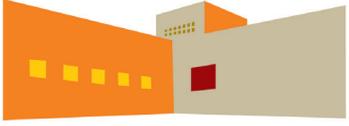


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# New Mexico Register

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

**Volume XXXI - Issue 3 - February 11, 2020**

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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](mailto:staterules@state.nm.us).

The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

# New Mexico Register

Volume XXXI, Issue 3

February 11, 2020

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## Notices of Rulemaking and Proposed Rules

### CHILDREN, YOUTH AND FAMILIES DEPARTMENT EARLY CHILDHOOD SERVICES

#### NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

8.8.3.6 NMAC - OBJECTIVE  
8.8.3.10 NMAC - COMPLIANCE

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from the Early Childhood Education Care Department's Office,

1120 Paseo De Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing will be held on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment," via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160 or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.

#### AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se

requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACION DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:

8.8.3.6 NMAC – OBJETIVO  
8.8.3.10 NMAC – CONFORMIDAD

No se consultó información científica o técnica cuando se redactaron las propuestas leyes administrativas.

**Propósito de las propuestas leyes administrativas:** El propósito de las leyes administrativas es enmendar los requisitos bajo 8.8.3 NMAC para cumplir con las regulaciones federales para solicitantes requeridos obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos empleados prospectivos y existentes (contratados a partir del 1 de octubre 2016) serán requeridos obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje añadido en 8.8.3.10 NMAC para clarificar el requisito de ambos la detección de negligencia y abuso (ahora bajo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las propuestas leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD @ <https://www.newmexicokids.org/> o se pueden obtener en la Oficina del Departamento de Primera Infancia y Cuidados Educativos: 1120 Paseo De Peralta cuarto 205, Santa Fe, New México, 30 días antes de la Audiencia Pública.

**Aviso de Audiencia Pública de**

**leyes administrativas:** La audiencia pública de leyes administrativas será el martes 17 de marzo del 2020 a la 1:00 p.m. en, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502, en la sala Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, New México 87502. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado en asistir la audiencia tendrá una oportunidad razonable para ofrecer comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista s o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibas por lo menos diez días antes de la fecha programada para la audiencia.

**Aviso de aceptación de comentario público por escrito:**

Comentarios públicos por escritos, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas leyes administrativas, pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: "8.8.3 NMAC Public Comment," o por correo de primera clase a Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, o se pueden entregar en mano a Kimberly Brown. El período de comentarios termina a la conclusión de la audiencia pública del 17 de marzo del 2020.

**Proposed Rules/Reglas Propuestas**

**Explanatory sentence for purposes of this Notice: In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.**

**8.8.3.6 OBJECTIVE:**  
\*\*\*

C. Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years. [8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]

**8.8.3.10 COMPLIANCE:**  
\*\*\*

B. The licensee is required to:  
(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

## (2) Applicants

required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

**(a)**

a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

**(b)**

an inter-state criminal history check in each state where the applicant resided during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.  
\*\*\*

[8.8.3.10 NMAC - Rp, 8.8.3.10 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]

**HEALTH, DEPARTMENT OF****NOTICE OF PUBLIC HEARING**

The New Mexico Department of Health will hold a public hearing on the adoption of a new rule, 7.8.4 NMAC, "General Requirements for Boarding Homes". The hearing will be held on March 24, 2020, 9:00 a.m. in the auditorium of the Harold Runnels Building, located at 1190 St. Francis Drive in Santa Fe, New Mexico. This hearing will be conducted to receive public comment regarding the proposed adoption of a new rule concerning the licensing requirements for boarding homes.

The General Requirements for Boarding Homes apply to public or private boarding homes which come within the statutory definition of "health facilities" as set out in Subsection F of Section 24-1-2 NMSA 1978 public health act and which are required to be licensed by the state licensing authority. This rule applies to all boarding home facilities which receive lodging for compensation and are operated to provide assistance with one or more instrumental activities of daily living to residents or assistance with the coordination of community services and who do not need the level of services and supervision provided in a skilled nursing facility, intermediate care facility, assisted living facility, nor a general or special hospital or other institution, nor does it include boarding homes under the control of an institution of higher learning. These requirements shall not include any facility which is otherwise licensed and regulated by the department, or any hotel or other landlord-tenant relationship or homeless shelter.

The legal authority authorizing the proposed rule and the adoption of the rule by the Department is at Subsection E of Section 9-7-6, Subsections F and J of Section 24-1-2 and 24-1-3, respectively, and Section 24-1-5 NMSA 1978.

A free copy of the full text of the proposed rule can be obtained from the Department's website at <https://nmhealth.org/publication/regulation/>

Any interested member of the public may attend the hearing and offer public comments on the proposed rule during the hearing. Written public comments may also be submitted to the mailing address or email address shown below prior to the date of the hearing. Please submit any written comments regarding the proposed rule to the attention of:

Christopher Burmeister  
Division Director, Health  
Improvement

New Mexico Department of Health  
2040 S. Pacheco,  
Santa Fe, NM 87505  
Christopher.Burmeis@state.nm.us  
505-476-9074

All written comments must be received by 5 pm MST on March 17, 2020. All written comments will be published on the agency website at <https://nmhealth.org/publication/regulation/> within 3 days of receipt, and will be available at the New Mexico Department of Health Office of General Counsel for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Sheila Apodaca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

## HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

### NOTICE OF PUBLIC HEARING

The New Mexico Human Services Department (HSD) will hold a public hearing to allow public comment to adopt the Supplemental Nutrition Assistance Program (SNAP) rules. The Human Services Department (HSD) is proposing to amend the rule to be in compliance with federal law which would otherwise place HSD in violation. The rule will be amended under the following statutory authority: Under the statutory authority of The Food Stamp Program as authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Administration of the Human Services Department (HSD), including its authority to

promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983). The hearing will be held on Friday March 13, 2020 from 9:00 a.m. to 10:00 a.m. at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505.

The Department is promulgating proposed regulations to update the following Supplemental Nutrition Assistance Program (SNAP) rules: Create consistency and be in compliance with 7 CFR 273.12(a) (2), SNAP households must report substantial lottery and gambling winnings within 10 days of the end of the month in which the household received the winnings. Section 4009 of the Agricultural Act of 2014 requires households with substantial lottery or gambling winnings, to immediately lose eligibility for SNAP benefits. As specified in the final rule, substantial lottery or gambling winnings are defined as a cash prize won in a single game, before taxes or other amounts are withheld, which is equal to or greater than the SNAP resource limit for elderly or disabled households. Clarify in 8.139.400.11 NMAC that participants in a SNAP Employment & Training (E&T) program are still eligible if they are enrolled in a course or program of study that is part of a career and technical education program (as defined in Section 3 of the Carl D. Perkins Education Act of 2006), or are participating in remedial courses, basic adult education, literacy instruction, or English as a Second Language. Update 8.139.400.12 NMAC to prohibit anyone convicted of Federal aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault, or similar State laws, and who are also not in compliance with the terms of their sentence or parole, or are a fleeing felon, from receiving SNAP benefits.

The Human Services Register Vol. 43 No. 1 outlining the proposed regulations are available on the HSD's website at: <http://www.hsd.>

state.nm.us/LookingForInformation/income-support-division-registers.aspx. Individuals wishing to testify or to request a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348, or by calling 505-827-7250 or 505-827-7254.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-827-6201 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, March 13, 2020. The agency shall post all written comments on its website, if one exists, as soon as practicable and no more than 3 business days following receipt to allow for public review. All written comments received by the agency shall also be available for public inspection at the main office of the agency. Please send comments to:

Human Services Department  
P.O. Box 2348,  
Santa Fe, New Mexico 87504-2348

You may send comments electronically to: [HSD-isdrules@state.nm.us](mailto:HSD-isdrules@state.nm.us)

## SECRETARY OF STATE, OFFICE OF

### NOTICE OF PROPOSED RULEMAKING

The Office of the New Mexico Secretary of State (“Office”) hereby gives notice that the Office will conduct a public hearing on the described rules below.

A public hearing will be held in Morgan Hall, at the State Land Office, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501, on Friday, March 13, 2020, from 9:00 am to 12:00 pm. Every effort will be made to ensure that this hearing will be live streamed on the Office’s website.

The purpose of this hearing is to obtain public input on the proposed amendments to the following three rules: Absentee Voting, 1.10.12 NMAC, Recounts, Audits, Rechecks and Contests, 1.10.23 NMAC, and Voter Records Systems 1.10.35 NMAC. The public hearing allows members of the public an opportunity to submit data, testimony, and arguments in person on the proposed rule changes detailed below.

**Authority:** NMSA 1978, Section 1-2-1 of the Election Code, authorizes the Office to adopt and promulgate rules and regulations necessary to carry out purposes of the Election Code.

**Purpose:** The purpose for these amended rules is to conform with the extensive amendments made to the Election Code by House Bill 407 (Laws 2019, Chapter 212). As these rules stand currently, there are conflicts with the law and contain provisions where further clarification is necessary.

#### **1.10.12 NMAC Absentee Voting**

**Summary of Full Text:** Section 1.10.12 NMAC will be amended to align the definitions listed with the current statutory language in the Absent Voter Act. The current rule must also be amended to correct

several statutory references that are now inaccurate due to the repeals and reorganization done in House Bill 407.

#### **1.10.23 NMAC Recounts, Audits, Rechecks and Contests**

**Summary of Full Text:** Section 1.10.23 NMAC is being amended to align with current statutory mandates related to absentee, provisional, and hand counted ballots. The current rule refers to tabulators that are outdated and no longer certified for use in New Mexico. The definition of a vote in the rule, specifically related to how to count a write-in vote, no longer aligns with statute. The rule needs to be amended to provide for recounts in the Regular Local Election.

#### **1.10.35 NMAC Voter Records Systems**

**Summary of Full Text:** Section 1.10.35 NMAC is being amended to align with current statute related to processing voter registration applications. The existing rule refers to an outdated process and technology that is no longer available. The requirements for the information required on a hard copy voter registration application were changed by House Bill 407 and must be amended in the rule. Same day registration processing, now mandated in the law, must be added to the rule.

**Details for Obtaining a Copy of Rules and Submitting Oral or Written Comments:** Copies of the proposed rule are available on the Office’s website at [www.sos.state.nm.us](http://www.sos.state.nm.us) or can be obtained from the Bureau of Elections by calling (505) 827-3600 or emailing [sos.rules@state.nm.us](mailto:sos.rules@state.nm.us). Interested individuals may provide comments at the public hearing and/or submit written comments to Tonya Herring, General Counsel, via email at [sos.rules@state.nm.us](mailto:sos.rules@state.nm.us), or [Tonya.Herring2@state.nm.us](mailto:Tonya.Herring2@state.nm.us), fax (505) 827-8403, or by regular mail at Attn: Tonya Herring

– proposed rule, The Office of the New Mexico Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, NM 87501. Written comments must be received no later than 5:00 pm on the date prior to the public hearing. All written public comments will be posted on the website throughout the written comment period at: [www.sos.state.nm.us](http://www.sos.state.nm.us).

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) 827-3600 or email [Tonya.Herring2@state.nm.us](mailto:Tonya.Herring2@state.nm.us) five (5) business days prior to the hearing.

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## WORKFORCE SOLUTIONS DEPARTMENT

### NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions (“Department” or “NMDWS”) hereby gives notice that the Department will conduct a public hearing in conference room of the Human Rights Bureau located at 1596 Pacheco St Suite 103 in Santa Fe, New Mexico, 87505 on March 18, 2020 at 10:00 am. The purpose of the public hearing will be to obtain input and public comment on the amendments to 9.1.1 NMAC – Human Rights General Provisions – Administrative Procedures for the Human Rights Division/Commission.

Summary: The rule is being amended to properly reflect the parties that may file a complaint under the Human Rights Act (HRA). Although at present, these parties are afforded rights under the HRA, the Human Rights Bureau would like to specifically articulate those rights in this proposed amendment to the current rule.

Under NMSA 1978 §§28-1-1 to 28-1-14 and 28-23-1 through 28-23-6, the Department is the agency responsible for the Human Rights Bureau.

Interested individuals may testify at the public hearing or submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman. Written comments must be received no later than 5 p.m. on March 17, 2020. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed at <http://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to [Andrea.Christman@state.nm.us](mailto:Andrea.Christman@state.nm.us). The proposed rules will be made available at least thirty days prior to the hearing.

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

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## 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.

### CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROTECTIVE SERVICES DIVISION

On January 24, 2020, the Children Youth and Families Department repealed 8.26.4 NMAC, Licensing Requirements for Foster and Adoptive Homes, filed on 5/29/2009, and replaced it with 8.26.4 NMAC, Licensing Requirements for Foster and Adoptive Care, effective 2/11/2020.

### CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROTECTIVE SERVICES DIVISION

#### TITLE 8 SOCIAL SERVICES CHAPTER 26 FOSTER CARE AND ADOPTION PART 4 LICENSING REQUIREMENTS FOR FOSTER AND ADOPTIVE CARE

**8.26.4.1 ISSUING AGENCY:** Children, Youth and Families Department (CYFD), Protective Services Division (PSD). [8.26.4.1 NMAC - Rp, 8.26.4.1 NMAC, 2/11/2020]

**8.26.4.2 SCOPE:** PSD staff and all PSD licensed agencies providing foster care services in New Mexico. [8.26.4.2 NMAC - Rp, 8.26.4.2 NMAC, 2/11/2020]

**8.26.4.3 STATUTORY AUTHORITY:** Children, Youth and Families Department Act, Section 9-2A-7 D, NMSA 1978; New Mexico Children's Code Adoption Act, Section 32A-5-6 A, NMSA 1978; Child Placement Licensing Act,

Section 40-7A-4 D, NMSA 1978. [8.26.4.3 NMAC - Rp, 8.26.4.3 NMAC, 2/11/2020]

**8.26.4.4 DURATION:** Permanent. [8.26.4.4 NMAC - Rp, 8.26.4.4 NMAC, 2/11/2020]

**8.26.4.5 EFFECTIVE DATE:** February 11, 2020, unless a later date is cited at the end of a section. [8.26.4.5 NMAC - Rp, 8.26.4.5 NMAC, 2/11/2020]

**8.26.4.6 OBJECTIVE:** To create standards for licensing of relative, fictive kin, non-relative foster and adoptive care providers in New Mexico which are consistent with the best interest, safety, permanency, and well-being of children by:

**A.** enabling protective services division or licensed child placement agencies (CPA) to license and monitor foster and adoptive homes;

**B.** enabling protective services division to set standards for the application and operation of non-relative foster and adoptive families to protect the best interest of children in foster or adoptive placement;

**C.** enabling protective services division to set standards for the application and operation of relative and fictive kin care providers to protect the best interest of children in foster, guardianship or adoptive placements; and

**D.** complying with the New Mexico Children's Code, the New Mexico Adoption Act and regulations, the Indian Child Welfare Act, the Adoption and Safe Families Act, the Interstate Compact on Placement of Children, the Interstate Compact on Adoption and Medical Assistance, the Multi-Ethnic

Placement Act, as amended by the Inter-Ethnic Adoption Provisions of 1996, the Safe and Timely Interstate Placement of Foster Children Act, the Adam Walsh Act, the Fostering Connections for Success and Increasing Adoptions Act, the Child Abuse Prevention and Treatment Act Reauthorization of 2010, Every Student Succeeds Act, Family First Prevention Services Act, and the New Mexico Administrative Code.

**E.** The agency shall give placement preference to relatives and fictive kin as foster care providers. In the event that a child is not placed in a relative foster care placement, the agency shall continue to make diligent efforts to search for, identify, and assess relatives throughout the life of the case for potential placement of the child. The agency shall assist relatives with meeting licensing requirements through identifying barriers, informing the applicant, and providing support. If a relative cannot be licensed to provide foster care for a child, this shall not preclude the relative from maintaining a meaningful relationship with the child while in foster care.

[8.26.4.6 NMAC - Rp, 8.26.4.6 NMAC, 2/11/2020]

**8.26.4.7 DEFINITIONS:**

**A. "Administrative appeal"** is a formal hearing for foster care providers whose license have been revoked, suspended, or not renewed. Foster care providers have the opportunity to present evidence to an impartial hearing officer in accordance with CYFD's administrative appeals regulations 8.8.4 NMAC.

**B. "Administrative review"** is an informal process for foster care providers whose application for licensure has been

denied. The review may include an informal conference or a record review, and does not create any substantive rights for the family.

**C. “Adoptee”** refers to any person who is the subject of an adoption petition.

**D. “Adoption”** is the establishment of a court sanctioned legal parental relationship between an adult and a child.

**E. “Adoptive parent”** refers to a foster care provider licensed by PSD or by a licensed child placement agency who has finalized the adoption of a foster child.

**F. “Adult”** refers to a person 18 years of age and older, not participating in the extended foster care program.

**G. “Agency” or “child placement agency”** means any PSD licensed individual, partnership, association or corporation, for profit or non-profit, undertaking the placement of a child in a home in this or any other state for the purpose of providing foster care or adoption services. An agency may be licensed as an adoption agency, a foster care agency or both.

