

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXVIII - Issue 15 - August 15, 2017

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New Mexico Register

Volume XXVIII, Issue 15

August 15, 2017

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The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00.

Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7942; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

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Notices of Rulemaking and Proposed Rules

ENERGY MINERALS AND NATURAL RESOURCES DEPARTMENT

NOTICE OF PROPOSED RULE MAKING

The New Mexico Oil Conservation Commission (Commission) hereby gives notice of the following proposed rulemaking.

Case No. 15738. In the Matter of Proposed Amendments to the Commission's Rule on Rulemaking, 19.15.3 NMAC.

The Commission proposes to amend its rule governing the procedures for rulemaking proceedings, 19.15.3 NMAC. The proposed rule change includes amendments to the sections on rulemaking initiation, notice, hearing participation and hearings, and adds sections on deliberation and action, the record and filing and appeal.

The purposes of the proposed rule changes are to comply with recent statutory changes involving rulemaking requirements. The proposed rule change is also intended to update and clarify 19.15.3 NMAC including the requirements for the initiation of rulemaking and for the filing of pre-hearing statements. The statutory authorizations include a new section of the Oil and Gas Act, NMSA 1978, Section 70-2-12.2, on adoption of rules and appeals, and the changes to the State Rules Act in Chapter 137 of Laws 2017. NMSA 1978, Section 70-2-11(A), authorizes the adoption of rules to carry out the purposes of the Oil and Gas Act.

Case No. 15802. Application of the New Mexico Oil Conservation Division for Amendment of Section 19.15.7.24 NMAC Changing the Time for Division Notification and Enforcement After an Operator's Failure to file an Acceptable Monthly Production Report (Form C-115).

The proposed amendment will reduce

the time after an operator fails to file an acceptable monthly production report (form C-115) within which the Oil Conservation Division ("the division") must notify the operator of its intent to revoke the operator's authorization to transport from 60 days to 30 days, and to reduce the time within which the operator may file an acceptable form or request a hearing on the proposed revocation from 120 days to 60 days, after the original due date of the form C-115.

The purpose of the proposed amendment is to secure more expeditious filing of operators' production reports. This amendment is authorized by NMSA 1978, Section 70-2-11(A), which authorizes the adoption of rules to carry out the purposes of the Oil and Gas Act (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended); and by NMSA 1978, Section 70-2-12(A), which authorizes the collection of data and to provide for the keeping of records and the making of reports.

No technical information served as a basis for the proposed rules.

Public Hearing and Comment.

The Commission will hold a public hearing on each of the proposed rules at the Commission meeting which will commence at 9:00 A.M. on **September 21, 2017**, in Porter Hall, 1st Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

The proposed rule amendments are available from Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Hearings page and Rules page at the Oil Conservation Division's website at <http://www.emnrd.state.nm.us/ocd>. Persons **recommending modifications** to the proposed rule amendments must file a notice of recommended modifications with Ms. Davidson no later than 5:00 P.M. on Thursday, September 7, 2017.

The notice must include the text of the recommended modifications of

the proposed rule amendments, an explanation of the recommended modification's impact, and reasons for adopting the modification. Persons intending to provide **written comments** on the proposed rule changes must submit their written comments no later than 5:00 P.M. on Friday, September 15, 2017 to Ms. Davidson.

Persons intending to offer technical testimony at the hearing must file six copies of a **Pre-hearing Statement** conforming to the requirements of 19.15.3.11 NMAC, and six copies of all exhibits the person will offer as evidence at the hearing, no later than 5:00 P.M. on Thursday, September 14, 2017. Any person may present non-technical testimony at the hearing.

Proposed modifications and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505, faxed to Ms. Davidson at (505) 476-3462, or e-mailed to Ms. Davidson at florene.davidson@state.nm.us. Pre-hearing Statements must be hand-delivered or mailed to Ms. Davidson at the above address.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing please contact Ms. Davidson at (505) 476-3458 or through the New Mexico Relay Network at 1-800-659-1779 by **September 11, 2017**. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans on using projection equipment at a hearing must contact Ms. Davidson seven (7) business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the party must provide its own laptop computer.

Given under the Seal of the State

of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 27th day of July 2017.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

David R. Catanach
Director, Oil Conservation Division
S E A L

**FINANCE, STATE BOARD
OF**

**NOTICE OF BOARD OF
FINANCE RULEMAKING**

As authorized by Section 61-1-1 NMSA 1978, the New Mexico State Board of Finance is proposing to amend NMAC 2.1.2, Adoption of Rules by the State Board of Finance. During the 2017 regular session, the State Rules Act, Sections 14-4-1 to -11 NMSA 1978, which prescribes the rulemaking process, was significantly amended. The proposed amendments to Rule 2.1.2 NMAC, which include provisions on rulemaking notice, comments on rulemaking, process of adoption of rules, filing, publication and effective date, and emergency rules, are intended to comport with the State Rules Act, as amended by HB 58. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501 and on the Board's website, http://nmdfa.state.nm.us/board_of_finance.aspx.

The Board is currently accepting public comment on the proposed rule amendments. Please submit written comments on the proposed changes to Director Leila Kleats via electronic mail at bof.administrator@state.nm.us or regular mail at 181 Bataan Memorial Building, Santa Fe, NM 87501 by September 14, 2017.

The Board will hear public comment and consider adoption of the proposed rule amendments at its September 19, 2017 regular State Board of Finance meeting, which takes place at 9:00 am in the Governor's Cabinet Room,

Fourth Floor, State Capitol Building in Santa Fe, New Mexico.

If you are an individual with a disability who is in need of reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact: Michelle Gonzales, Board Administrator, at (505) 827-4980.

**HIGHER EDUCATION
DEPARTMENT**

**NOTICE OF PROPOSED
RULEMAKING**

NOTICE IS HEREBY GIVEN that the New Mexico Higher Education Department (NMHED) will hold a public rulemaking hearing on September 27, 2017. The hearing will begin at 10:30 a.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed rulemaking repealing and replacing 5.3.10 NMAC - Capital Projects Approval by Commission on Higher Education.

Repeal: The following sections will be repealed:

5.3.10.1 NMAC, Issuing Agency; 5.3.10.2 NMAC, Scope; 5.3.10.3 NMAC, Statutory Authority; 5.3.10.4 NMAC, Duration; 5.3.10.5 NMAC, Effective Date; 5.3.10.6 NMAC, Objective; 5.3.10.7 NMAC, Definitions; 5.3.10.8 NMAC, Principles and Procedures; 5.3.10.9 NMAC, Information to be Submitted; 5.3.10.10 NMAC, For Purchases of Real Property; 5.3.10.11 NMAC, Approval Process; 5.3.10.12 NMAC, Revised Projects; 5.3.10.13 NMAC, Notice of Disposition of Real Property; 5.3.10.14 NMAC, Emergency Situations

Replace: The following sections will be replaced:

5.3.10.1 NMAC, Issuing Agency; 5.3.10.2 NMAC, Scope; 5.3.10.3 NMAC, Statutory Authority;

5.3.10.4 NMAC, Duration; 5.3.10.5 NMAC, Effective Date; 5.3.10.6 NMAC, Objective; 5.3.10.7 NMAC, Definitions; 5.3.10.8 NMAC, Principles and Procedures; 5.3.10.9 NMAC, Information to be Submitted; 5.3.10.10 NMAC, For Purchases of Real Property; 5.3.10.11 NMAC, Approval Process; 5.3.10.12 NMAC, Revised Projects; 5.3.10.13 NMAC, Notice of Disposition of Real Property; 5.3.10.14 NMAC, Emergency Situations

Purpose:

The purpose of the proposed rule change is to accommodate for Section 9-25-2 NMSA 1978 (The Higher Education Department Act) whereas by statute the Commission on Higher Education became the New Mexico Higher Education Department. Accordingly, references to the Commission on Higher Education now reference New Mexico Higher Education Department within all sections of the rule. The rule seeks to update details related to the committee.

Summary of the proposed changes:

Repeal and replace of all sections to accommodate changes in the State Rules Act related to NMAC structure. All references to the New Mexico Higher Education Commission will be replaced with references to the New Mexico Higher Education Department.

Section 7 Definitions: Any reference to the Facilities Committee has been replaced with reference to Capital Outlay Committee.

Section 8 Principles and Procedures: Paragraph (a) of Subsection (4): Repeal over \$500,000; Paragraph (b) of Subsection (4): Repeal over \$750,000;

Section 9 Information to be Submitted: adds the following language that was not previously present: to obtain the approval of the state board of finance, institutions will be required to submit additional documents, as listed in the board's

rules and regulations.

Section 13 Notice of Disposition of Real Property: adds the following language that was not previously present: to obtain the approval of the state board of finance, institutions will be required to submit additional documents, as listed in the board's rules and regulations.

Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rules are available at NMHED. The proposed rules are also posted on the NMHED website at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rules be sent to you by mail or e-mail, please contact Gerald.Hoehne@state.nm.us OR 505-476-8434.

A public hearing will be held from 10:30 a.m. until 12:00 p.m. at NMHED on September 27, 2017. Any person who is or may be affected by these proposed rules may appear and testify. Interested persons may submit written comments to the department at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or Gerald.Hoehne@state.nm.us. Written comments must be received no later than 5:00 p.m. on September 20, 2017. If submitting written comments by email, please indicate in the subject line the number and section of each rule for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 21-1-21 NMSA 1978, Sections 21-2A-1 et seq. NMSA 1978, Section 9-25-13 NMSA 1978, and Section 9-25-8 NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 505-476-8434 within ten (10) business days prior to the hearing.

**HIGHER EDUCATION
DEPARTMENT**

**NOTICE OF PROPOSED
RULEMAKING**

NOTICE IS HEREBY GIVEN that the New Mexico Higher Education Department (NMHED) will hold a public rulemaking hearing on September 26, 2017. The hearing will begin at 10:30 a.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding a proposed rulemaking repealing and replacing 5.7.12 NMAC.

Repeal:

The following sections will be repealed: 5.7.12.1 NMAC, ISSUING AGENCY; 5.7.12.2 NMAC, SCOPE; 5.7.12.3 NMAC, STATUTORY AUTHORITY; 5.7.12.4 NMAC, DURATION; 5.7.12.5 NMAC, EFFECTIVE DATE; 5.7.12.6 NMAC, OBJECTIVE; 5.7.12.7 NMAC, DEFINITIONS; 5.7.12.8 NMAC, STUDENT ELIGIBILITY; 5.7.12.9 NMAC, SPONSORING INSTITUTION RESPONSIBILITIES; 5.7.12.10 NMAC, COMMISSION REVIEW AND SELECTION PROCESS; 5.7.12.11 NMAC, MINORITY DOCTORAL ASSISTANCE LOAN TERMS AND REPAYMENT; 5.7.12.12 NMAC, REPORTS.

