6.12 NMAC - N/E, 8-29-2014]

19.31.6.13 FEDERAL YOUTH WATERFOWL HUNTING DAYS: Requirements for youth hunters to participate in this hunt are as follows:

- A. Youth hunters must be under 16 years old.
- B. An adult, at least 18 years old, must accompany the youth hunter in the field (the adult may not hunt ducks but may participate in other seasons that are open on the special youth days).
- C. Only ducks, coots, and moorhens may be taken by the youth hunter (sandhill cranes, geese or any other migratory game bird species may not be taken unless the season is open).

[19.31.6.13 NMAC - N/E, 8-29-2014]

19.31.6.14 REQUIREMENTS AND HUNT CODES FOR THE SPECIAL BERNARDO YOUTH WATERFOWL HUNTS:

- A. The Bernardo pond unit will only be open for youth waterfowl hunting.
- B. Requirements for blind selection:
 - (1) Blind selection will be available by permit only issued by drawing.
 - (2) The permit holder must be present and in possession of the permit at all times during the hunt. The permit holder must be accompanied by a supervising adult who may also hunt. The permit holder may invite additional youth hunters and their supervising adults to a maximum of six people per blind, at least 50% of which must be youth hunters. No more than three youth hunters may accompany any one adult.
 - (3) Blind selection shall be for select dates from one-half hour before sunrise to 3:00 p.m.
 - (a) If any permits are available after the drawing, a person may submit a new online application. Hunters may have a maximum of four Bernardo youth permits per license year.
 - (b) Eight applications per hunt code will be drawn. Remaining permits will be issued after the drawing.

C. 2014-2015 season, hunt codes and permits available:

hunt date	hunt code	no. of permits	hunt date	hunt code	no. of permits
Nov. 15	WFL-0-101	8	Dec. 20	WFL-0-108	8
Nov. 26	WFL-0-102	8	Dec. 23	WFL-0-109	8
Nov. 27	WFL-0-103	8	Dec. 26	WFL-0-110	8
Nov. 28	WFL-0-104	8	Dec. 27	WFL-0-111	8
Nov. 29	WFL-0-105	8	Dec. 28	WFL-0-112	8
Dec. 6	WFL-0-106	8	Jan. 10, 2015	WFL-0-113	8
Dec. 13	WFL-0-107	8	Jan. 24, 2015	WFL-0-114	8

[19.31.6.14 NMAC - N/E, 8-29-2014]

19.31.6.15 HUNT CODES AND PERMITS NUMBERS FOR THE SPECIAL ESTANCIA VALLEY, MIDDLE RIO GRANDE VALLEY, AND SOUTHWEST NEW MEXICO SANDHILL CRANE SEASONS:

A. The hunting seasons for 2014-2015 are:

season dates	hunt code	hunt location	no. of permits	season dates	hunt code	hunt location	no. of permits
Oct. 25 - 26	SCR-0-101	MRGV	70	Oct. 25 - Nov. 2	SCR-0-105	SW	60
Oct. 25 - Nov. 2	SCR-0-102	EV	65	Jan. 10 - 11, 2015	SCR-0-106	MRGV	40
Nov. 15 - 16	SCR-0-103	MRGV	50	Jan. 3 - 4, 2015	SCR-0-107	SW	45
Nov. 29 - 30	SCR-0-104	MRGV	40	Nov. 8	SCR-0-109	MRGV youth	24

B. Hunters who participate in the EV and MRGV seasons shall be required to check-out at designated check stations when they harvest any sandhill cranes.

C. All EV, MRGV and SW sandhill crane hunters are required to submit a special permit sandhill crane harvest report to the department within five days after the end of their hunt. Hunters that do not submit a questionnaire within five days of the close of their hunt will be considered ineligible to receive a sandhill crane permit the following year.

D. The department may cancel one or more EV, MRGV or SW sandhill crane hunts if harvest is expected to exceed our federal allocation of greater sandhill cranes.

[19.31.6.15 NMAC - N/E, 8-29-2014]

HISTORY OF 19.31.6 NMAC:

Pre-NMAC Filing History: The material in this part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 486, Establishing 1967 Seasons On Quail, Pheasants, Prairie Chickens, and Lesser Sandhill (Little Brown) Crane And Additional Seasons On Migratory Waterfowl, filed 9/22/67; Regulation No. 494, Establishing 1968 Seasons On Migratory Waterfowl, Common Snipe, Lesser Sandhill Crane, Scaled, Gambel's, And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 10/2/68; Regulation No. 508, Establishing 1969 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Scaled, Gambel's And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 9/19/69; Regulation No. 527, Establishing 1971 Seasons On Migratory

Waterfowl And Lesser Sandhill Cranes, filed 9/10/71; Regulation No. 540, Establishing 1972 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, And Wilson's Swipe, filed 9/26/72; Regulation No. 551, Establishing 1973 Seasons On Migratory Waterfowl And Lesser Sandhill Crane, filed 8/20/73; Regulation No. 560, Establishing 1974 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/21/74; Regulation No. 570, Establishing 1975 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/5/75; Regulation No. 578, Establishing 1976 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 8/31/76; Regulation No. 588, Establishing 1977 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/6/77; Regulation No. 594, Establishing 1978 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/11/78; Regulation No. 601, Establishing 1979 Seasons on Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/30/79; Regulation No. 606, Establishing 1980 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/3/80; Regulation No. 611, Establishing 1981 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/4/81; Regulation No. 616, Establishing 1982 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie

Chickens, filed 9/3/82; Regulation No. 626, Establishing 1983 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/7/83; Regulation No. 631, Establishing 1984 Seasons On Migratory Waterfowl, filed 8/31/84; Regulation No. 638, Establishing 1985 Seasons On Migratory Waterfowl, filed 9/11/85; Regulation No. 643, Establishing 1986-87 Seasons On Migratory Birds, filed 8/24/87; Regulation No. 660, Establishing 1988-89 Seasons On Migratory Birds, filed 6/28/88; Regulation No. 669, Establishing 1989-90 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Sandhill Crane, Band-tailed Pigeon, Dove, And Setting Falconry Seasons, filed 10/5/89; Regulation No. 680, Establishing 1990-91 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 9/28/90; Regulation No. 687, Establishing 1991-92 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 8/6/91; Regulation No. 698, Establishing 1991-92 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 8/6/91; Regulation No. 698, Establishing 1992-93 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry seasons, filed 9/15/92; Regulation No. 704, Establishing 1993-94 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 3/11/93; Regulation No. 707, Establishing The 1994-95, 1995-96, 1996-97 Seasons On Ducks, Geese,

Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 7/28/94; Regulation No. 708, Establishing The 1994-95, 1995-96, And 1996-97 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 9/7/94.

NMAC History:

19 NMAC 31.6, Waterfowl, filed 8-31-1995
 19.31.6 NMAC, Waterfowl, filed 8-15-2000
 19.31.6 NMAC, Waterfowl, filed 8-26-2002
 19.31.6 NMAC, Waterfowl, filed 8-12-2003
 19.31.6 NMAC, Waterfowl, filed 8-2-2004
 19.31.6 NMAC, Waterfowl, filed 8-8-2005
 19.31.6 NMAC, Waterfowl, filed 8-1-2006
 19.31.6 NMAC, Waterfowl, filed 8-16-2007
 19.31.6 NMAC, Migratory Game Bird, filed 8-13-2008
 19.31.6 NMAC, Migratory Game Bird, filed 8-17-2009
 19.31.6 NMAC, Migratory Game Bird, filed 8-14-2012

History of Repealed Material:

19.31.6 NMAC, Waterfowl, filed 8-15-2000 - duration expired 3-31-2002
 19.31.6 NMAC, Waterfowl, filed 8-26-2002 - duration expired 3-31-2003
 19.31.6 NMAC, Waterfowl, filed 8-12-2003 - duration expired 3-31-2004
 19.31.6 NMAC, Waterfowl, filed 8-2-2004 - duration expired 3-31-2005
 19.31.6 NMAC, Waterfowl, filed 8-8-2005 - duration expired 3-31-2006
 19.31.6 NMAC, Waterfowl, filed 8-1-2006 - duration expired 3-31-2007
 19.31.6 NMAC, Waterfowl, filed 8-16-2007 - duration expired 3-31-2008
 19.31.6 NMAC, Waterfowl, filed 8-13-2008 - duration expired 3-31-2009
 19.31.6 NMAC, Waterfowl, filed 8-17-2009 - duration expired 3-31-2010
 19.31.6 NMAC, Waterfowl, filed 8-2-2010 - duration expired 3-31-2011
 19.31.6 NMAC, Waterfowl, filed 8-1-2011 - duration expired 3-31-2012
 19.31.6 NMAC, Migratory Game Bird, filed 8-14-2012 - duration expired 3-31-2013
 19.31.6 NMAC, Migratory Game Bird, filed 8-29-2013 - duration expired 3-31-2014

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.3 NMAC, Sections 2, 3, 6, 7 and 8, effective 09-15-2014.

19.30.3.2 SCOPE: Persons interested in and affected by actions of the state game commission and the department of game and fish.
 [8-15-95; 19.30.3.2 NMAC - Rn, 19 NMAC 30.3.2, 2-14-02; A, 09-15-2014]

19.30.3.3 STATUTORY AUTHORITY: [~~10-15-1 NMSA 1978 (“Open Meetings Act”)-17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.] NMSA 1978, Sections 10-15-1 to 4 (as amended through 2012, “Open Meetings Act”), and NMSA 1978, Sections 17-1-14 and 17-1-26 that provide the New Mexico state game commission with the authority to establish rules that it may deem necessary to carry out the purpose of Chapter 17, Article 1 and all other acts pertaining to protected species.~~

[12-17-75, 9-3-82, 1-27-84, 12-3-87, 3-5-91, 8-15-95; 19.30.3.3 NMAC - Rn, 19 NMAC 30.3.3, 2-14-02; A, 09-15-2014]

19.30.3.6 OBJECTIVE: [~~For establish regulation pursuant to the “Open Meetings Act,” constituting reasonable public notice of state game commission meetings and actions-] To establish rules pursuant to the “Open Meetings Act” determining what constitutes reasonable notice of state game commission public meetings.~~

[8-15-95; 19.30.3.6 NMAC - Rn, 19 NMAC 30.3.6, 2-14-02; A, 09-15-2014]

19.30.3.7 DEFINITIONS:
A. “Emergency meeting”

[~~is a meeting called to address unforeseen situations demanding immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss-] is a meeting called to address unforeseen circumstances that, if not addressed immediately by the commission, will likely result in injury or damage to persons or property, or substantial financial loss to the commission.~~

B. “Publish” shall mean to publish via paid legal advertisement in a newspaper of general circulation.
 [8-15-95; 19.30.3.7 NMAC - Rn, 19 NMAC 30.3.7, 2-14-02; A, 09-15-2014]

19.30.3.8 OPEN MEETINGS:
A. Reasonable notice:

Reasonable notice shall be given, as hereinafter provided, of all meetings [~~defined as] of a quorum of the state game commission [meeting] held for the purpose of discussing or adopting any proposed [regulation,] rule or resolution, or [at which] taking formal action [will occur].~~

(1) Annual meeting to determine reasonable notice: The annual meeting to determine what is a reasonable notice for meetings, as required by Section 10-15-1D, shall be held at the first commission meeting each year. At

that meeting, the commission shall [~~take action] adopt a resolution either to continue or amend its existing practice as contained herein.~~

(2) Notice of each regularly scheduled meeting and meetings at which rule makings may occur: At least 10 days in advance of each regularly scheduled meeting, notice will be sent to the major newspapers, radio stations, wire services and television stations in the state. These notices shall contain the date, time, and place of the meeting and information on how a copy of the agenda may be obtained. [~~The notices shall specify both the open and closed portions of the meeting pursuant to Section 10-15-1 of the “Open Meetings Act.”]~~

(3) Notice of each special meeting: At least three days in advance of each special meeting, notice will be [~~sent] given by telephone to the major newspapers, radio stations, wire services and television stations in the state. These notices shall [contain] provide the date, time, and place of the meeting and information on how a copy of the agenda may be obtained. [The notices shall specify both the open and closed portions of the meeting pursuant to Section 10-15-1 of the “Open Meetings Act.”]~~

(4) Notice of emergency meetings: Notwithstanding any other provision of this [~~regulation] rule, the chairman of the state game commission may call [on the commission] an emergency meeting to consider any unforeseen and urgent matter that demands immediate commission action. Notice [in such] of an emergency meeting shall be given at least 24 hours in advance [of such meeting] unless threat of personal injury or property damage requires less notice, and shall be by telephone to the associated press and, if time permits, via news release faxed or hand delivered to at least one daily newspaper of general circulation in the state.~~

(5) Telephone participation: Commissioners may choose to participate in properly noticed [~~emergency] meetings of the state game commission by telephone or other similar communications equipment, but only when attendance in person is difficult or impossible. Each commissioner participating by telephone or other similar equipment must be identified when speaking, all commissioners must be able to hear each other at the same time and hear any speaker, and members of the public attending the meeting must be able to hear any commissioner.~~

B. Correspondence with interested parties: Prior to each regularly scheduled meeting, correspondence announcing the date, time, and place of the

meeting, information on how a copy of the agenda may be obtained [~~and specifying both the open and closed portions of the meeting;~~] shall be sent to agencies, organizations, groups, or individuals who have requested such notice.

C. Agenda availability and changes:

(1) Agenda availability: Except for emergency meetings, the agenda for [~~each~~] a regular or special meeting will be made available to the public from the Office of the Director, New Mexico Department of Game and Fish, [P.O. Box 25112] One Wildlife Way, Santa Fe, New Mexico [87504] 87507 at least [24] 72 hours in advance of each meeting.

(2) The proposed agenda for any meeting is subject to change as deemed necessary by the chairman of the state game commission. However, such changes may not be made less than 24 hours in advance of any meeting, and the final agenda, incorporating any such changes, will be made available to the public at least 24 hours in advance of the meeting from the office of the director.

[12-17-75, 9-3-82, 12-3-87, 3-5-91, 8-15-95, 3-15-99, 2-14-00; 19.30.3.8 NMAC - Rn & A, 19 NMAC 30.3.8, 2-14-02; A, 09-15-2014]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

This is an amendment to 19.31.5 NMAC, Sections 6, 7, 9, 10 and 13, effective 08-29-2014.

19.31.5.6 OBJECTIVE:

Establishing seasons on dusky grouse, Eurasian collared-dove, pheasant, Gambel's quail, Montezuma quail, northern bobwhite, scaled quail, Abert's squirrel, red squirrel, Arizona gray squirrel, fox squirrel, eastern gray squirrel, and setting falconry seasons. [19.31.5.6 NMAC - Rp, 19.31.5.6 NMAC, 4-1-14; A/E, 8-29-14]

19.31.5.7 DEFINITIONS:

A. "Aggregate" shall mean the sum of individual game taken comprised of several species as allowed by the bag limit or possession limit.

B. "Arrows" shall mean only those arrows or bolts having broadheads with steel cutting edges.

C. "Bag limit" shall mean the number of upland game animals a licensed hunter is allowed per day.

D. "Baiting" shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take upland game birds or mammals.

E. "Bow" shall mean compound, recurve, long bow, or crossbow. Sights on bows shall not project light nor magnify.

F. "Crossbows" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.

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

H. "Department offices" shall mean department offices in Santa Fe, Albuquerque, Raton, Las Cruces, or Roswell.

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

J. "Established road" is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures;

(2) a two-track road completely void of vegetation in the tracks which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

K. "Falconry" shall mean hunting upland game using raptors.

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

M. "Modern firearms" shall mean center-fire firearms, not to include any fully automatic firearms. Legal shotguns shall be only those shotguns capable of being fired from the shoulder.

N. "Muzzle-loader or muzzle-loading firearms" shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only blackpowder, Pyrodex® or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.

O. "Non-toxic shot" shall mean that non-toxic shot approved for use by the U. S. fish and wildlife service.

P. "Pellet Gun" shall mean a handgun or rifle that propels a single .177 caliber or larger pellet by means of compressed air or other gas.

[P:] Q. "Permanent mobility limitation" shall mean an individual that

permanently has: restricted movement in both arms, or is restricted to the use of a walker, wheelchair, or two crutches to walk, or has a combination of disabilities that cause comparable substantial functional limitations.

