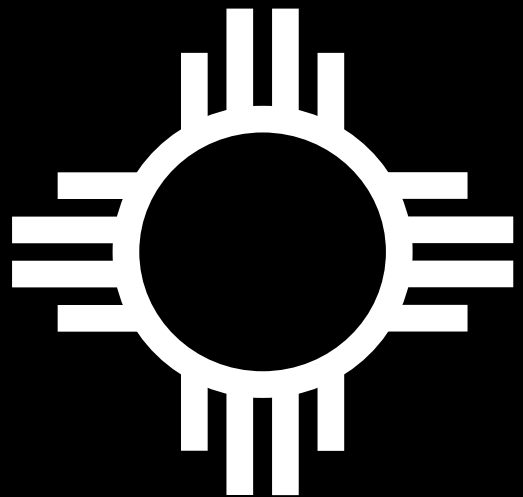


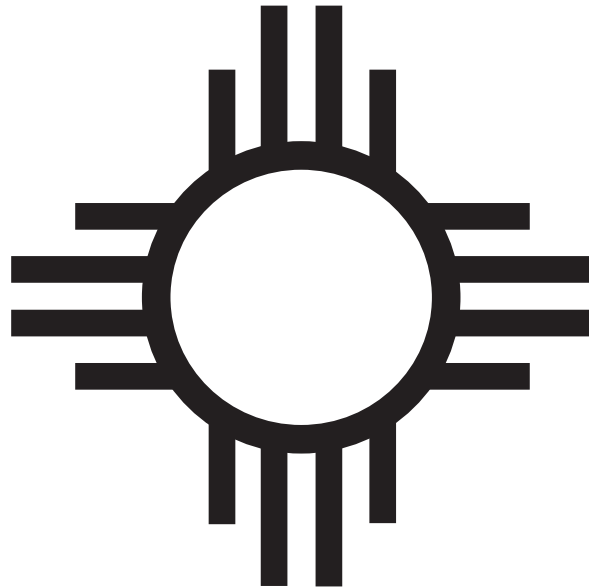
**NEW
MEXICO
REGISTER**



Volume XXVI
Issue Number 17
September 15, 2015

New Mexico Register

**Volume XXVI, Issue 17
September 15, 2015**



The official publication for all notices of rulemaking
and filing of proposed, adopted 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, Issue 17

September 15, 2015

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Notices of Rulemaking and Proposed Rules

DEPARTMENT OF HEALTH

Notice of Public Hearing

The New Mexico Department of Health will hold a public hearing on new regulations known as 7.10.2 NMAC, "Requirements for Freestanding Birth Centers." The hearing will be held on October 20, 2015 at 9:00 a.m. in the auditorium of the Harold Runnels Building located at 1190 St. Francis Drive in Santa Fe, New Mexico.

The hearing will be conducted to receive public comments regarding proposed adoption of new rules required by the passage of 2015 House Bill 84 which amended the Public Health Act to provide for the licensure by the Department of Health of Freestanding Birth Centers and the promulgation of rules it deems necessary or desirable to promote the health, safety and welfare of persons using freestanding birth centers. All of the provisions in this rule are new. A copy of the rule may be obtained by request in writing, and written comments may be submitted, by email sent to: Amber.Espinosa-Truj@state.nm.us. Alternatively, you may mail the request or comments to:

Amber Espinosa-Trujillo
Bureau Chief, SMQT, QIS, ICF/IID
Certified
Office of Policy, Planning & Evaluation
2040 South Pacheco Suite 137
Santa Fe, NM 87505
(505) 476-8810
(505) 476-9026

The Department will accept written comments through the close of the hearing. If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Ms. Espinosa-Trujillo by email, or via the address above, or call (505) 476-8810. The Department requests at least ten (10) days advance notice for special accommodations requests.

REGULATION AND LICENSING DEPARTMENT BOARD OF BARBERS AND COSMETOLOGISTS

Public Rule Hearing and Regular Board Meeting

Notice is hereby given that the New Mexico Board of Barbers and Cosmetologists will hold a Rule Hearing on Monday, October 19th and Tuesday, October 20th, 2015. Following the Rule Hearing, the Board will convene a Regular Board Meeting to adopt the rules and take care of regular business. The Rule Hearing will begin at 9:00 a.m. and will be held at the Regulation and Licensing Department, 2500 Cerrillos Road, Santa Fe, NM 87504. The Rule Hearing and Regular Board Meeting will be held in the Rio Grande Conference Room on Monday, October 19th, 2015 and in Hearing Room 2 on Tuesday, October 20th, 2015.

The purpose of the Rule Hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.34.1 NMAC, General Provisions; 16.34.2 NMAC, Licensing; 16.34.4 NMAC, Special Licenses; 16.34.5 NMAC, Regular Licenses; 16.34.6 NMAC, Licensing by Reciprocity; Credit for Out-Of-State Training; 16.34.7 NMAC, Establishments and Enterprises; 16.34.8 NMAC, Schools; 16.34.9 NMAC, Continuing Education; 16.34.11 NMAC, Violations; 16.34.13 NMAC, Administrative Procedures; 16.34.14 NMAC, Fees; and 16.34.15 NMAC, Administrative Penalties and Fines.

The Board's proposed rules are available on the Board's website at: [www.rld.state.nm.us/boards/Barbers and Cosmetologists Members and Meetings](http://www.rld.state.nm.us/boards/Barbers_and_Cosmetologists/Members_and_Meetings). Individuals requesting copies of proposed rules may also contact the New Mexico Board of Barbers and Cosmetologists, P.O. Box 25101, Santa Fe, New Mexico 87504, or by calling (505) 476-4622. A copy of the Agenda for the Regular Board Meeting will be available at least seventy-two (72) hours prior to the meeting and will be posted on the Board's website. The Agenda may also be obtained by contacting the Board Office.

In order for the Board members to review the comments in their meeting packets

prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board Office in writing no later than September 28, 2015. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

During the Regular Meeting, the Board may enter into Executive Session pursuant to NMSA 1978, §10-15-1 (H) (1) and (3), of the Open Meetings Act, to discuss matters related to the issuance, suspension, renewal or revocation of licenses, and administrative adjudicatory proceedings.

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

Pauline M. Varela, Executive Director
P.O. Box 25101, Santa Fe, NM 87504

REGULATION AND LICENSING DEPARTMENT BOARD OF DENTAL HEALTH CARE

Legal Notice; Public Rule Hearing and Regular Board and Committee Meeting

Notice is hereby given that the New Mexico Board of Dental Health Care will hold a Rule Hearing on Friday, October 16, 2015. Following the Rule Hearing the New Mexico Dental Hygienists Committee will convene a regular meeting; following the New Mexico Dental Hygienist Committee meeting the New Mexico Board of Dental Health Care will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Dental Health Care Rule Hearing will begin at 8:00 a.m. and the Regular Board Meetings will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, Toney Anaya Building, 2500 Cerrillos Road, Santa Fe, NM, 87505, in the Rio Grande Conference Room.

The purpose of the rule hearing is to consider adoption of proposed amendments, to the following Board Rules and Regulations in 16.5.1 General Provisions, 16.5.7 Dentists, Temporary or Public Service Licensure, 16.5.15 Dentists, Anesthesia Administration, 16.5.16 Dentists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Action, 16.5.17 Dentists and Dental Hygienists, Collaborative Practice, 16.5.19 Dental Hygienists, Licensure by Examination, 16.5.28 Dental Hygienists, Local Anesthesia Certification, 16.5.29 Dental Hygienists, Practice, 16.5.30 Dental Hygienists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Actions, 16.5.42 Expanded Function Dental Auxiliary, Requirements for Certification.

You can contact the board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87505, call (505) 476-4622 or copies of the proposed rules are available on the Dental board's website: www.RLD.state.nm.us. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing **no later than October 1, 2015**. Persons wishing to present their comments at the hearing will need fifteen (15) copies of any comments or proposed changes for distribution to the Board and staff.

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

REGULATION AND LICENSING DEPARTMENT
BOARD OF OSTEOPATHIC MEDICAL EXAMINERS

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Osteopathic Medical Examiners will hold a Rule Hearing on Friday, October 23, 2015. Following the Rule Hearing the New Mexico Board of Osteopathic Medical

Examiners will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Osteopathic Medical Examiners Rule Hearing will begin at 10:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held in the Rio Grande Room at the Regulation and Licensing Department, Toney Anaya Building located at the, 2550 Cerrillos Road in Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adopting a new part to the Board Rules in 16.17 NMAC. The New Part is 16.17.9 NMAC: Physicians Supervising Pharmacist Clinicians.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico, or call (505)476-4622 after September 23, 2015 or from the Board's website <http://www.rld.state.nm.us/boards/>. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing **no later than October 8, 2015**. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

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

Gabriella Romero, Administrator
PO Box 25101, Santa Fe, NM 87505

REGULATION AND LICENSING DEPARTMENT
SIGNED LANGUAGE INTERPRETING PRACTICES BOARD

Legal Notice; Public Rule Hearing and Regular Board Meeting

The New Mexico Signed Language Interpreting Practice Board will hold a Rule Hearing on Monday, October

19, 2015. Following the Rule Hearing, the New Mexico Signed Language Interpreting Practice Board will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Signed Language Interpreting Practice Board Rule Hearing will begin at 10:00 a.m. and the regular meeting will convene immediately following the Rule Hearing. The meetings will be held at the Regulation and Licensing Department, 2550 Cerrillos Rd., in Hearing Room 2, Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.28.1 NMAC General Provisions, 16.28.2 NMAC Education and Continuing Education Requirements, 16.28.3 NMAC Application and Licensure Requirements, 16.28.7 NMAC Licensure for Military Service members, Spouses and Veterans.

You can contact the board office at the Toney Anaya Building located at the Toney Anaya Bldg., 2550 Cerrillos Road, 2nd Floor in Santa Fe, New Mexico 87504, (505) 476-4622, or copies of the proposed rules are available on the Signed Language board's website: www.RLD.state.nm.us/boards/signed_language_interpreting_practice.aspx.

In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board office in writing **no later than October 2, 2015**. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

The Board may enter into Executive Session pursuant to Section 10-15-1 of the Open Meetings Act, to discuss matters related to the issuance, suspension, renewal or revocation of licenses.

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

Thank you,
Cynthia Salazar, Board Administrator
P.O. Box 25101, Santa Fe, NM 87504

STATE GAME COMMISSION

Meeting and Rule Making Notice

On **Tuesday, September 29, 2015**, beginning at 9:00 a.m., at the **Embassy Suites Conference Center**, located at **1000 Woodward Place NE, Albuquerque, NM**, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: Action to be taken on United States Fish and Wildlife Service Appeal of the Denial of Application to Release Mexican Gray Wolves, Revocations, Pueblo of Santa Ana Pronghorn Antelope Update/Request for Pronghorn Antelope, Final Proposed State Land Easement Agreement 2016 Season, Oryx and Pronghorn Hunt Date Conflicts on White Sands Missile Range (WSMR) with Trinity Site Tours (19.31.15 and 19.31.12 NMAC), Fiscal Year 2015 Depredation and Nuisance Abatement Report, Lesser Prairie Chicken Range Wide Conservation Plan Report, Final Amendments to the Elk and Turkey Rule Regarding the Valles Caldera National Preserve, Update on the Hunters Helping the Hungry Program, Proposed Amendments to the Fisheries Rule Regarding Identifying Potential Special Trout Waters Designations on the Valles Caldera National Preserve, Update on Development of Shooting Ranges in New Mexico, Update on the Department's Assessment, Monitoring and Cooperation Efforts with Agencies on the Animas River Regarding the Gold King Mine Spill, Gaining Access Into Nature (GAIN) Proposed Rule Development (19.34.3 NMAC), Proposed Amendments to the Aquatic Invasive Species Rule (19.30.14 NMAC), and Closed Executive Session.

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

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior

to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

DEPARTMENT OF GAME AND FISH

The State Game Commission at its August 27, 2015 meeting repealed its rule 19.31.06 NMAC, Migratory Game Bird Rule, filed August 29, 2014, and replaced it with 19.31.06 NMAC, Migratory Game Bird Rule, effective 9/1/2015.

DEPARTMENT OF GAME AND FISH

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

19.31.6.1 ISSUING AGENCY:
 New Mexico Department of Game and Fish.
 [19.31.6.1 NMAC - Rp/E, 19.31.6.1 NMAC, 9-1-2015]

19.31.6.2 SCOPE:
 Sportspersons interested in migratory game bird management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30 and 32 through 36 of Title 19 NMAC.
 [19.31.6.2 NMAC - Rp/E, 19.31.6.2 NMAC, 9-1-2015]

19.31.6.3 STATUTORY AUTHORITY: Section 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.
 [19.31.6.3 NMAC - Rp/E, 19.31.6.3 NMAC, 9-1-2015]

19.31.6.4 DURATION:
 September 1, 2015 - March 31, 2016.
 [19.31.6.4 NMAC - Rp/E, 19.31.6.4 NMAC, 9-1-2015]

19.31.6.5 EFFECTIVE DATE:

September 1, 2015 unless a later date is cited at the end of a section.
 [19.31.6.5 NMAC - Rp/E, 19.31.6.5 NMAC, 9-1-2015]

19.31.6.6 OBJECTIVE:
 Establishing seasons on dove, band-tailed pigeon, sandhill crane, American coot, common moorhen, common snipe, ducks, geese, sora, Virginia rail, and setting falconry seasons for migratory game birds.
 [19.31.6.6 NMAC - Rp/E, 19.31.6.6 NMAC, 9-1-2015]

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

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

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

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

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

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

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

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

H. "Crossbows" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not

project light nor magnify.

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

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

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

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

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

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

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

P. "Established road" is defined as follows:

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

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

Q. "Estancia valley sandhill crane hunt area" (EV) shall mean that area beginning at Mountainair bounded on the west by N.M. highway

55 north to N.M. 337, north to N.M. 14, and north to Interstate 25; on the north by Interstate 25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to N.M. 55 in Mountainair.

