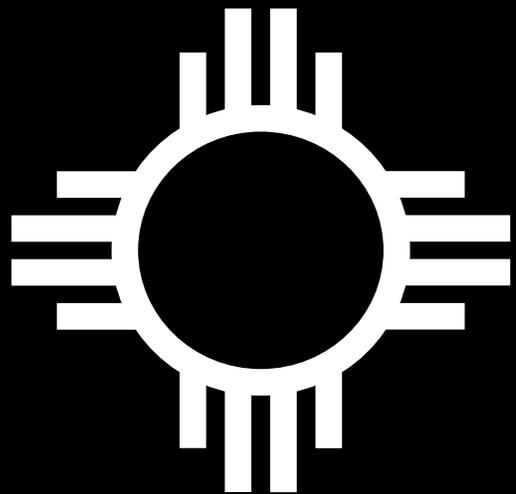


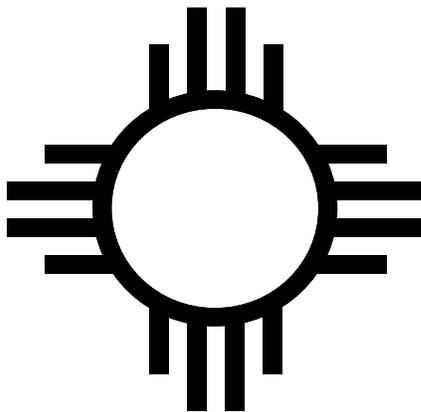
**NEW  
MEXICO  
REGISTER**



Volume XXVI  
Issue Number 6  
March 31, 2015

# **New Mexico Register**

**Volume XXVI, Issue Number 6  
March 31, 2015**



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

The Commission of Public Records  
Administrative Law Division  
Santa Fe, New Mexico  
2015

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# New Mexico Register

Volume XXVI, Number 6

March 31, 2015

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

*A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered*

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*The New Mexico Register*  
 Published by  
 The Commission of Public Records  
 Administrative Law Division  
 1205 Camino Carlos Rey  
 Santa Fe, NM 87507

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

Subscription inquiries should be directed to: The Commission of Public Records,  
 Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.  
 Telephone: (505) 476-7875; Fax: (505) 476-7910;  
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## Notices of Rulemaking and Proposed Rules

### NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The Human Services Department (the Department), Medical Assistance Division (MAD), recently promulgated amendments to: 8.206.400 Medicaid Eligibility; 8.291.410 Affordable Care General Recipient Requirements; 8.293.500 NMAC Pregnant Women Income and Resource Standard; and 8.295.400 NMAC Children Under 19 Recipient Requirements of the New Mexico Administrative Code (NMAC). To ensure that adequate time is available for the public to submit comments, the Department is re-promulgating these four NMAC rules. The register and the proposed amendments to these rules will be available March 31, 2015, on the HSD website: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD at (505) 827-7743. The Department also is taking this opportunity to amend the rules for consistency of standard word usage which does not alter the manner in which eligibility is determined.

#### Specific proposed changes:

**8.206.400 NMAC Section 9** - the proposed amendment will provide increased clarity that Medical Assistance Programs (MAP) eligibility for this category is limited only to former New Mexico foster care recipients and does not include former foster care recipients from other states.

#### **8.291.410 NMAC Section 18 -**

##### **Subsection C and Paragraph**

**(1)** - The Department is proposing to increase the time period it may conduct an administrative renewal of a currently eligible recipient's eligibility. The increased days will afford the Department additional time to complete the administrative reviews so a recipient's eligibility may be determined prior to the end of his or her current eligibility period. It is an eligible recipient's responsibility to notify MAD immediately if a change in his or her status may impact his or her continued Medicaid eligibility. When ISD receives information to continue or apply for a new public assistance benefit and the individual is also a Medicaid recipient, he or she is informing ISD of a change that may impact his or her continued Medicaid eligibility.

##### **Subsection C Paragraph (2)**

- The Department's only change to this paragraph is to remain what was known as

the 'application' to 'recertification form.' The manner in which the Department has conducted its administrative review, the methods utilized, and the recipient's responsibilities to assist with submitting documents when an administrative review fails to collect all relevant applicant information in order to render a valid MAD eligibility determination.

##### **Subsection C - Paragraph 4**

- the proposed amendment will provide a reconsideration period to a MAP recipient's recertification application under specific conditions. The amendment will allow recipients to provide or complete his or her recertification application within 90 calendar days of the recertification due date to re-establish eligibility back to the month the eligibility was closed. It is an eligible recipient's responsibility to notify MAD immediately if a change in his or her status may impact his or her continued Medicaid eligibility.

**8.293.500 NMAC Section 13** - the proposed amendment will allow an income disregard for an applicant whose countable income is at or above the income standard applying for the Affordable Care Act MAP category of eligibility for pregnant women. **8.295.400 NMAC** - the proposed amendment is solely to insert standardized language to align with existing NMAC rules. The amendment does not alter the manner in which eligibility is determined.

A public hearing to receive testimony on this proposed rule will be held in Hearing Room One, Toney Anaya Building, 2550 Cerrillos Road Santa Fe, New Mexico on April 29, 2015, 10:30 a.m. Mountain Daylight Time (MDT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATTN: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to [madrules@state.nm.us](mailto:madrules@state.nm.us) Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than April 29, 2015, 5:00 p.m. MDT.

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 toll free at 1-888-997-2583 and ask for extension 7-7743. In Santa Fe call 827-7743. The Department's TDD

system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least 10 working 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.

### NEW MEXICO RACING COMMISSION

#### NOTICE OF RULEMAKING AND PUBLIC HEARING

##### NOTICE IS HEREBY GIVEN

that the New Mexico Racing Commission will hold a Regular Meeting and Rule Hearing on April 9, 2015. The hearing will be held during the Commission's regular business meeting, beginning at 8:30 a.m. with executive session. Public session will begin at 10:30 a.m. The meeting will be held in the Boardroom at 4900 Alameda Blvd. NE, Albuquerque, NM.

The purpose of the Rule Hearing is to consider adoption of the proposed amendments and additions to the following Rules Governing Horse Racing in New Mexico No.15.2.1 NMAC, 15.2.6 NMAC and 15.2.3 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

Copies of the proposed rules may be obtained from Vince Mares, Executive Director, New Mexico Racing Commission, 4900 Alameda Blvd NE, Albuquerque, New Mexico 87113, (505) 222-0700. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

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

Vince Mares  
Executive Director

Dated: March 8, 2015

## NEW MEXICO WATER QUALITY CONTROL COMMISSION

### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 20.6.4 NMAC - STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS - THE TRIENNIAL REVIEW

The New Mexico Water Quality Control Commission (WQCC) will hold a public hearing to consider proposed amendments to various sections of 20.6.4 NMAC, Standards for Interstate and Intrastate Surface Waters, beginning on June 9, 2015, at 9:00 a.m. in room 307 of the New Mexico State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. Notwithstanding the end of the hearing commencing on June 9, the WQCC will hold a public hearing in this matter on June 16, 2015, at 9:00 a.m. at the same location, to hear the expert technical testimony of Dr. Deke Gundersen.

The proposed amendments, docketed as WQCC 14-05 (R), include amendments proposed by the New Mexico Environment Department's (Department) Surface Water Quality Bureau, as well as amendments proposed by Amigos Bravos, Peabody Energy Corporation, Freeport-McMoRan Chino Mines Company, and San Juan Water Commission. Proposed amendments include revisions to various definitions, general and numeric criteria, compliance provisions, use attainability analysis requirements, uses and criteria for unclassified waters and some classified segments, and provisions for site-specific criteria and other provisions. The petitions and proposed amendments may be viewed on the Department's website, at [www.nmenv.state.nm.us/swqb/TriennialReview/2013](http://www.nmenv.state.nm.us/swqb/TriennialReview/2013), or during regular business hours by contacting Pam Castaneda, Commission Administrator, 1190 S. St. Francis Drive, Room S-2102, Santa Fe, New Mexico (505) 827-2425.

The hearing will be conducted in accordance with NMSA 1978, § 74-6-6, the *Guidelines for Water Quality Control Commission Regulation Hearings (Guidelines)*, the *Procedural Order*, issued July 10, 2014, and the *Scheduling Order*, issued July 10, 2014, and modified on January 30, 2015. A copy of the *Guidelines*, *Procedural Order* and *Scheduling Order* are available on the Department's website or may be obtained from the Commission Administrator at the address and phone number above. Notice of Hearing of WQCC

14-05 (R) was originally published on October 31, 2014; however, the date of the hearing was changed to June 9, 2015, therefore this notice is being issued. All parties submitted their respective Notices of Intent to Present Technical Testimony by December 12, 2014. All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce relevant exhibits and to examine witnesses testifying at the public hearing.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. translator or sign-language interpreter, to participate in any aspect of this process, please contact J.C. Borrego by May 1, 2015, at the New Mexico Environment Department, 1190 S. St. Francis Drive, P.O. Box 5469, Santa Fe, New Mexico 87502, (505) 827-2855. (TDD or TTY users please access the number via the New Mexico Relay Network, Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The Commission may deliberate and rule on the proposed amendments at the close of the hearing or decide to deliberate at a subsequent meeting.

## NEW MEXICO WATER QUALITY CONTROL COMMISSION

### AVISO DE AUDIENCIA PÚBLICA PARA CONSIDERAR ENMIENDAS A 20.6.4 NMAC - NORMAS PARA AGUAS INTERESTATAL Y SUPERFICIE DENTRO DEL ESTADO - LA REVISIÓN TRIENAL

La Comisión de Control de calidad de agua de Nuevo México (WQCC) celebrará una audiencia pública para considerar cambios en algunas secciones de 20.6.4 NMAC, Las Normas para la Interestatal y Superficie Intraestatal Aguas, comienza el 9 de junio de 2015 a las 9:00 de la mañana en la sala 307 de la New Mexico State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, Nuevo México. A pesar del fin de la audiencia que comienza el 9 de junio, el WQCC celebrará una audiencia pública en este asunto el 16 de junio de 2015, a las 9:00 de la mañana en el mismo sitio, para escuchar el testimonio experto técnico de Dr. Deke Gundersen.

Las enmiendas propuestas, protocolizadas como WQCC 14-05 (R), incluyen las

enmiendas propuestas del Departamento de Medio Ambiente de Nuevo México (Departamento), de superficie Oficina de la Calidad del Agua, así como las enmiendas propuestas por Amigos Bravos, Peabody Energy Corporation, y Freeport-McMoRan Chino Mines Company. Las enmiendas propuestas incluyen revisiones a diversas definiciones, criterios generales y numéricos, las disposiciones de cumplimiento, utilizan los requisitos de análisis attainability, usos y criterios para aguas no clasificados y algunos segmentos de anuncios, disposiciones relativas a los criterios específicos del sitio y otras disposiciones. Las peticiones y propuestas de enmiendas pueden verse en el sitio web del Departamento, en [www.nmenv.state.nm.us/swqb/TriennialReview/2013](http://www.nmenv.state.nm.us/swqb/TriennialReview/2013), o durante las horas de negocio regulares por contacto directo a Pam Castaneda, administrador de la Comisión, S. 1190 St. Francis Drive, Room S-2102, Santa Fe, Nuevo México, (505) 827-2425.

La audiencia se llevará a cabo en conforme a NMSA 1978, § 74-6-6, Las Directrices para Audiencias Reglamentos de La Comisión de Control de calidad de agua (directrices), El Orden Procesal, emitida el 10 de julio de 2014 y La Programación de Orden, emitida el 10 de julio de 2014 y modificado el 30 de enero de 2015.

Una copia de las directrices, el orden procesal y el orden de programación están disponible en el sitio web del departamento o puede obtenerse desde el administrador de la Comisión en la dirección y número de teléfono arriba. Aviso de audiencia de WQCC 14-05 (R) fue publicado originalmente el 31 de octubre de 2014. Sin embargo, la fecha de la audiencia fue cambiada a 9 de junio de 2015, por lo tanto, se publica este aviso. Todas las partes enviadas a sus respectivos avisos de intención presente testimonio técnico a 12 de diciembre de 2014. Todas las personas interesadas se dará una oportunidad razonable a la audiencia para presentar las pruebas pertinentes, datos, opiniones y argumentos, oralmente o por escrito, a presentar exposiciones relevantes y a interrogar a los testigos a testificar en la audiencia pública.

Si usted es un individuo con una discapacidad y necesita asistencia o ayuda auxiliar, por ejemplo, traductor o intérprete de lenguaje de señas, para participar en cualquier aspecto de este proceso, por favor póngase en contacto con J.C. Borrego de 01 a mas tardar el 1 de mayo de 2015 en el Departamento de medio ambiente de Nuevo México, 1190 S. St. Francis Drive, P.O. Box 5469, Santa Fe, Nuevo México 87502, (505) 827-2855. (Usuarios de TDD o TTY por favor acceder el número a través de la

red de relé Nuevo México, Albuquerque  
TDD usuarios: (505) 275-7333; fuera de  
Albuquerque: 1-800-659-1779 (voz); Los  
usuarios de TTY: 1-800-659-8331).

La Comisión podrá deliberar y pronunciarse  
sobre las enmiendas propuestas al cierre  
de la audiencia o decidir a deliberar en una  
reunión posterior.

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**End of Notices and Proposed  
Rules Section**

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## Adopted Rules

### NEW MEXICO DEPARTMENT OF GAME AND FISH

The State Game Commission repeals its rule 19.31.12 NMAC, Barbary Sheep, Oryx, and Persian Ibex, filed 12-16-2013 and replaces it with 19.31.12 NMAC, Barbary Sheep, Oryx, and Persian Ibex, effective 4/1/2015.

The State Game Commission repeals its rule 19.31.15 NMAC, Pronghorn, filed 10/8/2010 and replaces it with 19.31.15 NMAC, Pronghorn, effective 4/1/2015.

The State Game Commission repeals its rule 19.31.16 NMAC, Turkey, filed 3/8/2013 and replaces it with 19.31.16 NMAC, Turkey, effective 4/1/2015.

The State Game Commission repeals its rule 19.31.17 NMAC, Bighorn Sheep, filed 3/8/2013 and replaces it with 19.31.17 NMAC, Bighorn Sheep, effective 4/1/2015.

The State Game Commission repeals its rule 19.31.20 NMAC, Gould's Turkey Enhancement Permits, filed 11/15/2007, effective 4/1/2015.

The State Game Commission repeals its rule 19.31.21 NMAC, Javelina, filed 3/8/2010 and replaces it with 19.31.21 NMAC, Javelina, effective 4/1/2015.

### NEW MEXICO DEPARTMENT OF GAME AND FISH

**TITLE 19            NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31       HUNTING AND FISHING**  
**PART 12            BARBARY SHEEP, ORYX, AND PERSIAN IBEX**

**19.31.12.1            ISSUING AGENCY:** New Mexico Department of Game and Fish.  
 [19.31.12.1 NMAC - Rp, 19.31.12.1 NMAC, 4-1-15]

**19.31.12.2            SCOPE:** Sportspersons interested in Barbary sheep, oryx, and Persian ibex management and hunting. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.  
 [19.31.12.2 NMAC - Rp, 19.31.12.2 NMAC, 4-1-15]

**19.31.12.3            STATUTORY AUTHORITY:** 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.  
 [19.31.12.3 NMAC - Rp, 19.31.12.3 NMAC, 4-1-15]

**19.31.12.4            DURATION:** April 1, 2015 through March 31, 2019.  
 [19.31.12.4 NMAC - Rp, 19.31.12.4 NMAC, 4-1-15]

**19.31.12.5            EFFECTIVE DATE:** April 1, 2015, unless a later date is cited at the end of individual sections.  
 [19.31.12.5 NMAC - Rp, 19.31.12.5 NMAC, 4-1-15]

**19.31.12.6            OBJECTIVE:** Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of Barbary sheep, oryx, and Persian ibex permits and licenses by the department.  
 [19.31.12.6 NMAC - Rp, 19.31.12.6 NMAC, 4-1-15]

**19.31.12.7            DEFINITIONS:**

- A.            "Arrows"** shall mean only those arrows or bolts having broadheads with steel cutting edges.
- B.            "Baiting"** shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take Barbary sheep, oryx, or Persian ibex.
- C.            "Bow"** shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.
- D.            "Broken-horned oryx" or "BHO"** shall mean an oryx of either sex that possesses at least one horn missing at least 25% of its normal growth. This may be determined by comparing the broken horn's length to the remaining horn or where it is readily apparent the terminal end would not taper to a point for another 25% of growth.
- E.            "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 nor magnify.
- F.            "Department"** shall mean the New Mexico department of game and fish.
- G.            "Director"** shall mean the director of the New Mexico department of game and fish.
- H.            "ES" or "either sex"** shall mean any one animal of the species.
- I.            "F-IM" or "female or immature Persian ibex"** shall mean a Persian ibex with horns less than 15 inches long.
- J.            "Game management unit" or "GMU"** shall mean those areas as described in the state game commission's rule

## 19.30.4 NMAC Boundary Descriptions for Game Management Units.

- K. “License”** shall mean a valid official document that is issued or approved by the director that each person hunting Barbary sheep, oryx, or Persian ibex in New Mexico must have or obtain prior to hunting.
- L. “License year”** shall mean the period from April 1 through March 31.
- M. “Male Persian ibex”** shall mean any Persian ibex of the male gender.
- N. “Centerfire firearms”** shall mean any center-fire firearms, not to include any fully automatic firearms.
- O. “Shotgun”** shall mean only those shotguns firing shot or slug that are designed to be fired from the shoulder.
- P. “Muzzle-loader or muzzle-loading firearms”** shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only black powder, Pyrodex or equivalent black powder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.
- Q. “Premier” or “once-in-a-lifetime oryx”** shall mean those special hunts, or licenses, that are restricted by rule or regulation to those persons that never held a license for an “once-in-a-lifetime” oryx hunt.
- R. “TBD” or “to be determined”** shall mean the details of hunt dates or hunt areas will be provided by the department or military agency where the hunt will occur to the hunter when the designated hunt is initiated.
- S. “Unlimited”** shall mean there is no set limit on the number of permits or licenses established for the described hunt areas.
- T. “Wildlife management areas” or “WMAs”** shall mean those areas as described in the state game commission’s rule

## 19.34.5 NMAC Wildlife Management Areas.

- U. “Iraq/Afghanistan veterans” or “I/A vets”** shall refer to only New Mexico residents returning from military service in Iraq or Afghanistan as eligible to apply for designated oryx hunts.
- V. “TBA” or “to be assigned”** shall mean the details of hunt dates or hunt areas will be assigned or restricted by the military agency where the hunt will occur.

[19.31.12.7 NMAC - Rp, 19.31.12.7 NMAC, 4-1-15]

**19.31.12.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS:** The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, harvest limits, or authorization for oryx, Barbary sheep, or Persian ibex up or down to address significant changes in population levels or to address critical department management needs. This adjustment may be applied to any or all of the specific hunt codes for oryx, Barbary sheep, or Persian ibex. The director, at his discretion, may adjust the number of oryx licenses and hunt dates on White Sands missile range pending negotiations with White Sands missile range officials. Hunt dates may extend into future hunting seasons. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on the original hunt code.

[19.31.12.8 NMAC - Rp, 19.31.12.8 NMAC, 4-1-15]

**19.31.12.9 BARBARY SHEEP, ORYX, AND PERSIAN IBEX LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:**

- A. One license per Barbary sheep, oryx, or Persian ibex per year:** It shall be unlawful for anyone to hold more than one permit or license for any Barbary sheep, oryx, or Persian ibex during a current license year unless otherwise allowed by rule.
- B. Validity of license or permit:** All oryx, Barbary sheep and Persian ibex entry permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit or license. Licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by rule or regulation.
- C. Ibex once-in-a-lifetime:** It shall be unlawful for anyone to apply for an once-in-a-lifetime ibex license if he or she ever held a once in a lifetime license to hunt ibex. Persian ibex hunts for youth, muzzle-loading rifles, bows, year-round off-mountain hunts, and hunts for female or immature (F-IM) ibex, are not restricted to those persons that never held an once-in-a-lifetime Persian ibex hunting license.
- D. Oryx once-in-a lifetime:** It shall be unlawful, beginning April 1, 1993, for anyone to apply for a premier, or, once-in-a-lifetime, oryx license if he or she ever held an “once-in-a-lifetime” license to hunt oryx. Once-in-a-lifetime oryx hunts include all premier or trophy on-range, mobility impaired, and Iraq/Afghanistan veteran hunts. Hunts not once-in-a-lifetime include population management, WSMR security badged, broken-horned, youth, and incentive hunts. Anyone may apply for population management, youth, and incentive hunts regardless if they held a license for an once-in-a-lifetime hunt, if they have met the other applicable requirements or restrictions. Those who have held an once-in-a-lifetime oryx hunting license may apply for broken-horned hunts.
- E. Mobility impaired (MI) oryx hunts:** It shall be unlawful for anyone to apply for a mobility impaired (MI) oryx license, except as allowed by 19.31.3.11 NMAC.
- F. Youth only (YO) oryx and Persian ibex hunts:** It shall be unlawful for anyone to apply for youth only (YO) oryx or Persian ibex license except as allowed by 19.31.3.11 NMAC.
- G. Military only (MO) Barbary sheep and oryx hunts:** It shall be unlawful for anyone to apply for a military only Barbary sheep or oryx license, except as allowed by 19.31.3.11 NMAC.
- H. Iraq/Afghanistan veterans (I/A) hunts:** It shall be unlawful for anyone to apply for an Iraq/Afghanistan veteran oryx license, except as allowed by 19.31.3.11 NMAC.

[19.31.12.9 NMAC - Rp, 19.31.12.9 NMAC, 4-1-15]

**19.31.12.10 BARBARY SHEEP, ORYX, AND PERSIAN IBEX MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:**

- A. Season and hours:** Barbary sheep, oryx or Persian ibex 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.
- B. Bag limit:** It is unlawful for any person to hunt for or take more than one Barbary sheep, oryx or Persian ibex during a

current license year unless otherwise provided by regulation.

**C. [RESERVED]**

**D. Seizure:** Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of Barbary sheep, oryx or Persian ibex that are improperly notched.

**E. Proof of sex:** It shall be unlawful for anyone to transport or possess the carcass of any Persian ibex without proof of sex. The horns of any Persian ibex shall remain attached to the skull until arriving at a residence, taxidermist, meat processing facility, or place of final storage. The head of females or immature males of Persian ibex shall accompany the carcass in the same manner.

**F. Proof of bag limit:** It shall be unlawful for anyone to transport or possess the carcass of any oryx without proof of bag limit. The horns of any oryx taken shall remain attached to the skull until arriving at a residence, taxidermist, meat processing facility, or place of final storage.

**G. Use of dogs in hunting:** It shall be unlawful to use dogs to hunt any Barbary sheep, oryx or Persian ibex.

**H. Use of baits or scents:** It shall be unlawful for anyone to take or attempt to take any Barbary sheep, oryx or Persian ibex by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

**I. Live animals:** It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any Barbary sheep, oryx or Persian ibex.

**J. Use of calling devices:** It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any Barbary sheep, oryx or Persian ibex.

**K. Killing out-of-season:** It shall be unlawful to kill any Barbary sheep, oryx or Persian ibex out of their respective hunting seasons.

**L. Legal weapon types for oryx** are as follows: any center-fire rifle of .24 caliber or larger; any center-fire handgun of .24 caliber or larger; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles not smaller than .45 caliber; bows and arrows; and crossbows and bolts.

**M. Legal weapon types for Barbary sheep and Persian ibex** are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles; bows and arrows; and crossbows and bolts.

**N. Bullets:** It shall be unlawful to take or attempt to take oryx, Barbary sheep, or Persian ibex by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking oryx, Barbary sheep, or Persian ibex.

**O. Areas closed to hunting:** The following areas shall remain closed to hunting Barbary sheep, oryx, and Persian ibex, except as permitted by regulation: Sugarite canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos valley overlook; all wildlife management areas; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).

**P. Restricted areas on White Sands missile range:** It shall be unlawful:

(1) to drive or ride in a motor vehicle into an area signed no hunting or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel;

(2) for a licensed hunter to enter an area signed no hunting or otherwise restricting hunting except if the hunter is escorted by official personnel; and

(3) for a licensed security badged hunter to hunt or take any oryx in an area other than their TBA area.

[19.31.12.10 NMAC - Rp, 19.31.12.10 NMAC, 4-1-15]

**19.31.12.11 POPULATION MANAGEMENT HUNTS:**

**A.** The director or his designee may authorize population management hunts for oryx, Barbary sheep, or Persian ibex when justified in writing by department personnel.

**B.** The director or his designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses or permits. No qualifying license holder shall take more than one oryx, Barbary sheep, or Persian ibex per license year, unless otherwise allowable by rule.

**C.** Applications must be submitted by the deadline date set by the department.

**D.** In those instances where a population management hunt is warranted on deeded private lands, no more than one-half of the total number of licenses authorized shall be available to the landowner. The balance of prospective hunters shall be identified by the department.

[19.31.12.11 NMAC - N, 4-1-15]

**19.31.12.12 BARBARY SHEEP HUNTING SEASONS:** Barbary sheep hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses, and bag limit. Public land Barbary sheep licenses for GMUs 29, 30, 32, 34, 36, and 37 are available only through application in the special entry draw. Private land only licenses for GMUs 29, 30, 32, 34, 36, and 37 shall not be issued through the public draw and will only be available from department offices or through the department's web site and shall only be valid on deeded private lands. BBY-1-100 and BBY-1-101 licenses shall also be valid for over-the-counter hunt areas. The department shall issue military only Barbary sheep hunting licenses for McGregor range to full time military personnel providing a valid access authorization issued by Fort Bliss (BBY-1-102).

**A. Southeast area public lands entry hunts:**

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	lic.	bag limit
32, 34, 36, 37	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	BBY-1-100	675	ES
29, 30	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	BBY-1-101	600	ES
28 McGregor range, MO	12/26-12/27	12/31-1/1	12/30-12/31	12/29-12/30	BBY-1-102	8	ES

28 McGregor range	12/26-12/27	12/31-1/1	12/30-12/31	12/29-12/30	BBY-1-103	8	ES
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**B. Southeast area private land-only hunts:** Private land-only licenses shall only be available through department offices or the department's web site.

open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses	bag limit
32, 34, 36, 37	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	BBY-1-200	unlimited	ES
30, 29	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	BBY-1-201	unlimited	ES

**C. Over-the-counter hunts:** The hunt area shall be statewide (including Water canyon WMA in GMU 9) except those GMUs with bighorn sheep (8, 13, 14, 16, 20, 22, 23, 24, 26 and 27), WSMR and Fort Bliss portions of GMU 19, and those GMUs in the southeast area (28, 29, 30, 32, portions of 34, 36 and 37). The western portion of GMU 34 shall be open to over-the-counter licenses. Eastern portion of GMU 34 shall be closed to any license holder of a BBY-1-300 license. The boundary line dividing GMU 34 for the eastern and western portion is described as a line beginning at the southwest corner of the Mescalero Apache Indian Reservation and traveling due south to High Rolls then south on Forest Service Road (FR) 90 to its junction with FR570, then south on FR 570 to its junction with the southern boundary of GMU 34.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses	bag limit
statewide, with restrictions listed above	4/1-3/31	4/1-3/31	4/1-3/31	4/1-3/31	BBY-1-300	unlimited	ES

**D. Special management properties:** For private lands within GMUs 29, 30, 32, 34, 36 and 37, the department may work with interested landowners to develop appropriate bag limits, weapon types, season dates and authorization numbers for private land hunting needed to achieve the proper harvest within the exterior boundaries of participating ranches.

[19.31.12.12 NMAC - Rp, 19.31.12.11 NMAC, 4-1-15]

#### 19.31.12.13 ORYX HUNTING SEASONS:

**A. Oryx premier hunts** for any legal weapon shall be as indicated below, listing the open areas, eligibility requirements or restrictions, hunt dates, hunt code, number of licenses and bag limit. Two persons may apply on one application. These hunts are restricted; only those who have never held an oryx once-in-lifetime license may apply. Only New Mexico residents returning from military service in Iraq or Afghanistan are eligible to apply for oryx hunts designated as "Iraq/Afghanistan vets" or "I/A vets". Proof of military service in Iraq or Afghanistan must accompany application or, if applying online, forwarded to the department by the application deadline date, pursuant to 19.31.3.11 NMAC.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	lic.	bag limit
Rhodes canyon <b>YO</b>	9/4-9/6	9/2-9/4	9/1-9/3	9/7-9/9	ORX-1-100	30	ES
Rhodes canyon <b>MI</b>	9/4-9/6	9/2-9/4	9/1-9/3	9/7-9/9	ORX-1-101	20	ES
Stallion range	10/2-10/4	10/7-10/9	10/6-10/8	10/5-10/7	ORX-1-102	45	ES
Stallion range <b>I/A vets</b>	10/2-10/4	10/7-10/9	10/6-10/8	10/5-10/7	ORX-1-103	5	ES
Rhodes canyon	11/13-11/15	11/11-11/13	11/10-11/12	11/9-11/11	ORX-1-104	45	ES
Rhodes canyon <b>I/A vets</b>	11/13-11/15	11/11-11/13	11/10-11/12	11/9-11/11	ORX-1-105	5	ES
Stallion range	1/8-1/10	1/6-1/8	1/5-1/7	1/4-1/6	ORX-1-106	45	ES
Stallion range <b>I/A vets</b>	1/8-1/10	1/6-1/8	1/5-1/7	1/4-1/6	ORX-1-107	5	ES
Rhodes canyon	1/22-1/24	1/20-1/22	1/19-1/21	1/18-1/20	ORX-1-108	45	ES
Rhodes canyon <b>I/A vets</b>	1/22-1/24	1/20-1/22	1/19-1/21	1/18-1/20	ORX-1-109	5	ES
Stallion range	2/19-2/21	2/17-2/19	2/16-2/18	2/15-2/17	ORX-1-110	45	ES
Stallion range <b>I/A vets</b>	2/19-2/21	2/17-2/19	2/16-2/18	2/15-2/17	ORX-1-111	5	ES

**B. Oryx restricted on-range hunts,** shall be as indicated below or as specific dates and hunt areas are determined by the department. The following hunts have restrictions that must be met prior to application. These hunts are not once-in-a-lifetime oryx hunts. Oryx WSMR security-badged hunts are available only to personnel with official valid security badges, or their guests, in accordance with White Sands missile range provisions and pursuant to 19.31.3.11 NMAC. Youth hunters must provide hunter education certificate number on application. Only military personnel stationed at WSMR can apply for the military only (**MO**) security badged hunt.

open areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	lic.	bag limit
WSMR security badged: TBA/ <b>MO</b>	TBD	TBD	TBD	TBD	ORX-1-112	15	ES

WSMR security badged: TBA	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-113	25	ES
	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-114	25	ES
	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-115	25	ES
	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-116	25	ES
	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-117	25	ES
Stallion range	10/2-10/4	10/7-10/9	10/6-10/8	10/5-10/7	ORX-1-118	5	BHO
Rhodes canyon	11/13-11/15	11/11-11/13	11/10-11/12	11/9-11/11	ORX-1-119	5	BHO
Stallion range	1/8-1/10	1/6-1/8	1/5-1/7	1/4-1/6	ORX-1-120	5	BHO
Rhodes canyon	1/22-1/24	1/20-1/22	1/19-1/21	1/18-1/20	ORX-1-121	5	BHO
Stallion range	2/19-2/21	2/17-2/19	2/16-2/18	2/15-2/17	ORX-1-122	5	BHO

**C. Oryx hunts off of White Sands missile range** shall be as indicated below, listing the open areas, eligibility requirements or restrictions, hunt dates, hunt code, number of licenses and bag limit. The department shall issue military only oryx hunting licenses for McGregor range to full time military personnel providing a valid access authorization issued by Fort Bliss (McGregor range MO).

open areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	lic.	bag limit
statewide, off-range	6/1-6/30	6/1-6/30	6/1-6/30	6/1-6/30	ORX-1-204	60	ES
statewide, off-range, YO	6/1-6/30	6/1-6/30	6/1-6/30	6/1-6/30	ORX-1-205	18	ES
statewide, off-range	7/1-7/31	7/1-7/31	7/1-7/31	7/1-7/31	ORX-1-206	60	ES
statewide, off-range, YO	7/1-7/31	7/1-7/31	7/1-7/31	7/1-7/31	ORX-1-207	18	ES
statewide, off-range	8/1-8/31	8/1-8/31	8/1-8/31	8/1-8/31	ORX-1-208	60	ES
statewide, off-range, YO	8/1-8/31	8/1-8/31	8/1-8/31	8/1-8/31	ORX-1-209	18	ES
statewide, off-range	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-210	60	ES
statewide, off-range, YO	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-211	18	ES
statewide, off-range	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-212	60	ES
statewide, off-range, YO	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-213	18	ES
statewide, off-range	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-214	60	ES
statewide, off-range, YO	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-215	18	ES
statewide, off-range	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31	ORX-1-216	60	ES
statewide, off-range, YO	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31	ORX-1-217	18	ES
statewide, off-range	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-218	60	ES
statewide, off-range, YO	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-219	18	ES
statewide, off-range	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-220	60	ES
statewide, off-range, YO	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-221	18	ES
statewide, off-range	3/1-3/31	3/1-3/31	3/1-3/31	3/1-3/31	ORX-1-222	60	ES
statewide, off-range, YO	3/1-3/31	3/1-3/31	3/1-3/31	3/1-3/31	ORX-1-223	18	ES
McGregor range	1/9-1/10	1/14-1/15	1/13-1/14	1/12-1/13	ORX-1-224	25	ES
McGregor range, MO	1/9-1/10	1/14-1/15	1/13-1/14	1/12-1/13	ORX-1-225	25	ES
McGregor range	12/5-12/6	12/3-12/4	12/2-12/3	12/1-12/2	ORX-1-226	25	ES
McGregor range, MO	12/5-12/6	12/3-12/4	12/2-12/3	12/1-12/2	ORX-1-227	25	ES

**D. Private land-only oryx hunts:** Private land-only oryx licenses shall be valid only on deeded private land and restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the public land hunt codes listed 19.31.12.12 NMAC above. Hunts on private land for April and May are restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the hunt codes listed below. The number of private land-only oryx licenses shall be unlimited and available only through department offices or department's web site.

open areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	bag limit
statewide, off-range	4/1-4/30	4/1-4/30	4/1-4/30	4/1-4/30	ORX-1-2000	ES
	5/1-5/31	5/1-5/31	5/1-5/31	5/1-5/31	ORX-1-2020	ES

**E. Oryx incentive authorizations:** The director may annually allow up to two oryx authorizations to be issued by drawing for deer and elk hunters submitting their legally harvested animal for CWD testing. Authorization certificates to purchase the

license may be used either by the applicant or any individual of the selected applicant’s choice and may be transferred through sale, barter, or gift. Oryx incentive hunts shall be any one premier oryx season (excluding population management hunts) of the hunter’s choice. Bag limit shall be either sex with the legal sporting arms and hunt area of the selected hunt.