[Q:] R. "Possession limit" shall mean twice the daily bag limit one can have in their ownership, except where otherwise defined.

[R:] S. "Protected species" shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 New Mexico Statutes Annotated 1978 Compilation;

(2) all animals listed as endangered species or subspecies as stated in regulation(s) set by the state game commission.

[S:] T. "Retention" or "retain" shall mean the holding of in captivity.

[T:] U. "State game commission owned properties" shall mean all department owned or managed waterfowl management areas, wildlife management areas, Sandhills Prairie conservation area and lesser prairie-chicken areas.

[U:] V. "Unlimited" shall mean there is no set limit on the number of permits or licenses established for the described hunt areas.

[V:] W. "Waterfowl management area (WMA)" shall mean Bernardo, Brantley, Casa Colorada, Charette lake, Jackson lake, La Joya, McAllister lake, Salt lake, Tucumcari, and W.S. Huey state game commission owned or managed waterfowl management areas.

[W:] X. "Wildlife management area" shall mean Big Hatchet, Colin Neblett, E.S. Barker, Humphries, Marquez, Rio Chama, Sargent, Socorro-Escondida, and Water canyon wildlife management areas, the Sandhills Prairie conservation area, and state game commission owned lesser prairie-chicken areas.

[X:] Y. "Youth" shall mean those less than 18 years of age except where otherwise defined.

[19.31.5.7 NMAC - Rp, 19.31.5.7 NMAC, 4-1-14; A/E, 8-29-14]

19.31.5.9 MANNER AND METHODS FOR UPLAND GAME:

A. Season and hours: Upland game may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset, unless otherwise specifically allowed by rule.

(1) On wildlife management areas, the lesser prairie-chicken areas, and the Sandhills Prairie conservation area hunting hours shall be

from one-half hour before sunrise to one-half hour after sunset.

(2) On waterfowl management areas (WMAs), hunting hours shall be from one-half hour before sunrise to 1:00 p.m. For the special permit pheasant hunts on W.S. Huey WMA, hunting hours shall be from one-half hour before sunrise to 4 p.m.

B. Bag limit: It is unlawful for any person to hunt for or take more than one daily bag limit allowed by regulation.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of any upland game that are illegally obtained.

D. Use of bait: It shall be unlawful for anyone to take or attempt to take any upland game, other than quail on private property, by use of bait. It shall be lawful to take quail from areas where quail feeders occur on private property.

E. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any upland game.

F. Use of calling devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any upland game.

G. Killing out-of-season: It shall be unlawful to kill any upland game out-of-season.

H. Legal sporting arms and ammunition:

(1) The following are legal sporting arms for pheasants, and quail:

(a) shotguns firing shot, including muzzle-loading shotguns;

(b) bows and arrows; and

(c) crossbows.

(2) The following are legal sporting arms for dusky grouse, Abert's squirrels, Arizona gray squirrels, fox squirrels, eastern gray squirrels and red squirrels:

(a) shotguns firing shot, including muzzle-loading shotguns;

(b) rimfire firearms;

(c) muzzle-loading firearms;

(d) bows and arrows; and

(e) crossbows

(f) pellet guns

(3) Non-toxic

shot is required for hunting on all state game commission owned lands. It shall be unlawful for any person hunting with a shotgun or muzzleloader on state game commission owned properties, to hunt with or be in possession of lead shot, or shotgun shells loaded with lead shot.

I. Drugs and explosives: It shall be unlawful to use any form of drug on an arrow or use arrows driven by explosives.

J. Proof of species or sex:
(1) One foot shall remain attached to each quail taken until the bird has arrived at the personal abode of the possessor or storage facility.

(2) The head or a leg of each pheasant taken must remain attached to the bird until the bird has arrived at the personal abode of the possessor or storage facility.

K. Possession or sale of protected species: It shall be unlawful to possess, sell, or offer for sale all or part of any upland game except as provided below:

(1) License or permit: A person may possess upland game or parts thereof that they have lawfully taken (killed) under license or permit.

(2) Game taken by another: Any person may have in their possession or under their control any upland game or parts thereof that have been lawfully taken by another person, if they possess a written statement which shall be provided by the donor of the upland game, or parts thereof, and which shall contain the following:

(a) the kind and number of upland game parts donated;

(b) the date and county where the upland game was lawfully taken;

(c) the donor's name, address, and the number of the hunting license under which the upland game was lawfully taken;

(d) the date and place of the donation.

(3) Retention of live animals: It shall be unlawful to retain upland game in a live condition except under permit or license issued by the director for the following purposes:

(a) zoos open for public display;

(b) in class A parks;

(c) in projects for scientific research and propagation;

(d) a rehabilitation permit;

(e) under a falconry permit, only those birds listed on the permit;

(f) under a scientific collection permit, one may collect and possess only those species listed on the permit;

(g) in transit through New Mexico when the transporter can demonstrate proof of legal possession of the protected upland game being transported.

(4) Sale of game animal parts: Only skins, claws or feathers of legally taken upland game may be bartered or sold. The disposer must supply to the recipient a written statement which shall contain the following:

(a) description of the skin, claws, or feathers involved;

(b) the date and county where the upland game was taken;

(c) the disposer's name, address and hunting license number under which the upland game was taken;

(d) the date and place of the transaction.

L. Release of wildlife: It shall be unlawful for any person or persons to release, intentionally or otherwise, or cause to be released in this state any upland game, without first obtaining a permit from the department of game and fish.

M. Use of vehicles and roads in hunting upland game:

(1) Roads: It shall be unlawful to shoot at, wound, take, attempt to take, or kill any upland game on, from, or across any graded paved, or maintained public road and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences.

(2) Vehicles, boats, aircraft: It shall be unlawful to shoot at any upland game from within a motor vehicle, power boat, sailboat, or aircraft.

(3) Harassing protected wildlife: It shall be unlawful, at any time, to pursue, harass, harr, drive, or rally any upland game by use of or from a motor-driven vehicle, powerboat, sailboat, or aircraft.

(4) Vehicle off of established road: During the seasons established for upland game, it shall be unlawful to drive or ride in a motor vehicle, which is driven off an established road when the vehicle bears a licensed hunter, fisherman or trapper. EXCEPTION: 1) snowmobiles; 2) all landowners, lessees or their employees, while on their owned or leased lands in connection with legitimate agricultural activities.

(5) Closed roads: During the seasons established for any

upland game, it shall be unlawful to knowingly occupy, drive, or cause to be driven any motor vehicle on a closed road when the vehicle bears a licensed hunter, angler or trapper.

(6) Mobility impaired:

(a) Shooting from a vehicle: The holder of a mobility impaired card is authorized to shoot at and kill upland game birds during their respective open seasons from a stationary motor-driven vehicle that is not on a public road or highway. The director may issue permits to shoot from a stationary vehicle to applicants who provide certification that the applicant is disabled in accordance with the American Disability Act. Such certification shall be signed by an M.D. or O.D. licensed to practice in the applicant's state of residence.

(b) Driving off established roads: Holders of a mobility impaired card may, with permission of the landowner, lessee, or land management agency, drive off established roads to hunt for or take squirrels or upland game birds, during open seasons.

(c) Assistance for mobility impaired hunter: The holder of a mobility impaired card may be accompanied by another person to assist in reducing to possession any upland game animal which has clearly been wounded by the licensed mobility impaired hunter.

N. Lands and waters owned, administered, controlled, or managed by the state game commission:

(1) Posting of signs: The state game commission may prohibit, modify, condition, or otherwise control the use of areas under its control by posting of signs as may be required in any particular area.

(2) Violating provisions of posted signs: It shall be unlawful to violate the provisions of posted signs on areas under the control of the state game commission.

(3) Trespass on state game commission owned lands: It shall be unlawful to hunt upland game, camp, or trespass upon state game commission owned lands unless allowed under regulation.

(4) State waterfowl management areas and wildlife management areas open, species that can be hunted, and days open for hunting: Use of vehicles will be restricted to designated areas.

(a) The W.S. Huey WMA and Seven Rivers shall be open for quail hunting on Mondays, Wednesdays, and Saturdays during established seasons. The W.S. Huey WMA shall be open to pheasant hunting by special permit only.

(b) The Brantley WMA (excluding the Seven Rivers portion, as posted) shall be open for quail and pheasant, during established seasons.

(c) The Edward Sargent, W. A. Humphries, Rio Chama, Urraca, Colin Neblett, Water canyon, Marquez, Elliot S. Barker, and Socorro-Escondida wildlife management areas, and the Sandhills Prairie conservation area shall be open for hunting upland game during established seasons.

(d) The Big Hatchet mountain wildlife management area shall be open for quail hunting during established seasons.

(e) The state game commission owned lesser prairie-chicken areas shall be open for quail hunting during established seasons.

(5) The Sandia ranger district of the Cibola national forest shall be open to archery only hunting for upland game during established seasons.

O. Areas closed to upland game hunting: The following areas shall remain closed to hunting, except as permitted by regulation.

(1) All state game commission owned or managed properties.

(2) Rio Grande wild and scenic river area.

(3) Sub-unit 6B (Valles Caldera national preserve).

(4) Sugarite canyon state park.

(5) Valle Vidal area.

(6) The old McMillan lake spillway arm of Brantley lake extending from the mouth of South Seven Rivers draw north to the railroad trestle shall be closed to all hunting from January 1 through February 28.

[19.31.5.9 NMAC - Rp, 19.31.5.9 NMAC, 4-1-14; A/E, 8-29-14]

19.31.5.10 UPLAND GAME HUNTING SEASONS: Hunting seasons shall be as indicated below, listing the species, open areas, eligibility requirements or restrictions, season dates, and daily bag and possession limits. All Eurasian collared-dove in possession must have an identifiable feathered wing attached until the bird has arrived at the person's residence, processor, or place of final storage.

SPECIES	OPEN AREAS	SEASON OPEN	DAILY BAG (POSSESSION) LIMITS
Eurasian collared-dove	statewide	April 1 - March 31	No bag or possession limit
dusky grouse	statewide	Sept. 1 - Nov. 30, 2014 Sept. 1 - Nov. 30, 2015 Sept. 1 - Nov. 30, 2016 Sept. 1 - Nov. 30, 2017	3 (6 in possession)
pheasant	statewide, excluding Valencia county	Dec. 11-14, 2014, Dec. 10-13, 2015, Dec. 8-11, 2016, Dec. 7-10, 2017	3 (males) (6 in possession)

youth-only pheasant hunt (special draw permit required)	Bernardo WMA	Oct. 18, 2014, Oct. 17, 2015, Oct. 22, 2016 and Oct. 21, 2017	3 (males) (6 in possession)
youth-only pheasant hunt (special draw permit required)	W.S. Huey WMA	Dec. 6, 2014, Dec. 5, 2015, Dec. 3, 2016 and Dec. 2, 2017	3 (males) (6 in possession)
pheasant (special draw permit required)	W.S. Huey WMA	Dec. 13, 2014, Dec. 12, 2015, Dec. 10, 2016 and Dec. 9, 2017	3 (males) (6 in possession)
pheasant (Valencia Co.) (landowner permit required)	Valencia county private lands	Dec. 13, 2014, Dec. 12, 2015, Dec. 10, 2016 and Dec. 9, 2017	3 (males) (6 in possession)
quail: Gambel's, scaled, northern bobwhite and Montezuma (Mearn's)	statewide	Nov. 15 - Feb. 15, 2015 Nov. 15 - Feb. 15, 2016 Nov. 15 - Feb. 15, 2017 Nov. 15 - Feb. 15, 2018	15 (singly or in aggregate; no more than 5 shall be Mearn's, possession shall be 30 singly or in aggregate – no more than 10 shall be Mearn's)
squirrel: Abert's, Arizona gray, fox, eastern gray and red squirrel	statewide	Sept. 1 - Nov. 30, 2014 Sept. 1 - Nov. 30, 2015 Sept. 1 - Nov. 30, 2016 Sept. 1 - Nov. 30, 2017	8 (singly or in aggregate, possession shall be 16 singly or in aggregate)

[19.31.5.10 NMAC - Rp, 19.31.5.10 NMAC, 4-1-14; A/E, 8-29-14]

19.31.5.13 FALCONRY SEASONS:

A. Open areas and season dates: The season for dusky grouse, pheasants, quail, Abert's squirrel, Arizona gray squirrel, fox squirrel, eastern gray squirrel, and red squirrel shall be statewide and shall be open September 1 through February 28 annually. For Eurasian collared-dove, all areas statewide are open year round.

B. Daily bag and possession limits: Daily bag limits for dusky grouse, pheasant, and quail shall be 3 birds (in the aggregate) and 3 squirrels (in the aggregate). Possession limits shall be: dusky grouse-6; pheasant-6; quail-30 (singly or in the aggregate); Abert's, Arizona gray, fox, eastern gray and red squirrel-16 (singly or in the aggregate). There is no bag or possession limit for Eurasian collared-dove. All Eurasian collared-dove in possession must have an identifiable feathered wing attached until the bird has arrived at the person's residence, processor, or place of final storage.

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

[19.31.5.13 NMAC - Rp, 19.31.5.13 NMAC, 4-1-14; A/E, 8-29-14]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

This is an amendment to 19.31.10 NMAC, Sections 7 and 13, effective 09-15-2014.

19.31.10.7 DEFINITIONS:

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

B. "Modern firearms" shall mean center-fire firearms, not to include any fully automatic firearms. Legal

shotguns shall be only those shotguns capable of being fired from the shoulder.

C. "Muzzle-loader or muzzle-loading firearms" shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only blackpowder, Pyrodex or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.

D. "Restricted muzzle-loading rifle" shall mean any muzzle-loading rifle using open sights, black powder or equivalent and firing a traditional lead bullet. The use of in-line ignition, scopes, pelleted powder, smokeless powder

and sabots, including powerbelt-type projectiles, are prohibited.

E. "Bow" shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.

F. "Arrows" shall mean only those arrows or bolts having broadheads with steel cutting edges.

G. "Trotline" shall be synonymous with "set line" or "throw line" or "jug", and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.

H. "Angling" shall mean taking or attempting to take fish by angling hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

I. “Spear fishing” shall mean taking or attempting to take game fish with spears, gigs, and arrows with barbs that are discharged under the surface of the water.

J. “Bait fish” is defined as those nongame fish which are not otherwise protected by statute or regulation.

K. “Chumming” is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

L. “Protected species” shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 New Mexico Statutes Annotated 1978 Compilation;

(2) all animals defined as furbearing animals under Section 17-5-2 New Mexico Statutes Annotated 1978 Compilation;

(3) all animals listed as endangered species or subspecies as stated in regulation(s) set by the state game commission.

M. “Retention” or “retain” shall mean the holding of in captivity.

N. “Established road” is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures;

(2) a two-track road which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

O. “Non-toxic shot” shall mean shot approved for use by the U. S. fish and wildlife service.

P. “Director” shall mean the director of the New Mexico department of game and fish.

Q. “Baiting” shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take protected game mammals or game birds.

R. “Nets” shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

S. “Barbless lure or fly” shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or

man-made materials tied onto an angling hook to resemble or simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, or rubber or plastic moldings of these or other foods are not included.

T. “Crossbow” shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights or lights on crossbows shall not project light. This definition shall apply to hunting for all species and be effective 9-1-2012.

U. “Angling hook” shall mean a single, double, or treble (triple) point attached to a single shank.

V. “Sporting arms or weapon types” shall be designated as follows:

(1) all hunt codes denoted with -1- shall authorize use of any legal weapon;

(2) all hunt codes denoted with -2- shall authorize use of bows only;

(3) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms, except that bows and crossbows shall not be allowed during restricted muzzle-loading hunts.

W. “Bag limit” shall mean the protected animal, qualified by species, sex, age, antler requirement, or size allowed by rule that a legally licensed hunter may attempt to take or harvest.

X. “Written permission” shall mean a document (which may include a valid hunting, trapper, or fishing license) that asserts the holder has permission from the private land owner or his designee to hunt, fish, or trap on the landowner’s property. The information on the document must be verifiable and include the name, date, and phone number of the person granting the permission.

Y. “Bow fishing” shall mean taking or attempting to take game fish with arrows with barbs that are discharged above the surface of the water by a bow. Arrows must be attached by string, line, or rope to facilitate fish retrieval.