**(1) “Adoption agency”** means an agency licensed by PSD to facilitate the adoption of a child or perform a service within the adoption process.

**(2) “Foster care agency”** means an agency licensed by PSD for the purpose of supervising foster care providers, treatment foster care providers, or other levels of foster care as developed by PSD.

**H. “Applicant”** is any person who applies to become licensed as a foster care provider to be considered as a potential foster care provider, treatment foster care provider, or an adoptive parent.

**I. “Application”** is the document by which persons who wish to become foster or adoptive care providers request an assessment of their home and family, and the issuance of a license. The document also authorizes protective services division or licensed child placement agency to obtain relevant information

from the applicant and other authorized persons in order to conduct an assessment of the applicant’s qualifications. The applicant shall certify there are no willful misrepresentations in the application.

**J. “Assessment”** is the process of collecting information and conducting interviews with applicants by the licensing agent, and evaluating that information to determine suitability of an applicant for a foster care license.

**K. “Child,” “children” or “youth”** refers to a person who is one of the following:

**(1)** under the age of 18 years of age; or

**(2)** up to 21 years of age and participating in the extended foster care program.

**L. “Child abuse and neglect check”** is a review of the PSD family automated client tracking system, also known as FACTS, or another state’s central abuse or neglect registry, to determine if there have been any previous or current referrals on the family to this state’s or any other state’s child protective services division.

**M. “Corporal punishment”** is a form of discipline that is prohibited. Corporal punishment includes touching a child with the primary intent of inducing pain and includes but is not limited to: shaking, spanking, hitting, hair or ear pulling, actions intended to produce fear, shame, or other emotional or physical trauma.

**N. “Criminal records check (CRC)”** means federal, state or local checks for criminal offenses conducted by PSD on potential and current foster and adoptive parents, and of all adults living in the applicant’s home.

**O. “CRC Clearance letter”** is a document provided to the licensing agent to inform them if the prospective foster or adoptive parent is cleared to proceed with the licensing process.

**P. “CYFD”** stands for children, youth and families department. CYFD is a state agency that provides services to families in the state of New Mexico.

**Q. “FACTS”** refers to the family automated client tracking system (FACTS), the official data management system for CYFD.

**R. “Fictive kin”** is a person not related by birth, adoption or marriage with whom the child has an emotionally significant relationship.

**S. “Foster care license”** is the document which contains the names and addresses of those individuals who have met these licensing requirements and are foster care providers for the protective services division or a licensed child placement agency. The license displays the ages and number of foster children the licensees are authorized to care for and the date authorization begins and ends. The license shall include the signature of the authorized person who issued the license.

**T. “Functional literacy”** means a person who can read and write well enough to live independently.

**U. “Foster care provider” or “foster parent”** refers to a person, including a relative of the child, or entity licensed by CYFD or by another state’s child welfare agency or by a child placement agency, to provide foster care services for children in the custody of the department or agency.

**V. “Foster child” or “child in foster care”** as referred to as “child” herein, means a child who is placed in the care and custody of children, youth and families department protective services division either under the legal authorization of the Children’s Code or through a voluntary placement agreement signed by the parent or legal guardian, or a child who is placed with a licensed child placement agency under the authority of the Child Placement Agency Licensing Act. If the court orders legal custody to a relative, person, facility, or agency other than the children, youth and families department protective services division, the child is not a foster child of protective services division.

**W. “Gender” or “gender identity”** means a person’s internal identification as male, female, or nonbinary. Gender identity may or may not correspond to the sex or gender marker that is listed on the person’s birth certificate.

**X. “Home study”** is the final written document that results from the assessment process to determine suitability of an applicant for a foster care license.

**Y. “Household member”** refers to any individual, regardless of age, who resides in the home, who moves into the home with the intent to make it their residence, or who is visiting for more than 30 calendar days. Children or youth who are in foster care or participating in the extended foster care program are not considered household members of the foster or pre-adoptive home for the purpose of this policy.

**Z. “Initial relative or fictive kin assessment”** is an in-home assessment of a relative or fictive kin completed by a PSD worker to determine suitability for a provisional license.

**AA. “Licensing agent”** is a qualified individual who conducts a home study.

**BB. “Non-U.S. citizen”** refers to an immigrant to the U.S. who does not have U.S. citizenship, and may have legal residency or may have an undocumented legal status.

**CC. “Pre-adoptive home”** refers to a foster care provider who has signed an adoption agreement to adopt a foster child, but whose adoption has not yet finalized.

**DD. “Protective services division (PSD)”** refers to the state government division within the New Mexico children, youth and families department, and is the state’s designated child welfare agency.

**EE. “PSD custody”** means custody of a child or children as a result of an action filed pursuant to the New Mexico Children’s Code, Sections 32A-4-1 et seq. NMSA 1978 or Sections 32A-3B-1 et seq. NMSA 1978.

**FF. “Relative”** means a person related to another person by

birth, adoption or marriage, within the fifth degree of consanguinity or affinity.

**GG. “Resident of New Mexico”** means a person who has become domiciled in the state of New Mexico by establishing residence with the intention of maintaining residency indefinitely.

**HH. “Respite care”** is a short period of time when a foster child is cared for by an alternate foster care provider due to the original foster care provider temporarily unavailable to provide care.

**II. “SAFE home study”** means the structured analysis family evaluation home study format, which is the only home study format approved for use in the state of New Mexico.

**JJ. “Treatment foster care provider”** is a foster care provider licensed by a child placement agency to provide intensive therapeutic support, intervention and treatment for a child who would otherwise require a more restrictive placement.

[8.26.4.7 NMAC - Rp, 8.26.4.7 NMAC, 2/11/2020]

**8.26.4.8 FOSTER CARE PROVIDER ELIGIBILITY:**

**A.** All applicants, relative, fictive kin or non-relative, must submit a complete application and accompanying documentation for a foster care provider license, and keep copies in their home.

**B.** To apply for a foster care provider license:

**(1)** Applicants must be 18 years or older;

**(2)** Applicants must be a resident of New Mexico;

**(3)** Applicants must be able to communicate with the child in the child’s own language, through translation services or other resources;

**(4)** Applicants must be able to communicate with PSD, licensing agents, health care providers, and other service providers, through translation services or other resources;

**(5)** At least one applicant in the home must have functional literacy or have access to resources to read, such as having the ability to read labels on medications in order to properly administer them; and

**(6)** Applicants must have income or resources necessary to make timely payments for shelter, food, utility costs, clothing and other household expenses prior to the addition of a foster child;

**C.** A foster care provider license shall not be issued to an applicant whose own children are currently in foster care. Suitability will be considered on a case by case basis for applicants whose parental rights have been terminated or relinquished. Applicants whose children have been formerly in foster placement may be licensed if the assessment of their application determines the problems leading to the placement have been resolved.

**D.** PSD employees and their families who have met all licensing requirements may serve as a foster care provider or as adoptive parents to children outside of their county. A PSD employee and their family members shall not be allowed to foster or adopt any child with whom the employee is working with in any official capacity. A PSD employee may not be foster care providers to children who have been or are actively on their caseload or within their chain of command.

**E.** PSD and child placement agencies (CPA’s) must not deny any individual the opportunity to become a foster parent on the basis of the race, color, or national origin of the individual, or of the child, as required by the federal Multiethnic Placement Act (MEPA), 42 U.S.C.A. sec. 1996b and Title IV-E of the Social Security Act, 42 U.S.C.A. sec. 671(18). MEPA also provides that this law must not be construed to affect the application of the Indian Child Welfare Act, which contains preferences for the placement of eligible American Indian and Alaska Native children in foster care, guardianship, or adoptive homes.

PSD and CPA's must not discriminate with regard to the application or licensure of a foster family on the basis of race; ethnicity; creed; color; age; religion; sex or gender; gender identity; gender expression; sexual orientation; marital status or partnership; familial or parental status; pregnancy and breastfeeding or nursing; disability; genetic information; intersex traits; medical condition, including HIV/AIDS; citizenship or immigration status; national origin; tribal affiliation; ancestry; socioeconomic status; language; political affiliation; military or veteran status; status as a victim of domestic violence; sexual assault, or stalking; or any other factor unrelated to suitability to parent.

**F. Tribal agencies** may also be involved in conducting home studies for American Indian and Alaska Native children. 42 U.S.C.A. sec 671(26)(B) provides that any receiving state must treat any tribal home study report as meeting the requirements imposed by the state for the completion of a home study.

**G. Immigration**  
Status: Citizenship or immigration status shall not prevent eligibility for licensure. See 8.24.6.21 NMAC for further guidance on licensing non-US citizens without legal permanent residency.  
[8.26.4.8 NMAC - Rp, 8.26.4.8 NMAC, 2/11/2020]

**8.26.4.9 TYPES OF FOSTER CARE PROVIDER LICENSES:**

**A. Provisional license:**  
A provisional license is a license issued by PSD to a relative or fictive kin upon satisfactory completion of the initial relative assessment at the time of an emergency placement of a child. A provisional license may be issued to facilitate or expedite placement of a child with a relative or fictive kin. A provisional license is valid for 60 days, with the possibility of one 30 day extension as described herein at Subsection C of 8.26.4.11 NMAC. For emergency placements of American Indian and Alaska Native children, agencies shall work

closely with tribal and urban Indian organizations that have expertise in recruiting and licensing tribal foster care providers. If a relative or fictive kin is identified and resides on tribal land, a provisional license may be extended up to 60 additional days by the PSD field deputy director.

**B. Foster care provider license:** A two year license issued by PSD after all licensing requirements have been completed.

**C. Treatment foster care license:** A license issued by a child placement agency to a foster care provider to care for a child requiring intensive services after the provider has met both the child placement agency licensing regulations, and the treatment foster care standards contained in 7.20.11.29 NMAC. PSD does not license treatment foster care providers.  
[8.26.4.9 NMAC - Rp, 8.26.4.17 NMAC, 2/11/2020]

**8.26.4.10 INITIAL LICENSURE:**

**A.** A foster care license shall be granted or denied based upon the assessment and participation in the licensing process. The issuance of an initial foster care provider license is not an entitlement to full licensure.

**B.** The applicants shall complete all licensing requirements prior to full licensure. In the event of a household member who may not be able to meet all licensing requirements due to a disability, licensing requirements may be waived on a case by case basis by the PSD regional manager.

**C.** A foster care provider license shall be valid for a period of two years from the date of issuance.

**D.** An initial foster care provider license memorandum of agreement outlining the stipulations of licensure shall be reviewed by the licensing agent and the applicants. Signing of the agreement is an acknowledgement that all stipulations are understood and accepted by all concerned. The initial agreement shall be signed prior to the issuance of the two year license.

**E. Foster care** providers shall not be dually licensed by more than one licensing entity. Exceptions may be made for the purpose of adoption in the following situations:

**(1)** a treatment foster care provider seeks to adopt a child in the custody of PSD who is currently placed in their home; or

**(2)** a treatment foster care provider seeks to adopt a child in the custody of PSD who has a plan of adoption but does not have an identified resource. Consideration for adoption of a child in PSD custody by a treatment foster care provider shall be approved by a county office manager prior to the SAFE home study update of the potential adoptive family.

**F.** Individuals who are relative or fictive kin care providers who agree to have non-relative children placed in the home will be assessed in the initial home study or will require an update to their home study.

**G.** Adoption of a child in the custody of PSD by a treatment foster care provider shall be approved by a PSD regional manager prior to the SAFE home study update of the potential adoptive family. Staffing of these types of licenses must take place between PSD and the CPA to determine which licensing agency will maintain the license.  
[8.26.4.10 NMAC - Rp, 8.26.4.15 NMAC, 2/11/2020]

**8.26.4.11 APPLICATION FOR INITIAL FOSTER CARE PROVIDER LICENSURE:**

**A.** PSD's relative and fictive kin placement preferences: PSD and child placement agencies (CPAs) shall give placement preference to relatives and fictive kin as foster care providers, regardless of citizenship or immigration status. The licensing agency shall assist relatives with meeting licensing requirements through identifying barriers, informing the applicant, and offering support. If a relative cannot be licensed to provide foster care for a child, this shall not preclude

the relative from maintaining a meaningful relationship with the child while in foster care. In the event a child is not placed in a relative or fictive kin foster care placement, PSD shall continue to make diligent efforts to search for, identify and assess relatives throughout the life of the permanency case for potential placement of the child and to maintain familial connections.

**B.** Initial licensure application requirements for all applicants: During the initial licensure, all persons wishing to become a licensed foster care provider for PSD or for a CPA are required to complete the following:

- (1) a foster care application;
- (2) a home study, which is PSD’s written comprehensive family assessment;
- (3) a criminal records check and child abuse and neglect check; and
- (4) pre-service training.

**C.** Provisional licensure for relative or fictive kin providers only: A child may be placed in a home with a relative or fictive-kin on an emergency basis with a provisional licensure for 60 days, with one possible 30 day extension, for a maximum of 90 calendar days. PSD may place a child with a relative or fictive kin on a provisional license if all of the following takes place by the PSD staff:

- (1) Complete federal, state, and local (as applicable) criminal background checks of applicants and any other adult household member. To determine eligibility, the results of the check shall be assessed using the criteria described herein at 8.26.4.12 NMAC. PSD shall immediately inform the relative or fictive kin foster care provider of the requirements to submit an application for a criminal background check, and complete the application for background check no later than three business days from the child’s placement in the home, as described in the New Mexico Children’s Code Adoption Act, Section 32A-4-8, NMSA 1978.

(2) State, tribal, and local child abuse and neglect registry and adult protective services registry check of applicants and any other adult household member. To determine eligibility, the results of the check shall be assessed using the criteria described herein at 8.26.4.13 NMAC.

(3) Child abuse and neglect registry and adult protective services registry checks from any other state in which applicants and other adult household members have resided in the preceding five years.

(4) State and national sex offender registry check of applicants and any other household member who is an adult. To determine eligibility, the results of the check shall be assessed using the criteria described herein at 8.26.4.13 NMAC.

(5) Preliminary visual home inspection to assess the safety of the home.

(6) Preliminary assessment of the ability of the applicants to meet the needs of the child.

(7) Discuss assurance agreement, as described herein Subsection C of 8.26.4.17 NMAC, complete the initial relative assessment documentation, and obtain applicant signatures on the agreement.

(8) The safety of the child is the primary consideration. If this is ever in conflict with the placement of a child with a potential relative or fictive kin provider, PSD makes the final placement decision in favor of the child’s safety and may deny licensure based on PSD’s initial relative assessment.

**D.** Only qualified PSD and CPA staff or individuals certified by PSD as licensing agents shall conduct home studies. See process for certification as a licensing agent as set forth in 8.26.3.17 NMAC.

**E.** The placement of a child in a non-relative placement upon emergency removal shall be approved by the county office manager prior to placement of the child.

**F.** Home study forms and requirements are determined by PSD. The SAFE home study is the approved home study format to be used in New Mexico.

**G.** Upon receipt of the initial application of a relative or fictive kin care provider, the licensing agent has three business days to contact the family, as described in the New Mexico Children’s Code Adoption Act, Section 32A-4-8, NMSA 1978.

**H.** From the date of application, the licensing agent shall complete the licensure process within the following timeframes:

(1) For a relative or fictive kin applicant provisional license: 60 days with one possible 30 day extension approved by the PSD regional manager. If the relative or fictive kin is not licensed within the initial 60 day period, PSD must conduct a staffing 15 days prior to the 60 day expiration date to include: the placement worker, permanency worker, placement supervisor, children’s court attorney and county office manager to determine if the child shall be removed. Removal may be appropriate unless:

(a) A direct placement of the child in the home is ordered by the court while the child is still in the custody of PSD;

(b) The applicant files for and receives care and custody of the child directly from the court; or

(c) The PSD regional manager grants an extension of up to an additional 60 calendar days for applicants to complete licensure if it is determined removal of the child would be detrimental to the child’s best interests.

(2) For all other applicants:

(a) Non-relatives: The licensing agent shall complete the licensure process within 120 days of receipt of the application.

(b) Relatives and fictive kin applicants

who apply to become foster care providers through a regular licensing process: The licensing agent shall complete the licensure process within 60 days of receipt of the application, with one possible 30 day extension approved by the PSD regional manager.

[8.26.4.11 NMAC - Rp, 8.26.4.9 NMAC, 2/11/2020]

**8.26.4.12 CRIMINAL RECORDS CHECKS (CRC) FOR FOSTER CARE PROVIDER LICENSURE:**

**A.** All persons wishing to become licensed foster care providers for PSD or for a child placement agency must complete a CRC. CRCs are required for all applicants and adults living home.

**B.** Applicants who have a completed home study by a private agency must complete the CRC requirement for foster care providers.

**C.** CRC clearance letter for all adult household members must be received by PSD or the child placement agency (CPA) prior to issuing full licensure. The CRC unit conducts federal and state criminal record checks for all adults living in the home.

**D.** PSD staff and CPA staff shall register applicants and adult household members to be fingerprinted.

**E.** PSD staff and CPA staff shall complete the CRC application and submit to the PSD CRC Unit.

**F.** PSD and CPA staff shall conduct a search of the applicant and all adult household members through [www.nmcourts.gov](http://www.nmcourts.gov) and a national sex offender registry through <https://www.nsopw.gov/>. Results shall be confirmed in the CRC clearance letter.