**F. Wounded warrior project oryx hunt:** The department shall annually issue three authorizations for hunting by injured service men and women as identified by the wounded warrior project on White Sands missile range. Authorization as used in this subsection shall mean the document or number generated by the department that authorizes the holder to purchase a specified license to hunt oryx. Hunt dates for each authorization to be determined annually.

[19.31.12.13 NMAC - Rp, 19.31.12.12 NMAC, 4-1-15]

**19.31.12.14 PERSIAN IBEX HUNTING SEASONS:** Persian ibex hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt code, number of available licenses and bag limit. The IBX-1-525 hunt is restricted to only those who have never held an ibex once-in-lifetime license. Youth, muzzle-loading rifle, bow, year-long off-mountain, and female or immature (F-IM) ibex hunts are not restricted; anyone may apply, regardless if they have ever held an ibex once-in-a-lifetime license. The IBX-1-526 hunt is restricted to applicants who were successful harvesting one F-IM ibex during the IBX-1-520 hunt or a population management hunt from the previous year and have presented the head within five days of harvest to a department office or department official for confirmation that they are eligible to enter a drawing for this hunt. Holders of the off-mountain license (IBX-1-528) may apply for any Florida mountain ibex hunt (IBX-1-500, IBX-1-520, IBX-1-525, IBX-2-535, IBX-2-536 or IBX-3-540) unless otherwise restricted by rule. The off-mountain (IBX-1-528) license holders need only submit the application fee and their license number along with their application. Any valid Persian ibex license shall be valid during the off-mountain (IBX-1-528) hunts. Holders of a valid ibex license may take an unlimited number of ibex for the year-long off mountain hunt. Any person that kills an off mountain ibex must notch the license according to instructions on the license. Hunt codes for Persian ibex hunts allowing “any legal weapon type” shall be designated IBX-1. Hunt codes for Persian ibex hunts allowing the “bow only” weapon type shall be designated as IBX-2. Hunt codes for Persian ibex hunts allowing the “muzzle loading rifles or bow” weapon type shall be designated as IBX-3. The Florida mountain hunt is that portion of GMU 25 bounded by interstate 10 on the north, U.S.-Mexico border on the south, NM 11 on the west and the Dona Ana-Luna county line on the east. The year-long off-mountain hunt area is any public land open for hunting and private lands with written permission outside the Florida mountain hunt area, including Big Hatchet WMA. Youth hunters must provide hunter education certificate number on application.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses/bag limit
Florida mountains, YO	12/27-1/10	12/27-1/10	12/27-1/10	12/27-1/10	IBX-1-500	15/ES
Florida mountains: restricted eligibility	2/1-2/14	2/1-2/14	2/1-2/14	2/1-2/14	IBX-1-526	5/ES
Florida mountains	11/15-11/29	11/15-11/29	11/15-11/29	11/15-11/29	IBX-1-525	25/ES
	2/15-2/29	2/15-3/1	2/15-3/1	2/15-3/1	IBX-1-520	50/F-IM
	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15	IBX-2-535	100/ES
	1/15-1/29	1/15-1/29	1/15-1/29	1/15-1/29	IBX-2-536	100/ES
	12/6-12/20	12/6-12/20	12/6-12/20	12/6-12/20	IBX-3-540	25/ES
off-mountain hunt area, OTC, unlimited licenses available	4/1-3/31	4/1-3/31	4/1-3/31	4/1-3/31	IBX-1-528	unlimited/ES

[19.31.12.14 NMAC - Rp, 19.31.12.13 NMAC, 4-1-15]

**HISTORY OF 19.31.12 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;

Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;

Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;

Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;

Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;

Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;

Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;

Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;

Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;

Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;

Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;

Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;

Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;

Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;  
 Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;  
 Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;  
 Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;  
 Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;  
 Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;  
 Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;  
 Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;  
 Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;  
 Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;  
 Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;  
 Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;  
 Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;  
 Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;  
 Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;  
 Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;  
 Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;  
 Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;  
 Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;  
 Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;  
 Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;  
 Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;  
 Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;  
 Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;  
 Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;  
 Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;  
 Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;  
 Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;  
 Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;  
 Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;  
 Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;  
 Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;  
 Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;  
 Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;  
 Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

#### History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.  
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.  
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.  
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12-1-2006 - duration expired 3-31-2009.  
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3-13-2009 - duration expired 3-31-2011.  
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12-16-2013 - duration expired 3-31-2015.

## NEW MEXICO DEPARTMENT OF GAME AND FISH

**TITLE 19** NATURAL RESOURCES AND WILDLIFE  
**CHAPTER 31** HUNTING AND FISHING  
**PART 15** PRONGHORN ANTELOPE

**19.31.15.1** **ISSUING AGENCY:** New Mexico Department of Game and Fish.  
 [19.31.15.1 NMAC - Rp, 19.31.15.1 NMAC, 4-1-15]

**19.31.15.2** **SCOPE:** Sportspersons interested in pronghorn antelope hunting and management. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.  
 [19.31.15.2 NMAC - Rp, 19.31.15.2 NMAC, 4-1-15]

**19.31.15.3** **STATUTORY AUTHORITY:** 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.  
 [19.31.15.3 NMAC - Rp, 19.31.15.3 NMAC, 4-1-15]

**19.31.15.4** **DURATION:** April 1, 2015 through March 31, 2019.  
 [19.31.15.4 NMAC - Rp, 19.31.15.4 NMAC, 4-1-15]

**19.31.15.5** **EFFECTIVE DATE:** April 1, 2015, unless a later date is cited at the end of individual sections.  
 [19.31.15.5 NMAC - Rp, 19.31.15.5 NMAC, 4-1-15]

**19.31.15.6** **OBJECTIVE:** Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of pronghorn antelope authorizations and licenses by the department.  
 [19.31.15.6 NMAC - Rp, 19.31.15.6 NMAC, 4-1-15]

**19.31.15.7** **DEFINITIONS:**

- A.** **“Antelope private land use system” or “A-PLUS”** shall mean the program in which the director may issue authorization certificates or numbers to private lands whose owners, manager, or lessees sign and return a hunting agreement with the department.
- B.** **“Arrows”** shall mean only those arrows or bolts having broadheads with steel cutting edges.
- C.** **“Baiting”** shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take pronghorn antelope.
- D.** **“Bow”** shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.
- E.** **“Crossbows”** shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.
- F.** **“Department”** shall mean the New Mexico department of game and fish.
- G.** **“Director”** shall mean the director of the New Mexico department of game and fish.
- H.** **“ES” or “either sex”** shall mean any one pronghorn antelope.
- I.** **“Entry permit”** shall entitle the holder of a valid official license to hunt where hunter numbers are limited by rule.
- J.** **“F-IM” or “female or immature pronghorn antelope”** shall mean a pronghorn antelope without horns or with both horns shorter than its ears.
- K.** **“Game management unit” or “GMU”** shall mean those areas as described in 19.30.4 NMAC Game Management Units.
- L.** **“License”** shall mean a valid official document that is issued or approved by the director that each person hunting pronghorn antelope in New Mexico must have or obtain prior to hunting.
- M.** **“License year”** shall mean the period from April 1 through March 31.
- N.** **“MB” or “mature buck pronghorn antelope”** shall mean a pronghorn antelope with at least one horn longer than its ears.
- O.** **“Centerfire firearms”** shall mean any center-fire firearms, not to include any fully automatic firearms.
- P.** **“Shotgun”** shall mean only those shotguns firing shot or slug that are designed to be fired from the shoulder.
- Q.** **“Muzzle-loader” or “muzzle-loading firearms”** shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only black powder, Pyrodex or equivalent black powder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.
- R.** **“Private land authorization certificate or number”** shall mean a valid official document that entitles a person to purchase a pronghorn antelope hunting license for specific season dates, weapon types, bag limits, and hunt areas.
- S.** **“TBD” or “to be determined”** shall mean the details of hunt dates, license numbers, or hunt areas will be determined by the department.
- T.** **“Unlimited”** shall mean there is no set limit on the number of permits or licenses established for the described hunt areas.
- U.** **“Wildlife management areas” or “WMAs”** shall mean those areas as described in 19.34.5 NMAC Wildlife Management Areas.  
 [19.31.15.7 NMAC - Rp, 19.31.15.7 NMAC, 4-1-15]

**19.31.15.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS:** The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, or authorization certificates for pronghorn antelope up or down to address significant changes in population levels or to address critical department management needs. This adjustment may be applied to any or all of the specific hunt codes for pronghorn antelope. The director, with verbal concurrence of the chairman, may consider requests by private landowners for alternative season dates or weapon types to accommodate providing special pronghorn hunting opportunities to children suffering from terminal illnesses or disease on a case by case basis. The director may change or cancel any hunts on military lands to accommodate closures on those lands; provided the subsequent hunts have the same season length and bag limit as assigned on original hunt code.

[19.31.15.8 NMAC - Rp, 19.31.15.8 NMAC, 4-1-15]

**19.31.15.9 PRONGHORN ANTELOPE LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:**

**A. One license per pronghorn antelope per year:** It shall be unlawful for anyone to hold more than one permit or license for pronghorn antelope during a current license year unless otherwise allowed by rule.

**B. Validity of license or permit:** All pronghorn antelope licenses or authorizations shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit, license, or carcass tag. In GMUs where ranch assignments are made, the license shall be valid only on the assigned ranch.

**C. Mobility impaired (MI) hunts:** It shall be unlawful for anyone to apply for mobility impaired pronghorn antelope license, except as allowed by 19.31.3.11 NMAC.

**D. Youth only (YO) hunts:** It shall be unlawful for anyone to apply for a youth only pronghorn antelope license, except as allowed by 19.31.3.11 NMAC.

**E. Military only hunts (MO):** It shall be unlawful for anyone to apply for a military only pronghorn antelope license, except as allowed by 19.31.3.11 NMAC.

[19.31.15.9 NMAC - Rp, 19.31.15.9 NMAC, 4-1-15]

**19.31.15.10 PRONGHORN ANTELOPE MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:**

**A. Seasons and hours:** Pronghorn antelope may only be hunted or taken during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

**B. Bag limit:** It is unlawful for any person to hunt for or take more than one pronghorn antelope during a current license year unless otherwise provided by regulation.

**C. Seizure:** Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of pronghorn antelope that are improperly notched.

**D. Proof of sex of pronghorn antelope:** It shall be unlawful for anyone to transport or possess the carcass of any pronghorn antelope without proof of sex until the carcass arrives at a residence, taxidermist, meat processing facility, or place of final storage. The horns of any buck pronghorn antelope taken shall remain attached to the skull. The scalp and both ears of females or immature males of pronghorn antelope shall accompany the carcass in the same manner.

**E. Use of dogs in hunting:** It shall be unlawful to use dogs to hunt pronghorn antelope, except leashed dogs may be used to locate wounded or dead pronghorn antelope. Hunters must register with the appropriate department area office for the region they will be hunting before their hunt begins to use a dog in this manner.

**F. Use of baits or scents:** It shall be unlawful for anyone to take or attempt to take any pronghorn antelope by use of baits or scents. Scent masking agents on one's person are allowed.

**G. Live animals:** It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any pronghorn antelope.

**H. Use of calling devices:** It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any pronghorn antelope.

**I. Killing out-of-season:** It shall be unlawful to kill any pronghorn antelope out of their respective hunting seasons.

**J. Legal weapon types for pronghorn antelope are as follows:** any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge firing a single slug; muzzle-loading rifles bows and arrows; and crossbows and bolts.

**K. Bullets:** It shall be unlawful to take or attempt to take pronghorn antelope by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking pronghorn antelope.

**L. Areas closed to pronghorn antelope hunting:** The following areas shall remain closed to pronghorn antelope hunting, except as permitted by regulation: Sugarite canyon state park; portion of the wild rivers recreation area: an area bounded on the north by the power line from Bear crossing to Red River hatchery, south along the Red river to the confluence of the Rio Grande and north along the Rio Grande to the power lines at Bear crossing is closed to all hunting; including the Taos valley overlook; all wildlife management areas, except the following lesser prairie chicken areas: Black hills east and west; Claudell; Crossroads 1-5; Gallina wells 1, 1A, 1B, and 2-6; Liberty; Marshall; Milnesand; north, south, and east Bluit; Wayside; Antelope flats; Bledsoe; Little Dipper; Pitchfork; Ranger lake; and Sandhills prairie conservation area; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).

[19.31.15.10 NMAC - Rp, 19.31.15.10 NMAC, 4-1-15]

**19.31.15.11 PRONGHORN ANTELOPE POPULATION MANAGEMENT HUNTS:**

**A.** The director or his designee may authorize population management hunts for pronghorn antelope when justified in writing by department personnel.

**B.** The director or his designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses or permits. No qualifying license holder shall take more than one pronghorn antelope per license year.

**C.** Applications must be submitted by the deadline date set by the department.

**D.** Applications for licenses may be rejected, and fees returned to an applicant, if such applications are not on the proper

form or do not supply adequate information.

E. In the event that an applicant is not able to hunt on the dates specified, the applicant’s name shall be moved to the bottom of the list and another applicant may be contacted for the hunt.

F. In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunter’s names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

[19.31.15.11 NMAC - Rp, 19.31.15.11 NMAC, 4-1-15]

**19.31.15.12 PRONGHORN ANTELOPE HUNTING SEASONS FOR PUBLIC DRAW LICENSES:** Numbers of licenses are evaluated annually based upon population dynamics, weather conditions, sustainable harvest, and department management objectives. Values listed are ‘up to’ or the upper limit of available licenses under current conditions, these may be modified as needed pursuant to Sub Section 8 of 19.31.15 NMAC. Pronghorn antelope hunt seasons are listed below by weapon type, eligibility requirements or restrictions, each table lists the open areas or GMUs, hunt dates, hunt codes, licenses, and bag limit for the 2015-16 through the 2018-19 hunt seasons. Hunt codes for pronghorn hunts allowing “any legal weapon” type shall be designated ANT-1, hunt codes for pronghorn hunts allowing “archery only” weapon type shall be designated as ANT-2, hunt codes for pronghorn hunts allowing “muzzle loading rifles, crossbows or archery weapons only” shall be designated ANT-3. Youth hunters must provide their hunter education certification number on their application. Mobility impaired hunt applicants shall meet eligibility requirements, as designated by the director, prior to applying for mobility impaired hunts. Military only hunters must be full time active military and proof of military status must accompany application or, if applying online, forwarded to the department by the application deadline date.

A. Pronghorn antelope hunts for any legal sporting arms. Licenses and authorizations shall be issued pursuant to 19.30.12.9 NMAC:

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic.	Bag limit
2	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-100	5	MB
7, 9, 12, 13	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-101	80	MB
8, 14, 43 (west of Hwy. 3)	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-102	15	MB
15, 16, 17, 21 (north of NM 152)	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-103	175	MB
20	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-105	45	MB
21 (south of NM 152), 23, 24	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-106	55	MB
25, 26, 27	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-109	30	MB
31	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-112	90	MB
31: YO	9/12-9/14	9/10-9/12	9/9-9/11	9/8-9/10	ANT-1-113	10	F-IM
32, 33	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-114	200	MB
32, 33: YO	9/12-9/14	9/10-9/12	9/9-9/11	9/8-9/10	ANT-1-115	10	F-IM
portions of 32	12/1-12/15	12/1-12/15	12/1-12/15	12/1-12/15	ANT-1-116	30	F-IM
18, 36, 37, 38	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-117	200	MB
18, 36, 37, 38: YO	9/12-9/14	9/10-9/12	9/9-9/11	9/8-9/10	ANT-1-118	40	F-IM
39, 40	10/3-10/5	10/1-10/3	10/7-10/9	10/6-10/8	ANT-1-119	60	MB
39, 40: YO	9/12-9/14	9/10-9/12	9/9-9/11	9/8-9/10	ANT-1-120	10	F-IM
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/29-8/31	8/27-8/29	8/26-8/28	8/25-8/27	ANT-1-121	500	MB
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59: YO	8/29-8/31	8/27-8/29	8/26-8/28	8/25-8/27	ANT-1-122	50	ES
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59: YO	9/26-9/28	9/24-9/26	9/23-9/25	9/22-9/24	ANT-1-123	100	F-IM

B. The following hunts will be limited to youth only (YO) hunters. Licenses issued pursuant to this section shall be valid within the GMU for which they were issued.

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic	Bag limit
2: YO	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-130	1	ES
7, 9, 12, 13	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-131	8	ES

8, 14, 43 (west of Hwy. 3)	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-132	3	ES
15, 16, 17, 21 (north of Hwy. 152)	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-133	18	ES
19 (White Sands Missile Range)	10/2-10/4	10/7-10/9	10/6-10/8	10/5-10/7	ANT-1-134	5	ES
20	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-135	5	ES
21 (south of Hwy. 152), 23, 24	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-136	5	ES
25, 26, 27	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-139	3	ES
29	10/24-10/27	10/22-10/25	10/21-10/24	10/20-10/23	ANT-3-149	15	ES
31	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-142	9	ES
32, 33	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-143	20	ES
portions of 32	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-144	5	ES
18, 36, 37, 38	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-145	20	ES
39, 40	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-146	5	ES
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-147	50	ES
50 (north of Hwy. 64), 52	8/15-8/18	8/13-8/16	8/12-8/15	8/11-8/14	ANT-3-150	40	ES

C. The following hunts will be limited to mobility impaired (MI) hunters. Licenses issued pursuant to this section shall be valid within the GMU for which they were issued:

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic.	Bag limit
12	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-156	10	MB
13	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-157	10	MB
8, 14, 43 (west of Hwy. 3)	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-158	15	MB
15, 16, 17, 21 (north of NM 152)	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-159	10	MB
21 (south of NM 152), 23, 24	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-161	10	MB
31	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-162	10	MB
32, 33	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-163	15	MB
18, 36, 37, 38	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-164	10	MB
39, 40	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	ANT-1-165	10	MB
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/8-8/10	8/6-8/8	8/5-8/7	8/4-8/6	ANT-1-166	25	MB

D. Pronghorn antelope hunts for archery. Licenses issued pursuant to this section shall be valid within the GMU for which they were issued:

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic.	Bag limit
7, 9, 12, 13	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-170	25	MB
8, 14, 43 (west of Hwy. 3)	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-171	5	MB
15, 16, 17, 21 (north of NM 152)	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-172	70	MB
20	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-175	10	MB
21 (south of NM 152), 23, 24	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-176	10	MB
25, 26, 27	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-177	20	MB
30	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-179	50	MB
31	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-180	75	MB
32, 33	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-181	75	MB

18, 36, 37, 38	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-182	25	MB
39, 40	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-183	10	MB
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/15-8/23	8/13-8/21	8/12-8/20	8/11-8/19	ANT-2-184	100	MB

E. Pronghorn antelope hunts for legal muzzle loading rifles, crossbows, and bows. Licenses issued pursuant to this section shall be valid within the GMU for which they were issued:

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic.	Bag limit
28: MO	9/5-9/6	9/3-9/4	9/2-9/3	9/1-9/2	ANT-3-188	10	MB
28	9/5-9/6	9/3-9/4	9/2-9/3	9/1-9/2	ANT-3-189	5	MB
29	10/24-10/27	10/22-10/25	10/21-10/24	10/20-10/23	ANT-3-191	50	MB
50 (north of Hwy. 64), 52	8/22-8/25	8/20-8/23	8/19-8/22	8/18-8/21	ANT-3-193	150	MB

[19.31.15.12 NMAC - Rp, 19.31.15.13 NMAC, 4-1-15]

**19.31.15.13 PRONGHORN ANTELOPE HUNTING SEASONS FOR PRIVATE LAND AUTHORIZATIONS; A-PLUS**

**PRONGHORN ANTELOPE HUNTS:** The department may allocate A-PLUS pronghorn antelope authorization certificates or numbers for use on those ranches whose owners, managers, or lessees sign return a hunting agreement with the department. Private land hunt dates for the 2015-16 through the 2018-19 hunt seasons for any legal sporting arms shall be any three consecutive days within a 15 day period beginning on the start of the public draw license dates as indicated in Subsection A. of 19.31.15.12 NMAC. Hunt seasons for mobility impaired shall be as indicated above in Subsection C. of 19.31.15.13 NMAC; bow only seasons shall be as indicated above in Subsection D. of 19.31.15.12 NMAC, muzzle loading rifle seasons shall be as indicated above in Subsection E. of 19.31.15.12 NMAC. Private land pronghorn hunts shall be limited to the following eligibility requirements or restrictions, season dates and legal sporting arms. All private land bow, mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during the “bow only”, “mobility impaired only” or “youth only” hunt periods.

Legal sporting arms	Open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Bag limit
Bows only	7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 20, 23, 25, 26, 31, 32, 33, 36, 37, 38, 39, 40, 43 (west of Hwy. 3)	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	MB
	41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/15-8/23	8/13-8/21	8/12-8/20	8/11-8/19	MB
Any legal sporting arms: <b>MI only</b>	41, 42, 43, 46, 47, 48, 54, 55, 56, 57, 58, 59	8/8-8/10	8/6-8/8	8/5-8/7	8/4-8/6	MB
Any legal sporting arms: <b>MI only</b>	8, 12, 13, 14, 16, 17, 18, 23, 31, 32, 33, 36, 37, 38, 39, 40	8/15-8/17	8/13-8/15	8/12-8/14	8/11-8/13	MB
Muzzle-loading rifles and bows	29	10/24-10/27	10/22-10/25	10/21-10/24	10/20-10/23	MB
	50 (north of Hwy. 64), 52	8/22-8/25	8/20-8/23	8/19-8/22	8/18-8/21	MB
Any legal sporting arms, any 3 consecutive days within dates stated	2, 7, 9, 12, 13, 15, 16, 17, 20, 21, 23, 24, 25, 26, 27	10/3-10/18	10/1-10/16	10/7-10/22	10/6-10/20	MB
	8, 14, 18, 31, 32, 33, 36, 37, 38, 39, 40, 43 (west of Hwy. 3)	10/3-10/18	10/1-10/16	10/7-10/22	10/6-10/20	MB
	41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/29-9/13	8/27-9/11	8/26-9/10	8/25-9/9	MB
	18, 31, 32, 33, 36, 37, 38, 39, 40	9/12-9/27	9/10-9/25	9/9-9/24	9/8-9/23	F-IM
	41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/29-12/31	8/27-12/31	8/26-12/31	8/25-12/31	F-IM
portions of 32	12/1-12/15	12/1-12/15	12/1-12/15	12/1-12/15	ES	

[19.31.15.13 NMAC - Rp, 19.31.15.14 NMAC, 4-1-15]

**HISTORY OF 19.31.15 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;  
Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;  
Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;  
Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;  
Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;  
Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;  
Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;  
Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;  
Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;  
Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;  
Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;  
Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;  
Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;  
Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;  
Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;  
Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;  
Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;  
Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;  
Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;  
Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;  
Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;  
Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;  
Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;  
Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;  
Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;  
Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;  
Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;  
Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;  
Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;  
Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;  
Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;  
Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;  
Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;  
Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;  
Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;  
Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;  
Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;  
Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;  
Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;  
Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;  
Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;  
Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;  
Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,

Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;  
 Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;  
 Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;  
 Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;  
 Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;  
 Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;  
 Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;  
 Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

**History of Repealed Material:**

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.  
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.  
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.  
 19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 12-1-2006 - duration expired 3-31-2009.  
 19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 3-13-2009 - duration expired 3-31-2011.  
 19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 8-15-2010 - duration expired 3-31-2015.

**NEW MEXICO DEPARTMENT OF GAME AND FISH**

**TITLE 19            NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31       HUNTING AND FISHING**  
**PART 16            TURKEY**

**19.31.16.1            ISSUING AGENCY:** New Mexico Department of Game and Fish.  
 [19.31.16.1 NMAC - Rp, 19.31.16.1 NMAC, 4-1-15]

**19.31.16.2            SCOPE:** Sportspersons interested in turkey management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.  
 [19.31.16.2 NMAC - Rp, 19.31.16.2 NMAC, 4-1-15]

**19.31.16.3            STATUTORY AUTHORITY:** 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.  
 [19.31.16.3 NMAC - Rp, 19.31.16.3 NMAC, 4-1-15]

**19.31.16.4            DURATION:** April 1, 2015 through March 31, 2019.  
 [19.31.16.4 NMAC - Rp, 19.31.16.4 NMAC, 4-1-15]

**19.31.16.5            EFFECTIVE DATE:** April 1, 2015, unless a later date is cited at the end of individual sections.  
 [19.31.16.5 NMAC - Rp, 19.31.16.5 NMAC, 4-1-15]

**19.31.16.6            OBJECTIVE:** Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of turkey permits and licenses by the department.  
 [19.31.16.6 NMAC - Rp, 19.31.16.6 NMAC, 4-1-15]

**19.31.16.7            DEFINITIONS:**

- A.            "Arrows"** shall mean only those arrows or bolts having broadheads with steel cutting edges.
- B.            "Baiting"** shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take turkey.
- C.            "Bearded turkey"** shall mean a turkey with a visible beard.
- D.            "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 nor magnify.
- E.            "Department"** shall mean the New Mexico department of game and fish.
- F.            "Director"** shall mean the director of the New Mexico department of game and fish.
- G.            "Entry permit"** shall entitle the holder of a valid official license to hunt where hunter numbers are limited by rule.
- H.            "Game management unit" or "GMU"** shall mean those areas as described in state game commission rule 19.30.4 NMAC Boundary Descriptions for Game Management Units.
- I.            "Gould's turkey permit"** as used herein, shall mean a document issued by the department that authorizes the holder to participate in the activity as specified on the permit.
- J.            "Bearded Gould's turkey"** shall mean a turkey with a visible beard of the species *meleagris gallopavo mexicana*.

- K.** “License year” shall mean the period from April 1 through March 31.
- L.** “Modern shotguns” shall mean center-fire shotguns. Legal shotguns shall be only those shotguns capable of being fired from the shoulder.
- M.** “Muzzle-loading shotguns” shall mean those shotguns in which the charge and projectile are loaded through the muzzle. Only black powder, Pyrodex® or equivalent black powder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.
- N.** “Non-toxic shot” shall mean shot approved for use by the U. S. fish and wildlife service.
- O.** “Turkey license” shall mean a valid official document that is issued or approved by the director that each person hunting turkey in New Mexico must have or obtain prior to hunting.
- P.** “Unlimited” shall mean there is no set limit on the number of permits or licenses established for the described hunt areas.
- Q.** “Wildlife management areas” or “WMAs” shall mean those areas as described in the state game commission’s rule 19.34.5 NMAC, Wildlife Management Areas.  
[19.31.16.7 NMAC - Rp, 19.31.16.7 NMAC, 4-1-15]

**19.31.16.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS:** The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, authorizations, or harvest limits, up or down by no more than 20% to address significant changes in population levels or habitat availability. This adjustment may be applied to any or all of the entry hunt codes for turkey.  
[19.31.16.8 NMAC - Rp, 19.31.16.8 NMAC, 4-1-15]

**19.31.16.9 TURKEY LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:**

- A. License limitations:** A hunter is limited to purchasing only one license in the fall and one in the spring during a license year, unless otherwise allowed by rule.
- B. Validity of license or permit:** All turkey entry permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit or license. Over-the-counter licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by rule or regulation.
- C. Youth only (YO) hunts:** It shall be unlawful for anyone to apply for a youth only (YO) turkey permit or hunt during the over-the-counter youth only hunts except as allowed by 19.31.3.11 NMAC.
- D. Sub-unit 6B, Valles Caldera national preserve:** It shall be unlawful for anyone to hunt turkeys in sub-unit 6B, Valles Caldera national preserve, without having in their possession a valid turkey hunting license, a valid turkey tag, and a Valles Caldera national preserve wild turkey access authorization.  
[19.31.16.9 NMAC - Rp, 19.31.16.9 NMAC, 4-1-15]

**19.31.16.10 TURKEY MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:**

- A. Season and hours:** Turkey 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.
- B. Bag limit:** It shall be unlawful for any person to hunt for or take more than the number and type of turkey during the current license year as specified by the hunt code printed on the permit or license unless otherwise provided by regulation.
- C. Seizure:** Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of turkey(s) that are improperly notched.
- D. Proof of sex:** It shall be unlawful for anyone to transport or possess the carcass of a turkey without proof of sex. When the required bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the same turkey carcass until arriving at a residence, taxidermist, meat processing place, or place of final storage.
- E. Use of dogs in hunting:** It shall be unlawful to use dogs to hunt turkey.
- F. Use of baits:** It shall be unlawful for anyone to take or attempt to take any turkey by baiting.
- G. Live animals:** It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any turkey.
- H. Use of calling devices:** It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any turkey.
- I. Killing out-of-season:** It shall be unlawful to kill any turkey out of turkey hunting season.
- J. Roost shooting:** It shall be unlawful to shoot a turkey while it is located in a tree or structure used for resting.
- K. Legal weapon types** for turkey are as follows: shotguns firing shot, including muzzle-loading shotguns; bows and arrows; and crossbows and bolts.
- L. Non-toxic shot** use is required on all state game commission owned lands.
- M. Areas closed to hunting turkey:** The following areas shall remain closed to hunting turkey, except as permitted by regulation: Sugarite canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos valley overlook; all wildlife management areas except Humphries, Rio Chama, and Sargent WMAs; the Valle Vidal area; and Rattlesnake canyon in sub-unit 2A.  
[19.31.16.10 NMAC - Rp, 19.31.16.10 NMAC, 4-1-15]

**19.31.16.11 CHRONIC WASTING DISEASE (CWD) REPORTING INCENTIVE:** The director may annually allow up to two turkey authorizations to be issued by drawing for deer and elk hunters submitting their legally harvested animal for CWD testing. Authorization certificates awarded pursuant to this rule may be transferred through sale, barter, or gift. Turkey incentive hunts shall be valid only for Unit 2, the Sargent WMA in Unit 4 and the Valle Vidal area.  
[19.31.16.11 NMAC - Rp, 19.31.16.11 NMAC, 4-1-15]

**19.31.16.12 TURKEY HUNTS (2015-2016 through 2018-2019 hunting seasons):**

**A. Over-the-counter hunts** for any legal firearms, including shotguns and muzzle loading shotguns firing shot, bows, and crossbows, shall be as indicated below, listing the GMUs and areas open, eligibility requirements or restrictions, hunt dates, and bag limits. The number of licenses for these hunts shall be unlimited.