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

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

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

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

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

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

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

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

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

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

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

CC. “North zone” shall mean that portion of the Pacific flyway

north of I-40 from the Arizona-New Mexico border to the continental divide; and that portion of the central flyway north of I-40 from the continental divide to Tucumcari and U.S. 54 at its junction with I-40 at Tucumcari to the New Mexico-Texas border.

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

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

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

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

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

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

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

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

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

LL. “Southwest band-tailed pigeon hunting area” (southwest BPHA) shall mean that portion of New Mexico both south of U.S. 60 and west of I-25.

MM. “Southwest New

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

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

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

PP. “Youth” shall mean those less than 18 years of age except where otherwise defined.
[19.31.6.7 NMAC - Rp/E, 19.31.6.7 NMAC, 9-1-2015]

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

The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, authorizations, or harvest limits, up or down by no more than 20% to address significant changes in population levels or habitat availability. This adjustment may be applied to any or all of the entry hunt codes.
[19.31.6.8 NMAC - Rp/E, 19.31.6.8 NMAC, 9-1-2015]

19.31.6.9 LICENSE AND APPLICATION REQUIREMENTS:

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

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

(2) For EV sandhill crane, MRGV sandhill crane,

MRGV youth-only sandhill crane, and SW sandhill crane, in addition to a valid license, a special permit obtained by drawing shall be required.

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

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

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

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

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

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

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

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

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

(7) The application deadline date for the EV, MRGV, MRGV youth-only, and SW sandhill crane hunt permits shall be on date(s) set by the state game commission. If any permits are available after the drawing, those permits may be sold online via a secondary sale.

(8) If applications for permits exceed the number of available permits, as herein established, the available permits shall

be allotted by means of a random public drawing in the Santa Fe office of the department.

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

D. Youth hunts: Only applicants who have not reached their 18th birthday by the opening day of the hunt are eligible to apply for or participate in a youth-only hunt, except that during the federal youth waterfowl hunt days only those who have not reached their 16th birthday may hunt waterfowl. [19.31.6.9 NMAC - Rp/E, 19.31.6.9 NMAC, 9-1-2015]

19.31.6.10 MANNER AND METHODS FOR MIGRATORY GAME BIRDS:

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

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

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

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

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

C. Bag limit: It is unlawful for any person to hunt for or take more than one daily bag limit allowed by regulation, unless otherwise specifically allowed by rule. There shall be no daily bag or possession limit for light geese during the light goose conservation order hunt dates.

D. Seizure: Any conservation officer or other officer

authorized to enforce game laws and regulations shall seize the carcasses of any migratory game birds that are illegally obtained.

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

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

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

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

I. Legal sporting arms and ammunition:

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

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

(b) muzzle-loading shotguns firing shot;

(c) bows and arrows;

(d) crossbows and bolts; and

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

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

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

(b) on all state game commission owned lands.

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

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

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

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

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

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

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

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

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

(d) the date and place of the donation.

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

(a) zoos open for public display;

(b) in class A parks;

(c) in projects for scientific research and propagation;

(d) a rehabilitation permit;

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

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

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

(4) Sale of

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

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

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

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

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

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

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

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

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

(6) Mobility

impaired:

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

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

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

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

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

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

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

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

(a) Bernardo WMA: (i) That portion of the Bernardo WMA south of U.S. 60 is open to teal hunting each

day of the September teal season and the federal youth waterfowl days. That portion of the Bernardo WMA north of U.S. 60 is closed except during the light goose conservation order.

(ii) The Quagmire shall be open only on Tuesday, Thursday, and Sunday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(iii) The Bernardo pond unit shall be open for general waterfowl hunting from one-half hour before sunrise to 1:00 p.m. on Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

(iv) The Bernardo youth unit shall be open for youth waterfowl hunting from one-half hour before sunrise to 1:00 p.m. on Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

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

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

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

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

Joya WMA:

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

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

(iii) That portion of La Joya WMA south of the main east/west entrance road and west of the railroad tracks shall be open on Sunday, Tuesday and Thursday to hunt ducks, geese, Virginia rail, Sora, common moorhen, American coot, and common snipe during established seasons, unless otherwise specifically allowed by rule.

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

(g) The McAllister lake WMA shall be open each day of the federal youth waterfowl days, each day of the September teal season, and on Monday, Wednesday, and Saturday to hunt ducks, dark and light geese, Virginia rail, sora, common moorhen, American coot, and common snipe during established seasons. McAllister lake WMA shall also be open each day of the dove season for dove hunting.

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

(i) The Socorro-Escondida wildlife management area shall be open for migratory game bird hunting during established seasons.

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

(k) The William S. Huey WMA shall be

open for dove hunting only on Monday, Wednesday, and Saturday during established statewide seasons.

(5) The Big Hatchet mountain special management area shall be open for dove hunting during established seasons.

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

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

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

(9) All wildlife management areas shall be open to falconry waterfowl hunting each day of the established falconry season, unless otherwise restricted by rule.

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

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

(2) Areas within Valencia county may be closed to migratory game bird hunting that meets the following criteria:

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

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

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

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

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

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

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

(4) Department personnel or persons authorized by the director may use gasoline powered outboard motors on all lakes mentioned in this chapter while performing official duties.

[19.31.6.10 NMAC - Rp/E, 19.31.6.10 NMAC, 9-1-2015]

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

A. 2015-2016 season; all dates are 2015 unless otherwise specified. Possession limits are three times the daily bag limit unless otherwise specified.

| species | open areas | season dates | daily bag limit |
|--|-----------------|-----------------------------------|-----------------------------|
| mourning and white-winged dove | north zone | Sept. 1 - Nov. 9 | 15 (singly or in aggregate) |
| | south zone | Sept. 1 - Oct. 13 and Dec. 5 - 31 | |
| band-tailed pigeon | southwest BPHA | Oct. 1 -14 | 2 |
| | regular BPHA | Sept. 1 -14 | |
| regular season sandhill crane (free permit required) | eastern | Oct. 31 - Jan. 31, 2016 | 3 (6 in possession) |
| special season sandhill crane (special draw permit required) | MRGV southwest | Oct. 24 - 25 | 2 per season |
| | MRGV | Oct. 24 - Nov. 1 | |
| | MRGV southwest | Nov. 14 - 15 | |
| | MRGV | Nov. 28 - 29 | |
| | EV | Jan. 2 - 3, 2016 | 3 (6 in possession) |
| | | Jan. 9 - 10, 2016 | |
| | MRGV youth-only | Nov. 7 | |
| | | | 2 |

CENTRAL FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.

| species | season dates | daily bag limit |
|--|-------------------------------------|--|
| September teal: blue-winged teal, green-winged teal, and cinnamon teal | Sept. 12 - 19 | 6 (singly or in the aggregate) |
| ducks | north zone: Oct. 27 - Jan. 31, 2016 | 6 (singly or in the aggregate); that consists of no more than 5 mallard (of which only 2 may be female mallard, [Mexican-like ducks are included towards the mallard bag limit]), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 2 pintail, and 2 canvasback |
| | south zone: Oct. 27 - Jan. 31, 2016 | |
| youth waterfowl days | north zone: Sept. 26 - 27 | |
| | south zone: Oct. 10 - 11 | |
| American coot | north zone: Oct. 27 - Jan. 31, 2016 | 15 |
| | south zone: Oct. 27 - Jan. 31, 2016 | |
| common moorhen | Sept. 26 - Dec. 4 | 1 |
| common snipe | Oct. 24 - Feb. 7, 2016 | 8 |
| Virginia rail & sora | Sept. 12 - Nov. 20 | 10 (singly or in the aggregate); 20 in possession |
| dark goose: Canada & white-fronted geese (regular season closed in Bernalillo, Sandoval, Sierra, Socorro, and Valencia counties) | Oct. 17 - Jan. 31, 2016 | 5 |
| dark goose: special MRGV season | Dec. 26 - Jan. 19, 2016 | 2 (2 per season) |
| light goose: Ross's & snow geese | Oct. 17 - Jan. 31, 2016 | 50 (no possession limit) |
| light goose conservation order | Feb. 1 - Mar. 10, 2016 | no bag or possession limit |

| PACIFIC FLYWAY: possession limits are three times the daily bag limit unless otherwise specified. | | |
|--|--|--|
| Species | season dates | daily bag limit |
| youth waterfowl days | Oct. 3 - 4 | 7 (singly or in the aggregate); that consists of no more than 2 female mallard, 2 redhead, 2 pintail, and 2 canvasback |
| ducks | Oct. 10 - Jan. 22, 2016 | |
| scaup | Oct. 10 - Jan. 3, 2016 | |
| American coot and common moorhen | Oct. 10 - Jan. 22, 2016 | 25 daily (singly or in the aggregate) |
| common snipe | Oct. 24 - Feb 7, 2016 | 8 |
| Virginia rail & sora | Sept. 12 - Nov. 20 | 25 daily (singly or in the aggregate) |
| goose | north zone: Sept. 26 - Oct. 11 and Oct. 24 - Jan. 22, 2016 | 3 Canada geese, 10 white-fronted geese, and 20 light geese |
| | south zone: Oct. 10 - Jan. 24, 2016 | |

B. Light goose conservation measures: Under the director’s discretion with the verbal concurrence of the state game commission chairman or his designee, the department may implement the light goose conservation measures approved by the USFWS. Methods, bag and possession limits, and dates allowed shall be those as approved by the USFWS. A free permit is required. [19.31.6.11 NMAC - Rp/E, 19.31.6.11 NMAC, 9-1-2015]

19.31.6.12 FALCONRY SEASONS: 2015-2016 season, all dates are 2015 unless otherwise specified. Bag limits are three singly or in the aggregate and nine in possession unless otherwise specified.

| CENTRAL FLYWAY | | |
|--------------------------------|-------------------|---|
| species | open areas | season dates |
| mourning and white-winged dove | all | Sept. 1 - Nov. 12 and Nov. 28 - Dec. 31 |
| band-tailed pigeon | southwest BPHA | Oct. 1 - 14 |
| | regular BPHA | Sept. 1 - 14 |
| sora and Virginia rail | all | Sept. 12 - Dec. 27 |
| common snipe | all | Oct. 24 - Feb. 7, 2016 |
| common moorhen | all | Sept. 26 - Jan. 10, 2016 |
| ducks | north | Sept. 12 - 19, Sept. 26 - 27, and Oct. 27 - Jan. 31, 2016 |
| | south | Sept. 12 - 19, Oct. 10-11, and Oct. 27 - Jan. 31, 2016 |
| goose (light and dark) | all | Oct. 17 - Jan. 31, 2016 |
| goose (dark) | MRGV | Dec. 26 - Jan. 19, 2016 |
| sandhill crane | regular (eastern) | Oct. 17 - Jan. 31, 2016; 3 (6 in possession) |
| | Estancia valley | Oct. 24 - Dec. 22; 3 (6 in possession) |
| PACIFIC FLYWAY | | |
| species | open areas | season dates |
| mourning and white-winged dove | all | Sept. 1 - Nov. 12 and Nov. 28 - Dec. 31 |
| band-tailed pigeon | southwest BPHA | Oct. 1 - 14 |
| | regular BPHA | Sept. 1 - 14 |
| duck | all | Oct. 3 - 4 and Oct. 10 - Jan. 22, 2016 |
| scaup | all | Oct. 10 - Jan. 3, 2016 |
| light goose | north | Sept. 26 - Oct. 11 and Oct. 24 - Jan. 22, 2016 |
| | south | Oct. 10 - Jan. 24, 2016 |
| dark goose | north | Sept. 26 - Oct. 11 and Oct. 24 - Jan. 22, 2016 |
| | south | Oct. 10 - Jan. 24, 2016 |
| common snipe | all | Oct. 24 - Feb. 7, 2016 |
| common moorhen | all | Oct. 3 - 4 and Oct. 10 - Jan. 22, 2016 |
| sora and Virginia rail | all | Sept. 12 - Nov. 20 |

[19.31.6.12 NMAC - Rp/E, 19.31.6.12 NMAC, 9-1-2015]

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

- A. Youth hunters must be under 16 years old.
 - B. An adult, at least 18 years old, must accompany the youth hunter in the field (the adult may not hunt ducks but may participate in other seasons that are open on the special youth days).
 - C. Only ducks, coots, and moorhens may be taken by the youth hunter (sandhill cranes, geese or any other migratory game bird species may not be taken unless the season is open).
- [19.31.6.13 NMAC - Rp/E, 19.31.6.13 NMAC, 9-1-2015]

19.31.6.14 REQUIREMENTS FOR THE SPECIAL BERNARDO YOUTH WATERFOWL UNIT:

- A. The Bernardo youth hunt unit will only be open for youth waterfowl hunting.
 - B. Blind selection will be available on a first-come, first-serve basis from one-half hour before sunrise to 1:00 p.m. Youth hunters must be accompanied by a supervising adult who may not hunt. A maximum of four people is allowed per blind, at least 50% of which must be youth hunters.
- [19.31.6.14 NMAC - Rp/E, 19.31.6.14 NMAC, 9-1-2015]

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

A. The hunting seasons for 2015-2016 are:

| season dates | hunt code | hunt location | no. of permits | season dates | hunt code | hunt location | no. of permits |
|------------------|-----------|---------------|----------------|-------------------|-----------|---------------|----------------|
| Oct. 24 - 25 | SCR-0-101 | MRGV | 70 | Oct. 24 - Nov. 1 | SCR-0-105 | SW | 60 |
| Oct. 24 - Nov. 1 | SCR-0-102 | EV | 65 | Jan. 9 - 10, 2016 | SCR-0-106 | MRGV | 40 |
| Nov. 14 - 15 | SCR-0-103 | MRGV | 50 | Jan. 2 - 3, 2016 | SCR-0-107 | SW | 45 |
| Nov. 28 - 29 | SCR-0-104 | MRGV | 40 | Nov. 7 | SCR-0-109 | MRGV youth | 24 |