**G.** PSD and CPA staff shall request a check of any other child abuse or neglect registry in a state or tribe in which any such applicant or other adult household member has resided in the preceding five years of the date of application.

**H.** Licensure shall not

be approved in any case in which the CRC results for the applicant or any adult household member reveal any of the following federally mandated automatic disqualifiers:

(1) a felony conviction for child abuse or neglect;

(2) a felony conviction for spousal abuse, domestic abuse, or abuse against a household member;

(3) a felony conviction for a crime against children, including child pornography;

(4) a felony conviction for any crime involving violence, including rape, sexual assault, homicide, robbery, and aggravated assault, but not including other assault (not aggravated) or battery; or

(5) a felony conviction within the past five years for assault, battery, or a drug or alcohol related offense.

**I.** Applicants who have a conviction for crimes other than those noted above are not automatically disqualified; however this information shall be used to determine suitability for licensure. All police or court records relating to the applicant or other adult living in the home shall be considered in determining suitability for licensure. Applicants are responsible for obtaining a certified court disposition of criminal records and police reports and are required to return these documents to the CRC unit within 30 days of the date of the CRC letter. PSD must also consider the following:

(1) type of crime;

(2) number of crimes;

(3) nature of offenses;

(4) age of the individual at the time of conviction;

(5) length of time that has elapsed since the last conviction;

(6) relationship of the crime and the capacity to care for children;

(7) evidence of rehabilitation; and

(8) opinions of community members concerning the individual in question.

**J.** The home study process for any applicant or adult living in the home with a pending criminal charge and no disposition shall be closed. The applicant may reapply after disposition of the charge.

**K.** Applicants and all household members have an ongoing duty to report any juvenile offenses committed by another household member. The existence of a household member with a juvenile offense does not automatically exclude the applicants. PSD must consider the suitability of the home based on the criteria used to assess crimes set forth described herein Paragraphs (1) through (8) of Subsection I of 8.26.4.12 NMAC. [8.26.4.12 NMAC - Rp, 8.26.4.10 NMAC, 2/11/2020]

**8.26.4.13 CHILD ABUSE AND NEGLECT CHECK FOR FOSTER CARE PROVIDER LICENSURE:**

**A.** For families applying to be licensed by PSD, staff shall conduct a FACTS search for abuse and neglect referrals on the applicant and all adult household members. If the applicant or any other adult household member resided in any state(s) other than New Mexico in the five years prior to the date of the application, PSD shall request each such state search its abuse and neglect information system or registry for information on the applicant or other adult household members and submit the results of that search to PSD. PSD must receive the results of the check or a letter from the other state if they do not have central registry prior to the issuing of a license and prior to a child being placed in a home. If during any time in the five years prior to the date of application the applicant resided in another country, PSD shall attempt to obtain an abuse and neglect check from the other country. Efforts to obtain abuse and neglect checks in another country shall be documented but inability to obtain abuse and

neglect checks from another country shall not be a disqualifier for licensure.

**B.** For families seeking to become foster care providers through agencies other than PSD, the agency shall submit a signed and notarized PSD approved "child abuse and neglect check" form to request the CRC unit conduct a FACTS search for abuse and neglect referrals on the applicant and each adult living in the applicant's home. If the applicant or any other adult household member resided in any state(s) other than New Mexico in the five years prior to the date of the application, the licensing agency shall request that each such state search its abuse and neglect information system or registry for information on the applicant or other adult household member and submit the results of that search to the requesting agency. CPA's must receive the results of the check or a letter from the other state if they do not have central registry prior to the issuing of a license and prior to a child being placed in a home.

**C.** If the applicant or any adult household member has been the subject of a substantiated allegation of sexual exploitation or sexual abuse of a child, or has been substantiated for child abuse that resulted in a child fatality, then the applicant shall not be licensed.

**D.** In the event of a substantiated report of child abuse or neglect, other than substantiated sexual exploitation, sexual abuse or child abuse resulting in death as listed above, involving the applicant or any adult household member, the application is assessed on a case-by-case basis to determine if the safety of any child in the home can be assured. In addition, applicants who have been referred to PSD for investigation of unsubstantiated allegations of child abuse, neglect or exploitation may be considered for licensure. The best interest of the child is paramount. This information shall be used to determine suitability for licensure.

**E.** The application process for any applicant or adult household member with a pending

child abuse or neglect investigation and no disposition shall be closed. The applicant may reapply when the investigation is complete.

**F.** PSD staff must comply with any request described herein in Subsections A and B of 8.26.4.13 NMAC that is received from another state.  
[8.26.4.13 NMAC - Rp, 8.26.4.11 NMAC, 2/11/2020]

**8.26.4.14 PHYSICAL AND MENTAL HEALTH STANDARDS FOR FOSTER CARE PROVIDER LICENSURE:**

**A.** All applicants must be assessed to be physically and mentally capable of caring for a foster child in their home. The following are the minimum documentation requirements for licensure; however, these requirements shall not prevent placement of a relative or fictive kin if efforts are made to obtain documentation or appointments:

**(1)** a physical exam within the past 12 months from the application date, from a licensed health care professional recognized by PSD. The exam results must indicate the applicants are capable of caring for an additional child. PSD may require additional documentation and evaluation to make such a determination. The applicant is responsible for obtaining and paying for their physical exam, however, relative or fictive kin applicants who may need financial assistance shall contact PSD for further guidance.

**(2)** immunization records for any child residing in the home must be provided to PSD. All children who are household members must be up to date on all immunizations jointly recommended by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless a waiver has been issued by the department of health; and

**(3)** all household members who will be caregivers of infants must have

an up to date pertussis (whooping cough) vaccine consistent with the recommendations of the Advisory Committee on Immunization Practices (ACIP), unless the immunization is contrary to the individual's health as documented by a licensed care professional. All household members who will be caregivers of infants or children with special medical needs must have an up to date annual influenza vaccine consistent with the recommendations of the ACIP, unless the immunization is contrary to the individual's health as documented by a licensed health care professional.

**B.** Applicants and all household members must disclose any past or current physical, mental health and substance abuse history, including any history of drug or alcohol abuse or treatment. PSD may require further documentation and evaluation to determine the suitability of the home.

[8.26.4.14 NMAC - Rp, 8.26.4.12 NMAC, 2/11/2020]

**8.26.4.15 HOME SAFETY, CAPACITY AND OTHER SPACE STANDARDS FOR FOSTER CARE PROVIDER LICENSURE:**

**A.** Living space:  
The applicant's home may be a house, mobile home, housing unit or apartment occupied by an individual or family.

**B.** Condition of the home: The applicant's home and all structures on the grounds of the property must be maintained in a clean, safe, and sanitary condition and in a reasonable state of repair within community standards. The home must satisfy the following living space standards:

**(1)** be free from objects, materials, and conditions that constitute a danger;

**(2)** prevent or eliminate rodent and insect infestation;

**(3)** have capability for regular disposal of trash and recycling, if recycling is available in the area;

**(4)** have a working phone or access to a working

phone in close walking proximity;  
 (5) have at least one toilet, sink, and tub or shower in safe operating condition;  
 (6) have kitchen facilities with a sink, refrigerator, stove, and oven in safe operating condition;  
 (7) have heating and or cooling as required by the geographic area, consistent with the accepted community standards and in safe operating condition;  
 (8) have ventilation where household members and children in foster care eat, sleep, study and play. This includes ventilation for fuel-burning equipment for heating.  
 (9) have adequate lighting as required by the geographic area, consistent with the accepted community standards and in safe operating condition;  
 (10) have access to or a continuous supply of safe drinking water; and  
 (11) have proper water heater temperature. Any water heater must be set in accordance with the manufacturer's recommendations.

**C. Household pets and animals:**

(1) Any animal that poses a threat to the safety or health of a child in foster care must be confined in a place away from and inaccessible to the child, but in a manner that is in compliance with state and local animal control codes and statutes.  
 (2) Pets that are required to be vaccinated by state, county, local or tribal law must be vaccinated against diseases that can transmit to humans, including but not limited to rabies.

**D. Pools, hot tubs and spas:**

(1) Shall have a barrier on all sides, such as a fence or pool cover, and have a safety locking device such as a bolt lock. If a barrier cannot be installed on all sides, children shall not have access or be around to the area surrounding

the pool without direct adult caregiver line of sight supervision at all times;

(2) Shall be equipped with a life saving device, such as a life preserver;

(3) If the swimming pool cannot be emptied after each use, the swimming pool must have a working pump and filtering system;

(4) Spas or hot tubs must have safety covers that are locked when not in use; and

(5) All children using swimming pools or hot tubs must be accompanied by an adult.

**E. Capacity standards:**

The total number of children in a foster care provider's home must not exceed eight, of which no more than six may be children in foster care. PSD may determine lower capacities based on the family assessment and home study. The number of foster children cared for in a foster care provider home may exceed this numerical limitation at the approval of the regional manager for one or more of the following reasons:

(1) To allow a parenting youth in foster care to remain with the child of the parenting youth;

(2) To allow siblings to remain together;

(3) To allow a child with an established meaningful relationship with the applicant's family to remain with the family;

(4) To allow a foster care provider with special training or skills to provide care to a child who has a severe disability; and

(5) Other extenuating circumstances approved at the discretion of the PSD regional manager.

**F. Sleeping**

arrangements: The applicant's home must provide the following sleeping standards, to include each child in foster care has a safe sleeping space and are treated equitably.

(1) Sleeping supplies, such as a mattress and linens to meet their basic needs;

(2) All cribs in the home must be in compliance with Consumer Product Safety Commission standards;

(3) Sleeping arrangements shall be age and developmentally appropriate for children in foster care placed in the home. Co-sleeping or bed sharing, when a parent(s) and infant share a sleeping surface, is prohibited. Room-sharing, when a parent(s) and infant or toddler share a room, but sleeps on a separate sleeping surface, is permitted;

(4) With PSD approval, children, age appropriate, who are relatives, may share a bed;

(5) All bunk beds in the home must have railings or PSD approved barriers on both sides to prevent falling;

(6) There must not be more than four children total sharing a room used as a sleeping space, unless the children are relatives and approved by PSD;

(7) A child over the age of five may share a room with a child of a different gender with PSD approval;

(8) Sleeping quarters for foster children shall be a contiguous part of the main family structure. Exceptions may be made for those children over the age of 16 who are preparing for independent living or for youth participating in the extended foster care program.

**G. Emergency preparedness, fire safety, weapon storage, and evacuation plans:** The applicant must meet the following safety, fire, weapon storage, and evacuation plan standards. The licensing agency shall assist relatives or fictive kin in bringing their home up to standards, unless there is a major safety issue.

(1) electrical wiring shall be installed and maintained in a manner that will not pose a hazard or risk to a child's safety or health. Electrical extension cords shall not be used for general wiring. If the licensing agent has doubts of the adequacy of electrical wiring, the licensing agent shall

request for a local electrical inspector to inspect the wiring and submit a report to the licensing agent. The applicant is responsible for obtaining and paying for this inspection, however, a relative or fictive kin applicant who may need financial assistance shall contact PSD or the licensing agent for further support.

(2) have at least one smoke detector on each level of occupancy of the home and near all sleeping areas;

(3) have at least one carbon monoxide detector on each level of occupancy of the home and at least one near all sleeping areas;

(4) have at least one operable valid fire extinguisher that is readily accessible;

(5) be free of obvious fire hazards, such as defective heating equipment or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacture;

(6) have a written emergency evacuation plan to be reviewed with the child and posted in a prominent place in the home;

(7) maintain a list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home;

(8) have a written emergency evacuation plan to be reviewed with the child within 24 hours of placement in the home and posted in a prominent place in the home. The plan must identify multiple exits from the home, and designate a central meeting place close to the home that is known to the child yet at a safe distance from potential danger.

(9) shall maintain a stock of first aid supplies in the foster home, as recommended by the American Red Cross. Examples of first aid supplies may include but are not limited to:

(a) non-medicated adhesive bandages

(b) adhesive roller bandage;

(c) adhesive tape;

(d) sterile first aid dressings in sealed envelopes; and

(e) first aid cream or ointment.

(10) All weapons shall be stored and locked and inaccessible to children. All firearms shall be unloaded, locked and stored separately from ammunition. Ammunition shall be locked and stored separately as per the PSD approved weapons safety agreement. The foster family shall provide a signed copy of the PSD approved weapons safety agreement to the licensing agent. The following items are considered weapons:

(a) firearms;

(b) air guns;

(c) BB guns;

(d) hunting bows;

(e) hunting slingshots; and

(f) any other projectile weapon.

(11) Applicants who are also law enforcement officials, and can document their jurisdiction requires them to have ready and immediate access to their weapons, may be exempt from these weapons requirements provided the applicants adopt and follow a safety plan approved by PSD.

**H. Hazardous materials:** The applicant's home must prevent the child's access, as appropriate for their age and development, to all medications (including medical marijuana), poisonous materials, cleaning supplies, other hazardous materials, and alcoholic beverages.

**I. Transportation:** Applicants shall have access to reliable, legal and safe transportation. Reliable transportation includes access to a properly maintained vehicle or access to public

transportation. If the applicant, family member or friend operates an automobile, the applicant, family member or friend providing transportation shall have valid automobile insurance and registration as required by law and a valid driver's license. Motor vehicles shall have safety restraints as required by law and also shall have properly installed car seats for age appropriate children.

**J. Additional safety standards:** Any material of a sexual nature shall not be accessible by children. Child pornography is illegal and never allowed in a foster home and will be reported to law enforcement.

[8.26.4.15 NMAC - Rp, 8.26.4.13 NMAC, 2/11/2020]

**8.26.4.16 FOSTER CARE PROVIDER TRAINING:**

**A. Pre-service training:** PSD shall provide pre-service training to all foster care providers. All foster care providers are required to do PSD's pre-service training. Accommodations for trainings may be provided on a case-by-case basis, depending on the foster care provider's needs. Accommodations may include in person group, one-on-one or online training sessions. Pre-service training topics shall include:

(1) An overview of New Mexico's child welfare system:

(a) legal rights, roles, responsibilities and expectations of foster care providers;

(b) PSD's purpose, structure, policies, and services; including the rights of children in care and

(c) courts, applicable laws and regulations.

(2) Importance of maintaining meaningful connections between child and parents;

(3) Reasonable and prudent parenting standard per section 471(a)(24) of the Act;

(4) Additional information, including trauma concepts, culturally relevant topics, and behavioral management;

(5) First aid training, including cardiopulmonary resuscitation (CPR) and medication administration. In person first aid training and CPR may be obtained outside of the licensing agency; and

(6) Foster parent assurances described herein at 8.24.6.17 NMAC.

**B.** Ongoing training: All foster care providers licensed by PSD or a CPA are required to participate in PSD approved annual training.

(1) Foster care providers licensed by PSD shall participate in approved annual ongoing training determined by PSD. All foster care providers shall develop an annual individualized training plan. The training plan shall be jointly developed by the foster care provider and the PSD placement worker. The training plan shall ensure the foster care provider receives ongoing instruction to support their roles and remain up to date on policies, requirements, and services to meet the provider's needs. Further training may also include child specific training (meeting the needs of the child related to their entire identity including race, national origin, religion, gender, gender expression, sexual orientation, or disability) or may address issues relevant to the general population of children in foster care in New Mexico.

(2) Foster care providers licensed by a child placement agency are required to participate in PSD approved annual training. PSD may mandate, at its discretion, no more than six hours of specific topics determined by PSD. Additional training hours may be mandated by the child placement agency.

[8.26.4.16 NMAC - Rp, 8.26.4.14 NMAC, 2/11/2020]

#### **8.26.4.17 FOSTER CARE PROVIDER ASSURANCES:**

**A.** Applicants must sign an agreement containing the following assurances that they and all household members will comply with their roles and responsibilities as

discussed with the licensing agency once a child is placed in their care.

**B.** PSD shall review the assurance agreement with the foster care provider at initial licensing, when a child is placed in their care, and annually thereafter.

**C.** The following are the foster care provider assurances. Foster care providers:

(1) shall have ongoing collaboration and communication with PSD regarding their needs or barriers to carrying out foster care provider responsibilities;

(2) shall not engage in discriminatory treatment on the basis of a child's race; ethnicity; creed; color; age; religion; sex or gender; gender identity; gender expression; sexual orientation; marital status or partnership; familial or parental status; pregnancy and breastfeeding or nursing; disability; genetic information; intersex traits; medical condition, including HIV/AIDS; citizenship or immigration status; national origin; tribal affiliation; ancestry; socioeconomic status; language; political affiliation; military or veteran status; status as a victim of domestic violence, sexual assault or stalking; and housing status, including homelessness; or any other non-merit factor];

(3) shall not attempt to change or discourage a child's sexual orientation, gender identity, or gender expression or prohibit expression, including through clothing or grooming, consistent with the child's gender or gender expression;

(4) shall not use corporal punishment or degrading punishment on any children living in the home or that they may be providing care to;

(5) shall not use illegal substances, abuse alcohol, or abuse legal prescription or non-prescription drugs, using them contrary to as indicated, or using them in a way that impacts the safety and well-being of children placed in their home. They shall agree that any use of prescription medications will require an assessment as to the safety

of the children in the initial or updated home study.