Z. “Drone” is defined as any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as “Unmanned Aerial Vehicle (UAV)” or “Unmanned Aerial Vehicle Systems (UAVS)”

[19.31.10.7 NMAC - Rp, 19.31.10.7 NMAC, 4-1-2007; A, 6-30-2008; A, 4-1-

2009; A/E, 9-1-2012; A, 12-13-2013; A, 09-15-2014]

19.31.10.13 USE OF VEHICLES AND ROADS IN HUNTING:

A. Roads: It shall be unlawful to shoot at, wound, take, attempt to take, or kill any protected species on, from, or across any graded paved, or maintained public road and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences.

B. Vehicles, boats, aircraft: It shall be unlawful to shoot at any protected species from within a motor vehicle, power boat, sailboat, or aircraft. EXCEPTION - Migratory birds may be taken from a motor-driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.

C. Harassing protected wildlife: It shall be unlawful, at any time, to pursue, harass, harr, drive, or rally any protected species by use of or from a motor-driven vehicle, powerboat, sailboat, drone, or aircraft.

D. Hunting after air travel: It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

E. Use of aircraft for spotting game: It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

F. Using information gained from air flight:

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

G. Vehicle off of established road: During the seasons established for any protected species, it shall be unlawful to drive or ride in a motor vehicle which is driven off an established

road when the vehicle bears a licensed hunter, fisherman or trapper. EXCEPTION: 1) Snowmobiles; 2) To retrieve lawfully taken game not in an area closed to vehicular traffic. 3) All landowners, lessees or their employees, while on their owned or leased lands in connection with legitimate agricultural activities.

H. Closed roads: During the seasons established for any protected species, it shall be unlawful to knowingly occupy, drive, or cause to be driven any motor vehicle on a closed road when the vehicle bears a licensed hunter, angler or trapper.

I. Handicapped license:
(1) Shooting from a vehicle: The holder of a handicap license is authorized to shoot at and kill protected species during their respective open seasons from a stationary motor-driven vehicle that is not on a public road or highway. The director may issue permits to shoot from a stationary vehicle to applicants who provide certification that the applicant is permanently disabled in accordance with the American Disability Act. Such certification shall be signed by an M.D. or O.D. licensed to practice in the applicant's state of residence.

(2) Driving off established roads: Holders of a handicap license may, with permission of the landowner, lessee, or land management agency, drive off established roads to hunt for or take squirrels or game birds, excluding turkey, during open seasons.

(3) Assistance for handicapped hunter: The holder of a handicapped license may be accompanied by another person to assist in reducing to possession any big game animal which has clearly been wounded by the licensed handicapped hunter.

J. Aircraft, drone and vehicle exemptions to this rule: The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes. [19.31.10.13 NMAC - Rp, 19.31.10.17 NMAC, 4-1-2007; A, 09-15-2014]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.13.2 NMAC, Sections 1, 5, 7, 9 - 15, 17, 18, 20 and adding Section 22, effective 9/15/2014.

1.13.2.1 ISSUING AGENCY: [State Commission of Public Records—State Records Center and Archives] State Records Administrator. [7/1/95; 1.13.2.1 NMAC - Rn, 1 NMAC

3.100.1 & A, 3/14/01; A, 6/30/05; A, 9/15/14]

1.13.2.5 EFFECTIVE DATE: [July 1, 1995] September 15, 2014, unless a later date is cited at the end of a section. [7/1/95; 1.13.2.5 NMAC - Rn, 1 NMAC 3.100.5 & A, 3/14/01; A, 9/15/14]

1.13.2.7 DEFINITIONS:
A. “Acid-free” means having a pH of 7.0 or greater.

B. “Administrator” means the state records administrator (Section 14-3-2 NMSA 1978).

C. “Administrative law division” means an organizational unit of the commission of public records and is under the control of the state records administrator.

[B:] D. “Archival” means the material properties inherent in any medium permitting its preservation under controlled conditions.

E. “Archives and historical services division” means an organizational unit of the commission of public records and is under the control of the state records administrator.

[E:] E. “Certified copy” means a reproduction of a public record expressly verified by the custodial agency as a true and accurate representation of the official copy of the record.

[B:] G. “Clip” means a selected part of a motion picture film.

H. “Commission” means the state commission of public records (Section 14-3-2 NMSA 1978).

[E:] I. “Digital restoration” means digitally improving the overall appearance of a scanned photograph by adjusting brightness or contrast or both, sharpening, adjusting overall color, cropping, etc.

[F:] J. “DVD” means digital video disc, an optical disc storage medium.

[G:] K. “Enhancement” means digitally repairing a scanned photograph to remove signs of deterioration and damage (spots, tears, red eye, fold lines, etc.).

[H:] L. “JPEG” means a compressed image file format, commonly used for the compression of photographic images, developed by the joint photograph experts group.

[E:] M. “MiniDV” means a video digital storage format available in small cassettes with high storage capacity.

[F:] N. “Oversized material” means maps, architectural drawings, books and textual and other documents larger than 12 inches by 16 inches.

[K:] O. “Record” means all books, papers, maps, photographs, recordings, tapes or other documentary materials, regardless of physical form or

characteristics.

[E:] P. “Requester” means any individual who is not a commercial-use requester. This term does not include requests citing the Inspection of Public Records Act, which are handled in accordance with the law and agency policy.

O. “Records management division” means an organizational unit of the commission of public records and is under the control of the state records administrator.

R. “Rule” means any rule, regulation, order, standard or statement of policy, including amendments thereto or repeals thereof, issued or promulgated by an agency of state government and purporting to affect one or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, and as further defined in subsection C of Subsection 14-4-2 NMSA 1978 and Attorney General Opinion No. 93-1, that is filed with the administrative law division.

[M:] S. [“SRCA” means the state records center and archives:] “State records center” means the central records depository that is the principal state facility for the storage and disposition of inactive records of state agencies.

[N:] T. “TIFF” means tagged image file format, a bitmap image format used for storing images.

[1.13.2.7 NMAC - N, 3/14/01; A, 7/15/03; A, 6/30/05; A, 6/1/06; A, 7/1/09; A, 7/31/12; A, 9/15/14]

1.13.2.9 STORAGE BOXES:

[A.] — Maps and drawings box — \$2.10

B.] — Cubic foot records storage box — \$2.00

[7/1/95, 1/1/98; 1.13.2.9 NMAC - Rn, 1 NMAC 3.100.8.1 & A, 3/14/01; A, 7/1/09; A, 7/15/10; A, 9/15/14]

1.13.2.10 [ACID-FREE ARCHIVAL STORAGE CONTAINERS] ARCHIVAL QUALITY SUPPLIES:

[A.] — Document storage box — 15 ¼ in. x 10 ¼ in. x 5 in. — \$4.04

B.] — Document storage box — 15 ¼ in. x 10 ¼ in. x 2 in. — \$3.99

C.] — Record storage box — 15 in. x 12 in. x 10 in. — \$4.52

D.] — Full telescope box — 15 in. x 11 ½ in. x 3 in. — \$7.14

E.] — Full telescope box — 24 ½ in. x 20 ½ in. x 3 in. — \$11.24

F.] — Clam shell box — 15 ¼ in. x 10 ¼ in. x 3 in. — \$4.25

G.] — Newspaper box — 25 in. x 19 in. x 2 ½ in. — \$11.66

H.] — Legal size folder full tab package (100 count) — \$27.00

I.] — Letter size folder full tab package (100 count) — \$24.00

J. Corrugated board, 40-in. x 60 in. sheet - \$9.09

K. Legal size, acid-lignin-free paper, 20-lb. bond, package (500 count) - \$21.26

L. Letter size, acid-lignin-free paper, 20-lb. bond, package (500 count) - \$15.54

M. Polyester transparent sleeve, 5 in. x 7 in. - \$0.78

N. Polyester transparent sleeve, 8 3/4 in. x 11 1/4 in. - \$1.21

O. Polyester transparent sleeve, 8 3/4 in. x 14 1/4 in. - \$1.37

P. Polyester transparent sleeve, 9 1/4 in. x 12 1/4 in. - \$1.38

Q. Polyester transparent sleeve, 11 1/4 in. x 14 1/4 in. - \$1.42

R. Other containers and archival supplies - containers of sizes other than those listed above and other archival supplies may be available at cost plus five percent] The archives and historic services division shall publish, in conjunction with an approved statewide price agreement, a listing of all archival supplies it may make available to all other governmental agencies and to the general public. Any supply listed may be available at state cost plus five percent. Contact the archives and historical services division at 505-476-7956 for pricing and availability.
[1.13.2.10 NMAC - N, 3/14/01; A, 4/30/02; A, 6/30/04; A, 6/1/06; A, 7/1/09; A, 7/15/10; A, 7/31/12; A, 9/15/14]

1.13.2.11 PHOTOCOPY FEES:

A. Paper photocopies (made by staff).
\$0.25
\$0.30
-\$0.35

B. Certification of paper copies - \$0.50 per page.

C. Self-service photocopies (made by patron in archives and historic services division).
\$0.10
\$0.10
\$0.15
[7/1/95, 1/1/98, 9/15/98; 1.13.2.11 NMAC - Rn, 1 NMAC 3.100.9.1 through 1 NMAC 3.100.9.4 and 1 NMAC 3.100.13 & A, 3/14/01; A, 6/30/04; A, 7/1/09; A, 7/31/12; A, 9/15/14]

1.13.2.12 MICRPHOTOGRAPHY FEES:

A. Microfilm to paper [copies] or electronic media (made by archives staff).

(1) 8 1/2 x 11 - \$0.50 per page

(2) 8 1/2 x 14 - \$0.60 per page

B. Self-service microfilm to paper copies.
\$0.10
\$0.10
\$0.15]

C. Self-service microfilm to electronic media. The use of outside electronic media/devices is prohibited.

(1) \$0.25 - blank CD

(2) \$5.25 - thumb drive

[E:] D. Microfilm duplication.
\$12.00 per reel
\$16.00 per reel

[D:] E. [Microfilm services:] Microfilm processing. 16 mm and 35 mm - \$19.85 per reel

[1] Technical consultation and assistance - \$10.00 per hour with a minimum charge of one hour

(2) Document preparation - \$10.00 per hour with a minimum charge of one hour, plus cost of supplies

(3) Microfilming - \$0.35 per image]

(4) Microfilm processing, 16 mm and 35 mm - \$19.85 per reel

(5) Step-test analysis - \$5.00 per analysis

E. Microfilm to electronic media (made by staff) - \$0.70 per image on CD:

F. Self-service microfilm to electronic media - \$0.30 per image on CD. CD is provided by SRCA. The use of outside external drives is prohibited.
[7/1/95, 9/15/98, 12/15/98; 1.13.2.12 NMAC - Rn, 1 NMAC 3.100.10 & A, 3/14/01; A, 4/30/02; A, 6/30/04; A, 6/30/05; A, 7/1/09; A, 7/31/12; A, 9/15/14]

1.13.2.13 DIGITAL REPRODUCTION OF PHOTOGRAPHS, DOCUMENTS, OVERSIZED RECORDS AND MOVING IMAGE MATERIAL:

A. Requests for duplication and reproduction of public records that are covered under Section 14-3-15.1 NMSA 1978 or are copyrighted or otherwise contractually restricted shall be accompanied by a letter of intent describing the proposed use and SRCA form 96-18 "conditions for publication/reproduction."

B. Photographs and

documents. Prices are assessed per individual image.
(1) 8 x 10 print on photo quality paper from digital images file - \$17.00.

(2) 8 x 10 print on photo quality paper from original source material - \$21.00.

(3) Digital image file (JPEG) from digital image file delivered via e-mail or on CD/DVD - \$14.00. Digital image files delivered via e-mail shall be limited to 8 x 10 images scanned at 300 dots per inch (dpi).

(4) Digital image file (JPEG) from original source material delivered via e-mail or on CD/DVD - \$19.00. Digital image files delivered via e-mail shall be limited to 8 x 10 images scanned at 300 dpi.

C. Moving image and audio material. Prices are assessed per moving image title and audio tape/reel.

~~(1) VHS video cassette from digital video file or miniDV master - \$17.00~~

~~(2) VHS video cassette from original source material - \$50.00]~~

(1) Digital video/audio file on patron supplied drive from digital/video audio file - \$15.00

(2) Digital video/audio file on patron supplied drive from original source material - \$47.00

(3) MiniDV tape from digital video file or miniDV master - \$20.00

(4) MiniDV tape from original source material - \$[52:00] 47.00

(5) DVD/CD from digital video/audio file [of] or miniDV master - \$15.00

(6) DVD/CD from original source material - \$47.00

D. Oversized records (color or black and white). Prices are assessed per individual image.

(1) Hard copy reproduction from a digital image file - \$17.00

(2) Hard copy reproduction from the original source material - \$21.00

(3) Digital image file (JPG) from a digital image file delivered via CD or DVD - \$14.00.

(4) Digital image file (JPG) from the original source material delivered via CD or DVD - \$19.00.

(5) Sizes greater than 35.5 x 48 add \$4.00 per each additional foot for hard copy reproductions. The width cannot exceed 35.5 inches.

(6) E-mail delivery of digital image files for oversized

material is not available.

E. Where items are fragile or require specialized handling, the SRCA may charge the costs of the additional labor.

F. Fees for digital restoration or enhancement or clip selection of digitized materials or motion picture films vary according to the extent of work required. The minimum fee for digital restoration or enhancement or clip selection shall be \$15.00 per reproduced item, in addition to the reproduction fee set forth in Subsection B of this section. For work requiring over one hour, \$15.00 per additional hour shall be charged.

G. Expedited orders can be requested for an additional fee of \$20.00. Waiting time will be reduced by one week. [7/1/95, 4/30/96, 12/15/98; 1.13.2.13 NMAC - Rn, 1 NMAC 3.100.11 & A, 3/14/01; A, 4/30/02; A, 7/15/03; A, 6/30/05; A, 6/1/06; A, 6/30/07; A, 7/1/09; A, 7/31/12; A, 9/15/14]

1.13.2.14 SRCA PUBLICATIONS:

A. Calendar to the Spanish archives of New Mexico II - \$~~[10.00]~~ 5.00

B. Calendar to the Mexican archives of New Mexico - \$~~[6.00]~~ 3.00

C. Calendar to the territorial archives of New Mexico - \$~~[6.00]~~ 3.00

D. Calendar to land records of New Mexico (Spanish archives of New Mexico I) - \$~~[10.00]~~ 5.00

E. Calendar to the Sender collection - \$12.00

F. Guide to "lost" records of Zuni - \$7.00

G. Microfilm manual - \$18.50

H. Genealogy charts - \$8.00

I. New Mexico administrative code training manual - extra copies (individuals attending training receive one copy of the manual without charge) - \$22.50

J. Billy the Kid packet - \$49.00

K. Guide to the archdiocese of Santa Fe: the AASF and LDS series - \$7.00

L. New Mexico county marriage register inventory - \$7.00 [7/1/95, 9/15/98, 12/15/98; 1.13.2.14 NMAC - Rn, 1 NMAC 3.100.12 & A, 3/14/01; A, 4/30/02; A, 7/15/03; A, 6/30/04; A, 7/1/09; A, 9/15/14]

1.13.2.15 REQUIREMENTS FOR SRCA FORM 96-18:

A. This form delineates conditions for publication and reproduction of images held by the SRCA as public

records and shall be completed and submitted to the [SRCA] administrator as provided in 1.13.2 NMAC and as evidence of agreement by the requester to the terms and conditions prescribed therein and in 1.13.2 NMAC. Information contained on the form shall include, but not be limited to, the following:

- (1) provision for reservation of rights by the [SRCA] administrator;
- (2) formats for required credit line;
- (3) requirements relating to method of payment; and
- (4) description of respective rights and responsibilities of the [SRCA] administrator and the requester, including copyright restrictions, relating to reproduction and publication.

B. The form shall require of the requester:

- (1) the description of the image to be published and the required credit line;
- (2) the printed name and the signature of the requester;
- (3) the address of the requester; and
- (4) the date of the request.

C. The director of the archives and historical services division [~~of the SRCA~~] and the [state records] administrator shall approve the requested use by their signatures on the form. [7/1/95; 1.13.2.15 NMAC - Rn, 1 NMAC 3.100.14 & Rp, 3/14/01; A, 9/15/14] [The original language, which was repealed and replaced by the 3/14/01 text relating to SRCA form 96-18, addressed fees for diskettes.]