- B. Hunters who participate in the EV and MRGV seasons shall be required to check-out at designated check stations when they harvest any sandhill cranes.
 - C. All EV, MRGV and SW sandhill crane hunters are required to submit a special permit sandhill crane harvest report to the department within five days after the end of their hunt. Hunters that do not submit a questionnaire within five days of the close of their hunt will be considered ineligible to receive a sandhill crane permit the following year.
 - D. The department may cancel one or more EV, MRGV or SW sandhill crane hunts if harvest is expected to exceed our federal allocation of greater sandhill cranes.
- [19.31.6.15 NMAC - Rp/E, 19.31.6.15 NMAC, 9-1-2015]

HISTORY OF 19.31.6 NMAC:

Pre-NMAC Filing History: The material in this part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 486, Establishing 1967 Seasons On Quail, Pheasants, Prairie Chickens, and Lesser Sandhill (Little Brown) Crane And Additional Seasons On Migratory Waterfowl, filed 9/22/67; Regulation No. 494, Establishing 1968 Seasons On Migratory Waterfowl, Common Snipe, Lesser Sandhill Crane, Scaled, Gambel's, And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 10/2/68; Regulation No. 508, Establishing 1969 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Scaled, Gambel's And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 9/19/69; Regulation No. 527, Establishing 1971 Seasons On Migratory Waterfowl And Lesser Sandhill Cranes, filed 9/10/71; Regulation No. 540, Establishing 1972 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, And Wilson's Swipec, filed 9/26/72; Regulation No. 551, Establishing 1973 Seasons On Migratory Waterfowl And Lesser Sandhill Crane, filed 8/20/73; Regulation No. 560, Establishing 1974 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/21/74; Regulation No. 570, Establishing 1975 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/5/75; Regulation No. 578, Establishing 1976 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 8/31/76; Regulation No. 588, Establishing 1977 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/6/77; Regulation No. 594, Establishing 1978 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/11/78; Regulation No. 601, Establishing 1979 Seasons on Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/30/79; Regulation No. 606, Establishing 1980 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/3/80; Regulation No. 611, Establishing 1981 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/4/81; Regulation No. 616, Establishing 1982 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/3/82; Regulation No. 626, Establishing 1983 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/7/83; Regulation No. 631, Establishing 1984 Seasons On Migratory Waterfowl, filed 8/31/84; Regulation No. 638, Establishing 1985 Seasons On Migratory Waterfowl, filed 9/11/85; Regulation No. 643, Establishing 1986-87 Seasons On Migratory Birds, filed 8/24/87; Regulation No. 660, Establishing 1988-89 Seasons On Migratory Birds, filed 6/28/88; Regulation No. 669, Establishing 1989-90 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Sandhill Crane, Band-tailed Pigeon, Dove, And Setting Falconry Seasons, filed 10/5/89; Regulation No. 680, Establishing 1990-91 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 9/28/90; Regulation No. 687, Establishing 1991-92 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry

Seasons, filed 8/6/91; Regulation No. 698, Establishing 1991-92 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 8/6/91; Regulation No. 698, Establishing 1992-93 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry seasons, filed 9/15/92; Regulation No. 704, Establishing 1993-94 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 3/11/93; Regulation No. 707, Establishing The 1994-95, 1995-96, 1996-97 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 7/28/94; Regulation No. 708, Establishing The 1994-95, 1995-96, And 1996-97 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 9/7/94.

NMAC History:

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

History of Repealed Material:

19.31.6 NMAC, Waterfowl, filed 8-15-2000 - duration expired 3-31-2002
 19.31.6 NMAC, Waterfowl, filed 8-26-2002 - duration expired 3-31-2003
 19.31.6 NMAC, Waterfowl, filed 8-12-2003 - duration expired 3-31-2004
 19.31.6 NMAC, Waterfowl, filed 8-2-2004 - duration expired 3-31-2005
 19.31.6 NMAC, Waterfowl, filed 8-8-2005 - duration expired 3-31-2006
 19.31.6 NMAC, Waterfowl, filed 8-1-2006 - duration expired 3-31-2007
 19.31.6 NMAC, Waterfowl, filed 8-16-2007 - duration expired 3-31-2008
 19.31.6 NMAC, Waterfowl, filed 8-13-2008 - duration expired 3-31-2009

19.31.6 NMAC, Waterfowl, filed 8-17-2009 - duration expired 3-31-2010
 19.31.6 NMAC, Waterfowl, filed 8-2-2010 - duration expired 3-31-2011
 19.31.6 NMAC, Waterfowl, filed 8-1-2011 - duration expired 3-31-2012
 19.31.6 NMAC, Migratory Game Bird, filed 8-14-2012 - duration expired 3-31-2013
 19.31.6 NMAC, Migratory Game Bird, filed 8-29-2013 - duration expired 3-31-2014
 19.31.6 NMAC, Migratory Game Bird, filed 8-31-2015 - duration expired 3-31-2016

DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.10 NMAC, Section 8, effective 9-15-2015.

19.30.10.8 REPORTING REQUIREMENTS FOR CERTAIN LICENSED OR PERMITTED HUNTERS AND FURBEARER HUNTERS AND TRAPPERS:

A. Individuals licensed or permitted to hunt deer, elk, pronghorn antelope, javelina, Barbary sheep, oryx, Persian ibex and turkey or hunt or trap furbearers in the same license year must submit a report for each species using procedures specified by the department. These licensed or permitted hunters and trappers must provide their customer identification number or their first name, last name, date of birth and the last four digits of their social security number at the start of the reporting procedure.

B. Individuals licensed or permitted to hunt deer, elk, pronghorn antelope, javelina, Barbary sheep, oryx, Persian ibex and turkey or hunt or trap furbearers but not engaging in any hunting or trapping activity must still submit a report.

C. The department shall make available to each hunter or trapper a toll-free telephone number and a website address that can be accessed to provide reports of hunting activities.

D. February 15 reporting deadline: All licensed or permitted deer, elk, pronghorn antelope, and turkey hunters must report the results of their hunting activities, including harvest outcome, no later than February 15th annually for licenses or permits held in that license year. For hunters of pronghorn antelope and turkey, this annual reporting requirement shall not commence until the license year beginning April 1,

2013. Licensed or permitted hunters who fail to report the results of their hunting activities by February 15 for deer, elk, pronghorn antelope, and turkey will incur a late fee pursuant to Subsection F of 19.30.10.8 NMAC.

E. April 7 reporting deadline: All licensed and permitted javelina, Barbary sheep, oryx, and Persian ibex hunters and furbearer hunters and trappers must report the results of their hunting or trapping activities, including harvest outcome, no later than April 7 annually for licenses or permits held in the previous license year. For hunters of javelina, Barbary sheep, oryx, and Persian ibex hunters, this annual reporting requirement shall not commence until the license year beginning April 1, 2013. Licensed or permitted hunters or trappers who fail to report the results of their hunting or trapping activities by April 7 for javelina, Barbary sheep, oryx, and Persian ibex hunters and furbearer hunters and trappers will incur a late fee pursuant to Subsection F of 19.30.10.8 NMAC.

F. Individuals licensed or permitted to hunt deer, elk, pronghorn antelope, javelina, Barbary sheep, oryx, Persian ibex and turkey or hunt or trap furbearers, who fail to report the results of their hunting or trapping activities by specified deadlines may submit their hunting or trapping report late with payment of a fee specified by the department not to exceed \$20 for each late report. Licensed or permitted hunters or trappers who fail to report the results of their hunting or trapping activities prior to the annual specified deadlines for any trapping license, special entry hunt application(s), population management authorization(s) or private land authorization(s), submitted for the following license year, will have their purchase or applications rejected.

G. Upon submission of a hunting or trapping report for each species, the department shall issue the hunter or trapper a confirmation code validating a fulfillment of the reporting requirement for each species. [19.30.10.8 NMAC - N, 7-15-13; A, 9-15-15]

DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.12 NMAC, Section 13, effective 9-15-2015.

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 YO | 9/4-9/6 | 9/2-9/4 | 9/1-9/3 | 9/7-9/9 | ORX-1-100 | 30 | ES |
| Rhodes canyon MI | 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 I/A vets | 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 I/A vets | 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 I/A vets | 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 I/A vets | 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 I/A vets | 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/ MO | 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~~ Oryx hunt for injured service men and women: 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. The director shall determine the procedures for issuing the authorizations, and the dates for each hunt. 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; A, 9-15-15]

DEPARTMENT OF GAME AND FISH

This is an emergency amendment to 19.31.10 NMAC, Sections 13, 14, 20 and 21, effective 09-01-15.

19.31.10.13 USE OF VEHICLES AND ROADS IN HUNTING:

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

B. ~~Roads, artificial wildlife:~~ It shall be unlawful to shoot at artificial wildlife on, from, or across any graded, paved, or maintained public road and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences.

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

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

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

direct flight to the final destination.

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

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

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

[G:] H. Vehicle off of established road: During the seasons established for any protected species, it shall be unlawful to drive or ride in a motor vehicle which is driven off an established road when the vehicle bears a licensed hunter, fisherman or trapper. EXCEPTION: 1) Snowmobiles; 2) To retrieve lawfully taken game not in an area closed to vehicular traffic. 3) All landowners, lessees or their employees, while on their owned or leased lands in connection with legitimate agricultural activities.

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

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

(2) Driving off established roads: Holders of a handicap license may, with permission of the landowner, lessee, or land management agency, drive off established roads to

hunt for or take squirrels or game birds, excluding turkey, during open seasons.

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

[J:] K. Aircraft, drone and vehicle exemptions to this rule: The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes. [19.31.10.13 NMAC - Rp, 19.31.10.17 NMAC, 4-1-2007; A, 09-15-2014; A/E, 09-01-2015]

19.31.10.14 FISHING:

A. Angling: Game fish may be taken by angling in all waters that are open for fishing.

B. Trotlines:
(1) It is unlawful for any person to set more than one trotline at a time. It is unlawful to tie or join together trotlines belonging to two or more persons.
(2) It is unlawful for trotlines to have more than 25 angling hooks.

(3) A person fishing with a trotline shall personally visit and inspect the trotline at least once every 24 hours. Failure to check a trotline every 24 hours is a violation of this paragraph.

(4) It is unlawful for anyone to tamper with another's trotline.

(5) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the fisherman's name, address, fishing license number, and the date the trotline was set. An unlicensed fisherman under 12 years of age shall also list his date of birth.

(6) It is unlawful to set or use a trotline in trout waters, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(7) Any conservation officer or other officer authorized to enforce the game laws may seize and confiscate any trotlines not set in accordance with this subsection.

C. Illegal device or substance: It is unlawful to use any device or substance capable of catching,

stupefying, or killing fish except as permitted by regulation.

D. Bait: It is unlawful to use protected fish, live bullfrogs, or live bullfrog tadpoles as bait in any waters containing protected species. EXCEPTION: the genus *Lepomis* taken by legal means of angling may be used as live bait in the water from which they were taken only in the following waters: Abiquiu reservoir, Cochiti lake, Elephant Butte reservoir, Caballo reservoir, Stubblefield lake, Maxwell lakes, Clayton lake, Conchas lake, Ute lake, Santa Rosa lake, Lake Sumner, Brantley reservoir, and Navajo reservoir. *Lepomis* may be used as dead bait; roe, viscera, and eyes of legally taken game fish may be used as bait; and bullfrogs and bullfrog tadpoles may be used as dead bait. Live bullfrogs or live bullfrog tadpoles may not be in possession while fishing.

E. Use of bait fish:
(1) It is unlawful to use gar (*Lepisosteus* spp.) and goldfish (*Carassius auratus*) as bait in all waters.

(2) It is unlawful to use live common carp (*Cyprinus carpio*), river carpsucker (*Carpoides carpio*), and smallmouth buffalo (*Ictiobus bubalus*) in all waters. However, these species may be used as dead bait in any water where bait may be used.

(3) It is unlawful to use bait fish in all trout waters except fathead minnows and red shiners may be used in the following trout waters: Abiquiu, Clayton lake, Jackson lake, Lake 13 (Maxwell refuge), Navajo lake, Caballo lake, the Rio Grande downstream of the Taos junction bridge (excluding the special trout water described in 19.31.4.11 NMAC), Power Dam lake, and the Animas river.

(4) It is unlawful to use any bait fish in Bitter lake national wildlife refuge and Bottomless lakes state park.

(5) Bait fish may be used in all other waters with the following restrictions:

(a) In the Gila river and San Francisco river drainages only fathead minnows may be used.

(b) In the Pecos river drainage only fathead minnows and red shiners may be used.

(c) In the Rio Grande drainage only fathead minnows, red shiners, and shad may be used except in Elephant Butte and Caballo where golden shiners are also allowed

(d) In the Canadian river drainage only fathead minnows, red shiners, and shad may be used.

(e) In the San Juan river drainage only fathead minnows and red shiners may be used.

(f) In Eagle Nest and Heron lakes only dead bait fish may be used. No live bait fish may be in possession.

F. Release of bait fish: It is unlawful to release any bait fish into any water containing game fish.

G. Eradication of fish: In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers, the director may permit licensed fishermen and unlicensed persons under 12 years of age to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission, the director may specify bag and possession limits and manner and method of taking for such waters.

H. Methods for taking bait fish for personal use: Licensed fishermen and unlicensed persons under 12 years of age may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows, and seines. All protected species of fish taken in seines, nets, and traps shall be immediately returned to the water.

I. Illegal taking of bait fish: It is unlawful for licensed minnow dealers to take bait fish for sale from waters not specified on their licenses. They may take these fish only by use of traps, seines, or cast nets, as specified on their licenses. All protected species of fish taken in such traps, seines, or nets shall be immediately returned to the water from which they were taken.