Replace:

The following sections will be replaced: 5.7.12.1 NMAC, ISSUING AGENCY; 5.7.12.2 NMAC, SCOPE; 5.7.12.3 NMAC, STATUTORY AUTHORITY; 5.7.12.4 NMAC, DURATION; 5.7.12.5 NMAC, EFFECTIVE DATE; 5.7.12.6 NMAC, OBJECTIVE; 5.7.12.7 NMAC, DEFINITIONS; 5.7.12.8 NMAC, CONDITIONS FOR ELIGIBILITY; 5.7.12.9 NMAC, LOAN REPAYMENT AWARD CRITERIA; CONTRACT TERMS; PAYMENT; 5.7.12.10 NMAC, REPORTS

Purpose:

The purpose of the proposed rule changes are to restructure the

Minority Doctoral Loan for Service Program to the Minority Doctoral Loan Repayment Assistance Program. The restructure will accommodate for changes that were made to the program through the signing of Senate Bill 197 in the 2017 regular legislative session.

Summary of proposed changes:

Section 5.7.12.7 adds new definitions specific to the new structure of the program.

Section 5.7.12.8 creates new conditions for program eligibility, based on changes to the law, where student loan repayment assistance is provided after the candidate has been hired by the institution in a tenure-track faculty position at a public post-secondary institution in New Mexico for an eligible doctoral field of study.

Section 5.7.12.9 details the award criteria and the contractual terms for the recipient to participate in the program. This section details eligible loan types and how criteria for recipient selection will be set out by the department. Contract terms for the program include reimbursement to the department if the recipient does not comply with the terms of the contract.

Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rules are available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rules are also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rules be sent to you by mail or e-mail, please contact fin.aid@state.nm.us OR 1-800-279-9777.

A public hearing will be held from 10:30 a.m. until 12:00 p.m. at NMHED on September 26, 2017. Any person who is or may be affected by these proposed rules may appear and testify. **Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or**

fin.aid@state.nm.us. Written comments must be received no later than 5:00 p.m. on September 20, 2017. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations

Legal authority for this rulemaking can be found Sections 21-21I-1 et seq. NMSA 1978 and Section 9-25-8 NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 ten (10) business days prior to the hearing.

HIGHER EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Higher Education Department (NMHED) will hold a public rulemaking hearing on September 26, 2017. The hearing will begin at 9:00 a.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding the following proposed rulemaking actions:

Amendments:

5.7.20.7 NMAC, Definitions;
5.7.20.8 NMAC, Student eligibility;
5.7.20.9 NMAC, Duration of scholarship;
5.7.20.10 NMAC, Amount of scholarship;
5.7.20.11 NMAC, Administration of the Legislative lottery scholarship

Purpose:

The purpose of the proposed rule changes are to restructure the Legislative Lottery Scholarship

Program eligibility criteria to accommodate for changes that were made to the program through the signing of Senate Bill 420 in the 2017 regular legislative session. The rule also removes reference in the rule to “legacy student” which was applicable to students enrolled prior to 2014.

Summary of proposed changes:

Amendments to Section 7 remove the definitions for “Immediately upon graduation” and “legacy student”. The proposed definition of “qualified student” reflects changes to student eligibility requirements which allows students to enroll within sixteen months of graduation or receipt of an eligible credential. The section also reflects eligibility statutory changes for students who within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces, and within sixteen months of completion of honorable service or medical discharge, attend a public post-secondary institution.

Amendments to Section 8 adds that New Mexico residency eligibility requirements must be met upon the completion of high school, graduation, or receipt of a high school equivalency, and that the student has established and maintained New Mexico residency.

Amendments to Section 9 removes reference to “legacy students”.

Amendments to Section 10 removes reference to “legacy students”.

Amendments to Section 11 removes reference to “legacy students” and adds use of the term “qualified students”.

Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rules are available at NMHED. The proposed rules are also posted on the NMHED website at <http://www.hed.state.nm.us/> under the “Recent Posting” section. To request that a copy of the proposed rules be

sent to you by mail or e-mail, please contact fin.aid@state.nm.us OR 1-800-279-9777.

A public hearing will be held from 9:00 a.m. until 10:30 a.m. at NMHED on September 26, 2017. Any person who is or may be affected by these proposed rules may appear and testify. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or fin.aid@state.nm.us. Written comments must be received no later than 5 p.m. on September 20, 2017. If submitting written comments by email, please indicate in the subject line the number of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Sections 6-24-1 et seq. NMSA 1978 and Sections 21-21N-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 ten (10) business days prior to the hearing.

HIGHER EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Education Trust Board of New Mexico (ETB) will hold a public rulemaking hearing on September 27, 2017. The hearing will begin at 9:00 a.m. and will be held at the New Mexico Higher Education Department (NMHED) located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding the ETB proposed rulemaking actions.

ETB has initiated a proposed

rulemaking repealing and replacing 5.7.30 NMAC.

Repeal: The sections that will be repealed are:

5.7.30.1 NMAC, ISSUING AGENCY; 5.7.30.2, NMAC SCOPE; 5.7.30.3, NMAC STATUTORY AUTHORITY; 5.7.30.4, NMAC DURATION; 5.7.30.5, NMAC EFFECTIVE DATE; 5.7.30.6, NMAC OBJECTIVE; 5.7.30.7, NMAC DEFINITIONS; 5.7.30.8, NMAC ACTION; 5.7.30.9, NMAC RECISIONS; 5.7.30.10, NMAC CONTACT ENTITY INQUIRIES REGARDING THIS ISSUANCE SHOULD BE ADDRESSED TO; 5.7.30.11, NMAC DISTRIBUTION; 5.7.30.12, NMAC EXHIBITS

Replace: The sections that will be replaced are:

5.7.30.1 NMAC, ISSUING AGENCY; 5.7.30.2, NMAC SCOPE; 5.7.30.3, NMAC STATUTORY AUTHORITY; 5.7.30.4, NMAC DURATION; 5.7.30.5, NMAC EFFECTIVE DATE; 5.7.30.6, NMAC OBJECTIVE; 5.7.30.7, NMAC DEFINITIONS; 5.7.30.8, NMAC EXECUTIVE DIRECTOR AND ADMINISTRATION; 5.7.30.9, NMAC COLLEGE SAVINGS PROGRAM; 5.7.30.10, NMAC CONTACT ENTITY INQUIRIES REGARDING THIS ISSUANCE SHOULD BE ADDRESSED TO; 5.7.30.11, NMAC EXHIBITS

Purpose: Since the adoption of the original rule several changes have taken place as a matter of fact and law. These include the termination of the prepaid tuition plan, the revision of the authorizing statute for the New Mexico Education Trust Board and changes to Section 529 of the Internal Revenue Code governing college savings plans.

Summary of the proposed changes:

Sections 5.7.30.1 through 5.7.30.5 describe the issuing authority, the scope, the statutory authority, the duration and the effective date respectively of the rules. Section 5.7.30.6 acknowledges

that the board is responsible for developing and administering a college savings program and that the rules are intended to inform the public and to provide an orderly procedure to accomplish the board's responsibilities under the law. Section 5.7.30.7 contains a simplified set of definitions that removes terms already defined under the Internal Revenue Code or the Act.

Section 5.7.30.8 provides for the selection of a suitably qualified executive director and outlines the authority and responsibility of the executive director.

Section 5.7.30.9 outlines procedures for establishing an account in the college savings program and defines who may participate in the program.

It also establishes procedures related to the investment of account assets including fees, distributions from an account, and the establishment of account contribution limits by the board.

Section 5.7.30.10 provides a contact entity for any inquiries regarding the rules.

Section 5.7.30.11 is reserved.

Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rules are available at the Education Trust Board of New Mexico 1516 Paseo de Peralta, Santa Fe, NM 87501. The proposed rules are available at the office of the ETB and on the ETB website at <http://www.nmetb.org> under the "Meetings and Reports" section. To request that a copy of the proposed rules be sent to you by mail or e-mail, please contact us at (505) 982-4099, ext. 2.

A public hearing will be held at 9:00 a.m.-10:30 a.m. at NMHED on September 27, 2017. Any person who is or may be affected by these proposed rules may appear and testify.

Interested persons may submit written comments to the ETB at 1516 Paseo de Peralta, Santa Fe, NM 87501 or NM.ETB@state.nm.us. Written comments must be received no later than 5:00 p.m. on September 20, 2017. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which

you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found at Sections 21.21K.1 through 21.21K.7 NMSA 1978. The Education Trust Board voted to approve the proposed rule changes at its meeting of April 22, 2015.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 982-4099, ext. 2 ten (10) business days prior to the hearing.

HIGHER EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Higher Education Department (NMHED) will hold a public rulemaking hearing on September 26, 2017. The hearing will begin at 1:00 p.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding a proposed rulemaking for a new rule: 5.7.33 NMAC, TAX REFUND INTERCEPT BY NEW MEXICO HIGHER EDUCATION DEPARTMENT.

Proposed New Sections: 5.7.33.1 NMAC, ISSUING AGENCY; 5.7.33.2 NMAC, SCOPE; 5.7.33.3 NMAC, STATUTORY AUTHORITY; 5.7.33.4 NMAC, DURATION; 5.7.33.5 NMAC, EFFECTIVE DATE; 5.7.33.6 NMAC, OBJECTIVE; 5.7.33.7 NMAC, DEFINITIONS; 5.7.33.8 NMAC, SUBMITTING REQUESTS TO THE TAXATION AND REVENUE DIVISION; 5.7.33.9 NMAC, NOTICE PROCEDURES; 5.7.33.10 NMAC, PROCESSING OF ADMINISTRATIVE HEARING

REQUESTS; 5.7.33.11 NMAC, ADMINISTRATIVE HEARINGS; 5.7.33.12 NMAC, FINAL DETERMINATION AND NOTICE OF OFFSET; 5.7.33.13 NMAC, CONFIDENTIALITY; 5.7.33.14 NMAC, EXHIBIT A; 5.7.33.15 NMAC, EXHIBIT B

Purpose: The purpose of the proposed new rule is to establish NMHED procedures for administration of the Tax Refund Intercept Program. Establishing procedures will accommodate for changes that were made to the program through the signing of Senate Bill 181 in the 2017 regular legislative session, which designated NMHED as a claimant agency.

Summary of proposed rules:

The rule establishes procedures for NMHED to submit requests to the New Mexico Taxation and Revenue Department (TRD) to claim a tax refund intercept when an education debt owned and originated by NMHED has been reduced to judgment. The rule provides notice procedures for both the debtor and the spouse of the debtor that may be impacted by an intercept of a joint tax return. The rule details the process to request an administrative hearing and procedures for conducting an administrative hearing. The rule establishes procedures for concluding a final determination on the offset amount and procedures for providing notice of the final determination. The rule establishes confidentiality requirements for NMHED, as related to information obtained through TRD. The rule provides exhibits which reflect the notice to be provided by NMHED to a debtor.

Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rules are available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rules are also posted on the NMHED website at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rules be

sent to you by mail or e-mail, please contact fin.aid@state.nm.us OR 1-800-279-9777. A public hearing will be held from 1:00 p.m. until 2:30 p.m. at NMHED on September 26, 2017.

Any person who is or may be affected by these proposed rules may appear and testify. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or fin.aid@state.nm.us. Written comments must be received no later than 5:00 p.m. on September 20, 2017. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found at Sections 7-2C-1 through 7-2C14 NMSA 1978 and Section 9-25-8 NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 ten (10) business days prior to the hearing.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

NOTICE OF PUBLIC RULE HEARING

The Construction Industries Commission will convene a public hearing on proposed changes to 14.7.3 NMAC - 2015 NEW MEXICO RESIDENTIAL BUILDING CODE, Amending Section 9, and adding new section 28. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing, and to examine witnesses testifying at the hearing. The hearing is scheduled as follows: 9:00 a.m., September 15, 2017 at

the New Mexico Regulation and Licensing Department (Toney Anaya Building – Hearing Room 2 on the 2nd Floor), located at 2550 Cerrillos Rd., Santa Fe, NM 87504.

Please Note: All persons wishing to participate in the public hearing remotely may do so telephonically dialing into:

Dial-in Number: (515) 739-1015

Meeting ID: 788-223-117

The proposed changes are as follows:

14.7.3.9 CHAPTER 1 - ADMINISTRATION:

B. (5) (f) amend section R102.5 with Appendix V - Tiny Houses.

14.7.3.28 APPENDIX V TINY HOUSE:

Adds new section

By adopting Section 14.7.3.28 Appendix V Tiny Houses helps state and local jurisdictions, maintain minimum code requirements to provide a level of safety to protect building occupants. This popular trend in housing is showing up in cities, and counties across the entire state of New Mexico. Current adopted codes also reflect continual changes that protect life health and property. NMSA 1978, Section 60-13-9 and 60-13-44 authorize the Commission and the Construction Industries Division (CID) to adopt rules to carry out the provisions of the act.

Interested persons may secure copies of the proposed changes by accessing the Construction Industries Division website (www.rld.state.nm.us/construction) or by request from the Santa Fe CID Office – Toney Anaya Building, 2550 Cerrillos Rd. Santa Fe, NM 87504. You may send written comments to: Construction Industries Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 476-4702. All comments must be received no later than 5:00 p.m., on September 8, 2017. Written comments may also be submitted at the public hearing. All

public comments and documentation will be entered into the record during the public rules hearing. If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 819-7227. Email: martin.romero@state.nm.us ; Fax No. (505) 476-4702.

REGULATION AND LICENSING DEPARTMENT MANUFACTURED HOUSING DIVISION

NOTICE OF PUBLIC RULE HEARING

The Manufactured Housing Committee (MHC), of the New Mexico Regulation and Licensing Department, will convene a public hearing on proposed changes to amend its rule 14.12.10.8 NMAC, Sections D and E - Manufactured Housing Fee, of the New Mexico Administrative Code. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, orally or in writing, and to examine witnesses testifying at the hearing.

The hearing is scheduled as follows: 9:00 a.m., September 18, 2017 at the New Mexico Regulation and Licensing Department (Toney Anaya Building - Hearing Room 2 on the 2nd Floor), located at 2550 Cerrillos Rd., Santa Fe, NM 87504.

Please Note: All persons wishing to participate in the public hearing remotely may do so telephonically dialing into:

Dial-in Number: (515) 739-1015
Meeting ID: 788-223-117

The proposed change is as follows:

14.12.10.8 FEES:

D. [~~Inspection or~~] Re-inspection fee [~~(f)~~] sixty-five dollars (\$65.00).

E. Inspection Permits: sixty-five dollars (\$65.00). The permit will be for the installation, permanent

foundation and utility connections.

This change is proposed to acknowledge that charging an inspection fee and a permit fee for the initial inspection is a double charge for a single inspection action. NMSA 1978, Section 60-14-4 (D) and (G) authorize the Committee and the Manufactured Housing Division (MHD) to adopt rules to carry out the provisions of the act.

Interested persons may secure copies of the proposed changes by accessing the Manufactured Housing Division website (www.rld.state.nm.us/construction) or by request from the Santa Fe MHD Office – Toney Anaya Building, 2550 Cerrillos Rd. Santa Fe, NM 87504. You may send written comments to: Manufactured Housing Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 476-4702. All comments must be received no later than 5:00 p.m., on September 14, 2017. Written comments may also be submitted at the public hearing. All public comments and documentation will be entered into the record during the public rules hearing. If you require special accommodations to attend the hearing, please notify MHD by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 819-7227. Email: Melissa.shelley@state.nm.us; Fax No. (505) 476-4702.

End of Notices of Rulemaking and Proposed Rules

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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 in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

GAME AND FISH, DEPARTMENT OF

The State Game Commission at its 6/22/2017 meeting, repealed its rule 19.31.5 NMAC, Upland Game, filed 4/1/2014, and replaced it with 19.31.5 NMAC, Upland Game, adopted on 6/22/2017, and becomes effective 4/1/2018.

The State Game Commission at its 5/11/2017 meeting, repealed its rule 19.31.6 NMAC, Migratory Game Bird, filed 6/30/2016, and replaced it with 19.31.6 NMAC, Migratory Game Bird, adopted on 5/11/2017, effective 8/15/2017.

GAME AND FISH, DEPARTMENT OF

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING PART 5 UPLAND GAME

19.31.5.1 ISSUING
AGENCY: New Mexico Department of Game and Fish.
[19.31.5.1 NMAC - Rp, 19.31.5.1 NMAC, 8-15-17]

19.31.5.2 SCOPE: Hunters of upland game. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30 and 32 through 36 of Title 19.
[19.31.5.2 NMAC - Rp, 19.31.5.2 NMAC, 8-15-17]

**19.31.5.3 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.
[19.31.5.3 NMAC - Rp, 19.31.5.3 NMAC, 8-15-17]

19.31.5.4 DURATION: April 1, 2018 through March 31, 2022.
[19.31.5.4 NMAC - Rp, 19.31.5.4 NMAC, 8-15-17]

**19.31.5.5 EFFECTIVE
DATE:** April 1, 2018 unless a later date is cited at the end of a section.
[19.31.5.5 NMAC - Rp, 19.31.5.5 NMAC, 8-15-17]

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, 8-15-17]

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.

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.

R. “Possession limit” shall mean twice the daily bag limit one can have in their ownership, except where otherwise defined.

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 NMSA 1978;

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

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

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.

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

W. “Waterfowl management area (WMA)” shall mean Bernardo, 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.

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.

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, 8-15-17]

19.31.5.8 LICENSE AND APPLICATION REQUIREMENTS:

A. License: It shall be unlawful to hunt dusky grouse, pheasant, quail, Eurasian collared-dove, and squirrel without having purchased a valid license for the current license year.

(1) For pheasant hunting on Bernardo and W.S. Huey WMAs: in addition to a valid license, a special permit obtained by drawing shall be required.

(2) For pheasant hunting on private lands in Valencia county: in addition to a valid license, a Valencia county landowner pheasant permit 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 specified by the hunt code printed on the permit or license.

C. Applications: Applications for upland game special permits shall be submitted via the

department website.

(1) No more than four persons may apply per application.

(2) 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.

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

(4) 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.

(5) All applications must be submitted via the department website unless otherwise specifically allowed by rule. Persons desiring a Valencia county landowner pheasant hunt permit must obtain an application from registered landowners. Applications must be submitted in person to only the northwest area (Albuquerque) office. Applications for the Valencia county landowner pheasant hunt permits may be submitted up to the day prior to the hunt.

(6) The application deadline for the Bernardo and W.S. Huey WMAs pheasant hunts shall be on date(s) set by the state game commission.

(7) If applications for permits exceed the number of available permits, permits shall be allotted by means of a random public drawing.

(8) 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.
[19.31.5.8 NMAC - Rp, 19.31.5.8 NMAC, 8-15-17]

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, Eurasian collared-dove, 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;

(e) crossbows; and

(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; and

(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; or

(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; and
- (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, harry, 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 a medical doctor or doctor of optometry 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 shall be open for quail hunting on Mondays, Wednesdays, and Saturdays during established quail seasons. The W.S. Huey WMA shall be open to pheasant hunting by special permit only.

(b) The Edward Sargent, W. A. Humphries, Rio Chama, Urraca, Colin Neblett, and Elliot S. Barker wildlife management areas shall be open for hunting upland game during established squirrel and dusky grouse seasons.

(c) The Water canyon, Marquez, and Socorro-Escondida wildlife management areas, and the Sandhills Prairie conservation area shall be open for hunting upland game during established quail seasons.

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

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

(5) Eurasian collared-dove hunting shall be open during established mourning and white-winged dove seasons as defined in 19.31.6.11 NMAC, Species, Open

Areas, Season Dates, and Daily Bag Limits, and during open quail, squirrel, and dusky grouse seasons in open areas, as defined above.

(6) 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; and

(5) Valle Vidal area.

[19.31.5.9 NMAC - Rp, 19.31.5.9 NMAC, 8-15-17]

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.

Continued On The Following Page

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, 2018 Sept. 1 - Nov. 30, 2019 Sept. 1 - Nov. 30, 2020 Sept. 1 - Nov. 30, 2021	3 (6 in possession)
pheasant	statewide, excluding Valencia county	Dec. 6-9, 2018, Dec. 12-15, 2019, Dec. 10-13, 2020, Dec. 9-12, 2021	3 (males) (6 in possession)
youth-only pheasant hunt (special draw permit required)	Bernardo WMA	Oct. 20, 2018, Oct. 19, 2019, Oct. 17, 2020, and Oct. 16, 2021	3 (males)
youth-only pheasant hunt (special draw permit required)	W.S. Huey WMA	Dec. 1, 2018, Dec. 7, 2019, Dec. 5, 2020, and Dec. 4, 2021	3 (males)
pheasant (special draw permit required)	W.S. Huey WMA	Dec. 8, 2018, Dec. 14, 2019, Dec. 12, 2020, and Dec. 11, 2021	3 (males)
pheasant (Valencia Co.) (landowner permit required)	Valencia county private lands	Dec. 8, 2018, Dec. 14, 2019, Dec. 12, 2020, and Dec. 11, 2021	3 (males)
quail: Gambel's, scaled, northern bobwhite and Montezuma (Mearn's)	statewide	Nov. 15 - Feb. 15, 2019 Nov. 15 - Feb. 15, 2020 Nov. 15 - Feb. 15, 2021 Nov. 15 - Feb. 15, 2022	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, 2018 Sept. 1 - Nov. 30, 2019 Sept. 1 - Nov. 30, 2020 Sept. 1 - Nov. 30, 2021	8 (singly or in aggregate, possession shall be 16 singly or in aggregate)

[19.31.5.10 NMAC - Rp, 19.31.5.10 NMAC, 8-15-17]

19.31.5.11 [RESERVED]

19.31.5.12 HUNT CODES AND PERMIT NUMBERS FOR BERNARDO WMA AND W.S. HUEY WMA PHEASANT HUNTS AND THE VALENCIA COUNTY LANDOWNER PHEASANT HUNT:

Hunters may possess a Valencia county landowner permit in addition to another special permit pheasant hunt. Special permit pheasant hunts will be allocated by season as follows:

hunt location	2018 season	2019 season	2020 Season	2021 season	hunt code	no. of permits
youth-only Bernardo WMA	10/20	10/19	10/17	10/16	PHE-0-001	20
youth-only W.S. Huey WMA	12/01	12/07	12/05	12/04	PHE-0-002	40
W.S. Huey WMA	12/08	12/14	12/12	12/11	PHE-0-005	40
Valencia county landowner permits	12/08	12/14	12/12	12/11	PHE-0-006	unlimited

[19.31.5.12 NMAC - Rp, 19.31.5.12 NMAC, 8-15-17]

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, except as prohibited by rule.