1.13.2.17 ELECTRONIC COPIES OF RECORDS:

A. Portable document format file (PDF) from [microsoft word or PDF file] any source- \$0.25 per page.

B. PDF from digital image file - \$1.75 per page.

C. PDF from original source - \$3.25 per page.

D. PDF of rule in either electronic or original form - \$0.25 per page.

E. Certification of PDF copies - \$0.50 per page.

[PDF file(s) can be sent electronically at no charge or can be transferred to CD. A CD can be provided by records center at a cost of \$0.25 per blank CD. The use of external drives is prohibited.]

[1.13.2.17 NMAC - N, 4/30/02; A, 7/1/09; A, 7/31/12; A, 9/15/14]

1.13.2.18 CHARGES FOR PUBLISHING IN THE NEW MEXICO REGISTER: There shall be a \$~~[2.00]~~

2.50 per column inch charge to agencies publishing material in the New Mexico register.

[1.13.2.18 NMAC - N, 7/15/03; A, 7/1/09; A, 10/15/14]

[Charges for publishing in the New Mexico register are also found in 1.24.15.12 NMAC.]

1.13.2.20 RECORDS STORAGE SERVICES:

A. State agency records, paper.

(1) Records that have not met their legal retention or that have been subpoenaed or are otherwise involved in on-going litigation or an active investigation - no charge

(2) Records that have met their legal retention and for which the [SRCA] records management division has issued a disposition notice - \$0.50 per month per box (see 1.13.10 NMAC)

B. Municipal and county records, paper - \$0.50 per box (either cubic-foot or maps and drawings box) per box, regardless of whether retention has been met (see 1.13.2 NMAC).

C. State agency records, microfilm.

(1) Records that have not met their legal retention or that have been subpoenaed or are otherwise involved in on-going litigation or an active investigation - no charge

(2) Records that have met their legal retention and for which the [SRCA] records management division has issued a disposition notice - \$0.25 per 16mm roll equivalent per month (see 1.13.10 NMAC)

D. Inactive municipal and county records, microfilm - \$0.25 per 16mm roll equivalent per month, regardless of whether retention has been met (see 1.13.10 NMAC).

[1.13.2.20 NMAC - N, 6/30/05; A, 7/1/09; A, 9/15/14]

[The state records center is not, as of the effective date of this section, imposing fees for the storage of electronic records.]

1.13.2.22 STORAGE OF DISASTER RECOVERY BACKUP FILES:

There shall be a \$10.00 fee to obtain a new, replacement, or additional access card for the disaster recovery backup vault.

[1.13.2.22 - N, 9/15/14]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.13.10 NMAC, Sections 1, 7 thru 20, effective 9/3/2014.

1.13.10.1 ISSUING AGENCY:
~~[State Commission of Public Records – State Records Center and Archives]~~ State Records Administrator.
[1.13.10.1 NMAC - Rp, 1 NMAC 3.2.10.1.1, 6/30/2005; A, 9/3/2014]

1.13.10.7 DEFINITIONS:

A. “Accession” means the act and procedures involved in a transfer of legal title and the taking of records or papers into the physical custody of an archival agency and the materials involved in such a transfer.

B. “Administrator” means the state records administrator (Section 14-3-2 NMSA 1978).

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

D. “Archives” means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. ~~[The term also refers to the organizational unit of the SRCA storing these records.]~~

E. “Archives and historical services division” means an organizational unit of the commission of public records and is under the control of the state records administrator.

[E:] E. “Audit” means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

[F:] G. “Chief records officer” means a person designated by an agency’s records custodian to administrate the agency’s records management program.

[G:] H. “Commission” means the state commission of public records (Section 14-3-2 NMSA 1978).

[H:] I. “Custodial agency” means the agency responsible for the maintenance, care, or keeping of public records, regardless of whether the records are in that agency’s actual physical custody and control.

[I:] J. “Disposition” means final action that puts into effect the results of an appraisal decision for a series

of records (i.e., transfer to archives or destruction).

[J:] K. “Human readable form” means information that can be recognized and interpreted without the use of technology.

[K:] L. “Inactive record” means the point during the life cycle of a record at which the record becomes inactive and thus can be transferred from the office of creation to the state records center for storage and subsequent disposition. Records are considered inactive when referred to less than once per year.

[L:] M. “Life cycle” means the life span or time period from the creation or receipt of a record through its useful life to its final disposition. The five stages of the life cycle of a record include: creation; distribution and use; storage and maintenance; retention and disposition; and archival preservation for records of historical or information value.

[M:] N. “Master microfilm” means the original microform produced from which duplicates or intermediates can be obtained.

[N:] O. “Microphotography” means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records provided by information system technology pursuant to [regulation] rules adopted by the commission.

[O:] P. “Non-record” means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.

[P:] Q. “Pending litigation” means a proceeding in a court of law whose activity is in progress but not yet completed.

[Q:] R. “Pick-up only personnel” means personnel authorized by a records custodian or record liaison officer to only pick-up records from the state records center ~~[and archives (state records center)].~~

[R:] S. “Public records” means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction

of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-3-2 NMSA 1978).

[S:] T. “Records” means information preserved by any technique in any medium now known, or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology (1.13.70 NMAC).

[T:] U. “Records custodian” means the statutory head of the agency using or maintaining the records or the custodian’s designee.

[U:] V. “Records liaison officer” means a person in an agency responsible for authorizing the transfer, withdrawal or destruction of records and who acts on behalf of the records custodian.

W. “Records management division” means an organizational unit of the commission of public records and is under the control of the state records administrator.

~~[V.] “Retention” means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes. Retention requirements are established in records retention and disposition schedules that are approved by the state commission of public records.]~~

[W:] X. “Records retention and disposition schedules” means rules adopted by the state commission of public records pursuant to Section ~~[14-3-6]~~ 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

~~Y. “Retention” means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes. Retention requirements are established in records retention and disposition schedules that are approved by the state commission of public records.~~

Z. “State archives” means the principle location within the state records center that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

AA. “State records center” means the central records depository that is the principal state facility for the storage and disposition of inactive records of state agencies.

[1.13.10.7 NMAC - Rp, 1 NMAC
3.2.10.1.7, 6/30/2005; A, 6/29/2007; A,
6/30/2008; A, 11/15/2012; A, 9/3/2014]

1.13.10.8 CUSTODY OF

RECORDS: Agency records stored at the state records center [and archives (state records center)] shall remain in the custody of the records custodian of the custodial agency until [such time as] they are:

A. destroyed with written approval from the [state records] administrator and the written consent of the records custodian or designated [records liaison] chief records officer of the custodial agency and in accordance with [retention periods established in] records retention and disposition schedules; or

B. transferred to the [state records center and archives (archives)] state archives with the written approval of the [state records] administrator and the written consent of the records custodian or [a] designated records liaison officer of the custodial agency.

C. Once the transfer is authorized, the legal title and custody of the records is vested in the administrator.

[1.13.10.8 NMAC - Rp, 1 NMAC
3.2.10.1.8, 6/30/2005; A, 6/30/2008; A,
9/3/2014]

1.13.10.9 [RECORDS LIAISON OFFICER:

A. A records liaison officer may be designated by a records custodian to handle the storage, withdrawal and access or transfer of agency records to the state records center and archives.

B. All records liaison officers shall attend the required basic records management training offered by the state records center and archives before they can store, withdraw or access records stored in the records center.

C. Records liaison officers shall be required to attend additional training when notified by the state records center and archives of changes to records management policies, procedures or regulations.

D. The records liaison officer shall be re-appointed annually by the record custodian, using a form approved by the state records administrator.

E. The form shall include but not limited to the following: name and signature of the records custodian (agency head or cabinet secretary); name and signature of the records liaison officer; division or bureau (if acceptable); agency code; agency name and mailing address; fiscal year of designation; phone number; fax number and e-mail address.

F. If a records liaison officer leaves the employment of an agency or is released from records management

duties, the agency shall immediately notify the state records center and archives (agency analysis bureau) regarding the change, and the records custodian shall appoint a new records liaison officer.

G. An agency must have an approved records liaison officer on file with the state records center and archives as specified in Subsection A of 1.13.10.9 NMAC in order to store, withdraw or access records stored in the records center.]

[RESERVED]

[1.13.10.9 NMAC - Rp, 1 NMAC
3.2.10.1.9, 6/30/2005; A, 6/30/2008;
Repealed, 9/3/2014]

[Repealed Section 1.13.10.9 NMAC,
records liaison officer, refer to 1.13.10.19
NMAC, records liaison officer]

1.13.10.10 TRANSFER AND PICK-UP:

A. Only inactive records shall be accepted for transfer and storage at the state records center. Records are considered inactive when an agency refers to an individual box less than once a year.

B. Inactive records involved in litigation, an audit or investigation are not eligible for transfer to the state records center or the state archives [and historical services division].

C. The [records center] administrator requires the use of [records] standardized storage boxes, 15" x 12" x 10" in size for both letter and legal size paper files. An agency submitting boxes for storage containing paper records shall:

(1) place only one type of record series with the same disposition date in each box;

(2) place the records in the box vertically and in the same order that they were kept in the office;

(3) place letter-sized folders across the 12-inch side, facing the front of the box;

(4) place legal-sized folders across the 15 inch side, starting from left to right;

(5) leave at least one inch of space for ease of access;

(6) place the lid on the box without tape;

(7) place all documents (with the exception of oversize materials) in accurately labeled standard file folders; and

(8) not place hanging file folders in the boxes.

D. [Boxes that are damaged or overfilled shall be rejected for storage and returned to the custodial agency.] The records management division has the final authority with regard to the rejection of any box shipment or portion thereof. Reasons for rejection include, but are not limited to, the following:

(1) Any box shipment that does not agree with its corresponding storage or disposition form may be rejected upon delivery. The custodial agency may be required to remove the boxes from the records center immediately. The custodial agency's records liaison officer, chief records officer or agency head may remedy the rejection by amending the form upon delivery. The records liaison officer, chief records officer or agency head will print and sign their name and date the amended form.

(2) Any box shipment submitted for storage that contains damaged or overfilled boxes may be rejected upon delivery. The custodial agency may be required to remove the shipment from the records center immediately. The custodial agency's records liaison officer, chief records officer or agency head may remedy the rejection by amending the form and removing the non-conforming boxes. The records liaison officer, chief records officer or agency head will print and sign their name and date the amended form.

(3) Any box shipment submitted for storage or disposition that the records management division or archives deem hazardous to their holdings or staff may be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center or archives immediately. For any box rejected for contamination, the agency will be required to request permission from the administrator to incinerate through onsite destruction.

E. Blueprints and maps submitted for storage shall be placed in boxes designed for that purpose before they are transferred.

F. A records custodian or a records liaison officer may designate personnel to pick up agency records from the state records center.

G. Pick-up personnel shall be appointed annually, using a form approved by the [state records] administrator. The form shall include but not be limited to the following: name and signature of the records custodian (agency head or cabinet secretary); name and signature of the records liaison officer; pick-up personnel's name and signature; section/unit; agency code; agency name and mailing address; fiscal year of designation; phone number; fax number and e-mail address.

H. If a pick-up only designee leaves the employment of an agency or is released from the duty of picking up records, the agency shall immediately notify the [state records center and archives (agency analysis bureau)] records management division regarding the

change.

[1.13.10.10 NMAC - Rp, 1 NMAC 3.2.10.1.11, 6/30/2005; A, 6/30/2008; A, 6/30/2009; A, 9/3/2014]

1.13.10.11 ACCESS TO AND WITHDRAWAL OF RECORDS IN CUSTODY OF THE CUSTODIAL AGENCY:

A. Access to records stored in the state records center shall be authorized in writing by the records custodian or the designated records liaison officer. The authorization shall be submitted to the [records-center] records management division and must specify the name of the individual(s) authorized to access the records and the effective period of the authorization.

B. Requests by the public to access records stored at the state records center shall be directed to the records custodian or the records liaison officer of the custodial agency.

C. Requests to review records on-site at the records center by the custodial agency shall be authorized by the records custodian or the records liaison officer. Personal identification must be provided to the [records-center-staff] records management division.

D. [Requests] Any third party requests made to access agency records [made under the Inspection of Public Records Act] shall be referred by the [state records] administrator to the custodial agency.

E. Requests for temporary or permanent withdrawal of records stored in the state records center shall be made by the records liaison officer. The records liaison officer shall complete and submit a withdrawal form. The form shall include but not be limited to the following: name and signature of the records liaison officer; date and time of transaction; agency name; agency address; records liaison officer's phone number; date requested; destination; permanent box number; shipment box number; barcode; location; record series item number; description; and return date.

F. Requests for withdrawals shall be at the box level. The state records center will not honor requests for withdrawal of records at the folder level.

G. When permanent records or those eligible for transfer to archives are temporarily withdrawn, the custodial agency shall update the corresponding index to reflect any changes to the content of a box. The index shall be updated before the box is returned to the state records center for storage.

H. Requests to withdraw between one to 10 boxes shall be processed by the [records-center] records management division within three working days.

Requests to withdraw 10 or more boxes shall be evaluated [by the records center-bureau-chief] and processed based on the work load of the [record-center-staff] records management division.

I. Emergency withdrawal requests will be processed within 24 hours of receipt. Emergency requests shall be made on a form prescribed by the [state-records] administrator and shall include; the name of agency, agency code, date and time of the request, permanent box number; shipment box number; location; record series item number, an explanation of the nature of the emergency, and the signatures of the records liaison officer and the head of the agency.

J. Withdrawn boxes not retrieved within five business days will be returned to inventory in the state records center.

[1.13.10.11 NMAC - Rp, 1 NMAC 3.2.10.1.12, 6/30/2005; A, 6/30/2008; A, 6/30/2009; A, 1/14/2011; A, 9/3/2014]

1.13.10.12 ACCESS TO RECORDS IN THE CUSTODY OF THE STATE RECORDS [CENTER AND ARCHIVES] ADMINISTRATOR:

[Access to records transferred to the state records center and archives (archives) shall be in accordance with procedures established by the state records administrator (see 1.13.11 NMAC).] Access to records in the custody of the administrator pursuant to Section 14-3-6 NMSA 1978 of the Public Records Act shall be in accordance with rules adopted by the administrator (see 1.13.11 NMAC).

[1.13.10.12 NMAC - Rp, 1 NMAC 3.2.10.1.13, 6/30/2005; A, 9/3/2014]

1.13.10.13 STORAGE OF PAPER RECORDS WITH A FINITE RETENTION AT THE STATE RECORDS CENTER [AND ARCHIVES]:

A. The [state records-center-and-archives (state records center)] records management division provides storage to state agencies for inactive public records. Non-record materials shall not be submitted for storage in the state records center.

[B.] Agency's records-liaison-officers shall complete a storage-transmittal form and submit it electronically or manually (hardcopy) to the agency-analysis-bureau for approval before records can be stored. The form shall contain but is not limited to the following: page number; office location; name and signature of the records liaison officer; records liaison-officer telephone number; records liaison-officer fax number; schedule item number; record description; disposition trigger date; disposition date; document beginning and

ending range within box; shipment box number and media type.]

[C.] B. Agencies [that elect to have record liaison officers] shall submit storage transmittal forms electronically, [shall submit the storage transmittal form] in a file and format that is approved by the [state records] administrator. The form shall contain but is not limited to the following: name of the records liaison officer, record series number, shipment box number, records description, disposition trigger date, document beginning and ending range within box, inclusive start date, record center location and media type.

[D:] C. Records will not be accepted for storage whose retention will be met within [+2] 36 months of disposition trigger date.

[E:] D. Agencies approved to store records shall be provided with barcode labels by the [records-center] records management division.

[F:] E. The barcode labels shall be affixed to the records storage boxes prior to delivery to the state records center. The labels shall be placed two to three inches below the handle side of the storage box.

[G:] F. The records custodian [and records liaison officer], the chief records officer and the records liaison officer shall be notified by the [records-center] records management division when records in storage have met the legal retention period and are eligible for destruction.

[H:] If an agency does not respond to the records center's notice of records eligible for destruction by the established deadline, the state records center and archives shall charge the custodial agency a storage fee as established in 1.13.2 NMAC, Fees.]

G. If an agency does not respond to the notice of records eligible for destruction by the established deadline, the administrator shall charge the custodial agency a storage fee for the storage of records that are eligible for destruction. In addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule see 1.13.2 NMAC.