J. Permits for taking bait fish: The director may issue permits for the use of nets, seines, traps, or cast nets in taking bait fish in waters containing protected species of fish. The permit shall specify methods of taking, places for taking, and duration of the permit. The permittee shall report monthly the species, numbers and poundage of bait fish taken during the preceding month.

K. Limit on angling hooks: It is unlawful to angle with more than two (2) barbless lures or flies with single point angling hooks on a single line when fishing the special trout water on the San Juan river designated in Subsection A. of 19.31.4.11 NMAC.

L. [Reserved]

M. Number of fishing poles: It is unlawful to angle with more

than one pole without having a current two rod validation or stamp affixed on the current license. It is unlawful under any circumstance to angle with more than two poles.

N. Exceeding daily bag limit: It is unlawful to exceed the daily bag limit or possession limit of any protected fish species, as specified in 19.31.4.11 NMAC.

O. Exceeding daily bag or possession limit - Penalty Assessment: For those fish species or waters where the daily bag limit or possession limit is more than two fish as specified in 19.31.4.11 NMAC, violators that exceed the bag limit or possession limit by four fish or less shall be offered a penalty assessment. For those fish species or waters with special, reduced or restricted bag limits or possession limits of two or less as specified in 19.31.4.11 NMAC, violators that exceed the bag limit or possession limit by one fish shall be offered a penalty assessment.

[O:] P. Snagging game fish: It is unlawful to snag game fish except during the special Kokanee salmon season as specified in 19.31.4.9 NMAC.

[P:] Q. Chumming: It is unlawful to "CHUM" except in the following waters: All waters designated as warm waters; Gila river downstream from its junction with its east fork; Rio Grande downstream from its junction with the Chama river, excluding the special trout water below Elephant Butte dam described in Subsection A. of 19.31.4.11 NMAC.

[Q:] R. Special trout waters: Only barbless lures or flies may be used in the special trout waters designated in Subsection A. of 19.31.4.11 NMAC, except in the special trout water on the Rio Grande below Elephant Butte dam in which soft plastic lures may also be used, and in the following waters any legal angling gear and legal bait for trout waters may be used: Conservancy Park lake/Tingley beach the Kids' pond and Central pond, the Vermejo river system within Vermejo Park ranch boundaries, Gilita and Willow creeks, and those waters designated in Subparagraph (e) of Paragraph (4) of Subsection A. of 19.31.4.11 NMAC.

[R:] S. Attracting or concentrating fish:

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

(2) Disturbing the bottom: It is unlawful in all special trout waters defined in Subsection A. of 19.31.4.11 NMAC, to disturb or

dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.

[S:] T. Spearfishing and bow fishing:

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing.

(2) In addition, during the season established by Subsection B. of 19.31.4.9 NMAC, Kokanee salmon may be taken by the use of spears, gigs, and arrows with barbs that are discharged above or below the water and not driven by explosives, gas, air, or crossbow, except in the Pine river where spears, gigs, and arrows are prohibited. [19.31.10.14 NMAC - Rp, 19.31.10.18 NMAC, 4-1-2007; A, 6-30-2008; A, 4-1-2010; A, 7-16-2012; A, 12-13-2013; A/E, 09-01-2015]

Continued on Next Page

19.31.10.20 MANNER AND METHOD PENALTY ASSESSMENTS: Individuals who commit the following violations shall be offered penalty assessments:

| | |
|---|--|
| Size limits (fish) | Contrary to: 19.31.4 NMAC |
| Waters with age or individuals with disabilities use restrictions | Contrary to: 19.31.4 NMAC |
| Use of live animals | Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC |
| Use of a calling device | Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC |
| Unlawful ammunition / weapon type | Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC |
| Shooting hours violations | Contrary to: 19.31.5; 19.31.6 NMAC |
| Possession of game animal parts found in field | Contrary to: 19.31.10 NMAC |
| Shoot at artificial wildlife from the road | Contrary to: 19.31.10 NMAC |
| Harassing wildlife | Contrary to: 19.31.10 NMAC |
| Driving off road with licensed hunter/angler/trapper | Contrary to: 19.31.10 NMAC |
| Driving on a closed road | Contrary to: 19.31.10 NMAC |
| Trotline violations | Contrary to: 19.31.10 NMAC |
| Unlawful bait | Contrary to: 19.31.10 NMAC |
| Unlawful use of bait fish | Contrary to: 19.31.10 NMAC |
| Unlawful release of bait fish | Contrary to: 19.31.10 NMAC |
| More than two hooks on San Juan special trout water | Contrary to: 19.31.10 NMAC |
| More than two poles | Contrary to: 19.31.10 NMAC |
| Exceeding the bag or possession limit of fish as established in 19.31.14 NMAC | Contrary to: 19.31.10 NMAC |
| Snagging of game fish | Contrary to: 19.31.10 NMAC |
| Chumming | Contrary to: 19.31.10 NMAC |
| Bait/barbs on special trout waters | Contrary to: 19.31.10 NMAC |
| Disturbing the bottom "shuffling" | Contrary to: 19.31.10 NMAC |
| Spearfishing and bow fishing violations | Contrary to: 19.31.10 NMAC |
| Violation of posted signs | Contrary to: 19.31.10 NMAC |
| Use of dogs | Contrary to: 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC |
| Non toxic shot requirement on commissioned lands | Contrary to: 19.31.5; 19.31.6; 19.31.16 NMAC |
| Habitat stamp (SIKES ACT) | Contrary to: 19.34.6 NMAC |
| Two poles without validation stamp | Contrary to: 19.31.10 NMAC |
| Habitat management and access validation stamp (HMAV) | Contrary to: 17-4-34 NMSA |

[19.31.10.20 NMAC - N/E, 09-01-2015]

[~~19.31.10.20~~] 19.31.10.21 DIRECTOR'S AUTHORITY TO ACCOMMODATE DISABILITY OR MEDICAL

IMPAIRMENT: The director may authorize reasonable modifications to the manner and method of take for any licensee who has a verifiable medical condition that, in the director's sole discretion, necessitates such accommodation. In order to apply for such accommodation, the licensee shall complete and submit any form, information and records required by the director. Any licensee granted an accommodation must adhere to all other rules as to manner and method of take that are not specifically waived by such accommodation; and shall adhere to any restrictions imposed by the director.

[19.31.10.20 NMAC - N, 10-31-2013; 19.31.10.21 NMAC - Rn/E, 19.31.10 NMAC, 09-01-2015]

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

This is an amendment to 8.139.410 NMAC, Sections 12 & 14, effective 01/01/2016.

**8.139.410.12 EMPLOYMENT,
TRAINING AND WORK
REGISTRATION:**

- A. Employment and training E&T work registration:** Compliance with work registration is a prerequisite to certification, unless exempt. Benefits may not be conditionally granted before registration of all mandatory household members, except when verification cannot be obtained prior to the expedited service time limit. Work registration exemptions must be verified before certification.
- B. Compliance with**

- E&T work requirements:** As a condition of eligibility for participation in SNAP, every physically and mentally fit household member who is [H8] 16 years of age or older and younger than age [50] 60 and who is determined mandatory, must register for the E&T program.
- C. Non-compliance with E&T work requirements:** Non-compliance with E&T work requirements is considered to exist when an individual:
 - (1)** refuses,

at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by income support division (ISD); or

(2) fails or refuses to comply with the requirements under Title IV-A of the Social Security Act, or work requirements for individuals receiving UCB.

D. E&T work requirements:

(1) General conditions for registration:

(a) Unless exempt, every household member [age 18 through 50] 16 years of age or older and younger than age 60 must register for employment. If a household member has their 16th birthday within a certification period, the work registration requirement must be fulfilled as part of the next scheduled recertification process, unless the member qualifies for an exemption.

(b) [If a household member has their 18th birthday within the established certification period, they must fulfill the E&T work program registration requirement as part of the next recertification.] An individual who does not qualify for an exemption must be registered for employment at initial certification or when added to the SNAP household and at least every 12 months thereafter, as a condition of eligibility.

(c) An individual who does not qualify for an exemption must be registered for employment at initial certification or when added to the SNAP household, and at least every 12 months thereafter, as a condition of eligibility.

(d) Strikers whose households are eligible to apply for assistance, as defined in Subsection B of 8.139.400.11 NMAC, must register for work, unless covered by an exemption.

(e) Individuals exempt from registration may volunteer to participate in the E&T program.

(2) **Individuals exempt from registration:** The following individuals are exempt from the work registration requirement:

(a) an individual younger than [18] 16 years of age or an individual [50] 60 years of age or older;

(b) an individual [who is physically or mentally unfit for employment; if physical or mental unfitness is claimed but

not evident, verification is required; verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or a statement from a physician or licensed or certified psychologist] age 16 or 17 who is attending school or enrolled in an employment and training program at least half time, as defined by the school or employment and training program;

(c) [a natural parent, adoptive or step parent or individual residing in a SNAP household that includes a child younger than age 18, even if the child is not eligible for SNAP benefits] an individual who is physically or mentally unfit for employment. This can be demonstrated by providing reliable medical and or behavioral health documentation.

(i) the caseworker shall review all information available to him/her, including documentation, when required, and will make the determination about whether an individual SNAP participant should be exempted from the E & T Program;

(ii) to obtain verification, the caseworker shall use electronic databases when available;

(iii) when electronic databases are not available; the SNAP participant is responsible for providing the necessary documentation in accordance with 8.100.130.8 NMAC;

(iv) to determine an exemption exists on the basis of pregnancy, physical or mental unfitness, the individual must provide written documentation by a medical practitioner such as a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist or social worker; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment;

(v) in the case of a pregnancy, the documentation must verify the pregnancy and identify the expected date of delivery;

(vi) if a SNAP participant is deemed physically and mentally fit, and thus not exempt from the E&T Program, the participant will have an opportunity to appeal the mandatory status decision to the fair hearing bureau in accordance with 8.100.970.8 NMAC.

(d)

a parent or other household member who is responsible for the care of [an incapacitated person; the incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care] a dependent child under age thirteen or an incapacitated person;

(i) if the child has their 13th birthday during the certification period, the individual responsible for the care of the child is required to be registered as part of the next scheduled recertification, unless the individual qualifies for another exemption;

(ii) the exemption applies to the person who actually provides the care;

(iii) the dependent child or incapacitated person need not be considered a member of the SNAP household or even reside with the household;

(iv) a SNAP participant who is the sole provider of the care for an ill or incapacitated person; in order to meet this exemption, the SNAP participant must provide medical documentation (which could include a letter from the incapacitated individuals health provider) that the person is the sole caretaker for a disabled person and must demonstrate that the SNAP participant cannot be out of the home for the number of hours necessary, or on the computer as is necessary, to meet the work participation hours;

(v) only those care activities around which work program activities cannot be scheduled are taken into consideration; food purchase and preparation activities, home maintenance chores, etc. are activities which may be scheduled and performed at time other than work program participation hours;

(e) an individual subject to and complying with any work requirement under Title IV of the Social Security Act, including TANF work requirements or subject to and complying with ABAWD work requirements;

(f) an individual who receives unemployment compensation benefits (UCB) and is subject to and complying with a federal or state unemployment compensation system; an individual who has applied for but who has not yet received UCB is exempt if required to register with the department of [labor] workforce solutions as part of the unemployment

compensation application process;

(g) an individual who is a regular participant in a state certified drug or alcohol treatment and rehabilitation program;

(h) an individual who is employed or self-employed and working a minimum of 30 hours a week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

(i) migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days are exempt, although this does not prevent such individuals from seeking services from the E&T program;

(j) workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

(k) a student who is eligible to participate in the SNAP program, and who is enrolled at least half time in any recognized school, high school, training program, or institution of higher education; this exemption remains in effect during normal periods of class attendance, vacations, and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer session);

(l) a household member who has made application for SSI and SNAP benefits at the social security administration, and whose application for SNAP benefits has been received by HSD, and who is determined eligible for SNAP benefits, shall be exempt from work registration until an SSI determination is made; a household member who is determined ineligible for SSI shall have the exemption from E&T work requirements evaluated at the time of the denial of SSI;

(m) a pregnant woman; or

(n) residing in a county [with greater than 10 percent] that has an unemployment rate 20 percent above the national average as defined by the department.

(3) **Interim changes in status:**

(a) Anyone losing exempt status because of changes subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will be required to register at the next recertification.

(b) Anyone gaining or losing exempt status because of changes not subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will have his/her work status evaluated at the next recertification.

(4) **Processing changes:** Mandatory work participants who move from one county to another retain their work registration status at their new location, unless they become exempt.

(5) **Residing in a non-work program county:**

(a) The appropriate work registration code of any individual living in a county which does not administer a work program through the income support division (ISD), and who is not exempt from E&T work registration, will be entered into the individual's computer file. Those individuals will be dropped from referral to the E&T work program.

(b) Any household member living in a non-work program area may volunteer to participate in the E&T work program. [~~The nearest county administering a work program through ISD will accept the participant.~~]

E. E&T work program: [~~The income support division (ISD)~~] ISD administers the work program for applicants and recipients of SNAP benefits who are mandatory and who voluntarily participate in the work program. The purpose of the work program is to assist household members participating in SNAP to gain skills, ~~[that will increase an individual's ability to obtain and keep employment]~~ opportunities, training or experience that will improve their employment prospects or earning potential.

(1) **Work registrant responsibilities:** Each household member who must be registered for work is required to register at the time of initial application and every 12 months thereafter:

(2) **HSD responsibilities:** HSD is responsible for:

(a) screening each household member to determine work registration status;

(b) registering mandatory and voluntary participants;

(c) providing information and explaining to each applicant the E&T work requirements, rights and responsibilities and consequences for failure or refusal to comply; such information must be

provided at application, at recertification, and when a previously exempt or new household member must be registered;

(d) disqualifying non-compliant individuals, and reinstating individuals who are subsequently determined to meet an exemption.