(6) shall inform PSD immediately of prescription medical marijuana use and provide PSD with a copy of the New Mexico state issued card, along with the directive and reason for use from a licensed medical or psychiatric physician. They shall agree to keep any legal prescription medical marijuana in a locked container, inaccessible by children. They shall agree to not use medical marijuana while solely caring for the children and shall not operate a vehicle or any other motorized machinery while under the influence. They shall agree that any use of prescription medical marijuana will require assessment as to the safety of the children in the initial or updated home study.

(7) shall not use or allow any other persons to smoke cigarettes, marijuana or other smoking devices in the foster family home, in any vehicle used to transport a child, or in the presence of the child in foster care.

(8) shall closely supervise the child in foster care when the child is in close proximity to any swimming pool or body of water. When they cannot supervise, they must restrict the child's access to swimming pools or bodies of water. The child must never be left to swim alone. Exceptions may be made for youth participating in the extended foster care program.

(9) shall provide water safety instruction to the child in foster care as appropriate for their age and development if the home is adjacent to any body of water or has a swimming pool. Water safety instruction addresses key knowledge and skills on how to be safe around water and does not necessarily mean swim lessons.

(10) shall maintain the swimming pool in safe condition, including testing and maintaining the chlorine and pH levels as required by the manufacturer's specifications.

(11) shall lock all entry points when the swimming pool is not in use.

(12) shall remove or secure any steps or ladders to the swimming pool to make them unusable when the pool is not in use.

(13) shall set up and maintain wading pools according to the manufacturer’s instructions, and empty and store them when not in use.

(14) shall closely supervise the child in foster care when the child is in close proximity to or using a trampoline of any size. When they cannot supervise, they must restrict the child’s access to trampolines. The child must never be left to play, sit or jump on a trampoline without adult supervision. Foster care providers shall ensure trampolines are used in accordance to the manufacturer’s recommendations. Exceptions may be made for youth participating in the extended foster care program.

(15) shall ensure the child in foster care has legal and safe transportation to and from health care, therapy and agency appointments; school; extracurricular activities; social events; and scheduled meetings or visitation with parents, siblings, extended family members and friends, in accordance with prudent parenting.

(16) shall ensure that if a privately-owned vehicle, owned by the applicant, family or friend is used to transport the child in foster care, registered and insured, and meets all applicable state or tribal requirements to be an operable vehicle on the road.

(a) The driver shall have a valid driver’s license.

(b) Safety restraints shall be used that are appropriate to the child’s age, height, and weight.

(c) Weapons must not be transported in any vehicle in which the child is riding unless the weapons are made inoperable and inaccessible or the foster care provider is law enforcement and has documentation that they are required to carry their weapon.

(17) shall follow PSD’s approved weapons agreement. No foster children are to be in the presence of firearms, unless prior approval is obtained from PSD.

(18) shall ensure any off road vehicles, boats, jet skis or other recreational vehicles the foster child may ride or drive are used according to the manufacturers recommendations are adhered to and that use of these types of vehicles may be dependent on the age and any cognitive and behavioral challenges of the child.

(19) shall positively and actively participate in the case plan goals for the child, including but not limited to reunification with their family, placement or guardianship with a relative or fictive kin, or planned permanent living arrangement. They shall not negatively speak of, write of or provide influence to the child regarding their family.

(20) may need to take additional steps for the safety of the child in foster care, depending on the home, the area in which it is located, and the age and any cognitive and behavioral challenges of the child. For example, applicants may be required to child proof their home or place a barrier to prevent the child from accessing nearby railroad tracks, river or another hazard.

(21) shall adhere to the PSD reasonable and prudent parent standards per 8.26.2.13 NMAC.

(22) shall acknowledge receipt of and intent to comply with the foster child and youth bill of rights.

(23) shall acknowledge receipt of and intent to comply with the memorandum of agreements for foster parents. [8.26.4.17 NMAC - Rp, 8.26.4.22 NMAC, 2/11/2020]

**8.26.4.18 CHANGES IN HOUSEHOLD EFFECTING LICENSURE STATUS:**

A. Licensed foster parents must notify their licensing agent immediately of any

circumstance that may impact their license. Such circumstances may include but are not limited to:

- (1) birth or death of any household member;
- (2) serious illness of any household member;
- (3) criminal investigation, arrest or conviction of any household member;
- (4) child abuse or neglect referrals involving a household member;
- (5) new person living in the home or a person leaving the home;
- (6) significant financial changes, such as a change in employment status or bankruptcy;
- (7) a minor child reaching the age of 18; or
- (8) change in address.

B. Any adult intending to move into the foster home must complete a background check 30 calendar days prior to moving into the foster home. Any adult intending to move into the foster home with the intent of becoming a caregiver to a child in care must complete all licensing requirements prior to moving into the home. Any minor reaching the age of 18 shall complete a background check within 30 days of turning 18 years old.

C. The licensing agent shall assess changes within the foster home and that of the foster care providers that may affect licensing status and take appropriate action based upon the assessment. [8.26.4.18 NMAC - Rp, 8.26.4.23 NMAC, 2/11/2020]

**8.26.4.19 REVIEW AND RENEWAL OF FOSTER CARE PROVIDER LICENSURE:**

A. Annual review: An annual review is a yearly review of a foster care provider’s license to ensure the foster care provider continues to meet licensing standards related to criminal record checks, incident reports, training and assurances. An annual review shall be conducted one year from the date the license was issued. The licensing

agent shall conduct an annual review of each foster care provider to include the following:

- (1) documentation of completion of the training requirements and the plan for ongoing training as described herein at 8.26.4.16 NMAC;
- (2) an abuse and neglect check on all adults living in the home;
- (3) a check of nmcourts.com and the national sex offender registry on all adults living in the home;
- (4) a review of the agreement between the foster care provider and the licensing agency. The agreement shall be signed again to cover the remainder of the licensing period or the new licensing period;
- (5) a review of placements made during the year, identification of strengths and training needs, and a review of current policies affecting foster care;
- (6) a review of incident reports or investigations made during the year;
- (7) a review with the foster care provider of their duty to disclose any arrests or abuse and neglect referrals; and
- (8) a review and acknowledgement of receipt of the foster parent assurances with the foster care provider.

**B. Renewal:** Foster care provider licenses are valid for a period of two years. PSD must assist foster care providers in renewing their license prior to the expiration of the license. Foster care providers, with the assistance of PSD, must meet the following renewal requirements every two years from the date of licensure. The SAFE home study update shall be used for re-assessment for renewal. The reassessment shall include all requirements listed above in Paragraphs (1) through (8) of Subsection A of 8.26.4.19 NMAC.

(1) Before the end of the licensure period, both the foster care provider and the licensing agent shall ensure all requirements are met to qualify the family for a renewed license.

(2) PSD or child placement agency foster care provider licenses shall be issued every two years, if the foster care provider continues to meet requirements.

**C. Break in licensure:**  
A break in licensure means requirements for license renewal were not completed prior to expiration of the foster care provider license, for a period of one calendar day past licensure expiration. Any break in licensure longer than one calendar day requires the foster care provider, with the assistance of PSD or the licensing agent, to complete all renewal requirements described herein Subsection B of 8.26.4.19 NMAC, the home safety checks, and CRC checks. If a break in licensure is less than one calendar day, PSD or the licensing agent shall complete the process for normal renewal described herein Subsection B of 8.26.4.19 NMAC. [8.26.4.19 NMAC - Rp, 8.26.4.18 NMAC, 2/11/2020]

**8.26.4.20 DENIAL, REVOCATION, SUSPENSION, OR NON-RENEWAL OF A FOSTER CARE PROVIDER LICENSE:**

**A. Denial of a license:**  
(1) PSD or child placement agency staff may deny an applicant's request for licensure based on a documented professional assessment using the PSD approved home study format and supervisory tool. When a denial is recommended by the PSD worker, concurrence by the supervisor, county office manager, juvenile justice bureau chief, clinical director or agency executive director is required. Denial for a relative or fictive kin shall require a team review to include the PPW worker, PPW supervisor, placement worker, placement supervisor and COM. Denial, revocation, suspension, or non-renewal must clearly document that in the professional assessment using the approved PSD home study format of the licensing agent, documenting that the prospective or current foster care applicant cannot adequately provide safety, permanency, and well-being

for a child in foster care and any concerns cannot be mitigated.

(2) Applicant's may be denied licensure at any point in the licensing process. The applicant shall be notified in writing of the denial within 10 business days of PSD or child placement agency's final decision by certified return receipt mail.

(3) Applicants who have been denied an initial foster parent license may request an administrative review of the reasons for the denial of the initial license. The request must be in writing and within 10 days of the return receipt of the notice of denial. This review is an informal process completed by the licensing agent and third party that was not directly supervising the licensing agent, which may include an informal conference or record review. The administrative review does not create any substantive rights for the family.

**B. Revocation or non-renewal of a license:** A foster care license may be revoked or not renewed by the licensing agent at any time for reasons which may include but are not limited to:

- (1) disqualifying criminal records check results as described herein at Subsection H of 8.26.4.12 NMAC;
- (2) disqualifying abuse and neglect check results as described herein at Subsection C of 8.26.4.13 NMAC;
- (3) failure to comply with 8.26.2 NMAC, 8.26.4 NMAC, 8.26.5 NMAC or PSD policies;
- (4) failure to immediately report any arrests to PSD or CPA;
- (5) failure to report changes in the family, including the addition of new adult household members within five days of the change;
- (6) willful misrepresentation of any information during the home study process;
- (7) failure to comply with health and safety measures, including those

requirements described herein at 8.26.4.15 NMAC;

(8) returning a child to PSD or another agency without seeking support services provided by PSD, the agency or community service providers in order to preserve the placement;

(9) refusal to comply with case plan;

(10) inability to adequately meet the needs of the child;

(11) failure to include children in family activities;

(12) overuse or inappropriate use of respite care and reasonable and prudent parenting;

(13) failure to actively preserve connections with or failure to make reasonable efforts to maintain connections between foster children and their birth families and community of origin such as:

(a) siblings or other birth relatives;

(b) school or community providers;

(b) church community; and

(c) fictive kin, or the child's friends.

(14) failure to demonstrate the ability to provide emotional support during fundamental times of a child's life;

(15) repeated refusals by non-relative foster care providers to accept children who have been matched for placements;

(16) failure to participate in required training;

(17) failure to comply with PSD's decisions regarding the child's safety, permanency, and well-being;

(18) misuse use or abuse of substances including but not limited to:

(a) alcohol;

(b) illegal substances; and

(c) legal prescription drugs and non-prescription drugs.

(19) exposure of the child to cigarette smoking and tobacco products; and

(20) a documented professional assessment that continued licensure would be contrary to the safety, permanency, and well-being of the child, or in the opinion of the licensing agent, conditions in the foster home are not conducive to the fostering of children.

C. Corrective Action Plan (CAP): Corrective action plans may be implemented as an alternative to revocation of a license when, in PSD or the child placement agency's assessment, the foster care provider is capable of resolving the violations within a period of six months.

(1) It shall be PSD's or the child placement agency's sole discretion whether a foster care provider may continue to have children placed in their home during the pendency of a CAP;

(2) A CAP must be in writing, signed and dated by the foster care provider and the licensing agent;

(3) The CAP shall set forth the policy violations of the foster care provider as described herein at Paragraphs (1) through (20) of Subsection B of 8.26.4.19 NMAC;

(4) The CAP shall set forth the conditions the foster care provider must meet in order to rectify the policy violations and the deadline within which they must meet the conditions. Conditions may include, but are not limited to the following:

(a) additional training;

(b) increased scheduled or unscheduled home visits by PSD or the child placement agency staff;

(c) compliance with the case plan for the child;

(d) participation in therapeutic, parenting, or other services.

(5) Failure of the foster care provider to agree to the terms of a CAP may result in revocation for the policy violations that led to the proposed CAP;

(6) Failure to comply with the conditions of the

CAP may result in revocation of the foster care license.

D. Suspension of a license: Suspension of a license is involuntary and may not last more than 12 months. Reasons for suspension may include all the reasons described herein at Paragraphs (1) through (20) of Subsection B of 8.26.4.20 NMAC, as well as:

(a) substantiated abuse or neglect referrals; or

(b) during the period of a corrective action plan.

E. Voluntary placement hold: A foster care provider may voluntarily decide to temporarily defer their licensure and not accept placements for a period of up to 12 months. Voluntary placement holds must be approved by the licensing agency. A foster care provider may opt for a voluntary placement hold for the following reasons:

(a) medical conditions;

(b) adoption; or

(c) life changes within the household.

F. Notification: The foster care provider shall be notified in writing, by return of receipt mail, of the reason for revocation, suspension or non-renewal of the license and shall provide the foster care provider the opportunity to request an appeal before an impartial hearing officer appointed by or approved by the CYFD secretary where the family has the opportunity to present evidence on their behalf and to be assisted by counsel. The foster care provider shall request an appeal within 10 business days of receipt of the notification of the proposed action. If the family does not request an appeal within the 10 business days, then the decision to revoke, suspend or not renew a license shall be final. Administrative hearings are conducted in accordance with 8.8.4 NMAC.

**G.** Reinstatement of a license: A foster care provider whose license has been revoked, suspended, or not renewed may petition the licensing agency that issued the license to have the license reinstated upon proof that the noncompliance with the policies have ceased. The best interest of children shall be the primary consideration in determining whether reinstatement is appropriate. PSD or the child placement agency must ensure all licensing requirements are met prior to reinstatement. A PSD decision to reinstate a license must be approved by the PSD regional manager.  
[8.26.4.20 NMAC - Rp, 8.26.4.19 NMAC, 2/11/2020]

**8.26.4.21 GUIDANCE FOR LICENSURE OF NON-UNITED STATES CITIZENS WITHOUT LEGAL PERMANENT RESIDENCY:**

**A.** All non-U.S. citizens without legal permanent residency who wish to be considered as relative or fictive kin placements shall comply with all licensure application requirements described herein Subsection B of 8.26.4.11 NMAC. PSD shall be responsible for conducting full licensure of non-U.S. citizens without legal permanent residency. Licensure of non-U.S. citizens without legal permanent residency shall not be contracted to other providers.

**B.** Criminal record checks (CRC) for non-U.S. citizen relative or fictive kin foster care providers:

(1) Non-U.S. citizen relative or fictive kin applicants without legal permanent residency must meet all requirements for criminal records checks described herein 8.26.4.12 NMAC with the exception of fingerprinting.

(2) Fingerprinting is the preferred method for background checks, however, an individual who is a non-U.S. citizen without legal permanent residency in the United States may choose not to be fingerprinted and may provide other forms of identification for a

background check. Other forms of identification accepted for background checks are the following:

- (a) Foreign passports
  - (b) Consular Identification (Matricula Consular)
  - (c) Non-REAL ID state identification
  - (d) Active Duty/Retiree/Reservist Military ID Card (000 10-2)
- (3) The licensing agency shall provide assistance to the relative or fictive kin applicants with obtaining an acceptable form of identification.

(4) The national crime information center (NCIC) checks and abuse and neglect checks remain a mandated requirement for all relative or fictive kin applying to become licensed foster care providers. Relatives or fictive kin providers who are non-US citizens without legal permanent residency and who choose not to go through the fingerprinting process are still eligible to be foster care providers. PSD workers must notify their region's Title I-VE specialist immediately upon placement of a child with a non-U.S. citizen relative or fictive kin without legal permanent residency.

**C.** Child abuse and neglect checks for non-U.S. citizen foster care applicants who are not a legal permanent residents shall be conducted in compliance with 8.26.4.13 NMAC. If during any time in the five years prior to the date of application, the applicant resided in another country, PSD shall attempt to obtain an abuse and neglect check from the other country. Efforts to obtain abuse and neglect checks in another country shall be documented but inability to obtain abuse and neglect checks from another country shall not be a disqualifier for licensure.

**D.** Non-U.S. citizen relative or fictive kin applicants who are not legal permanent residents shall meet all other licensing requirements for:

- (1) Physical and Mental Health Standards;
- (2) Home Safety, Capacity and other Space Standards; and
- (3) Home study requirements: and Training Requirements.

**E.** Immigration considerations: PSD staff shall notify the PSD Immigration Director and Immigration Specialist of any non-U.S. citizen relative or fictive kin provider without legal permanent residency licensed in New Mexico including through ICPC.  
[8.26.4.21 NMAC - N, 2/11/2020]

**8.26.4.22 DOCUMENTATION RELATED TO LICENSING OF FOSTER AND ADOPTIVE CARE PROVIDERS:**

**A.** Maintenance of records:

(1) Foster care provider files: PSD and CPA shall maintain records concerning the evaluation of a foster care provider, including but not limited to the application, assessment information, recertification of information, releases of information, criminal records and background checks, medical examination records, a copy of the foster care provider license and correspondence. PSD and licensed agencies shall retain records permanently in accordance with 1.21.2.804 NMAC. If an agency is closed or goes out of business, the agency shall comply with 8.26.5.30 NMAC.

