

New Mexico Register

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

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New Mexico Register

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Notices of Rulemaking and Proposed Rules

AGRICULTURE, DEPARTMENT OF

NOTICE OF TERMINATION FOR PROPOSED RULEMAKING

The New Mexico Department of Agriculture hereby provides notice terminating the public rule hearing previously scheduled for Monday, November 15, 2021, regarding proposed amendments to 21.17.28 NMAC to remove several West Texas counties from New Mexico's list of quarantined counties, add a cold-storage treatment post-entry requirement, and add a second cold storage treatment option. Notice of Rulemaking was provided in Volume XXXII, Issue 19 of the New Mexico Register. The New Mexico Department of Agriculture issues this termination notice in accordance with Subsection C of Section 14-4-5 NMSA 1978.

ARCHITECTS, BOARD OF EXAMINERS FOR

NOTICE OF RESCHEDULED PUBLIC HEARING

Public Notice. The New Mexico Board of Examiners for Architects (NMBEA) gives notice that this hearing was previously scheduled on October 22, 2021, but was canceled and rescheduled to conduct a public hearing and regular meeting of the Board virtually on December 14, 2021 at 1:30pm. The purpose of the public hearing is to receive public input on the proposed amendment to 16.30.1 NMAC- General Provisions, 16.30.3 NMAC- Registration and Renewal, Duplicate Certificates, Seal Specifications and Document Identification, 16.30.4 NMAC- Code of Conduct, 16.30.5 NMAC- Enforcement, and 16.30.7 NMAC- Licensure for Military Service Members, Spouses and Veterans. The board will hold a regular board meeting following the public hearing.

Join Zoom Meeting
<https://us02web.zoom.us/j/84106077631?pwd=dys0V2RmSkM0cWM5QXgzYTBTZWZRUt09>

Meeting ID: 841 0607 7631
Passcode: 566349
One tap mobile
+12532158782,86732875554#,*0431 13# US (Tacoma)
+13462487799,86732875554#,*0431 13# US (Houston)

Dial by your location
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 669 900 9128 US (San Jose)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 646 558 8656 US (New York)

Meeting ID: 867 3287 5554
Passcode: 043113
Find your local number: <https://us02web.zoom.us/j/84106077631?pwd=dys0V2RmSkM0cWM5QXgzYTBTZWZRUt09>

Purpose. The purpose of the proposed change to 16.30.1.7 is to clarify the standard that would qualify as misconduct for unauthorized use of an architect's seal. The purpose of the proposed change to 16.30.3.8 NMAC serve to add a list of disqualifying criminal convictions for registrants and potential registrants pursuant to Section 61-1-36 NMSA 1978. The purpose of the proposed changes to 16.30.3.10 NMAC is to adjust the timeframe for an applicant seeking registration through reciprocity to one year and enable Board staff to raise issues with potential registrants for consideration by the enforcement subcommittee. The purpose of the proposed changes to 16.30.3.12 is to adjust the fee schedule and reporting requirements for those registrants who fail to timely complete continuing education. The purpose of the proposed change to 16.30.4.11 is to add a reference to the enumerated list in 16.30.3.8 in the list of potential areas of discipline for a registrant. The purpose of the proposed change to 16.30.5.8 is to adjust the manner in which a complaint shall be initiated

to include a reference to allegations being made under penalty of perjury. The purpose of the proposed change to 16.30.5.7 is to update the reference to the Parental Responsibility Act to the correct statute, Section 40-5A-1 through 13 NMSA 1978. The purpose of the proposed changes to 16.30.7.8 is to bring the board into compliance with Section 61-1-34, NMSA 1978.

The statutory authorization.

Section 61-15-4 NMSA 1978 grants the board authority to make rules not inconsistent with law in order to promote the public welfare and protect the citizens of New Mexico.

No technical information serves as a basis for this proposed rule change.

Public comment. Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Melarie Gonzales, New Mexico Board of Examiners for Architects, P. O. Box 509, Santa Fe, New Mexico 87504, or by electronic mail at nmbea@state.nm.us, or fax to (505) 476-4829. All written comments must be received no later than 5:00 p.m. (MDT) on the date of the public hearing. The public comment period is from November 09, 2021 to December 10, 2021 at 5:00 p.m. (MDT).

Copies of the proposed rules.

Copies of proposed rules may be accessed through the New Board of Examiners for Architect's website at <https://www.bea.state.nm.us>, or may be obtained from Melarie Gonzales by contacting her at (505) 476-4833 during regular business hours.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Melarie Gonzales at (505) 476-4833 as soon as possible before the date set for the public hearing. The NMBEA requires at least ten (10) calendar days advance

notice to provide any special accommodations requested.

Summary of Proposed Changes. The Board summarizes its proposed changes to its administrative rules as follows:

16.30.1.7 NMAC – General Provisions
As a general summary, the proposed changes to 16.30.1.7 NMAC adjust the qualifications of misconduct for unauthorized use of a registration seal. The changes now reflects a “knowingly” standard, in place of the previous standard which used the term “all reasonable measures. is to clarify language and to add a new provision to the definition of misconduct to account for the misuse of an architectural seal.

16.30.3.8 NMAC– General Qualifications
As a general summary, the proposed changes to 16.30.3.8 NMAC serve to add a list of disqualifying criminal convictions pursuant to Section 61-1-36 NMSA 1978. This list enumerates those felonies for which convictions could result in denial of an application or disciplinary action.

16.30.3.10 NMAC– Registration through Reciprocity
As a general summary, the proposed changes to 16.30.3.10 NMAC adjust the timeframe from six months to one year for a reciprocity and enables board staff to raise issues with reciprocity applications with the enforcement subcommittee.

16.30.3.12 NMAC- Continuing Education
As a general summary, the proposed changes to 16.30.3.12 NMAC is to update the fee schedule for licensees who fail to timely complete the required continuing education hours. The adjusted fee schedule permits the reporting of excessive violations to the National Council of Architectural Registration Boards (“NCARB”).

16.30.4.11 NMAC- Compliance with Laws
As a general summary, the proposed changes to 16.30.4.11 NMAC is to

add a reference to the enumerated crimes listed in 16.30.3.8 that would disqualify an architect from practicing.

16.30.5.7 NMAC- Definitions
As a general summary, the proposed changes to 16.30.5.7 NMAC update the reference to the Parental Responsibility Act to the correct statute, Section 40-5A-1 through 13NMSA 1978.

16.30.5.8 NMAC- Complaints
As a general summary, the proposed changes to 16.30.5.8 is to clarify language to include language for complaints signed under penalty of perjury.

16.30.7.8 NMAC- Expedited Licensure
As a general summary, the proposed changes to 16.30.7.8 NMAC add a reference to Section 61-1-34 NMSA and mandate that the Board comply with the provisions of this section.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT FORESTRY DIVISION

NOTICE OF PROPOSED RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division hereby gives notice of the following proposed rulemaking. EMNRD proposes to adopt rule, 19.20.5 NMAC, Prescribed Burn Manager Certification Program.

Purpose of Rule. EMNRD proposes the rule to create the prescribed burn manager certification program for private landowners and private landowners’ agents, contractors, or legally authorized designees who conduct prescribed burns as directed by NMSA 1978, Section 68-5-7. The rule establishes two types of prescribed burn manager certifications: certified pile burn managers and certified broadcast burn

managers, and the requirements for certification of pile burn managers and broadcast burn managers. It also establishes the training requirements for both types of certifications, the application process, the requirements for renewal, and a committee to evaluate applications.

Legal Authority. EMNRD proposes this rule under the authority of the Prescribed Burning Act, NMSA 1978, Section 68-5-7 and NMSA 1978, Section 9-1-5(E).

The full text of the proposed rule is available from Wendy Mason at wendy.mason@state.nm.us or (505) 690-8210 or can be viewed on the EMNRD, Forestry Division’s website at <https://www.emnrd.nm.gov/sfd/public-meetings/> or at the Forestry Division’s offices in Santa Fe, Chama, Cimarron, Las Vegas, Rio Rancho, Socorro, Capitan, and Silver City.

Public Hearing and Comment. EMNRD will hold a virtual public hearing on the proposed rule at 9:00 a.m. on Tuesday, December 14, 2021. The public may join the hearing virtually through WebEx using one of the following:

Join from the meeting link <https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e90f2adab0e8e3b104283196d0e5c5f8b>

Join by event number
Event number (access code): 2487 468 8842
Event password: BurnManager#
Audio Only: +1-408-418-9388
Access Code: 2487 468 8842

Those wishing to comment on the proposed rule may make oral comments or submit information at the hearing or may submit written comments by Tuesday, December 14, 2021, by 9:00 a.m. by mail or email. Please mail written comments to Wendy Mason, EMNRD, Forestry Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or submit comments by email to wendy.mason@state.nm.us.

Technical Information that served as a basis for the proposed rule includes:

Copies of the technical information can be obtained from Wendy Mason at (505) 690-8210 or wendy.mason@state.nm.us or can be viewed on the EMNRD, Forestry Division's website at <https://www.emnrd.nm.gov/sfd/public-meetings/>.

CAL FIRE Prescribed Fire Working Group, California Department of Forestry and Fire Protection. CAL FIRE Prescribed Fire Guidebook. September 2019. <https://www.fire.ca.gov/media/2ql0gn/cal-fire-prescribed-fire-guidebook.pdf>.

California Department of Forestry and Fire Protection Forest Health Webpage. What are Prescribed Fires and How are they Helpful? <https://www.readyforwildfire.org/forest-health/prescribed-fires/>.

California Department of Forestry and Fire Protection. Fuels Reduction Guide. <https://www.fire.ca.gov/media/4jqrerfjh/fuels-reduction-guide-final-2021-interactive.pdf>.

California Department of Forestry and Fire Protection Prescribed Fire Program Webpage. <https://www.fire.ca.gov/programs/resource-management/resource-protection-improvement/vegetation-management-program/prescribed-fire/>.

California Department of Forestry and Fire Protection Vegetation Management Program Webpage. <https://www.fire.ca.gov/programs/resource-management/resource-protection-improvement/vegetation-management-program/>.

California Smoke Management Guidelines for Agricultural and Prescribed Burning, Title 17 of the California Code of Regulations, Subchapter 2. <https://www.arb.ca.gov/smp/regs/revfinregwtoc.pdf>.

Colorado Department of Public Safety, Division of Fire Prevention and Control Webpage. What is Prescribed Fire? <https://dfpc.colorado.gov/prescribed-fire-management>.

Colorado Department of Public Safety, Division of Fire

Prevention and Control. Rules and Regulations Concerning 8 CCR 1507-32 Prescribed Burning in Colorado. <https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6104&fileName=8%20CCR%201507-32>.

Colorado Department of Public Safety, Division of Fire Prevention and Control. Colorado Certified Burn Program Webpage. <https://dfpc.stg.colorado.gov/sections/wildland-fire-management/colorado-certified-burn-program>.

Colorado Prescribed Fire Planning and Implementation Policy Guide. Colorado Department of Public Safety, Division of Fire Prevention and Control. January 2019. https://csfs.colostate.edu/media/sites/22/2019/12/2019_3-20_2019_DFPC_RX_Fire_Implementation_Planning_Guide.pdf#:~:text=Colorado%20Prescribed%20Fire%20Planning%20and%20Implementation%20Policy%20Guide,with%20the%20planning%20and%20implementation%20of%20prescribed%20fire.

Georgia Department of Natural Resources. Basic Smoke Management Plan. April 16, 2008. <https://gatrees.org/wp-content/uploads/2019/10/Smoke-Management-Plan.pdf>.

Georgia Forestry Commission. Lawful Presence Affidavit. <https://gatrees.org/wp-content/uploads/2020/12/Lawful-Presence-Affidavit.pdf>.

Georgia Forestry Commission. Prescribed Fire Program Documents Webpage. <https://gatrees.org/fire-prevention-suppression/prescribed-burn/>.

Georgia Forestry Commission. Georgia Prescribed Fire Manager Certification Flyer. <https://gatrees.org/wp-content/uploads/2021/04/Prescribed-Fire-Manager-Certification-Flyer21.04.19.pdf>.

Georgia Forestry Commission. Prescribed Fire Certification Training

Course Flyer. <https://gatrees.org/wp-content/uploads/2021/10/SRTC-prescribed-fire-flyer-1.pdf>.

Georgia Forestry Commission. Prescribed Fire in Georgia A Strategic Plan 2008-2020. <https://gatrees.org/wp-content/uploads/2019/10/PrescribedFireinGAstrategicPlan2008-20.pdf>.

Georgia Forestry Commission. Prescribed Burn Certification Affidavit. <https://gatrees.org/wp-content/uploads/2021/10/Affidavit.pdf>.

Georgia Forestry Commission. Prescribed Burning Using Fire Wisely. <https://gatrees.org/wp-content/uploads/2019/10/PrescribedBurning08.pdf>.

Georgia Prescribed Burning Act, O.G.C.A 12-6-145 *et seq.* <https://advance.lexis.com/container?config=00JAAzZDgzNzU2ZC05MDA0LTRmMDItYjkzMS0xOGY3MjE3OWNIODIKAFBvZENhdGFsb2fcIFfJnJ2IC8XZi1AYM4Ne&crd=9dd738c1-e55f-4ea9-abab-a6ba315d-bad0&priid=fd4ae929-5f05-4e74-8f7b-e8d348c6f00b>.

Illinois Department of Natural Resources. Certified Prescribed Manager Application. https://www.illinoisprescribedfirecouncil.org/uploads/1/0/5/8/105892833/prescribedburnmanager_application.pdf.

Illinois Department of Natural Resources, Division of Natural Heritage. Illinois Prescribed Burn Manager Certification Webpage. <https://www.illinoisprescribedfirecouncil.org/illinois-prescribed-burn-manager-certification.html>.

Illinois Department of Natural Resources, Division of Natural Heritage. Prescribed Fire Webpage. <https://www2.illinois.gov/sites/naturalheritage/LandStewardship/PrescribedFire/Pages/default.aspx>.

Illinois Prescribed Fire Burn Manager Apprentice Task Book. <https://www2.illinois.gov/dnr/conservation/Forestry/Documents/CPBM%20APPRENTICE%20TASK%20BOOK.pdf>.

Introduction to Prescribed Fire in Southern Ecosystems. United States

Department of Agriculture. Forest Service. Research & Development. Southern Research Station. August 2012. Slightly revised 2015. Reprinted 2016. Slightly revised 2018. https://www.srs.fs.usda.gov/pubs/su/su_srs054.pdf.

Illinois Prescribed Burning Act, 525 ILCS 37. [https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2904&ChapterID=44#:~:text=\(a\)%20%22Prescribed%20burning%22,the%20planned%20land%20management%20objectives](https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2904&ChapterID=44#:~:text=(a)%20%22Prescribed%20burning%22,the%20planned%20land%20management%20objectives).

Illinois Prescribed Burning Act Rules, 17 Ill. Adm. Code, Ch. I, Sec. 1565. <https://www.ilga.gov/commission/jcar/admincode/017/01701565sections.html>.

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Mattos, Brian. CAL FIRE Prescribed Fire Planning and Permitting. California Department of Forestry and Fire Protection. <https://ucanr.edu/sites/Mariposa/files/325909.pdf>.

National Wildfire Coordinating Group (NWCG) Standards for Wildland Fire Position Qualifications, PMS 310-1 <https://www.nwcg.gov/publications/pms310-1#:~:text=PMS%20310%2D1,NWCG%20Standards%20for%20Wildland%20Fire%20Position%20Qualifications%2C%20PMS%20310%2D1,mobilization%20to%20wildland%20fire%20incidents>.

NWCG Position Catalog. <https://www.nwcg.gov/positions>.

NWCG Training Catalog. <https://www.nwcg.gov/publications/training-courses>.

National Fire Protection Association 1001 Standard for Fire Fighter Professional Qualifications. Southern Regional Technical College Registration Form. <https://gatrees.org/wp-content/uploads/2021/10/Prescribed-Fire-SRTC-registration-2021.pdf>.

Supplemental Agreement for Cooperative Use of Prescribed Fire

to the California Master Cooperative Wildland Fire Management Agreement and Stafford Act Response Agreement. <https://gacc.nifc.gov/oscc/cwgc/docs/2013cfma/!!2018%20-%202023%20CFMA%20FINAL%20SIGNED.pdf>.

Texas Department of Agriculture. Certified and Insured Prescribed Burn Managers Webpage. <https://www.texasagriculture.gov/Home/ProductionAgriculture/PrescribedBurnProgram/CommercialCertifiedPrescribedBurnManager.aspx>.

Texas Department of Agriculture. Prescribed Burn Lead Instructor Webpage. <https://www.texasagriculture.gov/Home/ProductionAgriculture/PrescribedBurnProgram/PrescribedBurnLeadInstructor.aspx>.

Texas Department of Agriculture. Prescribed Burn Plans Webpage. <https://www.texasagriculture.gov/Home/ProductionAgriculture/PrescribedBurnProgram/SampleBurningPlanDocuments.aspx>.

Texas Department of Agriculture. Prescribed Burn Program Webpage. <https://www.texasagriculture.gov/Home/ProductionAgriculture/PrescribedBurnProgram.aspx>.

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Texas Department of Agriculture, Texas Prescribed Burning Board. Application for Certified Prescribed Burn Lead Instructor. PBB-600. https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/pbb_601_application_burn_board_manager.pdf.

Texas Department of Agriculture, Texas Prescribed Burning Board. Certified and Insured Prescribed Burn Manager Insurance Verification Form. <https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/Certified%20Prescribed%20Burn%20Manager%20Insurance%20Verification.pdf>.

Texas Department of Agriculture, Texas Prescribed Burning Board.

Instructions Application for Certified and Insured Prescribed Burn Manager Form No. PBB-601. https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/pbb_601%20Application%20Instructions%20for%20Certified%20and%20Insured%20Prescribed%20Burn%20Manager.pdf.

Texas Department of Agriculture, Texas Prescribed Burning Board. Instructions for Lead Burn Instructor Application for the Certified and Insured Prescribed Burn Manager Program Form PBB-600. https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/pbb_600_instructions.pdf.

Texas Department of Agriculture, Texas Prescribed Burning Board. Instructions for Texas Prescribed Burning Board Training Verification Form PBB-602. https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/pbb_602_instructions.pdf.

Texas Department of Agriculture, Texas Prescribed Burning Board. Supplement for additional information for Certified Prescribed Burn Lead Instructor. Supplement PBB-600. https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/pbb_600S_supplemental.pdf.

Texas Department of Agriculture, Texas Prescribed Burning Board. Training Verification. PBB-602. https://www.texasagriculture.gov/Portals/0/forms/PEST/Burn/pbb_602_burn_board_training_verification.pdf.

Texas Natural Resources Code. Title 6, Chapter 153. <https://statutes.capitol.texas.gov/docs/NR/htm/NR.153.htm>.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Wendy Mason at (505) 690-8210 or through the New Mexico Relay Network at 1-800-659-1779 at least two weeks prior to the hearing. Public documents can be provided in various accessible formats. Please contact Wendy Mason at (505) 690-8210, if a summary or other type of accessible format is needed.

**ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
OIL CONSERVATION DIVISION**

**NOTICE OF PUBLIC HEARING
FOR PROPOSED RULEMAKING**

The State of New Mexico through the Oil Conservation Commission (OCC) hereby gives notice that the OCC will hold a public hearing to consider amendments to the rules that regulate the venting and flaring of natural gas from natural gas gathering and processing facilities. The public hearing will be held on-line and by telephone on December 17, 2021, at 9:00 a.m., and will be continued to the following day(s) if not completed.

Purpose of Proposed Rules. The proposed amendments correct an inaccurate lost natural gas calculation, correct an internal citation, and clarify a provision's application to gathering systems.

Summary of Proposed Rules. The Oil Conservation Division (OCD) proposes to amend two sections of 19.15.28 NMAC rule, which establishes requirements for operators of natural gas gathering systems, including gathering pipelines, to report and reduce the venting and flaring of natural gas, 19.15.28.8(F) (3) NMAC and 19.15.28.10(B) NMAC.

Legal Authority. The proposed amendments are authorized by the Oil and Gas Act, Sections 70-2-1 through 70-2-38 NMSA 1978, including Section 70-2-6 (authorizing the OCC to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Section 70-2-11 (authorizing the OCC to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), and Section 70-2-12 (enumerating the powers of the OCC and OCD). The public hearing is governed by the OCC's rule on rulemaking proceedings, 19.15.3 NMAC.

Availability of Proposed Rules.

The full text of the proposed rules is available on the OCD's website, emnrd.nm.gov/ocd, or by contacting the OCC Clerk, Florene Davidson at florene.davidson@state.nm.us.

Written Comments. Any person may submit written comments on the proposed amendments no later than December 17, 2021, at 12:00 p.m., unless extended by the OCC, by mail, email, or delivery to the OCC Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or florene.davidson@state.nm.us.

Public Hearing. The public hearing will be held online and by telephone on December 17, 2021, at 9:00 a.m., and will be continued to the following day(s) if not completed. The public hearing will be transcribed and recorded. To access the public hearing on-line via the Webex platform and by telephone:

Event address for attendees: <https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e728f19c2e19c7a3ab805801cbca5794a>

Event number: 2489 662 7330
Event password: 9E8Nt3XMaUn

Video Address: [24896627330@nmemnrd.webex.com](https://nmemnrd.webex.com)
You can also dial 173.243.2.68 and enter your meeting number.