(3) **Reporting changes to the E&T work program:** The following changes will be reported to the E&T work program:

(a) work participants who become exempt from work registration;

(b) work participants who are no longer certified for participation;

(c) work participants who move from the project area; and

(d) voluntary work participants who are deregistered.

(e) In most cases, the changes listed above are reported by entering the appropriate information into the household's computer file. In some cases, a manual form is used to report new information to the work program.

(4) **Work program responsibilities:** The E&T work program service provider is responsible for providing mandatory and voluntary participants referred to the E&T work program with the orientation, assessment, and development of a work participation agreement (WPA) and an individual responsibility plan (IRP).

(a) **Scheduling and conducting assessment sessions:** the work program will inform each participant of:

(i) mandatory and voluntary E&T work program requirements, including rights and responsibilities;

(ii) services;

(iii) benefits;

(b) **Placing a voluntary participant in a work activity:** a participant may be placed in any work activity deemed appropriate by the work program;

(c) **Authorizing reimbursements:** the work program staff will authorize allowable reimbursements up to the regulatory monthly limit for reasonable and necessary costs directly related to work program participation.

(d)

Reporting requirements: the E&T work program service provider is responsible for reporting the following to HSD:

(i) mandatory participants fail or refuse to comply;

(ii) voluntary work participants wish to de-register.

(5) **Good cause for noncompliance with E&T work requirements:** The work program will report [~~registrants or~~] participants who fail or refuse to comply with work registration or who voluntarily quit a job, or reduce their work hours without good cause. The HSD has the primary responsibility to determine whether good cause exists for a failure or refusal to comply. Good cause will be evaluated on an individual basis and will only be granted until the cause no longer exists or at the next recertification, whichever is sooner.

(a) Good cause is determined by considering the facts and circumstances involved, including information submitted by the household member and [~~employer~~] the work experience or community service site.

(b) Good cause includes circumstances beyond an individual's control, such as, but not limited to:

(i) [~~registrant or~~] participant household member's illness;

(ii) illness of another household member requiring the presence of the [~~registered or~~] participating member;

(iii) [~~household emergency~~] an individual or family crisis or a family circumstance that may preclude participation;

(iv) [~~unavailability~~] lack of transportation[~~or~~] and the distance to walk to the activity site exceeds five miles roundtrip;

(v) [~~lack of adequate child care for children who have reached age six but are younger than age 12;~~] individual whose physical residence is more than 30 miles away from an income support field office, workforce solutions office or employment services provider;

(vi) court appearance;

(vii) farmworkers who are away from their permanent residence or home base who travel to work in agriculture or a related industry during part of the year and are under contract or similar agreement with

an employer to begin work within 30 days of the date the individual notified HSD or E&T work program service provider;

(viii) an absence of dependent care or transportation support services necessary for participation;

(ix) receipt of job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;

(x) individual is a victim of family violence;

(xi) no available jobs within reasonable commuting; or distance; a distance is considered unreasonable if the round trip exceeds two hours by public or private transportation;

(xii) the individual's monthly expenses for transportation and dependent care expenses, which are necessary and directly related to participation in the E&T program, exceed the allowable reimbursement amount.

F. Orientation:

Participants of E&T shall be provided an E&T work program orientation with their assessment, which explains the work program and its objectives to the participant. The orientation shall include the following information:

- (1) the participants rights and responsibilities;
- (2) support services;
- (3) benefits of participation in the E&T work program; and
- (4) consequences of non-compliance with the E&T work program requirements.

G. Assessment:

(1) **Requirements:** No later than 15 calendar days after an application is approved, participants shall have an assessment done by the E&T work program service provider. The assessment is a necessary pre-cursor to the IRP, development of WPA, and is a crucial and necessary element in meeting the E&T work program requirements.

(2) **Elements:**

(a) Complete the assessment no later than 15 calendar days following approval of assistance for the participant in which the assessment is carried out; there are a variety of assessment tools and forms that may be used, provided that they address the participant's education, skills, prior work experience and employability.

(b)

The assessment may include referrals for counseling, if a barrier to employment exists related to alcohol or drug abuse or mental health.

(3)

Disqualification: [~~Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists~~] No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with E&T allowable components.

H. Individual responsibility plan (IRP):

(1)

Requirements: Mandatory participants may complete an IRP with the assistance of the E&T work program service provider no later than 15 days from the date of approval of assistance.

(2) **General**

purpose: The IRP is:

(a)

a personal planning tool, intended to assist the participant in long-term career planning, address barriers and secure and maintain employment;

(b)

intended to assist the participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals; and

(c)

not intended to fulfill the limited purpose of identifying work activities which will meet E&T work program participation requirements; the participant is encouraged to use the IRP to assist in setting long-term employment goals.

(3) **Elements:**

The IRP shall include a specific achievable employment goal or goals and a plan for securing and maintaining employment.

I. Work participation agreement (WPA):

(1) **General:**

The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet the E&T work program requirements and the participant is referred to receive available support services.

(2) **Contents of**

the agreement: At a minimum, the WPA shall:

(a)

list the participant's approved work component;

(b) list the level of effort for each activity;
 (c) list the support services to be provided by the department;
 (d) list the reasonable accommodations that may be necessary to ensure meaningful engagement;

(e) be signed by the participant; and
 (f) upon approval of the component and support services, signed by the E&T work program service provider.

(3) **Completion of a WPA:** The participant must complete the WPA with the E&T work program service provider:

(a) no later than 30 calendar days from date of approval for benefits; or
 (b) prior to requesting support services associated with such activity;
 (c) no later than five days after the expiration of an existing WPA.

(4) **Disqualification:** [Failure or refusal to develop, sign or meet the components outlined in the WPA may result in a disqualification, unless good cause exists] No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with E&T allowable components.

J. **[E&T component: Allowable components:** The E&T work program outlines allowable components annually through the supplemental nutrition assistance program employment and training state plan. The state plan is submitted and approved by the United States department of agriculture food and nutrition services. The annual state plan can be found on the human services department income support division website at the following link: <http://www.hsd.state.nm.us/isd/ISDPlans.html>.] **E&T allowable components:**

(2) (1) **Individual or group job search with employer contacts:**

(a) **General:** The purpose of the job search component is to provide the participant a reasonable opportunity to find suitable employment. Individual or group job search with employer contacts is [the only] an allowable E&T component for mandatory and voluntary participants.

Support services such as the transportation reimbursement and child care assistance is to be provided for participants in this component [only]. This is a two part component which may include class room training and requires a minimum of 12 or 24 employer contacts over a two month period.

(b) ~~The individual and group job search training is designed to impart basic job search techniques in order to secure employment; and job maintenance habits necessary for continued employment.]~~

(i) **(b) Component Activities:**

All mandatory and voluntary participants are required to register as a "job seeker" through the New Mexico department of workforce solutions (DWS), "New Mexico workforce connection" online portal for job-matching services and resources. The mandatory and volunteer participants are required to submit a copy of the registration to the E&T work program service provider to verify completion of the registration within 30 days after the WPA is approved.

(ii) All mandatory and voluntary participants in this component are required to complete the individual or group job search training with employer contacts [no later than 60 days after the WPA is approved. The participant is required to have completed and submit verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA. The participant is required to have completed and submit verification of 24 employer contacts within 60 days of the approved WPA].

(ii) The participant is required to have completed and submitted verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA and submit no later than 60 days of the approved WPA, verification of the additional 12 employer contacts to equal the requirement of 24 employer contacts.

(iii) **[Disqualification:** Failure to complete each element of the individual and group job search training with employer contacts component is subject to disqualification from SNAP, unless good cause exists] Individuals residing in an area that is determined to be rural, as defined by the department, will only be required to complete the 12 verifiable employer contacts, within a 30-day period.

(c) **[Successful completion:** Participants

who complete the individual or group job search and employer contact component within 90 days of the date of approval for newly certified and ongoing benefits are eligible for the transportation reimbursement, subject to available funding.] **Disqualification:** Failure to complete each element of the individual and group job search training with employer contacts component is subject to disqualification from SNAP, unless good cause exists.

(d) **Successful completion:** Participants who successfully complete the individual or group job search and employer contact component [within 90 days of the date of approval for newly certified and ongoing benefits] are eligible for the transportation reimbursement, subject to available funding.

(2) **Work Experience:**

(a) **General:** The purpose of the work experience component is to improve the employability of household members through actual work experience or training, or both, and to enable individuals involved with such programs to move promptly into regular public or private employment. Support services such as the transportation reimbursement and child care assistance may be available for participants.

(b) **Component activities:** (i) the maximum monthly participation hours are calculated by dividing the total household SNAP benefits received by the federal minimum wage;

(ii) on-the-job skills training;

(iii) work experience related to their occupational interests.

(c) **Disqualification:** Failure to complete each element of the work experience component is subject to disqualification from SNAP, unless good cause exists.

(d) **Successful completion:** Participants who successfully complete the work experience component are eligible for the transportation reimbursement, subject to available funding.

(3) **Community service:**

(a) **General:** The purpose of the community service component is to provide opportunities for on-the-job skills training, improve employability and assistance

to communities. Support services such as the transportation reimbursement and child care assistance may be available for participants.

(b)

Component activities:

(i)

the maximum monthly participation hours are calculated by dividing the total household SNAP benefits received by the federal minimum wage;

(ii)

on-the-job skills training;

(iii)

work-like experience.

(c)

Disqualification: Failure to complete each element of the community service component is subject to disqualification from SNAP, unless good cause exists.

(d)

Successful completion: Participants who successfully complete the community service component are eligible for the transportation reimbursement, subject to available funding.

K. E&T work program support services:

(1) **Child care:**

Mandatory and volunteer [participant] participants may be eligible for child care services to meet the [requirements of the individual and group job search component] required E&T activities.

(a)

Mandatory and volunteer participants must have a completed WPA from the E&T work program service provider to identify the number of hours child care will be needed to successfully complete the activity.

(b)

E&T mandatory and volunteer participants may only receive child care services when they are placed in the approved E&T components.

(2)

Transportation reimbursements: Mandatory and volunteer participants are eligible to receive a [\$25.00] transportation reimbursement as determined by the department if they have [successfully] completed the required E&T [work program component] activities as defined in Paragraph J of this section.

(3) Support

services are subject to the availability of state and federal funding.

L. Disqualification for noncompliance: [A mandatory individual who fails or refuses, without good cause, to comply with the E&T work requirements will not be eligible to participate in SNAP.] No physically or mentally fit individual 16 years of

age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with E&T allowable components. This disqualification process applies to participants who are not required to complete the 20-hour-a-week work requirement.

(1) **Individual**

disqualification: Any individual who fails or refuses to comply with the work registration, without good cause will be disqualified as follows:

(a)

first occurrence: [until compliance or for three months, whichever is later] for three months or until compliance, whichever occurs earlier;

(b)

second occurrence: [until compliance or for six months, whichever is later] for six months or until compliance, whichever occurs earlier;

(c)

third occurrence: [until compliance or for one year, whichever is later] for one year or until compliance whichever occurs earlier.

(2) **Individual**

that is voluntarily participating: Any individual that is voluntarily participating in the work program is not subject to disqualification for non-compliance with work requirements.

(3) **Treatment**

of income and resources: All the income and resources of an individual disqualified for noncompliance with work requirements will be counted to determine the household's income and resource maximum levels, and benefit amount (see Subsection C of 8.139.520.10 NMAC). Any reported change that does not relate to the individual disqualification shall be processed after the appropriate determination [in (a), (b) or (c) or (d) above] is made. SNAP benefits shall be increased or decreased according to the change processing requirements at 8.139.120.10 NMAC.

(4) **Notice**

of adverse action: Within 10 days of determining that a participant has failed to meet an E&T requirement, the department or its designee shall issue notice of adverse action that the payment shall be reduced. The payment reduction shall take place with the first payment following expiration of the notice of adverse action.

(4) (5)

Determining the disqualification period:

(a)

At application: An individual who is a member in an applicant household, and

who is in a prior disqualification period, will be denied SNAP benefits beginning with the month of application.

(b)

During participation: An individual who has failed or refused to comply with work requirements while participating in SNAP will be ineligible to participate beginning with the month following the month in which the notice of adverse action time limit expires.

(c)

[Semiannual] Simplified reporting households: An individual who has failed or refused to comply with work requirements during a [semiannual] simplified reporting period, shall be ineligible to participate in SNAP beginning with the month following the month the notice of adverse action time limit expires. If the adverse action time limit will expire in the month after the notice would have been sent, the caseworker must wait until the first day of the following month to send the notice of adverse action.

(5) (6)

Disqualification in the last month of certification: For all participating households, including households subject to [semiannual] simplified reporting:

(a) If

a notice of noncompliance is received in the last month of the certification period, an adverse action notice will be sent to the household. The disqualification period begins the first month following the month the adverse action time limit expires, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

(b) If

the adverse action time limit expires in the last month of the household's certification period, the disqualification penalty will begin the following month, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

(6) (7)

Lifting the disqualification: An individual who has been disqualified may resume participation [during the disqualification period by becoming exempt from E&T work requirements-

listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible:] in SNAP benefits if:

(a)

The participant corrects the failure of compliance with E&T requirements during the notice of adverse action 13-day time period. Once corrected, the occurrence shall not count as an occurrence of noncompliance.

(b)

Failure to comply during the notice of adverse action 13-day time period shall cause the occurrence to become effective.

(c)

The participant becomes exempt or meets a good cause from E&T work requirements listed in 8.139.410.12 NMAC or:

(d)

The participant corrects the failure of compliance and has been disqualified a minimum of one month.

(i)

The disqualification will continue until the participant complies or serves out the timeframe for the occurrence level.