**(1) Spring seasons:**

open GMUs or areas	hunt dates	bag limit
2A (except areas east of NM 550 and north of NM 173), 2C (except areas east of Largo canyon), 4 (including WMAs), 5, 6A, 6C, 7, 9 (including Water canyon WMA, and Marquez WMA by draw permit only), 10, 12, 13, 14 (bows only in Sandia ranger district), 15, 16, 17, 18, 20, 21, 22, 23, 24, 29, 32, 34, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 51, 52, 53, 54 (including Colin Neblett WMA), 55 (Colin Neblett and E.S. Barker WMAs, and Valle Vidal by permit only), 56, 57 (archery only in Sugarite canyon state park), 58, 59.	4/15-5/10	2 turkeys with visible beards
all GMUs open for over the counter turkey, <b>(YO)</b>	4/10-12/2015 4/8-10/2016 4/7-9/2017 4/13-15/2018	2 turkeys with visible beards
6B-Valles Caldera (must possess VCNP wild turkey access authorization)	4/15-5/10	1 turkey with visible beard

**(2) Fall seasons:**

open GMUs or areas	hunt dates	bag limit
2A (except areas east of NM 550 and north of NM 173), 2C (except areas east of Largo canyon), 5B, 6A, 6C, 7, 9 (including Water canyon WMA, but not Marquez WMA), 10, 12, 13, 15, 16, 17, 21, 22, 23, 24, 29, 32, 34, 36, 37, 40, 41, 42, 45, 46, 47, 48, 54 (including Colin Neblett WMA), 55 (including Colin Neblett WMA, but excluding the E. S. Barker and Urraca WMAs and Valle Vidal), 56, 57 (except Sugarite canyon state park), 58 and 59	archery only: 9/1-30  any legal weapon: 11/1-30	any 1 turkey

**B. Entry hunts** for any legal firearms, including shotguns and muzzle loading shotguns firing shot, bows, and crossbows, shall be as indicated below, listing the GMUs and areas open, eligibility requirements, hunt dates, hunt codes, maximum number of licenses, and bag limits. Youth hunters must provide hunter education certificate number or their mentored-youth number on their application.

**(1) Regular season entry hunts** (April 15 through May 10) annually; limited to one turkey with a visible beard except GMU 9 Marquez WMA has a limit of two turkeys with visible beards:

open GMUs or areas	hunt code	permits
2 (except areas east of NM 550 to the pine river and north of NM 173 including Rattlesnake Canyon)	TUR-1-100	115
2 (except areas east of NM 550 to the pine river and north of NM 173 including Rattlesnake Canyon), <b>YO</b>	TUR-1-101	50
2A Rattlesnake canyon areas east of NM 550 to the pine river and north of NM 173 (licenses also valid in GMU 2 and in any other open GMU during the spring season) <b>(YO)</b>	TUR-1-102	5
8 (bows only in Sandia ranger district)	TUR-1-103	10
9: Marquez WMA	TUR-1-104	5

**(2) Entry hunts for the WS Huey WMA and Valle Vidal/Greenwood areas**, limited to one turkey with a visible beard:

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt codes	permits
33: WS Huey WMA, <b>YO</b>	4/11-4/12	4/9-10	4/8-9	4/14-15	TUR-1-105	TBD
33: WS Huey WMA, <b>YO</b>	4/18-19	4/16-17	4/15-16	4/21-22	TUR-1-106	TBD
55: Valle Vidal and Greenwood areas	4/15-4/30	4/15-4/30	4/15-4/30	4/15-4/30	TUR-1-112	20

[19.31.16.12 NMAC - Rp, 19.31.16.12 NMAC, 4-1-15]

**19.31.16.13 TURKEY POPULATION MANAGEMENT HUNTS:**

- A.** The director or his designee may authorize population management hunts for turkey when justified in writing by department personnel.
- B.** The director or his designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, and number of licenses or permits.
- C.** The specific hunt dates, hunt area, and other pertinent hunt information shall be printed on the license or permit.
- D.** Applications must be submitted by the deadline date set by the department.
- E.** Applications for permits may be rejected, and fees returned to an applicant, if such applications are not on the proper form or do not supply adequate information.

**F.** In the event that an applicant is not able to hunt on the dates specified, the applicant's name shall be moved to the bottom of the list and another applicant may be contacted for the hunt.

**G.** No more than one person may apply under each application.

**H.** Population management hunts for turkey may be anywhere in the state with dates, number of permits, bag limit, and specific hunt areas to be determined by the department. The hunt code to apply for turkey population management hunts shall be TUR-5-100.

**I.** In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunter's names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

[19.31.16.13 NMAC - Rp, 19.31.16.13 NMAC, 4-1-15]

#### **19.31.16.14 GOULD'S TURKEY ENHANCEMENT PERMITS:**

**A.** Objective: to establish and define the procedures and restrictions for the issuance, sale, and use of not more than two Gould's turkey enhancement permits.

**B.** Gould's turkey habitat enhancement program: The director of the department shall collect all proceeds generated through the auction or lottery or both, not more than 2 Gould's turkey enhancement permits annually. These monies shall be deposited into the game protection fund and made available for expenditure by the department to be used exclusively for activities, projects, and programs aimed at the restoration and management of Gould's turkeys and Gould's turkey habitat.

**C.** Requirements for issuance, sale and use of Gould's turkey enhancement permits:

**(1)** Issuance: The director of the department may issue up to two Gould's turkey enhancement permits annually. Prior to permit issuance each year, the director must document that the prospective harvest of up to two bearded Gould's turkeys will not jeopardize the prospects for survival and recruitment of Gould's turkeys in New Mexico or conflict with the Wildlife Conservation Act [17-2-37 NMSA 1978].

**(2)** Sale:

**(a)** Upon fulfillment of the required annual documentation as described in Subsection A of 19.31.20.9 NMAC, the director shall issue up to two Gould's turkey enhancement permits, to be sold via auction or lottery or both.

**(b)** The auction or lottery or both may be conducted by an incorporated nonprofit organization dedicated to the conservation of wildlife, in cooperation with and overseen by the department.

**(c)** Selection of an organization to administer the auction or lottery or both of the Gould's turkey enhancement permits shall be pursuant to procurement code regulations described in Subsection 44 of 1.4.1.31 NMAC.

**(3)** Use:

**(a)** Each permit may be transferred through sale, barter, donation, or gift by the successful purchaser of the permit to other individuals qualified to purchase a license and hunt.

**(b)** Individuals hunting pursuant to a Gould's turkey enhancement permit must purchase and have in their possession a valid turkey hunting license and any other stamps or permits required by rule.

**(c)** Unless his/her hunting privileges have been revoked pursuant to law, any resident of New Mexico, nonresident, or alien is eligible to bid on and purchase a Gould's turkey enhancement permit.

**(d)** Individuals holding a Gould's turkey enhancement permit shall not be prohibited from hunting other species of turkeys in New Mexico as allowed in 19.31.16 NMAC.

**(e)** Only individuals who possess a valid turkey license and a Gould's turkey enhancement permit may hunt Gould's turkeys.

**(f)** The bag limit for each permit shall be one bearded Gould's turkey.

**(g)** The season dates for each permit shall be no more than 30 consecutive days between April 1 and May 31 as specified by the permit each license year.

**(h)** The hunt area for each permit shall be any legally accessible public lands where hunting is allowed and private land with written permission.

**(i)** All manner and method restrictions and requirements set forth in 19.31.16.10 NMAC shall apply to individuals hunting turkey pursuant to Gould's turkey enhancement permits.

[19.31.16.14 NMAC - N, 4-1-15]

#### **HISTORY OF 19.31.16 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;

Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;

Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;

Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;

Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;

Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;

Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;

Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;

Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;  
Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;  
Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;  
Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;  
Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;  
Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;  
Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;  
Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;  
Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;  
Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;  
Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;  
Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;  
Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;  
Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;  
Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;  
Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;  
Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;  
Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;  
Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;  
Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;  
Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;  
Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;  
Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;  
Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;  
Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;  
Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;  
Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;  
Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;  
Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;  
Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;  
Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;  
Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;  
Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;  
Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;  
Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;  
Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;  
Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;  
Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;  
Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;  
Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

**History of Repealed Material:**

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.  
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.  
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.  
 19.31.16 NMAC, Turkey, filed 12-1-2006 - duration expired 3-31-2009.  
 19.31.16 NMAC, Turkey, filed 2-26-2009 - duration expired 3-31-2011.  
 19.31.16 NMAC, Turkey, filed 9-15-2010 - duration expired 3-31-2015.  
 19.31.20 NMAC, Gould's Turkey Enhancement Permits, filed 11-15-2007, repealed 4-1-2015.

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**NEW MEXICO DEPARTMENT OF GAME AND FISH**
**TITLE 19           NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31       HUNTING AND FISHING**  
**PART 17           BIGHORN SHEEP**

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

[19.31.17.1 NMAC - Rp, 19.31.17.1 NMAC, 4-1-15]

**19.31.17.2           SCOPE:** Sportspersons interested in the management and hunting of bighorn sheep. Additional requirements may be found in Chapter 17 NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.

[19.31.17.2 NMAC -Rp, 19.31.17.2 NMAC, 4-1-15]

**19.31.17.3           STATUTORY AUTHORITY:** 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.

[19.31.17.3 NMAC - Rp, 19.31.17.3 NMAC, 4-1-15]

**19.31.17.4           DURATION:** April 1, 2015 through March 31, 2019.

[19.31.17.4 NMAC - Rp, 19.31.17.4 NMAC, 4-1-15]

**19.31.17.5           EFFECTIVE DATE:** April 1, 2015 unless a later date is cited at the end of individual sections.

[19.31.17.5 NMAC - Rp, 19.31.17.5 NMAC, 4-1-15]

**19.31.17.6           OBJECTIVE:** Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of bighorn sheep licenses by the department.

[19.31.17.6 NMAC - Rp, 19.31.17.6 NMAC, 4-1-15]

**19.31.17.7           DEFINITIONS:**

- A.           “Arrows”** shall mean only those arrows or bolts having broadheads with steel cutting edges.
- B.           “Baiting”** shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take bighorn sheep.
- C.           “Bighorn enhancement program”** as used herein, shall mean the department activity that allows the issuance of not more than four permits for the taking of one bighorn ram per permit with the purpose of raising funds for programs and projects to benefit bighorn sheep.
- D.           “Bighorn ewe”** shall mean any adult female bighorn sheep.
- E.           “Bighorn ram”** shall mean any male bighorn sheep.
- F.           “Bighorn sheep license”** shall mean a valid official document that is issued or approved by the director that each person hunting bighorn sheep in New Mexico must have or obtain prior to hunting.
- G.           “Bow”** shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.
- H.           “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 nor magnify.
- I.           “Department”** shall mean the New Mexico department of game and fish.
- J.           “Director”** shall mean the director of the New Mexico department of game and fish.
- K.           “Game management unit” or “GMU”** shall mean those areas as described in the rule 19.30.4 NMAC Boundary Descriptions for Game Management Units.
- L.           “License year”** shall mean the period from April 1 through March 31.
- M.           “Centerfire firearms”** shall mean any center-fire firearms, not to include any fully automatic firearms.
- N.           “Shotgun”** shall mean only those shotguns firing shot or slug that are designed to be fired from the shoulder.
- O.           “Muzzle-loader or muzzle-loading firearms”** shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only black powder, Pyrodex or equivalent black powder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.
- P.           “Wildlife management areas” or “WMAs”** shall mean those areas as described in rule 19.34.5 NMAC, Wildlife Management Areas.

[19.31.17.7 NMAC - Rp, 19.31.17.7 NMAC, 4-1-15]

**19.31.17.8 ADJUSTMENT OF LICENSES:** The director, with the verbal concurrence of the chairman or his designee, may adjust the number of bighorn licenses to address significant changes in population levels or to address critical department management needs.

[19.31.17.8 NMAC - Rp, 19.31.17.8 NMAC, 4-1-15]

**19.31.17.9 BIGHORN SHEEP LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:**

**A. One bighorn sheep license per year:** It shall be unlawful for anyone to hold more than one permit or license for any bighorn sheep during a license year unless otherwise allowed by rule.

**B. Validity of license or permit:** All permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area printed on the permit, license, or carcass tag.

**C. Rocky mountain bighorn sheep ram once-in-a-lifetime hunts:** It shall be unlawful for anyone to apply for a Rocky mountain bighorn sheep ram license if one has previously held a license to hunt a Rocky mountain bighorn sheep ram in New Mexico, excluding the youth-only, private land, auction, and raffle bighorn ram licenses. A person that has received the youth-only ram license is eligible for this hunt only once as a youth (under age 18), but may apply for the other Rocky mountain and desert bighorn once-in-a-lifetime hunts as long as they are eligible. Exception: An applicant is eligible to submit a bid for the special bighorn auction and raffle licenses whether or not he or she has previously held a license to hunt Rocky mountain or desert bighorn sheep in New Mexico.

**D. Desert bighorn sheep once-in-a-lifetime hunts:** It shall be unlawful for anyone to apply for a desert bighorn sheep license if one has previously held a license to hunt desert bighorn sheep in New Mexico, excluding the youth-only, private land, auction, and raffle bighorn ram licenses. A person that has received the youth-only ram license is eligible for this hunt only once as a youth (under age 18), but may apply for the other Rocky mountain and desert bighorn once-in-a-lifetime hunts as long as they are eligible. Exception: An applicant is eligible to submit a bid for the special bighorn auction and raffle licenses whether or not he or she has previously held a license to hunt Rocky mountain or desert bighorn sheep in New Mexico.

**E. Youth only (YO) bighorn sheep hunts:** It shall be unlawful for anyone to apply for a youth only (YO) bighorn sheep license except as allowed by 19.31.3.11 NMAC. Youth hunters must provide their hunter education certificate number on their application.

**F. Rocky mountain bighorn sheep ewe hunts:** This hunt is not once-in-a-lifetime hunt. A person that has previously held a license to hunt Rocky mountain bighorn rams or ewes is eligible to apply for this hunt.

[19.31.17.9 NMAC - Rp, 19.31.17.9 NMAC, 4-1-15]

**19.31.17.10 BIGHORN SHEEP MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:**

**A. Season and hours:** Bighorn sheep 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.

**B. Bag limit:** It is unlawful for any person to hunt for or take more than one bighorn sheep during a current license year unless otherwise provided by regulation.

**C. Proof of sex:** It shall be unlawful for anyone to transport or possess the carcass of any bighorn sheep without proof of sex. The horns and external genitalia of any bighorn sheep taken shall remain attached to the skull or pelt, as appropriate, and be readily visible until arriving at a residence, taxidermist, meat processing facility, or place of final storage.

**D. Sealing of bighorn sheep horns:** A seal shall be affixed to a horn of every bighorn sheep ram head taken in New Mexico, imported into New Mexico, or found in the field in New Mexico subsequent to August 17, 1973. Bighorn sheep heads found in the field within New Mexico shall remain the property of the state until disposed of by permit from the director. The seal shall authorize possession and transportation of the head within New Mexico.

**(1)** Such sealing shall be done within ten days after the bighorn sheep ram head is taken, imported, or found in the field and before the bighorn sheep head is exported from New Mexico. Bighorn sheep ram heads not so declared shall be seized. Only legally taken and possessed bighorn sheep ram heads shall be sealed.

**(2)** Bighorn sheep ram heads legally sealed in other countries, states, tribal entities, provinces, and territories, and possessing a valid visible seal attached, are exempted.

**E. Seizure:** Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of bighorn sheep that are improperly notched.

**F. Use of dogs in hunting:** It shall be unlawful to use dogs to hunt any bighorn sheep.

**G. Use of baits or scents:** It shall be unlawful for anyone to take or attempt to take any bighorn sheep by use of baits or scents as defined in Sub Section 7 of 19.31.10 NMAC. Scent masking agents on one's person are allowed.

**H. Live animals:** It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any bighorn sheep.

**I. Use of calling devices:** It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any bighorn sheep.

**J. Killing out-of-season:** It shall be unlawful to kill any bighorn sheep out of bighorn sheep season.

**K. Bullets:** It shall be unlawful to take or attempt to take bighorn sheep by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking bighorn sheep.

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

**M. Legal weapon types** for bighorn sheep are as follows: any center-fire rifle of .24 caliber or larger; any center-fire handgun of .24 caliber or larger; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles not smaller than .45 caliber; bows and arrows; and crossbows and bolts.

**N. Areas closed to bighorn sheep hunting:** The following areas shall remain closed to bighorn sheep hunting, except as permitted by regulation: Sugarite canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos valley overlook; all wildlife management areas, except Big Hatchet; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).

[19.31.17.10 NMAC - Rp, 19.31.17.10 NMAC, 4-1-15]

**19.31.17.11 BIGHORN SHEEP HUNTING SEASONS:** The 2015-16 through 2018-19 hunting seasons shall be as indicated below, listing the GMUs or areas open, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses available, and bag limits. Additional eligibility requirements and restrictions are defined in Sub Section 9 of 19.31.17 NMAC above. Licenses issued through private land authorizations are not ‘once-in-a lifetime’. The Rocky Mountain ewe hunts shall be offered to address department management needs.

**A.** Rocky mountain bighorn ram hunt for any legal sporting arms (BHS-1-201). Hunters applying for BHS-1-201 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-1-201 will be up to 24 with a bag limit of one ram.

open GMUs	2015-2016 hunt period	2016-2017 hunt period	2017-2018 hunt period	2018-2019 hunt period
16B, 22, 23, 24	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31
45	8/14-8/23	8/12-8/21	8/11-8/20	8/10-8/19
	8/24-9/6	8/22-9/4	8/21-9/3	8/20-9/2
45, YO	8/24-9/6	8/22-9/4	8/21-9/3	8/20-9/2
53 south of NM 38 and east of NM 522	9/1-9/15	9/1-9/15	9/1-9/15	9/1-9/15
53 north of NM 38 and east of NM 522; 55 south of NM 196/ FS Rd 1950	8/7-8/16	8/5-8/14	8/4-8/13	8/3-8/12
	8/17-8/30	8/15-8/28	8/14-8/27	8/13-8/26
49, 50, 53 west of NM 522	8/15-1/15	8/15-1/15	8/15-1/15	8/15-1/15
55 north of NM196/FS Rd 1950	8/15-1/15	8/15-1/15	8/15-1/15	8/15-1/15
58; public draw	TBD	TBD	TBD	TBD
58; private land	TBD	TBD	TBD	TBD

**B.** Rocky mountain bighorn ewe hunt for any legal sporting arms (BHS-1-202). Hunters applying for BHS-1-202 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-1-202 will be up to 62 with a bag limit of one ewe.

open GMUs	2015-2016 hunt period	2016-2017 hunt period	2017-2018 hunt period	2018-2019 hunt period
45	9/7-9/27	9/5-9/25	9/4-9/24	9/3-9/23
45, YO	9/7-9/27	9/5-9/25	9/4-9/24	9/3-9/23
53 south of NM 38 and east of NM 522	9/16-9/30	9/16-9/30	9/16-9/30	9/16-9/30
	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15
53 south of NM 38 and east of NM 522, YO	9/16-9/30	9/16-9/30	9/16-9/30	9/16-9/30
53 north of NM 38 and east of NM 522; 55 south of NM 196/ FS Rd 1950	9/14-9/27	9/12-2/25	9/11-9/24	9/10-9/23
53 north of NM 38 and east of NM 522; 55 south of NM 196/ FS Rd 1950, YO	9/14-9/27	9/12-2/25	9/11-9/24	9/10-9/23

**C.** Rocky mountain bighorn ewe hunt for bow only (BHS-2-203). Hunters applying for BHS-2-203 will be allowed to select and rank up to two open areas/hunt dates. The number of licenses available for BHS-2-203 will be up to 12 with a bag limit of one ewe.

open GMUs	2015-2016 hunt period	2016-2017 hunt period	2017-2018 hunt period	2018-2019 hunt period
53 north of NM 38 and east of NM 522; 55 south of NM 196/ FS Rd 1950	8/31-9/13	8/29-9/11	8/28-9/10	8/27-9/9
53 north of NM 38 and east of NM 522; 55 south of NM 196/ FS Rd 1950, YO	8/31-9/13	8/29-9/11	8/28-9/10	8/27-9/9

**D.** Desert bighorn ram hunt for any legal sporting arms (BHS-1-204). Hunters applying for BHS-1-204 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-1-204 will be up to 27 with a bag limit of one ram.

open GMUs	2015-2016 hunt period	2016-2017 hunt period	2017-2018 hunt period	2018-2019 hunt period
27	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30
26	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15
	10/16-10/31	10/16-10/31	10/16-10/31	10/16-10/31
19	12/14-1/1	12/14-1/1	12/14-1/1	12/14-1/1

20: south of NM 51	11/16-11/30	11/16-11/30	11/16-11/30	11/16-11/30
	12/1-12/15	12/1-12/15	12/1-12/15	12/1-12/15
20: north of NM 51; public draw	8/21-8/30	8/19-8/28	8/18-8/27	8/17-8/26
	10/16-10/25	3/3-3/12	10/13-10/22	3/1-3/10
	11/20-11/29	n/a	11/17-11/26	n/a
20: north of NM 51; private land	3/4-3/13	10/14-10/23	3/2-3/11	10/12-10/21
	n/a	11/18-11/27	n/a	11/16-11/25
	8/21-8/30	8/19-8/28	8/18-8/27	8/17-8/26
20: north of NM 51, YO public draw	11/20-11/29	11/18-11/27	11/17-11/26	11/16-11/25
20: north of NM 51, YO private land	11/20-11/29	11/18-11/27	11/17-11/26	11/16-11/25
13, 17	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31

[19.31.17.11 NMAC - Rp, 19.31.17.11 NMAC, 4-1-15]

**19.31.17.12 BIGHORN SHEEP ENHANCEMENT PROGRAM:**

**A.** The director of the department shall collect all proceeds generated through auction and lottery of special bighorn sheep permits, and such monies shall be deposited in the game protection fund. These monies shall be made available for expenditure by the department solely for programs and projects to benefit bighorn sheep and for direct costs incurred in carrying out these programs. These monies shall be used to augment, and not replace, monies appropriated from existing funds available to the department for the preservation, restoration, utilization, and management of bighorn sheep.

**B.** The state game commission shall authorize the director of the department to issue not more than four special bighorn sheep permits in any one license year to take one bighorn sheep ram per permit. The director shall allow the sale of two permits through auction to the highest bidders and two permits to persons selected through a random drawing for the holder of a lottery ticket by the department or by an incorporated, nonprofit organization dedicated to the conservation of wild sheep.

**C.** Proposals for auctioning two special bighorn sheep permits and the sale of lottery tickets to obtain two special bighorn sheep permits through a pair of random drawings shall be submitted to the director of the department prior to January 31, preceding the license year when the permits may be legally used.

**D.** The proposals for auctioning two permits, and for the sale of lottery tickets and subsequent selection of recipients for two permits through random drawing(s) shall each contain and identify:

- (1) the name of the organization making the request as well as the names, addresses and telephone numbers of those members of the organization who are coordinating the proposal;
- (2) the estimated amount of money to be raised and the rationale for that estimate; and
- (3) a copy of the organization's articles of incorporation with a letter attesting that the organization has tax-exempt status. The letter must also affirm that the proponent agrees to the conditions set forth by the director of the department. The letter must be signed and dated by the president and secretary-treasurer, or their equivalents.

**E.** The director of the department shall examine all proposals following the close of the application period. The director may reject any application which does not conform to the requirements of this section. In selecting a marketing organization, the director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the marketing organization for promotional and administrative costs, relative to the funds obtained from auctioning the permit; and the organizations previous involvement with wild sheep management and its conservation objectives. The director may accept any proposals when it is in the best interest of bighorn sheep to do so.

**F.** After a proposal has been approved, the state game commission shall establish open season dates, open areas, and license requirements.

**G.** The marketing organization must agree in writing to the following:

- (1) to transfer all proceeds on or before the tenth day of the month following the auction and drawing for the lottery, and
- (2) to provide the department with the names, addresses, and the physical descriptions of the individuals to whom the special bighorn sheep permits are issued.

**H.** The department and the marketing organization must agree to the arrangements for the deposit of the proceeds, payment for services rendered, the accounting procedures, and final audit.

**I.** Unless his or her hunting privileges have been revoked pursuant to law, any resident of New Mexico, nonresident, or alien is eligible to submit a bid for the special bighorn auction permits or purchase lottery tickets in an attempt to be selected for the special bighorn lottery permits.

**J.** The special bighorn sheep permits issued through auction and lottery may be transferred, through sale, barter or gift by the successful individuals to only other individuals qualified to hunt.

**K.** Special bighorn sheep permits granted through auction or lottery, as described above, shall not be considered 'once-in-a-lifetime' permits.

**L.** Holders of the auction licenses (BHS-1-500) must declare by June 1 annually to hunt the designated subspecies in one of the open hunt areas. Each holder of the raffle license (BHS-1-600) must declare to hunt the designated subspecies in one of the open hunt areas not chosen by the hunter of the auction license. By July 20 annually, each raffle hunter must declare if he or she is choosing the hunt occurring in GMU 20 (north of NM 51) or GMU 55 (north of NM196/FS Rd 1950). If the raffle hunter chooses any other hunt, he or she must designate an available and specific hunt area at the time of obtaining the hunting license.

**M.** The hunt dates for BHS-1-500 and BHS-1-600 shall be 8/1-12/31 annually except GMU 53 south of NM 38 and east of

NM 522 is closed 8/11 to 8/31 annually to all bighorn sheep hunters.

N. Auction or raffle winners may select any open bighorn sheep unit for the respective subspecies.  
[19.31.17.12 NMAC -Rp, 19.31.17.12 NMAC, 4-1-15]

#### **HISTORY OF 19.31.17 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;  
Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;  
Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;  
Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;  
Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;  
Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;  
Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;  
Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;  
Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;  
Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;  
Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;  
Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;  
Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;  
Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;  
Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;  
Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;  
Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;  
Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;  
Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;  
Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;  
Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;  
Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;  
Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;  
Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;  
Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;  
Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;  
Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;  
Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;  
Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;  
Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;  
Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;  
Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;  
Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;  
Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;  
Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;  
Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;  
Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;  
Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;  
Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;  
Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;  
Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,

Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;  
 Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;  
 Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;  
 Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;  
 Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;  
 Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;  
 Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;  
 Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;  
 Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;  
 Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina,  
 Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

#### History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.  
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.  
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.  
 19.31.17 NMAC, Bighorn Sheep, filed 12-1-2006 - duration expired 3-31-2009.  
 19.31.17 NMAC, Bighorn Sheep, filed 2-26-2009 - duration expired 3-31-2011.  
 19.31.17 NMAC, Bighorn Sheep, filed 9-15-2010 - duration expired 3-31-2015.

## NEW MEXICO DEPARTMENT OF GAME AND FISH

**TITLE 19**            **NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31**      **HUNTING AND FISHING**  
**PART 21**           **JAVELINA**

**19.31.21.1**        **ISSUING AGENCY:** New Mexico Department of Game and Fish.  
 [19.31.21.1 NMAC - Rp, 19.31.21.1 NMAC, 4-1-15]

**19.31.21.2**        **SCOPE:** Sportspersons interested in javelina hunting and management. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.  
 [19.31.21.2 NMAC - Rp, 19.31.21.2 NMAC, 4-1-15]

**19.31.21.3**        **STATUTORY AUTHORITY:** 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.  
 [19.31.21.3 NMAC - Rp, 19.31.21.3 NMAC, 4-1-15]

**19.31.21.4**        **DURATION:** April 1, 2015 through March 31, 2019.  
 [19.31.21.4 NMAC - Rp, 19.31.21.4 NMAC, 4-1-15]

**19.31.21.5**        **EFFECTIVE DATE:** April 1, 2015, unless a later date is cited at the end of individual sections.  
 [19.31.21.5 NMAC - Rp, 19.31.21.5 NMAC, 4-1-15]

**19.31.21.6**        **OBJECTIVE:** Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of javelina permits and licenses by the department.  
 [19.31.21.6 NMAC - Rp, 19.31.21.6 NMAC, 4-1-15]

#### **19.31.21.7**        **DEFINITIONS:**

- A.**        **“Arrows”** shall mean only those arrows or bolts having broadheads with steel cutting edges.
- B.**        **“Baiting”** shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take javelina.
- C.**        **“Bow”** shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.
- D.**        **“Crossbows”** shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.
- E.**        **“Department”** shall mean the New Mexico department of game and fish.
- F.**        **“Director”** shall mean the director of the New Mexico department of game and fish.
- G.**        **“ES or either sex”** shall mean any one animal of the species.
- H.**        **“Game management unit” or “GMU”** shall mean those areas as described in 19.30.4 NMAC, Boundary Descriptions

for Game Management Units.

**I. “License”** shall mean a valid official document that is issued or approved by the director that each person hunting javelina in New Mexico must have or obtain prior to hunting.

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

**K. “Centerfire firearms”** shall mean any center-fire firearms, not to include any fully automatic firearms.

**L. “Shotgun”** shall mean only those shotguns firing shot or slug that are designed to be fired from the shoulder.

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

**N. “Wildlife management areas” or “WMAs”** shall mean those areas as described in the state game commission’s rule 19.34.5 NMAC, Boundary Descriptions for Wildlife Management Areas.  
[19.31.21.7 NMAC - Rp, 19.31.21.7 NMAC, 4-1-15]

**19.31.21.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS:** The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses or permits for javelina up or down by no more than 20% of the total permits available in the area or GMU to address significant changes in population levels or habitat availability. The director may consider requests from organizations or private landowners working with children suffering from terminal illness or disease to change season dates, weapon types or bag limits to provide for special hunting situations on a case by case basis. The director may change or cancel any hunts on military lands to accommodate closures on those lands; provided the subsequent hunts have the same season length and bag limit as assigned on the original hunt code.  
[19.31.21.8 NMAC - Rp, 19.31.21.8 NMAC, 4-1-15]

**19.31.21.9 JAVELINA LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:**

**A. One license per javelina per year:** It shall be unlawful for anyone to hold more than one permit or license for javelina during a current license year unless otherwise allowed by rule.