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code.

United States Toll +1-408-418-9388
Access code: 2489 662 7330

Proposed Modifications, Technical Testimony, and Cross Examination.

A person who intends to propose a modification to the proposed rules, to present technical testimony at the public hearing, or to cross-examine witnesses at the public hearing must file six copies of a

Pre-Hearing Statement conforming to the requirements of 19.15.3.11(B) NMAC, no later than December 3, 2021, at 5:00 p.m. The Pre-Hearing Statement must be filed by mail, email, or delivery to the OCC Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. A person who presents technical testimony at the public hearing will be subject to cross-examination by the members of the OCC, the OCC's counsel, and other persons who filed Pre-Hearing Statements.

Oral Comments. A person who did not file a Pre-Hearing Statement may present non-technical testimony or make an unsworn statement at the public hearing. A person who wants to present non-technical testimony or make an unsworn statement at the public hearing must inform the OCC. A person who presents non-technical testimony will be subject to cross-examination by the members of the OCC, the OCC's counsel, and other persons who filed Pre-Hearing Statements. A person may offer exhibits at the public hearing if the exhibits are relevant to the proposed rules and the person files the original exhibit and five copies conforming to the requirements of 19.15.3.12(C) NMAC prior the end of the public hearing. A person may file exhibits by mail, email, or delivery to the OCC Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. Exhibits must be submitted to the OCC Clerk by December 15, 2021, at 5:00 p.m.

Persons with Disabilities. A person with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service, such as a summary or other accessible form of document, in order to attend or participate in the public hearing, must contact the OCC Clerk, Florene Davidson, at (505) 476-3458 or florene.davidson@state.nm.us, or through the New Mexico

Relay Network at 1-800-659-1779, no later than December 3, 2021.

Technical Information. There is no technical information for the proposed rule amendments.

**ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
ENERGY CONSERVATION AND
MANAGEMENT DIVISION**

**NOTICE OF PUBLIC HEARING
AND RULEMAKING**

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) hereby gives notice of the following proposed rulemaking. EMNRD proposes to repeal 3.3.34 NMAC, New Sustainable Building Tax Credit for Residential Buildings; 3.3.35 NMAC, New Sustainable Building Tax Credit for Commercial Buildings; 3.4.21 NMAC, New Sustainable Building Tax Credit for Residential Buildings; and 3.4.22 NMAC, New Sustainable Building Tax Credit for Commercial Buildings; and to adopt 3.3.34 NMAC, 2015 Sustainable Building Tax Credit and 3.4.21 NMAC, Sustainable Building Tax Credit.

Purpose of Amendment. In 2021, the Legislature passed amendments to the sustainable building tax credit in the Income Tax Act and the Corporate and Franchise Tax Act. The amendments to each act require EMNRD to promulgate rules that are compliant with the amendments.

3.3.34 NMAC, 2015 Sustainable Building Tax Credit for Residential Buildings. EMNRD proposes to consolidate the residential and commercial building rules into one rule and reflect the tax credit ends on April 1, 2023, as provided in the statute.

3.4.21 NMAC, 2015 Sustainable Building Tax Credit for Residential Buildings. EMNRD proposes to consolidate the residential and

commercial building rules into one rule, and reflect the tax credit ends on April 1, 2023, as provided in the statute.

Legal Authority. EMNRD proposes the amendments under the authority of the Income Tax Act, NMSA 1978, Section 7-2-18.29 and the Corporate and Franchise Tax Act, NMSA 1978, Section 7-2A-28 and NMSA 1978, Section 9-1-5(E).

The full text of the proposed rules and rule repeals are available from the EMNRD, Energy Conservation and Management Division, 1220 S. Saint Francis Drive, Santa Fe, NM 87505; at <https://www.emnrd.nm.gov/ecmd/ecmd-public-notice/> or by contacting Harold Trujillo at harold.trujillo@state.nm.us; telephone (505) 490-7912.

Public Hearing and Comment. EMNRD will hold a virtual public hearing on the proposed rule amendment at 9:30 am on December 10, 2021. The public may join the hearing virtually through WebEx using one of the following:

Sustainable Building Tax Credit 2015 Rules Hearing Event Link:
<https://nmemnrd.webex.com/nmemnrd/j.php?MTID=mca0e71cca394be7f0bb8e2a3c753bc32>
Event number: 2491 791 6357
Event password: SBTC2015 (72822015 from phones)
Or join by phone:
1-844-992-4726 United States Toll Free
+1-408-418-9388 United States Toll
Access code: 249 179 16357

Those wishing to comment on the proposed rules may make oral comments or submit written comments at the hearing or may submit written comments by December 10, 2021, by 5:00 p.m. by mail or e-mail. Please mail written comments to Harold Trujillo, EMNRD, Energy Conservation and Management Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or submit them by

e-mail to harold.trujillo@state.nm.us.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Harold Trujillo at (505) 490-7912 or the New Mexico Relay Network at 1-800-659-1779 one week prior to the hearing. Public documents can be provided in various accessible formats. Please contact Harold Trujillo at (505) 490-7912, if a summary or other type of accessible format is needed.

Technical Information. There is no technical information for the proposed rules or repeals.

**HEALTH,
DEPARTMENT OF**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health (“DOH”) will hold a public hearing on the proposed adoption of rule, 7.1.32 NMAC, “Long-Term Care Facility Dementia Training.” The public hearing will be held on December 10, 2021 at 9:30 am via Cisco Webex online, via telephone, and comments will be received via email through the day of the hearing until 5:00 pm. The hearing is being held via internet, email and telephonic means due to the concerns surrounding Coronavirus and consideration of Governor Michelle Lujan Grisham’s Executive Order 2020-004, Declaration of a Public Health Emergency, and any subsequent executive orders. This hearing will be conducted to receive public comment regarding the adoption of the proposed rule, 7.1.32 NMAC, concerning the creation of a regulation to provide training requirements, continuing education requirements, and certification for all direct care service staff members providing direct care services to long-term care facility residents by in-person, video, audio or telephonic means.

The purpose of the adoption of the proposed rule will be to provide training, education and certification to New Mexico direct care service staff members who are (1) employed by or contracted with a long-term care facility, either directly or through a third-party agreement, to provide in-person direct care services to long-term care facility residents; or (2) contracted with a long-term care facility, either directly or through a third-party agreement, to provide at least ten hours per week in direct care services by video, audio or telephonic means; fulfilling the DOH's legislative obligations in 24-17B-1 NMSA 1978.

By adopting this rule, DOH proposes to establish a statewide department-approved training and certification program which will provide standardized knowledge to all direct care service staff members who provide direct care services to long-term care facility residents by in-person, video, audio or telephonic means. The training may be provided online or in person. By adopting this rule, all direct care staff service members in New Mexico will be required to take a minimum four hours of training initially, followed by a division-approved written examination, before receiving a training certificate; and then four hours of training every year thereafter as a continuing education requirement on specific topics set forth in the regulation covering the care of long-term care facility residents with Alzheimer's disease and dementia. Long-term care facilities or long-term care contractors will be responsible for maintaining documentation regarding completed long-term care facility dementia training, evaluation and continuing education for each direct care service staff member.

The purpose of the regulation will also be to provide an exemption of the training requirement under this rule for those direct care staff service members who are hired prior to January 1, 2022, and who received training within the past 24 months

equivalent to the requirements set forth in the regulation. The facilities will be required by the regulation to attest to the equivalent training of the direct care staff service members hired prior to January 1, 2022, and, upon receipt of the attestation, the department will issue such an employee the required certificate.

The purpose of the regulation will be to provide a timeline for a DOH review and evaluation of the topic training areas set out in the proposed regulation for every two years or as determined necessary by the department based upon current research and best practices.

The legal authority authorizing the proposed amendment of the rule by the Department is at Subsection E of Section 9-7-6, and the Long-Term Care Facility Dementia Training Act, 24-17B-1 et seq. 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. To access the hearing by telephone: please call 1-408-418-9388. Your telephone comments will be recorded. To access the hearing via internet: please go to Webex.com; click the "Join" button; click the "Join a meeting" button; enter the following meeting number and password where indicated on screen—Meeting number (access code): 24888018510#, Meeting password: mFpTkCge958; click the "OK" button. You may also provide comment via Chat during the live streaming.

Written public comments may also be submitted to the mailing address shown below. 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

Or preferably by e-mailing the comment to the e-mail address: Christopher.Burmeis@state.nm.us

Written comments must be received by the close of the public rule hearing on December 10, 2021. All written comments will be published on the agency website at <http://nmhealth.org/about/asd/cmo/rules/> within three (3) days of receipt and will be available at the New Mexico Department of Health Division of Health Improvement 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.

The foregoing are summaries of the proposed rule. The proposed rule includes various additional substantive revisions not identified here. Free copies of the full text of the proposed rule may be obtained online from the Department's website at <https://nmhealth.org/publication/regulation/>

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.314.5 NMAC, Developmental Disabilities Home and Community Based Services (HCBS) Waiver.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: November 9, 2021
Hearing Date: December 13, 2021
Adoption Date: Proposed as April 1, 2022
Technical Citations: 42 CFR 438 subparts A through J; 42 CFR 441 subpart G

The Department is proposing to amend the rule as follows:

Throughout the rule

Language has been edited throughout the document to align with the Developmental Disabilities (DD) waiver application submitted to the Centers for Medicare and Medicaid Services (CMS) on April 1, 2021, as well as with other 1915(c) HCBS waivers in the state of New Mexico.

Section 7

Definitions are amended as follows:

Subsection A- Activities of daily living (ADLs): to include “oral care.”

Subsection F- Clinical justification: (2) to include “and to maintain current level of function or minimize current level of function or minimize risk of further decline.”

Subsection H- New definition added “Electronic Visit Verification (EVV): A telephone and computer-based system that electronically verifies the occurrence of selected services, as required by the 21st Century CURES Act. The EVV system verifies the occurrence of authorized service visits electronically by documenting the precise time and location where service delivery visit begins and ends. EVV is implemented according to federal requirements and timelines. The 21st Century CURES Act requires EVV for personal care services (PCS), defined as services that provide assistance with activities of daily living (ADLs) or instrumental activities for daily living (IADLs) effective January 1, 2020 and for

home health services effective January 1, 2023.”

Section 8 - New section added “Safeguards Concerning Restraints, Restrictions and Seclusion”.

Section 9 - Subsection F - Language is updated to include that all providers have a responsibility to monitor settings to ensure that the setting supports health and safety based upon the individual’s needs, decisions or desires.

Section 10 - Subsection D -

Qualifications of case management provider agency is updated to require case managers to hold a bachelor’s or master’s degree in social work, psychology, sociology, counseling, nursing, special education, or a closely related field or to have a minimum of 6 years of direct experience related to the delivery of social services to people with disabilities.

Subsection O - Revised qualifications for a non-medical transportation provider agency to include the requirement for a business license and drivers must have a valid driver’s license and not have a disqualifying conviction after submitting to the Caregiver Criminal History Screening (CCHS).

Subsection P - Revised qualifications for assistive technology provider agencies to allow providers to also be direct vendors of approved technology.

Subsection T - Revised qualification to allow additional certification types for socialization and sexuality education providers.

Subsection U - Language added requiring customized in-home supports provider agencies to comply with Electronic Visit Verification (EVV) requirements and allowance for legal guardians who are also natural or adoptive family members, relatives, or natural family members to provide Customized In-Home

Supports service if they meet the DOH/DDSD requirements.

Section 14 - Subsections A and B - The children’s annual resource allotment (ARA) was removed as were references to services available with the ARA and those available to children outside of the ARA. A combined list of services was added.

Section 15 - Subsection C

Language added to therapy services and behavioral support consultation to allow for greater use of telehealth and remote service delivery in specified circumstances and as appropriate.

Paragraph 5 of Subsection C

- Definition of living supports is revised to clarify the scope of service and provider requirements to provide recipients services from a registered dietitian or licensed nutritionist as needed and to have a licensed nurse on staff or under contract available on call as needed.

Paragraph 7 of Subsection C

- Revised community integrated employment services to clarify supports may not duplicate services available through the New Mexico Public Education Department or the Individuals with Disabilities Education Act (IDEA).

Paragraph 16 of Subsection

C - Personal Support Technology renamed “Remote” Personal Support Technology.

Paragraph 17 of Subsection C -

Revised definition for Preliminary Risk Screening and Consultation to include that this service is designed to assess continued risk of sexually inappropriate or offending behavior in persons who exhibit or have a history of exhibiting risk factors for these types of behaviors. This service is part of a variety of support services that promotes community safety and reduces the impact of interfering behaviors that compromises the individual’s quality of life.

Paragraph 18 of Subsection C -

Revised definition for Socialization and Sexuality Education to include the Friends & Relationships Course that is a comprehensive lifelong adult education program.

Paragraph 19 of Subsection C -

Service description of customized in-home supports is revised to clarify the service is provided in the individual's own home or family home, services may include an on-site response plan with use of remote support technology, and the service is intended to be intermittent support.

The register and the proposed rule are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

The Department proposes to implement this rule effective April 1, 2022. A public hearing to receive testimony on these proposed rule changes will be held **via conference call on Monday, December 13, 2021 at 10:00 a.m.**, Mountain Time (MT). **Conference Number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on December 13, 2021. Written and recorded comments will be given the

same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING DOCKET NO. 21-00112-UT

The New Mexico Public Regulation Commission (the "commission") hereby gives notice of its initiation of a proposed rulemaking to adopt a new rule, **17.9.573 NMAC, "Community Solar."**

Summary of the full text of the proposed rule and short explanation of its purpose: The commission intends to adopt a new rule concerning community solar projects. The Community Solar Act (the "act"), Sections 62-16B-1 *et seq.* NMSA 1978, enacted in 2021, requires the commission to adopt rules to

establish a community solar program no later than April 1, 2022, which rules must: (1) provide an initial statewide capacity program cap of two hundred megawatts alternating current proportionally allocated to investor-owned utilities until November 1, 2024, which cap must exclude native community solar projects and rural electric distribution cooperatives; (2) establish an annual statewide capacity program cap to be in effect after November 1, 2024; (3) require thirty percent of electricity produced from each community solar facility to be reserved for low-income customers and low income service organizations, including guidelines to ensure that the thirty percent is achieved every year and development of a list of low-income service organizations and programs that may pre-qualify low-income customers; (4) establish a process for the selection of community solar facility projects and allocation of the statewide capacity program cap, consistent with Section 13-1-21 NMSA 1978 regarding resident business and resident veteran business preferences; (5) require a qualifying utility to file the tariffs, agreement or forms necessary for implementation of the community solar program; (6) establish reasonable, uniform, efficient and non-discriminatory standards, fees and processes for the interconnection of community solar facilities that are consistent with the commission's existing interconnection rules and interconnection manual that allows a qualifying utility to recover reasonable costs for administering the community solar program and interconnection costs for each community solar facility, such that the qualifying utility and its non-subscribing customers do not subsidize the costs attributable to the subscriber organizations by more than three percent; (7) provide consumer protections for subscribers, including disclosures described in the act, as well as grievance and enforcement procedures; (8) provide a community solar bill credit rate mechanism for subscribers as described in detail in the act; (9) reasonably allow for the

creation, financing and accessibility of consumer solar facilities; and (10) provide requirements for the siting and co-location of community solar facilities with other energy resources, provided that community solar facilities shall not be co-located with other community solar facilities. Subsection B of Section 62-16B-7 NMSA 1978. The act further provides that the commission “may through rule establish a reasonable application fee for subscriber organizations that is designed to cover a portion of the administrative costs of the commission in carrying out the community solar program.” Subsection C of Section 62-16B-7 NMSA 1978. The commission intends to adopt a community solar rule that meets the requirements set out in the act. The commission will also consider adopting rule provisions not required by the act but related to the community solar program.

Legal authority authorizing the proposed rule and the adoption of the rule: The commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, under Paragraph 10 of Subsection B of 8-8-4 NMSA 1978, Sections 62-16-7, 62-8-13, and 62-16B-7, NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the commission’s website at <https://www.nm-prc.org/rulemaking-proceedings> or by calling Isaac Sullivan-Leshin of the commission’s office of general counsel at (505) 670-4830. From the same sources, any person can obtain the commission’s *Additional Issues to be Addressed in Formal Comment Process*, which should be reviewed and considered in conjunction with the proposed rule.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Any person wishing to comment

on the proposed rule or the *Additional Issues to be Addressed in Formal Comment Process* may do so by submitting written initial comments no later than **December 9, 2021**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **December 29, 2021**. Any person wishing to reply to response comments or comments made at the hearing may do so by submitting written reply comments no later than **January 21, 2022**. Comments can be electronically filed by sending them in PDF format to prc.records@state.nm.us. Comments must refer to Docket No. 21-00112-UT. All written comments will be posted on the commission’s website within three days of their receipt by the records bureau.

The record closure date for this proceeding is **January 26, 2022**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing:

A public hearing on the proposed rule and the *Additional Issues to be Addressed in Formal Comment Process*, to be presided over by the commission or its designee, will be held beginning at **10:00 a.m. on January 6, 2022**, via the Zoom online platform. Any person who wishes to make a comment at the hearing must contact Isaac Sullivan-Leshin at (505) 670-4830 or isaac.sullivan-leshin@state.nm.us by no later than **12:00 noon on January 5, 2022** to sign up as a hearing participant. The commission’s office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. The hearing will be held in order to receive oral comments. In the interest

of administrative efficiency, only commenters who have not submitted written comments will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. The commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 21-00112-UT. Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Technical information that served as a basis for the proposed rule and how the information can be obtained:

When adopting the proposed rule, the commission considered the report titled “*New Mexico Community Solar - Stakeholder Participation Pre-Rulemaking Status Report*,” prepared by Strategen Consulting, LLC, the commission’s contracted consultant in this matter, which was filed in Docket No. 21-00112-UT on October 15, 2021. The Commission also considered the report titled “*New Mexico Interconnection Rules: Report and Recommendations to the New Mexico Public Regulation Commission*,” prepared by the interconnection rulemaking working group, which was filed in Docket No. 20-00171-UT on October 15, 2021. The commission also considered the presentation materials from the second workshop held in this proceeding, which materials were filed in Docket No. 21-00112-UT on August 30, 2021. Copies of this technical information can be obtained from the rulemaking page on the commission’s website at <https://www.nm-prc.org/rulemaking-proceedings>.

nm-prc.org/rulemaking-proceedings/ or by calling Isaac Sullivan-Leshin of the commission's office of general counsel at (505) 670-4830.

Instructions on how to access the complete rulemaking record, reports and other items filed in the commission's e-docket system can be found at <https://www.nm-prc.org/rulemaking-proceedings/>. Additional information about the community solar rulemaking can be found at <https://www.nm-prc.org/utilities/community-solar/> or by calling Isaac Sullivan-Leshin at (505) 670-4830.

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE, BOARD OF

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Acupuncture and Oriental Medicine (Board) will hold a rule hearing on Friday, December 10, 2021, at 9:00 a.m. Following the rule hearing, the Board will convene a regular board meeting to consider adoption of the rules and address regular business.

The rule hearing and board meeting will be held via Cisco Webex Meetings:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e73290a53047ac054fc9c3e906597a868>

Meeting number (access code): 2497 688 9572

To join the meeting by phone:

1-415-655-0002 United States Toll

The purpose of the rule hearing is to consider proposed amendments and repeal/replace to the following rules:
16.2.1 NMAC - General Provisions
16.2.3 NMAC - Licensure Requirements
16.2.5 NMAC - Temporary Licensing
16.2.8 NMAC - License Renewal

16.2.12 NMAC - Grounds for Denial, Suspension or Revocation of License
16.2.14 NMAC - Externships
16.2.15 NMAC - Inactive License
16.2.16 NMAC - Auricular Detoxification
16.2.17 NMAC - Licensure by Endorsement
16.2.21 NMAC - Licensure for Military Service Members, Spouses and Veterans

To obtain and review copies of the proposed changes you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/acupuncture-and-oriental-medicine/aom-rules-and-law/> or contact the New Mexico Board of Acupuncture and Oriental Medicine at (505) 476-4622 or by email at acuormedboard@state.nm.us.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Sue Sneeringer, Board Administrator, via electronic mail at: acuormedboard@state.nm.us or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Thursday, December 9, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. All written comments will be posted to the Board's website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/acupuncture-and-oriental-medicine/aom-rules-and-law/>, no more than three business days following receipt to allow for public viewing.

An individual with a disability who is in need of a reader, amplifier, qualified signed language interpreter, or other form of auxiliary aid or service to participate in the hearing, please contact Sue Sneeringer, Board Administrator at (505) 476-4622.

The agenda for the regular board meeting will be posted and available at least 72 hours before the meeting on the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/acupuncture-and-oriental-medicine/board-meetings/>.

www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/acupuncture-and-oriental-medicine/board-meetings/. Copies may also be obtained by contacting Sue Sneeringer, Board Administrator at (505) 476-4622.