(ii)

Participants disqualified due to not meeting the required hours, must demonstrate the hourly compliance prior to lifting disqualification.

M. Head of household provisions:

(1)

Designation: The household may designate any adult parent of a child in the household as the head of household, if all adult household members making application agree to the selection. A household may designate the head of household each time the household is certified for participation in SNAP but may not change the designation during a certification period, unless there is a change in household composition.

(2) **Compliance**

with E&T work requirements: For purposes of determining compliance with the work requirements in Subsection C of 8.139.410.12 NMAC, the head of household will be considered as an individual household member. The head of household will be disqualified in accordance with the disqualification penalties in Paragraph (1) of Subsection H of 8.139.410.12 NMAC.

(a)

If the head of household leaves the household during a period of ineligibility, the disqualification follows the individual. The remaining household members, if otherwise eligible, continue to be eligible to participate in SNAP.

(b)

If the head of household becomes the head of another household, the individual disqualification continues to apply. The other household members continue to be eligible to participate in SNAP. [02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.FSP.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013; A, 10/01/2014; A, 2/13/2015; A, 01/01/2016]

8.139.410.14 ABLE BODIED ADULTS WITHOUT CHILDREN DEPENDENTS (ABAWDS):

An applicant or recipient who is a mandatory work participant in the [food stamp] SNAP E&T program shall be considered for compliance with the 20-hour-a-week work requirement for ABAWDs. Unless determined exempt, any individual who is a mandatory ABAWD shall be required to comply with the 20-hour-a-week work requirement to maintain eligibility for [food stamp] SNAP benefits. [The ABAWD 20-hour-a-week work requirement has been suspended based on the American Recovery and Reinvestment Act of 2009 effective April 1, 2009 through September 30, 2011.] The ABAWD 20 hour-a-week work requirement will be in effect as of January 1, 2016 through December 31, 2018.

A. Exemptions:

(1) Certain

individuals are exempt from the ABAWD 20-hour-a-week work:

(a) (1)

an individual determined to be exempt from work requirements of the [food stamp] SNAP E&T program set forth at Subsection D of this section;

(b) (2)

an individual under age 18 or age 50 or older;

(c) (3)

an individual medically certified as physically or mentally unfit for employment as defined in Subsection D of 8.139.410 NMAC;

(d) (4)

a pregnant woman;

(e) (5)

an individual residing in a [food stamp] SNAP household that includes at least one child under the age of 18, even if the child is not eligible for [food stamp] SNAP benefits;

(f) (6)

a natural, adoptive or step-parent residing in a [food stamp] SNAP household that includes at least one child under the age of 18, even if the child is not eligible for [food stamp] SNAP benefits;

(g) (7)

residing in a non-ABAWD county as documented by federal waiver or suspension of the 20-hour-a-week work

requirement.

(2) **Medical**

reports: To determine an exemption from the 20-hour-a-week work requirement on the basis of pregnancy or physical or mental unfitness, the individual must provide a written report by a medical practitioner such as a physician, physician's assistant, nurse, nurse-practitioner, designated representative of the physician's office, a licensed or certified psychologist or social worker.

(a)

In the case of a pregnancy, the report must verify the pregnancy and identify the expected date of delivery.

(b)

A claim of physical or mental unfitness must be substantiated by a written report identifying the physical or mental condition and certifying that the person is unfit for employment.]

B. Time limited

eligibility for ABAWDs: An ABAWD who is determined mandatory to comply with the 20-hour-a-week work requirement shall not be eligible to participate in the [food stamp] SNAP program as a member of any household if the individual received [food stamp] SNAP benefits but failed to comply with the 20-hour-a-week work requirement for three countable months in a 36-month period, until they subsequently meet the requirements to regain eligibility.

(1) **36 month**

period: The 36 month period is a fixed calendar month period beginning on [December 1, 2002. The period ends on November 30, 2005.] January 1, 2016 through December 31, 2018.

(2) **Countable**

months in the 36-month time limit: Within the fixed 36-month period, an ABAWD shall have a month counted toward the three-month time limit if the 20-hour-a-week work requirement is not met and the household received a full month's benefits.

(a)

In no event shall a month be counted toward the three-month time limit if the individual has not attained the age of 18.

(b) **A**

month that an ABAWD has used without fulfilling the work requirement in another state shall be counted toward the three-month time limit as long as the other state verifies the month has been used as a non-work month.

C. Fulfilling the

20-hour-a-week work requirement:

(1) **Working:**

For purposes of determining the activities that count towards the 20-hour-a-week

work requirement, the time spent working in exchange for money, or working in exchange for goods or services, or unpaid work, or any combination of these activities shall be considered as employment and credited toward the 20-hour-a-week work requirement.

(2) Work

activities: Allowable work activities that count towards the 20-hour-a-week work requirement include:

(a)

employment for at least 20 hours a week averaged monthly or 80 hours a month, but not unreported employment; in the case of self-employment income, gross monthly earnings, as determined under Paragraph (2) of Subsection E of 8.139.520.10 NMAC, are divided by the federal minimum wage to determine the number of hours that are countable in meeting the work requirement;

(b)

participation in and compliance with the requirements of a work program at least 20 hours a week;

(c)

any combination of employment and participation in a work program for at least 20 hours a week;

(d)

job search or job search training activities that are incorporated into the department's [a] work program or another state or local program that meets [food-stamp] SNAP E&T requirements as long as the job search or job search training activities equal less than half the work requirement; or

(e)

participation in and compliance with a workfare program.

(3) Work

program: Allowable activities in a work program include those performed under:

(a)

the Workforce Investment Act (Public Law 105-220);

(b)

a program under Section 236 of the Trade Act of 1974 (19 U.S.C. 2296);

(c)

the department's [food-stamp] SNAP E&T program; and

(d)

any other state or local program which is recognized by the department as meeting [food-stamp] SNAP E&T program requirements.

D. Reporting and verifying work participation:

(1) It is the

responsibility of the individual subject to the work requirement to report:

(a)

whether or not that individual has worked or participated in a work program;

(b)

the number of hours spent in work or work program activities;

(c)

how the work requirement was fulfilled; and

(d)

when the individual's work hours fall below 20 hours a week, averaged monthly, or 80 hours a month.

(2) Verification

of the time spent working is mandatory in order to receive credit toward the work requirement. It is the responsibility of the individual subject to the work requirement to provide verification of participation in work activities by the fifth calendar day of each month following the month of participation in work activities.

E. Good cause for failure to meet the work requirement, as defined in Subsection E of 8.139.410.12 NMAC:

An ABAWD may establish good cause for failure to meet the 20-hour-a-week work requirement if the absence from work is temporary and the individual retains employment, or if participation in work activities resulted from a temporary absence due to circumstances beyond the individual's control. [~~Good cause reasons include, but are not limited to, illness, illness of another household member requiring the presence of the ABAWD, a household emergency, or the unavailability of transportation.~~] Good cause is established on an individual basis.

F. Regaining eligibility:

An individual who becomes ineligible due to failure to meet the work requirement for three months can regain eligibility by working or participating in an approved work program for at least 80 hours during any 30 consecutive day-period following the date of ineligibility.

(1)

An individual who regains eligibility is eligible on an ongoing basis provided he or she continues to meet the 20-hour-a-week work requirement.

(2)

There is no limit to the number of times an individual may regain eligibility during the 36-month period.

G. Failure to meet the work requirement after regaining eligibility:

An individual who has regained eligibility and who subsequently fails to meet the 20-hour-a-week work requirement in any month left in the 36-month period shall be eligible to receive [food-stamp] SNAP benefits for a three consecutive month period.

(1)

The three-month period begins with the month the work requirement was not met, provided the individual is otherwise eligible.

(2)

Upon expiration of the three months, the individual becomes ineligible for the remainder of the fixed 36-month period.

(3)

The individual may re-establish eligibility by either regaining eligibility or because a determination is made that the individual becomes exempt from the 20-hour-a-week work requirement.

H. Costs:

Except for costs assumed by HSD pursuant to an approved [food-stamp] SNAP E&T supportive services plan, HSD has no financial responsibility for any costs or liabilities incurred by persons electing to participate in a work program in order to meet the [food-stamp] SNAP work requirement.

[8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014; A, 2/13/2015; A, 01/01/2016]

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 32 EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION PART 3 SEAL OF BILINGUALISM-BILITERACY ON NEW MEXICO DIPLOMA OF EXCELLENCE

6.32.3.1 ISSUING AGENCY: Public Education Department (PED) [6.32.3.1 NMAC - N, 09-15-15]

6.32.3.2 SCOPE: Local school boards and governing bodies of state-chartered schools. [6.32.3.2 NMAC - N, 09-15-15]

6.32.3.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Sections 22-1-9.1, 22-2-1 and 9-24-8(D) NMSA 1978. [6.32.3.3 NMAC - N, 09-15-15]

6.32.3.4 DURATION: Permanent. [6.32.3.4 NMAC - N, 09-15-15]

6.32.3.5 EFFECTIVE DATE: September 15, 2015, unless a later date is cited at the end of a section. [6.32.3.5 NMAC - N, 09-15-15]

6.32.3.6 OBJECTIVE: This rule establishes the criteria for students to earn a state seal of bilingualism-biliteracy on a New Mexico diploma of excellence. The state seal of bilingualism-biliteracy certifies that the recipient is proficient for meaningful use in college, a career or to meet a local community language need in a world language other than English. [6.32.3.6 NMAC - N, 09-15-15]

6.32.3.7 DEFINITIONS:
A. "Academic language" means the language used in academic content in formal schooling contexts, including specialized or technical language and discourse related to each content area.

B. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade-level English proficient peers and native English speakers.

C. "Expressive language" means using language to express information, ideas or concepts in either oral, signed or written communication.

D. "Language other than English" is any language other than English, including world languages.

E. "Proficiency" means able to express oneself in a language with sufficient structural accuracy and vocabulary to participate effectively in most social and academic situations.

F. "Receptive language" means processing language to comprehend information, ideas or concepts in either oral, signed or written communication. [6.32.3.7 NMAC - N, 09-15-15]

6.32.3.8 PROFICIENCY REQUIREMENTS:

A. To earn the bilingualism-biliteracy seal on the diploma of excellence, students must meet the graduation requirements as specified in Subsection J of 6.29.1.9 NMAC and demonstrate proficiency in a language other than English, through one of the following methods:

- (1) certification by an individual tribe;
- (2) units of credit and an assessment;
- (3) units of credit and an alternative process portfolio; or
- (4) an assessment and an alternative process portfolio.

B. Certification by an individual tribe. A tribe may certify that a

student is proficient in the tribal language. Tribes will develop the methods and processes for determining proficiency in their respective tribal languages.

C. Units of credit and assessments option. A student may demonstrate proficiency by meeting both the units of credit and assessment requirements.

(1) The student must receive a grade of C or higher in four units of credit in a language other than English. All four units of credit must be in the same language other than English and shall consist of language courses, language arts courses, content area courses or any combination thereof. For the purposes of meeting the requirements of this option, a student may not use units of credit in English language arts or English as a second language for English language learners.

(2) The student must meet the assessment of proficiency requirement as follows:

(a) the student must attain a score of three or higher on an advanced placement examination for a language other than English; or

(b) the student must attain a score of four or higher on an international baccalaureate examination for a higher-level language other than English course; or

(c) the student must score proficient on a national assessment of language proficiency in a language other than English; or

(d) the student may demonstrate proficiency by passing a New Mexico assessment in a world language other than English.

D. Units of credit and alternative process portfolio option. A student may demonstrate proficiency by meeting both the units of credit and alternative process portfolio option requirements.

(1) The student must receive a grade of C or higher in four units of credit in a language other than English. All four units of credit must be in the same language other than English and shall consist of language courses, language arts courses, content area courses or any combination thereof. For the purposes of meeting the requirements of this option, units of credit in English language arts or English as a second language for English language learners cannot be used.

(2) The student must create a portfolio comprised of the

following: a presentation, an interview with a panel composed of three or more members of the district's education staff and community who are proficient in the target language other than English, and a student-produced work sample, written when appropriate. Districts shall ensure that the alternative portfolio option includes both the receptive and expressive aspects of the language other than English.

E. Assessment and alternative process portfolio option. A student may demonstrate proficiency by meeting both the assessment and alternative process portfolio option requirements.

(1) The student must meet the assessment of proficiency requirement as follows:

(a) the student must attain a score of three or higher on an advanced placement examination for a language other than English; or

(b) the student must attain a score of four or higher on an international baccalaureate examination for a higher-level language other than English course; or

(c) the student must score proficient on a national assessment of language proficiency in a language other than English; or

(d) the student may demonstrate proficiency by passing a New Mexico assessment in a world language other than English.

(2) The student must create a portfolio comprised of the following: a presentation, an interview with a panel composed of three or more members of the district's education staff and community who are proficient in the target language other than English, and a student-produced work sample, written when appropriate. Districts shall ensure that the alternative portfolio option includes both the receptive and expressive aspects of the language other than English. [6.32.3.8 NMAC - N, 09-15-15]

6.32.3.9 TRANSCRIPT: The graduate's high school transcript must also indicate that the graduate received the state seal on the graduate's New Mexico diploma of excellence. [6.32.3.9 NMAC - N, 09-15-15]

HISTORY OF 6.32.3 NMAC:
 [Reserved]

COMMISSION OF PUBLIC RECORDS

The Commission of Public Records approved, at its 08/25/2015 hearing, to repeal rules in Title 1, Chapters 15, 16, 17, 18 & 20 and replace them with 1.21.2 NMAC, Retention and Disposition of Public Records, effective 10/01/2015.