B. Daily bag and possession limits: Daily bag limits for dusky grouse, pheasant, and quail shall be three birds (in the aggregate) and three squirrels (in the aggregate). Possession limits shall be: dusky grouse-six; pheasant-six; 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, 8-15-17]

HISTORY OF 19.31.5 NMAC:

Pre-NMAC Regulatory Filing History: The material in this Part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, and Barbary Sheep, filed 5/31/67; 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. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68; Regulation No. 493, Establishing 1968 Seasons On Mourning And White-Winged Doves, Band-Tailed Pigeons, And Sora And Virginia Rails, filed 8/9/68; Regulation No. 494, Establishing 1968 Seasons On Migratory Waterfowl, Wilson's Snipe, Lesser Sandhill Crane, Scaled, Gambel's, And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 10/2/68; Regulation 504, Establishing Seasons On Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69; Regulation No. 505, Establishing 1969 Seasons On Teal, Band-Tailed Pigeons, Sora And Virginia Rails, Mourning And White-Winged Doves, And Wilson's Snipe, filed 8/26/69; 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. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70; Regulation No. 516 Establishing 1970 Seasons On Quail, Pheasants, And Prairie Chickens, filed 8/24/70; Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71; Regulation No. 524, Establishing 1971 Seasons On Band-Tailed Pigeons And Mourning And White-winged Doves, filed 8/13/71; Regulation No. 526, Establishing 1971 Seasons On Blue-Winged, Green-winged And Cinnamon Teal, filed 8/13/71; Regulation No. 527, Establishing 1971 Seasons On Migratory Waterfowl And Lesser Sandhill Cranes, filed 9/10/71;

Regulation No 529, Establishing 1971 Seasons On Quail, Pheasants, And Prairie Chickens, filed 9/24/71; Regulation No. 536, Establishing Seasons on Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72; Regulation No. 538, Establishing 1972 Seasons On Blue-winged, Green-winged, And Cinnamon Teal And On Band-tailed Pigeons And Mourning And White-winged Doves, filed 8/15/72; Regulation No. 540, Establishing 1972 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, And Wilson's Swipe, filed 9/26/72; Regulation No. 541, Establishing 1972 Seasons On Quail, Pheasants, And Prairie Chickens, filed 9/26/72; filed; Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73; Regulation No. 548, Establishing 1973 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons And Mourning And White-winged Doves, filed 8/20/73; Regulation No. 549, Establishing 1973 Seasons On Quail, Pheasants, And Prairie Chickens, filed 8/20/73; Regulation No. 551, Establishing 1973 Seasons On Migratory Waterfowl And Lesser Sandhill Crane, filed 8/20/73; Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74; Regulation No. 559, Establishing 1974 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, filed 7/2/74; Regulation No. 560, Establishing 1974 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/21/74; Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared

Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75; Regulation No. 569, Establishing 1975 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, filed 7/31/75; 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. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76; Regulation No. 577, Establishing 1976 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, and Mourning and White-winged Doves, filed 8/3/76; 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. 587, Establishing 1977 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, Squirrel And Grouse, filed 7/29/77; 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. 593, Establishing 1978 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe And Falconry Seasons, filed 8/30/78; Regulation No. 594, Establishing 1978 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/11/78; Regulation No. 600, Establishing 1979 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, And Falconry Seasons, filed 7/27/79; Regulation No. 601, Establishing

1979 Seasons on Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens Regulation No. 605, Establishing 1980 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, And Falconry Seasons, filed 7/29/80; Regulation No. 606, Establishing 1980 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/3/80; Regulation No. 610, Establishing 1981 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, And Falconry Seasons, filed 8/19/81; Regulation No. 611, Establishing 1981 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/4/81; Regulation No. 615, Establishing 1982 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, And Falconry Seasons, filed 7/28/82; Regulation No. 616, Establishing 1982 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/3/82; Regulation No. 625, Establishing 1983 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, And Falconry Seasons, filed 7/29/83; Regulation No. 630, Establishing 1984 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, Quail, Pheasant, Prairie Chicken, And Falconry Seasons, filed 8/2/84; Regulation No. 637, Establishing 1985 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, Quail, Pheasant, Prairie

Chicken, And Falconry Seasons, filed 8/26/85; Regulation No. 642, Establishing 1986-87 Seasons On Grouse, Squirrel, Quail, Pheasant, Prairie Chicken, And Setting Falconry Seasons, filed 8/1/86; Regulation No. 652, Establishing 1987-88 Seasons On Blue Grouse, Ring-necked Pheasants (And All Other Races Of Pheasants), Lesser Prairie Chickens, Montezuma Quail, Northern Bobwhite, Scaled Quail, Gambel's Quail, Abert's Squirrels, Red Squirrels And Setting Falconry Seasons, filed 8/24/87; Regulation No. 661, Establishing 1988-89 Seasons On Blue Grouse, Ring-necked Pheasants (And All Other Races Of Pheasants), Lesser Prairie Chickens, Montezuma Quail, Northern Bobwhite, Scaled Quail, Gambel's Quail, Abert's Squirrels, Red Squirrels And Setting Falconry Seasons, filed 6/28/88; Regulation No. 668, Establishing 1989-90 Seasons On Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail (...Shall Mean Montezuma Quail, Northern Bobwhite, Scaled Quail, And Gambel's Quail), Abert's Squirrel, Red Squirrel And Setting Falconry Seasons, filed 9/1/89; Regulation No. 678, Establishing 1990-91 Seasons On Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Albert's And Red Squirrel And Setting Falconry Seasons, filed 7/26/90; Regulation No. 686, Establishing 1991-92 Seasons On Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Abert's And Red Squirrel And Setting Falconry Seasons, filed 8/6/91; Regulation No. 699, Establishing 1992-93 Seasons On Teal..., Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Abert's And Red Squirrel And Setting Falconry Seasons, filed 8/19/92; Regulation No. 703, Establishing 1993-94 Seasons On Teal..., Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Abert's And Red Squirrel And

Setting Falconry Seasons, filed 3/11/93; Regulation No. 706, Establishing 1994-95, 95-96, 96-97 Seasons On Blue-winged Teal, Green-winged Teal, Cinnamon Teal, Pheasants, Blue Grouse, Lesser Prairie Chicken, Montezuma Quail, and Northern Bobwhite, filed 7/28/94.

NMAC History:

19 NMAC 31.5, Upland Game, filed 7-18-95.
19.31.5 NMAC, Upland Game, filed 8-15-2000.
19.31.5 NMAC, Upland Game, filed 7-24-2002.
19.31.5 NMAC, Upland Game, filed 8-12-2003.
19.31.5 NMAC, Upland Game, filed 7-30-2004.
19.31.5 NMAC, Upland Game, filed 8-8-2005.
19.31.5 NMAC, Upland Game, filed 7-18-2006.
19.31.5 NMAC, Upland Game, filed 7-26-2007.
19.31.5 NMAC, Upland Game, filed 7-30-2008.

History of Repealed Material:

19.31.5 NMAC, Upland Game, filed 8-15-2000 - duration expired 3-31-2002.
19.31.5 NMAC, Upland Game, filed 7-24-2002 - duration expired 3-31-2003.
19.31.5 NMAC, Upland Game, filed 8-12-2003 - duration expired 3-31-2004.
19.31.5 NMAC, Upland Game, filed 7-30-2004 - duration expired 3-31-2005.
19.31.5 NMAC, Upland Game, filed 8-8-2005 - duration expired 3-31-2006.
19.31.5 NMAC, Upland Game, filed 7-18-2006 - duration expired 3-31-2007.
19.31.5 NMAC, Upland Game, filed 7-26-2007 - duration expired 3-31-2008.
19.31.5 NMAC, Upland Game, filed 7-30-2008 - duration expired 3-31-2010.
19.31.5 NMAC, Upland Game, filed 8-2-2010 - duration expired 3-31-2014.
19.31.5 NMAC, Upland Game, filed

4-1-2014 - duration expired 3-31-2018.

GAME AND FISH, DEPARTMENT OF

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 - Rp, 19.31.6.1 NMAC, 8-15-2017]

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 NMAC.

[19.31.6.2 NMAC - Rp, 19.31.6.2 NMAC, 8-15-2017]

19.31.6.3 STATUTORY

AUTHORITY: Section 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.

[19.31.6.3 NMAC - Rp, 19.31.6.3 NMAC, 8-15-2017]

19.31.6.4 DURATION:

September 1, 2017 - March 31, 2018.

[19.31.6.4 NMAC - Rp, 19.31.6.4 NMAC, 8-15-2017]

19.31.6.5 EFFECTIVE

DATE: September 1, 2017 unless a later date is cited at end of a section.

[19.31.6.5 NMAC - Rp, 19.31.6.5 NMAC, 8-15-2017]

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 - Rp, 19.31.6.6 NMAC, 8-15-2017]

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. "Bernardo youth unit"

shall mean that portion of Bernardo wildlife management area immediately south of the Quagmire and east of the unit 7 drain.

F. "Bow"

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

G. "Central flyway"

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

H. "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.

I. "Dark goose"

shall mean Canada goose or white-fronted goose.

J. "Department"

shall mean the New Mexico department of game and fish.

K. "Department"

offices” shall mean department offices in Santa Fe, Albuquerque, Raton, Las Cruces, or Roswell.

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

M. “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.

N. “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.

O. “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.

P. “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; or

(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.

Q. “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.

R. “Falconry” shall mean hunting migratory game birds using raptors.

S. “Federal youth waterfowl hunting days” shall mean the special seasons where only those under 18 years of age may hunt ducks and geese. A supervising adult at least 18 years of age 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.