Statutory Authority: Subsection B of Section 61-14A-8 NMSA 1978 of the Acupuncture and Oriental Medicine Practices Act and Sections 61-14A-1 through -22 NMSA 1978 generally, authorizes the Board to "adopt, publish and file, in accordance with the Uniform Licensing Act." 61-1-1 through 61-1-31 NMSA 1978 and the State Rules Act Chapter 14, article 4 NMSA 1978, all rules necessary for the implementation and enforcement of the provisions of the Acupuncture and Oriental Medicine Practices Act.

Purpose of the proposed rules:

The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and registrants, and to generally satisfy the Board's statutory obligation to "adopt rules and regulations and establish policy necessary to carry out the provisions of the Acupuncture and Oriental Medicine Practices Act in accordance with the Uniform Licensing Act Subsection B of Section 61-14A-8 NMSA 1978". In addition, several of the proposed rule changes are intended to address to recent statutory changes to the Uniform Licensing Act. See S.B. 2, 55th Leg., 1st S.S. (N.M. 2021), available at <https://nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=2&year=21s>, and H.B. 120, 55th Leg., 1st Sess. (N.M. 2021), available at <https://nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=120&year=21>.

Summary of Proposed Changes:

The Board summarizes its proposed changes to its administrative rules as follows:

16.2.1 NMAC - General Provisions

As a general summary, the proposed changes to 16.2.1 NMAC update the rule to reflect changes to rule definitions based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, adding or redefining terms used within the Board's body of regulations.

16.2.3 NMAC - Licensure Requirements

As a general summary, the proposed changes to 16.2.3 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, concerning applicant criminal convictions that may result in a denial of an application for a license or renewal, including amendments addressing how the Board may use criminal convictions in the application process.

16.2.5 NMAC - Temporary Licensing

As a general summary, the proposed changes to 16.2.5 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, removing all language concerning applicant criminal background matters in reliance on 16.2.3.10 NMAC's proposed amendments.

16.2.8 NMAC - License Renewal

As a general summary, the proposed changes to 16.2.8 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, removing all language concerning applicant criminal background matters in reliance on 16.2.3.10 NMAC's proposed amendments.

16.2.12 NMAC - Grounds for Denial, Suspension or Revocation of License

As a general summary, the proposed changes to 16.2.12 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB

2 and HB 120, subsequently codified into statute, adding language to the relevant portion of the rule concerning applicant criminal convictions and inserting a direct reference to 16.2.3.10 NMAC's proposed amendments.

16.2.14 NMAC - Externships

As a general summary, the proposed changes to 16.2.14 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, removing all language concerning applicant criminal background matters in reliance on 16.2.3.10 NMAC's proposed amendments.

16.2.15 NMAC - Inactive License

As a general summary, the proposed changes to 16.2.15 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, removing all language concerning applicant criminal background matters in reliance on 16.2.3.10 NMAC's proposed amendments.

16.2.16 NMAC - Auricular Detoxification

As a general summary, the proposed changes to 16.2.16 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, removing all language concerning applicant criminal background matters in reliance on 16.2.3.10 NMAC's proposed amendments.

16.2.17 NMAC - Licensure by Endorsement

As a general summary, the proposed changes to 16.2.17 NMAC update the rule to reflect changes based on 2021 legislative changes found in SB 2 and HB 120, subsequently codified into statute, removing all language concerning applicant criminal background matters in reliance on 16.2.3.10 NMAC's proposed amendments.

16.2.21 NMAC - Licensure for Military Service Members, Spouses and Veterans

As a general summary, the proposed changes to 16.2.21 NMAC update the rule to reflect changes to rule definitions changes found in SB 2 and HB 120, subsequently codified into statute, regarding expedited licensure for military service members. The updated rule expands the definition of eligibility for individuals applying for expedited licensure as a service member. Additionally, the new rule reflects the requirements for individuals applying through this process. Finally, this proposed amendment provides for a new fee structure, updated definitions, and licensure timeframes as required by 61-1-34 NMSA 1978.

**REGULATION AND
LICENSING DEPARTMENT
BODY ART PRACTITIONERS,
BOARD OF**

**NOTICE OF PUBLIC RULE
HEARING AND REGULAR
BOARD MEETING**

The New Mexico Board of Body Art Practitioners will hold a rule hearing on Monday, December 20, 2021, at 10:00 a.m. Following the rule hearing, the Board will convene a regular board meeting consider and adopt the rules and take care of regular business. The meeting will be held via Cisco Webex Meetings.

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e625bd7b8ad75bd6c015faabd0d037a30>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2492 929 3874

The purpose of the rule hearing is to consider proposed changes to Title 16 Chapter 36 NMAC 1978:
Amendments to the rules below:
16.36.1 NMAC – General Provisions
16.36.2 NMAC – Licensure Requirements for Body Art Tattoo Practitioners

16.36.3 NMAC – Requirements for Establishments

16.36.4 NMAC – Enforcements, Complaints and Disciplinary Action

16.36.5 NMAC – Standards of Practice

16.36.6 NMAC – Fees

Adding new parts below:

16.36.7 NMAC – Licensure Requirements for Special Events, Mobile Body Art and Guests

16.36.8 NMAC – Expedited Licensure for Military Service Members and Veterans

16.36.9 NMAC – Licensure Requirements for Permanent Cosmetics Practitioner

16.36.10 NMAC – Licensure Requirements for Body Piercing-Scarification Practitioner

To obtain and review copies of the proposed changes and public comments, you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/body-art-practitioners-overview/ba-board-information/ba-board-meetings/> or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Jennie James, Board Administrator, via electronic mail at: NMBody.Art@state.nm.us, or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Friday, December 17, 2021. Written comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/body-art-practitioners-overview/ba-rules-and-laws/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the Board website at <https://www.rld.nm.gov/>

boards-and-commissions/individual-boards-and-commissions/body-art-practitioners-overview/ba-board-information/ba-board-meetings/. Copies of the rules or the agenda may also be obtained by contacting Jennie James, Board Administrator at (505) 476-4622.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Jennie James, Board Administrator (505) 476-4622.

Statutory Authority: The Body Art Safe Practice Act, Sections 61-17B-1 thru 61-17B-18 NMSA 1978 among other provisions, specifically authorizes the Board to “adopt and file rules necessary to carry out the provisions of the Body Art Safe Practice Act”.

Purpose of the Proposed Rules:

The Board is engaged in this rulemaking activity to amend, or repeal and replace, existing rule language in certain parts of the current Body Artists and Operators rules because of legislative bills signed into law by New Mexico Governor Michelle Lujan Grisham after the 2019 Regular Session of the New Mexico Legislature (“Legislature”), and after the 2021 Regular and Special Sessions of the Legislature, respectively. The new parts described below, were created to allow for easier reference to requirements for the specific license types.

16.36.1 – General Provisions

The definitions section of this part were amended to comply with the requirements of the State Rules Act and in compliance with the legislative changes regarding 2019 Senate Bill 142 Out of State Body Art License Equivalence, 2021 Senate Bill 2 Expungement of Certain Records, and House Bill 120 Military Service Members, Spouses, Dependent Children and Veterans. This part was also amended to remove the Regulation and Licensing Department

as the issuing agency to comply with the statutory authority under the Body Art Safe Practice Act 61-17B-1 to -18 NMAC 1978. A new section was added to allow the acceptance of electronic signatures.

16.36.2 – Licensure Requirements for Body Art Tattoo Practitioners

This part was amended to separate the several body art practice license types into individual parts. The remainder of this part will address requirements for Body Art Tattoo Practitioners only. The new section in this part is to comply with 2019 legislative changes made during regular session Senate Bill 142 out of State Body Art License Equivalence signed into law by Governor Lujan Grisham on April 4, 2019, which can be found <https://www.nmlegis.gov/Sessions/19%20Regular/final/SB0142.pdf> An additional amendment was made to remove the Regulation and Licensing Department as the issuing agency to comply with the statutory authority under the Body Art Safe Practice Act 61-17B-1 to -18 NMAC 1978.

16.36.3 – Requirements for Establishments

This part was amended to add a new section for the licensure requirements for establishments that were removed from 16.36.2 NMAC. An additional amendment to remove Regulation and Licensing Department as the issuing agency to comply with the statutory authority under the Body Art Safe Practice Act 61-17B-1 to -18 NMAC 1978.

16.36.4 – Enforcements, Complaints and Disciplinary Action

The amendment to this part added a list of disqualifying criminal convictions to comply with 2021 legislative changes made during the special session in Senate Bill 2 Expungement of Certain Records, signed into law by the Governor Lujan Grisham on April 12, 2021. This part was also amended to remove the Regulation and Licensing Department as the issuing agency to comply with the statutory authority

under the Body Art Safe Practice Act 61-17B-1 to -18 NMAC 1978.

16.36.5 – Standards of Practice

The amendment to this part removes the Regulation and Licensing Department as the issuing agency to comply with the statutory authority under the Body Art Safe Practice Act 61-17B-1 to -18 NMAC 1978

16.36.6 – Fees

The amendment to this part removes the Regulation and Licensing Department as the issuing agency to comply with the statutory authority under the Body Art Safe Practice Act 61-17B-1 to -18 NMAC 1978

16.36.7 – Licensure Requirements for Special Events, Mobile Body Art and Guests

This part was removed from part 16.36.2 NMAC, Licensure Requirements for Body Art Tattoo Practitioners. The part provides clarification for the requirements for these specific licenses.

16.36.8 – Expedited Licensure for Military Service Members and Veterans

This part was removed from part 16.36.2 Licensure Requirements for Body Art Tattoo Practitioners to provide clarification and make it easy for applicants to find the requirements for expedited licensure for Military service members, their spouses, and dependent children, and for veterans. The purpose of adding this part is to comply with 2021 legislative changes made during the regular session in House Bill 120 signed into law by Governor Lujan Grisham on April 6, 2021.

16.36.9 – Licensure Requirements for Permanent Cosmetics Practitioner

This part was removed from part 16.36.2 Licensure Requirements for Body Art Tattoo Practitioners to provide clarification and make it easy for applicants to find the requirements for Permanent Cosmetics Practitioners. This part also describes the requirements for New Mexico licensure for out of state practitioners.

16.36.10– Licensure Requirements for Body Piercing-Scarification Practitioner

This part was removed from part 16.36.2 Licensure Requirements for Body Art Tattoo Practitioners to provide clarification and make it easy for applicants to find the requirements for Body Piercing-Scarification Practitioners. This part also describes the requirements for New Mexico licensure for out of state practitioners.

REGULATION AND LICENSING DEPARTMENT CANNABIS CONTROL DIVISION

NOTICE OF PROPOSED RULEMAKING AND AMENDMENTS

Public Hearing. The New Mexico Regulation and Licensing Department (RLD), Cannabis Control Division (CCD), will hold a public rule hearing on Thursday December 9, 2021 at 9:00am. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet-based video conference and via telephone. A PDF of the proposed rule and meeting details may be accessed through the Cannabis Control Division website: <https://ccd.rld.state.nm.us> or from Julia Valdez at the contact below.

Purpose of Rule Hearing. The purpose of the public rule hearing is to receive public commentary to make proposals for new rules as well as amendments to existing rules. Proposed new rules will contain licensing and permitting requirements for testing laboratories, research laboratories, cannabis consumption areas, integrated cannabis microbusiness, training and education programs, and cannabis server permits. In addition, the division will be proposing rules related to packaging and labeling of cannabis products and advertising and marketing requirements for licensees. Rules related to quality control and food

and product safety will also be proposed to product quality and public safety.

Lastly, the division will also be amending definitions corresponding to the new licenses and permits proposed by the division including: testing laboratories, research laboratories, cannabis consumption areas, integrated cannabis microbusiness, training and education programs, and cannabis server permits.

Any technical information used to inform the proposed rules will be accessible by visiting: <https://ccd.rld.state.nm.us/>.

Statutory Authority. Legal authority for this rulemaking may be found the Cannabis Regulation Act, NMSA 1978 Section 26-2C-1 through Section 26-2C-42 NMSA (2021). Additional authority may be found at NMSA 1978 Section 9-7-6(E) (2017) and at NMSA 9-16-6 (2021).

Public Comment. The Division will begin accepting public comment on the proposed rules beginning November 9, 2021. Please submit written comments on the proposed rules to Robert Sachs, Deputy Director of Policy for the Cannabis Control Division, via electronic mail at ccd.publiccomment@state.nm.us. Written comment may also be submitted by visiting the Division website at ccd.rld.state.nm.us or by mailing the comment to the following address:

Cannabis Control Division
Public Comment
c/o Robert Sachs
P.O. Box 25101
Santa Fe, NM 87504

All public comments must be received by the close of the public rule hearing on Thursday, December 9, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. Comments received prior to the rule

hearing will be posted to the RLD website at: ccd.rld.state.nm.us.

No later than November 9, 2021, interested parties may obtain and review copies of the proposed rules and public comments by going to the Cannabis Control Division website at <https://ccd.rld.state.nm.us/> or by contacting the Cannabis Control Division at rld.cannabiscontrol@state.nm.us or (505) 476-4995.

Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Julia Valdez, Executive Assistant for the Cannabis Control Division, rld.cannabiscontrol@state.nm.us or (505) 362-2924 at least seven (7) days prior to the hearing.

Summary of Proposed New Rules.

16.8.1 NMAC: GENERAL PROVISIONS

Part 1 provides general requirements for licensees established under the Cannabis Regulation Act and required definitions. The proposed rule amendments to be discussed at the hearing will include the addition of definitions related to newly proposed and amended rules as listed below.

16.8.2 NMAC: LICENSING AND OPERATIONAL REQUIREMENTS FOR CANNABIS ESTABLISHMENTS

Part 2 provides the requirements necessary for issuance of a license under the Cannabis Regulation Act. Part 2 also governs the licensing and operational requirements for licenses. The proposed rules to be discussed at the hearing will include requirements for licenses including: cannabis consumption areas, integrated cannabis microbusinesses, testing laboratories and research laboratories. Additionally, this section will propose rules surrounding proper track and trace requirements for licensees.

16.8.3 NMAC: PACKAGING, LABELING, ADVERTISING, MARKETING, AND COMMERCIAL DISPLAY REQUIREMENTS FOR CANNABIS PRODUCTS

Part 3 provides the requirements related to packing, labeling, and commercial display of cannabis products as well as advertising and marketing requirements for licensees. The proposed rules to be discussed at the hearing will include proposed rules related to packaging and labeling requirements for cannabis products as well as advertising and marketing requirements for licensees.

16.8.6 NMAC: HEALTH AND SAFETY, FOOD AND PRODUCT SAFETY, ENVIRONMENTAL IMPACTS, AND NATURAL RESOURCES

Part 6 provides the requirements related to health and safety, food and product safety, environmental impacts, and natural resources. The proposed rules to be discussed at the hearing will include rules related to creating health and safety for the licensed premises and food and product safety standards for cannabis products, particularly edibles.

16.8.7 NMAC: QUALITY CONTROL, INSPECTION, AND TESTING OF CANNABIS PRODUCTS

Part 7 provides the requirements related to quality control, inspection, and testing of cannabis products. The proposed rules will outline testing and quality control requirements for cannabis producers, manufacturers, and cannabis products themselves. These rules will ensure public safety by ensuring products are uniform in their THC content and do not contain potentially harmful pesticides, residual solvents, or other contaminants.

16.8.9 NMAC: CANNABIS TRAINING AND EDUCATION PROGRAMS

Part 9 provides the requirements related to cannabis training and education programs. The proposed

rules to be discussed at the hearing will include requirements related cannabis training and education programs.

16.8.10 NMAC: CANNABIS SERVER LICENSING AND TRAINING PROGRAM

Part 10 provides the requirements related cannabis server licensing and training programs. The proposed rules to be discussed at the hearing will include requirements for proper licensure for cannabis server licensing and training programs.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

NOTICE OF PROPOSED RULEMAKING PUBLIC HEARING

The Construction Industries Commission will convene a public hearing on the following proposed changes to the administrative code to include amendments to its rules 14.5.8 NMAC – INVESTIGATIONS AND ENFORCEMENT, 14.7.2 NMAC - 2015 NEW MEXICO COMMERCIAL BUILDING CODE and 14.6.4 NMAC – JOURNEYMAN CERTIFICATION as well as repeal and replace 14.5.1 NMAC – GENERAL PROVISIONS, 14.5.2 NMAC – PERMITS, 14.5.3 NMAC – INSPECTIONS, 14.6.3 NMAC - CONTRACTOR'S LICENSE REQUIREMENTS, 14.6.5 NMAC – INSPECTORS and 14.6.6 NMAC – CLASSIFICATIONS AND SCOPES. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing.

The purposes of this public rule hearing is to receive public comments regarding the amendments and changes to the administrative code reflecting updating of the codes as

well as including rule making based on enactment of laws to include equal access to public baby changing facilities, expedited licensure for military service members and criminal records that cannot be considered in granting licensure or issuing discipline.

The statutory authority for this rulemaking is found in the Construction Industries Licensing Act, NMSA 1978 60-13-1 through 60-13-59.

The hearing is scheduled as follows:

The hearing shall begin at 9:30 a.m., December 15, 2021 will remain open until 10:00 a.m. or until participants have an opportunity to make public comment, whichever is longer. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet-based video conference and via telephone.

Interested persons may secure copies of the proposed changes by accessing the Construction Industries Division website (<https://www.rld.nm.gov/construction-industries>) to download the proposed rules or by written request to the Santa Fe CID Office – Toney Anaya Building, 2550 Cerrillos Rd. Santa Fe, NM 87505, attention: Mary James.

In order to ensure that the rules hearing is open to the public in a manner allowing members of the public to participate while social distancing due to COVID-19, the division shall implement the following procedures: You may send written comments to: Construction Industries Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 476-4685/(505) 476-4702 or submitted to Mary James at her email address: mary.james2@state.nm.us. All written comments must be received no later than 5:00 p.m., on Tuesday, December 14, 2021. You may also review submitted

comments by contacting Mary James at her email address above. All public comment received shall be admitted into the record during the public hearing.

Written comments may also be received on the day of the hearing as a division representative shall be stationed at each of the division offices: Toney Anaya Building, 2550 Cerrillos Rd., Santa Fe; 5500 San Antonio NE- Suite F Albuquerque and 505 S. Main St – Suite 103 Las Cruces between 8:30 a.m. and 9:30 a.m. to receive written comments and to provide for the comments to be admitted into the record during the public hearing. All public comments and documentation will be entered into the record during the public rules hearing.

Those desiring to participate in the public video/telephonic hearing process may do so by remote participation through livestreaming the meeting or becoming a participant by following these instructions:

Join via Video:
<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=edb16dbecf72ac6df6c228d76e5f09f1d>
 Once you join through the above link you will be provided instructions for accessing the meeting. Event password not required.
 Join via telephone:
 +1-415-655-0002
 Access Code: 2489 538 4103
 No password required.

You may also access the division's website at <https://www.rld.nm.gov/construction-industries/> the day of the hearing to locate instructions for participating in the hearing. All persons desiring to make public comment during the hearing shall do so through the WebEx process notifying the host who shall then ensure the ability for recorded comment. If you have any issues you may contact Kimberly Salazar at (575) 621-8351

All public comments and documentation will be entered into the record during the public rules hearing. Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Mary James, Santa Fe Supervisor, at mary.james2@state.nm.us or (505) 476-4616 at least seven (7) days prior to the hearing.

Summary of the Proposed Changes to the Administrative Codes:

14.5.1 General Provisions: places all definitions in the administrative codes being revised in Part 1 as well as providing clarifying language for current processes.

14.5.2 Permits: removes definitions for placement in Part 1, includes the permit process for baby-changing facilities, and updates and clarifies language for the permit process.

14.5.3 Inspections: removes definitions for placement in Part 1, provides inspection information for baby-changing facilities and updates and clarifies language for the inspection process.

14.5.8 Investigations and Enforcement: removes definitions for placement in Part 1, includes potential discipline information for a disqualifying criminal conviction and updates and clarifies information for the disciplinary process.

14.6.4 Contractor's License Requirements: removes definitions for placement in Part 1, includes process for potential denial of licensure or certification based on a disqualifying criminal conviction, expedited licensure and certification for military service members and updates and clarifies information for the contractor license and qualifying party certification processes.

14.6.4 Journeyman Certification: provides information for expedited certification for military service

members and updates and clarifies journeyman information and classifications.

14.6.5 Inspectors: removes definitions for placement in Part 1, explains potential denial of inspector certification based on a disqualifying criminal conviction and updates and clarifies the process for inspector certification.

14.6.6 Classifications and Scopes: removes definitions for placement in Part 1 and provides clarification as to classifications and information as to what is exempted from certain classifications.

14.7.2 2015 New Mexico Commercial Building Code: provides codes explanations and information for ensuring process of implementation of baby changing facilities in the plan review, permitting and inspection process.

REGULATION AND LICENSING DEPARTMENT FUNERAL SERVICES BOARD

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Funeral Services will hold a rule hearing on Wednesday, December 15, 2021, at 10:00 a.m. Following the rule hearing, the Board will convene a regular board meeting to consider and adopt the rules and take care of regular Board business. The rule hearing and board meeting will be held at the Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, NM, in the Rio Grande Conference Room for those desiring to attend in person. Please refer to the Governors Public Health Ordinances for any changes for in-person meetings.