- 1.15.1 NMAC, GRRDS, General Provisions, filed 3-13-2015
- 1.15.2 NMAC, GRRDS, General Administrative Records, filed 9-1-2000
- 1.15.4 NMAC, GRRDS, General Financial, filed 9-1-2000
- 1.15.6 NMAC, GRRDS, General Personnel Records, filed 9-1-2000
- 1.15.8 NMAC, GRRDS, General Medical Records, filed 9-1-2000
- 1.15.9 NMAC, GRRDS, General Hospital and Medical Center Records, filed 3-12-2002

- 1.16.111 NMAC, LRRDS, Legislative Council Service, filed 9-1-2000
- 1.16.112 NMAC, LRRDS, Legislative Finance Committee, filed 8-29-2001
- 1.16.117 NMAC, LRRDS, Legislative School Study Committee, filed 6-21-2002
- 1.16.119 NMAC, LRRDS, Legislative Maintenance, filed 6-21-2002

- 1.17.205 NMAC, JRRDS, Supreme Court Law Library, filed 8-31-2007
- 1.17.210 NMAC, JRRDS, Judicial Standards Commission, filed 3-19-2010
- 1.17.215 NMAC, JRRDS, Court of Appeals, filed 12-8-2006
- 1.17.216 NMAC, JRRDS, Supreme Court, filed 12-7-2007
- 1.17.218 NMAC, JRRDS, New Mexico Magistrate Courts, filed 12-7-2001
- 1.17.219 NMAC, JRRDS, Board Governing the Recording of Judicial Proceedings, filed 6-21-2002
- 1.17.220 NMAC, JRRDS, Administrative Office of the Courts, filed 6-21-2002
- 1.17.230 NMAC, JRRDS, New Mexico District Courts, filed 1-17-2003
- 1.17.244 NMAC, JRRDS, Bernalillo County Metropolitan Court, filed 6-21-2002
- 1.17.264 NMAC, JRRDS, Administrative Office of the District Attorneys and the District Offices, filed 12-7-2001

- 1.18.305 NMAC, ERRDS, Office of the Attorney General, filed 4-1-2005
- 1.18.308 NMAC, ERRDS, Office of the State Auditor, filed 8-27-2003
- 1.18.333 NMAC, ERRDS, Taxation and Revenue Department, filed 8-31-2007
- 1.18.337 NMAC, ERRDS, State

- Investment Council, filed 6-21-2002
- 1.18.341 NMAC, ERRDS, Department of Finance and Administration, filed 6-21-2002
- 1.18.342 NMAC, ERRDS, Public School Insurance Authority, filed 6-21-2002
- 1.18.343 NMAC, ERRDS, Retiree Health Care Authority, filed 6-21-2002
- 1.18.350 NMAC, ERRDS, General Services Department, filed 8-29-2008
- 1.18.352 NMAC, ERRDS, Educational Retirement Board, filed 3-5-2004
- 1.18.355 NMAC, ERRDS, Public Defender Department, filed 12-1-2008
- 1.18.356 NMAC, ERRDS, NM Office of the Governor, filed 3-5-2004
- 1.18.360 NMAC, ERRDS, Lieutenant Governor's Office, filed 6-21-2002
- 1.18.361 NMAC, ERRDS, Office of the Chief Information Officer, filed 3-5-2004
- 1.18.366 NMAC, ERRDS, Public Employees Retirement Association, filed 8-26-2011
- 1.18.369 NMAC, ERRDS, Commission of Public Records, filed 12-9-2004
- 1.18.370 NMAC, ERRDS, Secretary of State, filed 11-15-2000
- 1.18.378 NMAC, ERRDS, State Personnel Office, filed 12-5-2003
- 1.18.379 NMAC, ERRDS, Public Employee Labor Relations Board, filed 3-30-2012
- 1.18.394 NMAC, ERRDS, Office of the State Treasurer, filed 6-20-2014
- 1.18.404 NMAC, ERRDS, Board of Examiners for Architects, filed 4-1-2005
- 1.18.418 NMAC, ERRDS, Tourism Department, filed 3-5-2004
- 1.18.419 NMAC, ERRDS, Economic Development Department, filed 6-21-2002
- 1.18.420 NMAC, ERRDS, Regulation and Licensing Department, filed 6-20-2014
- 1.18.430 NMAC, ERRDS, Public Regulation Commission, filed 12-7-2007
- 1.18.440 NMAC, ERRDS, Office of Superintendent of Insurance, filed 6-28-2013
- 1.18.446 NMAC, ERRDS, New Mexico Medical Board, filed 12-7-2001
- 1.18.449 NMAC, ERRDS, Board of Nursing, filed 8-27-2010
- 1.18.460 NMAC, ERRDS, State Fair Commission, filed 4-1-2005
- 1.18.464 NMAC, ERRDS, State Board of Licensure for Professional Engineers and Surveyors, filed 3-22-2013
- 1.18.465 NMAC, ERRDS, Gaming Control Board, filed 9-10-2004
- 1.18.469 NMAC, ERRDS, State Racing Commission, filed 3-19-2010
- 1.18.479 NMAC, ERRDS, Board of Veterinary Medicine, filed 4-1-2005
- 1.18.505 NMAC, ERRDS, Cultural Affairs Department, filed 8-29-2001
- 1.18.508 NMAC, ERRDS, New Mexico

- Livestock Board, filed 12-6-2013
- 1.18.516 NMAC, ERRDS, Department of Game and Fish, filed 12-5-2003
- 1.18.521 NMAC, ERRDS, Energy, Minerals and Natural Resources Department, filed 8-25-2006
- 1.18.539 NMAC, ERRDS, State Land Office, filed 12-1-2008
- 1.18.550 NMAC, ERRDS, Office of the State Engineer, filed 12-12-2014
- 1.18.601 NMAC, ERRDS, Commission on the Status of Women, filed 11-19-2010
- 1.18.605 NMAC, ERRDS, Martin Luther King Jr Commission, filed 8-30-2002
- 1.18.606 NMAC, ERRDS, Commission for the Blind, filed 12-7-2001
- 1.18.609 NMAC, ERRDS, Indian Affairs Department, filed 3-5-2004
- 1.18.624 NMAC, ERRDS, Aging and Long Term Services Department, filed 3-19-2010
- 1.18.630 NMAC, ERRDS, Human Services Department, filed 3-19-2010
- 1.18.631 NMAC, ERRDS, Department of Workforce Solutions, filed 7-1-2009
- 1.18.632 NMAC, ERRDS, Workers Compensation Administration, filed 3-19-2010
- 1.18.644 NMAC, ERRDS, Division of Vocational Rehabilitation, filed 12-7-2007
- 1.18.647 NMAC, ERRDS, Developmental Disabilities Planning Council, filed 11-19-2010
- 1.18.665 NMAC, ERRDS, Department of Health, filed 6-15-2010
- 1.18.667 NMAC, ERRDS, New Mexico Department of Environment, filed 6-8-2000
- 1.18.669 NMAC, ERRDS, Health Policy Commission, filed 3-12-2002
- 1.18.670 NMAC, ERRDS, Veterans' Services Department, filed 3-30-2012
- 1.18.690 NMAC, ERRDS, Children, Youth and Families Department, filed 4-1-2005
- 1.18.705 NMAC, ERRDS, Department of Military Affairs, filed 6-21-2002
- 1.18.760 NMAC, ERRDS, Adult Parole Board, filed 3-21-2014
- 1.18.765 NMAC, ERRDS, Juvenile Public Safety Advisory Board, filed 12-11-2009
- 1.18.770 NMAC, ERRDS, Corrections Department, filed 6-20-2008
- 1.18.780 NMAC, ERRDS, Crime Victims Reparation Commission, filed 12-12-2014
- 1.18.790 NMAC, ERRDS, Department of Public Safety, filed 4-13-2007
- 1.18.794 NMAC, ERRDS, Mounted Patrol, filed 6-21-2002
- 1.18.795 NMAC, ERRDS, Homeland Security and Emergency Management Department, filed 6-22-2007
- 1.18.805 NMAC, ERRDS, Department of Transportation, filed 8-29-2008
- 1.18.924 NMAC, ERRDS, Public

Education Department, filed 9-1-2000
 1.18.926 NMAC, ERRDS, School for the Blind and Visually Impaired, filed 12-7-2007
 1.18.927 NMAC, ERRDS, New Mexico School for the Deaf, filed 12-9-2004
 1.18.940 NMAC, ERRDS, Public Schools Facilities Authority, filed 3-5-2004
 1.18.950 NMAC, ERRDS, Higher Education Department, filed 12-6-2013
 1.18.954 NMAC, ERRDS, New Mexico Department of Agriculture, filed 1-17-2003
 1.18.980 NMAC, ERRDS, NM Office of the Medical Investigator, filed 1-17-2003
 1.20.2 NMAC, EDRRDS, New Mexico Public Schools, filed 6-21-2002
 1.20.3 NMAC, EDRRDS, New Mexico Colleges and Universities, filed 6-21-2002

COMMISSION OF PUBLIC RECORDS

**TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
 CHAPTER 21 FUNCTIONAL RECORDS RETENTION AND DISPOSITION SCHEDULES (FRRDS)
 PART 2 RETENTION AND DISPOSITION OF PUBLIC RECORDS**

1.21.2.1 ISSUING AGENCY:
 State Commission of Public Records
 [1.21.2.1 NMAC - N, 10/01/2015]

1.21.2.2 SCOPE: All agencies as defined in the Public Records Act, Section 14-3-1 et seq. NMSA 1978.
 [1.21.2.2 NMAC - N, 10/01/2015]

1.21.2.3 STATUTORY AUTHORITY: Public Records Act, Section 14-3-1 et seq. NMSA 1978.
 [1.21.2.3 NMAC - N, 10/01/2015]

1.21.2.4 DURATION:
 Permanent.
 [1.21.2.4 NMAC - N, 10/01/2015]

1.21.2.5 EFFECTIVE DATE:
 October 1, 2015, unless a later date is cited at the end of a section.
 [1.21.2.5 NMAC - N, 10/01/2015]

1.21.2.6 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, Section 14-3-1 et seq. NMSA 1978, and to provide

recommendations for the retention and preservation of records of state governmental entities not subject to the act.
 [1.21.2.6 NMAC - N, 10/01/2015]

1.21.2.7 DEFINITIONS: The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the Public Records Act, Section 14-3-1 et seq. NMSA 1978 shall have the respective meanings accorded such terms in the act.

A. "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.

B. "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).

C. "Executive level" means elected and appointed officials, statutory agency heads and management personnel with decision making authority granted by the agency head.

D. "File closed" means the date the trigger event occurred, or, for electronic records, equivalent to the date last modified unless otherwise stated in retention.

E. "Historical" means records deemed to have archival value by the commission.

F. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, 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.

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

H. "Transitory" means messages which serve to convey information of temporary importance in

lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.

I. "Trigger event" means the closing event of a record which begins the retention period.
 [1.21.2.7 NMAC - N, 10/01/2015]

1.21.2.8 ABBREVIATIONS AND ACRONYMS:

A. "ADA" stands for Americans with Disabilities Act.

B. "CDC" stands for center for disease control.

C. "DUI" stands for driving under the influence.

D. "EEOC" stands for equal employment opportunity commission.

E. "NMAC" stands for New Mexico administrative code.

F. "NMSA" stands for New Mexico statutes annotated.

G. "WCA" stands for workers' compensation administration.
 [1.21.2.8 NMAC - N, 10/01/2015]

1.21.2.9 INSTRUCTIONS:

A. The records retention and disposition schedule identifies 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 contingent upon the occurrence of a trigger event. Each record classification will be itemized by NMAC section number and title in the format listed below.

(1) Category - describes the hierarchy of the function
(2) Description - describes the function of the record classification

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

B. Record classification 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.

C. Refer questions concerning the confidentiality of a record to legal counsel for the agency. For the destruction of confidential records, please refer to 1.13.30.11 NMAC.

D. Public records

should be maintained in their native format (paper/digital). Records may be microfilmed or digitized provided a microphotography plan has been approved by the state records administrator. Refer to Section 14-3-17 NMSA 1978 and 1.14.2 NMAC. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes.

E. Agencies are encouraged to create secondary and tertiary descriptors for each classification (e.g., account receivable - invoices - acme inc., goods and services - IT consulting - data hub LLC., infrastructure project files - railroad project - Lamy station upgrade, etc.). These additional descriptors will assist with the accessibility of the records.

F. Upon storage or disposition, public records shall be classified according to content and retained at a minimum for the length of time specified in the records retention and disposition schedule.

G. For guidance on electronic messaging, refer to 1.13.4 NMAC.

H. For guidance on the destruction of non-record material, refer to 1.13.30.14 NMAC.

I. Records classifications related to the legislative and judicial branches of government provided herein are applicable for legislative and judicial agencies that utilize the records center services and permanent archival repository.

J. 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.

K. For guidance on classifying county and municipal records, refer to the records retention and disposition guidance for counties and municipalities.

L. For guidance on destruction of county records, refer to Section 14-1-8 NMSA 1978.

M. Classifications that have a disposition of transfer to archives may be submitted for direct transfer before the allotted time period specified in the retention with the approval of the custodial agency and state records administrator.

N. Upon adoption of this rule, records retained at the records center shall be reclassified according to the new

records classifications for retention and disposition.

[1.21.2.9 NMAC - N, 10/01/2015]

1.21.2.10 - 1.21.2.100
[RESERVED]

1.21.2.101 AUTHORIZATION:

A. Category:
Administration - general management

B. Description: Records related to authorization of personnel or entities to perform specific duties and not identified in other classifications.

C. Retention: destroy
10 years from date file closed
[1.21.2.101 NMAC - N, 10/01/2015]

1.21.2.102 CALENDARS AND SCHEDULES:

A. Category:
Administration - general management

B. Description: Appointments and schedules and related records.

C. Retention: destroy
one year from close of calendar year in which created
[1.21.2.102 NMAC - N, 10/01/2015]

1.21.2.103 CALENDARS AND SCHEDULES - GOVERNOR:

A. Category:
Administration - general management

B. Description: Governor's appointments and schedules and related records.

C. Retention: permanent, transfer to archives when no longer needed for reference
[1.21.2.103 NMAC - N, 10/01/2015]

1.21.2.104 CORRESPONDENCE - EXECUTIVE LEVEL:

A. Category:
Administration - general management

B. Description: Internal and external communications and related records to or from executive level personnel including, but not limited to, directives and not identified in other classifications.