T. “License year” shall mean the period from April 1 through March 31.

U. “Light geese” shall mean snow geese, blue phase snow geese, and Ross’s geese.

V. “Light goose 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 goose populations.

W. “Middle Rio Grande valley dark goose hunt area” shall mean Sierra, Socorro and Valencia counties.

X. “Middle Rio Grande valley sandhill crane hunt area” (MRGV) shall mean Valencia and Socorro counties.

Y. “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.

Z. “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.

AA. “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.

BB. “Non-toxic shot” shall mean that non-toxic shot approved for use by the USFWS.

CC. “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 Tucumcari and U.S. 54 at its junction with I-40 at Tucumcari to the New Mexico-Texas border.

DD. “Pacific flyway” shall mean that portion of New Mexico west of the continental divide including the Jicarilla Apache Indian reservation.

EE. “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.

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

GG. “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 NMSA 1978; or

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

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

II. “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.

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

KK. “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 Tucumcari and U.S. 54 at its junction with I-40 at Tucumcari to the New Mexico-Texas border.

LL. “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.

MM. “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.

NN. “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.

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

PP. “Youth” shall mean those younger than 18 years of age except where otherwise defined. [19.31.6.7 NMAC - Rp, 19.31.6.7 NMAC, 8-15-2017]

19.31.6.8 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 twenty percent 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 - Rp, 19.31.6.8 NMAC, 8-15-2017]

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, and SW sandhill crane, 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.

(4) For band-tailed pigeon hunting: in addition to a valid license, a free band-tailed pigeon 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 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 EV, MRGV, MRGV youth-only, and SW sandhill crane hunt permits shall be on date(s) set by the state game commission. If any permits are available after the drawing, those permits may be sold online via a secondary sale.

(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, including federal youth waterfowl hunt days.

[19.31.6.9 NMAC - Rp, 19.31.6.9 NMAC, 8-15-2017]

19.31.6.10 MANNER AND METHODS FOR MIGRATORY GAME BIRDS:

A. Season: Migratory game birds may be hunted or taken only during open seasons.

B. Hours: Migratory game birds may be hunted or taken 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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.

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

I. 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 bolts; 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 pigeon, and eastern sandhill crane; 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.

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

K. 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.

L. 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; or
- (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.

M. 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.

N. 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, harry, 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 a medical doctor or doctor of optometry 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.

O. 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 general waterfowl hunting from one-half hour before sunrise to 1:00 p.m. on Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(iv)

The Bernardo youth unit shall be open for youth waterfowl hunting from one-half hour before sunrise to 1:00 p.m. on Monday, Wednesday and Saturday 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, each day of the September teal season, and on Monday, Wednesday, and Saturday to hunt ducks, dark and light geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons. McAllister lake WMA shall also be open each day of the dove season for dove hunting.

(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 during established seasons.

(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

Hammond tract WMA is open for waterfowl hunting during established seasons.

(7) The

Retherford tract WMA is open for waterfowl hunting during established 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.

P. 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 one-quarter 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; and

(c) these areas shall be designated by posting of signs and identified on the department's website.

Q. 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 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 - Rp, 19.31.6.10 NMAC, 8-15-2017]

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

A. **2017 -2018 season;**
all dates are 2017 unless otherwise specified. Possession limits are three times the daily bag limit unless otherwise specified.

Continued On The Following Page

species	open areas	season dates	daily bag limit
mourning and white-winged dove	north zone	Sept. 1 - Nov. 29	15 (singly or in aggregate)
	south zone	Sept. 1 - Oct. 29 and Dec. 2 - Jan. 1, 2018	
band-tailed pigeon	southwest BPHA	Oct. 1 - 14	2
	regular BPHA	Sept. 1 - 14	
regular season sandhill crane (free permit required)	eastern	Oct. 28 - Jan. 28, 2018	3 (6 in possession)
special season sandhill crane (special draw permit required)	MRGV southwest	Nov. 11 - 12	3 (6 in possession)
	MRGV southwest	Oct. 28 - Nov. 5	
	MRGV southwest	Nov. 25 - 26	
	MRGV southwest	Dec. 16 - 17	
	MRGV	Jan. 6 - 7, 2018	3 (6 in possession)
	MRGV	Jan. 6 - 7, 2018	
	MRGV	Jan. 13-14, 2018	
	EV	Oct. 28 - Oct. 31	3 (6 in possession)
	EV	Nov. 2 - Nov. 5	
	MRGV youth-only	Nov. 4	3

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. 16 - 24	6 (singly or in the aggregate)
ducks	north zone: Oct. 14 - Jan. 7, 2018	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, 1 pintail, and 2 canvasback
	south zone: Oct. 25 - Jan. 28, 2018	
youth waterfowl days	north zone: Sept. 30 - Oct. 1	
	south zone: Oct. 7 - 8	
American coot	north zone: Oct. 14 - Jan. 17, 2018	15
	south zone: Oct. 25 - Jan. 28, 2018	
common moorhen	Sept. 16 - Nov. 24	1
common snipe	Oct. 14 - Jan. 28, 2018	8
Virginia rail & sora	Sept. 16 - Nov. 24	10 (singly or in the aggregate); 20 in possession
dark goose: Canada & white-fronted geese (regular season closed in Sierra, Socorro, and Valencia counties)	Oct. 14 - Jan. 28, 2018	5
dark goose: special MRGV season	Dec. 23 - Jan. 16, 2018	2 (2 per season)
light goose: Ross's & snow geese	Oct. 14 - Jan. 28, 2018	50 (no possession limit)
light goose conservation order	Feb. 1 - Mar. 10, 2018	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. 7 - 8	7 (singly or in the aggregate); that consists of no more than 2 female mallard, 2 redhead, 1 pintail, and 2 canvasback
ducks	Oct. 16 - Jan. 28, 2018	

scaup	Oct. 16 - Jan. 9, 2018	3 (as part of the aggregate duck bag)
American coot and common moorhen	Oct. 16 - Jan. 28, 2018	25 daily (singly or in the aggregate)
common snipe	Oct. 16 - Jan. 30, 2018	8
Virginia rail & sora	Sept. 16 - Nov. 24	25 daily (singly or in the aggregate)
goose	north zone: Sept. 23 - Oct. 8 and Oct. 30 - Jan. 28, 2018	4 Canada geese, 10 white-fronted geese, and 20 light geese
	south zone: Oct. 14 - Jan. 28, 2018	
	south zone: Oct. 15 - Jan. 29, 2017	

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 - Rp, 19.31.6.11 NMAC, 8-15-2017]

19.31.6.12 FALCONRY SEASONS: 2017-2018 season, all dates are 2017 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	north	Sept. 1 - Dec. 4 and Dec. 23 - Jan. 3, 2018
	south	Sept. 1 - Nov. 6 and Nov. 23 - Jan. 1, 2018
band-tailed pigeon	southwest BPHA	Oct. 1 - 14
	regular BPHA	Sept. 1 - 14
sora and Virginia rail	all	Sept. 16 - Dec. 31
common snipe	all	Oct. 14 - Jan. 28, 2018
common moorhen	all	Sept. 16 - Dec. 31
ducks	north	Sept. 16 - 24 and Oct. 14 - Jan 17, 2018
	south	Sept. 16 - 24 and Oct. 25 - Jan 28, 2018
goose (light and dark)	all	Oct. 14 - Jan. 28, 2018
goose (dark)	MRGV	Dec. 23 - Jan. 16, 2018
sandhill crane	regular (eastern)	Oct. 14 - Jan. 28, 2018; 3 (6 in possession)
	Estancia valley	Oct. 28 - Dec. 26; 3 (6 in possession)
PACIFIC FLYWAY		
species	open areas	season dates
mourning and white-winged dove	north	Sept. 1 - Dec. 4 and Dec. 23 - Jan. 3, 2018
	south	Sept. 1 - Nov. 6 and Nov. 23 - Jan. 1, 2018
band-tailed pigeon	southwest BPHA	Oct. 1 - Oct. 14
	regular BPHA	Sept. 1 - Sept. 14
duck	all	Oct. 14 - Jan. 28, 2018
scaup	all	Oct. 14 - Jan. 7, 2018
goose	north	Sept. 23 - Oct. 8 and Oct. 30 - Jan. 28, 2018
	south	Oct. 14 - Jan. 28, 2018
common snipe	all	Oct. 16 - Jan. 31, 2018
coots and common moorhen	all	Oct. 16 - Jan. 28, 2018
sora and Virginia rail	all	Sept. 16 - Nov. 24

[19.31.6.12 NMAC - Rp, 19.31.6.12 NMAC, 8-15-2017]

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 younger than 18 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 - Rp, 19.31.6.13 NMAC, 8-15-2017]

19.31.6.14 REQUIREMENTS FOR THE SPECIAL BERNARDO YOUTH WATERFOWL UNIT:

- A. The Bernardo youth hunt unit will only be open for youth waterfowl hunting.
- B. Blind selection will be available on a first-come, first-serve basis from one-half hour before sunrise to 1:00 p.m. Youth hunters must be accompanied by a supervising adult who may not hunt. A maximum of four people is allowed per blind, at least fifty percent of which must be youth hunters.

[19.31.6.14 NMAC - Rp, 19.31.6.14 NMAC, 8-15-2017]

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 2017-2018 are:

season dates	hunt code	hunt location	no. of permits	season dates	hunt code	hunt location	no. of permits
Oct 28 - Oct 31 and Nov. 2 - Nov. 5	SCR-0-101	EV	65	Jan. 13-14, 2018	SCR-0-106	MRGV	60
Nov. 11 - 12	SCR-0-102	MRGV	75	Nov. 4	SCR-0- 107	MRGV	24
Nov. 25-26	SCR-0-103	MRGV	60	Oct. 28- Nov. 5	SCR-0-108	SW	70
Dec. 16-17	SCR-0-104	MRGV	60	Jan. 6-7, 2018	SCR-0-109	SW	60
Jan. 6-7, 2018	SCR-0-105	MRGV	60				

- 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 - Rp, 19.31.6.15 NMAC, 8-15-2017]

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 8-2-2010
 19.31.6 NMAC, Migratory Game Bird, filed 8-1-2011
 19.31.6 NMAC, Migratory Game Bird, filed 8-14-2012
 19.31.6 NMAC, Migratory Game Bird, filed 8-29-2013

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, Migratory Game Bird, filed 8-13-2008 - duration expired 3-31-2009
 19.31.6 NMAC, Migratory Game Bird, filed 8-17-2009 - duration expired 3-31-2010
 19.31.6 NMAC, Migratory Game Bird, filed 8-2-2010 - duration expired 3-31-2011
 19.31.6 NMAC, Migratory Game Bird, 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
 19.31.6 NMAC, Migratory Game Bird, filed 8-31-2014 - duration expired 3-31-2015
 19.31.6 NMAC, Migratory Game Bird, filed 9-1-2015 - duration expired 3-31-2016
 19.31.6 NMAC, Migratory Game Bird, filed 6-30-2016 - duration expired 3-31-2017

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department approved, at its 5/26/2017 hearing, to repeal its rule 6.69.2 NMAC, Unsatisfactory Work Performance of Certified (Licensed) School Personnel (filed 08/30/2012) and replace it with rule 6.69.2 NMAC, Unsatisfactory Work Performance of Certified (Licensed) School Personnel, adopted on 07/25/2017 and effective 8/15/2017.