Face masks are required to be worn in the Toney Anaya Building for all in-person attendees.

The meeting will also be held via Cisco Webex Meetings for those desiring to attend virtually.
<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ef2100fa54c453f98a3de46641b71d29e>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2498 608 0043

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.64.3 NMAC – Requirements for Licensure

16.64.7 NMAC – License Renewal

16.64.11 NMAC – Complaints

16.64.13 NMAC – Licensure for Military Service Members, Spouses and Veterans

To obtain and review copies of the proposed changes and public comments, you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/funeral-services-overview/fs-board-information/fs-board-meetings/> or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Jennie James, Board Administrator, via electronic mail at: Funeral.Board@state.nm.us or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Tuesday, December 14, 2021. Written comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/funeral-services-overview/fs-laws-rules-and-policies/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the

Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/funeral-services-overview/fs-board-information/fs-board-meetings/>. Copies of the rules or the agenda may also be obtained by contacting Jennie James, Board Administrator at (505) 476-4622.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Jennie James, Board Administrator (505) 476-4622.

Statutory Authority: The Board is engaged in this rulemaking activity pursuant to NMSA 1978, Section§ 61-32-6(A) (2021) and NMSA 1978, Section§ 61-32-7 (2012) of the Funeral Services Act, NMSA 1978, Sections§§ 61-32-1 to -31 (1993, as amended through 2021).

Purpose of the Proposed Rules:

The Board is engaged in this rulemaking activity to amend, or repeal and replace, existing rule language in certain parts of the current Funeral Homes and Dispositors rules because of legislative bills signed into law by New Mexico Governor Michelle Lujan Grisham after the 2021 Regular and Special Sessions of the New Mexico Legislature ("Legislature").

Summary of Proposed Changes:

16.64.3 NMAC – Requirements for Licensure

This part was amended to provide clarification to the statutory authority and objective. This part also added the requirement to reference the list of disqualifying criminal convictions pursuant to the requirements in Senate Bill 2, enacted by the Legislature and signed into law in 2021.

16.64.7 NMAC – License Renewal

The amendment to this part provide clarification changes to the statutory authority and objective. The new section 16.64.7.10 provides the requirements for license renewal

pursuant to Section 61-32-21 NMSA 1978 of the Funeral Services Act.

16.64.11 NMAC – Complaints

The amendment to this part adds a list of disqualifying criminal convictions to comply with 2021 legislative changes in Senate Bill 2 signed into law by the Governor Lujan Grisham on April 12, 2021. Additional amendments were made for clarification purposes to definitions, objective, and statutory authority.

16.64.13 NMAC – Licensure for Military Service Members, Spouses and Veterans

The amendments to this part were made to comply with 2021 legislative changes made during the regular session in House Bill 120 signed into law by Governor Lujan Grisham on April 6, 2021. Additional amendments were made to clarify the definitions, objective, and statutory authority.

REGULATION AND LICENSING DEPARTMENT INTERIOR DESIGN BOARD

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Interior Design Board (“Board”) will hold a rule hearing on December 10, 2021 at 10:00 a.m. Following the rule hearing, the Board will convene a board meeting to consider adoption of the rules and address regular business. The rule hearing and board meeting will be held at the New Mexico Regulation and Licensing Department, 2550 Cerrillos Rd, Santa Fe, NM, in the Rio Grande Conference Room for those desiring to attend in person.

Face masks are required to be worn for all in-person attendees.

The rule hearing and subsequent Board meeting will also be held via Cisco Webex Meetings for those wishing to attend virtually.

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e00fcee3c0ee561f253613b642f886336>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2483 999 0186

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.42.4 NMAC – Complaints and Disciplinary Actions; and
16.42.7 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans

The amendments to Parts 4 and 7 of the Board’s rules are primarily intended to address the legislative changes to the Uniform Licensing Act (“ULA”), NMSA, 1978, Sections 61-1-1 through -36, (1951, as amended through 2021), which occurred this past Legislative Session. *See* H.B. 120, 55th Leg., Reg. Sess. (N.M. 2021), available at: <https://www.nmlegis.gov/Sessions/21%20Regular/final/HB0120.pdf> and S.B. 2, 55th Leg., Special Sess. (N.M. 2021), available at: <https://www.nmlegis.gov/Sessions/21%20Special/final/SB0002.pdf>. The amendments Part 4 are intended to incorporate the legislative changes required by SB 2 which include the adoption by the Board of a list of disqualifying criminal convictions which could disqualify an applicant for a prior felony conviction. Additionally, the amendments to Part 7 of the Board’s rules, are intended to incorporate the legislative changes required by House Bill 120.

To obtain and review copies of the proposed changes you may go to the Board’s website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/interior-design/interior-design-rules-and-laws> or contact the New Mexico Interior Design Board at (505)476-4622 or by email at interior.design@state.nm.us.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Roxann Ortiz, Board Administrator, via electronic mail at interior.design@state.nm.us or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Thursday, December 9, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. All written comments will be posted to the Board’s website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/interior-design/interior-design-rules-and-laws>, no more than three business days following receipt to allow for public viewing.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Roxann Ortiz, Board Administrator at (505) 476-4622.

Statutory Authority: The Interior Designers Act, NMSA 1978, Sections 61-24B-7, among other provisions, specifically authorizes the Board to “adopt regulations necessary to carry out the purposes and policies of the Interior Designers Act, including regulations relating to professional conduct, standards of performance and professional examination and licensure, reasonable license, application, renewal and late fees and the establishment of ethical standards of practice for a licenses interior designer in New Mexico.”

Summary of Proposed Changes:

In addition to making minor clarification changes, the proposed rules are summarized as follows:

16.42.4 NMAC—Complaints and Disciplinary Actions

The amendments to this part add a new section to the rule so that it is in compliance with the 2021 legislative changes made under SB2. The proposed amendments to this rule establish which criminal

felony convictions directly relate to the employment or profession of signed language interpreting that may disqualify an applicant or licensee from holding a license. The proposed amendment also defines how the conviction may and/or may not be used when reviewing an application for licensure or for violation of the Board's statute or rules by a current licensee.

16.28.7.10 – Licensure for Military Service Members, Spouses, Dependent Children and Veterans

The amendments to this part includes new language so that the rule is in compliance with the 2021 legislative change regarding HB120 Military Spouses Expedited Licensure. The proposed amendments changes the time for approving an application for license from sixty days to thirty days and removes "recent" from the definition of veteran. The rule also sets out application and renewal requirements.

REGULATION AND LICENSING DEPARTMENT OCCUPATIONAL THERAPY, BOARD OF EXAMINERS FOR

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board ("Board") of Examiners for Occupational Therapy will hold a rule hearing on Tuesday, December 14, 2021, at 10 a.m. Following the rule hearing, the Board will convene a board meeting to consider adoption of the rules and address regular business. The rule hearing and board meeting will be held virtually at the Regulation and Licensing located at 2550 Cerrillos Road, Santa Fe, NM 87505, via Cisco WebEx Meetings.

To join the meeting online by Cisco WebEx Meeting, please use the following link:
<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ede00a71638182658ae6ac18535e8940b>

Event number: 2491 348 0760
United States: Toll: 1-415-655-0002
Access code: 2491 348 0760

The purpose of the rule hearing is to consider proposed amendments, repealing and/ or replacing the following rules:

16.15.2 NMAC – Licensing Requirements

16.15.3 NMAC – Supervision

16.15.4 NMAC – Continuing Education Requirements

To obtain and review copies of the proposed changes you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/occupational-therapy/ot-laws-rules-and-policies/>, or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Bertha Valerio, Board Administrator, via electronic mail (email) at OccupationalTherapy@stata.nm.us or by regular mail at Board of Examiners for Occupational Therapy Rules, P.O. Box 25101, Santa Fe, NM 87504, no later than Monday, December 13, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. All written comments will be posted to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/occupational-therapy/ot-laws-rules-and-policies/>, no more than three business days following receipt to allow for public view.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Bertha Valerio, Board Administrator at (505) 476-4622 or OccupationalTherapy@state.nm.us

Statutory Authority:

Subsections (A) of Section 61-12A-

9 NMSA 1978 of the Occupational Therapy Act, Sections 61-12A-1 to -25 NMSA 1978, specifically authorizes the Board to adopt, file, amend or repeal and regulations in accordance with the Uniform Licensing Act, Sections 61-1-1 to -36 NMSA 1978, to carry out the provisions of the Occupational Therapy Act. Sections 61-1-31.1 and 61-1-34 of the Uniform Licensing Act ("ULA"), Sections 61-1-1 to -36 NMSA 1978, requires the Board to update its expedited licensure for military families. Further, Section 61-1-36 NMSA 1978 of the ULA, requires the Board to "promulgate and post on the board's website rules relating to licensing requirements to list the specific criminal convictions that could disqualify an applicant from receiving a license on the bases of a previous felony conviction." Sections 28-2-3 and 28-2-4 of the Criminal Offender Employment Act, Sections 28-2-1 to -6 NMSA 1978, provide how certain criminal records should be viewed when obtaining a license or other authority to practice the profession.

Purpose of the Proposed Rules:

The proposed amendment/repeal/replace of the rules is intended to provide greater clarity in existing regulatory and statutory requirements and to generally satisfy the Board's obligation "to safeguard the public health, safety and welfare" by regulating persons offering occupational therapy services. Section 61-12A-2 NMSA 1978. Several of the proposed rule changes are intended to address recent statutory changes to the Uniform Licensing Act. See S.B. 2, 55th Leg., 1st S.S. (N.M. 2021) available at <https://nmlegis.gov/Sessions/21%20Special/final/SB0002.pdf>, H.B. 120, 55th Leg., 1st Sess. (N.M. 2021) available at <https://nmlegis.gov/Sessions/21%20Regular/final/HB0120.pdf>, and H.B. 30, 54th Legis., 1st Sess. (N.M. 2020) available at <https://nmlegis.gov/Sessions/20%20Regular/final/HB0030.pdf>. The proposed rules also incorporate statutory changes to the

Criminal Offender Employment Act. See S.B. 2, 55th Leg., 1st S.S. (N.M. 2021) available at <https://nmlegis.gov/Sessions/21%20Special/final/SB0002.pdf>

Summary of the Proposed Changes:

16.15.2 NMAC – Licensing

Requirements (OTA supervision changes, CE changes for annual requirement and reinstatement of licenses)

The proposed amendment/repeal/replace to this part is to modify and add subsections to comply with the statutory changes to the Criminal Offender Employment Act and the Uniform Licensing Act. The rule also adds new language governing the Board's consideration of criminal convictions in applications and disciplinary matters, pursuant to Section 61-1-36 of the Uniform Licensing Act, listing the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction and adding related limitations on the Board's consideration of such convictions. The purpose of the rule is to ensure that applications and complaints against licensees and certification holders are evaluated and adjudicated in a fair and impartial manner that complies with due process while ensuring the public's continued confidence in the profession. Further, a new subsection has been added to capture whether there have been any changes in supervision for occupational therapy assistants. Additionally, the reinstatement of license section has been updated to reflect the new requirement of 15 continuing education hours per year for each year of a lapsed New Mexico license, with a maximum of 75 hours as well as the option to demonstrate continued practice in another U.S. jurisdiction with an unrestricted license and meeting that jurisdiction's continuing education requirements. Subsections have been modified to include requiring certain documentation to qualify for expedited licensure for military service member, spouses and veterans, the absence of a license fee

for the first three (3) years, and the requirement of the Board to issue the expedited license within 30 days of a completed application pursuant to the Uniform Licensing Act, Sections 61-1-31.1 and 61-1-34 NMSA 1978.

16.15.3 NMAC – Supervision

The proposed amendment/repeal/replace to this part is to add the definition of supportive services, to limit an occupational therapist in their first year of licensure from supervising no more than 3 occupational therapist assistants, and to add a subsection defining the occupational therapist's role in supervising non-licensed personnel.

16.15.4 NMAC – Continuing Education Requirements

The proposed amendment/repeal/replace to this part is to modify the annual continuing education requirements from 20 continuing education contact hours to 15 hours per year and noting that the Board provides electronic notification to licensees regarding renewal. In addition, the limits on categories of continuing education contact hours have been removed, a new category of competency assessment or knowledge and skills assessment is allowed to meet the continuing education contact hours, and 15 continuing education contact hours may be carried over from one licensing period into the next. In addition, a subsection detailing ineligible activities that do not count as continuing education contact hours is listed.

Technical Information: No technical information provided the basis for any of the proposed rules.

16.15.4 NMAC – Continuing Education Requirements

The proposed amendment/repeal/replace to this part is to modify the annual continuing education requirements from 20 continuing education contact hours to 15 hours per year and noting that the Board provides electronic notification to licensees regarding renewal. In addition, the limits on categories of continuing education contact hours have been removed, a new category of

competency assessment or knowledge and skills assessment is allowed to meet the continuing education contact hours, and 15 continuing education contact hours may be carried over from one licensing period into the next. In addition, a subsection detailing ineligible activities that do not count as continuing education contact hours is listed.

Technical Information: No technical information provided the basis for any of the proposed rules.

REGULATION AND LICENSING DEPARTMENT MANUFACTURED HOUSING DIVISION

NOTICE OF PUBLIC HEARING

The Manufactured Housing Committee will convene a public hearing on the following proposed changes to the administrative code to include amendments to its rules 14.12.1 – GENERAL PROVISIONS, 14.12.2 – LICENSURE REQUIREMENTS, 14.12.8 – RENEWAL AND CONTINUING EDUCATION, 14.12.10 – FEES, and 14.12.11 – DISCIPLINE. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing.

The hearing is scheduled as follows:

The hearing shall begin at 1:30 p.m., December 10, 2021, and will remain open until 2:00 p.m. or until participants have an opportunity to make public comment, whichever is longer. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet-based video conference and via telephone.

Interested persons may secure copies of the proposed changes by accessing

the Manufactured Housing Division website (<https://www.rld.nm.gov/manufactured-housing-division>) to download the proposed rules or by written request to the Albuquerque MHD Office – 5500 San Antonio Dr., Albuquerque, NM 87109, attention: Aaron Aragon.

In order to ensure that the rules hearing is open to the public in a manner allowing members of the public to participate while social distancing due to COVID-19, the division shall implement the following procedures: You may send written comments to: Manufactured Housing Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 856-2045, or submitted to Aaron Aragon at his email address: aaron.aragon2@state.nm.us. All written comments must be received no later than 5:00 p.m., on Thursday, December 9, 2021. You may also review submitted comments by contacting Aaron Aragon at his email address above. All public comment received shall be admitted into the record during the public hearing.

Written comments may also be received on the day of the hearing as a division representative shall be stationed at the each of the division offices: Toney Anaya Building, Santa Fe; 5500 San Antonio NE, Suite F, Albuquerque; and 505 S. Main St., Suite 103, Las Cruces, between 12:30 and 1:30 p.m. to receive written comments and to provide for the comments to be admitted into the record during the public hearing. Those desiring to participate in the public video/telephonic hearing process may do so by remote participation through livestreaming the meeting or becoming a participant by following these instructions:

Join via Video:
Friday, December 10, 2021
1:30 PM (UTC-06:00) Mountain Time (US & Canada)
Join from the meeting link
<https://nmrld.webex.com/nmrld/j.php>

?MTID=m8c38e84f79cdb58381abb39e85585cec
Join by meeting number
Meeting number (access code): 2494 966 3863
Meeting password: **KYcYG36QuN3**
Join by phone
+1-415-655-0002 United States Toll

You may also access the division's website (<https://www.rld.nm.gov/manufactured-housing-division>) the day of the hearing to locate instructions for participating in the hearing. All persons desiring to make public comment during the hearing shall do so through the WebEx process notifying the host who shall then ensure the ability for recorded comment. If you have any issues you may contact Aaron Aragon (505) 365-3429.

All public comments and documentation will be entered into the record during the public rules hearing. If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 365-3429; Email: aaron.aragon2@state.nm.us; Fax No. (505) 856-2045.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

NOTICE OF PUBLIC HEARING

The Construction Industries Division will convene a public hearing on the following proposed changes to the administrative code to include amendments to its rules 12.2.15 – SALE OF RECYCLED METALS, and 12.2.16 – APPLICATION FOR REGISTRATION. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing.

The hearing is scheduled as follows:

The hearing shall begin at 9:30 a.m., December 13, 2021, and will remain open until 10:30 a.m., or until participants have an opportunity to make public comment, whichever is longer. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet-based video conference and via telephone.

Interested persons may secure copies of the proposed changes by accessing the Construction Industries Division website (<https://www.rld.nm.gov/construction-industries>) to download the proposed rules or by written request to the Recycled Metals Program Office, P.O. Box 25101, Santa Fe, New Mexico 87504, attention: Mary James.

In order to ensure that the rules hearing is open to the public in a manner allowing members of the public to participate while social distancing due to COVID-19, the division shall implement the following procedures: You may send written comments to: Construction Industries Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 476-4702 or submitted to Mary James at her email address: mary.james2@state.nm.us. All written comments must be received no later than 5:00 p.m., on Friday, December 10, 2021. You may also review submitted comments by contacting Mary James at her email address above. All public comment received shall be admitted into the record during the public hearing.

Written comments may also be received on the day of the hearing as a division representative shall be stationed at the each of the division offices: Toney Anaya Building, Santa Fe; 5500 San Antonio NE, Suite F, Albuquerque; and 505 S. Main St., Suite 103, Las Cruces, between 8:00 and 9:00 a.m. to receive written

comments and to provide for the comments to be admitted into the record during the public hearing. Those desiring to participate in the public video/telephonic hearing process may do so by remote participation through livestreaming the meeting or becoming a participant by following these instructions:

Join from the meeting link

Join via Video:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e46b303643be028ef7a71636d41db06f8>

Once you join through the above link you will be provided instructions for accessing the meeting. Event password not required.

Join via telephone:

+1-415-655-0002

Access Code: 2493 558 7591

No password required.

You may also access the division's website (<https://www.rld.nm.gov/construction-industries>) the day of the hearing to locate instructions for participating in the hearing. All persons desiring to make public comment during the hearing shall do so through the WebEx process notifying the host who shall then ensure the ability for recorded comment. If you have any issues you may contact Mary James (505) 476-4616.

Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Mary James, Santa Fe Supervisor, at mary.james2@state.nm.us or (505) 476-4616 at least seven (7) days prior to the hearing.

All public comments and documentation will be entered into the record during the public rules hearing. If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505)

476-4616; Email: mary.james2@state.nm.us; Fax No. (505) 476-4702.

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Optometry will hold a rule hearing on Tuesday December 14, at 8:15 a.m. Following the rule hearing, the Board will convene a regular board meeting to adopt the rules and take care of regular business. The rule hearing and board meeting will be held at the Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, NM, in the Rio Grande Conference Room for those desiring to attend in person.

Face masks are required to be worn in the Toney Anaya Building for all in-person attendees.

The meeting will also be held via Cisco Webex Meetings for those desiring to attend virtually. <https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ec22a72719dbad879a2b11cf7c3712c03>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2490 658 3741

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.16.3 NMAC – Requirements for Licensure by Examination

16.16.4 NMAC – Requirements for Licensure by Endorsement

16.16.10 NMAC – Renewal of New Mexico Optometry License

16.16.21 NMAC – Unprofessional Conduct

16.16.25 NMAC – Licensure for Military Service Members, Spouses and Veterans.

To obtain and review copies of

the proposed changes and public comments, you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/optometry-board-information/optometry-board-meetings/> or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Jennie James, Board Administrator, via electronic mail at: Optometry.Bd@state.nm.us or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Monday, December 13, 2021. Written comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/optometry-rules-and-laws/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/optometry-board-information/optometry-board-meetings/>. Copies of the rules or the agenda may also be obtained by contacting Jennie James, Board Administrator at (505) 476-4622.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Jennie James, Board Administrator (505) 476-4622.

Statutory Authority: The Optometry Act, NMSA 1978, Sections 61-2-1 to -18. Section 61-2-6(E)(2) specifically provides that the board shall "adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the

implementation and enforcement of the provisions of the Optometry Act.” Additional legal authority for this rulemaking can be found in the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -36.

Purpose and Summary of the Proposed Rules Changes:

16.16.3 NMAC – Requirements for Licensure by Examination

The amendments to this part include removal of the requirement for applicants to submit a copy of their birth certificate as well as the removal of the notary requirement because licensure is going to be completed using an online system moving forward. Other amendments include a stylistic change with respect to numbering as well as the addition of a requirement to provide proof of any disqualifying criminal conviction which is further described in a proposed amendment to 16.16.21 NMAC.

16.16.4 NMAC – Requirements for Licensure by Endorsement

The amendments to this part include removal of the requirement for applicants to submit a copy of their birth certificate as well as the removal of the notary requirement because licensure is going to be completed using an online system moving forward. Other amendments include the addition of a requirement to provide proof of any disqualifying criminal conviction which is further described in a proposed amendment to 16.16.21 NMAC.