H. Records currently stored requiring legal holds must be identified by the agency in writing and permanently removed from the record center if the legal hold last longer than five years. Failing to do so will result in the agency being denied additional storage space.

[1.13.10.13 NMAC - N, 6/30/2005, A, 6/01/2006; A, 6/29/2007; A, 11/15/2012; A, 9/3/2014]

1.13.10.14 STORAGE OF PERMANENT PAPER RECORDS:

A. Records with the

disposition of transfer to archives, which include records with the retention of permanent or transfer to archives, shall include an index approved by the ~~[state records center and archives]~~ administrator that describes the contents of the box. The index shall include the following: agency code, agency name, division name, shipment date, shipment box number (e.g., 1 of 10, 2 of 10, 3 of 10, etc.), folder number, records series number, records series title, confidential note if any, folder description and date of material.

B. A copy of the index shall be placed in the storage box. A second copy of the index shall be submitted with the corresponding storage transmittal forms.

C. The storage transmittal form and the request for disposition form shall have an attached index before the boxes are approved for storage or transfer. All file folders in the box shall be clearly labeled and identify the contents of the folder.

D. The records custodian and the records liaison officer shall be notified by the ~~[records center]~~ records management division when records are eligible for transfer to the state archives. [1.13.10.14 NMAC - N, 6/30/2005; A, 6/30/2009; A, 9/3/2014]

1.13.10.15 STORAGE OF ELECTRONIC MEDIA:

A. An agency shall have an approved imaging plan on file with the ~~[state records center and archives (electronic records and micrographic bureau)]~~ administrator before electronic media can be stored at the state records center. For information on imaging plans see [1.14.2.16] 1.14.2 NMAC, Microphotography Systems, Microphotography Standards.

B. An agency shall complete a storage transmittal form and submit it to the ~~[state records center and archives (agency analysis bureau)]~~ records management division for approval. An agency records liaison officer may contact the ~~[state records center and archives (records management division)]~~ records management division for information and assistance with storage.

(1) The storage transmittal form shall be signed by the agency's records custodian or records liaison officer.

(2) At a minimum, each individual unit (tape, disk, etc.) of electronic media shall be clearly identified with the agency name, record series and disposition date.

C. Withdrawal and access to electronic retention files shall be through the ~~[standard records center procedure for access and withdrawal of records]~~

~~For information on record]~~ withdrawal procedures [see] defined in 1.13.10.11 NMAC[)].

D. Agencies are responsible for safeguarding against storage media deterioration and technology changes that can leave electronic records inaccessible over a period of time because of hardware or software obsolescence. To eliminate the possibility of creating a situation where information can no longer be retrieved, agencies shall provide for future record accessibility by:

(1) migrating all electronic records when there are major changes to the next generation of hardware or software; or

(2) migrating only current electronic records to new hardware or software, and converting records not migrated to "human readable form"; for additional information, see 1.13.3 NMAC, Management of Electronic Records.

E. The records custodian and records liaison officer shall be notified by the ~~[records center]~~ records management division when records in storage have met the legal retention period and are eligible to be transferred to archives or are eligible for destruction.

[1.13.10.15 NMAC - N, 6/30/2005; A, 6/29/2007; A, 6/30/2009; A, 11/15/2012; A, 9/3/2014]

1.13.10.16 STORAGE OF MICROFILM:

A. An agency shall have an approved microphotography plan on file with the ~~[state records center and archives (electronic records and micrographic bureau)]~~ records management division before master microfilm can be stored. For information on microphotography systems and standards see 1.14.2 NMAC.

B. The microphotography plan shall specify that the master microfilm will be stored at the state records center ~~[and archives (electronic records and micrographics bureau)]~~.

C. Agency's records liaison officers or microfilm vendors approved by an agency to transfer microfilm to the state records center shall complete a microfilm storage transmittal form and submit it manually (hardcopy) to the ~~[agency analysis bureau]~~ records management division for approval before records can be stored. The form shall contain but is not limited to the following: agency code; agency name; division name; date prepared; page number; office location; name and signature of the records liaison officer; records liaison officer telephone number; records liaison officer fax number; record series number; record series title; date filmed; begin date; end

date; disposition date; roll number; begin document; end document and media type.

D. Microfilm rolls or microfiche with a retention period of permanent or transfer to archives submitted for storage to the ~~[electronic records and micrographics bureau]~~ state records center shall include an index as described in ~~[Subsection A of 1.13.10.14]~~ 1.13.10.13 NMAC. An index shall be provided for each individual roll or microfiche card.

E. Microfilm shall pass inspection before it is approved for storage. Information on microfilm that has passed inspection will be entered into a computer tracking system by the ~~[electronic records and micrographics bureau staff]~~ records management division. The computer system assigns permanent container numbers.

F. Microfilm storage transmittal forms shall be returned to the custodial agency with a notation indicating the assigned permanent container numbers.

G. It is the responsibility of the custodial agency to notify the microfilm vendor under contract that the microfilm has passed inspection.

H. After the microfilm has passed inspection and has been approved for storage the custodial agency shall submit a *request for disposition* form to the ~~[state records center and archives (agency analysis bureau)]~~ records management division requesting authorization to dispose of the source documents.

I. If the microfilm has failed inspection, the ~~[electronic records and micrographics bureau staff]~~ records management division shall notify the agency by letter that the microfilm can not be stored and that source documents shall be re-filmed before they can be destroyed.

J. For the procedure on withdrawal and access of records stored ~~[at the electronic records and micrographics bureau]~~ at the state records center, see 1.13.10.11 NMAC.

K. The records custodian and records liaison officer shall be notified by the ~~[records center]~~ records management division when records in storage have met the legal retention period and are eligible to be transferred to state archives or are eligible for destruction.

L. ~~[If an agency does not respond to the records center's notice of records eligible for destruction by the established deadline, the state records center and archives shall charge the custodial agency a storage fee as established in 1.13.2 NMAC, Fees.]~~ If an agency does not respond to the notice of records eligible for destruction by the established deadline, the administrator shall charge the custodial agency a storage fee for the storage of records that are eligible for destruction. In

addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule see 1.13.2 NMAC.

M. Records currently stored requiring legal holds must be identified by the agency in writing and permanently removed from the record center if the legal hold last longer than five years. Failing to do so will result in the agency being denied additional storage space.

[1.13.10.16 NMAC - N, 6/30/2005; A, 6/30/2008; A, 6/30/2009; A, 9/3/2014]

1.13.10.17 DISPOSITION OF RECORDS STORED IN THE STATE RECORDS CENTER:

A. The [state records center] records management division is responsible for reviewing and applying the appropriate retention to records brought in for storage. The [records center] records management division shall notify records custodians and [records liaison officers] chief records officer when the custodial agency's records are eligible for disposition.

B. The [state records] administrator shall provide the custodial agency with a report of records eligible for either destruction or transfer to the state archives. The notice shall contain but not limited to the following: name of agency; agency code; date; number of record series eligible for destruction; method of destruction; location, barcode; record series item number; shipment box number; shipment date; description; and inclusive record series dates.

C. The custodial agency shall assign one individual as chief records officer to coordinate the review of the notice of records eligible for either destruction or transfer to the state archives with all divisions of the custodial agency. Upon receiving a notification of records eligible for destruction the custodial agency's chief records officer shall review the report of records to be destroyed and respond by the established deadline.

D. The custodial agency may request an exception to remove records from destruction if; the records identified in the notice are involved in litigation; the records identified in the notice are involved in active investigation; or the records identified in the notice are involved in an audit. The custodial agency shall submit the request for an exception in writing to the [state records] administrator and cite the exception (e.g., pending litigation, audit in process, audit pending, etc.).

E. The destruction notice shall have the written approval from the [state records] administrator with the written consent of the records custodian or designated [records liaison] chief records officer prior to the execution of the

destruction.

F. If an agency does not respond to the [records center's] notice of records eligible for destruction by the established deadline, the [state records center and archives] administrator shall charge the custodial agency a storage fee for the storage of records that are eligible for destruction [and storage, return of withdrawn boxes and record center disposition services will be suspended]. In addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule see 1.13.2 NMAC.

G. Records currently stored requiring legal holds must be identified by the agency in writing and permanently removed from the record center if the legal hold last longer than five years. Failing to do so will result in the agency being denied additional storage space.

[1.13.10.17 NMAC - N, 6/30/2005; A, 11/15/2012; A, 9/3/2014]

1.13.10.18 DIRECT TRANSFER OF RECORDS TO THE STATE ARCHIVES [AND HISTORICAL SERVICES DIVISION]:

A. An agency may transfer records with a retention period of permanent or transfer to state archives to the state archives [and historical services division] directly by submitting a request for disposition form and the required index to the [agency analysis bureau] records management division for review and approval. The request for disposition form shall list only those records that are eligible for transfer to the state archives [and historical services division].

B. For direct transfers to the state archives [and historical services division] an index shall be created in microsoft excel format. See [Subsection A of 1.13.10.14] 1.13.10.13 NMAC for a description of the required content of the index. Prior to delivery of the records, the agency shall provide the [accessioning-archivist] state archives and historical services division with an electronic copy of the index in microsoft excel format by e-mail [or on CD-ROM]. The [accessioning-archivist] state archives and historical services division will notify the agency when to deliver the records to the state [records center and] archives.

C. Inactive records involved in litigation, an audit or investigation are not eligible for transfer to the state archives [and historical services division].

D. Once the transfer is [authorization is received for the transfer of records to the archives and historical services division from the records custodian and the state records administrator accepts

the records] authorized, the legal title and custody of the records is [also transferred from the creating agency to] vested in the [state records center and archives] administrator.

[1.13.10.18 NMAC - N, 6/29/2007; A, 6/30/2009; A, 9/3/2014]

1.13.10.19 RECORDS LIAISON OFFICER:

A. A records liaison officer may be designated by a records custodian to handle the storage, withdrawal and access or transfer of agency records to the state records center.

B. All records liaison officers shall attend the required basic records management training offered by the records management division before they can store, withdraw or access records stored in the state records center.

C. Records liaison officers shall be required to attend additional training when notified by the records management division of changes to records management policies, procedures or rules.

D. The records liaison officer shall be re-appointed annually by the record custodian, using a form approved by the administrator.

E. The form shall include but not be limited to the following: name and signature of the records custodian (agency head or cabinet secretary); name and signature of the records liaison officer; division or bureau (if acceptable); agency code; agency name and mailing address; fiscal year of designation; phone number; fax number and e-mail address.

F. If a records liaison officer leaves the employment of an agency or is released from records management duties, the agency shall immediately notify the records management division regarding the change, and the records custodian shall appoint a new records liaison officer.

G. An agency must have an approved records liaison officer on file with the records management division in order to store, withdraw or access records stored in the state records center.

[1.13.10.19 NMAC - N, 11/15/2012; 1.13.10.19 NMAC - Rn & A, 1.13.10.9 NMAC, 9/3/2014]

~~1.13.10.19~~ 1.13.10.20 CHIEF RECORDS OFFICER:

A. One chief records officer shall be designated by the agency records custodian.

B. The chief records officer shall the authority to oversee the agency's records management program.

C. The chief records officer shall have the same authorities and responsibilities as a record liaison officer.

D. The chief records

officer shall be re-appointed each fiscal year by the record custodian, using a form approved by the [state records] administrator.

E. The form shall include but not limited to the following: name and signature of the records custodian (executive director or cabinet secretary); name and signature of the chief records officer; division or bureau (if acceptable); agency code; agency name and mailing address; fiscal year of designation; phone number; fax number and e-mail address.

F. If the chief records officer leaves the employment of an agency or is released from records management duties, the agency shall immediately notify the [state records center and archives (agency analysis bureau)] records management division regarding the change and the records custodian shall appoint a new chief records officer.

G. The chief records officer shall have the following responsibilities:

- (1) coordinating the response to disposition notifications (destruction and transfer to state archives);
 - (2) establishing and maintaining a centralized tracking system for the agency's storage containers (including the containers' indices, metadata and locators) and the disposition of records;
 - (3) disseminate information on any litigation, a discovery order, subpoena, government investigation or audit;
 - (4) ensure staff is adequately trained on proper records management practices; and
 - (5) develop policies and procedures pertaining to records management issues (i.e., handling confidential materials, new hire orientation, email management, disposition of records when an employee leaves the agency, metadata development, etc.).
- [1.13.10.20 NMAC - Rn & A, 1.13.10.19 NMAC, 9/3/2014]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.13.20 NMAC, Section 9, effective date September 3, 2014.

1.13.20.9 DISASTER RECOVERY BACKUP FILES:

A. An agency requesting permission to store electronic disaster recovery files with the state records center [and archives] shall complete the request to store electronic disaster recovery files form approved by the administrator.

B. The form [approved by the state records administrator] shall include but not be limited to the following: agency name; name of contact person; division; phone number; fax number; physical address; mailing address; e-mail address; names of persons authorized to access and retrieve disaster recovery files; signature of authorized personnel; type and quantity of media; description of electronic media contents; name and signature of agency record custodian; and signature of the [state records] administrator.

C. The request to store electronic disaster recovery files form shall be re-submitted to the [state records] administrator when changes are made that differ from the original request (e.g., deleting or adding authorized personnel).

D. At a minimum, each individual unit (tape, disk, etc.) of disaster recovery backup files shall be clearly identified with the agency name.

E. Access.

(1) Access to disaster recovery backup files is permitted through the use of an automated key system. Key cards shall be issued at cost plus five percent processing fee to agencies by the [state records center and archives] administrator when a request for storage of electronic disaster recovery files is approved.

(2) Lost key cards shall be reported immediately to the [state records administrator] records management division so that the keys can be deactivated on the automated key system. Key cards shall be replaced at cost plus five percent processing fee.

(3) Regular access to electronic media shall be between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m., Monday through Friday.

(4) Authorized agency personnel requesting after hours access to electronic media shall be required to provide personal identification prior to access.

(5) Agencies requiring twenty-four hour Monday through Sunday access to disaster recovery backup files shall make such requests in writing to the [state records] administrator. Requests shall state the reasons for requiring around the clock access to disaster recovery backup files. The [state records] administrator shall review all requests and shall either approve or deny such access.

F. Storage and terms of use.

(1) The [state records center and archives] records management division shall provide locker(s) within a secured environmentally controlled vault.

(2) The requesting agency shall be required to provide the pad lock for the locker(s).

(3) If an agency abandons a locker it may forfeit future use of the vault storage.

(4) No food or drink is allowed in the vault.

~~(5) Before entering the vault, all authorized personnel are required to sign-in on the log provided by the state records center and archives.]~~

~~(6) (5)~~ Only authorized personnel are allowed in the vault.

~~(7) (6)~~ Authorized personnel are not allowed to move furniture or equipment into the vault.

~~(8) (7)~~ Agencies that fail to comply with the "terms of use" may have their vault services terminated.

G. Renewal of authorization.

(1) At the close of the calendar year, agencies shall receive a notice from the [state records center and archives] records management division asking agencies to review and update the authorization list.

(2) Agencies shall have 15 working days to respond to the notice. If no response is received services may be terminated.

[1.13.20.9 NMAC - Rp, 1 NMAC 3.2.20.3.9, 6/30/2005; A, 9/3/2014]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

August 26, 2014

Jackie Garcia, Agency Analysis Bureau
Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87507

Ms. Garcia:

You recently requested to publish a synopsis in lieu of publishing the full content of the following rules:

- 1.18.333 NMAC ERRDS,
Taxation and Revenue Department
- 1.18.350 NMAC ERRDS,
General Services Department
- 1.18.378 NMAC ERRDS, State
Personnel Office

A review of the rules shows that their impact is limited to the individual agency to which it pertains, and it is "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your

request to publish a synopsis for each of the rules listed is approved.

Sincerely,

Linda Trujillo
State Records Administrator

LT/jg

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.333 NMAC, ERRDS, Taxation and Revenue Department

1. Subject matter: 1.18.333 NMAC, Executive Records Retention and Disposition Schedule for the Taxation and Revenue Department. This is an amendment to 1.18.333 NMAC, ERRDS, Taxation and Revenue Department amending Sections 1, 7, 8, 51, 60, 68, 74, 75, 81 - 93, 100 - 103, 106 - 108, 113, 114, 120, 125, 126, 130, 136 - 138, 144 - 149, 155 - 157, 161, 167, 168, 171 - 173, 178, 183, 184, 187 - 189, 195, 200 - 203, 205 - 207, 210, 212 - 218, 221 - 226, 230 - 241, 246 - 251, 255 - 258, 262 - 265, repealing Sections 182, 185, 186 and 190 - 194, and adding Sections 185, 186, 196 and 197. The records retention and disposition schedule is a timetable for the management of specific records series of the Taxation and Revenue Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Taxation and Revenue Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Taxation and Revenue Department. Persons and entities normally subject to the rules and regulations of the Taxation and Revenue Department may

also be directly or indirectly affected by this rule.