**B. Validity of license or permit:** All javelina entry permits, licenses or authorizations shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit or license.

**C. Youth only (YO) hunts:** It shall be unlawful for anyone to apply for a youth only (YO) javelina license, except as allowed by 19.31.3.11 NMAC.

**D. Military only hunts:** It shall be unlawful for anyone to apply for a military only javelina license, except as allowed by 19.31.3.11 NMAC.

[19.31.21.9 NMAC - Rp, 19.31.21.9 NMAC, 4-1-15]

**19.31.21.10 JAVELINA MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:**

**A. Seasons and hours:** Javelina may be only hunted or taken during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

**B. Bag limit:** It is unlawful for any person to hunt for or take more than one javelina during a current license year unless otherwise provided by regulation.

**C. Seizure:** Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of javelina that are improperly notched.

**D. Use of dogs in hunting:** It shall be unlawful to use dogs to hunt javelina, except leashed dogs may be used to locate wounded or dead javelina. Hunters must register with the appropriate department area office for the GMU they will be hunting before their hunt begins to use a dog in this manner.

**E. Use of baits or scents:** It shall be unlawful for anyone to take or attempt to take any javelina by use of baits or scents. Scent masking agents on one’s person are allowed.

**F. Live animals:** It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any javelina.

**G. Use of calling devices:** It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any javelina.

**H. Killing out-of-season:** It shall be unlawful to kill any javelina out of their respective hunting seasons.

**I. Legal sporting arms or weapon types** for javelina are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles (muzzle-loading handguns are legal sporting arms for javelina); bows and arrows; and crossbows and bolts.

**J. Bullets:** It shall be unlawful to take or attempt to take javelina by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking javelina.

**K. Areas closed to javelina hunting:** The following areas shall remain closed to javelina hunting, except as permitted by regulation: all wildlife management areas, except the following lesser prairie-chicken areas: Black Hills east and west; Claudell; Crossroads 1-5; Gallina Wells 1, 1A, 1B, and 2-6; Liberty; Marshall; Milnesand; north, south, and east Bluit; Wayside; Antelope Flats; Bledsoe; Little Dipper; Pitchfork; Ranger lake; and Sandhills Prairie conservation area.

[19.31.21.10 NMAC - Rp, 19.31.21.10 NMAC, 4-1-15]

**19.31.21.11 JAVELINA HUNTING SEASONS:** Javelina hunts for the 2015-16 through the 2018-19 hunt seasons shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses, and bag limit. Hunt codes for javelina hunts allowing “any legal weapon” type shall be designated JAV-1, hunt codes for javelina hunts allowing “archery only” weapon type shall be designated as JAV-2. Youth hunters must provide their hunter education certification number on their application. Mobility impaired hunt applicants shall meet eligibility requirements, as designated by the director, prior to applying for mobility impaired hunts. Military only hunters must be full time active military and proof of military status must accompany application

or, if applying online, forwarded to the department by the application deadline date. The open area for the JAV-2-101 and the JAV-1-102 hunts include the Big Hatchets special management area in GMU 26.

open GMUs or areas	hunt start	hunt end	hunt code	licenses	bag limit
statewide, <b>YO</b>	1/1	3/31	JAV-1-100	100	ES
GMUs 19, 23, 24, 25, 26 and 27	1/1	1/31	JAV-2-101	300	ES
	2/1	3/1	JAV-1-102	1000	ES
statewide except GMUs 19, 23, 24, 25, 26, 27 and 28	1/1	1/31	JAV-2-103	300	ES
	1/16	3/31	JAV-1-104	1000	ES
28 McGregor range, <b>military only</b> . This hunt is the last weekend in December each year.	12/26/2015	12/27/2015	JAV-1-105	5	ES
	12/31/2016	1/1/2017			
	12/30/2017	12/31/2017			
	12/29/2018	12/30/2018			
28 McGregor range. This hunt is the last weekend in December each year.	12/26/2015	12/27/2015	JAV-1-106	5	ES
	12/31/2016	1/1/2017			
	12/30/2017	12/31/2017			
	12/29/2018	12/30/2018			

[19.31.21.11 NMAC - Rp, 19.31.21.11 NMAC, 4-1-15]

#### HISTORY OF 19.31.21 NMAC:

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;

Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;

Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;

Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;

Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;

Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;

Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;

Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;

Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;

Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;

Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;

Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;

Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;

Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;

Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;

Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;

Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;

Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;

Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;

Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;

Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;

Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;

Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;

Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;

Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;

Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;

Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;

Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;

Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;

Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk,

Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;  
 Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;  
 Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;  
 Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;  
 Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;  
 Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;  
 Regulation No. 614, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;  
 Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;  
 Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;  
 Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;  
 Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;  
 Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;  
 Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;  
 Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;  
 Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;  
 Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;  
 Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;  
 Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;  
 Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

**History of Repealed Material:**

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.  
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.  
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.  
 19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 12-1-2006 - duration expired 3-31-2009.  
 19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 3-13-2009 - duration expired 3-31-2011.  
 19.31.21 NMAC, Javelina, filed 8-15-2010 - duration expired 3-31-2015.

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**NEW MEXICO ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
 OIL CONSERVATION COMMISSION**

19.15.34 NMAC, Produced Water, (filed 11/17/2008) is being repealed and replaced by 19.15.34 NMAC, Produced Water, Drilling Fluids and Liquid Oil Field Waste, effective March 31, 2015.

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**NEW MEXICO ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
 OIL CONSERVATION COMMISSION**

**TITLE 19            NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 15       OIL AND GAS**  
**PART 34            PRODUCED WATER, DRILLING FLUIDS AND LIQUID OIL FIELD WASTE**

**19.15.34.1            ISSUING AGENCY:** Energy, Minerals and Natural Resources Department, Oil Conservation Commission.  
 [19.15.34.1 NMAC - Rp, 19.15.34.1 NMAC, 3/31/15]

**19.15.34.2            SCOPE:** 19.15.34 NMAC applies to the transportation, disposal, recycling, re-use or the direct surface or subsurface disposition by use of water produced or used in connection with the development or production of oil or gas or both; in road construction or maintenance, or other construction; in the generation of electricity or in other industrial processes. 19.15.34 NMAC also applies to the transportation of drilling fluids and liquid oil field waste.

[19.15.34.2 NMAC - Rp, 19.15.34.2 NMAC, 3/31/15]

**19.15.34.3 STATUTORY**

**AUTHORITY:** 19.15.34 NMAC is adopted pursuant to the Oil and Gas Act, Paragraph (15) of Section 70-2-12(B) NMSA 1978, which authorizes the division to regulate the disposition of water produced or used in connection with the drilling for or producing of oil and gas or both and Paragraph (21) of Section 70-2-12(B) NMSA 1978 which authorizes the regulation of the disposition of nondomestic wastes from the exploration, development, production or storage of crude oil or natural gas.

[19.15.34.3 NMAC - Rp, 19.15.34.3 NMAC, 3/31/15]

**19.15.34.4 DURATION:**

Permanent.

[19.15.34.4 NMAC - Rp, 19.15.34.4 NMAC, 3/31/15]

**19.15.34.5 EFFECTIVE DATE:**

March 31, 2015, unless a later date is cited at the end of a section.

[19.15.34.5 NMAC - Rp, 19.15.34.5 NMAC, 3/31/15]

**19.15.34.6 OBJECTIVE:**

To encourage the recycling, re-use or disposition of produced water by use in a manner that will afford reasonable protection against contamination of fresh water and establish procedures by which persons may transport and dispose of produced water, drilling fluids and other liquid oil field waste.

[19.15.34.6 NMAC - Rp, 19.15.34.6 NMAC, 3/31/15]

**19.15.34.7 DEFINITIONS:**

These definitions apply to 19.15.34.2 NMAC through 19.15.34.21 NMAC. See 19.15.2.7 NMAC for additional definitions.

**A.** "Recycling facility" is a stationary or portable facility used exclusively for the treatment, re-use or recycling of produced water intended for disposition by use. A recycling facility does not include oilfield equipment such as separators, heater treaters and scrubbers in which produced water may be used.

**B.** "Recycling containment" is a storage containment which incorporates a synthetic liner as the primary and secondary containment device and is used solely in conjunction with a recycling facility for the storage, treatment or recycling of produced water only for the purpose of drilling, completion, production or plugging of wells used in connection with the development of oil or gas or both.

**C.** "Treatment" refers to the reconditioning of produced water to a reusable form and may include mechanical

and chemical processes.

[19.15.34.7 NMAC - N, 3/31/15]

**19.15.34.8 REQUIREMENTS FOR DISPOSITION BY USE, RECYCLING FACILITIES OR DISPOSAL OF PRODUCED WATER:**

**A.** Recycling or disposition by use of produced water.

**(1)** No permit or registration is required from the division for the disposition by use of produced water for drilling, completion, producing, secondary recovery, pressure maintenance or plugging of wells pursuant to 19.15.34 NMAC.

**(2)** Any other disposition by use of produced water requires prior approval by the appropriate division district office on form C-147. Approval requirements will be determined by the district office based upon the proposed use.

**(3)** Research using produced water is to be encouraged through pilot projects approved by the appropriate division district office.

**(4)** All produced water for recycling or disposition by use shall be handled and stored in a manner that will afford reasonable protection against contamination of fresh water.

**(5)** All operations in which produced water is used shall be conducted in a manner consistent with hydrogen sulfide gas provisions in 19.15.11 NMAC or NORM provisions in 19.15.35 NMAC, as applicable.

**(6)** All releases from the recycling and re-use of produced water shall be handled in accordance with 19.15.29 NMAC.

**B.** Disposal of produced water. Persons disposing of produced water shall use one of the following disposition methods:

**(1)** disposition in a manner that does not constitute a hazard to fresh water, public health, or the environment; delivery to a permitted salt water disposal well or facility, a surface waste management facility or permanent pit permitted pursuant to 19.15.17 NMAC; or to a drill site for use in drilling fluid; or

**(2)** use in accordance with 19.15.34 NMAC or other authorization from the division.

[19.15.34.8 NMAC - Rp, 19.15.34.12 NMAC, 3/31/15]

**19.15.34.9 RECYCLING FACILITIES:**

**A.** Except where recycling facilities are part of a permitted operation for the drilling, completing, producing or plugging of oil and gas wells, all recycling facilities shall be permitted or registered with the division district office. Division

form C-147 shall be used for registration, financial assurance, or for a permit if not associated with the drilling, completing, producing and plugging of oil and gas wells. All operators or owners of the facility shall be named in the form C-147.

**B.** In addition to the other applicable rule requirements, registration of a recycling facility is required in the following circumstances:

**(1)** when the recycling facility is an addition to a surface waste management facility permitted under 19.15.36 NMAC;

**(2)** when the recycling facility is an addition to the secondary recovery of oil and gas, enhanced oil recovery of oil and gas, or pressure maintenance projects permitted under 19.15.26 NMAC;

**(3)** when the recycling facility is an addition to a salt water disposal well permitted under 19.15.26 NMAC;

**(4)** when the recycling facility is an addition to pits permitted or below-grade tanks registered in accordance with 19.15.17 NMAC;

**(5)** when the recycling facility is used with a closed loop system that only delivers fluid for drilling or completion purposes;

**(6)** when the recycling facility is used with dedicated above ground, unlined, hard-sided tanks used in accordance with the manufacturer's standards that are externally visually inspected weekly when holding fluids and a log is kept of the inspections made available to the division upon request; or

**(7)** when the recycling facility is used with a recycling containment registered in accordance with 19.15.34 NMAC.

**C.** Recycling facilities not identified in Subsection B of 19.15.34.9 are required to be permitted. The appropriate division district office will determine approval requirements based upon the proposed use.

**D.** Recycling facilities may be located either onsite or offsite of a well drilling location and may serve a number of wells.

**E.** The operator of a recycling facility shall keep accurate records and shall report monthly to the division the total volume of water received for recycling, with the amount of fresh water received listed separately, and the total volume of water leaving the facility for disposition by use on form C-148.

**F.** The operator of a recycling facility shall maintain accurate records that identify the sources and disposition of all recycled water that shall be made available for review by the division upon request.

**G.** Recycling facilities may not be used for the disposal of produced water.

**H.** The operator shall remove all fluids within 60 days from the date the operator ceases operations. The division district office may grant an extension for the removal of all fluids not to exceed two months.  
[19.15.34.9 NMAC - N, 3/31/15]

#### 19.15.34.10 RECYCLING CONTAINMENTS:

**A.** All recycling containments shall be registered on form C-147. All operators or owners shall be named in the form C-147. The C-147 form shall require documentation that the containment will meet the requirements of 19.15.34.11 through 19.15.34.15 NMAC. At the time the C-147 is submitted to the division, a copy shall be provided to the surface owner.

**B.** Recycling containments may hold produced water for use in connection with drilling, completion, producing or processing oil or gas or both. Such fluids may include fresh water, brackish water, recycled and treated water, fluids added to water to facilitate well drilling or completion, water produced with oil and gas, flowback from operations, water generated by an oil or gas processing facility or other waters that are gathered for well drilling or completion but may not include any hazardous waste.

**C.** Registered recycling containments may be operated for five years from the date on which the registration is filed with the division. The operator may extend the allowed time on an annual basis thereafter with division approval if, 30 days prior to the registration expiration, the operator files a form C-147 with an attached summary showing all monthly inspections at the containment, including the monitoring of the leak detection system, showing the containment's integrity has not been compromised.

**D.** Recycling containments may not be used for the disposal of produced water or other oilfield wastes.  
[19.15.34.10 NMAC - N, 3/31/15]

#### 19.15.34.11 SITING REQUIREMENTS FOR RECYCLING CONTAINMENTS:

**A.** An operator shall not locate a recycling containment:

- (1) where ground water is less than 50 feet below the bottom of the containment;
- (2) within 300 feet of a continuously flowing watercourse, or 200 feet of any other significant watercourse or lakebed, sinkhole or playa lake (measured from the ordinary high-

water mark);

(3) within 1000 feet of a permanent residence, school, hospital, institution or church in existence at the time of the initial registration;

(4) within 500 feet of a spring or fresh water well used for domestic or stock watering purposes in existence at the time of the initial registration;

(5) within incorporated municipal boundaries or within a defined municipal fresh water well field covered by a municipal ordinance adopted pursuant to Section 3-27-3 NMSA 1978, as amended, unless the municipality specifically approves the recycling containment in writing;

(6) within 500 feet of a wetland;

(7) within an area overlying a subsurface mine;

(8) within an unstable area unless the operator demonstrates that it has incorporated engineering measures into the design to ensure that the containment's integrity is not compromised; or

(9) within a 100-year floodplain.

**B.** In the absence of site-specific ground water data, the operator may use data generated by models, cathodic well lithology, published information or other tools as approved by the division district office.

**C.** An operator shall not locate material excavated during construction:

(1) within 100 feet of a continuously flowing watercourse or significant watercourse;

(2) within 200 feet from a lakebed, sinkhole or playa lake (measured from the ordinary high-water mark);

(3) within 100 feet of a wetland; or

(4) within a 100-year floodplain.

[19.15.34.11 NMAC - N, 3/31/15]

#### 19.15.34.12 DESIGN AND CONSTRUCTION SPECIFICATIONS FOR A RECYCLING CONTAINMENT:

**A.** An operator shall design and construct a recycling containment in accordance with the following specifications.

(1) The operator shall design and construct a recycling containment to ensure the confinement of produced water, to prevent releases and to prevent overtopping due to wave action or rainfall.

(2) A recycling containment shall have a properly

constructed foundation and interior slopes consisting of a firm, unyielding base, smooth and free of rocks, debris, sharp edges or irregularities to prevent the liner's rupture or tear. Geotextile is required under the liner when needed to reduce localized stress-strain or protuberances that otherwise may compromise the liner's integrity. The operator shall construct the containment in a levee with an inside grade no steeper than two horizontal feet to one vertical foot (2H:1V). The levee shall have an outside grade no steeper than three horizontal feet to one vertical foot (3H:1V). The top of the levee shall be wide enough to install an anchor trench and provide adequate room for inspection and maintenance.

(3) Each recycling containment shall incorporate, at a minimum, a primary (upper) liner and a secondary (lower) liner with a leak detection system appropriate to the site's conditions. The edges of all liners shall be anchored in the bottom of a compacted earth-filled trench. The anchor trench shall be at least 18 inches deep.

(4) All primary (upper) liners in a recycling containment shall be geomembrane liners composed of an impervious, synthetic material that is resistant to ultraviolet light, petroleum hydrocarbons, salts and acidic and alkaline solutions. All primary liners shall be 30-mil flexible PVC, 45-mil LLDPE string reinforced or 60-mil HDPE liners. Secondary liners shall be 30-mil LLDPE string reinforced or equivalent with a hydraulic conductivity no greater than 1 x 10<sup>-9</sup> cm/sec. Liner compatibility shall meet or exceed the EPA SW-846 method 9090A or subsequent relevant publications.

(5) The operator of a recycling containment shall minimize liner seams and orient them up and down, not across, a slope of the levee. Factory welded seams shall be used where possible. The operator shall ensure field seams in geosynthetic material are thermally seamed. Prior to field seaming, the operator shall overlap liners four to six inches. The operator shall minimize the number of field seams and corners and irregularly shaped areas. There shall be no horizontal seams within five feet of the slope's toe. Qualified personnel shall perform field welding and testing.

(6) At a point of discharge into or suction from the recycling containment, the operator shall insure that the liner is protected from excessive hydrostatic force or mechanical damage. External discharge or suction lines shall not penetrate the liner.

(7) The operator of a recycling containment shall place a leak detection system between the upper

and lower geomembrane liners that shall consist of 200-mil geonet or two feet of compacted soil with a saturated hydraulic conductivity of  $1 \times 10^{-5}$  cm/sec or greater to facilitate drainage. The leak detection system shall consist of a properly designed drainage and collection and removal system placed above the lower geomembrane liner in depressions and sloped to facilitate the earliest possible leak detection.

(8) The operator of a recycling containment shall design the containment to prevent run-on of surface water. The containment shall be surrounded by a berm, ditch or other diversion to prevent run-on of surface water.

B. Stockpiling of topsoil. Prior to constructing containment, the operator shall strip and stockpile the topsoil for use as the final cover or fill at the time of closure.

C. Signs. The operator shall post an upright sign no less than 12 inches by 24 inches with lettering not less than two inches in height in a conspicuous place on the fence surrounding the containment. The operator shall post the sign in a manner and location such that a person can easily read the legend. The sign shall provide the following information: the operator's name, the location of the site by quarter-quarter or unit letter, section, township and range, and emergency telephone numbers.

D. Fencing.

(1) The operator shall fence or enclose a recycling containment in a manner that deters unauthorized wildlife and human access and shall maintain the fences in good repair. The operator shall ensure that all gates associated with the fence are closed and locked when responsible personnel are not onsite.

(2) Recycling containments shall be fenced with a four foot fence that has at least four strands of barbed wire evenly spaced in the interval between one foot and four feet above ground level.

E. Netting. The operator shall ensure that a recycling containment is screened, netted or otherwise protective of wildlife, including migratory birds. The operator shall on a monthly basis inspect for and, within 30 days of discovery, report the discovery of dead migratory birds or other wildlife to the appropriate wildlife agency and to the division district office in order to facilitate assessment and implementation of measures to prevent incidents from reoccurring.

[19.15.34.12 NMAC - N, 3/31/15]

#### **19.15.34.13 OPERATIONAL REQUIREMENTS FOR RECYCLING CONTAINMENTS:**

A. The operator shall inspect the recycling containment and associated leak detection systems weekly while it contains fluids. The operator shall maintain a current log of such inspections and make the log available for review by the division upon request.

B. The operator shall maintain and operate a recycling containment in accordance with the following requirements.

(1) The operator shall remove any visible layer of oil from the surface of the recycling containment.

(2) The operator shall maintain at least three feet of freeboard at each containment.

(3) The injection or withdrawal of fluids from the containment shall be accomplished through a header, diverter or other hardware that prevents damage to the liner by erosion, fluid jets or impact from installation and removal of hoses or pipes.

(4) If the containment's primary liner is compromised above the fluid's surface, the operator shall repair the damage or initiate replacement of the primary liner within 48 hours of discovery or seek an extension of time from the division district office.

(5) If the primary liner is compromised below the fluid's surface, the operator shall remove all fluid above the damage or leak within 48 hours of discovery, notify the division district office and repair the damage or replace the primary liner.

(6) The containment shall be operated to prevent the collection of surface water run-on.

(7) The operator shall install, or maintain on site, an oil absorbent boom or other device to contain an unanticipated release.

C. A recycling containment shall be deemed to have ceased operations if less than 20% of the total fluid capacity is used every six months following the first withdrawal of produced water for use. The operator must report cessation of operations to the appropriate division district office. The appropriate division district office may grant an extension to this determination of cessation of operations not to exceed six months.

[19.15.34.13 NMAC - N, 3/31/15]

#### **19.15.34.14 CLOSURE AND SITE RECLAMATION REQUIREMENTS FOR RECYCLING CONTAINMENTS:**

A. Once the operator has ceased operations, the operator shall remove all fluids within 60 days and close the containment within six months from the date the operator ceases operations from the containment for use. The division

district office may grant an extension for the removal of all fluids not to exceed two months. The division district office may grant an extension to close the containment not to exceed six months. If the operator wants to use the containment for a purpose other than recycling then the operator must have that use approved or permitted by the division in accordance with the appropriate rules.

B. The operator shall close a recycling containment by first removing all fluids, contents and synthetic liners and transferring these materials to a division approved facility.

C. The operator shall test the soils beneath the containment for contamination with a five-point composite sample which includes stained or wet soils, if any, and that sample shall be analyzed for the constituents listed in Table I below.

(1) If any contaminant concentration is higher than the parameters listed in Table I, the division may require additional delineation upon review of the results and the operator must receive approval before proceeding with closure.

(2) If all contaminant concentrations are less than or equal to the parameters listed in Table I, then the operator can proceed to backfill with non-waste containing, uncontaminated, earthen material.

D. Within 60 days of closure completion, the operator shall submit a closure report on form C-147, including required attachments, to document all closure activities including sampling results and the details on any backfilling, capping or covering, where applicable. The closure report shall certify that all information in the report and attachments is correct and that the operator has complied with all applicable closure requirements and conditions specified in division rules or directives.

E. Once the operator has closed the recycling containment, the operator shall reclaim the containment's location to a safe and stable condition that blends with the surrounding undisturbed area. Topsoils and subsoils shall be replaced to their original relative positions and contoured so as to achieve erosion control, long-term stability and preservation of surface water flow patterns. The disturbed area shall then be reseeded in the first favorable growing season following closure of a recycling containment. The operator shall substantially restore the impacted surface area to the condition that existed prior to the construction of the recycling containment.

F. Reclamation of all disturbed areas no longer in use shall be considered complete when all ground

surface disturbing activities at the site have been completed, and a uniform vegetative cover has been established that reflects a life-form ratio of plus or minus fifty percent (50%) of pre-disturbance levels and a total percent plant cover of at least seventy percent (70%) of pre-disturbance levels, excluding noxious weeds.

**G.** The re-vegetation and reclamation obligations imposed by federal, state trust land or tribal agencies on lands managed by those agencies shall supersede these provisions and govern the obligations of any operator subject to those provisions, provided that the other requirements provide equal or better protection of fresh water, human health and the environment.

**H.** The operator shall notify the division when reclamation and re-vegetation are complete.

Table I Closure Criteria for Recycling Containments			
Depth below bottom of containment to groundwater less than 10,000 mg/l TDS	Constituent	Method*	Limit**
51 feet - 100 feet	Chloride	EPA 300.0	10,000 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	2,500 mg/kg
	GRO+DRO	EPA SW-846 Method 8015M	1,000 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg
> 100 feet	Chloride	EPA 300.0	20,000 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	2,500 mg/kg
	GRO+DRO	EPA SW-846 Method 8015M	1,000 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg

\* Or other test methods approved by the division.

\*\* Numerical limits or natural background level, whichever is greater.

[19.15.34.14 NMAC - N, 3/31/15]

**19.15.34.15 FINANCIAL ASSURANCE REQUIREMENTS FOR RECYCLING CONTAINMENTS:**

**A.** Financial assurance.

(1) Containment operators without existing financial assurance pursuant to 19.15.8 NMAC shall furnish financial assurance acceptable to the division in the amount of the recycling containment’s estimated closure cost or \$25,000, whichever is greater.

(2) Containment operators providing the division with an existing financial assurance pursuant to 19.15.8 NMAC do not require additional financial assurance. These containments are limited to only the wells owned or operated by the owners of the containment. Containments delivering fluids to wells not owned or operated by the owners or operators of the containment must provide financial assurance pursuant to Paragraph (1) of Subsection A of 19.15.34.15 NMAC.

**B.** Terms of financial assurance. The financial assurance shall be on division-prescribed forms, payable to the state of New Mexico and conditioned upon the proper operation and site closure of the recycling containment as required by New Mexico statutes and division rules. The operator shall notify the division of any material change affecting the financial assurance within 30 days of discovery or notice of such change.

**C.** Forfeiture of financial assurance. The division shall give the operator 20 days written notice and an opportunity for a hearing prior to forfeiting any financial assurance.

**D.** Forms of financial assurance. The division may accept the following forms of financial assurance.

(1) Surety bonds. A surety bond shall be executed by the applicant and a corporate surety licensed to do business in the state, and shall not be subject to cancellation.

(2) Letters of credit. A letter of credit shall be issued by a bank organized or authorized to do commercial banking business in the United States, shall be irrevocable for a term of not less than five years unless the applicant shows good cause for a shorter time period and shall provide for automatic renewal for successive, like terms upon expiration unless the issuer has notified the division in writing of non-renewal at least 90 days before its expiration date. The letter of credit shall be payable to the state of New Mexico in part or in full upon receipt from the director or the director’s authorized representative of demand for payment accompanied by a notice of forfeiture. Demand may be issued 30 days prior to expiration of the letter of credit if the operator has not provided replacement financial assurance by that time.

(3) Cash accounts. An applicant shall provide financial assurance in the form of a federally insured or

equivalently protected cash account or accounts in a financial institution, provided that the operator and the financial institution shall execute as to each such account a collateral assignment of the account to the division, which shall provide that only the division may authorize withdrawals from the account. In the event of forfeiture, the division may direct payment of all or part of the balance of such cash account (excluding interest accrued on the account) to itself or its designee for the recycling facility's closure.

**E.** Replacement of financial assurance.

**(1)** The division may allow an operator to replace existing forms of financial assurance with other forms of financial assurance that provide equal coverage prior to the expiration of the existing financial assurance.

**(2)** The division shall not release existing financial assurance until the operator has submitted, and the division has approved, an acceptable replacement.

**F.** Review of adequacy of financial assurance. The division may at any time not less than five years after initial acceptance of financial assurance for a recycling containment, initiate a review of such financial assurance's adequacy. Additionally, whenever the division determines that a recycling containment has not achieved the closure standards specified in 19.15.34.14 NMAC, the division may review the adequacy of the recycling containment's financial assurance, without regard to the date of its last review. Upon determination, after notice to the operator and an opportunity for a hearing, that the financial assurance is not adequate to cover the reasonable and probable cost of a recycling containment's closure and post closure monitoring, the division may require the operator to furnish additional financial assurance.

**G.** The division shall release a financial assurance upon the operator's or surety's written request if the recycling containment has been closed and the location remediated in accordance with 19.15.34 NMAC or has been covered by another financial assurance approved by the division. The division shall not approve a request for change of operator of a recycling containment until the new operator has the required division approved financial assurance.

**H.** The division may use funds in the oil and gas reclamation fund to remediate the impacts of a recycling containment if deemed necessary by the division director in the event of an emergency or insufficient financial assurance. In either case, the costs expended by the division may be recovered

from the operator pursuant to Section 70-2-38 NMSA 1978. The operator is responsible for all costs of remediation of the recycling containment even if the costs exceed the financial assurance.  
[19.15.34.15 NMAC - N, 3/31/15]

**19.15.34.16 VARIANCES:**

**A.** An operator may file a written request for a variance from any requirement of these rules with the division district office. The request for variance shall include:

**(1)** a detailed statement explaining the need for a variance; and

**(2)** a detailed written demonstration that the variance will provide equal or better protection of fresh water, public health and the environment.

**B.** The division district office shall approve or deny the variance within 60 days of receipt. If the division district office denies the variance, it shall provide the operator with the reasons for denial by certified mail, return receipt requested.

**C.** If a request for variance from the requirements of this rule is not approved or denied within 60 days of the date the request for variance is received by the district office, the operator may seek a hearing pursuant to 19.15.4 NMAC.

**D.** If the operator requests a hearing pursuant to 19.15.4 NMAC within 60 days after receipt of notice, the division shall set the matter for hearing, with notice to the operator and the appropriate division district office.

**E.** The operator shall provide notice of the hearing on the request for variance to the surface owner of the site by certified mail, return receipt requested, at least 20 days prior to the date of hearing.

**F.** Variances must receive division approval prior to implementation.  
[19.15.34.16 NMAC - N, 3/31/15]

**19.15.34.17 TRANSPORTATION OF PRODUCED WATER, DRILLING FLUIDS AND LIQUID OIL FIELD WASTE:**

**A.** A person shall not transport produced water, drilling fluids or liquid oil field waste, including drilling fluids and residual liquids in liquid oil field equipment, except for small samples removed for analysis, by motor vehicle from a lease, central tank battery of other facility without an approved form C-133. The transporter shall maintain a copy of the approved form C-133 in the transporting vehicle.

**B.** A person may apply for authorization to move produced water, drilling fluids or liquid oil field waste by motor vehicle by filing a complete form

C-133 with the division's Santa Fe office. Authorization is granted upon the division's approval of form C-133.

**C.** An owner or operator shall not permit produced water, drilling fluids or liquid oil field waste to be removed from its leases or field facilities, except for small samples removed for analysis, by motor vehicle except by a person possessing an approved form C-133. The division shall post a list of currently approved form C-133s, authorization to move liquid waste, on its website. The list of form C-133s posted on the division's website on the first business day of each month shall be deemed notice of valid form C-133s for the remainder of the month.

[19.15.34.17 NMAC - Rp, 19.15.34.8 NMAC, 3/31/15]

**19.15.34.18 DENIAL OF FORM C-133:** The division may deny approval of a form C-133 if:

**A.** the applicant is a corporation or limited liability company, and is not registered with the secretary of state to do business in New Mexico;

**B.** the applicant is a limited partnership, and is not registered with the New Mexico secretary of state to do business in New Mexico;

**C.** the applicant does not possess a warrant for transportation under the state registration system the public regulation commission administers, if it is required to have such a permit under the applicable statutes or rules; or

**D.** the applicant or officer, director or partner in the applicant, or a person with an interest in the applicant exceeding twenty-five percent (25%), is or was within the past five years an officer, director or partner in the applicant, or a person with an interest in the applicant exceeding twenty-five percent (25%) in another entity that possesses or has possessed an approved form C-133 that has been cancelled or suspended, has a history of violating division or other state or federal environmental laws; is subject to a commission or division order, issued after notice and hearing, finding such entity to be in violation of an order requiring corrective action; or has a penalty assessment for violation of division or commission rules or orders that is unpaid more than 70 days after issuance of the order assessing the penalty.