16.16.10 NMAC – Renewal of New Mexico Optometry License

The amendments to this part include the revision of citations to legal authority in 16.16.10.3 as well as the addition of a requirement to provide proof of any disqualifying criminal conviction which is further described in a proposed amendment to 16.16.21 NMAC.

16.16.21 NMAC – Unprofessional Conduct

The amendment to this part adds a

new section to the rule to comply with the 2021 legislative change regarding SB2. The proposed amendment sets out what criminal felony convictions directly relate to the particular employment, trade, business or profession of Optometry that may disqualify the applicant or licensee from holding a license. Additional amendments include a reference to the definition of “disqualifying criminal conviction” as defined in Subsection E of Section 16-1-36, NMSA 1978.

16.16.25 – Licensure for Military Service Members, Spouses and Veterans

The amendments to this part includes changes due to the 2021 legislative change regarding HB120 Military Spouses Expedited Licensure. The proposed rule changes the time for approving an application for license from sixty days to thirty days and removes “recent” from the definition of veteran. The rule also sets out application and renewal requirements.

REGULATION AND LICENSING DEPARTMENT SOCIAL WORK EXAMINERS, BOARD OF

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Social Work Examiners will hold a rule hearing on Tuesday, December 14, 2021, at 9:00 a.m. Following the rule hearing, the Board will convene a regular board meeting to consider adoption of the rules and take care of regular business. The hearing and meeting are being held via video conference and telephonic means due to concerns surrounding the Novel Coronavirus 2019 (“COVID-19”) and in accordance with Governor Michelle Lujan Grisham’s Declaration of a Public Health Emergency in Executive Order 2020-004 and subsequent orders; various Public Health Emergency Orders; and the Office of the Attorney General’s Open Government Division’s Guidance to

Public Entities Regarding the Open Meetings Act and Inspection of Public Records Act
Compliance During Covid-19 State of Emergency.

The rule hearing and board meeting will be held via Cisco Webex Meetings. To join the hearing and meeting, please visit:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e80592f054b5cfb22b38c78c8a85a7054>

To join the meeting by phone: 1-415-655-0002 United States Toll
Access Code: 2499 918 3401

The purpose of the rule hearing is to consider proposed amendments and review repeal and replace to update formatting to modern NMAC to the following rules:

16.63.3 – Application for Licensure

16.63.6 – Licensure by Credentials, Reciprocity

16.63.9 – Baccalaureate Social Worker

16.63.10 – Master Social Worker

16.63.11 – Clinical Social Worker

16.63.13 – Disciplinary Action

16.63.18 – Licensure for Military Service members, Spouses, Dependent Children and Veterans

To obtain and review copies of the proposed changes and public comments, you may go to the Board’s website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/social-work/sw-board-information/sw-board-meetings/> or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Ruth Romero, Board Administrator, via electronic mail at: socialworkboard@state.nm.us, or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Monday, December 13, 2021. Written comments received prior to the rule hearing will be posted to the RLD

website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/social-work/sw-rules-and-law/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the Board website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/social-work/sw-board-information/sw-board-meetings/>. Copies of the rules or the agenda may also be obtained by contacting Ruth Romero, Board Administrator at (505) 476-4622.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Ruth Romero, Board Administrator at (505) 476-4622.

Statutory Authority: The Social Work Practice Act, NMSA 1978, Sections 61-31-8, among other provisions, specifically authorizes the Board to “adopt and file, in accordance with the State Rules Act [Chapter 14, Article 4, 1978], rules necessary to carry out the provisions of the Social Work Practice Act, in accordance with the provisions of the Uniform Licensing Act”.

Purpose of the Proposed Rules:

The amendments to the Board’s rules are primarily intended to address the legislative changes to the Uniform Licensing Act (“ULA”), NMSA, 1978, Sections 61-1-1 through -36, (1951, as amended through 2021), which occurred this past Legislative Session. *See* H.B. 120, 55th Leg., Reg. Sess. (N.M. 2021), available at: <https://www.nmlegis.gov/Sessions/21%20Regular/final/HB0120.pdf> and S.B. 2, 55th Leg., Special Sess. (N.M. 2021), available at: <https://www.nmlegis.gov/Sessions/21%20Special/final/SB0002.pdf>. The amendments to Parts 3, 6, 9, 10, 11 and 13 are intended to fulfill

the legislative requirement in Senate Bill 2 that the Board promulgate a rule to list the specific disqualifying criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction. The amendments to Part 18 of the Board’s rules are intended to incorporate the legislative changes made by House Bill 120 regarding expedited licensure for military service members, spouses and dependents and veterans, and waiver of fees. Additionally, the amendments to Part 6 are intended to incorporate the legislative changes to the Social Work Practice Act, NMSA 1978, Sections 61-31-1 through -25 (1989, as amended through 2021) made by House Bill 125 of this past Legislative Session. *See* H.B. 125, 55th Leg., Reg. Sess. (N.M. 2021), available at: <https://www.nmlegis.gov/Sessions/21%20Regular/final/HB0125.pdf>

The amendments to the Board’s rules pursuant to House Bill 125 revise the qualifications for licensure by credentials or reciprocity.

Summary of Proposed Changes:

The proposed rules are summarized as follows:

16.63.3 NMAC – Application for Licensure

The amendments to this part add the requirement that an applicant for licensure provide proof of any disqualifying criminal convictions as listed in proposed rule 16.63.13.9 NMAC.

16.63.6 NMAC – Licensure by Credentials; Reciprocity

The amendments to this part add the requirement that an applicant for licensure provide proof of any disqualifying criminal convictions as listed in the proposed rule 16.63.13.9 NMAC. The amendments to this part additionally revise the qualifications for licensure by credentials or reciprocity to match the qualifications revised by House Bill 125 and now found at NMSA 1978, § 61-31-13.

16.63.9 NMAC – Baccalaureate Social Worker

The amendments to this part add the requirement that an applicant for licensure provide proof of any disqualifying criminal convictions as listed in the proposed rule 16.63.13.9 NMAC.

16.63.10 NMAC – Master Social Worker

The amendments to this part add the requirement that an applicant for licensure provide proof of any disqualifying criminal convictions as listed in proposed rule 16.63.13.9 NMAC.

16.63.11 NMAC – Clinical Social Worker

The amendments to this part add the requirement that an applicant for licensure provide proof of any disqualifying criminal convictions as listed in proposed rule 16.63.13.9 NMAC.

16.63.13 NMAC – Disciplinary Action

The amendments to this part add a new section to the rule (proposed section 16.63.13.9) to comply with the 2021 legislative changes made under Senate Bill 2. The proposed amendments to this rule establish criminal felony convictions that are job-related and consistent with business necessity which may disqualify an applicant or licensee from receiving or retaining a license. The proposed amendments also define how criminal convictions may and/or may not be used by the Board when reviewing an application for licensure or when considering the denial, suspension, or revocation of a license.

16.63.18 NMAC – Licensure for Military Service Members, Spouses and Veterans

The amendments to this part add language to comply with the 2021 legislative changes made under House Bill 120. The proposed amendments revise the definition of “military service member,” replace the defined term “recent veteran” with “veteran,” provide the time of thirty days for

approving an application for licensure pursuant to the rule, revise application requirements, and waive the licensing fee for three years for military service members and veterans who are issued a license pursuant to the rule. The amendments further provide for renewal requirements regarding licenses issued pursuant to the rule.

SECRETARY OF STATE, OFFICE OF THE

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.

The purpose of this hearing is to obtain public input on the new Financial Disclosure Reporting Procedures rule to be codified as Part 1.10.31 NMAC.

A public hearing will be held on December 14, 2021, from 9:00 am to 11:00 pm, at the State Capitol Building located at 490 Old Santa Fe Trail, Santa Fe, NM 87501 in Room 322. Every effort will be made to ensure that this hearing will be live streamed on the Office’s website. 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. All comments will be recorded by a court reporter.

Authority: Section 10-16A-9 NMSA 1978

1.10.31 Financial Disclosure Reporting Procedures

Purpose: The objective of the rule is to establish uniformity in the filing and enforcement of the financial disclosure act as prescribed by the Financial Disclosures Act [Chapter 10, Article 16A NMSA 1978].

Summary of Full Text: *Section 1.10.31.7 NMAC* defines key terms like “business interest,” “consulting,” “employer,” “filer,” “financial disclosure statement,” “income,” “income source,” “major areas of specialization,” and “professional license.” *Section 1.10.31.8 NMAC* provides uniform standards for filers to fill out a financial disclosure statement. *Section 1.10.31.9 NMAC* provides uniform standards for when a filer must submit a financial disclosure statement. *Section 1.10.31.10 NMAC* provides the responsibilities of the secretary of state regarding training and seeking voluntary compliance with the Financial Disclosure Act.

Details for Obtaining a Copy of Rule and Submitting Oral or Written Comments:

Copies of the proposed rule are available on the Office’s website at www.sos.state.nm.us or can be obtained from the Bureau of Elections by calling (505) 827-3600 or emailing kari.fresquez@state.nm.us. The proposed rule is also available on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public hearing. Before the public hearing, written comments may be sent to Kari Fresquez, Director of Legislative and Executive Affairs, via email at kari.fresquez@state.nm.us, fax (505) 827-8403, or by regular mail at Attn: Kari Fresquez – proposed rule, The Office of the New Mexico Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, NM 87501. The deadline to receive written comment is 9:00 am on July 22, 2021. All written public comments will be posted on the website throughout the written comment period at: www.sos.state.nm.us.

Any person with a disability who needs 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 kari.fresquez@state.nm.us (5) business days prior to the hearing.

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 the conference room of the Human Rights Bureau located at 1596 Pacheco Street Suite 103 in Santa Fe, New Mexico, 87505 on December 15, 2021 from 1:00 pm to 3:00 pm. The public comment hearing will also be conducted virtually.

<https://zoom.us/j/98671187613?pwd=RFdpVURrYzNxemd0dHBtanRvaEZGZz09>

Meeting ID: 986 7118 7613

Passcode: s812T1

The purpose of the public hearing will be to obtain input and public comment on proposed regulations for implementing and enforcing the Healthy Workplaces Act enacted under 50-17-1 NMSA 1978 *et seq.*

Summary: The proposed regulation sets forth the process for implementation of the Healthy Workplaces Act to include definitions of key terms of the Act, establishing employer policies for how to accrue and use sick leave, when the sick leave is to be paid out, compliance requirements, notice requirements, the complaint process, enforcement procedures, and confidentiality requirements.

Under Section 50-17-9, NMSA 1978, the Workforce Solutions Department is authorized to coordinate the implementation and coordination of the Healthy Workplaces Act and to promulgate appropriate rules to implement the Act.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing

for consideration. Written comments must be received no later than 5 p.m. on December 14, 2021. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed online at **<https://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. The proposed rule 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.

**End of Notices of
Rulemaking and
Proposed Rules**

Adopted Rules

Effective Date and Validity of Rule Filings

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

GAME AND FISH DEPARTMENT

The New Mexico Department of Game and Fish approved the repeal of 19.31.9 NMAC, Commercial Use of Fish (filed 1/11/2006) and replaced it with 19.31.9 NMAC, Commercial Use of Fish (adopted on 10/25/2021), effective 11/9/2021.

GAME AND FISH DEPARTMENT

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING PART 4 FISHERIES

19.31.4.1 ISSUING

AGENCY: New Mexico Department of Game and Fish.
[19.31.4.1 NMAC - N, 4/1/2022]

19.31.4.2 SCOPE:

Sportfishing. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30 through 34 of Title 19 NMAC.
[19.31.4.2 NMAC - N, 4/1/2022]

19.31.4.3 STATUTORY

AUTHORITY: 17-1-14 and 17-1-26, and 17-2-1 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.
[19.31.4.3 NMAC - N, 4/1/2022]

19.31.4.4 DURATION:

April 1, 2022 through March 31, 2026.
[19.31.4.4 NMAC - N, 4/1/2022]

19.31.4.5 EFFECTIVE DATE: April 1, 2022, unless a later date is cited at the end of a section.
[19.31.4.5 NMAC - N, 4/1/2022]

19.31.4.6 OBJECTIVE: Establishing open seasons, bag limits, and other rules pertaining to management and harvest of the fisheries resources of New Mexico.
[19.31.4.6 NMAC - N, 4/1/2022]

19.31.4.7 DEFINITIONS: Specific terms as used in this regulation are defined.

A. "Angling" shall mean taking or attempting to take fish by 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. "Fishing" shall be synonymous to "angling".

B. "Bait fish" is defined as those nongame fish which are not otherwise protected by statute or regulation.

C. "Barbless lure or fly" shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or man-made materials tied onto a hook to resemble or simulate insects, bait fish, or other foods. A fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, or rubber or plastic moldings of these or other foods are not included.

D. Boundary descriptions

(1) "U.S.," as used in boundary descriptions herein, shall mean United States highway.

(2) "N.M.," as used in boundary descriptions herein, shall mean New Mexico state road.

(3) "I," as used in boundary descriptions herein, shall mean interstate highway.

E. "Chum" as used herein, is organic material that is not injurious to aquatic life and is used to attract fish.

F. "Daily bag limit" shall mean the number of fish that can be legally harvested within a calendar day.

G. "Daylight hours" shall mean from one-half hour before sunrise to sunset.

H. "Snagging" as used herein, is the intentional taking of fish with hooks, gang hooks, or similar devices where the fish is hooked in a part of the body other than the mouth.
[19.31.4.7 NMAC - N, 4/1/2022]

19.31.4.8 [RESERVED]
[19.31.4.8 NMAC - N, 4/1/2022]

19.31.4.9 SEASON DATES:
A. General seasons:

All waters in New Mexico shall be open for the taking of game fish from April 1 through March 31 of the effective years, with the following exceptions:

(1) Special waters

(a) The following waters shall be open between 12 noon March 1 through 12 noon October 31: upper and lower Charette lakes, Maxwell lakes 13 and 14, and Clayton lake.

(b) All waters in the Valle Vidal (Vermejo tract of the Carson national forest) shall be open from July 1 through December 31.

(c) Laguna del Campo at Los Ojos state fish hatchery shall be open from May 1 through October 31.

(d) Red River city ponds shall be open from March 1 through November 15.

(e)

Black Canyon creek from the forest road 150 (North Star Mesa road) crossing upstream to its headwaters and Mogollon creek in Grant and Catron counties upstream from waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon shall be open from July 1 through October 31.

(f)

All waters on the Valles Caldera national preserve shall be open from May 1 to October 15.

(2) Waters

on national wildlife refuges waters on U.S. national wildlife refuges shall be open for the taking of game fish in accordance with regulations of the U.S. fish and wildlife service; provided that season dates shall be from April 1 through March 31, on those national refuges for which the fish and wildlife service has not regulated season dates.

B. Special Kokanee salmon seasons, dates, and location:

(1) The

following waters shall be open October 1 through December 31 for the special Kokanee salmon season: Chama river from El Vado lake upstream to the west boundary of the Rio Chama wildlife and fishing area, Eagle Nest lake, El Vado lake, and Navajo lake including the Pine river except as otherwise specified in Paragraph (3) of Subsection B of 19.31.4.9 NMAC.

(2) Heron lake

shall be open for the special Kokanee salmon season from November 11 through December 31.

(3) Heron

lake, including the Willow creek tributary shall be closed to Kokanee salmon fishing between October 1 and November 10. The buoyed "no wake" areas, as posted by New Mexico State Parks, at the Pine boat ramp and Sims mesa boat ramp at Navajo lake, including the shoreline within the "no wake" areas, shall be closed to Kokanee salmon fishing October 1 through December 31. It shall be unlawful to fish for, snag, or possess Kokanee salmon in these areas during the closure period. [19.31.4.9 NMAC - N, 4/1/2022]

19.31.4.10 HOURS OF

FISHING: Day and night fishing for all species of game fish shall be permitted in all waters during the open season, except it shall be unlawful to fish in any water outside of hours and dates posted by any local, state, or federal agency. [19.31.4.10 NMAC - N, 4/1/2022]

19.31.4.11 DAILY BAG, POSSESSION LIMITS AND REQUIREMENTS OR CONDITIONS:

A. Trout:

(1) Waters

with reduced bag limit: No person shall fish waters regulated for reduced limits while having in excess of that limit in possession.

(2) Brown, rainbow, cutthroat, Gila, lake, brook trout and Kokanee salmon:

(a)

The daily bag limit shall be five trout and no more than 10 trout shall be in possession, unless otherwise specified in Paragraph (4) of Subsection A of 19.31.4.11 NMAC.

(b)

The daily bag limit for cutthroat trout shall be two trout and no more than two cutthroat trout may in possession. Cutthroat trout are included in the bag and possession limits for trout explained in Subparagraph (a) of Paragraph (2) of Subsection A of 19.31.4.11 NMAC.

(c)

The daily bag limit for lake trout shall be two trout and no more than four lake trout shall be in possession. Lake trout are included in the bag and possession limits for trout explained in Subparagraph (a) of Paragraph (2) of Subsection A of 19.31.4.11 NMAC.

(3) Special

Kokanee salmon season: During the special Kokanee salmon season, the daily bag limit shall be 12 Kokanee salmon in addition to the daily bag limit for trout, and no more than 24 Kokanee salmon may be possessed in addition to the possession limit for trout. It shall be unlawful to possess Kokanee salmon at Heron lake during the closed Kokanee salmon season.

(4) On certain

waters the following exceptions shall apply:

(a)

Special trout waters - waters, hereafter referred to as "Special Trout Waters", the following exceptions shall apply:

(i)

No fish may be kept or held in possession while fishing in the portions of the following waters:

Continued Next Page

Water name	Portion	County	Exception
Tingley beach south pond	Within the Albuquerque conservancy park	Bernalillo	
Mogollon creek	Upstream from waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon	Catron and Grant	
Cimarron river	From the lower end of Tolby campground downstream approximately 1.4 miles to the first bridge of N.M. 64	Colfax	
Leandro creek	Within the Valle Vidal (Vermejo tract-Carson national forest	Colfax	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Any stream on the Valle Vidal	Vermejo tract-Carson national forest	Colfax and Taos	
Black canyon	From the forest road 150 (North Star Mesa road) crossing upstream to its headwaters	Grant	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Pecos river	In the Pecos wilderness, above Pecos falls	Mora	
Rio Valdez	In the Pecos wilderness from the waterfall barrier 0.8 miles below FS trail 239 upstream to its headwaters	Mora	
Rito del Padre	From fish migration barrier located about 0.3 miles upstream of the confluence with the Rito Sebadilloses upstream to its headwaters including Rito de los Chimayosos	Mora	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
West fork Luna creek	From the Carson national forest property boundary upstream to its headwaters	Mora	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Jack's creek	From the water falls located 0.25 mile downstream of NM highway 63 crossing upstream to its headwaters	Mora and San Miguel	
Canada Tio Grande	Within the Carson national forest excluding private land	Rio Arriba	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Nabor creek and Nabor lake	Within the Edward Sargent wildlife area	Rio Arriba	
Rio Chama	From the United States geological survey gaging station located 1.3 miles downstream of El Vado lake dam downstream approximately 3 miles to its confluence with the Rio Nutrias	Rio Arriba	
Rio de Las Vacas	From fish migration barrier located about 0.2 miles upstream of FS road 70 crossing to its headwaters	Rio Arriba	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Tanques creek	From FS road 93 crossing upstream to its headwaters	Rio Arriba	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Cebolla	From the Seven Springs day use area upstream to the headwaters including McKinney pond	Rio Arriba and Sandoval	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited

Rio Santa Barbara	From the west fork and middle fork confluence upstream to its headwaters including the east fork	Rio Arriba and Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
San Juan river	From Navajo dam downstream approximately 3.75 miles to the Crusher Hole day use area (east side of section 16)	San Juan	
Capulin creek	From its confluence with the Rio Grande to its headwaters	Sandoval	
Rio las Animas	Within the Gila national forest, Black range ranger district excluding private land	Sierra	
Cabresto creek	From Cabresto canyon upstream to its headwaters not including lake fork and Cabresto lake	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Columbine creek	From its confluence with the Red river upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Frijoles creek	From its confluence with Rito de la Olla upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Gavilan creek	From its confluence with the Rio Hondo upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Italianos creek	From its confluence with the Rio Hondo upstream its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Palociento creek	From its confluence with Rito de la Olla upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Costilla	From its confluence with Latir creek upstream approximately 2.4 miles to the Valle Vidal tract of the Carson national forest	Taos	
South fork Rio Hondo	From its confluence with the Rio Hondo upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Yerba creek	From the its confluence with the Rio Hondo upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited

(ii) The daily bag limit shall be two trout and no more than two trout shall be in possession while fishing in the portions of the following waters. Anglers must stop fishing in those waters when the daily bag limit is reached.