3. Interests of persons affected:

Interests include the records produced and maintained by the Taxation and Revenue Department.

4. Geographical applicability:

Geographical applicability is limited to areas within the State of New Mexico covered by the Taxation and Revenue Department. Any person or entity outside the covered geographical area that conducts business with or through the Taxation and Revenue Department may also be affected by this rule.

5. Commercially published materials

incorporated: The New Mexico Statutes Annotated 1978 is used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of

issuing agency: New Mexico Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: September 26, 2014.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.333 NMAC ERRDS, Taxation and Revenue Department.

SRCA Legal Representative Date

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.350 NMAC, ERRDS, General Services Department

1. Subject matter: 1.18.350 NMAC, Executive Records Retention and Disposition Schedule for the General Services Department. This is an amendment to 1.18.350 NMAC, ERRDS, General Services Department amending Sections 1, 7, 8, 9, 101 - 103, 110, 117 - 120, 127, 128, 136, 137, 160, 178 - 183, 190 - 192, 224, 229 - 233, 236, repealing Section 161 and adding Sections 237 - 240. The records retention and disposition schedule is a timetable for the

management of specific records series of the General Services Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the General Services Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the General Services Department. Persons and entities normally subject to the rules and regulations of the General Services Department may also be directly or indirectly affected by this rule.

3. Interests of persons affected:

Interests include the records produced and maintained by the General Services Department.

4. Geographical applicability:

Geographical applicability is limited to areas within the State of New Mexico covered by the General Services Department. Any person or entity outside the covered geographical area that conducts business with or through the General Services Department may also be affected by this rule.

5. Commercially published materials

incorporated: The New Mexico Statutes Annotated 1978 is used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of

issuing agency: New Mexico Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: September 26, 2014.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content

of 1.18.350 NMAC ERRDS, General Services Department.

 SRCA Legal Representative Date

**NEW MEXICO
 COMMISSION OF PUBLIC
 RECORDS**

**SYNOPSIS
 1.18.378 NMAC, ERRDS, State
 Personnel Office**

1. Subject matter: 1.18.378 NMAC, Executive Records Retention and Disposition Schedule for the State Personnel Office. This is an amendment to 1.18.378 NMAC, ERRDS, State Personnel Office amending Section 1, 7, 8, 9, 41 and adding Sections 100-103 and 150. The records retention and disposition schedule is a timetable for the management of specific records series of the State Personnel Office. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the State Personnel Office.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the State Personnel Office. Persons and entities normally subject to the rules and regulations of the State Personnel Office may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the State Personnel Office.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the State Personnel Office. Any person or entity outside the covered geographical area that conducts business

with or through the State Personnel Office may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 is used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: September 26, 2014.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.378 NMAC ERRDS, State Personnel.

 SRCA Legal Representative Date

**NEW MEXICO
 COMMISSION OF PUBLIC
 RECORDS**

This is an amendment to 1.24.1 NMAC, Sections 1 and 7, effective September 15, 2014.

1.24.1.1 ISSUING AGENCY:
 [New Mexico Commission of Public Records - State Records Center and Archives:] State Records Administrator.
 [1.24.1.1 NMAC - N, 2/29/2000, A, 9/15/2014]

1.24.1.1 DEFINITIONS:
A. "Agency" means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches (Subsection A of Section 14-4-2 NMSA 1978):

B. "Amendment" means a change or modification to the existing text of a rule. An amendment can be no less than a section. A repeal of less than a part is an amendment.

C. "Annotation" means referenced material that is not part of the rule, located in brackets at the end of a section:

D. "Chapter" means the required NMAC designation for the normal division of a title. Chapter names and

numbers are assigned by the records center, based upon the subject matter covered by agencies' rule filings. The chapter identifies distinct governmental functions, or subject-matter areas, usually, but not always, under the jurisdiction of a single agency.

E. "Cited material" means the source document from which the rule text was derived. The source document need not be consulted in order to determine what the rule is:

F. "Compilation" means the composition of filed rules into the New Mexico administrative code:

G. "Duration" means the length of time a rule is intended to be in effect, either permanent or for a set period of time. It is placed in the required NMAC section entitled DURATION:

H. "Effective date" means the date the rule goes into effect. It is placed in the required NMAC section entitled EFFECTIVE DATE. A rule's effective date cannot be earlier than the date of publication in the New Mexico register:

I. "Emergency rule" means a rule filing whose immediate implementation is necessary for the public peace, health, safety or general welfare:

J. "Filing" means the process by which one paper copy of a part or amendment, the corresponding electronic copy and the NMAC transmittal form are delivered to the records center and, if accepted by the records center, are date stamped and accessioned. See also "rule filing":

K. "Filing date" means the date a rule filing is date stamped by the records center:

L. "History note" means the required annotation of changes or repeals to a part or a section noted at the end of a modified section. At a minimum, this note contains the effective date of the original filing and the dates and identification numbers of any subsequent amendment(s), promulgation(s) and any repeal:

M. "History of repealed material" means the listing of repealed pre-NMAC or NMAC material that pertains to the subject matter of the part. The listing contains the pre-NMAC rule number or NMAC number and the name and the effective date of repeal for each repealed rule or part. It is placed in the history of the part:

N. "History of the part" means the material located after the last section of the part comprising pre-NMAC history and history of repealed material:

O. "Incorporation by reference" see "referenced material incorporated or adopted by rule":

P. "Integrated part" means a compiled part that incorporates

amendments to sections of that part:

— **Q.** — **“Issuing agency”** means the agency that originally promulgated the rule, or its successor agency. It is listed in the required NMAC section entitled ISSUING AGENCY.

— **R.** — **“Issuing authority”** means the public official or employee of the issuing agency who is specifically authorized to approve the issuance of rules for that agency.

— **S.** — **“Name”** means the textual designation of a title, chapter, part or section:

— **T.** — **“New part”** means a part which did not previously exist in the New Mexico administrative code and where no pre-NMAC rules exist covering the same subject matter, or a complete replacement of an entire part and its amendments:

— **U.** — **“NMAC”** means the New Mexico administrative code, the organizing structure for rules filed by New Mexico state agencies. The NMAC is also the body of filed rules and the published versions thereof. The hierarchy of the NMAC is structured by title, chapter, part and section:

— **V.** — **“NMAC table of contents”** means the master list of approved NMAC titles maintained by the records center. It may also include chapter and part designations:

— **W.** — **“Notice of rulemaking”** means the advertisement published in the New Mexico register to provide public notice of an agency’s intention to promulgate a rule(s) along with the date and time of hearings for the purpose of collecting public comment on the proposed rule(s):

— **X.** — **“Number”** means the numerical designations assigned to titles, chapters, parts and sections that combine to form a unique numerical designation for a rule. Numbers need not be sequentially assigned and intermediate ranges may be reserved:

— **Y.** — **“Objective”** means the purpose of the rule or the reason for its necessity. It is stated in the required NMAC section entitled OBJECTIVE:

— **Z.** — **“Original filing”** means the first filing of new rule material:

— **AA.** — **“Part”** means the required NMAC designation for the normal division of a chapter. A part consists of a unified body of rule material applying to a specific function or devoted to a specific subject matter. Structurally, a part is the equivalent of a rule.

— **BB.** — **“Paragraph”** means the normal division of a subsection and the sixth level of the NMAC hierarchy. Paragraphs are identified by a number within parentheses:

— **CC.** — **“Pre-NMAC history”**

means the regulatory filing history (list) of filed rules, prior to converting to NMAC style and format, that provided the source material for the specific NMAC part. It contains the rule number, the rule name and the filing date for each listed rule:

— **DD.** — **“Promulgation”** means the public declaration of the adoption of an official and final rule:

— **EE.** — **“Publication in the New Mexico register”** means the process of publishing in the New Mexico register in accordance with 1.24.15 NMAC. The publication date is the date of the issue of the New Mexico register in which a rule appears:

— **FF.** — **“Recompile”** means the action of renumbering, reformatting and restructuring an existing rule without changing the text so that it complies with the current NMAC style and formatting requirements. Rules are recompiled for the convenience of using the NMAC website. The original filing remains the official version of the rule:

— **GG.** — **“Records center”** means the commission of public records, state records center and archives, the agency responsible for administering the State Rules Act, Section 14-4-1 et seq. NMSA 1978:

— **HH.** — **“Referenced material incorporated or adopted by rule”** means a source document that must be consulted in order to determine what the rule is, where such incorporated or adopted material is not stated in the rule:

— **H.** — **“Reformat”** means the application of adopted style and format requirements to current rules to conform to the NMAC structure promulgated by the records center:

— **JJ.** — **“Renumbering”** means the assignment of a new number to an existing chapter, part or section:

— **KK.** — **“Repealer”** means a rule filing which revokes or annuls an entire part:

— **LL.** — **“Re-promulgation”** means the filing of pre-existing rule material with the express intent that it continue in effect, or resume being in effect. This was done specifically pursuant to Subsection D of 14-4-7 NMSA 1978:

— **MM.** — **“Reserved”** means portions of the New Mexico administrative code (NMAC) with the word RESERVED in square brackets. Chapters, parts and sections may be reserved to hold space between lower numbered and higher numbered portions of the hierarchy, or may be reserved by agencies with the intent to write rule text in that area:

— **NN.** — **“Restructuring”** means the reformatting and reorganizing of the hierarchy of the NMAC by assigning new designations to existing rule material

without altering the content of that material:

— **OO.** — **“Rule”** means any rule, regulation, order, standard or statement of policy, including amendments thereto or repeals thereof, issued or promulgated by an agency of state government and purporting to affect one or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, and as further defined in subsection C of Subsection 14-4-2 NMSA 1978 and Attorney General Opinion No. 93-1:

— **PP.** — **“Rule filing”** means the body of rule material organized for filing in accordance with Section 14-4-3 NMSA 1978 and 1.24.10 NMAC:

— **QQ.** — **“Scope”** means the extent of a rule’s coverage. It identifies to whom the rule applies and whom it affects—for example, to the general public, for-profit corporations, public utilities, all state agencies, etc. It includes exclusions from coverage, and cross-reference to other parts of the NMAC which deal with the same or similar subject matter. It also indicates whether the rule is exhaustive of the subject area and whether other rules may apply. It is stated in the required NMAC section entitled SCOPE:

— **RR.** — **“Section”** means the required NMAC designation for the normal subdivision of a part. It has both a name and number, is the smallest fileable unit of a rule filing and of the NMAC and is the fourth level of the NMAC hierarchy:

— **SS.** — **“Statutory authority”** means the statute or constitutional provision which authorizes the promulgation of rules concerning the topic of the part. In the absence of express legislative authority, statutory authority cites to the general legislative authority of the agency over the topic of the rule. It is stated in the required NMAC section entitled STATUTORY AUTHORITY:

— **TT.** — **“Sub-paragraph”** means the normal subdivision of a paragraph that is always the seventh level of the NMAC hierarchy. Sub-paragraphs are identified by a lower case letter within parentheses:

— **UU.** — **“Subsection”** means the normal subdivision of a section and is always the fifth level of the NMAC hierarchy. A subsection is identified by a capital letter:

— **VV.** — **“Synopsis”** means a condensed version or outline of a rule:

— **WW.** — **“Title”** means the required NMAC designation for the major divisions of the NMAC. Each title brings together broadly related governmental functions and is the first level of the NMAC hierarchy. Titles shall be assigned by the records center:

— **XX.** — **“Title case”** means the style where the first letter of each significant

word is capitalized:

YY. **“URL”** means the internet address of a web site.

ZZ. **“U.S. law”** means the United States code, the code of federal regulations, the federal register, New Mexico statutes, published portions of the NMAC and any material referenced therein.]

A. Terms beginning with the letter “A”:

(1) “Agency” means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches (Subsection A of Section 14-4-2 NMSA 1978).

(2) “Amendment” means a change or modification to the existing text of a rule. An amendment can be no less than a section. A repeal of less than a part is an amendment.

(3) “Annotation” means referenced material that is not part of the rule, located in brackets at the end of a section.

B. Terms beginning with the letter “B”: [RESERVED]

C. Terms beginning with the letter “C”:

(1) “Chapter” means the required NMAC designation for the normal division of a title. Chapter names and numbers are assigned by the records center, based upon the subject matter covered by agencies’ rule filings. The chapter identifies distinct governmental functions, or subject-matter areas, usually, but not always, under the jurisdiction of a single agency.

(2) “Cited material” means the source document from which the rule text was derived. The source document need not be consulted in order to determine what the rule is.

(3) “Compact disk (CD)” means a digital optical disc data storage format.

(4) “Compilation” means the composition of filed rules into the New Mexico administrative code.

D. Terms beginning with the letter “D”:

(1) “Duration” means the length of time a rule is intended to be in effect, either permanent or for a set period of time. It is placed in the required NMAC section entitled DURATION.

E. Terms beginning with the letter “E”:

(1) “Effective date” means the date the rule goes into effect. It is placed in the required NMAC section entitled EFFECTIVE DATE. A rule’s effective date cannot be earlier than

the date of publication in the New Mexico register.

(2) “Emergency rule” means a rule filing whose immediate implementation is necessary for the public peace, health, safety or general welfare.

F. Terms beginning with the letter “F”:

(1) “Filing” means the process by which one paper copy of a part or amendment, the corresponding electronic copy, the agency billing information sheet, and the NMAC transmittal form are delivered to the records center and, if accepted by the records center, are date stamped and accessioned. See also “rule filing”.

(2) “Filing date” means the date a rule filing is date stamped by the records center.

G. Terms beginning with the letter “G”: [RESERVED]

H. Terms beginning with the letter “H”:

(1) “History note” means the required annotation of changes or repeals to a part or a section noted at the end of a modified section. At a minimum, this note contains the effective date of the original filing and the dates and identification numbers of any subsequent amendment(s), promulgation(s) and any repeal.

(2) “History of the part” means the material located after the last section of the part comprising pre-NMAC history and history of repealed material.

(3) “History of repealed material” means the listing of repealed pre-NMAC or NMAC material that pertains to the subject matter of the part. The listing contains the pre-NMAC rule number or NMAC number and the name and the effective date of repeal for each repealed rule or part. It is placed in the history of the part.

I. Terms beginning with the letter “I”:

(1) “Incorporation by reference” see, “referenced material incorporated or adopted by rule”.

(2) “Integrated part” means a compiled part that incorporates amendments to sections of that part.

(3) “Issuing agency” means the agency that originally promulgated the rule, or its successor agency. It is listed in the required NMAC section entitled ISSUING AGENCY.

(4) “Issuing authority” means the public official or employee of the issuing agency who is specifically authorized to approve the issuance of rules for that agency.

(5) “Item” means the normal division of a sub-paragraph that is always the eighth level of the NMAC hierarchy. Items are identified by a lower-case roman numeral within parentheses.

J. Terms beginning with the letter “J”: [RESERVED]

K. Terms beginning with the letter “K”: [RESERVED]

L. Terms beginning with the letter “L”: [RESERVED]

M. Terms beginning with the letter “M”: [RESERVED]

N. Terms beginning with the letter “N”:

(1) “Name” means the textual designation of a title, chapter, part or section.

(2) “New part” means a part which did not previously exist in the New Mexico administrative code and where no pre-NMAC rules exist covering the same subject matter, or a complete replacement of an entire part and its amendments.

(3) “NMAC” means the New Mexico administrative code, the organizing structure for rules filed by New Mexico state agencies. The NMAC is also the body of filed rules and the published versions thereof. The hierarchy of the NMAC is structured by title, chapter, part and section.

(4) “NMAC table of contents” means the master list of approved NMAC titles maintained by the records center. It may also include chapter and part designations.

(5) “Normal style” means left justified, Times New Roman 10 point font, single-spaced text, with one inch margins and one-half inch header and footer.