(2) Adoption files: The agency, attorney, independent agent or PSD shall maintain records concerning adoptive families, including the foster care provider file as described above at Paragraph (1) of Subsection A of 8.26.4.21 NMAC, as well as adoption case information including but not limited to the adoption decree, annual contact reports, and adoption assistance agreements.

(a) Finalized adoption cases: The agency and CPA's shall retain finalized

adoption records in locked files for 100 years from the date of birth of the youngest child. The agency may preserve records through microfilming or other electronic measures. In the event an agency is closed or goes out of business, the agency shall comply with 8.26.5.30 NMAC.

**(b)**

Disrupted or proposed adoptions not finalized: PSD and CPA's shall retain cases for five years after the case is closed. In the event an agency is closed or goes out of business, the agency shall comply with 8.26.5.30 NMAC.

**B. Confidentiality:**

Under CYFD's general rulemaking authority Section 9-2A-7 NMSA 1978, the confidentiality provisions of the New Mexico Children's Code, Sections 32A-3B-22 and 32A-4-33 NMSA 1978, the specific authority related to certification of foster care providers, Subsection D of Section 40-7-4 NMSA 1978 and the Adoption Act, Sections 32A-5-6 and 32A-5-8 NMSA 1978, all case records and identifying information including foster and adoptive families, and applicant files are confidential and may not be publicly disclosed.

**(1)** Release in response to court order: PSD and CPAs may release such files only upon a valid court order provided that confidential criminal and abuse and neglect information may not be released, unless a court order specifically orders such a release.

**(2)** Release to another agency that is considering a previously licensed family for licensure: An agency that has licensed a foster or adoptive care giver may release assessment information and an unofficial copy of the home study to any agency that is considering the foster or adoptive family for licensure, upon receipt of the signed notification by the foster care provider of its licensure history with previous agencies.

**C. Foster care provider files:**

**(1)** Upon request, foster care providers shall be allowed to review their own file with

the exception of letters of reference and the identity of any abuse or neglect report source regarding the foster or adoptive parents. Copying the file is not permitted.

**(2)** The agency shall provide an unofficial copy of the home study to the foster care provider upon written request.

**(3)** Foster care providers may purchase an official copy of their home study for a reasonable fee to be determined by the PSD director.

[8.26.4.22 NMAC - Rp, 8.26.4.21 NMAC, 2/11/2020]

**HISTORY OF 8.26.4 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under: HSSD 75-7, Minimum Requirements for Licensing of Child Placement Agencies, 9/15/1975; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 8/22/1986; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 1/29/1987; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 11/18/1987; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 6/14/1988; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 8/22/1988; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 9/18/1990; SSD 5.3.0, Substitute Care for Children - Department Responsibilities, filed 3/15/1991; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 8/22/1986; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 1/29/1987; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 6/18/1987; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 11/18/1987;

SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 8/22/1988; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 3/28/1989; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 3/20/1990; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 9/18/1990; SSD 5.4.0, Substitute Care for Children - Licensing Standards for Foster Homes, 3/15/1991; SSD 5.5.0, Foster Care Child Placement Agency Licensing Regulations, 12/7/1989.

**History of Repealed Material:**

8 NMAC 27.2, Foster Parenting, filed 6/16/1997 - Repealed 2/14/2001; 8.27.2 NMAC, Foster Parenting, filed 2/1/2001 - Repealed 7/15/2004; 8.27.2 NMAC, Foster Parenting, 7/2/2004 - Repealed effective 11/15/2005; 8.27.2 NMAC, Foster Parenting, filed 11/1/2005 - Repealed effective 5/29/2009; 8 27.3 NMAC, Licensing Standards for Foster Care, filed January 13, 1997 - Repealed effective May 29, 2009. 8 26.4 NMAC, Licensing Requirements for Foster and Adoptive Homes, filed May 15, 2009, replaced by 8 26.4 NMAC, Licensing Requirements for Foster and Adoptive Homes, effective February 11, 2020.

**GAME AND FISH DEPARTMENT**

At its meeting on January 17, 2020, the State Game Commission repealed its rule entitled Game and Fish Licenses/Permits, 19.30.9 NMAC, filed September 29, 2015, and replaced it with a new rule entitled Game and Fish Licenses/Permits, 19.30.9 NMAC, effective April 1, 2020.

**GAME AND FISH  
DEPARTMENT**

**TITLE 19 NATURAL  
RESOURCES AND WILDLIFE  
CHAPTER 30 WILDLIFE  
ADMINISTRATION  
PART 9 GAME AND FISH  
LICENSES/PERMITS**

**19.30.9.1 ISSUING**

**AGENCY:** New Mexico Department of Game and Fish.

[19.30.9.1 NMAC - Rp, 19.30.9.1 NMAC, 4/1/2020]

**19.30.9.2 SCOPE:** License vendors and individuals utilizing the special use of wildlife licenses and permits.

[19.30.9.2 NMAC - Rp, 19.30.9.2 NMAC, 4/1/2020]

**19.30.9.3 STATUTORY**

**AUTHORITY:** Sections 17-1-14, 17-3-5, 17-3-7, and 17-3-12 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17, NMSA 1978 and all other acts pertaining to protected species.

[19.30.9.3 NMAC - Rp, 19.30.9.3 NMAC, 4/1/2020]

**19.30.9.4 DURATION:**

Permanent.

[19.30.9.4 NMAC - Rp, 19.30.9.4 NMAC, 4/1/2020]

**19.30.9.5 EFFECTIVE**

**DATE:** April 1, 2020, unless a later date is cited at the end of a section.

[19.30.9.5 NMAC - Rp, 19.30.9.5 NMAC, 4/1/2020]

**19.30.9.6 OBJECTIVE:**

Establishing eligibility and application requirements, procedures and financial obligations of license vendors, and certain licenses, permits, certificates and fees for special uses of wildlife, draw applications and license purchases.

[19.30.9.6 NMAC - Rp, 19.30.9.6 NMAC, 4/1/2020]

**19.30.9.7 DEFINITIONS:**

**A.** "Vendor" shall mean any owner(s) of a private or public business concern authorized by the New Mexico department of game and fish to sell license documents.

**B.** "Carcass tag" shall mean any tag form provided to the vendor by the Department of Game and Fish that authorizes a person to legally possess big-game species or turkey killed in New Mexico.

**C.** "Financial obligation" shall mean any dollar value owed to the Department, including penalty fees for unreturned carcass tags and payments for cash sales.

**D.** "License year" shall mean the period of April 1 through March 31.

**E.** "Hearing officer" shall mean the official designated by the department for the purpose of conducting revocation hearings and providing recommendations to the state game commission; relating to the suspension of hunting and fishing license vendors.

[19.30.9.7 NMAC - Rp, 19.30.9.7 NMAC, 4/1/2020]

**19.30.9.8 LICENSE VENDORS:**

**A. Financial Obligations to the Department of Game and Fish:**

**(1)** The department will consign carcass tags to each vendor prior to the beginning of each license year, and will conduct an audit at the end of the license year to account for all carcass tags not issued to customers. All carcass tags designated unusable in any month during the license year must be returned to the department no later than the 10<sup>th</sup> day of the next month, and all blank, unused carcass tags must be returned to the department at the end of the license year no later than May 10.

**(2)** A fee of \$100 per missing carcass tag shall be levied upon the license vendor for failure to return any carcass tag designated unusable or any blank, unused carcass tag as required.

**(3)** Each vendor accepting cash payments, must submit payment for cash sales to the department every two weeks or when the total amount due (including license and vendor fees) reaches \$5,000, whichever comes first.

**(4)** If a vendor is more than five days delinquent in its payment for cash sales, the privilege to accept cash for department licenses and permits shall be immediately suspended, and the department shall only reactivate the vendor's full license sale privilege once payment is received in full.

**(5)** A vendor that is delinquent more than three times in a license year shall be evaluated by the director, who shall determine whether to suspend, restrict or place conditions on the vendor's privileges pursuant to Subsection C of 19.30.9.8 NMAC.

**(6)** Any vendor that has their privileges suspended, restricted, or conditioned may request a hearing before a hearing officer to appeal the director's determination. Any vendor that does not request a hearing agrees to pay to the department the appropriate amount as specified in Paragraphs 1-3 of Subsection A of 19.30.9.8 NMAC within ten (10) working days and to comply with the director's determination. If a vendor requests a hearing as provided by this rule, the department, within 20 days of receipt of such request, shall notify the vendor of the time and place of the hearing and the name or names of the person or persons who shall conduct the hearing for the commission. The hearing shall be held not more than 90 or less than 30 days from the date of service of such notice unless a continuance is granted to either party by the hearing officer.

**(7)** In the case of unusual mitigating or extraordinary circumstances, the state game commission may determine, and the hearing officer may recommend, financial obligation in an amount other than the amounts described in Paragraphs 1-3 of Subsection A of 19.30.9.8 NMAC. The decision of

the state game commission shall be final.

(8) Vendors, whether active or inactive, shall meet all financial obligations due to the department. Costs to collect overdue financial obligations may be added to the total obligation.

**B. Vendor eligibility, application and procedures:**

(1) Each vendor must sign a current license vendor agreement with the department on a form approved by the department annually.

(2) Each vendor shall participate in the department’s web-based sales system and follow the procedures set forth in the most current New Mexico department of game and fish license vendor manual and vendor agreement.

(3) Each new vendor, or any vendor who has been inactive for one year or more, shall submit a vendor application form, a current credit score (provided by a credit reporting company), and shall

be subject to a background check conducted by the department.

(4) A vendor applicant’s ability to meet the financial obligations herein shall be evaluated and their privileges may be subject to restrictions or conditions pursuant to Subsection C of 19.30.9.8 NMAC.

(5) A vendor applicant who has a felony conviction may be subject to restrictions or conditions placed on their vendor privileges pursuant to Subsection C of 19.30.9.8 NMAC.

(6) A vendor applicant who has their hunting, fishing or trapping license privileges currently revoked or suspended or who has an outstanding civil assessment owed to the department shall be ineligible to be a vendor.

(7) A vendor applicant who wishes to challenge any eligibility determination under this rule, may appeal to the director whose determination will be final and not subject to further appeal.

**C. Director’s authority:** The director may suspend, restrict or place conditions, including requiring a surety bond, on a license vendor’s privileges if the vendor is found to be in violation of their vendor agreement or delinquent in their financial obligation to the department. If such a determination is made, a notice of the suspension, restriction(s), or condition(s) shall be sent to the vendor within 10 days of the director’s determination. A vendor may request a hearing pursuant to this rule to challenge the determination.

**D. Vendor fee:**

(1) The department will pay the vendor fees earned by the vendor for the previous month license sales, no later the 10th business day of the next month, to the vendor,

(2) The vendor shall be required to be registered in the state of New Mexico’s central accounting system. [19.30.9.8 NMAC - Rp, 19.30.9.8 NMAC, 4/1/2020]

**19.30.9.9 ESTABLISHING CERTAIN LICENSES, PERMITS, CERTIFICATES AND FEES:**

Type	Further description	Fee
Certificate of application	NM resident draw application fee	\$7.00
	Non-resident draw application fee	\$13.00
Wildlife conservation stamp	Share with wildlife	\$10.00
Duplicate license		\$6.00
Landowner authorization certificate		\$9.00
Migratory bird permit	Harvest information program (HIP)	\$0.00
Big game depredation damage stamp	NM resident	\$3.00
	Non-resident	\$10.00
Public land user stamp	Habitat stamp	\$5.00
Bait dealers		\$21.00
Commercial fishing		\$25.00
Importation fish	Annual application processing fee	\$25.00
	Additional stocking and shipment fee	\$6.00
Retention		\$1.25
Transportation		\$0.00
Triploid grass carp		\$25.00
Airborne hunting		\$10.00

Class A lake aquaculture/recirculating water system	Up to 75 fish or 750 gallons	\$20.00
	76 to 150 fish or 751 to 1500 gallons	\$40.00
	Over 150 fish or over 1500 gallons	\$100.00
Call pen		\$15.00
Class A lake		\$101.00
Class A lake	Additional lake	\$26.00
Class A park		\$501.00
Commercial collecting	Reptiles and amphibians	\$50.00
Educational use of wildlife	Application, renewal or amendment	\$15.00
Falconry	Application or renewal for 3 years	\$25.00
Field trial/importation		\$15.00
Game bird propagation		\$10.00
Protected mammal		\$10.00
Scientific use of wildlife	Application	\$15.00
	Renewal or amendment	\$15.00
Shooting preserve		\$200.00
Zoo	No fee	\$0.00
Importation non-domesticated animals per calendar year (1/1 to 12/31) except protected ungulates, game birds, fish or other	Class 1 importation of 1 to 5 animals	\$25.00
	Class 2 importation of 6 to 99 animals	\$75.00
	Class 3 importation of greater than 100 animals	\$300.00
Importation other	One time import (i.e., temporary importation, exhibition, game birds, restoration/recovery, etc.)	\$20.00
Importation protected ungulate	Initial application/source & up to 2 animals (valid 6 months)	\$500.00
	For additional animals, not to exceed 30 ungulates from the same source property/owner (if no acquisitions to source herd during 6 month period of validity)	\$50.00 per animal
	For greater than 30 ungulates from the same source property/owner (if no acquisitions to source herd during 6 months period of validity).	\$5.00 per animal

[19.30.9.9 NMAC - Rp, 19.30.9.9 NMAC, 4/1/2020]

#### **HISTORY OF 19.30.9 NMAC:**

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

Regulation No. 693, Establishing Certain Licenses, Permits, Certificates, And Fees, 4-20-92.

Regulation No. 702, Establishing Certain Licenses, Permits, Certificates, And Fees, 4-23-93.

Order No. 4-92, Amendment No. 1 To Regulation No. 693, Establishing Certain Licenses, Permits, Certificates, And Fees, 6-9-92.

Regulation No. 691, Establishing Financial Liability For Unaccounted For Licenses, 10-3-91.

#### **History of Repealed Material:**

19.30.9 NMAC, Game and Fish Licenses/Permits, filed September 29, 2015, is hereby repealed and replaced by 19.30.9 NMAC, Game and Fish Licenses/Permits, effective 4/1/2020.

**GAME AND FISH DEPARTMENT**

**TITLE 19 NATURAL RESOURCES AND WILDLIFE  
CHAPTER 30 WILDLIFE ADMINISTRATION  
PART 18 FAIR CHASE**

**19.30.18.1 ISSUING**  
**AGENCY:** New Mexico department of game and fish.  
[19.30.18.1 NMAC – N, 2/11/2020]

**19.30.18.2 SCOPE:**  
Distribution and use of wildlife location data collected by the department of game and fish or its contractors.  
[19.30.18.2 NMAC – N, 2/11/2020]

**19.30.18.3 STATUTORY AUTHORITY:** Section 17-2-1 NMSA 1978 provides that the New Mexico state game commission may prescribe rules that embody the principles of fair chase, including prohibitions on the use of specific wildlife location data. Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.  
[19.30.18.3 NMAC – N, 2/11/2020]

**19.30.18.4 DURATION:**  
Permanent.  
[19.30.18.4 NMAC – N, 2/11/2020]

**19.30.18.5 EFFECTIVE DATE:** February 11, 2020, unless a later date is cited in the history note at the end of a section.  
[19.30.18.5 NMAC – N, 2/11/2020]

**19.30.18.6 OBJECTIVE:** To prevent the inappropriate distribution and use of wildlife location data collected by the department or its contractors that could be used to locate or assist in locating an individual animal or population.  
[19.30.18.6 NMAC – N, 2/11/2020]

**19.30.18.7 DEFINITIONS:**

**A. “Department”**  
shall mean the New Mexico department of game and fish.

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

**C. “Fair chase”** shall mean the ethical, sportsmanlike, and lawful pursuit and taking of any free-ranging wildlife species in a manner that does not give an individual an improper advantage over such animals.

**D. “Location information”** shall mean any data or information derived from methods including but not limited to Global Positioning System (GPS), radio telemetry, photographs, aerial and ground surveys, and visual or aural observation. Such data includes, but is not limited to, coordinates, location description, and similar information.  
[19.30.18.7 NMAC – N, 2/11/2020]

**19.30.18.8 LOCATION INFORMATION TO BE WITHHELD:**

- A.** The department shall withhold location information:
- (1)** that could be used to locate an animal(s) or be used contrary to the principles of fair chase;
  - (2)** as long as a transmitter is active;
  - (3)** until the transmitted animal is known, or can be reasonably be assumed, to be dead;
  - (4)** during an ongoing study;
  - (5)** if it could compromise the viability of a population where there is a known demand to visit, take, or disturb the species;
  - (6)** if it could encourage illegal take;
  - (7)** if the species has a limited distribution either continuously or at specific times;
  - (8)** that has been provided to the department from other agencies, universities, or other researchers; and
  - (9)** as provided in 19.33.4 NMAC.