Water name	Portion	County	Exception
Gilita creek and tributaries	From its confluence with Snow creek upstream to its headwaters including Willow and Little Turkey creek	Catron	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Mineral creek	From its confluence with San Francisco river to its headwaters	Catron	
Whitewater creek	From Catwalk National Recreation Trail parking area upstream to headwaters including all tributaries	Catron	
Shuree lakes	Within the Valle Vidal (Vermejo tract-Carson national forest)	Colfax	

Vermejo river and its tributaries	From the Vermejo Park ranch boundary upstream to its headwaters	Colfax	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Ruidoso	From Fridenbloom drive upstream to the boundary between the Mescalero Apache reservation and the city of Ruidoso	Lincoln	
All waters within or adjacent to the Edward Sargent wildlife area	Including the Rio Chamita, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake	Rio Arriba	
Rio Chama	Within the boundaries of the Rio Chama wildlife and fishing area from Heron reservoir outlet 2.9 miles upstream to Cottonwood Flats	Rio Arriba	
Rio Chama	From the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam	Rio Arriba	
Rio de Los Pinos	From FS road 284 and 87A, 2.5 miles upstream to the private property boundary	Rio Arriba	
Pecos river	From approximately 0.5 mile upstream of its confluence with the Mora river (Mora-Pecos) upstream to approximately 0.2 miles downstream of the bridge crossing at Cowles	San Miguel	
All waters of the Valles Caldera national preserve		Sandoval	
Rio Guadalupe	From its confluence with Deer creek upstream 6.0 miles to Stable canyon	Sandoval	
Rio San Antonio	From the San Antonio hot springs pedestrian bridge upstream approximately 2.0 miles to the Valles Caldera National Preserve boundary	Sandoval	
Red River	From its confluence with Goose creek 1.1 miles upstream to the Carson national forest boundary	Taos	
Red River	From its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery	Taos	
Rio Grande	From the New Mexico/Colorado state line downstream to the Taos junction bridge at NM highway 567	Taos	

(b) In Sandoval county; brood pond at Seven Springs state fish hatchery, the daily bag limit shall be five cutthroat trout and no more than 10 cutthroat may be in possession.

(c) On the following waters the daily bag limit shall be three trout and no more than three trout shall be in possession; In Rio Arriba county: Laguna del Campo at Los Ojos state fish hatchery.

B. Warm-water fishes: The daily bag limit for game fish other than trout shall be as listed below and the possession limit shall be twice the daily bag limit.

- (1) striped bass one fish;
- (2) largemouth, smallmouth, and spotted bass five fish;
- (3) walleye five fish;
- (4) crappie 20 fish;
- (5) white bass and white bass x striped bass hybrid 25 fish;
- (6) northern pike 10 fish;

(7) catfish (all species, except bullheads) 15 fish;
(8) yellow perch 30 fish;

(9) tiger muskie (*Esox lucius* x *E. masquinongy*) one fish

(10) all other warm-water game species 20 fish.

C. The following exception shall apply:

(1) At Alto lake (Lincoln county); Alumni pond (Dona Ana county); Bataan lake (Eddy county); Blue Hole park pond (Guadalupe county); Bosque Redondo (De Baca county); Burn lake (Dona Ana county); Carrizozo lake (Lincoln county); Chaparral lake (Lea county); Conoco lake (Lea county); Conservancy park/Tingley beach (Bernalillo county); Corona lake (Lincoln county); Dennis Chavez pond (Curry county); Escondida lake (Socorro county); Estancia Park lake (Torrance county); Eunice lake (Lea county); Grants city pond (Cibola county); Green Meadow lake (Lea county); Greene Acres lake (Curry county); Harris Pond (San Miguel county); Jal lake (Lea county); lake Van (Chaves county); Liam Knight pond (Sandoval county); McGaffey lake (McKinley county); Ned Houk lakes (Curry county); Oasis state park (Roosevelt county); Pecos River within the Villanueva state park (San Miguel county); Perch lake (Guadalupe county); Rancho Grande ponds (Catron county); Roswell kids pond (Chavez county); Timberon ponds (Otero county); Trees lake (Luna county); and Young pond (Dona Ana county): the daily bag limit for channel catfish will be two fish and the possession limit shall be twice the daily bag limit.

(2) In San Juan county, in the San Juan and Animas rivers, not including Navajo lake, there is no daily bag limit or possession limit for channel catfish and striped bass.

(3) In Colfax county, Eagle Nest lake there is no bag or possession limit for northern pike. All northern pike caught at Eagle Nest lake must be kept in

possession. No northern pike shall be intentionally returned to Eagle Nest lake.

(4) In Union county: Clayton Lake; In Grant county: Bill Evans lake; In Grant county: lake Roberts the daily bag limit for largemouth bass shall be two fish and no more than two shall be in possession.

[19.31.4.11 NMAC - N, 4/1/2022]

19.31.4.12 SIZE LIMITS:

A. Black basses

(1) Any largemouth or spotted bass taken which is less than 14 inches long shall be immediately returned to the water.

(2) Any smallmouth bass taken which is less than 12 inches long shall be immediately returned to the water with the following exceptions:

(a)

In San Miguel and Quay counties: Ute and Conchas reservoirs, any smallmouth bass taken which is less than 14 inches long shall be immediately returned to the water.

(b)

In Rio Arriba and Taos counties: Rio Grande, there shall be no size limit on smallmouth bass.

B. Tiger muskie (*Esox lucius* x *E. masquinongy*): Any tiger muskie taken which is less than 40 inches long shall be immediately returned to the water.

[19.31.4.12 NMAC - N, 4/1/2022]

19.31.4.13 GILA TROUT PERMIT REQUIRED:

Every person angling for fish on those sections of the following waters must be in possession of a Gila trout permit, issued in their name by the department or its designee. In Grant county: Black canyon upstream of its confluence with the East fork Gila River and Sapillo creek; In Catron county: West fork Gila river, Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters including all tributaries, Mineral creek including all tributaries, and waters upstream from the confluence of Gilita creek and Snow creek including Gilita, Willow

and Little Turkey creeks; In Grant and Catron counties: the area from the Middle fork Gila river and West fork Gila river confluence downstream to the East fork Gila river confluence and Mogollon creek upstream from the waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon. A photocopy, duplicate copy or computer printout of this permit will suffice as evidence of receiving such permit.

[19.31.4.13 NMAC - N, 4/1/2022]

19.31.4.14 WATERS WITH AGE OR INDIVIDUALS WITH DISABILITIES USE RESTRICTIONS:

A. Only persons 11 years of age and younger may fish in the following waters: Harris Pond; brood pond at Seven Springs state fish hatchery; Shuree kids' pond on Valle Vidal (Vermejo tract-Carson national forest); Spring river park pond in Roswell; Conservancy park/Tingley beach kids' pond; hatchery settling ponds located at the Rock Lake state fish hatchery; and Alto Kids' Pond.

B. Only persons 11 years of age and younger, those 65 years and older, and individuals with disabilities may fish in the following waters: Blue Hole park pond; posted small pond at Cowles; Harry McAdams park ponds; Red River city middle kids' pond; and Red River hatchery pond located at the Red River state fish hatchery.

C. Laguna del Campo: Only persons 14 years of age and younger, those 65 years and older, individuals with disabilities, or up to two parents/guardians in direct supervision of a child or children 14 years of age and under who are fishing, may fish in Laguna del Campo located near Los Ojos trout hatchery.

[19.31.4.14 NMAC - N, 4/1/2022]

19.31.4.15 CLOSED WATERS:

A. Waters closed to fishing:

(1) In Catron county: Big Dry creek from Golden link cabin upstream through its headwaters.

(2) In Catron county: Little creek from the "barrier" upstream through all tributaries.

(3) In Catron county: Spruce creek.

(4) In Catron and Sierra counties: Main Diamond creek above the point of confluence with south Diamond creek.

(5) In Catron and Sierra counties: South Diamond creek drainage.

(6) In Colfax county: a posted area lying within 300 feet of Eagle Nest dam, which is closed to entry.

(7) In Colfax county: a posted area of Stubblefield and Laguna Madre lakes lying within 150 feet of the outlet structures.

(8) In Grant county: east fork of Mogollon creek upstream of Trail canyon including Woodrow canyon.

(9) In Grant county: Sheep Corral creek.

(10) In Lincoln county: posted areas of Alto reservoir and Bonito lake near the outlets.

(11) In Catron county: All tributaries of the West fork of the Gila river above waterfalls between FS Trail No. 151 crossing of the West fork of the Gila river near White creek cabin and FS Trail No. 151 crossing of the West fork of the Gila river near Liley canyon. Mainstem of the West fork of the Gila river will be open to fishing.

(12) In Catron county: Iron creek in the Gila wilderness upstream of the constructed waterfall barrier located in T12SR17WSec16NE.

B. Taking fish from hatchery waters: It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned and operated by state or federal agencies. During open season, however, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo

at Los Ojos state fish hatchery, and settling ponds at Rock Lake state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.

C. Taking fish from or through the ice: Fish may be taken from or through the ice except it is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Monastery lake, Bonito lake, and Springer lake.
[19.31.4.15 NMAC - N, 4/1/2022]

19.31.4.16 ESTABLISHING FREE FISHING DAYS:

The first Saturday in June and the last Saturday in September during the effective dates of this regulation, are established as free fishing days whereby anglers may fish public waters in New Mexico as otherwise provided by regulation, but without benefit of a fishing license or habitat improvement stamp.
[19.31.4.16 NMAC - N, 4/1/2022]

HISTORY OF 19.31.4 NMAC:

The material in this part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 488, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest Of The Fisheries Resources of New Mexico 1968-1969 License Year, April 1, 1968 Through March 31, 1969, filed 12/15/1967; Regulation No. 500, Concerning Method & Manner of Hunting, Taking, Possessing, Disposing & Transporting of Game Animals, Birds, Fish Or Bullfrogs, Or Parts Thereof, Taken In NM, filed 5/25/1967; Regulation No. 525, Concerning the Method And Manner of Hunting, Taking, Possessing, Disposing And Transporting of Game Animals, Game Birds, Game Fish Or Bullfrogs, Or Parts Thereof, Taken In New Mexico, filed 8/21/1968; Regulation No. 499, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico 1969-1970 License Year, April 1, 1969 Through

March 31, 1970, filed 12/10/1968; Regulation No. 509, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico 1970-1971 License Year, April 1, 1970 Through March 31, 1971, filed 12/8/1969; Regulation No. 518, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico 1971-1972 License Year, April 1, 1971 Through March 31, 1972, filed 1/14/1971; Regulation No. 530, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico, 1972-1973 License Year, April 1, 1972 Through March 31, 1973, filed 1/11/1972; Regulation No. 535, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1972 Through March 31, 1973, filed 5/31/1972; Regulation No. 550, Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting And Fishing, And Use of Department Lands, Filed 5/31/1972; Regulation No. 543, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1973 Through March 31, 1974, filed 12/11/1972; Regulation 552, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of Mexico For the Period April 1, 1974 Through March 31, 1975, filed 1/11/1974; Regulation No. 562, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1975 Through March 31, 1976, filed 1/3/1975; Regulation No. 571, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the

Fisheries Resources of New Mexico For the Period April 1, 1976 Through March 31, 1977, filed 2/10/1976; Regulation No. 579, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1977, Through March 31, 1978, filed 9/21/1976; Regulation No. 581, Establishing Rules Pertaining To Management And Harvest of Commercial Fish Resources of New Mexico, filed 12/20/1976; Regulation No. 586, Establishing Rules Pertaining To Management And Harvest of Commercial Fish Resources of New Mexico, filed 5/24/1977; Regulation No. 589, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1978, Through March 31, 1979, filed 10/5/1977; Regulation No. 595, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1979, Through March 31, 1980, filed 10/3/1978; Regulation No. 602, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1980, Through March 31, 1981, filed 11/21/1979; Regulation No. 607, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1981, Through March 31, 1983, filed 10/22/1980; Regulation No. 612, Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, Use of Department Lands, Retention of Protected Species, Permits and Licenses Issued, and the Hunter Safety Certificate Requirement, filed 3/2/1982; Regulation No. 619, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico

For the Period April 1, 1983, Through March 31, 1985, filed 12/8/1982; Regulation No. 632, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1985, Through March 31, 1987, filed 11/28/1984; Regulation No. 647, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1987, Through March 31, 1989, filed 1/5/1987; Regulation No. 662, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1989, Through March 31, 1991, filed 12/19/1988; Regulation No. 677, Basic Regulation Governing Water Pollution, Possession of Game, Permits and Licenses Issued, Retention and Importation of Protected Species, Manner of Hunting and Fishing, Use of Department Lands, Hunter Training Course Required, Hunting License Revocation, filed 6/25/1990; Regulation No. 681, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1991, Through March 31, 1993, filed 1/11/1991; Regulation No. 694, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1993, Through March 31, 1995, filed 3/11/1993

NMAC History:

19 NMAC 31.4, Hunting and Fishing Regulations - Fisheries, 4/1/1995.
19.31.4 NMAC, Hunting and Fishing Regulations - Fisheries, 11/15/2000.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 4/15/2002.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 3/10/2010.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 12/30/2015.

19.31.4 NMAC, Hunting and Fishing - Fisheries, 12/15/2016.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 12/12/2017.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 4/1/2018.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 4/1/2022.

History of Repealed Material: [RESERVED]

GAME AND FISH DEPARTMENT

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

19.31.5.1 ISSUING

AGENCY: New Mexico department of game and fish.
[19.31.5.1 NMAC - Rp, 19.31.5.1 NMAC, 4/1/2022]

19.31.5.2 SCOPE:

Sportspersons interested in upland game management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC.
[19.31.5.2 NMAC - Rp, 19.31.5.2 NMAC, 4/1/2022]

19.31.5.3 STATUTORY

AUTHORITY: 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 mammals, birds and fish.
[19.31.5.3 NMAC - Rp, 19.31.5.3 NMAC, 4/1/2022]

19.31.5.4 DURATION:

April 1, 2022 through March 31, 2026.
[19.31.5.4 NMAC - Rp, 19.31.5.4 NMAC, 4/1/2022]

19.31.5.5 EFFECTIVE

DATE: April 1, 2022 unless a later

date is cited at the end of a section.

[19.31.5.5 NMAC - Rp, 19.31.5.5 NMAC, 4/1/2022]

19.31.5.6 OBJECTIVE: Establishing seasons on dusky grouse, Eurasian collared-dove, pheasant, Gambel's quail, Montezuma quail, northern bobwhite, scaled quail, tree squirrels, and setting falconry seasons.

[19.31.5.6 NMAC - Rp, 19.31.5.6 NMAC, 4/1/2022]

19.31.5.7 DEFINITIONS:

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

B. **"Falconry"** shall mean hunting game mammals or game birds using raptors.

C. **"Possession limit"** shall mean the number of game mammals or game birds in a person's possession regardless of the location stored.

D. **"Tree squirrels"** shall mean squirrels in the genera *Sciurus* and *Tamiasciurus*, including Abert's squirrel, red squirrel, Arizona gray squirrel, fox squirrel and eastern gray squirrel.

E. **"Wildlife management areas" or "WMAs"** shall mean those areas as described in 19.34.5 NMAC, Wildlife Management Areas.

[19.31.5.7 NMAC - Rp, 19.31.5.7 NMAC, 4/1/2022]

19.31.5.8 MANNER AND METHODS FOR UPLAND GAME:

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

(1) On Bernardo, Casa Colorada, La Joya, and W.S. Huey WMAs, hunting hours shall be from one-half hour before sunrise to 1:00 p.m.

(2) For the special permit pheasant hunts on W.S. Huey WMA, hunting hours shall be from one-half hour before sunrise to one-half hour after sunset.

B. **State WMAs open, species that can be hunted, and days open for hunting:**

(1) The W.S. Huey WMA shall be open for quail hunting on Mondays, Wednesdays, and Saturdays during established quail seasons.

(2) Bernardo, Casa Colorada, La Joya, and W.S. Huey WMAs shall be open to pheasant hunting by special draw permit only.

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

(4) The Water canyon, Marquez, prairie-chicken areas, and Socorro-Escondida WMAs shall be open for upland game hunting during established quail seasons.

(5) Eurasian collared-dove hunting shall be open during established mourning and white-winged dove seasons as defined in 19.31.6 NMAC Migratory Game Bird, and during established quail, tree squirrel, and dusky grouse seasons.

C. All Eurasian collared-dove must have an identifiable feathered wing attached until the bird has arrived at the person's residence, processor, or place of final storage.

[19.31.5.8 NMAC - Rp, 19.31.5.9 NMAC, 4/1/2022]

19.31.5.9 UPLAND GAME HUNTING SEASONS: Hunting seasons shall be as indicated below.

SPECIES	OPEN AREAS	DATES	DAILY BAG (POSSESSION) LIMITS
Eurasian collared-dove	Statewide	April 1 - March 31	no bag or possession limit
dusky grouse	Statewide	Sept. 1 - Dec. 31 annually	3 (6 in possession)
pheasant	Statewide	Dec. 8-11, 2022 Dec. 7-10, 2023 Dec. 12-15, 2024 Dec. 11-14, 2025	3 males (6 in possession)
quail	Statewide	Nov. 15 - Feb. 15 annually	15, singly or in aggregate; no more than 5 shall be Montezuma quail (possession shall be 30 singly or in aggregate - no more than 10 shall be Montezuma quail)

tree squirrel	Statewide	Sept. 1 - Dec. 31 annually	8, singly or in aggregate (possession shall be 16 singly or in aggregate)
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[19.31.5.9 NMAC - Rp, 19.31.5.10 NMAC, 4/1/2022]

19.31.5.10 HUNT CODES AND PERMIT NUMBERS FOR SPECIAL DRAW PHEASANT HUNTS:

HUNT LOCATION	2022 SEASON	2023 SEASON	2024 SEASON	2025 SEASON	HUNT CODE	NO. OF PERMITS	BAG LIMIT
youth-only Bernardo, Casa Colorada, and La Joya WMAs	Oct. 15	Oct. 21	Oct. 19	Oct. 18	PHE-0-001	20	3 males
youth-only W.S. Huey WMA	Dec. 3	Dec. 2	Dec. 7	Dec. 6	PHE-0-002	40	3 males
W.S. Huey WMA	Dec. 10	Dec. 9	Dec. 14	Dec. 13	PHE-0-003	40	3 males

[19.31.5.10 NMAC - Rp, 19.31.5.12 NMAC, 4/1/2022]

19.31.5.11 FALCONRY SEASONS:

A. Open areas and season dates: The season for dusky grouse, pheasants, quail and tree squirrels shall be statewide and shall be open September 1 through February 28 annually. For Eurasian collared-dove, all areas statewide are open year round, except as prohibited by rule.

B. Daily bag and possession limits: Daily bag limits for dusky grouse, pheasant, and quail shall be three birds (in the aggregate) and three tree squirrels (in the aggregate). Possession limits shall be: dusky grouse-six; pheasant-six; quail-30 (singly or in the aggregate); tree squirrels-16 (singly or in the aggregate). There is no bag or possession limit for Eurasian collared-dove.