The New Mexico Public Education Department approved, at its 5/26/2017 hearing, to repeal its rule 6.69.8 NMAC, Teacher and School Leader

Effectiveness (filed 08/30/2012) and replace it with 6.69.8 NMAC, Teacher and School Leader Effectiveness, adopted on 07/25/2017 and effective 8/15/2017.

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 69 SCHOOL PERSONNEL - PERFORMANCE PART 2 UNSATISFACTORY WORK PERFORMANCE OF CERTIFIED (LICENSED) SCHOOL PERSONNEL

6.69.2.1 ISSUING

AGENCY: Public Education Department (PED).

[6.69.2.1 NMAC - Rp, 6.69.2.1 NMAC, 08/15/2017]

6.69.2.2 SCOPE: This regulation applies to local school boards, governing authorities of state agencies and certified (licensed) school personnel.

[6.69.2.2 NMAC - Rp, 6.69.2.2 NMAC, 08/15/2017]

6.69.2.3 STATUTORY

AUTHORITY: This regulation is adopted pursuant to Section 22-10A-19, 22-10A-27 NMSA 1978.

[6.69.2.3 NMAC - Rp, 6.69.2.3 NMAC, 08/15/2017]

6.69.2.4 DURATION:

Permanent

[6.69.2.4 NMAC - Rp, 6.69.2.4 NMAC, 08/15/2017]

6.69.2.5 EFFECTIVE

DATE: August 15, 2017 unless a later date is cited at the end of a section.

[6.69.2.5 NMAC - Rp, 6.69.2.5 NMAC, 08/15/2017]

6.69.2.6 OBJECTIVE:

This regulation establishes procedures for supervising and correcting "unsatisfactory work performance" of licensed school personnel before

notice of intent to discharge or notice of termination is served upon them or before requesting the secretary to suspend a level three teaching license for unsatisfactory work performance at level three licensure, and further to distinguish between the terms "unsatisfactory work performance" and "insubordination".

[6.69.2.6 NMAC - Rp, 6.69.2.6 NMAC, 08/15/2017]

6.69.2.7 DEFINITIONS:

A. "Administrative authority" means the superintendent, principal or a person acting under the authority of such superintendent or principal.

B. "Insubordination" means actual or implied willful refusal to follow written policies, regulations, rules, or procedures established by the department, the local school board, or administrative authorities; or the lawful written or oral orders, requests, or instructions of administrative authorities.

C. "Secretary" means the secretary of education department.

D. "Uncorrected unsatisfactory work performance" means unsatisfactory work performance which the licensed school personnel has failed to correct pursuant to the provisions in this regulation; provided, however, that if unsatisfactory work performance is uncorrectable through the evaluation and supervision process, as determined by the local school board policy, the provisions in this regulation shall not apply.

E. "Unsatisfactory work performance" means the failure by licensed school personnel to satisfactorily perform those tasks which are evaluated by the employee's supervisors, pursuant to the school district's approved plans for evaluation and supervision of its licensed employees. For the purpose of this regulation unsatisfactory work performance does not include insubordination or conduct deemed to be outside the normal scope of duties of licensed school personnel.

[6.69.2.7 NMAC - Rp, 6.69.2.7 NMAC, 08/15/2017]

6.69.2.8 UNCORRECTED UNSATISFACTORY WORK PERFORMANCE:

A. Uncorrected unsatisfactory work performance is good cause for discharging or termination of licensed school personnel or for requesting the secretary to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC so long as procedures established in Subsection B of Section 6.69.2.8 NMAC herein are followed.

B. The following procedures shall be followed by local school boards or governing authorities of state agencies in supervising and correcting unsatisfactory work performance of licensed school personnel before serving them with notice of intent to discharge pursuant to Section 22-10A-27 NMSA 1978 or before requesting the secretary to suspend a level three teaching license under Subsection F of 6.69.4.10 NMAC.

C. Every person who evaluates a licensed school employee under this rule shall submit an original written report to the school district superintendent, and an exact copy to the licensed school employee being evaluated. The effectiveness evaluation shall not be changed once each component is completed and delivered to either the school district superintendent or the licensed school employee being evaluated. In addition to the requirements in Subsection B of 6.69.2.8 NMAC, before requesting the secretary to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC a local school district or governing authority of state agencies shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary.

D. A licensed school employee rated minimally effective or ineffective may provide a written statement in response to their effectiveness evaluation, and that statement shall become a permanent attachment to that employee's

evaluation file.

E. Every person who rates a licensed school employee minimally effective or ineffective shall describe in detail the minimally effective or ineffective performance and, in writing, inform the licensee of the following:

(1) the right to a post-evaluation conference which the evaluator must convene and which shall occur no later than ten days after the evaluation is completed unless the employee agrees to an extension;

(2) that during the conference the evaluator will make recommendations to the employee with respect to specific areas of unsatisfactory performance and provide feedback that establishes the initial framework for an individual professional growth plan;

(3) that the evaluator will provide assistance in helping the employee correct unsatisfactory performance and the district will extend strategic support aligned to best practices identified by the department to assist the employee in correction of the unsatisfactory performance;

(4) that if the employee has an employment contract, the employee may be placed on a performance growth plan at the discretion of the evaluator for 90 school days from receipt of the notice of unsatisfactory work performance, provided that:

(a) the 90 days shall not include weekends, school holidays or school vacation periods, declared snow days, and approved employee leave days;

(b) during the 90 days the licensed school employee shall be observed and evaluated more than four times in writing and shall be informed of the results of those observations; and

(c) the evaluator shall maintain documentation of having provided assistance and notification of in-service training opportunities to help correct the performance deficiencies noted of the licensed school employee; and

(5) that receipt of the notice may constitute notice of uncorrected unsatisfactory work performance pursuant to Section 22-10A-3 NMSA 1978 and 6.69.2 NMAC.

F. Within five school days after the expiration of the 90-day performance growth plan, the evaluator shall determine whether the performance deficiencies have been corrected and forward a written recommendation to the school district superintendent.

G. Within 10 school days after receipt of that written recommendation, the school district superintendent or charter school head administrator shall provide the licensed school employee who has an employment contract with the school district written notification expressing whether the performance deficiencies have been satisfactorily corrected. A copy of the evaluator's recommendation shall accompany that notice.

H. If satisfactory progress has not been made, the local superintendent or charter school head administrator shall determine whether to discharge or terminate the employee pursuant to Sections 22-10A-27 or 22-10A-24, NMSA 1978.

I. An employee who has been placed on a 90-day performance growth plan because of unsatisfactory work performance, and who has not been employed by a school district for three consecutive years shall have no reasonable expectation of continued employment beyond the end of the contract year by reason of being on a performance growth plan.

[6.69.2.8 NMAC - Rp, 6.69.2.8 NMAC, 08/15/2017]

HISTORY OF 6.69.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under:

State Board of Education Regulation No. 74-6, Regulation Governing Procedures to be Followed by Local School Boards in Supervising and

Correcting Unsatisfactory Work Performance of Certified School Personnel, filed March 14, 1974; State Board of Education Regulation No. 75-8, Regulation Governing Procedures to be Followed by Local School Boards in Supervising and Correcting Unsatisfactory Work Performance of Certified School Personnel, filed July 14, 1975; State Board of Education Regulation No. 76-24, Insubordination and Unsatisfactory Work Performance of Certified School Personnel, filed December 16, 1976; State Board of Education Regulation No. 77-1, Insubordination and Unsatisfactory Work Performance of Certified School Personnel, filed February 2, 1977; and State Board of Education Regulation No. 89-1, Unsatisfactory Work Performance of (Certified) Licensed School Personnel, filed February 10, 1989.

HISTORY OF REPEALED

MATERIAL: 6.69.2 NMAC, Unsatisfactory Work Performance of Certified (Licensed) School Personnel, filed 6/1/2001 - Repealed effective 08/15/2017.

OTHER HISTORY: 6.69.2 NMAC, , Unsatisfactory Work Performance of Certified (Licensed) School Personnel, filed 6/1/2001 was replaced by 6.69.2 NMAC, Unsatisfactory Work Performance of Certified (Licensed) School Personnel, effective 8/15/2017.

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 69 SCHOOL PERSONNEL - PERFORMANCE PART 8 TEACHER AND SCHOOL LEADER EFFECTIVENESS

6.69.8.1 ISSUING

AGENCY: Public Education Department (PED).

[6.69.8.1 NMAC - Rp, 6.69.8.1

NMAC, 08/15/2017]

6.69.8.2 SCOPE: This rule governs standards for determining and measuring teacher and school leader effectiveness.

[6.69.8.2 NMAC - Rp, 6.69.8.2 NMAC, 08/15/2017]

6.69.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, 22-10A-18, 22-10A-19 and 22-10A-19.2, NMSA 1978.

[6.69.8.3 NMAC - Rp, 6.69.8.3 NMAC, 08/15/2017]

6.69.8.4 DURATION: Permanent.

[6.69.8.4 NMAC - Rp, 6.69.8.4 NMAC, 08/15/2017]

6.69.8.5 EFFECTIVE DATE: August 15, 2017 unless a later date is cited at the end of a section.

[6.69.8.5 NMAC - Rp, 6.69.8.5 NMAC, 08/15/2017]

6.69.8.6 OBJECTIVE: This rule establishes uniform procedures for conducting annual evaluations of licensed school employees, for setting the standards for each effectiveness level, for measuring and implementing student achievement growth, and for monitoring each school district's implementation of its teacher and school leader effectiveness evaluation system. This rule also seeks to change the dynamic of placing emphasis on teacher effectiveness and provide the opportunity to acknowledge excellence. Continuing advancement and licensure determinations will be guided pursuant to 6.60.6.9 NMAC.

[6.69.8.6 NMAC - Rp, 6.69.8.6 NMAC, 08/15/2017]

6.69.8.7 DEFINITIONS:

A. "Assistant principal" means a properly licensed instructional leader who assists a principal in a public school.

B. "BIE school" means a bureau of Indian education school that is governmentally owned

and controlled, located in New Mexico, provides instruction for first through twelfth grades and is not sectarian or denominational.

C. "Certified observer" means an individual who:

(1) holds an active level 3-B license or an active teaching license;

(2) is employed by a school district or charter school as an administrator or a teacher as defined by this rule;

(3) completes the PED's teacher observation training and who passes the PED's assessment of the adopted observation protocol;

(4) receives a highly effective or exemplary rating during the previous school year; and

(5) completes follow-up training and who passes the PED's assessment of the adopted observation protocol on an annual basis; for purposes of this subsection, annual basis means the earlier of August 1 of a given school year or 90 days after hire; provided, however, that the annual training and certification is transferable within the state.