**B.** The department shall withhold individual active radio frequencies.  
[19.30.18.8 NMAC – N, 2/11/2020]

**19.30.19 EXEMPTIONS FROM WITHHOLDING**

**LOCATION INFORMATION:**  
The department may release location information and radio frequencies if:

**A.** entering into agreements for scientific, management, conservation, or educational purposes.

**B.** determined that the individual or population is not at risk of being compromised by releasing the location data.

**C.** buffered such that the location information would not compromise the individual or population.  
[19.30.18.9 NMAC – N, 2/11/2020]

**HISTORY OF 19.30.18 NMAC: [RESERVED]**

**GAME AND FISH DEPARTMENT**

The State Game Commission at its 1/17/2020 meeting, repealed its rule 19.32.2 NMAC, Method, Season Dates, and Bag Limits, filed 8/1/2011, and replaced it with 19.32.2 NMAC, Furbearers, adopted on 1/17/2020 and becomes effective 4/1/2020.

**GAME AND FISH DEPARTMENT**

**TITLE 19 NATURAL RESOURCES AND WILDLIFE  
CHAPTER 32 TRAPPING AND FURBEARERS  
PART 2 FURBEARERS**

**19.32.2.1 ISSUING**  
**AGENCY:** New Mexico department of game and fish.  
[19.32.2.1 NMAC - Rp, 19.32.1.1 NMAC, 4/1/2020]

**19.32.2.2 SCOPE:**  
Sportspersons interested in furbearer

hunting and management. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC. [19.32.2.2 NMAC - Rp, 19.32.1.2 NMAC, 4/1/2020]

### 19.32.2.3 STATUTORY

**AUTHORITY:** Sections 17-1-14, 17-1-26, 17-5-3, 17-5-4, and 17-5-5 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species. [19.32.2.3 NMAC - Rp, 19.32.1.3 NMAC, 4/1/2020]

### 19.32.2.4 DURATION:

April 1, 2020 through March 31, 2024. [19.32.2.4 NMAC - Rp, 19.32.1.4 NMAC, 4/1/2020]

### 19.32.2.5 EFFECTIVE

**DATE:** April 1, 2020, unless a later date is cited at the end of a section. [19.32.2.5 NMAC - Rp, 19.32.1.5 NMAC, 4/1/2020]

### 19.32.2.6 OBJECTIVE:

Establishing open hunting seasons and regulation, rules and procedures governing the distribution and issuance of trapping licenses by the department. [19.32.2.6 NMAC - Rp, 19.32.1.6 NMAC, 4/1/2020]

### 19.32.2.7 DEFINITIONS:

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

**B. "Foothold trap"** shall mean a trap designed to capture a furbearer by the foot, but does not include foot encapsulating traps.

**C. "Foot encapsulating trap"** shall mean any trap with a push or pull-activated trigger located inside an enclosure recessed from an opening of no more than two inches in diameter, as measured across the opening from side to side, not corner to corner. Foot encapsulating traps include "dog proof" and "egg" traps.

**D. "Furbearer"** shall mean any quadruped defined as a fur-bearing animal in 17-5-2 NMSA 1978.

**E. "Land set"** shall mean any foothold trap or snare set on land.

**F. "Snare"** shall mean a wire or cable with a single closing device designed to capture a furbearer.

**G. "Trap"** shall mean any foothold trap, foot encapsulating trap, cage trap or body-grip trap set to capture a furbearer.

[19.32.2.7 NMAC - Rp, 19.32.1.7 NMAC, 4/1/2020]

### 19.32.2.8 OPEN SEASONS:

**A.** Badger, weasel, fox, ringtail and bobcat: November 1-March 15 statewide.

**B.** Raccoon:  
**(1)** April 1-May 15 and September 1-March 31, statewide.

**(2)** Extended season: May 16-August 31 statewide, method restrictions per 19.31.10 NMAC.

**C.** Beaver and muskrat: April 1-April 30 and November 1-March 31, statewide.

**D.** Nutria: April 1-March 31 statewide. [19.32.2.8 NMAC - Rp, 19.32.1.8 NMAC, 4/1/2020]

### 19.32.2.9 CLOSED AREAS:

**A.** No land set may be made on the Sandia ranger district portion of the Cibola national forest.

**B.** No land set may be made within that portion of Los Alamos county bounded by a line beginning at a point on the county line common to Los Alamos and Sandoval counties, said point identified as lying 200 feet north along the county line from the brass cap marking the seven and one-half mile point on the east boundary of the Baca location, said brass cap having New Mexico state plane coordinates (central zone) of X = 445,992.94 and Y = 1,782,659.28; and bearing northeasterly from the point of beginning to the northwestern corner of section 6, T. 19 N., R. 6

E, NMPM; thence easterly along the township line to the northeast corner of section 3, T. 19 N., R. 6 E., NMPM; then southwesterly to the first order traverse station "pinon"; thence N. 82 degrees, 26'30" E., a distance of 107.94 feet to the Los Alamos-Santa Fe county line; thence south, west and southeast along the eastern boundary of Los Alamos county to a point marked by a brass cap monument stamped A.P. 33 and shown on the "Boundary Plat, Survey of Tract A, Ramon Vigil Grant", filed for record with the U.S. department of the interior, general land office, Washington, D.C., January 10, 1939; thence southwesterly along a line 1,000 feet easterly of and parallel with the easterly boundary of the survey of White Rock, county of Los Alamos, New Mexico, as recorded in plat book 1, Page 62, on September 3, 1965, to the center line of Water canyon; thence southeasterly along the center line of Water canyon to the Los Alamos-Santa Fe county line; thence southwesterly, westerly and northerly along the Los Alamos county line to the point of beginning.

**C.** No land set may be made on the Organ Mountain-Desert Peaks national monument property within the following boundaries: Beginning at the junction of Interstate 25 (I-25) and US Highway 70, east along US Highway 70 to the White Sands Missile Range (WSMR) boundary, then south and east along the WSMR boundary to US Highway 54, then southwest along US Highway 54 to the Texas/New Mexico state line, then west along the state line to Interstate 10 (I-10), then north along I-10 to the junction with I-25 then north along I-25 to the junction of I-25 and US Highway 70.

**D.** No land set may be placed within one-half mile of New Mexico Highway 475 on the Santa Fe national forest, or New Mexico Highway 150 on the Carson national forest.

**E.** No beaver trapping is permitted on the Cibola, Gila or Lincoln national forests. [19.32.2.9 NMAC - Rp, 19.32.1.9 NMAC, 4/1/2020]

**19.32.2.10 MANDATORY FURBEARER EDUCATION:**

**A.** Every person must successfully complete a department approved trapper education course before setting any trap or snare in New Mexico. Proof of successful completion of a trapper education course in any other state will also be accepted, but the person must pass a New Mexico law and species identification course.

**B.** Every person hunting furbearers must successfully complete either the New Mexico trapper education course, or a New Mexico law and species identification course.

**C.** Trapper education shall be offered free of charge to all residents. The department may charge a fee of not more than \$35 for each non-resident who takes a New Mexico trapper education course. The New Mexico law and species identification course shall be free for everyone.

[19.32.2.9 NMAC - Rp, 19.32.1.9 NMAC, 4/1/2020]

**19.32.2.11 BAG LIMIT:**

Annual bag limits may be set by the director, with the verbal concurrence of the chairperson of the game commission or their designee, for any furbearer species to address significant changes in statewide populations or to address critical department management needs.

Annual bag limits, if set, shall expire March 31<sup>st</sup> annually.

[19.32.2.10 NMAC - Rp, 19.32.1.10 NMAC, 4/1/2020]

**19.32.2.12 EXEMPTIONS:**

The provisions of this rule shall not apply to department of game and fish personnel or designated agents who are acting in their official capacity in the control of depredating animals, for law enforcement purposes, to protect human health and safety, or for research or management purposes.

[19.32.2.11 NMAC - Rp, 19.32.1.11 NMAC, 4/1/2020]

**HISTORY OF 19.32.2 NMAC:**

**Pre-NMAC History:** The material

in this part was derived from that previously filed with the State Records Center and Archives under: Regulation No. 490, Establishing Seasons On Protected Furbearers, filed 3/1/68; Regulation No. 511, Establishing Seasons On Protected Furbearers 1970-1971, filed 2/20/70; Regulation No. 521, Establishing Seasons On Protected Furbearers 1971-1972, filed 3/9/71; Regulation No. 533, Establishing Seasons On Protected Furbearers 1972-1973, filed 3/30/72; Regulation No. 544, Establishing Seasons On Protected Furbearers 1973-1974, filed 2/26/73; Regulation No 555, Establishing Seasons On Protected Furbearers 1974-1975, filed 3/4/74; Regulation No. 566, Establishing Seasons On Protected Furbearers, filed 3/24/75; Regulation No. 584, Establishing Seasons On Protected Furbearers, filed 2/9/77; Regulation No. 491, Establishing Seasons On Protected Furbearers, filed 2/15/78; Regulation No. 597, Establishing Seasons On Furbearers, filed 2/23/79; Regulation No. 604, Establishing 1980 Seasons On Furbearers, filed 2/22/80; Regulation No. 608, Establishing 1981 Seasons On Furbearers, filed 3/5/81; Regulation No. 613, Establishing 1982 Seasons On Furbearers, filed 3/2/82; Regulation No. 623, Establishing 1983 Seasons On Furbearers, filed 3/9/83; Regulation No. 629, Establishing 1984 Seasons On Furbearers, filed 3/16/84; Regulation No. 633, Establishing 1985 Seasons On Furbearers, filed 4/15/85; Regulation No. 641, Establishing 1986 Seasons On Furbearers, filed 3/25/86; Regulation No. 646, Establishing 1987 Seasons On Furbearers, filed 10/27/86; Regulation No. 654, Establishing 1988 Seasons On Furbearers, filed 12/4/87; Regulation No. 665, Establishing 1989-1990 Seasons On Furbearers, filed 3/20/89; Regulation No. 675, Establishing 1990-1991 Seasons On Furbearers, filed 11/21/89; Regulation No. 684, Establishing 1991-1992 Seasons On Furbearers, filed 1/11/91; Regulation No. 690, Establishing 1992-1993 Seasons On Furbearers, filed 3/4/92;

Regulation No. 701, Establishing 1993-1995 Seasons on Furbearers, filed 3/11/93.

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## GAME AND FISH DEPARTMENT

**This is an amendment to 19.31.10 NMAC, sections 3, 7, a new section 15, and renumbered 19, effective April 1, 2020.**

**Explanatory paragraph: As a result of new section 15, previous sections 15 through 20 were renumbered to sections 16 through 21. With the exception of Section 19, no other changes were made to any of renumbered sections.**

**19.31.10.3 STATUTORY**

**AUTHORITY:** Sections 17-1-14, 17-1-26, 17-2-1, 17-2-2, 17-2-2.1, 17-2-4.2, 17-2-6, 17-2-10.1, 17-2-13, 17-2-14, 17-2-20, 17-2-32, 17-2-43, 17-3-2, 17-3-29, 17-3-31, 17-2A-3, 17-3-32, 17-3-33, 17-3-42, 17-4-33, 17-5-4, 17-5-5 and 17-6-3 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.

[19.31.10.3 NMAC - Rp, 19.31.10.3 NMAC, 4/1/2019; A, 4/1/2020]

**19.31.10.7 DEFINITIONS:**

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

**B. "Angling hook"** shall mean a single, double, or treble (triple) point attached to a single shank.

**C. "Any sporting arm"** shall mean any firearm, muzzle-loader, compressed air gun, shotgun, bow or crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**D. "Arrow" or "Bolt"** shall mean only those arrows or bolts

having broadheads with cutting edges except that “judo”, “blunt” or similar small game points may be used for upland game and migratory game bird hunting and arrows for bow fishing must have barbs to prevent the loss of fish.

**E. “Bag limit”** shall mean the protected species, qualified by species, number, sex, age, antler/horn requirement, or size allowed by state game commission rule that a legally licensed person may attempt to take or take.

**F. “Bait” as used in 19.31.10.15 NMAC shall mean the flesh, hide, fur or viscera of any animal. Bones free of flesh are not considered bait.**

**[F] G. “Bait” as used in Sections 12 and 13 of 19.31.10 NMAC shall mean any salt, mineral, grain, feed, commercially produced game attractant or any other organic material which is attractive to wildlife.**

**[G] H. “Baiting”** shall mean the placing, exposing, depositing, distributing, or scattering of any bait on or over areas where any person is attempting to take protected game mammals or game birds as defined in Section 17-2-3 NMSA 1978.

**[H] I. “Bait fish”** is defined as those nongame fish which are not otherwise protected by statute or regulation.

**[I] J. “Barbless lure or fly”** shall mean an artificial lure made of wood, metal, or plastic or an artificial fly made from fur, feathers, other animal or man-made materials to resemble or simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids or other foods are not considered barbless lures or flies.

**[J] K. “Big game species”** shall mean Barbary sheep, bear, bighorn sheep, cougar, deer, elk, javelina, oryx Persian ibex, and pronghorn.

**[K] L. “Big game sporting arms”** shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**M. “Body-grip trap”** shall mean a rotating jaw trap designed to capture a furbearer by the body.

**[L] N. “Bow”** shall mean compound, recurve, or long bow, which is not equipped with a mechanical device (draw lock) which locks the bow string at full draw. Sights on bows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**[M] O. “Bow fishing”** shall mean taking or attempting to take game fish with arrows/bolts that are discharged above the surface of the water by a bow or crossbow. Arrows/bolts must be attached by string, line, or rope to facilitate fish retrieval.

**[N] P. “Bullet”** shall mean a single projectile fired from a firearm which is designed to expand or fragment upon impact. Tracer or full metal jacket ammunition is not legal for the take or attempted take of any big game species.

**[O] Q. “Cellular”, “Wi-Fi” or “satellite camera”** shall mean any remote camera which transmits or is capable of transmitting images or video wirelessly via a cellular, Wi-Fi or satellite connection.

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

**[Q] S. “Compressed air gun”** shall mean any kind of gun that launches a single non-spherical projectile, pneumatically with compressed air or other gases that are pressurized mechanically without involving any chemical reaction.

**[R] T. “Crossbow”** shall mean a device with a bow limb

or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**[S] U. “Department”** shall mean the New Mexico department of game and fish.

**[F] V. “Director”** shall mean the director of the New Mexico department of game and fish.

**[T] W. “Drone”** is defined as any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as “unmanned aerial vehicle (UAV)” or “unmanned aerial vehicle systems (UAVS)”.

**[V] X. “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 which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

**Y. “Foothold trap”** shall mean a trap designed to capture a furbearer by the foot, but does not include foot encapsulating traps.

**Z. “Foot encapsulating trap”** shall mean any trap with a push or pull-activated trigger located inside an enclosure recessed from an opening of no more than two inches in diameter, as measured across the opening from side to side, not corner to corner. Foot encapsulating traps include “dog proof” and “egg” traps.

**AA. “Furbearer”** shall mean any quadruped defined as a fur-bearing animal in Section 17-5-2 NMSA 1978.

**[W] BB. “Game management unit” or “GMU”** shall mean those areas as described in 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

**CC. “Jaw spread”** shall mean the distance between the jaws when measured across the center of the trap and perpendicular to a line drawn through the pivot points of the jaws when the trap is set.

**DD. “Laminated”** shall mean any modification to the jaw thickness of a foothold trap by fastening a strip of metal (rod or flat stock) to the trap jaw, or a trap that is manufactured with cast jaws, which increases the contact surface area of the jaw.

**EE. “Land set”** shall mean any foothold trap or snare set on land.

**[X] FF. “License year”** shall mean the period from April 1 through March 31.

**[Y] GG. “Locate”** shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.

**[Z] HH. “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.

**[AA] II. “Muzzle-loader” or “muzzle-loading firearms”** shall mean those sporting arms in which the charge and projectile(s) are loaded through the muzzle. Only blackpowder or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited.

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

**[CC] KK. “Non-toxic shot”** shall mean that non-toxic

shot approved for use by the U. S. fish and wildlife service.

**[DD] LL. “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 defined as furbearing animals under Section 17-5-2 NMSA 1978;

(3) all animals listed as endangered or threatened species or subspecies as stated in 19.33.6 NMAC: and

(4) all animals listed under Sections 17-2-13, 17-2-14 or 17-2-4.2 NMSA 1978.

**[EE] MM. “Retention” or “retain”** shall mean the holding of live protected species in captivity.

**[FF] NN. “Restricted muzzle-loading rifle”** shall mean any muzzle-loading rifle using open sights, black powder or equivalent propellant and firing a full bore diameter bullet or patched round ball. The use of in-line ignition, scopes and smokeless powder are prohibited.

**[GG] OO. “Shotgun”** shall mean any centerfire shotgun or muzzle-loading shotgun not larger than 10 gauge.

**[HH] PP. “Snagging”** is the repeated or exaggerated jerking or pulling of the fishing line or angling hooks in any attempt to impale fish, whether or not it results in physically snagging a fish.