[19.31.5.11 NMAC - Rp, 19.31.5.13 NMAC, 4/1/2022]

HISTORY OF 19.31.5 NMAC:

Pre-NMAC Regulatory Filing History: The material in this Part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, and Barbary Sheep, filed 5/31/1967; Regulation No. 486, Establishing 1967 Seasons On Quail, Pheasants, Prairie Chickens, and Lesser Sandhill (Little Brown) Crane

And Additional Seasons On Migratory Waterfowl, filed 9/22/1967; Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/1968; Regulation No. 493, Establishing 1968 Seasons On Mourning And White-Winged Doves, Band-Tailed Pigeons, And Sora And Virginia Rails, filed 8/9/1968; Regulation No. 494, Establishing 1968 Seasons On Migratory Waterfowl, Wilson's Snipe, Lesser Sandhill Crane, Scaled, Gambel's, And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 10/2/1968; Regulation 504, Establishing Seasons On Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/1969; Regulation No. 505, Establishing 1969 Seasons On Teal, Band-Tailed Pigeons, Sora And Virginia Rails, Mourning And White-Winged Doves, And Wilson's Snipe, filed 8/26/1969; Regulation No. 508, Establishing 1969 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Scaled, Gambel's And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 9/19/1969; Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/1970; Regulation No. 516 Establishing 1970 Seasons On Quail, Pheasants, And

Prairie Chickens, filed 8/24/1970; Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/1971; Regulation No. 524, Establishing 1971 Seasons On Band-Tailed Pigeons And Mourning And White-winged Doves, filed 8/13/1971; Regulation No. 526, Establishing 1971 Seasons On Blue-Winged, Green-winged And Cinnamon Teal, filed 8/13/71; Regulation No. 527, Establishing 1971 Seasons On Migratory Waterfowl And Lesser Sandhill Cranes, filed 9/10/71; Regulation No 529, Establishing 1971 Seasons On Quail, Pheasants, And Prairie Chickens, filed 9/24/1971; Regulation No. 536, Establishing Seasons on Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/1972; Regulation No. 538, Establishing 1972 Seasons On Blue-winged, Green-winged, And Cinnamon Teal And On Band-tailed Pigeons And Mourning And White-winged Doves, filed 8/15/1972; Regulation No. 540, Establishing 1972 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, And Wilson's Swipe, filed 9/26/1972; Regulation No. 541, Establishing 1972 Seasons On Quail, Pheasants, And Prairie Chickens, filed 9/26/72; filed; Regulation No. 547,

Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/1973; Regulation No. 548, Establishing 1973 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons And Mourning And White-winged Doves, filed 8/20/1973; Regulation No. 549, Establishing 1973 Seasons On Quail, Pheasants, And Prairie Chickens, filed 8/20/1973; Regulation No. 551, Establishing 1973 Seasons On Migratory Waterfowl And Lesser Sandhill Crane, filed 8/20/73; Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/1974; Regulation No. 559, Establishing 1974 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, filed 7/2/1974; Regulation No. 560, Establishing 1974 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/21/1974; Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/1975; Regulation No. 569, Establishing 1975 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, filed 7/31/1975; Regulation No. 570, Establishing 1975 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/5/1975; Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/1976; Regulation No. 577, Establishing 1976 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons,

and Mourning and White-winged Doves, filed 8/3/1976; Regulation No. 578, Establishing 1976 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 8/31/1976; Regulation No. 587, Establishing 1977 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, Squirrel And Grouse, filed 7/29/1977; Regulation No. 588, Establishing 1977 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/6/1977; Regulation No. 593, Establishing 1978 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe And Falconry Seasons, filed 8/30/1978; Regulation No. 594, Establishing 1978 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/11/1978; Regulation No. 600, Establishing 1979 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, And Falconry Seasons, filed 7/27/1979; Regulation No. 601, Establishing 1979 Seasons on Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens Regulation No. 605, Establishing 1980 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, And Falconry Seasons, filed 7/29/1980; Regulation No. 606, Establishing 1980 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/3/80; Regulation No. 610, Establishing 1981 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, And Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, And Falconry Seasons, filed 8/19/81; Regulation No. 611, Establishing

1981 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/4/1981; Regulation No. 615, Establishing 1982 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, And Falconry Seasons, filed 7/28/82; Regulation No. 616, Establishing 1982 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/3/1982; Regulation No. 625, Establishing 1983 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, And Falconry Seasons, filed 7/29/1983; Regulation No. 630, Establishing 1984 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, Quail, Pheasant, Prairie Chicken, And Falconry Seasons, filed 8/2/1984; Regulation No. 637, Establishing 1985 Seasons On Blue-winged, Green-winged, And Cinnamon Teal, Band-tailed Pigeons, Mourning And White-winged Doves, Squirrel, Grouse, Rail, Snipe, Sandhill Crane, Quail, Pheasant, Prairie Chicken, And Falconry Seasons, filed 8/26/1985; Regulation No. 642, Establishing 1986-87 Seasons On Grouse, Squirrel, Quail, Pheasant, Prairie Chicken, And Setting Falconry Seasons, filed 8/1/1986; Regulation No. 652, Establishing 1987-88 Seasons On Blue Grouse, Ring-necked Pheasants (And All Other Races Of Pheasants), Lesser Prairie Chickens, Montezuma Quail, Northern Bobwhite, Scaled Quail, Gambel's Quail, Abert's Squirrels, Red Squirrels And Setting Falconry Seasons, filed 8/24/1987; Regulation No. 661, Establishing 1988-1989 Seasons On Blue Grouse, Ring-necked Pheasants (And All Other Races Of Pheasants), Lesser Prairie Chickens, Montezuma Quail, Northern Bobwhite, Scaled Quail, Gambel's Quail, Abert's Squirrels,

Red Squirrels And Setting Falconry Seasons, filed 6/28/1988; Regulation No. 668, Establishing 1989-1990 Seasons On Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail (...Shall Mean Montezuma Quail, Northern Bobwhite, Scaled Quail, And Gambel's Quail), Abert's Squirrel, Red Squirrel And Setting Falconry Seasons, filed 9/1/1989; Regulation No. 678, Establishing 1990-1991 Seasons On Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Albert's And Red Squirrel And Setting Falconry Seasons, filed 7/26/1990; Regulation No. 686, Establishing 1991-92 Seasons On Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Abert's And Red Squirrel And Setting Falconry Seasons, filed 8/6/1991; Regulation No. 699, Establishing 1992-1993 Seasons On Teal..., Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Abert's And Red Squirrel And Setting Falconry Seasons, filed 8/19/1992; Regulation No. 703, Establishing 1993-1994 Seasons On Teal..., Pheasants..., Blue Grouse, Lesser Prairie Chicken, Quail..., Dove..., Band-tailed Pigeon, Sandhill Crane, Abert's And Red Squirrel And Setting Falconry Seasons, filed 3/11/1993; Regulation No. 706, Establishing 1994-1995, 1995-1996, 1996-1997 Seasons On Blue-winged Teal, Green-winged Teal, Cinnamon Teal, Pheasants, Blue Grouse, Lesser Prairie Chicken, Montezuma Quail, and Northern Bobwhite, filed 7/28/1994.

NMAC History:

19 NMAC 31.5, Upland Game, filed 7/18/1995.
19.31.5 NMAC, Upland Game, filed 8/15/2000.
19.31.5 NMAC, Upland Game, filed 7/24/2002.
19.31.5 NMAC, Upland Game, filed 8/12/2003.
19.31.5 NMAC, Upland Game, filed 7/30/2004.
19.31.5 NMAC, Upland Game, filed

8/8/2005.

19.31.5 NMAC, Upland Game, filed 7/18/2006.

19.31.5 NMAC, Upland Game, filed 7/26/2007.

19.31.5 NMAC, Upland Game, filed 7/30/2008.

History of Repealed Material:

19.31.5 NMAC, Upland Game, filed 8/15/2000 - duration expired 3/31/2002.

19.31.5 NMAC, Upland Game, filed 7/24/2002 - duration expired 3/31/2003.

19.31.5 NMAC, Upland Game, filed 8/12/2003 - duration expired 3/31/2004.

19.31.5 NMAC, Upland Game, filed 7/30/2004 - duration expired 3/31/2005.

19.31.5 NMAC, Upland Game, filed 8/8/2005 - duration expired 3/31/2006.

19.31.5 NMAC, Upland Game, filed 7/18/2006 - duration expired 3/31/2007.

19.31.5 NMAC, Upland Game, filed 7/26/2007 - duration expired 3/31/2008.

19.31.5 NMAC, Upland Game, filed 7/30/2008 - duration expired 3/31/2010.

19.31.5 NMAC, Upland Game, filed 8/2/2010 - duration expired 3/31/2014.

19.31.5 NMAC, Upland Game, filed 4/1/2014 - duration expired 3/31/2018.

GAME AND FISH DEPARTMENT

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING REGULATIONS PART 9 COMMERCIAL USE OF FISH

19.31.9.1 ISSUING

AGENCY: New Mexico Department of Game and Fish.
[19.31.9.1 NMAC – Rp, 19.31.9.1 NMAC, 11/9/2021]

19.31.9.2 SCOPE: Those members of the public interested in the business of selling nongame fish. License fees can be found in 19.30.9 NMAC
[19.31.9.2 NMAC – Rp, 19.31.9.2 NMAC, 11/9/2021]

**19.31.9.3 STATUTORY
AUTHORITY:** 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 Sections 17-3-26 through 17-3-28 regarding minnows and non-game fish as bait.
[19.31.9.3 NMAC – Rp, 19.31.9.3 NMAC, 11/9/2021]

19.31.9.4 DURATION:
Permanent.
[19.31.9.4 NMAC – Rp, 19.31.9.4 NMAC, 11/9/2021]

**19.31.9.5 EFFECTIVE
DATE:** February 15, 1996
[19.31.9.5 NMAC – Rp, 19.31.9.5 NMAC, 11/9/2021]

19.31.9.6 OBJECTIVE:
To establish rules pertaining to management and harvest of commercial fish resources of New Mexico.
[19.31.9.6 NMAC – Rp, 19.31.9.6 NMAC, 11/9/2021]

19.31.9.7 DEFINITIONS:
A. "Commercial fish"
shall mean gizzard shad, whitesucker, carpsucker, flannelmouth sucker, smallmouth buffalo, carp, gar, yellow perch and all species of bullheads.

B. "Commercial fisherman" shall mean a person who makes or intends to make income by taking and selling commercial fish.

C. "Commercial fishing permit" shall mean a permit issued by the director of the department of game and fish to authorize a commercial fisherman and their named employees to take commercial fish from specified waters by specified means.

D. “Commercial fishing water” shall mean a water that the director of the department of game and fish has designated as one for which commercial fishing permits will be available.

E. “Minnow” shall mean all non-game fish sold as bait, regardless of taxonomic classification.

F. “Bait dealers license” shall mean a license issued by the director of the department of game and fish to authorize a vendor and their named employees to sell minnows, amphibians, and crayfish for use as bait.
[19.31.9.7 NMAC – Rp, 19.31.9.7 NMAC, 11/9/2021]

19.31.9.8 AVAILABILITY OF COMMERCIAL FISHING PERMITS:

A. The director may designate the commercial waters for the following calendar year during December.

B. When the director designates commercial fishing waters, they may also designate the numbers of permits available for each water.

C. The director may also designate the number of employees that each commercial fisherman may include in the activities authorized by their commercial fishing permit.
[19.31.9.8 NMAC – Rp, 19.31.9.8 NMAC, 11/9/2021]

19.31.9.9 ISSUANCE OF COMMERCIAL PERMITS:

A. Individuals desiring commercial fishing permits shall apply on the application form provided by the department of game and fish.

B. If more applications are received than there are permits available for any water, the available permits will be allotted by public drawing.

C. No one may hold more than one commercial fishing permit during any one calendar year.

D. Applicants must include payment in accordance with 19.30.9 NMAC with completed application. License fee is

nonrefundable.

[19.31.9.9 NMAC – Rp, 19.31.9.9 NMAC, 11/9/2021]

19.31.9.10 CONDITIONS OF COMMERCIAL FISHING PERMITS:

A. Each commercial fishing permit shall be valid from the date of issue to December 31 of the year in which it was issued.

B. Each permit shall state the name and address of the permittee and of all employees who may assist the permittee.

C. Each permit shall authorize the taking of commercial fish from only two waters.

D. Each permit shall specify the methods by which commercial fish may be taken.

E. A commercial fishing permittee shall report each month’s catch to the department of game and fish, no later than the 20th of the following month, on forms provided by the department.

F. A commercial fishing permittee and their employees shall permit inspection of their catch upon request by any commissioned department of game and fish officer.
[19.31.9.10 NMAC – Rp, 19.31.9.10 NMAC, 11/9/2021]

19.31.9.11 DISPOSITION OF GAME FISH:

A. The commercial fishing permittee shall immediately return to the water any game fish caught, if such fish are still alive.

B. Dead game fish which are edible shall be processed and given to the district wildlife officer for lawful disposition.

C. Dead and spoiled game fish shall be cut in half and returned to the water.

[19.31.9.11 NMAC – Rp, 19.31.9.11 NMAC, 11/9/2021]

19.31.9.12 REVOCATION OF COMMERCIAL FISHING PERMIT:

The director may, at any time, revoke in writing, a commercial permit for any of the following:

A. Violation of this or any other regulation of the state game commission;

B. Failure to abide by the conditions of the commercial fishing permit;

C. Conflicts between permitted methods for taking commercial fish and proper management of game fish;

D. Occurrence of low water levels or other natural phenomena in a commercial fishing water that would render inadvisable continued commercial fishing in that water;

E. Requests from state or federal agencies for discontinuance of commercial fishing because of conflicts with other designated uses of the water.

[19.31.9.12 NMAC – Rp, 19.31.9.12 NMAC, 11/9/2021]

19.31.9.13 ISSUANCE OF BAIT DEALERS LICENSE:

A. Individuals desiring a bait dealers license shall apply on the application form provided by the department of game and fish.

B. Applicants must include payment in accordance with 19.30.9 NMAC with completed application.

C. Application must include all sources the bait dealer will use to obtain minnows.

[19.31.9.13 NMAC – Rp, 19.31.9.13 NMAC, 11/9/2021]

19.31.9.14 PERMISSABLE SPECIES FOR SALE AS BAIT:

A. Fish: Only fathead minnow (*pimephales promelas*), red shiner (*cyprinella lutrensis*), golden shiner (*notemigonus crysoleucas*), gizzard shad (*dorosoma cepedianum*), and threadfin shad (*dorosoma petenense*) may be sold as bait fish.

B. Amphibians: Only tiger salamander larvae (*ambystoma tigrinum*), or “waterdogs”, may be sold as bait.

C. Crayfish: Only native species (*orconectes deaneam*, *orconectes virilis*, *orconectes causeyi* and *procamburus simulans*) may be sold as bait.

[19.31.9.14 NMAC – Rp, 19.31.9.14 NMAC, 11/9/2021]

19.31.9.15 CONDITIONS OF BAIT DEALER LICENSES:

A. Each bait dealers license shall be valid from April 1 of the year in which it was issued until March 31 of the following year.

B. Each permit shall state the name and address of the permittee and of all employees who may assist the permittee.

C. Each permit shall authorize the taking of bait fish using only those methods specified in 19.31.10 NMAC.

(1) It shall be unlawful to collect bait fish from the mainstem Pecos river, with the exceptions of Santa Rosa, Sumner, and Brantley lakes.

(2) It shall be unlawful to collect bait fish from the mainstem Rio Grande with the exceptions of Abiquiu, Cochiti, Elephant Butte, and Caballo lakes.

(3) It shall be unlawful to collect bait fish from the mainstem Canadian river with the exceptions of Conchas and Ute lakes.

(4) It shall be unlawful to collect bait fish west of the continental divide, with the exception of Navajo lake.

E. A licensed bait dealer must comply with 19.35.7 NMAC when purchasing live bait obtained from an out-of-state source.

F. A licensed bait dealer and his employees shall permit inspection of their inventory upon request by any commissioned department of game and fish officer.

G. It is unlawful to release live fish or bait into the waters of New Mexico without first obtaining a permit from the department of game and fish (19.35.7 NMAC).

[19.31.9.15 NMAC – Rp, 19.31.9.15 NMAC, 11/9/2021]

History of 19.31.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives: DGF 76-10, Regulation No. 581, Establishing Rules Pertaining to Management and Harvest of Commercial Fish Resources of New

Mexico, 12/20/1976. DGF 77-5, Regulation No. 586, Establishing Rules Pertaining to Management and Harvest of Commercial Fish Resources of New Mexico, 5/24/1977.

History of Repealed Material:

19.31.9 NMAC, Commercial Use of Fish filed (1/11/2006) Repealed effective 11/9/2021.

GAME AND FISH DEPARTMENT

This is an amendment to 19.31.10 NMAC, Sections 7 and 14, effective 4/1/2022.

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 section 19.31.10.15 NMAC shall mean the flesh, hide, fur or viscera of any animal. Bones free of flesh are not considered bait.

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.

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 17-2-3 NMSA 1978.

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

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.

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

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.

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.

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.

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.

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.

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

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.

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.

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

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

W. “Drainage” shall mean all waters within a watershed including tributaries, headwaters, lakes, ponds, and other water bodies.

[W:] X. “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)”.

[X:] Y. “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:] Z. “Foothold trap” shall mean a trap designed to capture a furbearer by the foot, but does not include foot encapsulating traps.

[Z:] AA. “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:] BB. “Furbearer” shall mean any quadruped defined as a fur-bearing animal in 17-5-2 NMSA 1978.

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

[CC:] DD. “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:] EE.

“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:] FF. “Land set” shall mean any foothold trap or snare set on land.

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

[GG:] HH. “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.

[HH:] II. “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.

[II:] JJ. “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.

[JJ:] KK. “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.

[KK:] LL. “Non-toxic shot” shall mean that non-toxic shot approved for use by the U. S. fish and wildlife service.

[LL:] MM. “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.

~~[MM:] NN.~~

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

~~[NN:] OO.~~

“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.

~~[OO:] PP.~~ **“Shotgun”**

shall mean any centerfire shotgun or muzzle-loading shotgun not larger than 10 gauge.

~~[PP:] QQ.~~

“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:] RR.~~ **“Snare”**

shall mean a wire or cable with a single closing device designed to capture a furbearer.

~~[RR:] SS.~~ **“Spear**

fishing” shall mean taking or attempting to take game fish with spears, gigs and arrows with barbs.

~~[SS:] TT.~~ **“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).

~~[TT:] UU.~~ **“Take”**

shall mean to hunt, fish, kill or capture any protected species or parts thereof.

~~[UU:] VV.~~ **“Trap”**

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

~~[VV:] WW.~~ **“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.

~~[WW:] XX.~~ **“Upland**

game” shall mean dusky grouse, Eurasian collared-dove, all protected squirrel species, all quail species, chukar and pheasant.

~~[XX:] YY.~~ **“Water**

set” shall mean any trap or snare set fully in water.

~~[YY:] ZZ.~~ **“Wildlife**

management area” or **“WMA”** shall mean those areas as described in 19.34.5 NMAC.

~~[ZZ:] AAA.~~ **“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.

~~[AAA:] BBB.~~ **“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; A, 4/1/2022]

19.31.10.14 FISHING:

A. **Angling:** Game fish may be taken by angling in all

waters that are open for fishing.

B. Season and

hours: It is unlawful to fish in any water during a closed season or to fish in any water outside of the legal fishing hours as prescribed in 19.31.4 NMAC.

C. Closed waters:

It is unlawful to fish in any water closed by state game commission rule.

D. Ice fishing:

It is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Bonito lake, and Springer lake. Ice fishing is legal on all other waters unless otherwise prohibited.

E. Hatchery waters:

It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned or operated by state or federal agencies. Exception: During open season, angling [for trout] shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, [and] Laguna del Campo at Los Ojos state fish hatchery, and settling ponds at Rock Lake state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state’s fish hatcheries based on management needs.

F. Trotlines:

Game fish may be taken by use of trotlines in any water except those listed below, however:

(1) It is unlawful for any person to set more than one trotline at a time.

(2) It is unlawful to tie or join together trotlines belonging to two or more persons.

(3) It is unlawful for any trotline to have more than 25 angling hooks.

(4) It is unlawful for a person who has set or maintained a trotline to not personally visit and inspect it at least once every calendar day and remove or release all game fish which are caught.

(5) It is unlawful for anyone to check, pull up or otherwise tamper with another’s trotline.

(6) It is unlawful for anyone to set, check or maintain a trotline which is not tagged or marked as follows:

(a) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the angler's department issued customer identification number (CIN).

(b) An unlicensed angler 11 years of age and younger shall list their department issued customer identification number (CIN) or their name and date of birth.

(7) It is unlawful to set or use a trotline in any public water with the following exceptions: [listed in 19.31.4 NMAC which has a reduced bag limit on catfish or in any trout water, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.]

<u>Drainage:</u>	<u>Rivers:</u>	<u>Lakes:</u>
<u>Rio Grande drainage</u>	<u>Rio Grande mainstem from its confluence with the Chama river downstream to New Mexico/ Texas state line and Chama river mainstem from the northern boundary of the Monastery of Christ in the Desert downstream to Abiquiu lake</u>	<u>Abiquiu lake, Cochiti lake, Elephant Butte lake, and Caballo lake</u>
<u>Pecos river drainage</u>	<u>Pecos river mainstem downstream of I-25 (excluding Villanueva state park) to the New Mexico/Texas state line and all tributaries within Chavez, De Baca, Eddy, Guadalupe, and San Miguel (downstream of I-25) counties</u>	<u>Santa Rosa lake, Sumner lake, lake Avalon, Brantley lake, Six Mile lake, Ten Mile reservoir, and Red Bluff reservoir</u>
<u>Canadian river drainage</u>	<u>Canadian river mainstem and all tributaries downstream and east of I-25 to the New Mexico/ Texas state line</u>	<u>Stubblefield lake, Laguna Madre, Maxwell lake 14, Springer lake, Conchas lake, and Ute lake</u>
<u>San Juan river drainage</u>	<u>San Juan river mainstem from U.S. 64 bridge at Blanco downstream to the Navajo Nation boundary at the Hogback canal diversion</u>	<u>Navajo lake</u>
<u>Gila river and San Francisco river drainage</u>	<u>Gila river mainstem from its confluence with the east fork downstream to the New Mexico/Arizona state line and San Francisco river mainstem from U.S. 180 bridge at Alma downstream to the New Mexico/Arizona state line</u>	<u>None</u>
<u>Statewide</u>	<u>As described above</u>	<u>Class A lakes and lakes, ponds, and ranch tanks not fed by public waters and not open to public fishing</u>

(8) Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules may seize and destroy any trotlines not set or checked in accordance with this subsection.

G. Spearfishing and bow fishing:

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC or in any river or stream.

(2) It is unlawful to take any largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.

H. Noodling or hand fishing: It is unlawful to catch any game fish by hand without the use of angling equipment.

I. Use of nets: It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or state game commission rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

J. Illegal device or substance: It is unlawful to use any device or substance capable of catching, stupefying or killing fish except as permitted by state game commission rule.

K. Bait:

(1) It is unlawful to use protected game fish or the parts thereof as live or dead bait, except the genus *Lepomis* (sunfish), taken by legal means may be used as live or dead bait in the water from which they were taken,

and the roe, viscera and eyes of any legally taken game fish may be used.

(2) It is unlawful to use bullfrogs or bullfrog tadpoles as bait, or to possess any live bullfrogs or live bullfrog tadpoles while fishing.