[19.15.34.18 NMAC - Rp, 19.15.34.9 NMAC, 3/31/15]

**19.15.34.19 CANCELLATION OR SUSPENSION OF AUTHORIZATION TO MOVE LIQUID WASTES:** A transporter's vehicular movement or disposition of produced water, drilling fluids or liquid oil field waste in a

manner contrary to division rules is ground for denial of approval of form C-133 in addition to those specified in Subsection D of 19.15.34.18 NMAC. It is also cause, after notice and an opportunity for hearing, for the division to cancel or suspend a transporter's authorization to move liquid wastes.

[19.15.34.19 NMAC - Rp, 19.15.34.10 NMAC, 3/31/15]

**19.15.34.20 DISPOSITION OF PRODUCED WATER AND OTHER OIL FIELD WASTE:**

Except as authorized by 19.15.17 NMAC, 19.15.26.8 NMAC, 19.15.30 NMAC, 19.15.34 NMAC or 19.15.36 NMAC, persons, including transporters, shall not dispose of produced water or other oil field waste:

**A.** on or below the surface of the ground, in a pit or in a pond, lake, depression or watercourse;

**B.** in another place or in a manner that may constitute a hazard to fresh water, public health, or the environment; or

**C.** in a permitted pit or registered or permitted surface waste management facility without permission of the owner or operator of the pit or facility. [19.15.34.20 NMAC - Rp, 19.15.34.11 NMAC, 3/31/15]

**15.15.34.21 ENFORCEMENT:**

**A.** The operator of a recycling facility or recycling containment shall comply with all the requirements of 19.15.34 NMAC.

**B.** If the division determines that the registration of a recycling facility or recycling containment or that operations at a recycling facility or recycling containment violate the requirements of 19.15.34 NMAC, the division district office shall notify the operator in writing. If the violation threatens contamination of fresh water, public health, or the environment, the notice of violation shall be signed by the director, the operator shall immediately cease all operations at the recycling facility or containment and the director may require the operator to remove all fluids, if any, in the recycling facility or containment by a date determined by the director.

**C.** The operator shall have 60 days from the date it is notified of a violation to remove the recycling facility or recycling containment in accordance with 19.15.34 NMAC unless the violation is corrected or an agreed compliance order providing for corrective action is entered with the division. The operator may request an immediate stay of the division's order as part of an application for review of the notice of violation filed by the operator.

**D.** The provisions of 19.15.4 NMAC applicable to adjudicatory proceedings shall apply to these

enforcement proceedings unless altered or amended by 19.15.5.10 NMAC or 19.15.34 NMAC.

**E.** The division may enter into an agreed compliance order prior to or after the filing of an application for an administrative compliance proceeding. An agreed compliance order shall have the same force and effect as a compliance order issued after an adjudicatory hearing.

**F.** After a notice of violation that threatens contamination of fresh water, public health, or the environment is issued, until the operator obtains an agreed compliance order, performs appropriate corrective action or is granted a stay, the division may not approve any permits for the operator. [19.15.34.21 NMAC - N, 3/31/15]

**HISTORY of 19.15.34 NMAC:**

**History of Repealed Material:** 19.15.2 NMAC, General Operating Practices, Wastes Arising from Exploration and Production (filed 04/21/2004) repealed 12/1/2008. 19.15.34 NMAC, Produced Water (filed 11/17/2008) repealed 3/31/2015.

**NMAC History:**

Those applicable portions of 19.15.2 NMAC, General Operating Practices, Wastes Arising from Exploration and Production (Sections 51 and 52) (filed 01/24/2007) were replaced by 19.15.34 NMAC, Produced Water, effective 12/1/2008. 19.15.34 NMAC, Produced Water (filed 11/17/2008) was repealed and replaced by 19.15.34 NMAC, Produced Water, Drilling Fluids and Liquid Oil Field Waste, effective 3/31/2015.

**NEW MEXICO ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION**

Explanatory paragraph: This is an amendment to 19.15.2 NMAC, Section 7, effective March 31, 2015. Subsections A through O and Subsections Q through W were not published as there were no changes.

**19.15.2.7 DEFINITIONS:** These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

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**P.** Definitions beginning with the letter "P".

(1) "Penalized

unit" means a proration unit to which, because of an excessive gas-oil ratio, the division assigns an allowable that is less than top proration unit allowable for the pool in which it is located and also less than the ability of the well or wells on the unit to produce.

(2) "Person" means an individual or entity including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or an agency, department or instrumentality of the United States and of its officers, agents or employees.

(3) "Pit" means a surface or sub-surface impoundment, man-made or natural depression or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for safety, secondary containment and storm water or run-on control.

(4) "Playa lake" means a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

(5) "Pool" means an underground reservoir containing a common accumulation of oil or gas. Each zone of a general structure, which zone is completely separated from other zones in the structure, is covered by the word pool as used in 19.15.2 NMAC through 19.15.39 NMAC. "Pool" is synonymous with "common source of supply" and with "common reservoir".

(6) "Potential" means a well's properly determined capacity to produce oil or gas under division-prescribed conditions.

(7) "Ppm" means parts per million by volume.

(8) "PQL" means practical quantitation limit.

(9) "Pressure maintenance" means the injection of gas or other fluid into a reservoir, either to maintain the reservoir's existing pressure or to retard the reservoir pressure's natural decline.

(10) "Produced water" means ~~[those waters produced in conjunction with the production of oil or gas and commonly collected at field storage, processing or disposal facilities including lease tanks, commingled tank batteries, burn pits, lease ACT units and community or lease salt water disposal systems and that may be collected at gas processing plants, pipeline drips and other processing or transportation facilities]~~ water that is an incidental byproduct from drilling for or the production of oil and gas.

(11) "Producer" means the owner of a well or wells capable of producing oil or gas or both in paying quantities.

(12) "Product" means a commodity or thing made or manufactured from oil or gas, and derivatives of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil, lubricating oil and blends or mixtures of oil or gas or a derivative thereof.

(13) "Proration day" consists of 24 consecutive hours that begin at 7:00 a.m. and end at 7:00 a.m. on the following day.

(14) "Proration month" means the calendar month that begins at 7:00 a.m. on the first day of the month and ends at 7:00 a.m. on the first day of the next succeeding month.

(15) "Proration period" means for oil the proration month and for gas the 12-month period that begins at 7:00 a.m. on January 1 of each year and ends at 7:00 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(16) "Proration schedule" means the division orders authorizing the production, purchase and transportation of oil, casinghead gas and gas from the various units of oil or of gas in allocated pools.

(17) "Proration unit" means the area in a pool that can be effectively and efficiently drained by one well as determined by the division or commission (see NMSA 1978, Section 70-2-17(B)) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool. A proration unit shall be the same size and shape as a spacing unit. All proration units are spacing units but not all spacing units are proration units.

(18) "Prospective spacing unit" means a hypothetical spacing unit that does not yet have a producing well.

(19) "PVC" means poly vinyl chloride.

(20) "Psi" means pounds per square inch.

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[19.15.2.7 NMAC- Rp, 19.15.1.7 NMAC, 12/1/08; A, 3/31/15]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

1.13.4 NMAC, Records Management Requirements for Electronic Messaging (filed 6/13/2007) is being repealed and replaced by 1.13.4 NMAC, Records Management Requirements for Electronic Messaging, effective 3/31/2015.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

March 10, 2015

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

Ms. Garcia:

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

1.18.369 NMAC  
ERRDS, State Commission of Public Records

1.18.521 NMAC  
ERRDS, Energy, Minerals and Natural Resources Department

1.18.665 NMAC  
ERRDS, Department of Health

1.18.926 NMAC  
ERRDS, School for the Blind and Visually Impaired

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

Sincerely,

Linda Trujillo  
State Records Administrator

LT/jg

NEW MEXICO COMMISSION OF PUBLIC RECORDS

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION CHAPTER 13 PUBLIC RECORDS PART 4 RECORDS MANAGEMENT REQUIREMENTS FOR ELECTRONIC MESSAGING

1.13.4.1 ISSUING AGENCY: State Commission of Public Records and the State Records Administrator [1.13.4.1 NMAC - Rp, 1.13.4.1 NMAC, 3/31/2015]

1.13.4.2 SCOPE: all state agencies [1.13.4.2 NMAC - Rp, 1.13.4.2 NMAC, 3/31/2015]

1.13.4.3 STATUTORY AUTHORITY: Public Records Act, Sections 14-3-4 and 14-3-6 NMSA 1978; Uniform Electronic Transactions Act, Section 14-16-18 NMSA 1978 [1.13.4.3 NMAC - Rp, 1.13.4.3 NMAC, 3/31/2015]

1.13.4.4 DURATION: Permanent [1.13.4.4 NMAC - Rp, 1.13.4.4 NMAC, 3/31/2015]

1.13.4.5 EFFECTIVE DATE: March 31, 2015, unless a later date is cited at the end of a section. [1.13.4.5 NMAC - Rp, 1.13.4.5 NMAC, 3/31/2015]

1.13.4.6 OBJECTIVE: To ensure that electronic messages, commonly known as e-mail, that are identified as public records are retained economically and efficiently for as long as they have legal, fiscal, business or historical value. [1.13.4.6 NMAC - Rp, 1.13.4.6 NMAC, 3/31/2015]

1.13.4.7 DEFINITIONS: A. "Administrator" refer to Public Records Act, Section 14-3-2(A) NMSA 1978.

B. "Agency" refer to Public Records Act, Section 14-3-2(B) NMSA 1978.

C. "Archives" refer to 1.13.10.7 NMAC.

D. "Attachments" are electronic file(s) sent along with an email message.

E. "Commission" refer to Public Records Act, Section 14-3-2(C) NMSA 1978.

F. "Disposition" refer to

## 1.13.10.7 NMAC.

**G.** “E-mail” is a text document that is created and delivered in electronic format.

**H.** “E-mail system” is software that transports email messages from one computer user to another.

**I.** “Non-record” refer to 1.15.2.101 NMAC.

**J.** “Public record” refer to Public Records Act, Section 14-3-2(G) NMSA 1978.

**K.** “Records center” refer to Public Records Act, Section 14-3-2(H) NMSA 1978.

**L.** “Records custodian” refer to Public Records Act, Section 14-3-2(I) NMSA 1978.

**M.** “Records retention and disposition schedule” refer to Public Records Act, Section 14-3-2(J) NMSA 1978.

**N.** “Retention” refer to 1.13.10.7 NMAC. [1.13.4.7 NMAC - Rp, 1.13.4.7 NMAC, 3/31/2015]

**1.13.4.8 ABBREVIATIONS:**

**A.** “EDRRDS” stands for education records retention and disposition schedules.

**B.** “ERRDS” stands for executive records retention and disposition schedules.

**C.** “GRRDS” means general records retention and disposition schedules.

**D.** “JRRDS” means judicial records retention and disposition schedule.

**E.** “LRRDS” means legislative records retention and disposition schedules.

**F.** “NMAC” stands for New Mexico administrative code.

**G.** “NMSA” stands for New Mexico statutes annotated.

**H.** “RRDS” means all records retention and disposition schedules. [1.13.4.8 NMAC - Rp, 1.13.4.8 NMAC, 3/31/2015]

**1.13.4.9 PUBLIC RECORDS:**

To comply with the Public Records Act, Section 14-3-1 et seq. NMSA 1978, email must be managed pursuant to established record retention and disposition schedules adopted by the commission and published in EDRRDS, ERRDS, GRRDS, JRRDS and LRRDS (Title 1, Chapters 15 through 20 of the NMAC).

**A.** E-mail and attachments that are public records include but are not limited to:

- (1) policies and directives;
- (2) correspondence or memoranda that contain

final directives, determinations, instructions or guidance regarding public business;

(3) minutes of governing boards, advisory groups, ad hoc committees or work groups developing programs;

(4) messages that authorize, establish or complete a business transaction; or

(5) reports or recommendations such as to legislative committees or produced by task forces or study groups.

**B.** Non-record materials are defined in 1.15.2.101 NMAC. Non-record e-mail may include:

(1) duplicate copies of messages sent to multiple people;

(2) personal messages and announcements not related to official agency business;

(3) transmittal e-messages that do not add substantive information to the attachment(s) being transmitted;

(4) copies of documents distributed for convenience or reference;

(5) announcements of social events, such as retirement parties;

(6) spam (unsolicited, commercial e-mail); and

(7) messages to or from e-mail distribution lists (listserv) not directly related to agency business.

[1.13.4.9 NMAC - Rp, 1.13.4.9 NMAC, 3/31/2015]

**1.13.4.10 MANAGEMENT**

**RESPONSIBILITIES:** The development and implementation of an e-mail management program is the responsibility of each agency records custodian, as defined by the Public Records Act, Section 14-3-2 (B) and (I) NMSA 1978.

It is also management’s responsibility to provide guidance to employees on the proper retention and legal disposition of email. Agency records management programs must clearly define the roles and responsibilities of users in creating, receiving, categorizing, retaining, and disposing or archiving e-mails.

[1.13.4.10 NMAC - Rp, 1.13.4.10 NMAC, 3/31/2015]

**1.13.4.11 RETENTION AND SCHEDULING REQUIREMENTS:**

E-mail classified as a public record must be categorized, filed and retained on the basis of content.

**A.** E-mail and attachments classified as public records shall be categorized under the appropriate record series identified in EDRRDS, ERRDS, GRRDS, JRRDS, LGRRDS or LRRDS

(Title 1, Chapters 15 through 20 of the NMAC).

**B.** An e-mail that is identified as a public record and contains multiple subjects with different retention periods shall be retained according to the longest retention period.

**C.** E-mail scheduled as permanent shall be transferred to the state archives.

**D.** Non-record e-mail may be destroyed without the prior approval of the state records administrator.

[1.13.4.11 NMAC - Rp, 1.13.4.11 NMAC, 3/31/2015]

**1.13.4.12 IDENTIFYING THE OFFICIAL COPY OF RECORD:**

An agency policy for managing e-mail should include regarding how to determine the official copy of record. Typically, the official copy is an e-mail received from an outside source, the sender’s copy or the final e-mail of a thread discussion.

[1.13.4.12 NMAC - N, 3/31/2015]

**1.13.4.13 FILING EMAIL:**

E-mail classified as public records shall be filed either in a manual, paper-based system, or stored electronically. Procedures for filing e-mail will vary based on the agency’s needs and the particular hardware and software in use.

**A.** The department of information technology may provide an agency with a centrally managed enterprise e-mail system. However, the department of information technology’s e-mail system is not designed to be a records management system. Agencies using the department of information technology e-mail system must instruct all public officials using the system how to copy public records from their e-mail account to a records management system.

**B.** E-mail sent and received from a computer outside a state e-mail system that is classified as a public record shall be transferred to an agency’s records management system for proper retention and disposition.

**C.** A process for deletion of non-record e-mail should be included in procedures implemented by an agency.

**D.** Manual filing systems require that e-mail and attachments be printed. Once an e-mail has been printed the e-mail and attachment may be deleted from the e-mail system. The printed copy shall be the official record and must include the name(s) of the sender, all recipients and the date the message was sent.

**E.** Electronic systems used to file e-mail shall adhere to 1.13.3 NMAC, Management of Electronic Records.

[1.13.4.13 NMAC - Rp, 1.13.4.12 NMAC, 3/31/2015]

**1.13.4.14 DISPOSITION:**  
E-mail and attachments that are public records are subject to the provisions in 1.13.10 NMAC, Records Custody, Access, Storage and Disposition and 1.13.30 NMAC, Destruction of Public Records and Non-Records.

**A.** E-mail and attachments identified as public records shall not be destroyed without the prior written approval of the state records administrator (1.13.10 NMAC, Records Custody, Access, Storage and Disposition).

**B.** E-mail potentially relevant to an audit, investigation or litigation shall be preserved, even if the retention period has been met.

**C.** E-mail that is legally confidential shall be marked as confidential.

**D.** Permanent e-mail that is legally confidential and transferred to the state archives must be identified as confidential, and the legal designation for confidentially must be cited.

[1.13.4.14 NMAC - Rp, 1.13.4.14 NMAC, 3/31/2015]

**1.13.4.15 [RESERVED]**  
[1.13.4.15 NMAC - Rp, 1.13.4.15 NMAC, 3/31/2015]

**HISTORY OF 1.13.4 NMAC:**

**History of Repealed Material:**  
1.13.4 NMAC, Records Management Requirements for Electronic Messaging, filed 6/13/2007 - Repealed 3/31/2015.

**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS**

**TITLE 1 GENERAL  
GOVERNMENT ADMINISTRATION  
CHAPTER 15 GENERAL  
RECORDS RETENTION AND  
DISPOSITION SCHEDULES (GRRDS)  
PART 1 GRRDS, GENERAL  
PROVISIONS**

**1.15.1.1 ISSUING AGENCY:**  
State Commission of Public Records  
[1.15.1.1 NMAC - N, 04/13/2015]

**1.15.1.2 SCOPE:** All agencies  
[1.15.1.2 NMAC - N, 04/13/2015]

**1.15.1.3 STATUTORY  
AUTHORITY:** Public Records Act,  
Section 14-3-1 et seq. NMSA 1978  
[1.15.1.3 NMAC - N, 04/13/2015]

**1.15.1.4 DURATION:**  
permanent  
[1.15.1.4 NMAC - N, 04/13/2015]

**1.15.1.5 EFFECTIVE DATE:**  
April 13, 2015, unless a later date is cited at the end of a section.  
[1.15.1.5 NMAC - N, 04/13/2015]

**1.15.1.6 OBJECTIVE:** To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act, Section 14-3-1 et seq. NMSA 1978.  
[1.15.1.6 NMAC - N, 04/13/2015]

**1.15.1.7 DEFINITIONS:**  
**A.** "Administrator" refer to Public Records Act, Section 14-3-2(A) NMSA 1978.

**B.** "Agency" refer to Public Records Act, Section 14-3-2(B) NMSA 1978.

**C.** "Archives" refer to 1.13.10.7 NMAC.

**D.** "Archives and historical services division" refer to 1.13.10.7 NMAC.

**E.** "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

**F.** "Commission" refer to Public Records Act, Section 14-3-2(C) NMSA 1978.

**G.** "Disposition" refer to 1.13.10.7 NMAC.

**H.** "Inactive record" refer to 1.13.10.7 NMAC.

**I.** "Life cycle" refer to 1.13.10.7 NMAC.

**J.** "Microphotography" refer to Public Records Act, Section 14-3-2(D) NMSA 1978.

**K.** "Public record" refer to Public Records Act, Section 14-3-2(G) NMSA 1978.

**L.** "Records retention and disposition schedule" refer to Public Records Act, Section 14-3-2(J) NMSA 1978.

**M.** "Retention" refer to 1.13.10.7 NMAC.  
[1.15.1.7 NMAC - N, 04/13/2015]

**1.15.1.8 ABBREVIATIONS  
AND ACRONYMS:**

**A.** "CFR" stands for code of federal regulations.

**B.** "EDRRDS" stands for education records retention and disposition schedules.

**C.** "ERRDS" stands for executive records retention and disposition schedules.

**D.** "GRRDS" stands for general records retention and disposition schedules.

**E.** "JRRDS" stands for

judicial records retention and disposition schedules.

**F.** "LGRRDS" stands for local government records retention and disposition schedules.

**G.** "LRRDS" stands for legislative records retention and disposition schedules.

**H.** "NMAC" stands for New Mexico administrative code.

**I.** "NMSA" stands for New Mexico statutes annotated.

**J.** "RRDS" stands for records retention and disposition schedules.

**K.** "SRCA" stands for state records center and archives.

**L.** "USC" stands for United States code.

[1.15.1.8 NMAC - N, 04/13/2015]

**1.15.1.9 INSTRUCTIONS:**

**A.** Records retention and disposition schedules identify the types of records maintained by all agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for all agencies. General schedules list records common to all agencies. Each record series will be itemized by NMAC section number and title in the format listed below.

- (1) Program** - describes the function of the records
- (2) Maintenance system** - describes how an agency files (organizes) inactive records
- (3) Description** - describes the purpose and content of a record

**(4) Retention** - defines the length of time records must be kept before they are eligible for destruction or archival preservation

**B.** For records of a general nature, refer to Title 1, Chapter 15 NMAC, General Records Retention and Disposition Schedules. This chapter includes schedules related to administrative, financial, personnel, and medical records.

**C.** Legislative entities shall also refer to Title 1, Chapter 16 NMAC, Legislative Records Retention and Disposition Schedules.

**D.** Judicial entities shall also refer to Title 1, Chapter 17 NMAC, Judicial Records Retention and Disposition Schedules.

**E.** Executive agencies shall also refer to Title 1, Chapter 18 NMAC, Executive Records Retention and Disposition Schedules.

**F.** Counties and

municipalities may also refer to Title 1, Chapter 19 NMAC, Local Government Records Retention and Disposition Schedules.

**G.** Educational institutions shall also refer to Title 1, Chapter 20 NMAC, Education Records Retention and Disposition Schedules.

**H.** Agencies shall notify the records center of any extension of a retention period due to litigation, current claims, audit exception or court order involving a record.

**I.** Record series descriptions are not intended to be exhaustive. Descriptions may include records that do not appear in the files, and conversely, files may include records not listed in the description.

**J.** Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

**K.** Records may be microfilmed or digitized provided a microphotography plan has been approved by the state records administrator. See Section 14-3-17 NMSA 1978; Title 1, Chapter 14 NMAC, Microphotography Systems. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies. See Section 14-1-6 NMSA 1978.

**L.** Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

**M.** For guidance referring to electronic messaging, refer to 1.13.4 NMAC, Records Management Requirements for Electronic Messaging.

**N.** Non-scheduled public records created by an agency in pursuance of law or in connection with the transaction of public business shall have a retention period of permanent until such time the non-scheduled record has been scheduled and a retention period adhering to operational, legal, fiscal, historical or other purposes is established.  
[1.15.1.9 NMAC - N, 04/13/2015]

**HISTORY OF 1.15.1 NMAC:  
[RESERVED]**

**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS**

This is an amendment to the existing 1.15.2 NMAC, GRRDS, General Administrative Records, amending Sections 1-3 & 6-9, effective 04/13/2015.

**1.15.2.1 ISSUING AGENCY:**

[New Mexico Commission of Public Records - State Records Center and Archives] State Commission of Public Records

[8/8/96; 1.15.2.1 NMAC - Rn, 1 NMAC 3.2.90.1, 10/01/2000; A, 04/13/2015]

**1.15.2.2 SCOPE:** All [state] agencies

[8/8/96; 1.15.2.2 NMAC - Rn, 1 NMAC 3.2.90.2, 10/01/2000; A, 04/13/2015]

**1.15.2.3 STATUTORY**

**AUTHORITY:** [Section 14-3-4 NMSA 1978. It shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978. The administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.] Public Records Act, Section 14-3-1 et seq. NMSA 1978  
[8/8/96; 1.15.2.3 NMAC - Rn, 1 NMAC 3.2.90.3, 10/01/2000; A, 1/6/2002; A, 12/19/2011; A, 04/13/2015]

**1.15.2.6 OBJECTIVE:** [To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.] To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act, Section 14-3-1 et seq. NMSA 1978.

[8/8/96; 1.15.2.6 NMAC - Rn, 1 NMAC 3.2.90.6, 10/01/2000; A, 1/6/2002; A, 12/19/2011; A, 04/13/2015]

**1.15.2.7 DEFINITIONS:**

**A.** **"Administrator"** means the state records administrator (Section 14-3-2 NMSA 1978).

**B.** **"Agency"** means any state agency, department, bureau, board, commission, institution or other

organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).

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

**D.** **"Audit"** means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

**E.** **"Commission"** means the state commission of public records (Section 14-3-2 NMSA 1978).

**F.** **"Disposition"** means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

**G.** **"Microphotography"** means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

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

**I.** **"Pending litigation"** means a proceeding in a court of law whose activity is in progress but not yet completed.

**J.** **"Public record"** means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data

contained therein (Section 14-4-2 NMSA 1978):

**K. "Records custodian"** means the statutory head of the agency using or maintaining the records or the custodian's designee.

**L. "Record destruction"** means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

**M. "Records management"** means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

**N. "Records retention and disposition schedule"** means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

**O. "Retention"** means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.] For general definitions applicable to all agencies refer to 1.15.1.7 NMAC.

[8/8/96; 5/19/97; 1.15.2.7 NMAC - Rn, 1 NMAC 3.2.90.7, 10/01/2000; A, 1/6/2002; A, 1/5/2004; A, 12/19/2011; A, 7/23/2012; A, 04/13/2015]

### 1.15.2.8 ABBREVIATIONS AND ACRONYMS:

**A. "CFR"** stands for code of federal regulations:

**B. "EDRRDS"** stands for education records retention and disposition schedules:

**C. "ERRDS"** stands for executive records retention and disposition schedules:

**D. "GRRDS"** stands for general records retention and disposition schedules:

**E. "JRRDS"** stands for judicial records retention and disposition schedules:

**F. "LRRDS"** stands for legislative records retention and disposition schedules:

**G. "LGRRDS"** stands for local government records retention and disposition schedules:

**H. "SRCA"** stands for state records center and archives:

**I. "USC"** stands for United States code.] For general abbreviations and acronyms applicable to all agencies refer to 1.15.1.8 NMAC.

[8/8/96; 5/19/97; 1.15.2.8 NMAC - Rn, 1 NMAC 3.2.90.8, 10/01/2000; N, 1/6/2002; A, 12/19/2011; A, 04/13/2015]

### 1.15.2.9 INSTRUCTIONS:

**A.** Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below:

**(1) Program** - describes the function of the records

**(2) Maintenance system** - describes how an agency files (organizes) records

**(3) Description** - describes the purpose and content of a record

**(4) Retention** - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

**B.** For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.2 NMAC.

**C.** For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

**D.** For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

**E.** For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

**F.** Retention periods shall be extended until six months after all current or pending litigation; current claims; audit exceptions or court orders involving a record have been resolved or concluded.

**G.** The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

**H.** Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

**I.** Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978),

or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

**J.** Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

**K.** Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

**L.** Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.] For general instructions applicable to all agencies refer to 1.15.1.9 NMAC.

[1.15.2.9 NMAC - Rn & A, 1 NMAC 3.2.90.8, 1/6/2002; A, 1/5/2004; A, 12/19/2011; A, 7/23/2012; A, 04/13/2015]

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to the existing 1.15.4 NMAC, GRRDS, General Financial Records, amending Sections 1-3 & 6-9 and repealing Section 10, effective 04/13/2015.

### 1.15.4.1 ISSUING AGENCY:

[New Mexico Commission of Public Records - State Records Center and Archives] State Commission of Public Records

[8/8/96; 1.15.4.1 NMAC - Rn, 1 NMAC 3.2.90.1, 10/01/2000; A, 04/13/2015]

### 1.15.4.2 SCOPE: All [state] agencies

[8/8/96; 1.15.4.2 NMAC - Rn, 1 NMAC 3.2.90.2, 10/01/2000; A, 04/13/2015]

### 1.15.4.3 STATUTORY AUTHORITY:

[Section 14-3-6 NMSA 1978. Administrator: duties. The administrator shall establish a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records. The administrator shall establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the public records act. Records disposal schedules shall be files with the librarian of the supreme court library, and shall not become effective until thirty days after the filing date.] Public Records Act, Section 14-3-1 et seq. NMSA 1978

[8/8/96; 1.15.4.3 NMAC - Rn, 1 NMAC 3.2.90.3, 10/01/2000; A, 04/13/2015]

### 1.15.4.6 OBJECTIVE:

A. To establish a records management program for the application of and efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records (Section 14-3-6 NMSA 1978).

B. To establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the public records act (Section 14-3-6 NMSA 1978); To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act, Section 14-3-1 et seq. NMSA 1978.

[8/8/96; 1.15.4.6 NMAC - Rn, 1 NMAC 3.2.90.6, 10/01/2000; A, 04/13/2015]

### 1.15.4.7 DEFINITIONS:

A. "Administrator" means the state records administrator. (Section 14-3-2, NMSA 1978)

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

C. "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

D. "Commission" means the state commission of public records. (Section 14-3-2, NMSA 1978)

E. "Microphotography" means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

F. "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.

G. "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

H. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

I. "Records retention period" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

J. "Records retention schedule" means a document prepared as part of a records retention program that lists the period of time for retaining records.

K. "Public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein. (Section 14-4-2, NMSA 1978)

L. "Non-records" means extra copies of documents kept solely for convenience of reference, stocks of

publications, records not usually included within the scope of the official records of an agency or government entity, and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.] For general definitions applicable to all agencies refer to 1.15.1.7 NMAC.

[5/19/97; 8/8/96; 1.15.4.7 NMAC - Rn, 1 NMAC 3.2.90.7, 10/01/2000; A, 12/20/2010; A, 04/13/2015]

### 1.15.4.8 [INSTRUCTIONS:

A. Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are two types of records retention and disposition schedules created by the state records center and archives. General schedules that list records common to all agencies and executive schedules which are specific to an agency. Each record series will be represented in the format listed below:

- (1) Program - describes the function of the records
- (2) Maintenance system - describes how an agency files (organizes) records
- (3) Description - describes the purpose and content of a record
- (4) Retention - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

B. For records of an administrative nature, refer to the Records Retention and Disposition Schedule for General Administrative Records, 1.15.2 NMAC.

C. For records of a financial nature, refer to the Records Retention and Disposition Schedule for General Financial Records, 1.15.4 NMAC.

D. For records of a personnel nature, refer to the Records Retention and Disposition Schedule for General Personnel Records, 1.15.6 NMAC.

E. For records of a medical nature, refer to the Records Retention and Disposition Schedule for General Medical Records, 1.15.8 NMAC.

F. Retention periods

shall be extended until six months after all current or pending litigation, current claims, audit exceptions or court orders involving a record have been resolved or concluded.

**G.** The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

**H.** Confidentiality is denoted for each file but all materials in a file may be confidential. Refer to note. Where portions of file may be confidential, refer to legal counsel for agency.

**I.** Access to confidential documents or confidential files shall be only by authorization of agency or attorney general or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

**J.** All records, papers or documents may be photographed, microfilmed, digitized, scanned or reproduced on film in accordance with standards promulgated by the state records administrator. All imaging, microfilm or computer output microfilm systems shall be approved by the state records administrator prior to the destruction of source documents (Section 14-3-15 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. (Section 14-1-5, 14-1-6 NMSA 1978)

**K.** Data processing and other machine readable records. Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention & disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said record shall be electronically over-written on machine readable media on which it is stored (or media destroyed). (See also 1.13.7 NMAC: PERFORMANCE GUIDELINES FOR THE LEGAL ACCEPTANCE OF PUBLIC RECORDS PRODUCED BY INFORMATION TECHNOLOGY SYSTEMS);

**L.** Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to

retention requirements established in both general and executive records retention and disposition schedules.] **ABBREVIATIONS AND ACRONYMS:** For abbreviations and acronyms applicable to all agencies refer to 1.15.1.8 NMAC.

**A.** "SHARE" stands for statewide human resources, accounting and financial management reporting. [5/19/97; 8/8/96; 1.15.4.8 NMAC - Rn, 1 NMAC 3.2.90.8, 10/01/2000; A, 12/20/2010; Repealed, 04/13/2015; 1.15.4.8 NMAC - Rn & A, 1.15.4.9 NMAC, 04/13/2015]

**1.15.4.9 [ABBREVIATIONS AND ACRONYMS:**

**A.** "FCD" stands for financial control division of the department of finance and administration.

**B.** "NMSA" stands for New Mexico statutes annotated.

**C.** "SHARE" stands for statewide human resources, accounting and financial management reporting system.] **INSTRUCTIONS:** For general instructions applicable to all agencies refer to 1.15.1.9 NMAC.