**QQ. “Snare”** shall mean a wire or cable with a single closing device designed to capture a furbearer.

**[H] RR. “Spear fishing”** shall mean taking or attempting to take game fish with spears, gigs and arrows with barbs.

**[JJ] SS. “Sporting arm types”** shall be designated in the hunt code as follows unless further restricted or allowed by state game commission rule:

(1) all hunt codes denoted with -0- shall authorize use of any shotgun firing shot (ex. SCR-0-XXX);

(2) all hunt codes denoted with -1- shall authorize use of any big game sporting arm (ex. ELK-1-XXX);

(3) all hunt codes denoted with -2- shall authorize use of bows only (ex. ELK-2-XXX);

(4) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms (ex. ELK-3-XXX).

**[KK] TT. “Take”** shall mean to hunt, fish, kill or capture any protected species or parts thereof.

**UU. “Trap”** shall mean any foothold trap, foot encapsulating trap, cage trap or body-grip trap set to capture a furbearer.

**[HH] VV. “Trotline”** shall be synonymous with “set line” or “throw line” or “jug”, “Yo-Yo line” or “limb line”, and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.

**[MM] WW. “Upland game”** shall mean dusky grouse, Eurasian collared-dove, all protected squirrel species, all quail species, chukar and pheasant.

**XX. “Water set”** shall mean any trap or snare set fully in water.

**[NN] YY. “Wildlife management area” or “WMA”** shall mean those areas as described in 19.34.5 NMAC.

**[OO] ZZ. “Written permission”** shall mean a document (which may include a valid hunting, trapping or fishing license) that asserts the holder has permission from the private land owner or their designee to hunt, fish, trap or drive off road on the landowner’s property. The information on the document must be verifiable and include the name of the person(s) receiving permission, activity permitted, property’s location and name (if applicable), name of person granting permission, date and length of time the permission is granted, and phone number or e-mail of the person granting the permission. Licenses issued for private land which have the ranch name printed on them constitute written permission for that property and no other permission is

required except for private land elk licenses in the secondary management zone pursuant to 19.30.5 and 19.31.14 NMAC.

**[PP] AAA. "Zone"**

shall mean those bear or cougar hunt areas, consisting of one or more GMUs, as described in 19.31.11 NMAC.

[19.31.10.7 NMAC - Rp, 19.31.10.7 NMAC, 4/1/2019; A, 4/1/2020]

**19.31.10.15 FURBEARERS:**

**A. Shooting hours:**

**(1) Hunting**

and falconry – Restricted to the period one-half hour before sunrise to one-half hour after sunset except that a licensed furbearer hunter is authorized by the department to hunt for and take raccoons by use of artificial light while hunting at night with a rim-fire rifle or handgun no greater in size than a .22 caliber, shotgun, bow or crossbow during open season. The artificial light used for raccoon hunting must be a headlamp or hand-held flashlight. It is unlawful for any artificial light to be cast from a vehicle while raccoon hunting.

**(2) Trapping –**

There are no restrictions on shooting hours for trapping.

**B. Legal methods of taking furbearers shall include any sporting arm, falconry, traps and snares.**

**C. Dogs are allowed for hunting all furbearers during open season.**

**D. It is unlawful to kill any mink, otter, black-footed ferret, coatimundi or Pacific (pine) marten.**

**E. It is unlawful to kill any furbearer outside of the seasons established for that species, except as authorized by state statute or otherwise allowed by game commission rule.**

**F. Raccoon may be hunted or trapped during the extended season with a current trapper license. Only cage traps and foot encapsulating traps are allowed for raccoon trapping during this period. It is unlawful to hunt or trap raccoon during the extended season contrary to this section.**

**G. All land sets must be visually checked every calendar day. Water sets must be checked at least once every other calendar day.**

A licensed trapper may designate an agent to check their set traps and snares on alternating check days, but the licensed trapper must personally check the traps every other check day. Any person may be designated as an agent for any licensed trapper, but the agent must possess written permission from the trapper and a valid trapper license. The permission must include the licensed trapper's full name, contact information, and the agent must know the location of traps.

**H. It is unlawful for any person to trap for any furbearer without having successfully completed a department approved trapper education course.**

**I. It is unlawful for any person to hunt for any furbearer without having successfully completed either the New Mexico trapper education course or a New Mexico law and species identification course.**

**J. No person may hunt furbearers or nongame, or set any trap or snare on any wildlife management area (WMA), except prairie-chicken wildlife management areas (PCWMA), without a trapper license, habitat management access validation (HMAV) stamp and written permission from the department.**

Restrictions may be placed on this permission, and this permission may be rescinded at any time for violations of the restrictions. All PCWMA are open to furbearer, coyote and skunk hunting and trapping from November 1 to March 15 annually, without written permission, provided that every person hunting or trapping for any furbearer, coyote or skunk on a PCWMA must have a trapper license and HMAV stamp. It is unlawful to take or attempt to take any furbearer, coyote or skunk on any WMA contrary to this section, contrary to the restrictions written on any department issued permission or without a current trapper license and HMAV stamp.

**K. It is unlawful to place or use restricted-use pesticides for the take of any furbearer.**

**L. The following restrictions shall apply to traps that could reasonably be expected to catch a furbearer:**

**(1) Each trap or snare must be either permanently marked with, or have a tag securely attached with, a department issued user-identification number or the name and address of the trapper using the trap or snare.**

**(2) No foothold trap with an outside jaw spread larger than six and one-half inches, or seven inches maximum if laminated above the jaw surfaces, or tooth-jawed trap may be used in making a land set.**

**(3) No body-grip trap with an inside jaw spread greater than seven inches may be set on land. Body-grip traps with inside jaw spreads of between six and seven inches set on land must be recessed in a cubby at least eight inches from the entrance.**

**(4) All foothold traps with an inside jaw spread equal to or greater than five and one-half inches used in making a land set shall be off-set a minimum of three-sixteenths of an inch between the contact surfaces of the closed jaws, unless they have been constructed or modified so that a portion of the jaw is padded with a soft material such as rubber or canvas.**

**(5) No land set shall be placed on public land within one-half mile of:**

**(a) an established and maintained public campground or boat-launching area;**

**(b) a designated and signed roadside rest area, public picnic area or trailhead. "Trailhead" as used herein shall mean an officially designated, mapped, maintained and marked terminus of any trail closed to all vehicles having three or more wheels, and is published on the most current map issued by the state or federal land management agency responsible for that property;**

(c)  
an occupied dwelling without written permission of the occupant of the dwelling.

(6) It shall be unlawful to make a land set within 75 feet of the edge of any public road or trail (including any culvert or structure located beneath it) if no right of way fence is present, except on private land. No land set shall be made within any right of way fence on any public road. "Public road" as used herein shall mean any road, street or thoroughfare open to motorized vehicle travel which was constructed and is maintained with public funds and is open to the public; or any road, street or thoroughfare open to motorized vehicle travel that is officially numbered or named on the most current published map issued by a municipal, state or federal agency and is open to the public. "Trail" as used herein shall mean any officially designated, mapped, maintained, and marked path open for public use and published on the most current map issued by a state or federal land management agency.

(7) No land set may be placed within 150 feet of any man-made livestock or wildlife catchment, pond or tank containing water, except on private land.

(8) It is unlawful to place, set or maintain any land set within 30 feet of any bait over two ounces in weight which is visible to airborne raptors. Bones that are entirely free of bait are legal.

(9) No foothold trap with an inside jaw spread larger than seven and one-half inches or body-grip trap with a jaw spread greater than 12 inches shall be used in making a water set.

(10) Body-grip traps used in water sets with a jaw spread of eight inches or more must be submerged in water to their jaw pivot or deeper.

(11) Any snare set on land must have a lock or break-away device which is designed to release or fail when a maximum of 350 pounds of pressure is applied to it. Locks or break-away devices must

be attached in a way which leaves no part of the snare attached to an animal when it releases or fails. All snares must be securely anchored and cannot be attached to a drag. Exception: foot snares.

(12) Each foothold trap set on land must have at least two separate swivel points in the anchor chain. At least one of these swivel points must be within six inches of the trap.

M. A release device or catchpole shall be carried by trappers, and all captured animals must be removed or released from any trap or snare at the time of check. In cases where assistance is required for safe release of the animal, or when biological data is sought by the department, the department must be notified as soon as possible.

N. It is unlawful to set any trap or snare on land without stakes, chains, drags or other anchoring such that any furbearer, coyote or wolf caught will be prevented from escaping with the trap.

O. No person may kill any species listed in 19.33.6 NMAC - LIST OF THREATENED AND ENDANGERED SPECIES, including by the use of any body-grip trap or snare.

P. As long as the Mexican wolf is listed as a federally threatened or endangered species in the United States, any trapper who captures a Mexican wolf must report the capture to the U.S. fish and wildlife interagency field team:

(1) as soon as possible to arrange for radio-collaring and release of the wolf; or

(2) within 24 hours if the wolf is released or has pulled out of the trap.

Q. Tagging:

(1) Every person who takes a bobcat in New Mexico shall present the pelt for tagging in New Mexico prior to transporting the pelt out of the state, prior to selling the pelt, or no later than April 14, annually; whichever occurs first.

(2) Every person who presents a bobcat for tagging shall display a current New Mexico trapper license except residents 11 years of age or younger. Tags may be obtained from any conservation officer or any department office. In addition, pelts may be tagged by New Mexico licensed fur dealers following policies set forth by the department.

(3) It is unlawful for any person to transport across state lines, sell, barter, otherwise dispose of, or possess any bobcat pelt taken in New Mexico that has not been tagged in accordance with this rule.

(4) It is unlawful to present for tagging, or to have tagged with a New Mexico tag, any pelt from a bobcat taken outside of New Mexico.

(5) It is unlawful for any licensed fur dealer to charge a fee for tagging any bobcat. It is unlawful for a licensed fur dealer to refuse to tag a bobcat unless the licensed fur dealer has cause to believe the bobcat was taken in another state or jurisdiction, or the bobcat was unlawfully taken in New Mexico. Licensed fur dealers who believe a bobcat has been taken illegally, or has been presented for pelt tagging in New Mexico when it was taken in another state or jurisdiction, shall report the event to their local conservation officer immediately.

(6) It is unlawful for licensed fur dealers to tag any bobcat contrary to this rule, purchase any bobcat pelt which has not been tagged, or is not immediately pelt tagged at the time of purchase.

R. Tampering with traps: It is unlawful to destroy, damage, disturb, steal or remove any trap, snare or trapped wildlife without permission of the owner of the trap or snare. Nothing in this subsection shall prohibit a person from releasing any domestic animal from a trap or snare.

S. Exemptions: The provisions of this section shall not apply to personnel of the department

of game and fish or designated agents who are acting in their official capacity in the control of depredated animals, for law enforcement purposes, to protect human health and safety, or for research or management purposes.

[19.31.10.15 NMAC - N, 4/1/2020]

### **19.31.10.[48] 19 MANNER AND METHOD PENALTY**

**ASSESSMENTS:** Individuals who commit the following violations shall be offered penalty assessments:

- A.** No habitat management and access validation stamp (HMAV), contrary to Section 17-4-34 NMSA 1978;
- B.** No habitat stamp (Sikes Act), contrary to 19.31.10 NMAC;
- C.** Size limit violations on fish, contrary to 19.31.10 NMAC;
- D.** Trotline violations, contrary to 19.31.10 NMAC;
- E.** Use of bait or prohibited lure or fly in a special trout water or noodling, contrary to 19.31.10 NMAC;
- F.** Disturbing the bottom "shuffling" in a special trout water, contrary to 19.31.10 NMAC;
- G.** Use of bait fish, contrary to 19.31.10 NMAC;
- H.** Release of bait fish, contrary to Section 17-3-28 NMSA 1978;
- I.** More than two lines or two lines without stamp, contrary to 19.31.10 NMAC;
- J.** Exceeding the daily bag limit or the possession limit of fish by two fish or less, contrary to 19.31.10 NMAC;
- K.** Snagging or keeping snagged game fish, contrary to 19.31.10 NMAC;
- L.** Spearfishing and bow fishing violations, contrary to 19.31.10 NMAC;
- M.** Unlawfully fishing in waters with age or individuals with disabilities use restrictions, contrary to 19.31.10 NMAC;
- N.** Boat or other floating device violation, contrary to 19.31.10 NMAC;
- O.** Use of live

protected species as a decoy, contrary to 19.31.10 NMAC;

**P.** Use of an electronic calling device, contrary to 19.31.10 NMAC;

**Q.** Use of unapproved shot or shotgun capable of holding more than three shells while hunting migratory game birds, contrary to 19.31.10 NMAC;

**R.** Unlawful ammunition/ bullet/ shot or unlawful caliber, contrary to 19.31.10 NMAC;

**S.** Hunting hours violations, contrary to 19.31.10 NMAC;

**T.** Possession of game animal parts found in field, contrary to 19.31.10 NMAC;

**U.** Shooting at artificial wildlife from the road, contrary to 19.31.10 NMAC;

**V.** Harassing protected species, contrary to 19.31.10 NMAC;

**W.** Driving off road or on a closed road, contrary to 19.31.10 NMAC;

**X.** Violation of posted signs, contrary to 19.31.10 NMAC;

**Y.** Unlawful use of dogs, contrary to 19.31.10 NMAC;

**Z.** Unlawful use of cellular, Wi-Fi or satellite camera, contrary to 19.31.10 NMAC; [or]

**AA.** Angling with more than two flies in the San Juan, contrary to 19.31.10 NMAC; or

**BB.** Any violation of 19.31.10.15 NMAC.

[19.31.10.20 NMAC - Rp, 19.31.10.20 NMAC, 4/1/2019; Rn, 19.31.10.19, 4/1/2020; A, 4/1/2020]

## **PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

**This is an amendment to 11.21.1 NMAC, Sections 11, 12, 15, 16, 18, 22, 23 and 33 effective 2/11/2020. Statute citations throughout the rule have been corrected to conform with legislative styles.**

**11.21.1.11 REPRESENTATION OF A PARTY:** A party may represent

his, her, or itself, or be represented by counsel or other representative.

Any representative of a party [~~who is not an employee of the party~~] shall file with the board a signed notice of appearance, stating the name of the party; the title and official number (if available) of the case in which the representative is representing the party, and the name, address and telephone number of the representative. The filing of a pleading containing the above information is sufficient to fulfill this requirement.

[11.21.1.11 NMAC - N, 3/15/2004; A, 2/11/2020]

### **11.21.1.12 EX PARTE**

**COMMUNICATIONS:** Except as otherwise provided in this rule, no party to a proceeding pending [representation, prohibited practices, or fact finding proceeding] before this board or any of its agents shall communicate, or attempt to communicate, with a hearing examiner assigned to the case, with the director, or with a board member, concerning any issue in the case, without, at the same time, transmitting the same communication to all other parties to the proceeding. It shall not be a violation of this rule to communicate concerning the status of a case, or to communicate concerning such procedural matters as the location or time of a hearing, the date on which documents are due, or the method of filing. It shall not be a violation of this rule for a party to communicate with the director during the investigatory phase of a [~~representation, prohibited practices, or impasse resolution~~] proceeding. It shall not be a violation of this rule for a party to communicate with anyone concerning any rulemaking proceeding of the board, or to communicate with the director, a mediator, or board member at the director's, mediator's, or board member's request.

[11.21.1.12 NMAC - N, 3/15/2004; A, 2/11/2020]

**11.21.1.15 RECORDS OF PROCEEDINGS:** All meetings of

the board (whether general, special or emergency) and all rulemaking, unit determination, and prohibited practice hearings before the board or a hearing examiner of the board shall be audio- recorded, or, upon order of the board may be transcribed, except that board meetings or portions thereof lawfully closed shall not be recorded or transcribed, unless so directed by the board. Following the board's approval of the minutes of a meeting of the board, the minutes shall become the sole official record of the meeting, and the audio [tape] recording of the meeting may be erased. The director shall keep the audio [tapes] recordings of the rulemaking, unit determination, and prohibited practices hearings for a period of at least one year following the close of the proceeding in which the hearing is held, or one year following the close of the last judicial or board proceeding (including any appeal or request for review) related to the case in which the hearing is held, whichever is later, or such longer period as may be required by law. No recording shall be made of any mediation proceeding, settlement discussion, or alternative dispute resolution effort except by agreement of all parties and participating officials. The board's recording or transcript shall be the only official record of a hearing.

[11.21.1.15 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.1.16 NOTICE OF HEARING:**

**A.** After the appropriate notice or petition is filed in a representation, prohibited practices or impasse resolution case, the director shall hold a status and scheduling conference with the parties to determine the issues; establish a schedule for discovery, including the issuance of subpoenas, and pretrial motions; and set a hearing date.

**B.** Upon setting a rulemaking hearing, the director or the board shall cause notice of hearing to be issued setting forth the nature of the rulemaking proceeding, the time and place of the hearing, the manner

in which interested persons may present their views, and the manner in which interested persons may obtain copies of proposed rules. Notices of rulemaking hearings shall be sent by regular mail to all persons who have made requests for such notice, and shall be published in at least one newspaper of general circulation in New Mexico at least 30 days prior to commencement of the hearing.