(6) “Notice of rulemaking” means the advertisement published in the New Mexico register to provide public notice of an agency’s intention to promulgate a rule(s) along with the date and time of hearings for the purpose of collecting public comment on the proposed rule(s).

(7) “Number” means the numerical designations assigned to titles, chapters, parts and sections that combine to form a unique numerical designation for a rule. Numbers need not be sequentially assigned and intermediate ranges may be reserved.

O. Terms beginning with the letter “O”:

(1) “Objective” means the purpose of the rule or the reason for its necessity. It is stated in the required NMAC section entitled OBJECTIVE.

(2) “Original filing” means the first filing of new rule material.

P. Terms beginning with the letter "P":

(1) **"Paragraph"**
means the normal division of a subsection and the sixth level of the NMAC hierarchy. Paragraphs are identified by a number within parentheses.

(2) **"Part"**
means the required NMAC designation for the normal division of a chapter. A part consists of a unified body of rule material applying to a specific function or devoted to a specific subject matter. Structurally, a part is the equivalent of a rule.

(3) **"Pre-NMAC history"** means the regulatory filing history (list) of filed rules, prior to converting to NMAC style and format, that provided the source material for the specific NMAC part. It contains the rule number, the rule name and the filing date for each listed rule.

(4) **"Promulgation"** means the public declaration of the adoption of an official and final rule.

(5) **"Publication in the New Mexico register"** means the process of publishing in the New Mexico register in accordance with 1.24.15 NMAC. The publication date is the date of the issue of the New Mexico register in which a rule appears.

Q. Terms beginning with the letter "Q": [RESERVED]**R. Terms beginning with the letter "R":**

(1) **"Recompile"**
means the action of renumbering, reformatting and restructuring an existing rule without changing the text so that it complies with the current NMAC style and formatting requirements. Rules are recompiled for the convenience of using the NMAC website. The original filing remains the official version of the rule.

(2) **"Records center"** means the commission of public records, state records center and archives, the agency responsible for administering the State Rules Act, Section 14-4-1 et seq. NMSA 1978.

(3) **"Referenced material incorporated or adopted by rule"** means a source document that must be consulted in order to determine what the rule is, where such incorporated or adopted material is not stated in the rule.

(4) **"Reformat"**
means the application of adopted style and format requirements to current rules to conform to the NMAC structure promulgated by the records center.

(5) **"Renumbering"** means the assignment of a new number to an existing chapter, part or section.

(6) **"Repealer"**

means a rule filing which revokes or annuls an entire part.

(7) **"Re-promulgation"** means the filing of pre-existing rule material with the express intent that it continue in effect, or resume being in effect. This was done specifically pursuant to Subsection D of 14-4-7 NMSA 1978.

(8) **"Reserved"**
means portions of the New Mexico administrative code (NMAC) with the word RESERVED in square brackets. Chapters, parts and sections may be reserved to hold space between lower numbered and higher numbered portions of the hierarchy, or may be reserved by agencies with the intent to write rule text in that area.

(9) **"Restructuring"** means the reformatting and reorganizing of the hierarchy of the NMAC by assigning new designations to existing rule material without altering the content of that material.

(10) **"Rule"**
means any rule, regulation, order, standard or statement of policy, including amendments thereto or repeals thereof, issued or promulgated by an agency of state government and purporting to affect one or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, and as further defined in subsection C of Subsection 14-4-2 NMSA 1978 and Attorney General Opinion No. 93-1.

(11) **"Rule filing"**
means the body of rule material organized for filing in accordance with Section 14-4-3 NMSA 1978 and 1.24.10 NMAC.

S. Terms beginning with the letter "S":

(1) **"Scope"**
means the extent of a rule's coverage. It identifies to whom the rule applies and whom it affects - for example, to the general public, for-profit corporations, public utilities, all state agencies, etc. It includes exclusions from coverage, and cross-reference to other parts of the NMAC which deal with the same or similar subject matter. It also indicates whether the rule is exhaustive of the subject area and whether other rules may apply. It is stated in the required NMAC section entitled SCOPE.

(2) **"Section"**
means the required NMAC designation for the normal subdivision of a part. It has both a name and number, is the smallest fillable unit of a rule filing of the NMAC and is the fourth level of the NMAC hierarchy.

(3) **"Statutory authority"** means the statute or constitutional provision which authorizes the promulgation of rules concerning the topic of the part. In the absence of express legislative authority, statutory authority cites to the general legislative authority

of the agency over the topic of the rule.

It is stated in the required NMAC section entitled STATUTORY AUTHORITY.

(4) **"Sub-paragraph"** means the normal subdivision of a paragraph that is always the seventh level of the NMAC hierarchy. Sub-paragraphs are identified by a lower case letter within parentheses.

(5) **"Subsection"**
means the normal subdivision of a section and is always the fifth level of the NMAC hierarchy. A subsection is identified by a capital letter.

(6) **"Synopsis"**
means a condensed version or outline of a rule.

T. Terms beginning with the letter "T":

(1) **"Title"**
means the required NMAC designation for the major divisions of the NMAC. Each title brings together broadly related governmental functions and is the first level of the NMAC hierarchy. Titles shall be assigned by the records center.

(2) **"Title case"**
means the style where the first letter of each significant word is capitalized.

U. Terms beginning with the letter "U":

(1) **"URL"**
means the internet address of a web site.

(2) **"USB flash drive"** means a data storage device that includes flash memory with an integrated universal serial bus (USB) interface. USB flash drives are typically removable and rewritable, and physically much smaller than an optical disc.

(3) **"U.S. law"**
means the United States code, the code of federal regulations, the federal register, New Mexico statutes, published portions of the NMAC and any material referenced therein.

V. Terms beginning with the letter "V": [RESERVED]**W. Terms beginning with the letter "W": [RESERVED]****X. Terms beginning with the letter "X": [RESERVED]****Y. Terms beginning with the letter "Y": [RESERVED]****Z. Terms beginning with the letter "Z": [RESERVED]**

[1.24.1.7 NMAC - Rp 1 NMAC 3.3.10.7 & 1 NMAC 3.3.15.7 & 1 NMAC 3.3.20.7, 2/29/2000; A, 6/30/2004; A, 9/15/2014]
[The most recent amendment includes definitions not previously promulgated.]

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

This is an amendment to 1.24.10 NMAC, Sections 1, 5, 12 thru 18, effective 9/15/2014.

1.24.10.1 ISSUING AGENCY:

[New Mexico Commission of Public Records - State Records Center and Archives.] State Records Administrator. [1.24.10.1 NMAC - Rp 1 NMAC 3.3.10.1, 2/29/2000; A, 9/15/2014.]

1.24.10.5 EFFECTIVE DATE:

[February 29, 2000] September 15, 2014, unless a later date is cited [in the history note] at the end of a section. [1.24.10.5 NMAC - Rp, 1 NMAC 3.3.10.5, 2/29/2000; A, 9/15/2014]

1.24.10.12 STYLE:

A. Style shall be guided by relevant portions of the current edition of the legislative drafting manual of the New Mexico legislature published by the New Mexico legislative council service. The following provisions are specifically adopted.

(1) Chapter 4, Bill Drafting, the portion dealing with brackets, line-through and underscoring shall apply to proposed amendments and amendments for publication in the New Mexico register. This style shall not be applied to the integrated part.

(2) Chapter 7, Legislative Style and Language Provisions, except for the portion dealing with numbers, formulas and charts.

(3) Figures and symbols may represent amounts of money. It is not necessary to spell out the number.

B. Special symbols shall be avoided and the common abbreviation or full spelling used instead. For example, deg. for degree and lbs. for pounds.

C. No rule filing shall be typed in all capital letters.

D. Indentations shall be standardized as follows.

(1) Section numbers shall be flush with the part's one-inch margin.

(2) One tab shall be used to indent the first line of a subsection. Tab once after the subsection designation before beginning the text.

(3) Paragraphs shall be indented [20 spaces. Do not use tabs.] two tabs. Tab once after the paragraph designation before beginning the text.

(4) Subparagraphs [and items] shall be indented [30 spaces. Do not use tabs.] three tabs.

Items are to remain within the text of subparagraph. Upon request for need and upon approval by administrative law division, items may be indented four tabs. Tab once after the subparagraph or item designation before the beginning of the text.

[~~_____ (5) _____~~ After the numeric or alphabetic designation for a paragraph or subparagraph, indent five spaces before the beginning of the text: ~~(6)~~ (5) Automatic

indents are not permitted.
E. Sections shall be clearly separated.

F. The name of the issuing agency in Section 1 and in full citation shall be typed in title case.

G. The first page of a new part or integrated part shall begin with the title, chapter and part numbers and names. The information shall be flush with the document's one-inch margin and typed in bold capital letters.

[Example:
~~TITLE 3 TAXATION~~
~~CHAPTER 1 TAX~~
~~ADMINISTRATION~~
~~PART 3 DISCLOSURE OF~~
~~TAXPAYER INFORMATION]~~

H. Use of tables is permissible but shall be used sparingly because tables may cause difficulties in the rule filing process and may increase publication costs. The agency shall be guided by the following when using tables.

(1) Tables shall be in portrait orientation.
(2) Text in tables shall be Times New Roman, 10-point font.

I. No rule filing shall contain footnotes.
[1.24.10.12 NMAC - N, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.13 ELECTRONIC STANDARDS:

A. Electronic storage media for rule filings shall be one of the following:

(1) [diskette shall be 3.5 inches IBM format, high density] ~~USB-flash-drive; or~~

(2) CD; [~~ROM,~~ IBM format:] or,

(3) [Zip disk, IBM format:] as an attachment via an e-mail address.

B. For rule filings, the electronic format shall be *MS Windows* version of *MS Word* software using Times New Roman, 10-point font, normal style.

C. Special coding, such as hanging indents, automatic tabbing, automatic numbering, body text style, non-breaking hyphens, automatic tracking, [etc.] or any other special font shall not be used.

D. Use of images shall be

limited. If necessary, they shall be included in the electronic version of the document as GIF or PDF files.

E. Page Layout:
(1) A rule filing shall be single-spaced with double spacing between sections.

(2) The original paper version of a rule filing shall be single-sided.

(3) Margins shall be a minimum of one inch on all four sides, excluding the footer.

(4) Tabs shall be set at 0.5 inches.

(5) The document shall have a footer for page identification which shall appear at the midpoint within the one-inch margin on the foot of every page. The footer shall contain the NMAC number down through the part number in the bottom left corner of the footer. The page number shall be located at the bottom right corner of the footer.

[1.24.10.13 NMAC - Rp, 1 NMAC 3.3.10.13, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.14 PAPER VERSION STANDARDS:

A. Paper:
(1) Output shall be produced from, and not vary from, the electronic version of the rule filing.

(2) Size shall be 8.5 x 11 inches.

(3) Weight shall be a minimum of 20-lb. bond or copier paper.

(4) Color shall be white.

B. Ink: Color shall be black and uniform throughout.

C. Binding: Rule filings shall be unbound and consist of individual sheets.

D. Page Layout:
[~~_____ (1) _____~~ A rule filing shall be single-spaced with double spacing between sections.

~~_____ (2) _____~~ The original paper version of a rule filing shall be single-sided.

~~_____ (3) _____~~ Margins shall be a minimum of one inch on all four sides, excluding the footer.

~~_____ (4) _____~~ Tabs shall be set at 0.5 inches.

~~_____ (5) _____~~ The word processing document shall have a footer for page identification which shall appear at the midpoint within the one-inch margin on the foot of every page. The footer shall contain the NMAC number down through the part number in the bottom left corner of the footer. The page number shall be located at the bottom right corner of the footer.] In all

other respects, paper version shall conform to the page layout described in 1.24.10.13 NMAC above.

[1.24.10.14 NMAC - Rp, 1 NMAC 3.3.10.13, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.15 NMAC TRANSMITTAL FORM:

A. Each rule filing delivered to the records center shall be accompanied by a completed NMAC transmittal form in [both] hard copy [and electronic format] with an original signature in black ink.

B. The records center shall provide agencies with blank NMAC transmittal forms in electronic format.

C. The filing agency shall complete the NMAC transmittal form prior to filing.

D. The NMAC transmittal form shall not be handwritten and shall be suitable for reproduction.

E. The following shall appear on the NMAC transmittal form:

- (1) issuing agency name;
- (2) three digit DFA account code for the agency (if applicable);
- (3) issuing agency mailing address;
- (4) contact person's name, phone number, [fax number] and e-mail address;
- (5) type of filing - i.e., new, amendment, renumber, repeal, repeal/replace or emergency filing;
- (6) total number of pages;
- (7) date(s) of any public hearing(s) on the proposed rule or amendment;
- (8) effective date of the rule filing (cannot precede publication in the New Mexico register unless it is an emergency rule);
- (9) NMAC name and number;
- (10) description of amendment (for amendment filing only, i.e. "Amending two sections");
- (11) amendment's NMAC citation (i.e. 1.24.10.15 and 16 NMAC);

~~(11)~~ (12) most recent filing date of the part (if applicable and designated for administrative law division use only);

~~(12)~~ (13) declaration of incorporated material;

~~(13)~~ (14) if reference materials are attached and are protected by copyright:

(a) indication if copyright permission was

obtained; (b) the proof of permission; or (c) material is within the definition of public domain;

(14) legal citation(s) that grants the issuing agency the authority to promulgate rules on the subject area; and

(15) legal citation(s) that specifies who can authorize the rule in the agency.

F. Each rule filing shall bear the original signature of the issuing authority or authorized designee in black ink on the paper copy of the NMAC transmittal form. If authority is delegated, the box shall be checked.

[1.24.10.15 NMAC - Rp, 1 NMAC 3.3.10.11, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.16 FILING A RULE:

A. At the time of filing the filing agency shall present the following, which has been reviewed and pre-approved by administrative law division:

- (1) one paper [and one electronic] version of the completed NMAC transmittal form;
- (2) [one paper and] one electronic version of the text of the rule or amendment;
- (3) one electronic version of the integrated part (if filing an amendment); and
- (4) one electronic version of the billing information sheet. [and
- (5) one copy of the purchase order document.]

B. Other material to be published in the New Mexico register in conjunction with promulgation of the rule or amendment shall be delivered to the records center at the time of filing. Examples include synopses, short-form publication, conversion tables and summaries of public comment.

C. At the time of filing, an agency may submit to the records center an additional paper copy, for annotation on the first page of the rule with the date and hour of filing, to be returned to the agency (Section 14-4-3 NMSA 1978).

D. If a short-form publication or synopsis is made in accordance with the requirements of 1.24.15 NMAC, the full text of the rule shall be submitted as part of the rule filing. The full text shall be published in the NMAC at no additional cost to the agency.

E. No rule shall be valid and enforceable until it is filed with the records center and published in the New Mexico register as provided by the State

Rules Act. If properly submitted and not published as a result of error, the rule shall be deemed to have been published three weeks after filing with the records center (Sections 14-4-3 and 14-4-5 NMSA 1978).

F. A valid purchase order number must be included on the billing information sheet at the time of filing. A purchase order must be submitted to the records center by paper or electronic version at least one business day prior to the publication date.

[1.24.10.16 NMAC - Rp, 1 NMAC 3.3.10.10, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.17 REJECTED RULE FILINGS:

A. The records center shall refuse to file written material if it is not a rule as defined in 1.24.1.7 NMAC or if the materials submitted for rule filing do not conform to the style and format requirements detailed in 1.24.10 NMAC.

(1) Materials that are not rules may be filed as a [publications] publication.

(2) Rule filings that do not conform to style and format requirements shall be returned to the filing agency and shall not be filed or published in the New Mexico register.

B. The records center shall identify material previously filed as a rule but not conforming to the definition of a rule. The material shall be removed from the rules collection and rule history database with thirty days written notice to the affected agency.

C. If an affected agency finds it previously filed material as a rule that does not conform to the definition of a rule, that agency shall notify the records center in writing. If the record center agrees the material does not conform to the definition of a rule, the material shall be removed from the rules collection and the rule history database within [thirty] 30 days of receiving the notice.

[1.24.10.17 NMAC - N, 2/29/2000; A, 6/30/2004; A 9/15/2014]

1.24.10.18 AMENDMENTS TO AND REPEALS OF EXISTING RULES:

A. Amendments to the part shall be prepared by the agency in such a manner as to provide for full- section addition, substitution or deletion. Parts shall only be amended by replacement, deletion or addition of whole sections. Deleting, replacing or adding words and sentences to a section shall be accomplished by replacement of the whole section.