[1.15.4.9 NMAC - N, 12/20/2010; Repealed, 04/13/2015; 1.15.4.9 NMAC - Rn & A, 1.15.4.8 NMAC, 04/13/2015]

**1.15.4.10 [STATEWIDE ACCOUNTING:** The FCD of the New Mexico department of finance and administration is mandated by statute Sections 6-5-1 through 6-5-6, NMSA 1978 to maintain a uniform statewide accounting system. The system implemented by FCD is the SHARE system. The system consists of a number of integrated financial and human resource modules. State statute also requires state agencies to implement internal accounting controls designed to prevent accounting errors and violations of state and federal law and rules related to financial matters. This schedule applies to all state agencies that process financial transactions through SHARE.]

**[RESERVED]**

[1.15.4.10 NMAC - N, 12/20/2010; Repealed, 04/13/2015]

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to the existing 1.15.6 NMAC, GRRDS, General Personnel Records, amending Sections 1-3 & 6-9, effective 4/13/2015.

**1.15.6.1 ISSUING AGENCY:** [New Mexico Commission of Public Records State Records Center and Archives]

State Commission of Public Records [8/8/96; 1.15.6.1 NMAC - Rn, 1 NMAC 3.2.90.1, 10/01/2000; A, 04/13/2015]

**1.15.6.2 SCOPE:** [general-personnel records] All agencies [8/8/96; 1.15.6.2 NMAC - Rn, 1 NMAC 3.2.90.2, 10/01/2000; A, 04/13/2015]

**1.15.6.3 STATUTORY AUTHORITY:** [Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.] Public Records Act, Section 14-3-1 et seq. NMSA 1978

[8/8/96; 1.15.6.3 NMAC - Rn, 1 NMAC 3.2.90.3, 10/01/2000; A, 12/31/2012; A, 04/13/2015]

**1.15.6.6 OBJECTIVE:** [To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.] To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act, Section 14-3-1 et seq. NMSA 1978.

[8/8/96; 1.15.6.6 NMAC - Rn, 1 NMAC 3.2.90.6, 10/01/2000; A, 12/31/2012; A, 04/13/2015]

**1.15.6.7 DEFINITIONS:**

**A.** "Administrator" means the state records administrator (Section 14-3-2 NMSA 1978):

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

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

**D.** "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

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

**F.** “**Disposition**” means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

**G.** “**Microphotography**” means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

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

**I.** “**Pending litigation**” means a proceeding in a court of law whose activity is in progress but not yet completed.

**J.** “**Public record**” means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).

**K.** “**Records custodian**” means the statutory head of the agency using or maintaining the records or the custodian’s designee.

**L.** “**Record destruction**” means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

**M.** “**Records management**” means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

**N.** “**Records retention**

**and disposition schedule**” means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

**O.** “**Retention**” means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.] For general definitions applicable to all agencies refer to 1.15.1.7 NMAC.

[8/8/96; 5/19/97; 1.15.6.7 NMAC - Rn, 1 NMAC 3.2.90.7, 10/01/2000; A, 12/31/2012; A, 04/13/2015]

#### 1.15.6.8 ABBREVIATIONS AND ACRONYMS:

**A.** “**CFR**” stands for code of federal regulations.

**B.** “**EDRRDS**” stands for education records retention and disposition schedules.

**C.** “**ERRDS**” stands for executive records retention and disposition schedules.

**D.** “**GRRDS**” stands for general records retention and disposition schedules.

**E.** “**JRRDS**” stands for judicial records retention and disposition schedules.

**F.** “**LRRDS**” stands for legislative records retention and disposition schedules.

**G.** “**LGRRDS**” stands for local government records retention and disposition schedules.

**H.** “**SRCA**” stands for state records center and archives.

**I.** “**USC**” stands for United States code.] For general abbreviations and acronyms applicable to all agencies refer to 1.15.1.8 NMAC. [8/8/96; 5/19/97; 1.15.6.8 NMAC - Rn, 1 NMAC 3.2.90.8, 10/01/2000; 1.15.6.8 NMAC - N, 12/31/2012; A, 04/13/2015]

#### 1.15.6.9 INSTRUCTIONS:

**A.** Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below:

**(1) Program** – describes the function of the records

**(2) Maintenance system** – describes how an agency files (organizes) records

**(3) Description** – describes the purpose and content of a record

**(4) Retention** – defines the length of time records must be kept before they are eligible for destruction or archival preservation.

**B.** For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.2 NMAC.

**C.** For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

**D.** For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

**E.** For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

**F.** Retention periods shall be extended until six months after all current or pending litigation; current claims; audit exceptions or court orders involving a record have been resolved or concluded.

**G.** The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are not listed in the description, and similarly; not every file will contain an example of each document listed in the description.

**H.** Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

**I.** Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

**J.** Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

**K.** Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

**L.** Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.

**M.** Non-scheduled public records created by an agency in pursuance of law or in connection with the transaction of public business shall have a retention period of permanent until such time the non-scheduled record has been scheduled and a retention period adhering to operational, legal, fiscal, historical or other purposes is established. For general instructions applicable to all agencies refer to 1.15.1.9 NMAC.

[1.15.6.9 NMAC - Rn & A, 1.15.6.8 NMAC, 12/31/2012; A, 04/13/2015]

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to the existing 1.15.8 NMAC, GRRDS, General Medical Records, amending Sections 1-3 & 6-9, effective 04/13/2015.

**1.15.8.1 ISSUING AGENCY:** [New Mexico Commission of Public Records State Records Center and Archives] State Commission of Public Records [8/8/96; 1.15.8.1 NMAC - Rn, 1 NMAC 3.2.90.1, 10/01/2000; A, 04/13/2015]

**1.15.8.2 SCOPE:** [all state agencies, local government entities, college, universities, and public schools] All

agencies [7/16/96; 1.15.8.2 NMAC - Rn, 1 NMAC 3.2.90.2, 10/01/2000; A, 04/13/2015]

**1.15.8.3 STATUTORY AUTHORITY:** [Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.] Public Records Act, Section 14-3-1 et seq. NMSA 1978

[8/8/96; 1.15.8.3 NMAC - Rn, 1 NMAC 3.2.90.3, 10/01/2000; A, 04/30/2012; A, 04/13/2015]

**1.15.8.6 OBJECTIVE:** [To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.] To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act, Section 14-3-1 et seq. NMSA 1978.

[8/8/96; 1.15.8.6 NMAC - Rn, 1 NMAC 3.2.90.6, 10/01/2000; A, 04/30/2012; A, 04/13/2015]

**1.15.8.7 DEFINITIONS:**  
**A. "Administrator"** means the state records administrator (Section 14-3-2 NMSA 1978).  
**B. "Agency"** means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).

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

**D. "Audit"** means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

**E. "Commission"** means the state commission of public records (Section 14-3-2 NMSA 1978).

**F. "Disposition"** means final action that puts into effect the results

of an appraisal decision for a series of records (i.e., transfer to archives or destruction):

**G. "Microphotography"** means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

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

**I. "Pending litigation"** means a proceeding in a court of law whose activity is in progress but not yet completed.

**J. "Public record"** means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).

**K. "Records custodian"** means the statutory head of the agency using or maintaining the records or the custodian's designee.

**L. "Record destruction"** means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

**M. "Records management"** means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

**N. "Records retention and disposition schedule"** means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing

authorization for their disposition:

**O.** **“Retention”** means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.] For general definitions applicable to all agencies refer to [1.15.1.7 NMAC](#).

[8/8/96; 5/19/97; 1.15.8.7 NMAC - Rn, 1 NMAC 3.2.90.7, 10/01/2000; A, 04/30/2012; A, 04/13/2015]

### 1.15.8.8 ABBREVIATIONS AND ACRONYMS:

**A.** **“CFR”** stands for code of federal regulations:

**B.** **“EDRRDS”** stands for education records retention and disposition schedules:

**C.** **“ERRDS”** stands for executive records retention and disposition schedules:

**D.** **“GRRDS”** stands for general records retention and disposition schedules:

**E.** **“JRRDS”** stands for judicial records retention and disposition schedules:

**F.** **“LRRDS”** stands for legislative records retention and disposition schedules:

**G.** **“LGRDRS”** stands for local government records retention and disposition schedules:

**H.** **“SRCA”** stands for state records center and archives:

**I.** **“USC”** stands for United States code.] For general abbreviations and acronyms applicable to all agencies refer to [1.15.1.8 NMAC](#). [8/8/96; 5/19/97; 1.15.8.8 NMAC - Rn, 1 NMAC 3.2.90.8, 10/01/2000; 1.15.8.8 NMAC - N, 04/30/2012; A, 04/13/2015]

### 1.15.8.9 INSTRUCTIONS:

**A.** Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below:

**(1) Program** - describes the function of the records

**(2) Maintenance system** - describes how an agency files (organizes) records

**(3) Description** - describes the purpose and content of a

record

**(4) Retention** - defines the length of time records must be kept before they are eligible for destruction or archival preservation:

**B.** For records of a general administrative nature, refer to the GRRDS, General Administrative, [1.15.2 NMAC](#):

**C.** For records of a financial nature, refer to the GRRDS, General Financial, [1.15.4 NMAC](#):

**D.** For records of a personnel nature, refer to the GRRDS, General Personnel, [1.15.6 NMAC](#):

**E.** For records of a medical nature, refer to the GRRDS, General Medical, [1.15.8 NMAC](#):

**F.** Retention periods shall be extended until six months after all current or pending litigation; current claims; audit exceptions or court orders involving a record have been resolved or concluded:

**G.** The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description:

**H.** Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency:

**I.** Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order:

**J.** Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978):

**K.** Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject

to the same confidentiality and access restrictions as paper records. See also [1.13.70 NMAC](#), Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems:

**L.** Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content ([1.13.4 NMAC](#), Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.] For general instructions applicable to all agencies refer to [1.15.1.9 NMAC](#). [1.15.8.9 NMAC - N, 04/30/2012; A, 04/13/2015]

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

### SYNOPSIS

#### 1.18.369 NMAC, ERRDS, State Commission of Public Records

**1. Subject matter:** 1.18.369 NMAC, Executive Records Retention and Disposition Schedule for the State Commission of Public Records. This is an amendment to 1.18.369 NMAC, ERRDS, State Commission of Public Records, amending Sections 7-9, 30, 32, 41 & 42; repealing Sections 37-40 & 72; and adding Sections 43 and 44. The records retention and disposition schedule is a timetable for the management of specific records series of the State Commission of Public Records. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the

Records Management Division of the State Commission of Public Records and approved by the State Records Administrator of the State Commission of Public Records.

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

**3. Interests of persons affected:** Interests include the records produced and maintained by the State Commission of Public Records.

**4. Geographical applicability:** Geographical applicability is limited to areas within the state of New Mexico covered by the State Commission of Public Records. Any person or entity outside the covered geographical area that conducts business with or through the State Commission of Public Records may also be affected by this rule.

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

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

**7. Effective date of this rule:** April 13, 2015.

**Certification**

As counsel for the State Commission of Public Records, I certify that this synopsis provides adequate notice of the content of 1.18.369 NMAC, ERRDS, State Commission of Public Records.

/ Jennifer Salazar/ /3/9/2015/  
State Commission of Date  
Public Records  
Legal Representative

**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS**

**SYNOPSIS**

**1.18.521 NMAC, ERRDS, Energy,  
Minerals and Natural Resources  
Department**

**1. Subject matter:** 1.18.521 NMAC, Executive Records Retention and Disposition Schedule for the Energy, Minerals and Natural Resources Department. This is an amendment to 1.18.521 NMAC, ERRDS, Energy, Minerals and Natural Resources Department amending Sections 1, 3, 6-9, 26, 27, 29, 32-35 & 41; repealing Sections 28, 30, 31, 37-40; adding Sections 24, 25 & 42. The records retention and disposition schedule is a timetable for the management of specific records series of the Energy, Minerals and Natural Resources Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Commission of Public Records and approved by the State Records Administrator, the State Commission of Public Records and the Energy, Minerals and Natural Resources Department.

**2. Persons affected:** The persons affected are the record producing and record keeping personnel of the Energy, Minerals and Natural Resources Department. Persons and entities normally subject to the rules and regulations of the Energy, Minerals and Natural Resources Department may also be directly or indirectly affected by this rule.

**3. Interests of persons affected:** Interests include the records produced and maintained by the Energy, Minerals and Natural Resources Department.

**4. Geographical applicability:** Geographical applicability is limited to areas within the State of New Mexico covered by the Energy, Minerals and Natural Resources Department. Any person or entity outside the covered geographical area that conducts business with or through the Energy, Minerals and Natural Resources Department may also be affected by this rule.

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

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

**7. Effective date of this rule:** April 13, 2015.

**Certification**

As counsel for the State Commission of Public Records, I certify that this synopsis provides adequate notice of the content of 1.18.521 NMAC, ERRDS, Energy, Minerals and Natural Resources Department.

/ Jennifer Salazar/ /3/9/2015/  
State Commission of Date  
Public Records  
Legal Representative

**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS**

**SYNOPSIS**

**1.18.665 NMAC, ERRDS, Department of  
Health**

**1. Subject matter:** 1.18.665 NMAC, Executive Records Retention and Disposition Schedule for the Department of Health. This is an amendment to 1.18.665 NMAC, ERRDS, Department of Health amending Sections 1, 3, 6-9, 1801 & 1802 and adding Sections 1005-1011, 1070-1076, 1803 & 1804. The records retention and disposition schedule is a timetable for the management of specific records series of the Department of Health. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Commission of Public Records and approved by the State Records

Administrator, the State Commission of Public Records and the Department of Health.

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

**3. Interests of persons affected:** Interests include the records produced and maintained by the Department of Health.

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

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

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

**7. Effective date of this rule:** April 13, 2015.

#### Certification

As counsel for the State Commission of Public Records, I certify that this synopsis provides adequate notice of the content of 1.18.665 NMAC, ERRDS, Department of Health.

/Jennifer Salazar/ /3/9/2015/  
State Commission of Public Records Date  
Legal Representative

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

### SYNOPSIS

#### 1.18.926 NMAC, ERRDS, School for the Blind and Visually Impaired

**1. Subject matter:** 1.18.926 NMAC, Executive Records Retention and

Disposition Schedules for the School for the Blind and Visually Impaired. This is an amendment to 1.18.926 NMAC, ERRDS, School for the Blind and Visually Impaired amending Sections 1, 3, 6 - 9 and adding Sections 31-33. The records retention and disposition schedules are a timetable for the management of specific records series of the School for the Blind and Visually Impaired. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Commission of Public Records and approved by the State Records Administrator, the State Commission of Public Records and the School for the Blind and Visually Impaired.

**2. Persons affected:** The persons affected are the record producing and record keeping personnel of the School for the Blind and Visually Impaired. Persons and entities normally subject to the rules and regulations of the School for the Blind and Visually Impaired may also be directly or indirectly affected by this rule.

**3. Interests of persons affected:** Interests include the records produced and maintained by the School for the Blind and Visually Impaired.

**4. Geographical applicability:** Geographical applicability is limited to areas within the State of New Mexico covered by the School for the Blind and Visually Impaired. Any person or entity outside the covered geographical area that conducts business with or through the School for the Blind and Visually Impaired may also be affected by this rule.

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

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

**7. Effective date of this rule:** April 13, 2015.

#### Certification

As counsel for the State Commission of Public Records, I certify that this synopsis provides adequate notice of the content of 1.18.926 NMAC, ERRDS, School for the Blind and Visually Impaired.

/Jennifer Salazar/ /3/9/2015/  
State Commission of Public Records Date  
Legal Representative

## REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

### TITLE 14 HOUSING AND CONSTRUCTION CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVISIONS PART 9 CODE BOND DETERMINATIONS

**14.5.9.1 ISSUING AGENCY:** Construction Industries Division of the Regulation and Licensing Department. [14.5.9.1 NMAC - N, 04/30/15]

**14.5.9.2 SCOPE:** This rule applies to claims against a licensee's code bond. [14.5.9.2 NMAC - N, 04/30/15]

**14.5.9.3 STATUTORY AUTHORITY:** Pursuant Section 60-13-49 NMSA 1978. [14.5.9.3 NMAC - N, 04/30/15]

**14.5.9.4 DURATION:** Permanent. [14.5.9.4 NMAC - N, 04/30/15]

**14.5.9.5 EFFECTIVE DATE:** April 30, 2015, unless a later date is cited at the end of a section. [14.5.9.5 NMAC - N, 04/30/15]

**14.5.9.6 OBJECTIVE:** To establish the process in which an indemnitee makes a claim against a licensee's code bond. [14.5.9.6 NMAC - N, 04/30/15]

**14.5.9.7 DEFINITIONS:**  
**A. Authority having jurisdiction (AHJ):** The entity with permitting authority in the political subdivision where the property is located. This may be the division or a building department of a municipality or county.  
**B. Code:** means the statewide construction codes adopted by rule by the commission.

**C. Code bond:** means the construction license bond required in Section 60-13-49 NMSA 1978, for correction of code violations.

**D. Certificate of uncorrected violations (CUV):** means a certificate prepared by a division employee confirming that an uncorrected code violation(s) exists and that the code bond shall be used to correct the code violation(s).

**E. Code violation determination report (CVD):** means a report prepared by a division employee that identifies code violations that must be brought into compliance.

**F. Indemnitee:** means the purchaser of construction services, who is the owner or owner’s agent of the improvement that is subject to the uncorrected code violation.

**G. Responsible party:** means the contractor that performed the work that is alleged or determined to be in violation of the code. In situations where the division is unable to determine which contractor is responsible for a code violation, the prime contractor or the contractor that pulled the permit is the responsible party.

**H. Surety:** means the insurance company that underwrites a contractor’s license code bond and is authorized by the New Mexico department of insurance to transact business in New Mexico. [14.5.9.7 NMAC - N, 04/30/15]

**14.5.9.8 REQUIREMENTS FOR FILING A CLAIM:**

**A. Rights of indemnitee:** The filing of a claim with the division serves to show an indemnitee established their potential right to payment on a claim within the two-year time limitation set forth in Section 60-13-49, NMSA 1978. It further serves to establish priority of claim should the licensee have more than one claim on the code bond simultaneously. Acceptance by the division of a claim does not confirm if a code violation has actually occurred, nor if the licensee was performing work within the scope of the license issued by division, does not infer any right to a payout on the claim, nor does it require a surety to hold any funds in reserve to pay a potential claim. The surety may close the claim file after a period of inactivity on the claim, but any such closure shall not serve to eliminate the right of the indemnitee to re-activate the claim upon receipt of a certificate of uncorrected code violation from the construction industries division.

**B. Eligibility requirements:** a request for investigation of a potential violation of a New Mexico code must meet the following minimum

requirements for acceptance.

(1) The request from the indemnitee must be on a form provided by the division.

(2) The request from the indemnitee must be received by the division within two years from the date the final inspection occurred or certificate of occupancy was issued, whichever is earlier.

(3) The work performed must have been completed by a properly licensed contractor.

(4) The indemnitee must agree to allow the responsible party the opportunity to correct the alleged code violation. Failure to agree to allow the licensee access for the purpose of performing corrective work shall result in dismissal of indemnitee’s claim without further investigation.

[14.5.9.8 NMAC - N, 04/30/15]

**14.5.9.9 CODE VIOLATION DETERMINATIONS:**

**A. Determinations:**

(1) CVDs will be made by a division inspector and a chief inspector will review and approve of the CVDs made by the division inspector. The division inspector’s determination may be based on a municipality’s or county’s building department findings.

(2) If the division issues a CVD, the licensee must be afforded the opportunity to correct the code violations in the time allotted by the division before a request for a CUV can be filed with the division.

(3) Damages as a result of a code violation are not included in the corrective work for a code violation except in cases of minor demolition to gain access to perform the corrective work.

(4) Abandoned or incomplete projects are not indemnified by the code bond as these are contract issues not governed by the Construction Industries Licensing Act (CILA).

**B. Appeals:** A licensee may appeal one or all of the violations identified in the CVD by sending a written appeal that specifies which violation(s) is being appealed to the director within 10 calendar days of receipt of the CVD. A licensee may choose to appeal one or more violation determinations while also choosing to correct other violation determinations that the licensee does not wish to appeal. Upon the receipt of a timely written appeal, the director shall uphold or overturn the CVD within 30 calendar days. If the director upholds a CVD, the licensee may appeal the director’s decision to the commission by sending a written request to the commission within 20 days of receipt of the director’s decision. A timely written appeal to the commission shall be heard at

the commission’s next regularly scheduled meeting. The commission’s decision is final and not subject to judicial review.

**C. Corrected code violations:** If at any time, a licensee corrects violations identified in a CVD to the satisfaction of a division inspector, the division shall administratively dismiss the code bond determination request. [14.5.9.9 NMAC - N, 04/30/15]

**14.5.9.10 CERTIFICATES OF UNCORRECTED VIOLATIONS:**

**A. Cause for issuance of a CUV:** If a licensee refuses or fails to correct code violations listed on a CVD, whether the refusal or failure to correct occurs at the time of the initial issuance of the CVD, after multiple corrections have been attempted or after a licensee exhausts all appeal rights provided under Subsection B of 14.5.9.9 NMAC, the division shall issue a CUV to the surety as well as the indemnitee and the appropriate licensee(s).

**B. Notice of CUV:** The CUV shall include the following information:

- (1) name and mailing address of the surety company holding the code compliance bond at the time the licensee(s) refused to correct the code violation;
- (2) name and mailing address(es) of the licensee(s) that committed the uncorrected code violation(s);
- (3) name and mailing address of the indemnitee;
- (4) bond number for the responsible party’s bond in effect at the time the licensee refused to correct the code violation(s);
- (5) all license classifications held by the licensee(s);
- (6) address of the construction project where the uncorrected code violation(s) is located;
- (7) date the certificate of occupancy was issued or the final inspection was conducted by the AHJ;
- (8) a description of each uncorrected code violation; and
- (9) the following statement: “this notice serves to inform the surety company, the indemnitee and the licensee that the specified licensee(s) has refused or failed to correct a code violation(s) and therefore the construction industries division, under Section 60-13-49 NMSA 1978, is informing the surety that the code bond must be released for the sole purpose of correcting the code violation(s) identified herein. The pay-out by the surety company is limited to the amount of the code bond, which is set by statute at \$10,000.00. If the actual costs to correct the code violation(s) exceeds \$10,000.00,

the indemnitee is responsible for those costs. The requirements of the surety and indemnitee are listed under 14.5.9 NMAC. The indemnitee is also notified that the claim may be denied if they fail to meet the requirements listed in 14.5.9.10 NMAC.”

**C. Responsibility of indemnitee:** The indemnitee is responsible for meeting the following requirements; failure to do so may result in the surety denying the claim.

(1) The indemnitee shall obtain three estimates from properly licensed contractors. The estimates shall only be based on the costs to correct the code violations listed in the CUV. If the indemnitee wishes to contract for additional work, that work must be a separate agreement, the costs of which will not be included in the estimate to repair the code violations listed in the CUV. The surety company has the option to release no more than the costs listed in the lowest of the three estimates. The indemnitee can choose any of the three contractors, or a separate properly licensed contractor not included in the three estimates, however, the indemnitee will be responsible for any costs above the amount the surety company releases.

(2) The indemnitee shall provide the three estimates to the surety company as well as the division. The division will ensure that the all three contractors are licensed and have the right license classification(s) for the work required to correct the code violations listed in the CUV. The division will notify the surety company and the indemnitee if each of the three contractors is properly licensed. If a contractor other than the three used for the original estimates is selected by the indemnitee, the indemnitee must submit that contractor’s estimate to the division for verification that the contractor is licensed and possesses the necessary licensing classifications before work begins. The surety company shall release no more than the costs listed in the lowest of the three estimates.

**D. Responsibility of contractor retained by indemnitee:** The contractor is responsible for pulling all necessary permits and calling for inspections on the work performed.

**E. Six-month time limitation to correct code violations:** Once the CUV is issued, the indemnitee has a period of six months to ensure that all code violations identified in the CUV are corrected and pass inspection by the division or AHJ. Failure to meet the requirements listed in Subsection C of 14.5.9.10 NMAC in a period of six months may result in the surety denying the claim.

**F. Release of the code bond:** If all requirements of this section

are met, the surety company shall release the amount of the bond consistent with Paragraph (1) of Subsection C of 14.5.9.10 NMAC to correct the code violations as listed in the CUV by issuing a check to the contractor that performed the corrections after the division or AHJ has confirmed that the corrections meet code. The surety company shall inform the division when the code bond is released.

[14.5.9.10 NMAC - N, 04/30/15]

**14.5.9.11 Disciplinary Referral:**

Requests for release of the code bond shall be processed before discipline when possible. After the issuance of a CUV, or if additional violations are discovered, the division will file an administrative disciplinary complaint under 14.5.8 NMAC based on the underlying code violation(s) and the matter will be submitted to the commission for consideration of disciplinary action. Within 180 calendar days, the licensee will receive a notice of investigation (NOI).

[14.5.9.11 NMAC - N, 04/30/15]

**14.5.9.12 LIMITATIONS ON CODE BONDS:**

**A.** It is possible to have multiple violations on a single project. Only one code bond can be used to indemnify a particular code violation listed in a CUV per trade bureau jurisdiction. If there are multiple violations by multiple licensees, only the code bond belonging to the responsible party can be used to indemnify the code violation.

**B.** Legal fees and other related costs are not collectable from the code bond disbursements. Any disputes not covered by the code bond must be resolved through civil litigation in a court of law or by means of mediation, neither of which the division or the surety can be a party.

**C.** Priority on claims against a code bond is established by the person that is first in time to file a completed form provided by the division requesting a code bond determination regardless of when the work occurred.

[14.5.9.12 NMAC - N, 04/30/15]

**14.5.9.13 EFFECT OF**

**PAYMENT OF A CLAIM:** Upon receipt of notice from surety of payment of a claim against a bond, the division shall notify the licensee of the payment, and the licensee shall have 30 days to provide the division with proof of financial responsibility as required by Section 60-13-49 NMSA 1978.

[14.5.9.13 NMAC - N, 04/30/15]

**HISTORY OF 14.5.9 NMAC:**  
[RESERVED]

**REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 7 MASSAGE THERAPISTS**

**PART 8 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS**

**16.7.8.1 ISSUING AGENCY:** Regulation and Licensing Department, Massage Therapy Board  
[16.7.8.1 NMAC - N, 3/31/15]

**16.7.8.2 SCOPE:** This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.  
[16.7.8.2 NMAC - N, 3/31/15]

**16.7.8.3 STATUTORY AUTHORITY:** These rules are promulgated pursuant to Section 61-1-34 of the Uniform Licensing Act, NMSA 1978  
[16.7.8.3 NMAC - N, 3/31/15]

**16.7.8.4 DURATION:** Permanent.  
[16.7.8.4 NMAC - N, 3/31/15]

**16.7.8.5 EFFECTIVE DATE:** March 31, 2015.  
[16.7.8.5 NMAC - N, 3/31/15]

**16.7.8.6 OBJECTIVE:** The purpose of this part is to expedite licensure for military service members, spouses and veterans seeking licensure to practice under Chapter 61, Article 12C NMSA 1978.  
[16.7.8.6 NMAC - N, 3/31/15]

**16.7.8.7 DEFINITIONS:**  
**A. “Military service member”** means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

**B. “Recent Veteran”** means a person who has received an honorable discharge or separation from military service within the two (2) years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.  
[16.7.8.7 NMAC - N, 3/31/15]

**16.7.8.8 APPLICATION REQUIREMENTS:**

**A.** Applications for registration shall be completed on a form provided by the board:

**B.** A completed application

shall include:

- (1) The required fee as outlined in 16.7.3 NMAC;
- (2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license applied for pursuant to Chapter 61, Article 12C NMSA 1978; and

(3) Proof of honorable discharge (DD214), military ID card, or accepted proof of military spouse status.  
[16.7.8.8 NMAC - N, 3/31/15]

**16.7.8.9 RENEWAL REQUIREMENTS:**

A license issued pursuant to this section shall not be renewed unless the license holder submits the following:

- A. A completed renewal application accompanied by the required documents listed under 16.7.12 NMAC;
- B. Payment of required renewal fees under 16.7.3 NMAC; and
- C. Documentation required for initial licensure under 16.7.4 NMAC.  
[16.7.8.9 NMAC - N, 3/31/15]

**HISTORY OF 16.7.8 NMAC:**

**REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE**

This is an amendment to 16.7.1 NMAC, Sections 8, 9, 10, 11, 12, and 13, effective 3/31/15.

**16.7.1.8 SCOPE OF PRACTICE:**

Assess and treat soft tissues and their dysfunctions for therapeutic purposes primarily for comfort and relief of pain. The health care service includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion, and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Massage therapy is the deformation of soft tissues from more than one (1) anatomical point by manual or mechanical means to accomplish homeostasis or pain relief in the tissues being deformed, as defined in the Massage Therapy Practice Act, Paragraph (E) Section 61-12C-3 NMSA 1978.  
[16.7.1.8 NMAC - N, 3/31/15]

**16.7.1.9 MASSAGE THERAPY LICENSE AND REGISTRATION:**

**A. License/registration display:**

- (1) A current license/registration must be displayed and must be visible to the public in the principal place of employment or business of the massage therapist or registrant.
- (2) A licensee/registrant must practice massage therapy or provide massage therapy training under the name inscribed on the license or registration.

**B. Duplicate/replacement license or wall certificate:**

- (1) The board will issue a duplicate/replacement license or [wall certificate] upon receipt of a written request which states the reason for such duplication or replacement (for example: it was lost, stolen, destroyed; or name was legally changed). A replacement license is available for a fee as defined in Subsection D of 16.7.3.8 NMAC; and
- (2) The records of the board are to reflect that a duplicate/replacement license or wall certificate was issued.

**C. Name change:**

- (1) Any name change requires that a replacement license or registration be issued. The board will issue a replacement license or registration upon receipt of a copy of the legal document (*only* marriage certificate, divorce decree or court order accepted). A change of name form is available from the board's website or from the board office; and
- (2) A licensee or registrant not wishing to request a replacement license or registration must continue to use the name as initially issued on the license or registration, until the requirements of Paragraph (1) of Subsection C of 16.7.1.8 NMAC, above have been met.

**D. Address change:**

Licenses and registrations are mailed to the license or registration holder's last mailing address as noted in the records of the board. Therefore, licensees and registrants shall maintain a current mailing address with the board by immediately notifying the board office in writing whenever a change of an address has occurred. A change of address form is available from the board's website or from the board office.

**E. License and registration property of the board:**

All licenses and registrations are the property of the board and will immediately be returned to the board upon request.  
[10-9-92; 7-28-96; 12-24-99; 16.7.1.8 NMAC - Rn & A, 16 NMAC 7.1.8, 06-28-01; A, 06-24-05; 16.7.1.9 NMAC - Rn & A, 16.7.1.8 NMAC, 3/31/15]

**16.7.1.10 INSPECTION OF BOARD RECORDS:**

A. The board operates in compliance with the Inspection of Public Records Act, [NMSA 1978] Sections 14-2-1 through 14-2-16 NMSA 1978.

B. The board administrator is the custodian of the board's records.

C. Any one may examine all public records in the board's custody, provided the person gives advance notice to the board administrator in accordance with the Inspection of Public Records Act.

D. The board may provide copies of public records upon request and upon payment of a copying fee in accordance with Subsection D of 16.7.3.8 NMAC, or as may be ordered by a court of competent jurisdiction.

E. Only the board's staff is authorized to remove original board documents from the board's office for the purpose of attending board or committee meetings or other board business.