D. "Department" means the New Mexico public education department or PED.

E. "EES" means effectiveness evaluation systems developed by the department.

F. "Fidelity observations" means the requirement of school leaders to periodically observe and evaluate assigned teachers in the classroom with observations that have been documented and are verifiable.

G. "Licensed school employee" means teachers and school leaders employed in a public school.

H. "Novice Teacher" means a person who holds a level one or a level one alternative license and is in their first year three years of teaching.

I. "Principal" means the chief instructional leader and administrative head of a public school.

J. "School district"

means one of the 89 political subdivisions of the state created for the administration of public schools and includes those state-authorized charter schools that have not requested waiver of evaluation standards for school personnel. District-authorized charter schools are excluded from being considered a school district for purposes of this rule.

K. "School district superintendent" means the chief executive officer of a school district and the head administrator of a charter school.

L. "School leader" means a principal or assistant principal employed in a public school.

M. "State agency" means the New Mexico military institute, the New Mexico school for the blind and visually impaired, the New Mexico school for the deaf, any juvenile detention center or facility served by the juvenile justice service of the children youth and families department, the New Mexico youth diagnostic and development center, the Sequoyah adolescent treatment center of the department of health, Carrie Tingley crippled children's hospital, the New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children.

N. "Teacher" means a person who holds a level 1, 2, or 3-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers. "Teacher" shall not include any person issued a Native American language and culture certificate pursuant to the School Personnel Act [Sections 22-10A-1 to 22-10A-39 NMSA 1978].

[6.69.8.7 NMAC - Rp, 6.69.8.7 NMAC, 08/15/2017]

6.69.8.8 EFFECTIVENESS EVALUATION SYSTEMS:

A. Nothing in this

rule shall be construed to infringe upon the local superintendent's discretion to make decisions about discharge and termination or to make recommendations about licensure advancement or renewal.

B. Each school district shall report annually to the department the results of its effectiveness evaluations of its licensed school employees and the alignment of its effectiveness evaluation system with the three-tiered licensure system.

C. A teacher and school leader EES shall:

(1) be designed to support effective instruction and student achievement, with the results used to inform school district and school level improvement plans;

(2) provide appropriate instruments, procedures and criteria and continuous quality improvement of professional skills, with results used to support the professional development of licensed school employees;

(3) include a mechanism to examine effectiveness data from multiple sources, which may include giving parents and students opportunities to provide input into effectiveness evaluations when appropriate;

(4) identify those teaching fields for which special evaluation procedures and criteria may be developed in a manner that is consistent and reliable;

(5) include measures of student achievement growth worth thirty-five percent, observations worth forty percent, and other multiple measures worth twenty-five percent, unless otherwise provided for;

(6) differentiate among at least five levels of performance, which include the following:

(a) exemplary, meets competency;

(b) highly effective, meets competency;

(c) effective, meets competency;

(d) minimally effective, does not meet competency; and

(e) ineffective, does not meet competency.

D. Teacher and school leader effectiveness evaluation procedures for licensed school employees shall be based on the performance of students assigned to their classrooms or public schools.

E. Every public school classroom teacher who teaches in a grade or subject that has a standards-based assessment that would permit the calculation of student achievement growth, must have an annual effectiveness evaluation, provided that:

(1) each evaluation shall be based on sound educational principles and contemporary research in effective educational practices; and

(2) the student achievement growth component of a teacher's effectiveness evaluation shall be based on:

(a) valid and reliable data and indicators of teacher impact on student achievement growth assessed annually and based upon department-approved assessments, provided that this calculation shall not be based on a single test score;

(b) thirty-five percent of a teacher's evaluation will be comprised of this calculation.

F. Every public school classroom teacher who teaches in a grade or subject that does not have a standards-based assessment, also must have an annual effectiveness evaluation, provided that:

(1) each evaluation shall be based on sound educational principles and contemporary research in effective educational practices; and

(2) the student achievement growth component of a teacher's effectiveness evaluation shall be based on valid and reliable data and indicators of teacher impact on student achievement growth assessed annually.

G. An EES shall base at least forty percent of the results on data and indicators of instructional practice for teachers. School leaders shall observe instructional practice of teachers using common research-based observational protocol approved by the department that correlates observations to improved student achievement.

H. An EES shall base at least twenty-five percent of the results on other measures of teacher effectiveness, of which fifteen percent are planning, preparation and professionalism, five percent are associated with a teacher's attendance, provided that a teacher may use up to six days of leave before it is calculated into the summative report, and five percent with student and parent perception surveys.

I. Effectiveness evaluation criteria for evaluating classroom teachers shall include indicators based on research-based instructional practices as determined by the department.

J. School districts that receive funding under the Bilingual Multicultural Education Act [Sections 22-23-1 to 22-23-6 NMSA 1978] or with students possessing limited English proficiency should ensure that they are doing all they can to carry out all state and federal activities and programs to assist those student populations.

K. Individual teacher evaluations and effectiveness ratings (including components of the evaluation such as observations, student achievement growth data, and any other measures of effectiveness) that are collected or maintained by the PED or any local board of education or governing authority shall not constitute public records and shall not be subject to disclosure pursuant to 14-2-1 NMSA 1978.

L. The department maintains a list of approved assessment options and effectiveness evaluation measures and criteria for evaluating classroom teachers on its website, which can be accessed at <http://ped.state.nm.us/> and used by school districts for determining

the student achievement growth component and evaluation criteria in a teacher's effectiveness evaluation. [6.69.8.8 NMAC - Rp, 6.69.8.8 NMAC, 08/15/2017]

6.69.8.9 STUDENT ACHIEVEMENT GROWTH AND STUDENT ASSESSMENT PROGRAMS:

A. School districts shall use the department-adopted student achievement growth measure to measure the growth in achievement of each student as applied to the teacher's effectiveness rating.

B. Whenever possible, an EES rating the performance of a classroom teacher shall include three years of student achievement growth data.

C. Beginning with the 2016-2017 school year, each school district shall administer a student assessment for each course they offer that measures mastery of the content as described in the state-adopted course description at the necessary level of rigor for the course. The student assessments may include:

(1) statewide assessments currently administered in mathematics, reading, science and early literacy; and

(2) department-approved end-of-course assessments.

[6.69.8.9 NMAC - Rp, 6.69.8.9 NMAC, 08/15/2017]

6.69.8.10 EFFECTIVENESS EVALUATIONS OF SCHOOL LEADERS:

A. Every school leader must have an annual effectiveness evaluation, which shall be conducted by a qualified person and approved by PED.

B. All EES ratings for the performance of a school leader shall be based thirty-five percent on the growth measures in a school's A through F letter grade that has been assigned pursuant to 6.19.8 NMAC, twenty-five percent based on the school's multiple measures and forty percent based upon quality criteria of school leaders classroom observations

of teachers as determined by the department.

C. The effectiveness evaluation of school leaders shall, whenever possible, include growth based on three years of data for students assigned to the public school, provided that, the student achievement growth component of the effectiveness evaluation shall be based on the growth measures in the school's A through F letter grade pursuant to 6.19.8 NMAC.

D. The department maintains a list of leadership standards on its website, which can be accessed at <http://ped.state.nm.us/> and used by school districts in establishing indicators for conducting effectiveness evaluation of school leaders.

[6.69.8.10 NMAC - Rp, 6.69.8.10 NMAC, 08/15/2017]

6.69.8.11 EVALUATIONS, OBSERVATIONS, REPORTS AND POST-EVALUATION CONFERENCES:

A. Beginning with 2017-2018 school year and during each succeeding school year, every classroom teacher must be formally observed using one of the following options, with at least one of the required observations conducted by the school principal or assistant principal:

(1) three observations conducted by the same certified observer; or

(2) two observations, consisting of one observation by each of two different certified observers.

(3) one observation by a certified observer for teachers that have received a highly effective or exemplary rating on their most recent NMTEACH summative report, inclusive of fifty percent of the possible student achievement points.

B. In addition to formal observations, an informal walkthrough observation shall be conducted aligned to district priorities, with feedback provided, for each teacher within the first 45 days of the teacher's first day of

instruction.

C. An approved or certified observer must use a PED-developed protocol and form that contains at a minimum the observer's name, the classroom teacher's name, the date, the start and stop time of the observation, the number of students present, space for subjective and objective observation, and a total point score for that teacher. An external observer must further:

(1) complete the written observation of a classroom teacher before leaving the school on the day of the observation;

(2) agree to maintain confidentiality of the observation and agree not to discuss the observations with anyone except the principal; and

(3) verify that the observer has not retained or removed a copy of the observation or field notes from school premises.

D. Written feedback from a school leader and an approved or certified observer shall be provided to an observed classroom teacher within ten calendar days after observation is completed, which observation can occur over more than one day, provided that a school district's EES permits this.

E. The school leader responsible for supervising a licensed school employee shall be the one who evaluates that employee's performance. The school district's EES:

(1) may provide for the supervisor to consider input from other trained evaluators and observers provided that they are not also supervised by the supervisor nor are related by blood or marriage to the supervisor; and

(2) shall provide for contingencies if a supervisor leaves a school district for any reason prior to completing the required effectiveness evaluations of all teachers within that supervisor's responsibilities.

[6.69.8.11 NMAC - Rp, 6.69.8.11 NMAC, 08/15/2017]

**6.69.8.12 APPEAL
OF EFFECTIVENESS
EVALUATIONS:**

A. A school district shall adopt procedures for permitting expedited review for the purpose of a licensed school employee requesting an exemption from being rated during a given school year under the school district's EES based only upon extraordinary circumstances.

B. The procedures shall require a written appeal to be submitted to the appellate reviewer within no more than 15 calendar days of receipt of a written notice that the licensed employee's performances deficiencies have not been satisfactorily corrected.

C. Appeals shall be received in a manner that permits verification of the date of receipt.

D. The person who evaluated the licensed school employee shall not be same person who receives and determines the appeal.

E. An exemption from the provisions of this rule can only be granted for one school year based upon extraordinary circumstances, which shall consist of:

(1) a licensed school employee's not having performed services during an entire school year, excluding days out for approved leave and school holidays or closure days, for reasons beyond the employee's control;

(2) a licensed school employee's not being able to perform services for extended periods during a school year due to documented medical reasons of the employee or of the employee's spouse, live-in partner or a child;

(3) a licensed school employee's not being able to perform services for extended periods during a school year due to the death of the employee's spouse, live-in partner or a child; or

(4) a licensed school employee's not having been afforded a full 90 days to demonstrate growth in performance for any reason including the employee's own illness, provided that it shall be

the employee's burden to provide verification of not being afforded the full 90 days.