L. Use of bait fish: It is unlawful to use or possess any baitfish while angling except as follows:

(1) The following baitfish species can be used live or dead unless otherwise prohibited:

Water:	Approved bait fish species:
Rio Grande drainage	Fathead minnow, red shiner and shad
Elephant Butte and Caballo reservoirs	Fathead minnow, red shiner, shad and golden shiner
Pecos river drainage except for Bitter lake national wildlife refuge and Bottomless lakes state park	Fathead minnow [and] red shiner, and shad
Canadian river drainage	Fathead minnow, red shiner, white sucker and shad
San Juan river drainage	Fathead minnow and red shiner
Gila river and San Francisco river drainages	Fathead minnow

(2) The following bait fish species can only be used as dead bait unless otherwise prohibited:

Water:	Approved dead baitfish species:
Statewide	Common carp
Heron reservoir	White sucker

(3)

Commercially packaged and processed species of fish which are dead or products thereof are not considered bait fish and are legal in all regular waters.

M. Methods for taking bait fish for personal use:

Licensed anglers and children 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows and seines. All protected species of fish taken in seines, nets and traps shall be immediately returned to the water.

N. Illegal taking of bait fish:

(1) It is unlawful for any person, except children 11 years of age and younger, to take bait fish from any water without having a valid fishing license.

(2) It is unlawful for any person to take bait fish from any water for commercial use without a permit issued from the department.

(3) It is unlawful for licensed minnow dealers to violate any of the provisions of their license or permit.

O. Permits for taking bait fish: The director may issue permits for the use of nets, seines, traps or cast nets in taking bait fish

in waters containing protected species of fish. The permit shall specify methods of taking, places for taking and duration of the permit. The permittee shall report monthly, to the department, the species, numbers and poundage of bait fish taken during the preceding month.

P. Limit on angling hooks: It is unlawful to angle with more than two barbless lures or flies with single point angling hooks on a single line when fishing the special trout water on the San Juan river designated in Subsection A of 19.31.4.11 NMAC.

Q. Eradication of fish: In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers the director may permit licensed anglers and children 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission the director may specify bag and possession limits and manner and method of taking for such waters.

R. Possession and release of live game fish:

(1) It is unlawful to release any live game fish into any water in the state, except for fish which were legally caught from that water, without a permit issued by the department.

(2) It is unlawful to possess or transport any

live game fish away from the water from which they were caught without a permit issued by the department.

(3) Exception: Department employees or federal employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.

S. Possession of undersized fish: It is unlawful for any person to have game fish in their possession which do not meet the minimum length requirements as specified in 19.31.4 NMAC.

T. Number of fishing poles or lines: It is unlawful to angle with more than one pole or line without having purchased a current two rod validation during the current license year. It is unlawful under any circumstance to angle with more than two poles or lines. A trotline shall not count toward an anglers limit on fishing poles or lines.

U. Exceeding daily bag limit: It is unlawful to exceed the daily bag limit of any protected fish species, as specified in 19.31.4 NMAC.

V. Exceeding possession limit: It is unlawful to exceed the possession limit of any protected fish species, as specified in 19.31.4 NMAC.

W. Exceeding daily bag limit or possession limit -

Penalty Assessment: Any person exceeding the daily bag limit or the possession limit by two fish or less shall be offered a penalty assessment.

X. Snagging game fish: It is unlawful to snag game fish or to keep any snagged game fish except Kokanee salmon during the special Kokanee salmon season as specified in 19.31.4 NMAC.

Y. Special trout waters: Only barbless lures or flies may be used in the special trout waters designated in 19.31.4 NMAC, except in the following waters any legal angling gear and legal bait may be used: the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters. It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.

Z. Attracting or concentrating fish:

(1) Artificial lights: Use of artificial lights is permitted for attracting game fish.

(2) Disturbing the bottom: It is unlawful in all special trout waters defined in Subsection A of 19.31.4.11 NMAC, to disturb or dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.

(3) Chumming: Chumming is legal in all waters which have no tackle restrictions.

AA. Violation of age or disability restrictions: It is unlawful for any person to fish in any water with age or disability restrictions when that person does not meet the

requirements as specified in 19.31.4 NMAC.

[19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4/1/2019; A, 4/1/2022]

GAME AND FISH DEPARTMENT

This is an amendment to 19.32.2 NMAC, Sections 7, 9, and 12, effective 4/1/2022.

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. "Public land" means state-owned land, state-leased land, lands held in trust by the state, lands administered by the United States fish and wildlife service, the United States forest service, the federal bureau of land management, the national park service, the United States department of defense, state parks and any county or municipality, but does not include the interior of physical structures or land belonging to or held in trust for an Indian nation, tribe or pueblo.

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

[G] H. "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; A, 4/1/2022]

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.]~~

All public lands in New Mexico are closed to the use of traps and snares except as allowed by 17-11-4 NMSA 1978.

[19.32.2.9 NMAC - Rp, 19.32.1.9 NMAC, 4/1/2020; A, 4/1/2022]

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, unless otherwise restricted by 17-11-1 to 17-11-5 NMSA 1978.

[19.32.2.11 NMAC - Rp, 19.32.1.11 NMAC, 4/1/2020; A, 4/1/2022]

End of Adopted Rules

Other Material Related to Administrative Law

**HEALTH,
DEPARTMENT OF**

**PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT
OF HEALTH
ACTING SECRETARY DR.
DAVID R. SCRASE, M.D.**

OCTOBER 25, 2020

**Amended Public Health
Emergency Order Regarding
Crisis Care and Establishing the
Credentialing and Approval of
State Credentialed Physicians and
Credentialed Advanced
Practice Clinicians in Response to
Medical Staff Shortages**

ORDER

WHEREAS, COVID-19 has been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of Health (“NMDOH” or the “Department”) confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

WHEREAS, on March 11, 2020, because of the spread of COVID-19, Michelle Lujan Grisham, the Governor of the State of New Mexico, issued Executive Order 2020-004 declaring that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, the State issued a Public Health Order on December 9, 2020, activating Crisis Standards of Care in response to the overwhelming burden placed on medical institutions responding to the pandemic. Contemporaneously, the State also issued a Public Health Order temporarily limiting non-

essential medical procedures to devote maximum resources towards intensive care units dealing with a surge in COVID-19 cases. These two Public Health Orders expired on January 5, 2021, and January 4, 2021, respectively;

WHEREAS, ongoing surges in COVID-19 cases and novel strains of the virus continue to stress the ability of both institutional and individual providers to deliver the quality of care New Mexicans ordinarily expect, thus causing an urgent medical crisis;

WHEREAS, the limitations posed on non-medically necessary procedures in the past and the hesitance of the general public to seek preventive and routine medical care during the pandemic has resulted in a significant subsequent increase in non-COVID related patients seeking medical care, forcing every acute care facility in the State to expand far beyond normal capacity;

WHEREAS, the State is now experiencing a drastic shortage in the number of acute care medical workers available as a result of high patient censuses, fatigue, and higher wages being offered in other states;

WHEREAS, nurses in the State have been carrying unprecedented patient loads for the duration of the pandemic, forcing some nurses to retire or move away from the profession;

WHEREAS, this shortage of medical professionals not only threatens the State’s immediate ability to respond to the pandemic, but also threatens medical care access in the State for many years to follow;

WHEREAS, the State is securing resources and funding from the Federal Emergency Management Agency to obtain

contract nurses and other medical personnel to assist acute care hospitals throughout the State, but given that this personnel shortage is a national issue, few nurses and other medical professionals have been available to come to New Mexico;

WHEREAS, a host of modifications of normal medical practice will be necessitated to address the ongoing surge of both COVID-related and non-COVID related hospitalizations in the New Mexico and the attendant detrimental consequences to medical practice and medical service availability within the State;

WHEREAS, it is prudent and crucial to ensure that primary care and outpatient clinics throughout the state continue to operate to provide preventative and routine care to lower the number of inpatient hospitalizations caused by delays in care;

WHEREAS, on October 18, 2021, Governor Michelle Lujan Grisham issued Executive Order 2021-059 (“EO 2021-059”), recognizing that crisis care standards may need to be implemented due to the shortage of acute care medical providers;

WHEREAS, EO 2021-059 orders and directs the New Mexico Department of Health to undertake all steps necessary to credential and approve certain physicians and other licensed healthcare providers as “Credentialed Physicians” and certain advance practice clinicians as “Credentialed Advanced Practice Clinicians” so that such individuals shall be considered public employees for purposes of the Tort Claims Act under the All Hazards Emergency Response Act;

WHEREAS, the Department of Health finds that it is necessary and appropriate

under the current circumstances for certain physicians and other medical clinicians who evidence the meeting of certain qualifications to become approved to perform certain medical duties by the Cabinet Secretary and to become credentialed for the purpose of being deemed public employees for purposes of the New Mexico Tort Claims Act.

WHEREAS, on October 15, 2021, the New Mexico Medical Advisory Team notified the Secretary of Health that acute care medical staffing conditions for the possible implementation of “Crisis Care Standards” are present within the State and that it is appropriate to apply Crisis Care Standards in hospital settings; and on October 18, 2021, the Department adopted a Public Health Emergency Order regarding crisis care and establishing in response to medical staff shortages;

WHEREAS, the Department, in consultation with the New Mexico Medical Advisory Team, created, and subsequently revised, a Statewide Acute Care Medical Surge Plan to provide acute care hospital facilities with specific guidance on applying crisis standards of care and allocating scarce resources; and

WHEREAS, during a declared Public Health Emergency, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Emergency Response Act to “utilize, secure or evacuate health care facilities for public use.” NMSA 1978, § 12-10A-6(A)(1). The Department of Health also possesses the legal authority under the Public Health Act to “respond to public health emergencies,” “ensure the quality and accessibility of health care services and the provision of health care when health care is otherwise unavailable,” “control and abate the causes of disease, especially epidemics,” and “maintain and enforce rules for

the control of conditions of public health importance.” NMSA 1978, § 24-1-3.

NOW, THEREFORE, I, David R. Scrase, M.D., Acting Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to Executive Order 2021-059 under the full scope of her emergency powers under the All Hazard Emergency Management Act and the Emergency Licensing Act, do hereby **DECLARE** that it is necessary for the State to recognize that conditions requiring the potential implementation of crisis-level standards of care are present, and hereby **ORDER** and **DIRECT** as follows:

1. Acute care hospital facilities shall comply with the “New Mexico Statewide Acute Care Medical Surge Plan for COVID-19 Pandemic Response,” and any subsequent revisions made thereto, which is hereby incorporated by reference.

2. Prior to the implementation and application of any crisis care plans or standards, an acute care hospital facility must first (1) temporarily suspend any non-medically necessary procedures taking place within the facility, and (2) maintain compliance with all licensure requirements prescribed by NMDOH and Centers for Medicare and Medicaid Services (“CMS”). The Department shall provide information and training to acute care facilities regarding the effect of implementing crisis standards of care and the process for requesting any necessary licensure waivers from CMS.

3. For purposes of this Order, “medically necessary procedures” include those services which cannot be delayed without undue risk to the patient’s health, as

determined by a qualified medical professional. Examples of criteria to consider in distinguishing between medical necessary and non-medically necessary procedures include: (a) threat to a patient’s life; (b) threat of permanent dysfunction of an extremity, including teeth, jaws and eyes; (c) risk of metastasis or progression of staging; (d) prenatal and postnatal care; and (e) any other factors that will conserve medical resources without creating undue risk of permanent harm to patients.

4. This Order’s guidance on medically necessary procedures is not meant to apply to (a) the provision of emergency medical care or any actions necessary to provide treatment to patients with emergency or urgent medical needs; and (b) any surgery that if not performed would result in a serious condition of a patient worsening (e.g., removing a cancerous tumor or a surgery intended to manage an infection).

I FURTHER DIRECT that the credentialing and approval of providers credentialed under this Order shall be conducted as follows:

1. Definitions

As used in this Order, the following terms shall have the meaning given to them, except where the context clearly requires otherwise:

(a) “Applicant” means a natural person who is licensed as a medical practitioner and who applies for credentialing and approval as a Credentialed Physician or an Advanced Practice Clinician.

(b) “Application” means an application for credentialing and approval of a person to be a Credentialed Physician or Advanced Practice Clinician, that is completed utilizing the Department-approved application form.

(c) “Application form” means the form available online at www.nmhealth.org.

(d) “Credentialed Advanced Practice Clinician” means a natural person who is licensed as a healthcare provider, who is credentialed and approved by the New Mexico Department of Health for the purpose of deeming the person to be a public employee pursuant to the Emergency Licensing Act and the New Mexico Tort Claims Act. Credentialed Advanced Practice Clinicians are limited to the following:

(i) certified nurse practitioners (licensed by the New Mexico Board of Nursing in accordance with NMSA 1978, § 61-3-23.2);

(ii) certified registered nurse anesthetists (licensed by the New Mexico Board of Nursing in accordance with NMSA 1978, § 61-3-23.3);

(iii) clinical nurse specialists (licensed by the New Mexico Board of Nursing in accordance with NMSA 1978, § 61-3-23.4); and

(iv) certified nurse-midwives (licensed by the New Mexico Board of Nursing pursuant to the Nursing Practice Act and licensed by the Department of Health as a certified nurse-midwife pursuant to NMSA 1978, § 24-1-3(R) and NMAC 16.11.2).

(e) “Credentialed Physician” means a medical doctor or doctor of osteopathic medicine who holds authority under New Mexico law to provide medical care, who is credentialed and approved by the New Mexico Department of Health for the purpose of deeming the person to be a public employee pursuant to the Emergency Licensing Act and the New Mexico Tort Claims Act.

(f) “Credentialed Practitioner” means a Credentialed Physician or an Advanced Practice Clinician.

(g) “Facility” means the acute care hospital facility or institution at which an applicant intends to provide medical services, whether for consideration or on a voluntary basis.

(h) “Licensed” means licensed, certified, or permitted to provide medical care to a person by an authorized governmental licensing authority in the State of New Mexico.

(i) “Triage Officer” or “Triage Board Member” means a Credentialed Physician at an acute care hospital facility who is approved by and receives training from the Department of Health, and who exercises triage decisions affected by critical staffing levels and scarce resources caused by or resulting from the COVID-19 pandemic.

2. Designation of Credentialed Practitioners; Effect

The Secretary of Health shall designate a physician as a Credentialed Physician, or a clinician as a Credentialed Advanced Practice Clinician, based upon findings that: (1) the physician/advanced practice clinician services will materially further the State’s interest in public health and welfare, and (2) the physician/advanced practice clinician possesses the requisite skills and background necessary to provide care during the pendency of the existing health emergency. The Secretary may weigh and consider any additional factors the Secretary deems appropriate given the operative facts and circumstances. The Secretary shall implement an application process, as more set forth more fully herein, for the purpose of identifying eligible medical practitioners and assessing their scopes of current practice and clinical services proposed for approval by the Department.

Credentialed Physicians and Credentialed Advanced Practice Clinicians shall only be considered public employees for purposes of the Tort Claims Act to the limited extent and in the limited circumstance in which such Credentialed Practitioners provide medical care outside of their normal and privileged scope

of practice, and/or are serving as a triage officer or triage board member, in a hospital acute care setting. NMSA 1978, §§ 41-4-1 to -27; NMSA 1978, §§ 12-10-4, -11, -13.

(a) Application Process

An applicant or a facility affiliated with an applicant shall submit a completed application to the e-mail address that is identified on the application form. The Secretary or his or her designee(s) shall review the application and render a determination of whether to grant or deny the application in whole or in part based on operative facts and circumstances, including, but not limited to: the nature of the applicant’s current primary scope of medical practice, the nature of the applicant’s proposed scope of practice, the extent of deviation between the applicant’s primary scope of practice and proposed scope of practice, and other factors as the Secretary may deem appropriate.

(b) Content of Application

The information required to be submitted in the application shall include, but need not be limited to, the following:

1. Identity and contact information of the applicant;
2. Professional qualifications of the applicant, including the applicant’s professional degree;
3. Main location of the facility;
4. Main scope of current practice;
5. Proposed practice locations, including name and contact information for associated facilities;
6. Proposed scope of clinical services;
7. Request for designation as a Credentialed Physician or Credentialed Advanced Practice Clinician;
8. Name and signature of applicant; and

9. Proof of: agreement between the applicant and the associated facility, that the facility is willing to permit the performance of the identified proposed clinical services on the facility's premises, and that the applicant is willing to perform such services.

(c) Disclaimer

The Secretary or his or her designee may rescind approval of an application upon notice to an affected applicant and associated facility for cause, which includes, but is not limited to, falsification of any information included within the application or any other information or material submitted to the Department. A previously issued approval of an application shall be deemed automatically rescinded upon the suspension or revocation of an applicant's medical license by the applicant's professional licensing authority.

A Credentialed Practitioner and an associated facility shall at all times adhere to applicable ethical standards. All Credentialed Practitioners shall complete mandatory trainings provided by the Department prior to engaging or applying the standards referenced in the New Mexico Statewide Acute Care Medical Surge Plan for COVID-19 Pandemic Response.

I FURTHER DIRECT as follows:

1. This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

2. This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the New Mexico Public Health Act.

3. This Order shall take effect on October 25, 2021 and remain in effect through November 17, 2021.

THIS ORDER supersedes any other previous orders, proclamations, or directives in

conflict. This Order shall take effect immediately and shall remain in effect for the duration indicated in the Order unless otherwise rescinded.

ATTEST:

DONE AT THE EXECUTIVE OFFICE

THIS 25TH DAY OF OCTOBER 2021

/ S /

**MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE**

**WITNESS MY HAND AND THE
GREAT SEAL OF THE STATE
OF NEW MEXICO**

/ S /

**DAVID R. SCRASE, M.D.
ACTING SECRETARY OF THE
NEW MEXICO DEPARTMENT
OF HEALTH**

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

NOTICE OF PUBLIC COMMENT

The United States Department of Health and Human Services requires the New Mexico Human Services Department to meet certain Temporary Assistance for Needy Families (TANF) work participation requirements. To assist in meeting these requirements, federal regulations (45 CFR 261.40) allow New Mexico to decrease its work participation rate percentage by the number of percentage points that the FY 2021 caseload fell in comparison to the FY 2005 caseload. This is termed the TANF Caseload Reduction Credit. The total Federal expenditures and Maintenance of Effort (MOE) expenditures that are included in this report are subject to change due to fluctuations during year end budget close out and increases in MOE funding.

The estimated changes and corresponding methodologies are reported in the proposed TANF

Caseload Reduction Credit Report which is available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-plans-and-reports.aspx>. If you do not have Internet access, a copy of the proposed report may be requested by contacting Stephanie Roybal with the Income Support Division's Work and Family Support Bureau (WFSB) at stephaniea.roybal@state.nm.us. If you are a person with a disability and you require this information in an alternative format, please contact the American Disabilities Act Coordinator at (505) 827-7701 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.

The proposed comment period will begin at 8:00 a.m. on November 9, 2021, and end at 4:00 p.m. on December 9, 2021. Individuals wishing to comment on the TANF Caseload Reduction Credit Report should contact Stephanie Roybal with the Human Services Department, Income Support Division, Work and Family Support Bureau by email stephaniea.roybal@state.nm.us. Written comments will be posted to the agency's website within 3 days of receipt.

Interested persons may address written or recorded comments to:

Human Services Department
Income Support Division
Work and Family Support Bureau
Attn: Stephanie Roybal
P.O. Box 2348
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to: HSD-isdrules@state.nm.us.

**PUBLIC REGULATION
COMMISSION****NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Alcohol Beverage Control Division, Regulation and Licensing Department gives Notice of a Minor, Nonsubstantive Correction to 15.10.70 NMAC and 15.11.20 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, 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:

Section 8: in Subsection A, the new text in the table was incorrectly placed in front of the deleted text and was not underlined. The new text was reformatted to comply with proper style.

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

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

2021 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 12
Issue 2	January 14	January 26
Issue 3	January 28	February 9
Issue 4	February 11	February 23
Issue 5	February 25	March 9
Issue 6	March 11	March 23
Issue 7	March 25	April 6
Issue 8	April 8	April 20
Issue 9	April 22	May 4
Issue 10	May 6	May 25
Issue 11	May 27	June 8
Issue 12	June 10	June 22
Issue 13	June 24	July 7
Issue 14	July 8	July 20
Issue 15	July 22	August 10
Issue 16	August 12	August 24
Issue 17	August 26	September 14
Issue 18	September 12	September 28
Issue 19	September 30	October 13
Issue 20	October 14	October 26
Issue 21	October 28	November 9
Issue 22	November 15	November 30
Issue 23	December 2	December 14
Issue 24	December 16	December 28

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The New Mexico Register is available free online at:<http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941.

2022 New Mexico Register

Submittal Deadlines and Publication Dates

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Issue 8	April 7	April 19
Issue 9	April 21	May 3
Issue 10	May 5	May 24
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Issue 12	June 9	June 21
Issue 13	July 1	July 12
Issue 14	July 14	July 26
Issue 15	July 28	August 9
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Issue 17	August 25	September 13
Issue 18	September 15	September 27
Issue 19	September 29	October 11
Issue 20	October 13	October 25
Issue 21	October 27	November 8
Issue 22	November 17	November 29
Issue 23	December 1	December 13
Issue 24	December 15	December 27

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