F. The board office is not obligated to create lists, labels or any other materials that are not already in existence.  
[7-28-96; 7-30-99; 16.7.1.9 NMAC - Rn, 16 NMAC 7.1.9, 06-28-01; A, 06-24-05; 16.7.1.10 NMAC - Rn, 16.7.1.9 NMAC, 3/31/15]

~~16.7.1.10~~ **16.7.1.11 PUBLIC RECORDS:** Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following formal disciplinary proceedings conducted pursuant to the Uniform Licensing Act are matters of a public record as of the time of filing with or by the board.  
[7-28-96; 16.7.1.10 NMAC - Rn, 16 NMAC 7.1.10, 06-28-01; 16.7.1.11 NMAC - Rn, 16 7.1.10 NMAC, 3/31/15]

~~16.7.1.11~~ **16.7.1.12 NON-PUBLIC RECORDS:**

A. Except as provided herein and except as otherwise provided by law, the following records will be considered confidential and are not subject to public inspection:

- (1) letters of reference;
- (2) medical reports and/or or records of chemical dependency, physical or mental examinations or treatment;
- (3) examination scores; the contents of any examination used to test for an individual's knowledge or competence;
- (4) investigative files; and
- (5) matters of opinion.

B. Only board members and board staff may have access to non-public records, unless approved by the board attorney or ordered by a court of

competent jurisdiction.

[7-28-96; 16.7.1.11 NMAC - Rn, 16 NMAC 7.1.11, 06-28-01; 16.7.1.12 NMAC - Rn, 16.7.1.11 NMAC, 3/31/15]

**~~16.7.1.12~~ 16.7.1.13 TELEPHONE**

**CONFERENCES:** If it is difficult or impossible for a member of the board to attend a meeting in person, the member may participate through telephone conference. Each member participating by telephone conference must be identified when speaking; all participants must be able to hear each other at the same time; and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting. [7-30-99; 16.7.1.12 NMAC - Rn, 16 NMAC 7.1.12, 06-28-01; 16.7.1.13 NMAC - Rn, 16.7.1.12 NMAC, 3/31/15]

**REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE**

This is an amendment to 16.7.2 NMAC, Sections 1, 5 and 8, effective 3/31/15.

**16.7.2.1 ISSUING AGENCY:**

Regulation and Licensing Department, [Board of] Massage Therapy Board [P.O. Box 25101, Santa Fe, New Mexico 87504, (505) 476-7090].

[1-11-96; 16.7.2.1 NMAC - Rn, 16 NMAC 7.2.1, 06-28-01; A, 3/31/15]

**16.7.2.5 EFFECTIVE DATE:**

January 11, 1996, unless a different date is cited at the end of a section [or paragraph]. [1-11-96 ... 7-28-96; 16.7.2.5 NMAC - Rn, 16 NMAC 7.2.5, 06-28-01; A, 3/31/15]

**16.7.2.8 CODE OF PROFESSIONAL CONDUCT:**

**A. Competence:** Each licensee, instructor and applicant shall:

(1) [Each licensee will] limit practice and instruction to the areas of competence in which proficiency has been gained through education, training, [and/or] and experience and refer clients to other health professionals when appropriate;

(2) [The licensee will] acknowledge the limitations of and contraindications to massage therapy and will not encourage unnecessary or unjustified treatment; and

(3) [Each licensee will] not delegate professional responsibilities to a person who is not qualified or licensed to perform them;

**B. Dual relationship:** It is presumed that a power imbalance exists in professional relationships between licensees

and clients. Therefore each licensee, in interacting with a client or former client to whom the licensee has at [anytime] any time within the previous three (3) months rendered massage therapy [services] or instruction, shall not engage in romantic or sexual conduct.

[~~\_\_\_\_\_ (1) \_\_\_\_\_ engage in any verbally or physically abusive behavior; or \_\_\_\_\_ (2) \_\_\_\_\_ engage in sexual conduct; or~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ take unfair advantage of the client for financial gain.]~~

**C. Client welfare:** Each licensee, instructor and applicant shall:

(1) [Licensees will] conduct their business and professional activities with honesty and integrity;

(2) [Each licensee shall] obtain prior informed consent of the client regarding draping and treatment to ensure the safety, comfort and privacy of the client;

(3) [Each licensee will] provide privacy for the client while the client is dressing or undressing;

(4) [Each licensee will] modify or terminate treatment at the client's request, regardless of prior consent;

(5) [Each licensee may] refuse to treat any person or part of the body for just and reasonable cause;

(6) [Each licensee will] not undertake or continue treatment with a client when the licensee is impaired due to mental, emotional or physiologic conditions including substance or alcohol abuse;

(7) [Each licensee will] maintain clean equipment, linens, clothing and work areas;

(8) not engage in any verbally or physically abusive behavior; or

\_\_\_\_\_ (9) \_\_\_\_\_ take unfair advantage of the client for financial gain.

**D. Confidentiality of clients:** Each licensee shall safeguard confidential information of the client, unless disclosure is required by law, court order, authorized by the client or absolutely necessary for the protection of the public.

**E. Representation of services:** Each licensee, instructor and applicant shall:

(1) [Each licensee shall] disclose to the client the schedule of fees for services prior to treatment;

(2) [Each licensee shall] not misrepresent directly or by implication [his/her] of his professional qualifications such as type of licensure, education, experience, or areas of competence;

(3) [Each licensee shall] not falsify professional records;

(4) [Each licensee will] include in any advertisement for massage:

(a) [his/her] his full name as licensed with the board and license number; and

(b) the designation or abbreviation as a "licensed massage therapist" or "LMT"; "registered massage therapy instructor" or "RMTI"; and "registered massage therapy school" or "RMTS".

(5) when offering gratuitous services or discounts in connection with professional services, each licensee must clearly and conspicuously state whether or not additional charges may be incurred by related services and the possible range of such additional charges; and

(6) [Each licensee will] not advertise massage therapy services or instruction, which contains:

(a) a false, fraudulent, misleading, deceptive statement; or

(b) suggestion of sexual stimulation.

**F. Violation of the law:** Each licensee, instructor and applicant shall not:

(1) [Each licensee shall not] violate any applicable statute or administrative regulation governing the practice of massage therapy;

(2) [Each licensee shall not] use fraud, misrepresentation, or deception in obtaining a massage therapy license or renewal, in passing a massage therapy licensing examination, in assisting another to obtain a massage therapy license or to pass a massage therapy licensing examination, in providing massage therapy services, or in conducting any other activity related to the practice of massage therapy.

**G. Resolving professional conduct issues:** Each licensee, instructor and applicant shall:

(1) [Each licensee has] have an obligation to be familiar with this part; lack of knowledge of professional conduct standard is not itself a defense to a charge of unethical conduct;

(2) [Each licensee will] cooperate with investigations, proceedings, and resulting requirements of this part; failure to cooperate is itself an ethics violation.

[1-11-96; 5-11-97; 12-24-99; 16.7.2.8 NMAC - Rn, 16 NMAC 7.2.8, 06-28-01; A, 3/31/15]

**REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE**

This is an amendment to 16.7.3 NMAC, Section 8, effective 3/31/15.

**16.7.3.8 FEE SCHEDULE:**

**A. Massage therapist:**

(1) Application: \$75.00

(2) Initial license: Pro-rated \$5.00/mo. license: \$25.00

(3) ~~Temporary~~ Biennial renewal: \$125.00

(4) ~~Biennial~~ Late renewal penalty: \$75.00

(5) ~~Renewal~~ Renewal during the grace period: \$125.00 plus late renewal penalty fee

(6) ~~Reactivation~~ Reactivation from inactive status: \$125.00 plus late renewal penalty fee

(7) ~~Review fee~~ Review fee for "other" elective courses as provided in 16.7.4.14 NMAC): \$50.00

**B. Massage therapy instructor:**

(1) Registration: \$50.00

(2) Biennial renewal - school based: \$25.00

(3) Biennial renewal - independent: \$50.00

(4) ~~Visiting~~ message therapy instructor: \$50.00

(5) ~~Late renewal~~ Late renewal penalty: \$75.00

(6) ~~Renewal~~ Renewal during the grace period: \$50.00 plus late renewal penalty

(7) ~~Reactivation~~ Reactivation from inactive status: \$50.00 plus late renewal penalty fee

**C. Massage therapy school:**

(1) Registration: \$50.00

(2) Annual renewal: \$50.00

(3) Late renewal penalty: \$75.00

(4) Application review: \$400.00

(5) Curriculum change review: \$50.00

**D. Administrative fees:**

(1) ~~Temporary~~ license: \$25.00

(2) ~~Visiting~~ message therapy instructor: \$50.00

(3) ~~Paper lists~~ Paper lists: \$50.00

(4) ~~Labels~~ Labels: \$75.00

(5) ~~Electronic~~ list: \$125.00

(4) ~~Replacement~~ license: \$25.00

(5) ~~Verification of~~ license \$15.00

(6) ~~Other~~ administrative fees (at the discretion of the board or board administrator) not to exceed \$500.00

**E. ALL FEES COLLECTED BY THE BOARD ARE NON-REFUNDABLE.**

[2-16-92 ... 7-28-96; 6-1-99; 12-24-99; 16.7.3.8 NMAC - Rn & A, 16 NMAC 7.3.8, 06-28-01; A, 06-24-05; A, 09-04-09; A, 3/31/15]

**REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE**

This is an amendment to 16.7.4 NMAC, Sections 8, 10, 12, 15, 16, 17, 19, 21, 22, and 23, effective 3/31/15.

**16.7.4.8 LICENSE OR REGISTRATION REQUIRED:**

**A. Massage therapists:**

A person must be licensed by the board in order to legally provide or offer to provide massage therapy [services for compensation;] as defined in 16.7.1.7 NMAC; or to use the title or represent him/herself to be a massage therapist; or to use any other title, abbreviations, letters, figures, signs or devices that indicate the person is a massage therapist.

**B. Massage therapy instructors:** A person shall be registered by the board, as a registered massage therapy instructor, as set forth in 16.7.6 NMAC, in order to legally provide or offer to provide any massage therapy training as a massage therapy instructor.

**C. Massage therapy schools:** Massage therapy schools must be registered by the board, as set forth in 16.7.5 NMAC, before they can legally operate and offer education, instruction or training in massage therapy. [16.7.4.8 NMAC - N, 07-28-05; A, 09-04-09; A, 3/31/15]

**16.7.4.10 GENERAL PROVISIONS FOR LICENSURE:**

**A. Age:** The applicant must be eighteen (18) years of age or older on the date the application is submitted.

**B. Pre-requisite education to massage therapy training:** The applicant must have completed high school or its equivalent.

**C. Photograph:** The applicant must provide a 2"x 2" head and

shoulders frontal view photograph taken of the applicant within the six (6)-months prior to making application for licensure.

**D. Application fee:** The applicant must pay the required application-processing fee as set forth in Subsection D of 16.7.3.8 NMAC of the board's regulations.

**E. Board-approved application form:** The applicant must provide a completed, legible board-approved application form that must either be typed or printed in black ink, along with any other documents required in the board's application process.

(1) Incomplete application for licensure forms will be returned to the applicant for completion;

(2) Faxed application for licensure forms will not be accepted.

**F. First aid and Cardiopulmonary Resuscitation (CPR):** The applicant must have completed four (4) contact course hours of cardiopulmonary resuscitation (CPR) to include automatic external defibrillator (CPR/AED) and four (4) contact course hours of first aid and must provide proof, with the application, of current certification in basic life support accepted by EMS safety services, the american heart association or the American red cross. No on-line courses will be accepted. Courses must be maintained in current standing. [16.7.4.10 NMAC - Rp, 16.7.4.8 NMAC, 07-28-05; A, 09-04-09; A, 3/31/15]

**16.7.4.12 MINIMUM HOURS OF MASSAGE THERAPY TRAINING:** The applicant must have completed at least a six hundred fifty (650) hour program in massage therapy training. The massage therapy training must meet the following minimum curriculum requirements:

**A. one hundred sixty five (165) hours minimum of anatomy and physiology, to include:**

- (1) physiology;
- (2) anatomy;
- (3) kinesiology;

and (4) forty (40) hours minimum of pathology.

**B. one hundred fifty (150) hours minimum of training in massage therapy as defined in 16.7.1.7 NMAC.**

(1) The massage therapy training shall include contraindications of massage therapy.

(2) A minimum of one hundred (100) hours of hands on training must be completed before the student is allowed to begin a clinical practicum as defined in 16.7.1.7 NMAC.

**C. seventy five (75) hours minimum of general instruction to include:**

(1) business;

- (2) hydrotherapy;
- (3) thirty (30) hours minimum of professional ethics;
- (4) four (4) hours of first aid; and
- (5) four (4) hours of cardiopulmonary resuscitation to include automatic external defibrillation (CPR/AED).

**D. Electives may include:**

- (1) additional massage therapy;
- (2) related hands-on modalities;
- (3) additional anatomy and physiology;
- (4) clinical practicum (not to exceed one hundred fifty (150) hours);
- (5) counseling;
- (6) herbology;
- (7) homeopathy;
- (8) nutrition;
- (9) breathing and stretching techniques;
- (10) theory; and
- (11) other courses with prior board approval. See 16.7.4.14 NMAC for instructions.

**E.** The total number of hours in the massage therapy program is a minimum of six hundred fifty (650) hours.

**F.** If an applicant is missing a core curriculum course or is missing a small portion of the core curriculum to complete the six hundred fifty (650) hour requirement, the applicant may obtain the training course(s) from a [New Mexico] registered independent massage therapy instructor, or from a [New Mexico-registered school, or from another] massage therapy school that meets the requirements in 16.7.4.13 NMAC.

**G.** The board will accept professional work experience (not to exceed one hundred fifty (150) hours) from applicants with documented proof accounting for all hours by completing Form C. These hours must have been performed legally and the applicant must provide proof of licensure or registration during the time the work was performed. [16.7.4.12 NMAC - N, 07-28-05; A, 06-08-06; A, 09-04-09; A, 3/31/15]

**16.7.4.15 DOCUMENTS IN A FOREIGN LANGUAGE:** Any document submitted in a foreign language must be accompanied by an accurate translation in English.

**A.** Each translated document must bear the affidavit of the [~~translator sworn to before a notary public certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of~~

~~the foreign language original] certified translator attesting to it being a true and complete translation of the original document:~~

~~**B.** The affidavit must also contain the translator's contact information, including name, address and phone number of the organization that granted the translator certification:~~

~~**C.** Each translated document must bear a notary seal and signature swearing that the document is that of the applicants; and~~

~~[**E**]**D.** Translation of any document relevant to a person's application will be at the expense of the applicant. [16.7.4.15 NMAC - Rp, 16.7.4.9 NMAC, 07-28-05; A, 3/31/15]~~

**16.7.4.16 SPECIFIC PROVISIONS FOR A TEMPORARY LICENSE:**

A license issued one (1)-time only for a maximum period of three (3) months to practice massage therapy while the application for permanent license is in process, and which may only be issued to applicants who have never sat for a licensing examination.

**A. Qualifications for temporary license:**

(1) The applicant for temporary license must meet all the requirements set forth in Sections 16.7.4.10 through 16.7.4.15 NMAC;

(2) The applicant for temporary license must not have previously sat for the national certification examination for therapeutic massage and bodywork [~~herein referred to as the NCETMB or the national exam~~] (NCETMB), the national certification examination for therapeutic massage (NCETM) or the massage board licensing examination (MBLEx);

(3) The applicant may obtain a temporary license while waiting to sit for the national examination;

(4) Upon submitting the application for licensure, the applicant for a temporary license must submit a temporary license fee, as set forth in Subsection D of 16.7.3.8 NMAC;

(5) The board may deny issuance of a temporary license for the same reasons a permanent license may be denied.

**B. Issuance of the temporary license:**

(1) The applicant for temporary license may not begin work until the temporary license has been issued by the board, has been received by the licensee, and has been publicly posted in principal place of practice;

(2) The temporary licensee may *not* advertise in the yellow pages or other similar advertising

book;

(3) The temporary licensee must keep the board informed at all times of any change in address and contact phone number(s);

(4) If the temporary license has not yet expired and the board receives official notice that the temporary licensee has [~~successfully passed the examination, a permanent license will be issued provided the applicant has met all other licensure requirements, including payment of the licensure fee. The temporary license will automatically become null and void~~] passed a national examination, the temporary license will automatically become null and void. Provided that all other requirements have been met, a permanent license will be issued when payment of the initial license fee has been made.

**C. Surrender of temporary license required:**

(1) If a temporary license holder fails the national examination, the temporary license immediately becomes null and void and must be surrendered directly to the board office within fifteen (15) days of the examination date; and the privileges to practice authorized by the temporary license are no longer valid;

(2) Expired or null and void temporary licenses shall be surrendered to the board;

(3) If an applicant, who holds a temporary license that must be surrendered, has misplaced or lost the temporary license and cannot return it to the board as required, the applicant must provide the board with an affidavit attesting that the license has been lost or misplaced and that the applicant is no longer practicing massage therapy. [16.7.4.16 NMAC - Rp, 16.7.4.11 NMAC, 07-28-05; A, 3/31/15]

**16.7.4.17 SPECIFIC PROVISION FOR PERMANENT LICENSURE:**

The applicant must meet all the requirements set forth in Sections 16.7.4.10 through 16.7.4.15 NMAC, in addition to the following requirements:

**A. Jurisprudence examination:** The applicant for permanent licensure must successfully pass the board's jurisprudence examination as set forth in 16.7.10.8 NMAC.

**B. National certification examination:** The applicant must successfully pass the national certification examination for therapeutic massage and bodywork (NCETMB), or the national examination for therapeutic massage (NCETM) as provided in 16.7.10.9 NMAC, and must make arrangements for the national examining agency to send official

examination results, as defined in 16.7.4.7 NMAC, directly to the board.

**C. MBLEx:** The applicant must successfully pass the massage and bodywork licensing examination, and must make arrangements for the examining agency to send official examination results directly to the board.

**D. Licensure fee:** Upon written notification, sent by the board [by certified mail return receipt requested,] that the applicant has met all other requirements for licensure, the applicant must submit the initial license fee as stated in the notification based on the fee structure set forth in Subsection A of 16.7.3.8 NMAC.

(1) The initial licensure fee must be paid in full before the permanent license will be issued;

(2) If the applicant fails to pay the initial license fee within thirty (30) days of receipt of the notification of approval, the application will be deemed withdrawn and subject to the provisions in 16.7.4.19 NMAC.

[16.7.4.17 NMAC - N, 07-28-05; A, 09-04-09; A, 3/31/15]

#### 16.7.4.19 APPLICATION EXPIRATION, WITHDRAWAL, AND DESTRUCTION:

**A. Expiration or withdrawal of application:** The application for licensure expires as follows and all previously paid fees will be forfeited if:

(1) the applicant fails to complete all requirements for temporary [and/or] or permanent licensure within one (1) year from the date the applicant's application file is started by board office staff; or

(2) the applicant withdraws the application, either by notifying the board in writing or by not paying the initial license fee within the time allowed in Subsection C of 16.7.4.17 NMAC.

**B.** If the applicant still wishes to seek licensure after the application has expired or been withdrawn and it is still within one (1) year after the application expired was withdrawn, the applicant shall complete the following procedure.

(1) Submit a "reapplication form for withdrawn or expired application;"

(2) Submit whatever the application fee is at the time of reapplication;

(3) Complete any other requirements or submit any other documentation pending when the application was expired or withdrawn.

**C. Application destruction:** The board will maintain the

expired or withdrawn application file for a period of one (1) year after the expiration or withdrawal date.

(1) After that date, the file will be purged from the board's records and destroyed;

(2) The applicant whose application has been purged from the board's records must complete the entire application process again if, in the future, [he/she is] they are interested in licensure.

**D. Temporary license unavailable:** The option for a temporary license will no longer be available to a person whose application has expired, been withdrawn, or been destroyed from the board's records.

[16.7.4.19 NMAC - N, 07-28-05; A, 3/31/15]

**16.7.4.21 DISPLAY OF LICENSE:** [The] While performing massage therapy the, licensee must display [the] their current license to practice massage therapy in a conspicuous place [in his/her principal] of their practice location or place of business.

[16.7.4.21 NMAC - N, 07-28-05; A, 3/31/15]

#### 16.7.4.22 ADDRESS AND EMPLOYMENT PRACTICE

**CHANGES:** It is the licensee's responsibility to provide written notification to the board of any changes in addresses, phone numbers, and practice location(s) within thirty (30) days in order that renewal notices and other correspondence from the board will be received by the licensee in a timely manner, and in order for the board to be able to maintain accurate licensing records. A form is available for this purpose from the board office or from the board's website at [[www.rld.state.nm.us/b&c/massage](http://www.rld.state.nm.us/b&c/massage)] [www.rld.state.nm.us](http://www.rld.state.nm.us), or a letter to the board advising of the changes will also be adequate.

[16.7.4.22 NMAC - N, 07-28-05; A, 3/31/15]

**16.7.4.23 ELECTRONIC APPLICATIONS:** In accordance with the Uniform Electronic Transactions Act, Sections 14-16-1 through 14-16-21 NMSA 1978, the board or its designee will accept electronic application.

**A.** A person seeking licensure as a New Mexico massage therapist or registrant may do so by submitting an electronic application. Applicants shall submit all information as required by 16.7.4 NMAC.

**B.** A massage therapist may renew his or her license, and a registrant may renew his or her registration, electronically through a designated website provided by the board. A person renewing

his or her license or certificate shall submit all documentation as required by 16.7.12 NMAC

**C.** A massage therapist or registrant who is currently on inactive status may submit an electronic applications requesting reactivation of his or her license or registration. A person requesting reactivation of his or her license or registration shall submit all documentation as required by the Massage Therapy Practice Act, Section 61-12C-18 NMSA 1978, and 16.7.12.9 and 16.7.12.15 NMAC.

**D.** A person whose massage therapy license or registration has been suspended or revoked, or has expired, may in accordance with the Massage Therapy Act, the board's rules and any lawful board or court order, submit an electronic application seeking reinstatement. Applicants shall submit all information as required by the Massage Therapy Practice Act, NMSA 1978, Chapter 61, Article 12C NMSA and the board's rules. [16.7.12.9 NMAC - N 3/31/15]

## REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE

This is an amendment to 16.7.5 NMAC, Sections 8, 9, 10 and 11, effective 3/31/15.

**16.7.5.8 REQUIREMENTS FOR REGISTRATION:** At the time of application the applicant will provide the following information to the board.

**A.** A completed, legible application for licensure, which must either be typed or printed in black ink. Incomplete applications will not be accepted and will be returned to the applicant for completion.

**B.** A six hundred fifty (650) hour curriculum that must meet the following minimum requirements.

(1) one hundred sixty-five (165) hours minimum of anatomy and physiology, to include;

(a) physiology;

(b) anatomy;

(c) kinesiology; and

(d) forty (40) hours minimum of pathology.

(2) one hundred fifty (150) hours minimum of massage therapy as defined in 16.7.1.7 NMAC;

(a) Shall include contraindications of massage therapy.

(b) A minimum of one hundred (100) hours of hands on training must be completed before

a student may begin clinical practicum, as defined in Subsection G of 16.7.1.7 NMAC.

(3) ~~seventy-~~ **five (75) hours minimum of general instruction**, to include:

- (a) business;
  - (b) hydrotherapy;
  - (c) first aid - four (4) hours;
  - (d) cardiopulmonary resuscitation and automatic external defibrillator (CPR/AED) -four (4) hours;
  - (e) thirty (30) hours minimum of professional ethics.
- (4) **Electives** may include:
- (a) additional massage therapy;
  - (b) related hands-on modalities;
  - (c) additional anatomy and physiology;
  - (d) clinical practicum (not to exceed one hundred fifty (150) hours);
  - (e) counseling;
  - (f) herbology;
  - (g) homeopathy;
  - (h) nutrition;
  - (i) breathing and stretching techniques;
  - (j) theory;
  - (k) other, with prior board approval.

**C. Policies and procedures for board review**, including but not limited to:

- (1) enrollment and financial;
- (2) cancellation/withdrawal and refund;
- (3) grading method;
- (4) attendance and make up;
- (5) students conduct and discipline;
- (6) dress code;
- (7) hygiene protocol;
- (8) draping procedures;
- (9) evaluation forms;
- (10) curriculum;
- (11) advertising catalog;
- (12) list of text

books for all courses; and (13) qualifications of instructors not registered with the board as massage therapy instructors.

**D. Massage therapy school registration fee** in accordance with Subsection C of 16.7.3.8 NMAC. [12-24-99; 16.7.5.8 NMAC - Rn & A, 16 NMAC 7.5.8, 06-28-01; A, 07-28-05; A, 06-08-06; A, 09-04-09; A, 3-31-15]

**16.7.5.9 INSPECTIONS OF SCHOOLS:** The massage therapy school will be inspected by a board appointed inspector upon registration and thereafter as needed. Findings of the inspector will be reported to the board as part of the approval process. If an inspection reveals that a school is not in compliance with the board's laws or rules, the school will have thirty (30) days to become compliant; at which time, the school will be re-inspected. If the school fails a second inspection, the board may take action against the school for non-compliance.

**A. Provisional registration:** A provisional registration will be given to a new school until the school is operating and available for inspection.

**B. Term of provisional registration:** The provisional registration will be valid no longer than one (1) year from the date of issuance.

**C. Inspection criteria:** The inspector will observe and report on the following:

- (1) cleanliness of premises [~~and compliance with board policy~~];
- (2) New Mexico state school [~~registrations~~] registration and [~~instructor~~] instructor's registrations and [~~a file of~~] their qualifications;
- (3) local business license posted;
- (4) posted complaint policy with board address and phone number available;
- (5) student clinic log;
- (6) student attendance log;
- (7) student files; and
- (8) equipment and teaching aids. [12-24-99; 16.7.5.9 NMAC - Rn, 16 NMAC 7.5.9, 06-28-01; A, 07-28-05; A, 09-04-09; A, 3-31-15]

**16.7.5.10 STANDARDS FOR REGISTERED MASSAGE THERAPY SCHOOLS:**

**A.** Every instructor teaching massage therapy as defined in [Section 61-12C-3.E] Section 61-12C-3.F NMSA 1978, of the Massage Therapy

Practice Act and [~~Subsection C of 16.7.5.7-NMAC~~] Subsection AA of 16.7.1.7 NMAC, must be registered as massage therapy instructors in accordance with 16.7.6 NMAC.

**B.** Qualifications of all instructors must be documented and maintained on the premises of the registered massage therapy school.

**C.** Massage therapy school registrations will be renewed yearly in accordance with 16.7.12.10 NMAC.

**D.** Registered massage therapy schools will comply with 16.7.2 NMAC, Professional Conduct.

**E.** Registered massage therapy schools may charge the public [~~fees for~~] a fee for the room usage during the time [the] a student is performing massage therapy [during the] for clinical practicum training as defined in 16.7.5.7 NMAC. [12-24-99; 16.7.5.10 NMAC - Rn, 16 NMAC 7.5.10, 06-28-01; A, 07-28-05; A, 3-31-15]

**16.7.5.11 CHANGES AFFECTING REGISTRATION:**

Massage therapy school registrations issued by the board are not transferable. Any change in the business designation of a massage therapy school may have the legal effect of attempting to transfer the registration [~~and/or~~] and of operating without a legal registration.

**A.** Any of the following changes will require a new registration, and hence, a new application for registration with the board.

(1) Any change to the name of the school from that under which it was originally registered;

(a) The name of the massage therapy school must not tend to mislead the public, and shall not significantly resemble the business name of another registered massage therapy school.

(b) The name of the massage therapy school shall not be announced, used, or in any way be conveyed to the public until the new registration has been issued by the board.

(2) Any change of fifty percent (50%) or more of ownership of the stock in the corporation or of the shares in a partnership;

(3) Any change in the sole proprietorship.

**B.** A registered massage therapy school shall notify the board in writing within thirty (30) days of any changes in instructional staff, curriculum, or other changes that may affect the programs offered, provided that the school shall not modify its curriculum to fall below the minimum requirements outlined in this part, 16.7.5 NMAC.

[16.7.5.11 NMAC - N, 07-28-05; A, 3-31-15]

**REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE**

This is an amendment to 16.7.6 NMAC, Sections 8, 9 and 10, effective 3/31/15.

**16.7.6.8 MASSAGE THERAPY INSTRUCTOR:**

**A. Requirements:** the applicant shall:  
(1) [The applicant ~~must~~] hold a valid massage therapist license in New Mexico; and

(2) [The applicant ~~must~~] have practiced massage therapy for a minimum of two (2) years during the three (3) years preceding the application for a massage therapy instructor registration.

**B. Application requirements for registration:** [At the time of application] the applicant [must] shall provide the following:

(1) A completed application for massage therapy instructor registration, which must be legible and printed in black ink or typed;

(a) Incomplete application will be returned for completion; and

(b) Faxed application [~~and/or~~ and] supporting documentation will not be accepted.

(2) Documentation verifying two (2) years of professional massage therapy experience during the three (3) years preceding the application must include a minimum of three (3) of the following documents;

(a) income tax forms documenting massage therapy practice;

(b) verifiable letters from clients confirming receipt of massage therapy services from the applicant;

(c) yellow page advertisement(s) that show dates of the advertisement(s);

(d) printed flyers or brochure advertisements including dates;

(e) proof of rent or lease of practice location or office space;

(f) proof of current association membership;

(g) proof of current professional insurance;

(h) copies of dated receipts for massage therapy practice-related supplies or furnishings that total a minimum of five hundred dollars (\$500);

(i) verifiable letters from employers; and

(j) work log consisting of client's names, addresses and/or phone numbers, appointment dates, and time periods worked on clients.

(3) Documentation of completion of fifty (50) contact hours of instructional experience of professional teaching, or workshop instruction;

(4) The massage therapy instructor registration fee in accordance with of Subsection B of 16.7.3.8 NMAC.

**C. Documents in foreign language:** Any document submitted in a foreign language must be accompanied by an accurate translation in English.

(1) Each translated document must bear the affidavit of the [~~translator sworn to before a notary public certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original.~~] certified translator attesting to it being a true and complete translation of the original document;

(2) The affidavit must also contain the translator's contact information, including address and phone number of the organization that granted the translator certification;

(3) Each translated document must bear a notary seal and signature swearing that the document is that of the applicants; and

(~~3~~)(4) Translation of any document relevant to a person's application will be at the expense of the applicant. [12-24-99; 16.7.6.8 NMAC - Rn & A, 16 NMAC 7.6.8, 06-28-01; A, 06-24-05; A, 3/31/15]

**16.7.6.9 SCHOOL-BASED MASSAGE THERAPY INSTRUCTORS:**

**A. Prerequisite requirements:** Every instructor teaching massage therapy as defined in [~~16.7.6.7 NMAC~~] 16.7.6.8 NMAC must be registered by the board as a massage therapy instructor.

**B. General provision:** Every transcript submitted to the board by an instructor shall be accompanied by a course outline(s) and dates of instruction unless previously submitted as part of a registered massage therapy school curriculum approved by the board. The registered school-based massage therapy instructor shall only provide instruction within the board-approved curriculum of a registered massage therapy school. The applicant or licensee shall notify the board, in writing, within thirty (30) days

of any change in their employment, of any additional massage therapy schools where they are instructors.

**C. Professional conduct:** The registered school-based massage therapy instructor will comply with the board's rule on professional conduct, 16.7.2 NMAC.

[12-24-99; 16.7.6.9 NMAC - Rn, 16 NMAC 7.6.9, 06-28-01; A, 06-24-05; A, 3/31/15]

**16.7.6.10 STANDARDS FOR INDEPENDENT MASSAGE THERAPY INSTRUCTORS:**

**A. Prerequisite requirements:** Every registered instructor teaching massage for continuing education as defined in [~~Subsection D of 16.7.6.7 NMAC~~] Subsection A of 16.7.11.9 NMAC must be registered as an independent massage therapy instructor.