(1) If a section contains entirely new material, unrelated to the material formerly contained in the section with the same NMAC number,

then the former section shall be repealed. The repeal shall be identified within the history note at the end of the section with the appropriate notation (see 1.24.10.20 NMAC).

(2) An addition of a new section is an amendment to the part.

(3) If an entire part is being amended rather than repealed, the history notes shall reflect changes only in those sections in which there have been changes, including sections that are only renumbered.

(4) The first sentence on the first page of the text of an amendment shall state, "This is an amendment to (insert appropriate title number, chapter number, part number) NMAC, Section (insert the section number of the amended sections), effective (insert appropriate effective date)."

(5) For clarity, agencies may precede the text of an amendment with an explanatory paragraph to be published in the New Mexico register but which shall not be part of the rule or may publish a synopsis thereof.

B. Repeals shall be done by the issuing agency at the part level by identifying an expiration in the duration section of the part or by issuing a repealer. If less than a full part is being repealed, the rule filing shall be treated as an amendment. If other parts are affected by the repeal, they shall be amended as appropriate.

(1) If a part has been entirely rewritten and restructured so that a detailed section by section comparison is not possible, the agency may repeal the existing part and issue a new part with either the same or new part number. Where a new part number is used, an agency may record a reference to the pre-existing part in the historical note of the new part.

(2) The history note shall reflect the original NMAC effective date and number. When a part has been entirely repealed its history shall be reflected in the history of the part, which shall remain in the NMAC.

(3) Once a part number has been used in the NMAC, the history of the part shall continue to contain all NMAC history for that part, regardless of repealers.

C. Superseding rule filings are not permitted. This activity shall be handled through amendment of the part or by repeal and replacement of the part. [1.24.10.18 NMAC - Rp, 1 NMAC 3.3.10.12, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.24.15 NMAC, Sections 1, 5, 8, 11, and 12, effective 9/15/2014.

1.24.15.1 ISSUING AGENCY:
[~~New Mexico Commission of Public Records - State Records Center and Archives;~~ State Records Administrator.
[1.24.15.1 NMAC - Rp 1 NMAC 3.3.15.1, 2/29/2000; A, 9/15/2014]

1.24.15.5 EFFECTIVE DATE:
[~~February 29, 2000~~ September 15, 2014,
unless a later date is cited [~~in the history note~~] at the end of a section.
[1.24.15.5 NMAC - Rp 1 NMAC 3.3.15.5, 2/29/2000; A, 9/15/2014]

1.24.15.8 REQUIREMENTS FOR AGENCIES RELATIVE TO PUBLISHING NOTICES AND RULES IN THE NEW MEXICO REGISTER:

A. Agencies shall publish in the New Mexico register:

(1) notices of rule-making; and
(2) adopted rules filed with the state records center under the State Rules Act, either in full text, short-form publication or in synopsis. Synopses shall have prior approval of the state records administrator and such approval shall also be published.

B. Agencies may publish other materials related to administrative law at their discretion.

C. History notes, histories of the part, and amendments to history notes need not be published in the New Mexico register.

[1.24.15.8 NMAC - Rp 1 NMAC 3.3.15.8, 2/29/2000; A, 7/15/2003; A, 9/15/2014]

1.24.15.11 TECHNICAL REQUIREMENTS FOR PUBLISHING IN THE NEW MEXICO REGISTER:

A. All agencies shall submit adopted rules in electronic format [~~on a diskette~~] according to criteria established in 1.24.10.13 NMAC. Where requirements of 1.24.10 NMAC are met, referenced material need not otherwise be included. Electronic copies of notices and proposed rules may be submitted via e-mail provided a paper copy is also faxed to the records center.

B. Each rule filing or notice shall be accompanied by a separate electronic document called the billing information sheet that contains the following information:

(1) agency and

division (if applicable) names;

(2) three-digit agency DFA account code (for billing);

(3) contact person's name, address, [~~and~~] phone number and e-mail address;

(4) part name(s) or document name(s);

(5) part number(s), if applicable;

(6) file names of electronic documents with application extension;

(7) New Mexico register volume number, issue number, and publication date;

(8) name of assigned administrative law division analyst; and

(9) purchase document number.

[~~_____ C. _____ The diskette in each rule filing shall have a physical stick-on label that shows:~~

~~_____ (1) file names;~~

~~_____ (2) agency and division (if applicable) names; and~~

~~_____ (3) numeric short-form NMAC citation.]~~

[~~D. C.~~ C. The agency shall deliver one original paper copy and one electronic copy of notices of rule-making or adopted rules to the records center for submission to the New Mexico register.

(1) Agencies that do not deliver both an original paper copy and one electronic version of an adopted rule shall have the rule rejected.

(2) Material that is filed after the cut-off date for publication shall be published in the next issue, and, if necessary, the effective date shall be modified. For emergency rule filings under unique circumstances and only if not in conflict with any other statute, the state records administrator has authority to allow publication of material filed after submittal deadline.

(3) Submissions for publication in the New Mexico register shall comply with the standards established in Subsections B and C of 1.24.10.13 NMAC.

[1.24.15.11 NMAC - Rp 1 NMAC 3.3.15.9, 2/29/2000; A, 7/15/2003; A, 9/15/2014]

1.24.15.12 CHARGES FOR PUBLISHING IN THE NEW MEXICO REGISTER: There shall be a [~~\$2.00~~] \$2.50 per column inch charge to agencies publishing material in the New Mexico register.

[1.24.15.12 NMAC - Rp 1 NMAC 3.3.15.10, 2/29/2000; A, 7/15/2003; A, 7/1/2009; A, 10/15/2014]

[Charges for publishing in the New Mexico register are also found in 1.13.2.18 NMAC.]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Section 9, effective September 15, 2014. In 15.2.6 NMAC, Section 9, Subsection A through J and Subsection M through O were not published as there were no changes.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:

The "uniform classification guidelines for foreign substances and recommended penalties and model rule", January 2014, version 7.0 and "arci controlled therapeutic medication schedule", version 2.1 revised April 17, 2014 (furosemide has been modified in the "arci controlled therapeutic medication schedule, refer to Subsection E of 15.2.6.9 NMAC for current rule) as issued by the association of racing commissioners international, are incorporated by reference. Upon a finding of a violation of any medication and prohibited substances rule, which includes the possession of contraband as listed in 15.2.6.9 NMAC, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures as determined by the New Mexico racing commission.

K. OUT OF COMPETITION TESTING:

- (1) A horse may be subject to out of competition testing without advance notice if the horse is:
 - (a) on the grounds of a racetrack or training center under the jurisdiction of the commission;
 - (b) under the care or control of a trainer or owner licensed by the commission; or
 - (c) any horse whose papers are filed in the racing office; or
 - (d) has been nominated to a stakes race.
- (2) This rule applies to prohibited substances, practices and procedures are as follows:
 - (a) class 1, class II and class III drugs as listed with the New Mexico racing commission;
 - (b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxylglobin, hempure, aranasep or any substance that abnormally enhances the

oxygenation of body tissues; and

(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia.

(3) The permitted quantitative test level of clenbuterol for out of competition horses shall be administered in such dosage amount that the official test sample shall not exceed 300 picograms per milliliter of serum or plasma.

(4) Horses to be tested may be selected at random, with probable cause or as determined by the commission or an agent of the commission.

(5) The commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time take a urine, blood or hair sample from a horse for this purpose.

(6) Split samples shall be collected in accordance with Subsection B of 15.2.6.10 NMAC and shall be secured and made available for further testing in accordance with Subsection D of 15.2.6.10 NMAC.

(7) All horses selected for testing must report to the test barn within 24 hours; be presented to the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, at the time designed, unless the trainer or owner provides verification of an extenuating circumstance that makes it impossible.

(8) Any licensee who does not comply with the rule or the commission veterinarian for a sample may be subject to disciplinary action.

(9) Cooperation with the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, includes:

(a) assisting in the immediate location and identification of the horse selected for out of competition testing; and

(b) assisting the veterinarian in properly procuring the samples.

(10) Out of competition samples will be sent to the official laboratory of the commission, or another laboratory as designated by the commission, with reports made in accordance with the provisions of the medication rules and the penalty provisions therefore.

L. OUT OF COMPETITION PENALTY RECOMMENDATIONS:

(1) The penalty for any horse not presented for testing

[at the association's test barn within 24 hours of] upon notification is a maximum suspension of 120 days.

(2) The penalty for the trainer of a horse not presented for testing [at the association's test barn within 24 hours of] upon notification is a maximum suspension of 180 days.

(3) The penalty for any horse with a positive test is a maximum suspension of 120 days and the horse's papers will be removed from the racing office.

(4) The penalty for the trainer of a horse with a positive test is a maximum \$1,500 fine and a maximum suspension of 180 days.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 04/13/2001; A, 08/30/2001; A, 07/15/2002; A, 08/15/2002; A, 09/29/2006; A, 10/31/2006; A, 08/30/2007; A, 01/31/2008; A, 03/01/2009; A, 06/15/2009; A, 06/30/2009; A, 09/15/2009; A, 12/15/2009; A, 03/16/2010; A, 07/05/2010; A, 09/01/2010; A, 12/01/2010; A, 11/01/2011; A, 02/15/2012; A, 04/30/2012; A, 07/31/2012; A, 12/14/2012; A, 05/01/2013; A/E, 05/02/2013; A, 09/30/2013; A, 04/01/2014; A, 05/16/2014; A, 08/15/2014; A, 09/15/2014]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.7 NMAC, Section 12, effective September 15, 2014. In 15.2.7 NMAC, Section 12, Subsection A through F and Subsection H through V were not published as there were no changes.

15.2.7.12 CALCULATION OF PAYOUTS AND DISTRIBUTION OF POOLS:

G. PICK (n) POOLS:

(1) The pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in Subsection G, Paragraph (2) of 15.2.7 NMAC, and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission.

(2) The pick (n) pool shall be apportioned under one of the following methods:

(a) method 1, pick (n) with carryover: the net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order or finish; if there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the remainder shall be added to the carryover;

(b) method 2, pick (n) with minor pool and carryover: the major share of the net pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of pick (n) contests; and the major share shall be added to the carryover;

(c) method 3, pick (n) with no minor pool and no carryover: the net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish; if there are no winning wagers, the pool is refunded;

(d) method 4, pick (n) with minor pool and no carryover: the major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; if the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool; if there are no winning wagers, the pool is refunded;

(e) method 5, pick (n) with minor pool and no carryover: the major share of net pick

(n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher in all pick (n) contests, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; if there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) contests; if there are no winning wagers, the pool is refunded.

(f) method 6, pick (n) with "unique winning ticket" provision: The net pick (n) pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. If there is no unique ticket selecting the first-place finisher in each of the pick (n) contests, or if there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, and the major share shall be added to the carryover. Association may suspend previously approved unique winning ticket wagering with the prior approval of the commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated.

(3) If there is a dead heat for first in any of the pick (n) contests involving:

(a) contestants representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick (n) contest be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection

shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combinations.

(5) The pick (n) pool shall be cancelled and all pick (n) wagers for the individual performance shall be refunded if:

(a) at least two contests included as part of a pick 3 are cancelled or declared "no contest";

(b) at least three contests included as part of a pick 4, pick 5 or pick 6 are cancelled or declared "no contest";

(c) at least four contests included as part of a pick 7, pick 8 or pick 9 are cancelled or declared "no contest";

(d) at least five contests included as part of a pick 10 are cancelled or declared "no contest".

(6) If at least one contest included as part of a pick (n) is cancelled or declared "no contest", but not more than the number specified in Subsection G Paragraph (5) of 15.2.7 NMAC, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

(7) The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) contests for that performance.

(8) A written request for permission to distribute the pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(9) Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) contests, the entire pool shall be distributed as a single price pool

to those whose selection finished first in the greatest number of pick (n) contests. The pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a)

upon written approval from the commission as provided in Subsection G Paragraph (8) of 15.2.7 NMAC of this section;

(b)

upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued;

(c)

on the closing performance of the meet or split meet.

(10)

If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and performance so designated by the commission.

(11)

With the written approval of the commission, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

(12)

Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(13)

The association may suspend previously approved pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific performances.

[15.2.7.12 NMAC - Rp, 15 NMAC 2.7.12, 03/15/2001; A, 03/31/2003; A, 09/15/2003; A, 04/14/2005; A, 07/15/2005; A, 11/30/2005; A, 03/30/2007; A, 06/15/2009; A, 12/01/2010; A, 11/01/2011; A, 01/01/2013; A, 09/15/2014]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to 16.47.1 NMAC, Section 10, effective September 15, 2014. Subsections B through F were not published as there were no changes.

16.47.1.10 TRAINERS ELIGIBILITY:

(1) An applicant for a license as trainer or assistant trainer must be at least 18 years of age; be qualified, as determined by the stewards or other commission designee, by reason of experience, background and knowledge of racing; a trainer's license from another jurisdiction, having been issued within a 24 month period by the commission, may be accepted as evidence of experience and qualifications; evidence of qualifications may require passing one or more of the following: a written examination; an oral examination; a demonstration of practical skills in a barn test [~~given by a committee of trainers appointed by the New Mexico horsemen's association;~~] witnessed by a steward [~~and~~] or a designee approved by the commission.

(2) Applicants not previously licensed as a trainer shall be required to pass a written/oral examination, demonstrate practical skills, and submit at least two written statements as to the character and qualifications of the applicant, and documentation of having completed a six month apprenticeship under the direct supervision of a licensed trainer or assistant trainer.

(a)

Applicants failing the first written/oral examination must wait thirty (30) days before retaking the trainer's test.

(b)

Applicants failing the second written/oral examination must wait sixty (60) days before retaking the trainer's test.

(c)

Applicants failing the third written/oral examination must wait one (1) year before retaking the trainer's test.

(3) Beginning in

2015, trainers shall take and pass a written examination every three years prior to renewing their license. All trainer licenses expiring in the year 2015 and thereafter are subject to this requirement.

(4) A trainer, with

a New Mexico trainer's license obtained before 2015 and that has been maintained for 10 consecutive years, is exempt from the written examination requirement in Paragraph (3) of this subsection, provided the trainer has no record of a class 1 or 2 violation, or has less than three class 3, 4,

or 5 violations in the preceding 24 month period in New Mexico.

[16.47.1.10 NMAC - Rp, 16 NMAC 47.1.10, 03/15/2001; A, 11/15/2001; A, 03/30/2007; A, 08/30/2007; A, 06/30/2009; A, 09/15/2009; A, 07/05/2010; A, 05/16/2014; A, 09/15/2014]

End of Adopted Rules Section

Other Material Related to Administrative Law

NEW MEXICO HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The Higher Education Department (“Department”) hereby gives notice that the Department will promulgate the following rule:

5.7.20 NMAC Legislative Lottery
Scholarship Program
(Amendment)

The proposed rulemaking action may be obtained, by request, from David Mathews, Office of General Counsel, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402(telefax (505) 476-8454).

Written comments must be received no later than 5:00 pm on September 10, 2014. However, the submission of written comments as soon as possible is encouraged.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

NEW MEXICO REGISTER: NOTICE OF FEE INCREASE

The Administrative Law Division, on behalf of the State Records Administrator, hereby gives notice that, effective October 15, 2014 and pursuant to amendments to 1.13.2.19 and 1.24.15.12 NMAC, the cost of publishing in the New Mexico Register will increase from **\$2.00 per columnar inch** to **\$2.50 per columnar inch**. The first issue that will be invoiced at the new rate will be Volume XXV, Issue 19 (published on October 15, 2014). The submittal deadline for that particular issue is October 1, 2014.

Copies of the amended rules pertaining to publication cost increase are available at the Administrative Law Division, State Records Center and Archives located at 1205 Camino Carlos Rey, Santa Fe, NM 87507 and on the Commission of Public Records website at: www.nmcpr.state.nm.us/index.htm. Proposed rules can also be provided in various accessible formats.

End of Other Related Material Section

Submittal Deadlines and Publication Dates 2014

Volume XXV	Submittal Deadline	Publication Date
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

New Mexico Register Submittal Deadlines and Publication Dates Volume XXVI, Issues 1-24 2015

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

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at <http://www.nmcpr.state.nm.us/nmregister>.
For further information, call 505-476-7907.