**C.** Upon setting a hearing or conference before the director or designee or before the board in any proceeding, the director or the board shall cause notice of hearing to be issued to all parties of record setting forth the time and place of the hearing or conference. A party to a representation, prohibited practices or impasse resolution case in which a hearing or conference is scheduled may request postponement of the hearing or conference by filing a written request with the director, and serving the request upon all other parties, at least five days before commencement of the hearing or conference. The requesting party shall state the specific reasons in support thereof. Upon good cause shown, the director shall grant a postponement to a date no more than 20 days after the previously set date. Only in extraordinary circumstances may the director grant a further postponement, or a postponement to a date more than 20 days after the previously set date, or a postponement with less than five days' notice.

[11.21.1.16 NMAC - N, 3/15/2004; A, 2/28/2005; A, 2/11/2020]

#### **11.21.1.18 MISCONDUCT:**

As part of the board's statutory duty under Section 2 of the Act to ensure the orderly functioning of the state and its political subdivisions; and as part of its power to hold hearings and enforce the act by the imposition of appropriate administrative remedies pursuant to Section 9 of the Act, [The] the hearing examiner or body conducting a hearing or official [conducting any other proceeding,] performing duties under the act may exclude or expel from [the] any hearing or proceeding, any

person, whether or not a party, who engages in violent, threatening, disruptive, abusive or unduly disrespectful behavior. An exercise of the board's power to control its proceedings under this rule may include prohibiting a representative from appearing before the board or one of its hearing examiners for a period of time designated by the board, reprimanding, suspending, or recommending referral for other disciplinary action. In the event of such exclusion or expulsion [~~of a person for misconduct,~~] the hearing examiner, body or official shall explain on the record the reasons for the exclusion or expulsion and may either proceed in the absence of the excluded person or recess such proceeding and continue at another time, as may be appropriate. An exercise of this power by an agent of the board is subject to review by the board.

[11.21.1.18 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.1.22 BURDEN OF PROOF:**

**A.** Except in unit clarification proceedings, no party shall have the burden of proof in a representation [~~or fact finding~~] proceeding. Rather, the director in the investigatory phase or the hearing examiner shall have the responsibility of developing a fully sufficient record for a determination to be made and may request any party to present evidence or arguments in any order. In a unit clarification proceeding, a party seeking any change in an existing appropriate unit, or in the description of such a unit, shall have the burden of proof and the burden of going forward with the evidence.

**B.** In a prohibited practices proceeding, the complaining party has the burden of proof and the burden of going forward with the evidence.

[11.21.1.22 NMAC - N, 3/15/2004; A, 2/11/2020]

**11.21.1.23 MOTIONS AND RESPONSES TO MOTIONS:** All motions and responses to motions,

except those made at a hearing, shall be in writing and shall be served simultaneously upon all parties to the proceeding. All written motions shall be filed and served on all parties pursuant to the scheduling order. Motions and responses made at hearings may be made orally. If a party decides to file a response to a written motion, the response shall be filed and simultaneously served pursuant to the scheduling order or, if no deadline is set forth in the scheduling order or such has yet to be issued, within 10 days.

[11.21.1.23 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.1.33 CHAIRPERSON SUCCESSION:**

**A.** From among the three members appointed to the public employee labor relations board pursuant to Section 10-7E-8, NMSA 1978, the board shall appoint a chair to serve as the primary point of contact for the board's staff, to conduct the regular and special meetings of the board in a manner consistent with parliamentary procedure. In like manner the board shall appoint a vice-chair to serve in the capacity of chair in its absence or inability to serve and to provide for automatic succession when the term of the chair is up.

**B.** The chair and the vice-chair shall serve in those capacities for a period of one year. Upon completion of the chair's one-year term, the vice-chair shall automatically become the chair and assume the duties of that office. The past chair shall resume regular duties as a member of the board and the third board member, who has not served as vice-chair within the preceding year, shall assume that role.

**C.** Initial appointments under this rule shall be by seniority based on the board members' appointment letters. In the event of a tie, the chair shall be determined from between the two most senior members either by acclamation or by a coin toss supervised by the board's director.

[11.21.1.33 NMAC - N, 2/11/2020]

### **PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

**This is an amendment to 11.21.2 NMAC, Sections 23, 25, 27, 30, 31, 33, 39, and 42 effective 2/11/2020. Statute citations throughout the rule were corrected to conform to correct legislative styles.**

#### **11.21.2.23 OPPORTUNITY TO PRESENT FURTHER SHOWING OF INTEREST:**

**A.** When the director finds that the petitioner or an intervenor has submitted an insufficient showing of interest in the unit petitioned for, the director shall notify the petitioner or intervenor, and that party shall have the opportunity to submit an additional showing of interest. The director shall then review the additional showing of interest to determine whether the total showing of interest submitted by the party is sufficient to sustain its petition or intervention.

**B.** In the event that the director, hearing examiner or board determines that a unit other than the unit petitioned for is appropriate and it appears to the board or director that the showing of interest filed by the petitioner or an intervenor is insufficient in the unit found appropriate the director shall notify the petitioner or intervenor and give such party a reasonable amount of time in which to file an additional showing. If [if] the party fails to file a sufficient showing within that time, the director shall dismiss the petition or deny intervenor status.

[11.21.2.23 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.2.25 PRE-ELECTION CONFERENCE:**

At a reasonable time at least 15 days before the election, the director shall conduct a pre-election conference with all parties to resolve such details as the polling location(s), the use of manual, or mail ballots [~~or both~~] the hours of voting, the number of observers permitted, and the time and place for counting the ballots. The director

shall notify all parties by mail (and email if available) of the time and place of the pre-election conference, at least five days in advance of the conference. The conference may proceed in the absence of any party. [~~The director will attempt to achieve agreement of all parties on the election details, but in the absence of agreement, shall determine the details. In deciding the polling location(s) and the use of manual or mail participation in the election by employees in the bargaining unit there shall be a strong preference for on-site balloting.~~]

**A.** The director will attempt to achieve agreement of all parties on the election details, but in the absence of agreement, shall determine the details. In deciding the polling location(s) and the use of manual or mail participation in the election by employees in the bargaining unit there shall be a strong preference for on-site balloting.

**B.** The parties may stipulate to a consent election agreement without the necessity of a pre-election conference subject to approval of its terms by the director, in which case the requirement for a pre-election conference shall be waived.

[11.21.2.25 NMAC - N, 3/15/2004; A, 2/28/2005; A, 2/11/2020]

#### **11.21.2.27 BALLOTS AND VOTING:**

**A.** All voting shall be by secret ballot prepared by the director, position on the ballot shall be determined randomly. Ballots in an initial election shall include a choice of "no representation."

**B.** All elections shall be conducted by the director, whether by mail in ballots or on-site elections, subject to the provisions of 11.21.1.28 NMAC regarding the director's authority to delegate duties.

**C.** Any voter who arrives at a polling area before the polls close will be permitted to vote.

**D.** Public employers whose employees are eligible to vote in an election shall allow their employees in the voting unit sufficient

time away from their duties to cast their ballots and shall allow their employees who have been selected as election observers sufficient time away from their duties to serve as observers. This rule does not impose on public employers an obligation to change the work schedules of employees to accommodate voting hours.

[11.21.2.27 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.2.30 CHALLENGED BALLOTS:**

**A.** Any party to an election, through its observer, or the [director] election supervisor, may challenge the eligibility to vote of any person who presents himself or herself at the polls, and shall state the reason for the challenge. The director shall challenge any voter whose name does not appear on the list of employees eligible to vote.

**B.** The director shall furnish "challenge envelopes." ~~On~~ On the outside of each challenge envelope, the director shall write the name and job classification of the challenged voter, the name of the party making the challenge, and the reason for the challenge.

**C.** Following the voting and before the votes are counted, the director shall attempt to resolve the eligibility of challenged voters by agreement of the parties. The ballots of challenged voters who are agreed eligible shall be mixed with the other ballots and counted.

**D.** Challenged ballot envelopes containing unresolved challenged ballots shall not be opened and the challenges shall not be investigated unless, after the other ballots are counted, the challenged ballots could be determinative of the outcome of the election.

**E.** If the challenged ballots could be determinative of the outcome of the election, the director shall declare the vote inconclusive; shall, as soon as possible, investigate the challenged ballots to determine voter eligibility; and shall issue a report thereon or a notice of hearing within 15 days of the election. Any

party may request board review of the director's report, following the procedures set forth in Section 22 above.

**F.** Following resolution of determinative challenged ballots, the director shall count the ballot of voters found to be eligible, adding the results of the earlier count and issuing a revised tally of ballots.

[11.21.2.30 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.2.31 TALLY OF**

**BALLOTS:** Immediately following the counting of ballots, the [director] election supervisor shall serve a tally of ballots upon one representative of each party. The tally shall show the number of votes cast for each labor organization listed on the ballot, the number of votes cast for no representation, the number of challenged ballots, and the percentage of employees in the unit who cast ballots. The tally shall also state whether the results are conclusive, and, if so, what the conclusive vote is. If the tally shows that fewer than forty percent of the employees in the unit voted, or that the choice of "no representation" received fifty percent or more of the valid votes cast, then the tally shall reflect that no collective bargaining representation was selected.

[11.21.2.31 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.2.33**

**CERTIFICATION:** If no objections are filed pursuant to Section 34, below, then ~~[within ten (10) days following service of the final tally;]~~ the director shall issue ~~[a certification of representative, showing the name of the labor organization selected and setting forth the bargaining unit, or a certification of results, showing that no labor organization was selected as bargaining representative.]~~ as may be appropriate either a certificate showing the name of the labor organization selected as the exclusive representative and setting forth the bargaining unit it represents, or a certification of results, showing that no labor organization was selected

as bargaining representative. The results of each election shall be reviewed by the board and appropriate action taken at the next regularly scheduled meeting of the board after the objection period following the election.

[11.21.2.33 NMAC - N, 3/15/2004; A, 2/11/2020]

#### **11.21.2.39 VOLUNTARY RECOGNITION:**

**A.** A labor organization representing the majority of employees in an appropriate collective bargaining unit and a public employer, after a petition for certification has been filed, may enter into a voluntary recognition agreement in which the employer [~~recognized~~] recognizes the labor organization as the exclusive representative of all of the employees in the unit. Such petition shall be accompanied by a showing of majority support, which shall be verified in accordance with the procedures of Section 11, above.

**B.** Prior to board approval of any voluntary recognition, the director shall post notice of filing of petition in the manner provided for in Section 15, above. The director shall also give notice to any individuals or labor organizations that register with the director to be informed of such petitions.

**C.** If an intervenor does not file a petition for intervention within 10 days then the board shall consider the petition for approval of the voluntary recognition if accompanied by consent of the employer.

**D.** The board shall treat a voluntary recognition relationship so established and approved the same as a relationship established through board election and certification, unless the board finds the agreed-to bargaining unit to be inappropriate. In that event, the board may require the filing and processing of a petition as provided for in these rules, and the conduct of an election, before recognizing the relationship.

**E.** If an intervenor files a proper petition pursuant to Section 16 above, within the 10 day

time period, then the board may not approve a voluntary recognition, and the director shall proceed in the manner set forth for representation petitions as provided in Section 10 to 14 and 17 to 34 above.  
[11.21.2.39 NMAC - N, 3/15/2004; A, 2/28/2005; A, 2/11/2020]

**11.21.2.42 DISCLAIMER OF INTEREST:** Any labor organization holding exclusive recognition for a unit of employees may disclaim its representational interest in those employees at any time by submitting a letter to the PELRB and the employer disclaiming any representational interest in a unit for which it is the exclusive representative. Upon receipt of a letter disclaiming an interest under this rule, the board shall cause to be posted in a place or places frequented by employees in the affected bargaining unit, a notice that the union has chosen to relinquish representation of the employees.  
[11.21.2 NMAC – N, 2/11/2020]

## PUBLIC EMPLOYEE LABOR RELATIONS BOARD

This is an amendment to 11.21.5 NMAC, Sections 12 and 13 effective 2/11/2020.

Statute citations throughout the rule were corrected to conform to correct legislative styles.

### 11.21.5.12 REVIEW OF LOCAL BOARD APPLICATIONS BY THE BOARD:

A. Upon receiving an application for approval of a local board ordinance, charter amendment, or resolution the board shall conduct an administrative review of the application and, at a properly noticed public meeting or hearing, shall formally approve or disapprove the application. Public notice of such meetings or hearings shall be provided as required by law.

B. In considering an application for approval of a local board ordinance, charter amendment,

or resolution, the board shall review all applications for approval of [~~local boards~~] such ordinance, charter amendment or resolution, in light of the requirements of Section 10 of the Act and 11.21.5 NMAC. The board shall require that the ordinance, resolution or charter amendment creating the local board be amended as necessary in order to meet the requirements of Section 10 of the Act and 11.21.5 NMAC, and to be approved.

C. Upon a finding that the application for the local board ordinance, charter amendment, or resolution meets statutory and regulatory requirements, the board shall approve such application and remand to the local board once it is duly appointed, any proceedings held in abeyance. The PELRB retains jurisdiction over all matters abated pursuant to 11.21.5.11 NMAC until such time as a local board created pursuant to an approved ordinance, resolution or charter amendment is duly appointed and functioning. If within 60 days following approval of an application under this rule the local board is not duly constituted or, if after being duly constituted fails to meet regarding any remanded issues or to promulgate rules necessary to accomplish and perform its functions as established in Section 11 of the Act, or if it fails to act on or respond to a filing by an employee organization or public employer or public employee within a reasonable time, or otherwise acts in a manner inconsistent with the precedent of the public employee labor relations board, the board's approval shall be revoked in accordance with 11.21.5.14 NMAC below and this board shall exercise its jurisdiction over any matters that, but for the application, would be subject to the Act. The decisions and findings of the board in any such matter shall be binding on the local board, the public employer, the employee organization or public employee consistent with the provisions of Subsection A of Section 10 of the Act.

D. In the event [~~that~~] an application demonstrates that the local board ordinance, charter

amendment, or resolution does not meet the standards of Section 10 of the Act and 11.21.5 NMAC, the application shall be rejected and returned to the public employer. Thereupon, the public employer shall have a period of the balance of the 45 calendar days, or an additional 10 days from receipt of notice of rejection, whichever is later, in which to make such changes as are necessary to qualify for approval and resubmit its application. After the expiration of time in which an application may be resubmitted any matters then pending before the board relevant to that public employer shall be processed in accordance with the board's procedures.

[11.21.5.12 NMAC - N, 3/15/2004; Rn, 11.21.5.14 NMAC & A, 2/28/2005; A, 2/11/2020]

### 11.21.5.13 POST APPROVAL REPORTING REQUIREMENTS:

Following board approval of a local board, the local board or the public employer that created it shall file with the board [~~and~~] any amendments to the ordinance, resolution, or charter amendment, creating the local board and timely respond to any inquiries by this board or its staff made pursuant to Section 9 of the Act. Upon a finding by the board that the local board no longer meets the requirements of Section 10 of the act, the local board shall be so notified and be given a period of 30 days to come into compliance or prior approval shall be revoked.

[11.21.5.13 NMAC - N, 3/15/2004; Rn, 11.21.5.15 NMAC & A, 2/28/2005; A, 2/11/2020]

## End of Adopted Rules

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**Other Material Related to Administrative Law**


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**GAME AND FISH  
DEPARTMENT**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Game and Fish Department gives Notice of a Minor, Nonsubstantive Correction to its repeal statement to 19.32.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

The part name in repeal statement of repealed part was changed from “Furbearers” to “Method, Season Dates and Bag Limits”.

A copy of this Notification will be filed with the official version of each of the above rules.

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**PUBLIC EMPLOYEE  
LABOR RELATIONS  
BOARD**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Public Employee Labor Relations Board gives Notice of a Minor, Nonsubstantive Correction to its repeal statement to 11.21.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

In existing language in 11.21.2.15 NMAC, a typographical error “...The notices shall remain posted continuously for a least five days.” was changed to “The notices shall remain posted continuously for at least five days.”

A copy of this Notification will be filed with the official version of each of the above rules.

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**End of Other Material  
Related to Administrative  
Law**

# 2020 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXI, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 6</b>	<b>January 15</b>
<b>Issue 2</b>	<b>January 17</b>	<b>January 29</b>
<b>Issue 3</b>	<b>January 31</b>	<b>February 12</b>
<b>Issue 4</b>	<b>February 14</b>	<b>February 26</b>
<b>Issue 5</b>	<b>February 28</b>	<b>March 12</b>
<b>Issue 6</b>	<b>March 14</b>	<b>March 26</b>
<b>Issue 7</b>	<b>March 28</b>	<b>April 9</b>
<b>Issue 8</b>	<b>April 11</b>	<b>April 23</b>
<b>Issue 9</b>	<b>April 25</b>	<b>May 14</b>
<b>Issue 10</b>	<b>May 16</b>	<b>May 28</b>
<b>Issue 11</b>	<b>May 30</b>	<b>June 11</b>
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<b>Issue 19</b>	<b>September 26</b>	<b>October 15</b>
<b>Issue 20</b>	<b>October 17</b>	<b>October 29</b>
<b>Issue 21</b>	<b>October 31</b>	<b>November 12</b>
<b>Issue 22</b>	<b>November 14</b>	<b>November 26</b>
<b>Issue 23</b>	<b>December 5</b>	<b>December 17</b>
<b>Issue 24</b>	<b>December 19</b>	<b>December 31</b>

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