**B. General provision:** The registered independent massage therapy instructor may provide instruction at a registered massage therapy school without having to obtain a school-based massage therapy instructor registration, provided that such instruction shall be limited to the school's curriculum approved by the board. translation.

**C. Curriculum:** The registered independent massage therapy instructor shall submit a curriculum for board review and approval or disapproval, including continuing education courses.

**D. Certificates of completion:** Every certificate of completion provided by the registered independent massage therapy instructor to the licensee shall include:

- (1) the name of the course;
- (2) the date(s) of training;
- (3) the class hour or contact hour completed;
- (4) the name, registration number, and address of the registered independent massage therapy instructor; and
- (5) the signature of the registered independent massage therapy instructor.

**E. Professional Conduct:** The registered independent massage therapy instructors will comply with the board's rule on professional conduct, 16.7.2 NMAC. [16.7.6.10 NMAC - N, 06-24-05; A, 3/31/15]

**REGULATION AND  
LICENSING DEPARTMENT  
BOARD OF MASSAGE**

**This is an amendment to 16.7.7 NMAC, Sections 1, 5, and 8, effective 3/31/15.**

**16.7.7.1 ISSUING AGENCY:**  
Regulation and Licensing Department,  
[Board of] Massage Therapy Board.  
[7-28-96; 16.7.7.1 NMAC - Rn, 16 NMAC  
7.7.1, 06-28-01; A, 09-04-09; A, 3/31/15]  
[P. O. Box 25101 Santa Fe, New Mexico-  
87504]

**16.7.7.5 EFFECTIVE DATE:**  
July 28, 1996, unless a different date is  
cited at the end of a section [or paragraph].  
[7-28-96; 16.7.7.5 NMAC - Rn, 16 NMAC  
7.7.5, 06-28-01; A, 3/31/15]

**16.7.7.8 GENERAL  
PROVISIONS:**

**A.** Students not yet  
licensed may not charge for massage  
therapy services.

**(1)** Students  
may only accept voluntary unsolicited tips,  
gratuities and donations while practicing  
massage therapy under school endorsed  
functions, under the supervision of a  
registered massage therapy instructor;

**(2)** Students may  
not suggest either verbally or in writing,  
amounts of tips, gratuities or donations.

**B** Students may *not*  
provide Massage Therapy services without  
direct supervision of a Registered Massage  
Therapy Instructor.

**[B]C.** Students may distribute  
identification cards which must include the  
school's name, address, and phone number;  
the student's name, and the word "student".

**[C]D. Student complaints:**

**(1)** Complaints  
concerning the registered massage therapy  
school, instructor(s), or other student(s)  
should first be addressed through the  
registered massage therapy school's  
complaint policy.

**(2)** If the school  
does not resolve the complaint adequately,  
or in extreme circumstances, a complaint  
may be brought before the board in  
accordance with 16.7.14.8 NMAC.

**[D]E.** Students will comply  
with 16.7.2 NMAC, Professional Conduct.  
[7-28-96; 16.7.7.8 NMAC - Rn, 16 NMAC  
7.7.8, 06-28-01; A, 09-04-09; A, 3/31/15]

**REGULATION AND  
LICENSING DEPARTMENT  
BOARD OF MASSAGE**

**This is an amendment to 16.7.10 NMAC,  
Section 8, effective 3/31/15.**

**16.7.10.8 JURISPRUDENCE  
EXAMINATION:**

**A.** All massage therapy  
licensure applicants must successfully  
pass the board's open-book jurisprudence  
examination.

**(1)** The applicant  
will receive the jurisprudence examination  
with instructions from the board office  
after the board office receives both the  
application and application fee;

**(2)** To complete  
the jurisprudence examination, the applicant  
will use the statute and regulations received  
either from the board or which the applicant  
downloaded from the board's website at  
[www.rld.state.nm.us/b&c/massage] www.  
rld.state.nm.us;

**(3)** The applicant  
must pass the jurisprudence examination  
with a minimum score of seventy percent  
(70%);

**(4)** The applicant  
must return the completed jurisprudence  
examination to the board office as required.

**B.** Applicants may retake  
the examination as many times as necessary  
to achieve a passing grade.

**C.** The jurisprudence  
examination shall not be reproduced or  
shared in any manner.  
[4-25-92 ... 7-28-96; 12-24-99; 16.7.10.8  
NMAC - Rn, 16 NMAC 7.10.8, 06-28-01;  
A, 09-30-05; A, 3-31-15]

**REGULATION AND  
LICENSING DEPARTMENT  
BOARD OF MASSAGE**

**This is an amendment to 16.7.11 NMAC,  
Sections 8, 9 and 10, effective 3/31/15.**

**16.7.11.8 GENERAL  
PROVISIONS:** The board does not  
maintain a list of continuing education  
providers. The licensee or registrant must  
determine where to obtain the required  
continuing education.

**A. Massage therapy  
licensees:** As a condition for license  
renewal, each massage therapist licensed  
pursuant to the Massage Therapy Practice  
Act will be required to complete sixteen  
(16) [contact] hours of continuing education  
of which up to eight (8) hours can be taken  
on-line. All technique courses must be  
hands on and shall *not* be taken on-line as

cited in Subsection C of 16.7.1.9 NMAC  
and Paragraph (2) of Subsection A of  
16.7.11.10 NMAC.

**(1)** Continuing  
education must be completed within the  
twenty-four (24) months immediately  
preceding the renewal date of October 31.

**(2)** Excess hours  
cannot be carried over to future renewals.

**(3)** Continuing  
education taken prior to the twenty-four  
(24) month period will not be accepted.

~~**(4)** An automatic  
late renewal penalty fee, as provided in  
16.7.3.8 NMAC, will be incurred if the  
continuing education submitted was taken  
after the twenty-four month period.~~

~~**(5)** (4) Each  
licensee will maintain documentation of all  
completed continuing education, including  
contact information for the continuing  
education providers.~~

**B. Instructor registrants:**  
Effective starting with the October 31,  
2017 renewal cycle. [As a condition for  
registration renewal, each registered  
massage therapy instructor will be required  
to complete sixteen (16) contact hours  
of continuing education, in addition to  
the sixteen (16) contact hours required to  
maintain the massage therapy license, for  
a total of thirty-two (32) contact hours.] In  
addition to the requirements for renewal  
of their massage therapy license, each  
registered massage therapy instructor  
will be required to complete sixteen (16)  
hours of continuing education, eight (8)  
of which must consist of the knowledge,  
skills and abilities of teaching adult  
learners. Eight (8) hours may be taken on-  
line. All technique courses must be hands  
on and shall *not* be taken on-line as cited  
in Subsection C of 16.7.1.9 NMAC and  
Paragraph (2) of Subsection A of 16.7.11.10  
NMAC.

**(1)** Continuing  
education must be completed within the  
twenty-four (24) months immediately  
preceding the renewal date of October 31.

**(2)** Excess hours  
cannot be carried over to future renewals.

**(3)** Continuing  
education taken prior to the twenty-four  
(24) month period will not be accepted.

~~**(4)** An automatic  
late renewal penalty fee, as provided in  
16.7.3.8 NMAC, will be incurred if the  
continuing education submitted was taken  
after the twenty-four month period.~~

~~**(5)** (4) Each  
registrant will maintain documentation  
of all continuing education completed,  
including contact information for the  
continuing education providers.~~

**C. Audit process:** The  
board will audit continuing education to  
verify compliance.

(1) A minimum of ten percent (10%) of renewing licensees and registrants will be randomly selected for audit.

(2) Audit requests may be included in the renewal notice.

(3) Licensees and registrants not selected for audit are only required to list the continuing education they completed on their renewal applications.

(4) The board may audit any licensee or registrant's continuing education records at any time before the next scheduled license/registration renewal.

(5) Audited licensees or registrants who fail to provide the requested continuing education documentation are not eligible for license/registration renewal. [10-3-93...5-30-96; 16.7.11.8 NMAC - Rn & A, 16 NMAC 7.11.8, 06-28-01; A, 06-24-05, A, 09-30-05; A, 3/31/2015]

#### 16.7.11.9 CONTINUING EDUCATION PROGRAMS FOR MASSAGE THERAPISTS:

A. The board will accept the following types of continuing education which contribute directly to the licensee's massage therapy practice:

(1) courses, seminars, workshops and classes in areas related to the practice of massage therapy such as: massage, bodywork, allied health care, psychology, anatomy, physiology, business, insurance, movement therapy, stress management, yoga, CPR, and first aid;

(2) courses of study offered by registered massage therapy schools; massage therapy instructors; massage, bodywork, or allied healthcare professional organizations, NCBTMB continuing education providers, and accredited colleges and universities; or

(3) publishing an article relating to massage therapy in a local, regional, or national publication, no more than twelve (12) hours of continuing education credit shall be granted in any renewal period. The number of continuing education hours shall be determined by the massage therapy board; in the interim the board's chair or authorized representative of the board may grant the continuing education hours and then be ratified at the next regular meeting of the massage therapy board.

#### B. Ethics requirement:

All massage therapists shall be required to complete a minimum of four (4) hours of ethics training as part of the sixteen (16)-hour requirement for each renewal period. Ethics courses must be taken from

individuals or institutions listed in 16.7.11.9 NMAC.

C. Technique courses must be hands on and shall not be taken on-line. [10-3-93...5-30-96; 16.7.11.9 NMAC - Rn & A, 16 NMAC 7.11.9, 06-28-01; A, 06-24-05; A, 09-04-09; A, 3/31/15]

#### 16.7.11.10 CONTINUING EDUCATION PROGRAMS FOR MASSAGE THERAPY INSTRUCTORS:

[~~The board will accept the following types of continuing education which contribute directly to the registrants' massage therapy practice and instructional skills:~~]

A. The board will accept the following types of continuing education which contribute directly to the registrants' massage therapy practice and instructional knowledge, skills and abilities.

[~~A:~~] (1) courses, seminars, workshops and classes in areas related to [~~pedagogy~~] andragogy such as: class presentation techniques, class materials preparations, communications skills, research, cultural diversity, and counseling;

[~~B:~~] (2) courses of study offered by registered massage therapy schools, NCBTMB providers, registered massage therapy instructors, massage, bodywork, or allied health care professional organizations; accredited colleges and universities. All technique courses must be hands on and shall not be taken on-line; or

[~~C:~~] (3) publishing an article relating to massage therapy in a local, regional, or national publication; no more than twelve (12) hours of continuing education credit shall be granted in any renewal period. The number of continuing education hours shall be determined by the massage therapy board; in the interim the board's chair or authorized representative of the board may grant the continuing education hours and then be ratified at the next regular meeting of the massage therapy board.

B. A minimum of eight (8) hours of continuing education for massage therapy instructors must consist of the knowledge, skills and abilities of teaching adult learners.

[16.7.11.10 NMAC - N, 06-28-01; A, 06-24-05; A, 09-04-09; A, 3/31/15]

#### HISTORY OR 16.7.11 NMAC:

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

Rule 10, Continuing Education, 9-3-93

**History of Repealed Material:** [Reserved]

## REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE

This is an amendment to 16.7.12 NMAC, Sections 8, 9, 10, 11, and 16, effective 3/31/15.

### 16.7.12.8 GENERAL PROVISIONS FOR ALL LICENSEES AND REGISTRANTS:

A. Administrative provisions relative to the renewal process:

(1) Licensees and registrations expire on an annual or biennial basis on October 31. The specific annual or biennial schedule for each license or registration type is further detailed in 16.7.4.20 NMAC, with the understanding that an instructor's registration renewal date must coincide with his/her massage therapy license renewal date (see Paragraph (1) of Subsection A of 16.7.6.8 NMAC);

(2) A current license or registration renewal form shall be mailed to the last known address on file with the board;

(3) Each licensee and registrant must inform the board in writing, within thirty (30) days of any change in contact information, such as address or telephone number;

(4) Failure to receive the renewal notice shall not relieve the licensee or registrant from the responsibility of renewing the license or registration by the renewal date;

(5) The licensee or registrant shall complete the renewal application form in the manner stated on the form. The form must be submitted with the requested documentation and required fee(s) as set forth in 16.7.3 NMAC;

(6) Incomplete renewal applications will be returned to the licensee or registrant for completion, which might result in the assessment of late penalty fees.

B. Grace period provisions:

(1) Renewal applications for licenses or registrations postmarked or hand-delivered after October 31 must also be accompanied by the late renewal penalty fee established in 16.7.3 NMAC. If October 31 falls on a weekend, a renewal postmarked or hand-delivered on the next business day will be considered timely;

(2) After the renewal date of October 31, there is a sixty (60)-day grace period ending December 30 of the same year during which the license or registration may still be renewed, and during which the licensee or registrant

may still practice or provide the services authorized by the license or registration;

(3) Massage therapists and massage therapy instructors who have not renewed their licenses or registrations with a postmark date of December 30, or the next business day if December 30 falls on a weekend [~~in the same year as their renewal cycle~~], will automatically be placed on inactive status as of December 31 of that year;

(4) Massage therapy schools that have not renewed their registrations with a postmark date of December 30, or the next business day if December 30 falls on a weekend, will automatically expire and become null and void immediately.  
[16.7.12.8 NMAC - Rp, 16.7.12.8 NMAC, 06-24-05; A, 09-30-05; A, 3/31/15]

### 16.7.12.9 GENERAL PROVISIONS ONLY FOR MASSAGE THERAPISTS AND INSTRUCTORS:

#### A. Inactive status issues for massage therapists and massage therapy instructors:

(1) Massage therapists and massage therapy instructors whose licenses or registrations have been placed on inactive status may not provide the services authorized by the license or registration;

(2) Massage therapists and massage therapy instructors who practice with an inactive license or registration are subject to disciplinary action by the board;

(3) The inactive status period shall last two (2) years, beginning on the December 30 that the license or registration is placed on inactive status;

(4) The licensee or registrant must monitor the period of inactive status;

(5) The board will [~~NOT~~] *not* send any notices of the upcoming expiration of inactive status to the licensees or registrants.

#### B. Reactivation from inactive status - therapists and instructors only:

(1) Massage therapy licenses and massage therapy instructor registrations will expire if not reactivated within two (2) years from the date the license or registration was placed on inactive status;

(2) The required reactivation form must be requested from the board office a minimum of one (1) month prior to the expiration of the inactive status period;

(3) The licensee or registrant shall [~~complete and~~] return the [~~completed~~] reactivation form with

the required proof of completion of continuing education as set forth in 16.7.11 NMAC, along with the reactivation fee and late renewal penalty fee as set forth in 16.7.3.NMAC;

(4) The reactivation application and required enclosures must be postmarked or hand-delivered to the board office no later than two years from the December 30 of the year in which the license or registration was placed on inactive status. Failure to do so will cause the license or registration to expire, lapse, and become null and void;

(5) Reactivation applications received with a postmark date or hand-delivered after December 30 will be returned to the expired licensee or registrant because the license may no longer be reactivated.

[16.7.12.9 NMAC - Rp, 16.7.12.8, 9, and 10 NMAC, 06-24-05; A, 09-30-05; A, 3/31/15]

### 16.7.12.10 MASSAGE THERAPISTS:

A. Massage therapists will renew their licenses on or before the renewal date of October 31 of the biennial renewal cycle first established when their initial licenses were issued.

B. Some massage therapists will renew on the odd-numbered year, while others will renew on the even-numbered year.

C. The general provisions in 16.7.12.8, 16.7.12.9, and 16.7.12.10 NMAC explain the policy and procedure for massage therapist license renewal.

D. Massage therapists [~~must~~] *shall* meet the continuing education requirements and [~~must~~] *shall* maintain documentation of continuing education as set forth in 16.7.11 NMAC.

[16.7.12.10 NMAC - Rp, 16.7.12.10 NMAC, 06-24-05, A, 09-30-05; A, 3/31/15]

### 16.7.12.11 MASSAGE THERAPY INSTRUCTORS:

A. **Prerequisite requirements:** The registrant [~~must~~] *shall* hold a current active New Mexico massage therapy license.

B. **Instructor registration renewal:** The general provisions in 16.7.12.8, 16.7.12.9, and 16.7.12.10 NMAC explain the policy and procedure for massage therapy instructor registration renewal.

(1) Each instructor's registration comes up for renewal at the same time the registrant's massage therapy license comes up for renewal;

(2) Registrants will renew their registration on or before October 31 of the registrant's biennial renewal year. If October 31 falls on a

weekend, a renewal postmarked or hand-delivered on the next business day will be considered timely;

(3) Registrants [~~must~~] *shall* meet the continuing education requirements and must maintain documentation of continuing education as set forth in 16.7.11 NMAC;

(4) Independent instructor registrants will be responsible for submitting their massage therapy training curriculum with their renewal;

(5) School based instructor registrants who teach at a registered massage therapy school are not required to submit a curriculum with their renewal.

[16.7.12.11 NMAC - Rp, 16.7.12.9 NMAC, 06-24-05; A, 09-30-05; A, 3/31/15]

### 16.7.12.16 UNLICENSED PRACTICE PROHIBITED:

A. Massage therapists, massage therapy instructors, and massage therapy schools may not render or attempt to render massage therapy services, instruction as a massage therapy instructor, or training and instruction as a massage therapy school without the required current and valid license or registration issued by the board as provided in Section 61-12C-27 NMSA 1978 of the Massage Therapy Practice Act.

B. In accordance with the Uniform Licensing Act, Section 61-1-3.2, NMSA 1978 (2003 Repl. Pam), any person, company, firm, or entity who is not licensed or registered by the board is subject to disciplinary actions and proceedings by the board if it is determined that [~~he, she, or it, has~~] *they have* been offering or providing massage therapy, offering or providing massage therapy instruction; or offering or providing educational training in massage therapy in New Mexico without a valid New Mexico license or registration.

C. The board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) against any person, company, firm, or entity that violates the Massage Therapy Practice Act by practicing without a valid New Mexico license.

D. In addition, the board may assess the person, company, firm, or entity engaging in the unlicensed practice of massage therapy, massages therapy instruction, or massage therapy education, the administrative costs, including investigative costs and the costs of conducting a hearing.

E. Reports of unlicensed practice may be reported to the board for investigation by phone, fax, mail, or e-mail. An approved complaint form is available from the board office or downloadable from the board's website at [~~www.rld.state~~]:

nm.us/b&c/massage] www.rld.state.nm.us.  
[16.7.12.16 NMAC - N, 06-24-05; A,  
3/31/15]

## REGULATION AND LICENSING DEPARTMENT BOARD OF MASSAGE

**This is an amendment to 16.7.14 NMAC, Sections 1, 2, 5, 8, 10, 11 and 12, effective 3/31/15.**

### 16.7.14.1 ISSUING AGENCY:

Regulation and Licensing Department,  
[Board of] Massage Therapy Board. [7-  
28-96; 6-1-99; 16.7.14.1 NMAC - Rn, 16  
NMAC 7.14.1, 06-28-01; A, 09-04-09; A,  
3/31/15]  
[P.O. Box 25101 Santa Fe, New Mexico-  
87504]

### 16.7.14.2 SCOPE:

This part applies to licensees, registrants, massage therapist, registered massage therapy instructors, registered massage therapy schools and applicants for licensure or registration.  
[7-28-96; 16.7.14.2 NMAC - Rn, 16  
NMAC 7.14.2, 06-28-01; A, 3/31/15]

### 16.7.14.5 EFFECTIVE DATE:

July 28, 1996, unless a different date is cited at the end of a section [or paragraph].  
[7-28-96; 16.7.14.5 NMAC - Rn, 16  
NMAC 7.14.5, 06-28-01; A, 3/31/15]

### 16.7.14.8 GENERAL

#### PROVISIONS:

- A.** A complaint may be initiated in writing by any person.
- B.** Complaints [must] shall be legible, either printed in black ink or typed.
- C.** Complaints [must] shall contain factual allegations, constituting the alleged violations of any provisions of the Massage Therapy Practice Act [and/or] and 16.7 NMAC.  
[7-28-96; 16.7.14.8 NMAC - Rn, 16  
NMAC 7.14.8, 06-28-01; A, 3/31/15]

### 16.7.14.10 COMPLAINT COMMITTEE:

- A.** The board chair will appoint a complaint committee consisting of at least one (1) professional member of the board, who will chair the committee. The board chair may also appoint to the complaint committee the board administrator and/or a complaint manager.
- B.** The complaint committee will handle complaints in a confidential manner as required by law.
- C.** The complaint committee will review all complaints

received by the board and make recommendations for disposition of the complaint to the full board in executive session.

**D.** No complaint committee meeting will be held without the presence of the professional board member.

**E.** A complaint committee member who believes [~~he or she~~] they are is not capable of judging a particular complaint fairly on the basis of its own circumstances will not participate; another professional member will be appointed by the chair to serve as committee chair for the complaint being considered.

**F.** For any complaint which the complaint committee reasonably anticipates may be referred to the board for consideration of the issuance of a notice of contemplated action, the respondent will be provided a copy of the complaint and will be allowed a reasonable time in which to respond to the allegations in the complaint.

**G.** [~~The foregoing notwithstanding the~~] The complaint committee will not be required to provide the respondent with a copy of the complaint, or with notice of the filing of a complaint or any related investigation, prior to the issuance of a notice of contemplated action if the committee determines that disclosure may impair, impede or compromise the efficacy or integrity of the investigation.

**H.** If the complaint committee determines that further information is needed, it may issue investigative subpoenas pursuant to the Uniform Licensing Act; it may employ an investigator, experts, or other persons whose services are determined to be necessary to assist in the processing and investigation of the complaint. The complaint committee will have independent authority to employ such persons without prior approval of the board. The board administrator will determine budgetary availability and will contract for investigative services.

**I.** Upon completion of its review or investigation of a complaint, the complaint committee will present a summary of the case to the board for the purpose of enabling the board to decide whether to proceed with the case or to dismiss the case. The summary will be identified by complaint number without identifying the complainant(s) or respondent(s) by name.

[7-28-96; 5-11-97; 6-1-99; 16.7.14.10  
NMAC - Rn, 16 NMAC 7.14.10, 06-28-01;  
A, 3/31/15]

### 16.7.14.11 BOARD ACTION:

**A.** If the board determines that it lacks jurisdiction or that there is not sufficient evidence or cause to issue a notice of contemplated action, the case will be closed.

**B.** The board's designee will send a letter of the board's decision to both the complainant and respondent. The letter will state the board's actions and the reasons for its decision.

**C.** If the board determines that there is sufficient evidence or cause to issue a notice of contemplated action, the board may vote to issue a notice of contemplated action.

**D.** The board's designee will forward a complete copy of the complaint committee's report, including exhibits to the attorney general's office for assignment of an administrative prosecutor.

**E.** The board may take any other action with regard to a complaint which is within its authority and which is within the law, including referring the complaint to the attorney general for injunctive proceedings, or referring the complaint to district attorneys for prosecution of persons alleged to be practicing massage therapy without a proper license or registration.

**F.** Any board member who believes that [~~he/she is~~] they are not capable of judging a particular complaint fairly on the basis of its own circumstances will not participate in the decision to issue a notice of contemplated action and will not participate in the hearing, deliberation, or decision of the board.

**G.** Members of the complaint committee will not participate in the decision whether to issue a notice of contemplated action, other than by making a recommendation to the board whether to issue a notice of contemplated action, and will not participate in the hearing, deliberation, or decision of the board.  
[7-28-96; 6-1-99; 16.7.14.11 NMAC - Rn,  
16 NMAC 7.14.11, 06-28-01; A, 3/31/15]

### 16.7.14.12 SETTLEMENT AGREEMENT:

**A.** The board may enter into a settlement agreement with the licensee or registrant as a means of resolving the complaint.

**B.** Any proposed settlement agreement must be approved by the board, and must also be approved by the respondent, upon a knowing and intentional waiver by the respondent of [~~his/her~~] their right to a hearing as provided by the Uniform Licensing Act.

**C.** The settlement agreement must be signed by either the licensee's attorney or the licensee must acknowledge that he or she has been advised to seek the advice of an attorney.  
[7-28-96; 6-1-99; 16.7.14.12 NMAC - Rn,  
16 NMAC 7.14.12, 06-28-01; A, 3/31/15]

**REGULATION AND  
LICENSING DEPARTMENT  
BOARD OF MASSAGE**

**This is an amendment to 16.7.16 NMAC, Section 1, effective 3/31/15.**

**16.7.16.1 ISSUING AGENCY:**  
Regulation and Licensing Department,  
Massage Therapy Board, P.O. Box 25101,  
Santa Fe, New Mexico 87504, (505) 476-  
7090.  
[16.7.16.1 NMAC - N, 06-28-01; A,  
3/31/15]

**REGULATION AND  
LICENSING DEPARTMENT  
NUTRITION AND DIETETICS  
PRACTICES BOARD**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL LICENSING  
CHAPTER 14 NUTRITION AND  
DIETETIC PRACTITIONERS  
PART 12 LICENSURE FOR  
MILITARY SERVICE MEMBERS,  
SPOUSES AND VETERANS**

**16.14.12.1 ISSUING AGENCY:**  
Nutrition and Dietetic Practice Board, P.O.  
Box 25101, Santa Fe, New Mexico.  
[16.14.12.1 NMAC - N, 03/31/2015]

**16.14.12.2 SCOPE:** This part sets  
forth application procedures to expedite  
licensure for military service members,  
spouses and veterans.  
[16.14.12.2 NMAC - N, 03/31/2015]

**16.14.12.3 STATUTORY  
AUTHORITY:** These rules are  
promulgated pursuant to Section 61-1-34  
of the Uniform Licensing Act, NMSA  
1978, Section 61-1-1 to -34 (1957, as  
amended through 2013) and the Nutrition  
and Dietetics Practice Act, NMSA 1978,  
Sections 61-7A-1 to -15.  
[16.14.12.3 NMAC - N, 03/31/2015]

**16.14.12.4 DURATION:**  
Permanent.  
[16.14.12.4 NMAC - N, 03/31/2015]

**16.14.12.5 EFFECTIVE DATE:**  
March 31, 2015 unless a later date is cited  
at the end of a section.  
[16.14.12.5 NMAC - N, 03/31/2015]

**16.14.12.6 OBJECTIVE:** The  
purpose of this part is to expedite licensure  
for military service members, spouses and  
veterans pursuant to NMSA 1978, Section  
61-1-34.  
[16.14.12.6 NMAC - N, 03/31/2015]

**16.14.12.7 DEFINITIONS:**  
**A.** "Military service  
member" means a person who is serving in  
the armed forces of the United States or in  
an active reserve component of the armed  
forces of the United States, including the  
national guard.

**B.** "Recent veteran"  
means a person who has received an  
honorable discharge or separation from  
military service within the two (2) years  
immediately preceding the date the person  
applied for an occupational or professional  
license pursuant to this section.

**C.** "Spouse" means any  
partner of a "military service member"  
or "recent veteran" whose marriage to  
the "military service member" or "recent  
veteran" has been legally recognized by any  
state or country.  
[16.14.12.7 NMAC - N, 03/31/2015]

**16.14.12.8 APPLICATION  
REQUIREMENTS:**

**A.** Applications for  
registration shall be completed on a form  
provided by the department.

**B.** Completed application  
shall include:  
**(1)** application  
fee; and

**(2)** satisfactory  
evidence that the applicant holds a license  
that is current and in good standing, issued  
by another jurisdiction, including a branch  
of armed forces of the United States, that  
has met the minimal licensing requirements  
that are substantially equivalent to the  
licensing requirements for the occupational  
or professional license the applicant applies  
for pursuant to Chapter 61, Articles 7A  
NMSA 1978.

**C.** Electronic signatures  
will be acceptable for applications  
submitted pursuant to section 14-16-1  
through section 14-16-19 NMSA 1978.  
[16.14.12.8 NMAC - 03/31/2015]

**16.14.12.9 FEES:** An applicant  
seeking licensure under 16.14.12 NMAC  
shall refer to part 2 of Chapter 14 for  
applicable fees.  
[16.14.12.9 NMAC - N, 03/31/2015]

**16.14.12.10 RENEWAL  
REQUIREMENTS:**

**A.** A license or certificate  
issued pursuant to this section shall not be  
renewed unless the license or certificate  
holder satisfies the requirements for the  
issuance and for the renewal of a license or  
certificate pursuant to Chapter 61, Articles  
7A NMSA 1978.

**B.** The licensee or  
certificate holder issued under 16.14.12  
NMAC shall submit the documentation

required under the following part: refer to  
16.14.3 NMAC requirements for licensure.

**C.** All licenses and  
certificates issued under 16.14.12 NMAC  
shall be valid for a period not to exceed one  
(1) year.

**D.** Prior to the expiration  
of the license, all licensees or certificate  
holders shall apply for registration renewal  
and shall pay the renewal fee as set forth in  
16.14.2 NMAC.

[16.14.12.10 NMAC - N, 03/31/2015]

**HISTORY OF 16.14.12 NMAC:**  
[RESERVED]

**REGULATION AND  
LICENSING DEPARTMENT  
NUTRITION AND DIETETICS  
PRACTICES BOARD**

**This is an amendment to 16.14.1  
NMAC, Section 14, effective 3/31/2015.**

**16.14.1.14 CONFIDENTIAL  
RECORDS:** The following records are  
considered confidential and are not subject  
to public inspection:

**A.** letters of reference  
concerning employment, licensing or  
permits;

**B.** medical reports or  
records of chemical dependency, physical or  
mental examinations or treatment;

~~**C.** examination scores;~~  
~~**D.** the contents of any  
examination used to test for an individual's  
knowledge or competence;~~

~~**E.] C.** investigative files; and~~  
~~**[F.] D.** letters or memorandum  
which are matters of opinion in personnel  
files or students' cumulative  
files.~~

[16.14.1.14 NMAC - Rp, 16 NMAC  
14.1.14, 08/01/2011; A, 3/31/2015]

**End of Adopted Rules Section**

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**Other Material Related to Administrative Law**

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**HUMAN SERVICES  
DEPARTMENT  
MEDICAL ASSISTANCE  
DIVISION**

The Human Services Department (the Department), Medical Assistance Division (MAD), is withdrawing its Notice of Rulemaking for amending 8.314.6 New Mexico Administrative Code (NMAC) published in New Mexico Register Volume XXVI, Number 1, January 15, 2015 . The Department is working with the Centers for Medicare and Medicaid Services (CMS) to finalize Mi Via Waiver content that may impact previously proposed NMAC rule amendments. The Department anticipates re-promulgating 8.314.6 NMAC late spring of 2015. The Department will issue a new Notice of Rulemaking at that time with specific information on how to provide public comments, including the opportunity to provide public testimony at the rule's hearing. Comments received during the previous public comment period were archived by the Department and are being reviewed for potential incorporation for the next rule promulgation. If you have questions concerning the Mi Via program, please call 505-827-3176 or toll free at 1-888-997-2583, asking for extension 7-3176.

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**End of Other Related Material  
Section**

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**New Mexico Register**  
**Submittal Deadlines and Publication Dates**  
**Volume XXVI**  
**2015**

<b>Volume XXVI</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 30
Issue Number 3	February 2	February 13
Issue Number 4	February 16	February 27
Issue Number 5	March 2	March 16
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 14
Issue Number 10	May 15	May 29
Issue Number 11	June 1	June 16
Issue Number 12	June 17	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 30
Issue Number 15	July 31	August 14
Issue Number 16	August 17	August 28
Issue Number 17	August 31	September 15
Issue Number 18	September 16	September 29
Issue Number 19	September 30	October 15
Issue Number 20	October 16	October 29
Issue Number 21	October 30	November 16
Issue Number 22	November 17	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at <http://www.nmcp.state.nm.us/nmregister>.  
For further information, call 505-476-7875.