F. All decisions on appeals rendered under this section shall be final and not further reviewable by anyone else at the school district or by the PED.
[6.69.8.12 NMAC - Rp, 6.69.8.12 NMAC, 08/15/2017]

**6.69.8.13 TEACHERS AND
ADMINISTRATORS IN NON-
PUBLIC SCHOOLS:**

A. Only licensed teachers and school leaders employed in schools subject to the A-B-C-D-F Schools Rating Act [Sections 22-2E-1 to 22-2E-4 NMSA 1978] shall be governed by any requirement or provision of this rule.

B. Specifically, neither licensed teachers nor administrators employed in private schools, BIE schools or state agencies shall be governed by any requirement or provision of this rule.
[6.69.8.13 NMAC - Rp, 6.69.8.13 NMAC, 08/15/2017]

**HISTORY OF 6.69.8 NMAC:
[RESERVED]**

**HISTORY OF REPEALED
MATERIAL:** 6.69.8 NMAC, Teacher and School Leader Effectiveness, filed 08/30/2012 - Repealed effective 08/15/2017.

OTHER HISTORY: 6.69.8 NMAC, Teacher and School Leader Effectiveness, filed 08/30/2012 was replaced by 6.69.8 NMAC, Teacher and School Leader Effectiveness, effective 8/15/2017.

**PUBLIC EDUCATION
DEPARTMENT**

**This is an amendment to 6.60.6
NMAC, Section 9, effective
08/15/2017.**

**6.60.6.9 REQUIREMENTS
FOR ADVANCEMENT AND
RENEWAL OF TEACHING
LICENSES:**

A. A teacher holding a valid level 1 license and seeking a level 2 license pursuant to the provisions of this rule shall meet the following requirements, which may not be waived or substituted by any other experience:

(1) complete three full school years of teaching experience as the teacher of record at [standard] level 1 New Mexico licensure with successful annual evaluations as determined by the local superintendent. The local superintendent shall consider the effectiveness ratings from the NMTEACH evaluation system as a consideration in determining whether the teacher has had successful evaluations. The superintendent will consider all annual evaluations that have occurred during the term of the level 1 license, except that a teacher who has completed two full school years of teaching experience while holding standard teaching licensure in New Mexico or in another state or country or has obtained level 1 New Mexico teaching licensure through reciprocity in 6.60.4 NMAC and is seeking advancement to level 2 may be required by a local New Mexico school district to complete up to two full years of teaching experience in New Mexico before being eligible for licensure advancement to level 2 except that a person who has completed one full school year of teaching in another state or country must teach for two full school years under standard level 1 New Mexico licensure; and

(2) [submit, in a form acceptable to the director, a completed licensure application and either a professional development dossier (PDD), as provided in 6.69.4.11 NMAC or certification from the national board for professional teaching standards, and beginning in 2005, where the PDD may be submitted up to three months in advance of the completion of the requirement in Paragraph (1) of Subsection A of 6.60.6.9 NMAC with final PDD approval dependent upon the completion of three full years of teaching experience at level 1

licensure. Dossiers may be submitted only between the following dates:

(a) _____
for school year 2009/2010, October 15, 2009 and March 31, 2010;

(b) _____
for school year 2010/2011, July 15, 2010 and March 31, 2011;

(c) _____
for all subsequent years, July 15 and March 31;] submit, in a form acceptable to the director of licensure, a completed licensure application, along with the superintendent's assurance that the superintendent has considered the NMTEACH effectiveness ratings over the term of the level 1 license, as well as the superintendent's determination of successful annual evaluations. The teacher may apply for advancement by establishing either an effective or better rating on the NMTEACH evaluation system, as determined by the department; or, if the teacher does not meet the NMTEACH requirements, submit a professional development dossier (PDD), as provided in 6.69.4.11 NMAC or certification from the national board for professional teaching standards. The application for advancement may be submitted up to three months in advance of the completion of the requirement in Paragraph (1) of Subsection A of 6.60.6.9 NMAC with final approval dependent upon the completion of three full years of teaching experience at the level 1 licensure.

(3) complete the mentorship requirement for beginning teachers in 6.60.10 NMAC.

B. A teacher holding a valid level 2 license and seeking a level 3-A license pursuant to the provisions of this rule shall meet the following requirements, which may not be waived or substituted by any other experience:

(1) complete three full school years of teaching experience as the teacher of record at standard level 2 New Mexico licensure with successful annual evaluations as determined by the local superintendent. The local superintendent shall consider the

effectiveness ratings from the NMTEACH evaluation system as a consideration in determining whether the teacher has had successful evaluations. The superintendent will consider all annual evaluations that have occurred during the term of level 2 license, except that a teacher who has four or more full school years of teaching experience while holding standard teaching licensure in New Mexico or in another state or country or has obtained level 2 New Mexico teaching licensure through reciprocity in 6.60.4 NMAC and who is seeking advancement to level 3-A may be required by a local New Mexico school district to complete up to two full years of teaching experience in New Mexico before being eligible for licensure advancement to level 3-A; and

(2) hold a post-baccalaureate degree from a regionally accredited college or university or hold certification from the national board for professional teaching standards; and

(3) [submit, in a form acceptable to the director, a completed licensure application and either a professional development dossier (PDD), as provided in 6.69.4.11 NMAC or certification from the national board for professional teaching standards, and beginning in 2005, where the PDD may be submitted up to three months in advance of the completion of the requirement in Paragraph (1) of Subsection B of 6.60.6.9 NMAC with final PDD approval dependent upon the completion of three full years of teaching experience at level 2 licensure. Dossiers may be submitted only between the following dates:

(a) _____
for school year 2009/2010, October 15, 2009 and March 31, 2010;

(b) _____
for school year 2010/2011, July 15, 2010 and March 31, 2011;

(c) _____
for all subsequent years, July 15 and March 31;] submit, in a form acceptable to the director of licensure, a completed licensure application, along with the superintendent's

assurance that the superintendent has considered the NMTEACH effectiveness ratings over the term of the level 2 license, as well as the superintendent's determination of successful annual evaluations, the teacher may apply for advancement by establishing either an effective or better rating on the NMTEACH evaluation system, as determined by the department; or, if the teacher does not meet the NMTEACH requirements, submit a professional development dossier (PDD), as provided in 6.69.4.11 NMAC or certification from the national board for professional teaching standards. The application for advancement may be submitted up to three months in advance of the completion of the requirement in Paragraph (1) of Subsection A of 6.60.6.9 NMAC with final approval dependent upon the completion of three full years of teaching experience at level 2 licensure.

C. A teacher holding a valid level 2 or level 3-A teaching license and seeking licensure renewal at the same level as the current license shall meet the requirements of either (1) or (2) below:

(1) If renewing a license through the PED, submit, along with the fee specified in 6.60.7.8 NMAC, a completed application for licensure renewal to the director and verification from the superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has satisfactorily demonstrated the competencies for the current level of licensure and has met other requirements of the high objective uniform standard of evaluation for the current level of licensure as evidenced by the teacher's annual evaluations as determined by the local superintendent. The local superintendent shall consider the effectiveness ratings from the NMTEACH evaluation system as a consideration in determining whether

the teacher has had successful annual evaluations. The superintendent will consider all annual evaluations that have occurred during the term of the current license.

(2)

If renewing a license through a local New Mexico school district, state institution, charter school, or private school, complete the PED's application for licensure renewal. The employing school district, charter school, state institution, or private school shall attach to the application the PED's verification by the superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has satisfactorily demonstrated the competencies for the level of licensure sought and has met other requirements of the high objective uniform standard of evaluation for the level of licensure as is evidenced by the teacher's annual evaluations as determined by the local superintendent. The local superintendent shall consider the effectiveness ratings from the NMTEACH evaluation system as a consideration in determining whether the teacher has had successful annual evaluations. The superintendent will consider all annual evaluations that have occurred during the term of the current license. These documents will be maintained on file in the teacher's personnel file in the local school district, state institution, charter school, or private school. The superintendent or the superintendent's designee will authorize the PED to issue the renewal of licensure through electronic notification procedures established by the PED when the PED determines such an electronic system is viable and operational. The license shall be printed by, and mailed to the license holder from, the PED. Under no circumstances will local school districts directly issue or print a New Mexico educator license. The PED shall determine how or if renewal fees authorized in 6.60.7.8 NMAC shall

be paid by an applicant who renews the license under Paragraph (2) of Subsection C of 6.60.6.9 NMAC.

(3) If a teacher

does not satisfactorily demonstrate the competencies for the level of licensure or other requirements of the high objective uniform standard of evaluation for licensure renewal, the applicant, depending on the outcome of any due process proceeding under the Uniform Licensing Act, sections 61-1-1 through 61-1-31, NMSA 1978, might not be issued a license.

D. A person holding a valid level 3-A license may choose not to renew the level 3-A license and apply for a level 2 license. The superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure must submit to the director a verification that the applicant has satisfactorily met the high objective uniform standard of evaluation for level 2 license as is evidenced by the teacher's annual evaluations.

E. If a level 3-A teacher does not satisfactorily meet the high objective uniform standard of evaluation for level 3-A licensure renewal, the applicant, depending on the outcome of any due process proceeding under the Uniform Licensing Act, sections 61-1-1 through 61-1-31, NMSA 1978, might not be issued a level 3-A license. In that case, the applicant may be issued a level 2 license if the superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, submits to the director a verification that the applicant has satisfactorily met the high objective uniform standards of evaluation for level 2 licensure as is evidenced by the teacher's annual evaluations.

F. A teacher who has taught in New Mexico under a standard teaching license for one full school year and who

subsequently teaches under a standard teaching license in another state or authorization to teach in another country and has met the total amount of years for advancement required in Paragraph (1) of Subsection A of 6.60.6.9 NMAC or Paragraph (1) of Subsection B of 6.60.9 NMAC may advance to the next higher licensure level without presenting a dossier as required in Paragraph (2) of Subsection A of 6.60.9 NMAC, or Paragraph (3) of Subsection B of 6.60.6.9 NMAC.

G. ~~[A person who fails to complete the requirements of a [three (3) year] three-year of a level one alternative license, non-renewable internship license as specified in 6.60.3 NMAC, shall not be issued another internship license in the same or another teaching field or endorsement area.] A person who obtains a level one alternative license must complete the requirements for this license by the end of the second year. A third year may be granted by the director of licensure if adequate progress toward completion has been made. A person who fails to complete the requirements within the three years shall not be issued another alternative license in the same or another teaching field or endorsement area.~~

[6.60.6.9 NMAC - N, 09/30/2003; A, 08/30/2004; A, 04/29/2005; A, 05/31/2006; A, 10/31/2007; A, 06/15/2009; A, 01/29/2010; A, 08/15/2017]

End Of Adopted Rules

2017 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXVII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 5	January 17
Issue 2	January 19	January 31
Issue 3	February 2	February 14
Issue 4	February 16	February 28
Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	April 27	May 16
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Issue 20	October 19	October 31
Issue 21	November 2	November 14
Issue 22	November 16	November 28
Issue 23	November 30	December 12
Issue 24	December 14	December 26

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.

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