C. Retention: permanent, transfer to archives when no longer needed for reference
[1.21.2.104 NMAC - N, 10/01/2015]

1.21.2.105 CORRESPONDENCE - GENERAL:

A. Category:
Administration - general management

B. Description: Routine correspondence and related records of day-to-day office administration and not

identified in other classifications.

C. Retention: destroy
one year from close of calendar year in which created
[1.21.2.105 NMAC - N, 10/01/2015]

1.21.2.106 [RESERVED]

1.21.2.107 DENIED, REJECTED OR WITHDRAWN RECORDS:

A. Category:
Administration - general management

B. Description: Records including, but not limited to, applications, complaints or requests which are incomplete, have no merit or have been denied, rejected or withdrawn.

C. Retention: destroy
two years from date file closed
[1.21.2.107 NMAC - N, 10/01/2015]

1.21.2.108 DISTRIBUTION, MAILING AND CONTACT LISTS:

A. Category:
Administration - general management

B. Description: Lists of individuals and organizations for mailing, contact or distribution.

C. Retention: destroy
when superseded or obsolete
[1.21.2.108 NMAC - N, 10/01/2015]

1.21.2.109 INDEXES AND FINDING AIDS:

A. Category:
Administration - general management

B. Description: Indexes, lists and finding aids used to provide access to records or information.

C. Retention: retain
until disposition of corresponding record
[1.21.2.109 NMAC - N, 10/01/2015]

1.21.2.110 LOGS:

A. Category:
Administration - general management

B. Description: Logs used to monitor or control.

C. Retention: retain
until no longer needed for reference
[1.21.2.110 NMAC - N, 10/01/2015]

1.21.2.111 PLANNING AND DEVELOPMENT:

A. Category:
Administration - general management

B. Description: Records related to planning and development.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.111 NMAC - N, 10/01/2015]

1.21.2.112 PROGRAM AND PROJECT FILES:

A. Category:
Administration - general management

B. Description: Records related to administrative programs and projects not identified in other classifications.

C. Retention: destroy five years from date file closed
[1.21.2.112 NMAC - N, 10/01/2015]

1.21.2.113 PROGRAM AND PROJECT FILES - GOVERNOR'S:

A. Category:
Administration - general management

B. Description: Records related to administrative programs and projects of the governor's and lieutenant governor's office.

C. Retention: permanent, transfer to archives when no longer needed for reference
[1.21.2.113 NMAC - N, 10/01/2015]

1.21.2.114 PUBLICATIONS:

A. Category:
Administration - general management

B. Description: Agency publications intended for distribution to the public.

C. Retention: transfer to state library when published
[1.21.2.114 NMAC - N, 10/01/2015]
[Refer to 1.25.10 NMAC, Publications: Filing, Distribution, Format and Style]

1.21.2.115 REFERENCE MATERIAL:

A. Category:
Administration - general management

B. Description: Records related to information received from other agencies, commercial or private entities and other reference materials which are maintained solely for ease of access and reference.

C. Retention: destroy when no longer needed for reference
[1.21.2.115 NMAC - N, 10/01/2015]

1.21.2.116 REPORTS - GENERAL:

A. Category:
Administration - general management

B. Description: General reports not identified in other classifications.

C. Retention: destroy two years from date file created
[1.21.2.116 NMAC - N, 10/01/2015]

1.21.2.117 REPORTS - HISTORICAL:

A. Category:

Administration - general management

B. Description:

Historical reports including, but not limited to the following subject matter: vital records, natural resources, emissions, professional licensure registries, disease management, rural health care, student nutrition, emergency response, homeland security, infrastructure, tribal education and statutorily required reports; and not identified in other classifications.

C. Retention:

permanent, transfer to archives one year from date file created
[1.21.2.117 NMAC - N, 10/01/2015]

1.21.2.118 REPORTS - STATISTICAL:

A. Category:
Administration - general management

B. Description:
Statistical reports.

C. Retention: destroy five years from date file created
[1.21.2.118 NMAC - N, 10/01/2015]

1.21.2.119 SPEECHES AND PRESENTATIONS - EXECUTIVE LEVEL:

A. Category:
Administration - general management

B. Description:
Speeches and presentations given by executive level personnel and related records.

C. Retention: permanent, transfer to archives when no longer needed for reference
[1.21.2.119 NMAC - N, 10/01/2015]

1.21.2.120 SURVEYS:

A. Category:
Administration - general management

B. Description: Surveys or questionnaires and related records.

C. Retention: destroy five years from date file created
[1.21.2.120 NMAC - N, 10/01/2015]

1.21.2.121 TRACKING:

A. Category:
Administration - general management

B. Description: Records related to the tracking of data for the purpose of reporting.

C. Retention: destroy five years from date file created
[1.21.2.121 NMAC - N, 10/01/2015]

1.21.2.122 - 1.21.2.130 [RESERVED]**1.21.2.131 BUILDING FILES:**

A. Category:
Administration - buildings, facilities and

infrastructure

B. Description:

Records related to government owned buildings and facilities including, but not limited to, capital improvements, as-built and as-constructed drawings, does not include routine maintenance and construction projects.

C. Retention:

permanent, transfer to archives five years from date file closed
[1.21.2.131 NMAC - N, 10/01/2015]

1.21.2.132 CONSTRUCTION PROJECT FILES - CAPITAL PROJECTS:

A. Category:
Administration - buildings, facilities and infrastructure

B. Description: Records related to the planning, design and construction of projects using capital funds.

C. Retention:

permanent, transfer to archives five years from date file closed
[1.21.2.132 NMAC - N, 10/01/2015]

1.21.2.133 INFRASTRUCTURE PROJECT FILES:

A. Category:
Administration - buildings, facilities and infrastructure

B. Description:

Records related to the planning, design and construction of specific projects including, but not limited to, facility and infrastructure projects.

C. Retention:

permanent, transfer to archives 25 years from date file closed
[1.21.2.133 NMAC - N, 10/01/2015]

1.21.2.134 MAINTENANCE AND REPAIR RECORDS:

A. Category:
Administration - buildings, facilities and infrastructure

B. Description: Records related to the maintenance and repair of government owned and operated buildings and facilities.

C. Retention:

destroy three years from the close of the fiscal year in which file closed
[1.21.2.134 NMAC - N, 10/01/2015]

1.21.2.135 MAPS, DRAWINGS AND PLANS:

A. Category:
Administration - buildings, facilities and infrastructure

B. Description:

Maps, drawings or plans of government

owned assets including, but not limited to, property, facilities, buildings and infrastructure.

C. Retention:
permanent, transfer to archives when no longer needed for reference
[1.21.2.135 NMAC - N, 10/01/2015]

1.21.2.136 SAFETY, SECURITY AND ACCESS:

A. Category:
Administration - buildings, facilities and infrastructure

B. Description:
Records related to safety and security for government owned or operated buildings.

C. Retention: destroy
three years from date file closed
[1.21.2.136 NMAC - N, 10/01/2015]

1.21.2.137 WORK ORDERS:

A. Category:
Administration - buildings, facilities and infrastructure

B. Description: Records related to work and job orders for repair and maintenance of property.

C. Retention: destroy
one year from date file closed
[1.21.2.137 NMAC - N, 10/01/2015]

1.21.2.138 - 1.21.2.140 [RESERVED]

1.21.2.141 AWARDS - COMMUNITY AND PUBLIC RELATIONS:

A. Category:
Administration - community and public relations

B. Description: Records related to awards and recognition.

C. Retention:
permanent, transfer to archives one year from date file closed
[1.21.2.141 NMAC - N, 10/01/2015]

1.21.2.142 COMPLAINTS:

A. Category:
Administration - community and public relations

B. Description: Records related to complaints by the public relating to policies, procedures or business practices including, but not limited to, filing forms, recommendations, responses and resolution.

C. Retention: destroy
one year from date file closed
[1.21.2.142 NMAC - N, 10/01/2015]

1.21.2.143 OUTREACH - HISTORICAL:

A. Category:

Administration - community and public relations

B. Description: Records related to community outreach with historical significance.

C. Retention:
permanent, transfer to archives five years from date file closed
[1.21.2.143 NMAC - N, 10/01/2015]

1.21.2.144 PRESS AND NEWS RELEASES:

A. Category:
Administration - community and public relations

B. Description: Records related to official government press, news releases and notices.

C. Retention:
permanent, transfer to archives five years from date file created
[1.21.2.144 NMAC - N, 10/01/2015]

1.21.2.145 PROGRAMS - COMMUNITY AND PUBLIC RELATIONS:

A. Category:
Administration - community and public relations

B. Description: Records related to community programs not identified in other classifications.

C. Retention: destroy
three years from date file closed
[1.21.2.145 NMAC - N, 10/01/2015]

1.21.2.146 PUBLICITY AND PROMOTION:

A. Category:
Administration - community and public relations

B. Description: Records related to marketing of the government including, but not limited to, advertising and public relations with the media including newspapers, television and magazines.

C. Retention:
permanent, transfer to archives five years from date file created
[1.21.2.146 NMAC - N, 10/01/2015]

1.21.2.147 - 1.21.2.150 [RESERVED]

1.21.2.151 EQUIPMENT FILES:

A. Category:
Administration - equipment and vehicle management

B. Description: Records related to equipment including, but not limited to, history, logs, manuals and operating procedures; and not identified in

other classifications.

C. Retention: destroy
three years from date of disposition of equipment
[1.21.2.151 NMAC - N, 10/01/2015]

1.21.2.152 MAINTENANCE AND REPAIRS:

A. Category:
Administration - equipment and vehicle management

B. Description: Records related to maintenance and repair of vehicles and equipment.

C. Retention: destroy
three years from the close of the fiscal year in which created
[1.21.2.152 NMAC - N, 10/01/2015]

1.21.2.153 VEHICLE FILES:

A. Category:
Administration - equipment and vehicle management

B. Description: Records related to vehicles including, but not limited to, history, logs, manuals and operating procedures; and not identified in other classifications.

C. Retention: destroy
three years from date of disposition of vehicle
[1.21.2.153 NMAC - N, 10/01/2015]

1.21.2.154 - 1.21.2.155 [RESERVED]

1.21.2.156 ACCESS AND CONTROL:

A. Category:
Administration - information technology

B. Description:
Records related to security and access to information technology.

C. Retention: destroy
three years from date file closed
[1.21.2.156 NMAC - N, 10/01/2015]

1.21.2.157 SYSTEMS AND NETWORKS:

A. Category:
Administration - information technology

B. Description: Records related to development and maintenance of voice and data networks, infrastructure and computer applications.

C. Retention: destroy
when superseded or obsolete
[1.21.2.157 NMAC - N, 10/01/2015]

1.21.2.158 WEB MANAGEMENT:

A. Category:
Administration - information technology

B. Description: Records related to management of public websites

including, but not limited to, design, graphics, formats and links.

C. Retention: destroy one year from date file closed
[1.21.2.158 NMAC - N, 10/01/2015]

1.21.2.159 - 1.21.2.160
[RESERVED]

1.21.2.161 ACCIDENTS AND PROPERTY DAMAGE:

A. Category:
Administration - risk management

B. Description: Records related to reporting damage to government owned and operated property including, but not limited to, claims.

C. Retention: destroy three years from date file closed
[1.21.2.161 NMAC - N, 10/01/2015]

1.21.2.162 GENERAL LIABILITY - CLAIMS:

A. Category:
Administration - risk management

B. Description: Records related to general liability claims.

C. Retention: destroy three years from date file closed
[1.21.2.162 NMAC - N, 10/01/2015]

1.21.2.163 INSURANCE CERTIFICATES AND BONDS:

A. Category:
Administration - risk management

B. Description: Records of insurance certificates and bonds provided by contractors, vendors and other non-governmental entities.

C. Retention: destroy five years from date file closed
[1.21.2.163 NMAC - N, 10/01/2015]

1.21.2.164 INSURANCE POLICIES:

A. Category:
Administration - risk management

B. Description: Records related to insurance of government owned and operated property and assets.

C. Retention: destroy 10 years from date file closed
[1.21.2.164 NMAC - N, 10/01/2015]

1.21.2.165 WAIVERS AND RELEASES:

A. Category:
Administration - risk management

B. Description: Waivers and releases of liability and related records.

C. Retention: destroy two years from date file closed
[1.21.2.165 NMAC - N, 10/01/2015]

1.21.2.166 - 1.21.2.170
[RESERVED]

1.21.2.171 COLLECTION MANAGEMENT - LIBRARY:

A. Category:
Administration - archives, library and museum management

B. Description: Records related to the management of items and objects owned or managed by a library.

C. Retention: destroy when no longer needed for reference
[1.21.2.171 NMAC - N, 10/01/2015]

1.21.2.172 COLLECTION MANAGEMENT - MUSEUMS AND ARCHIVES:

A. Category:
Administration - archives, library and museum management

B. Description: Records related to the management of items and objects owned or managed by a museum or archive.

C. Retention: permanent
[1.21.2.172 NMAC - N, 10/01/2015]

1.21.2.173 LENDING:

A. Category:
Administration - archives, library and museum management

B. Description: Records related to borrowing, lending and returning of library items including, but not limited to, tracking.

C. Retention: destroy when superseded or obsolete
[1.21.2.173 NMAC - N, 10/01/2015]

1.21.2.174 PATRON MANAGEMENT:

A. Category:
Administration - archives, library and museum management

B. Description: Records related to the management of patrons.

C. Retention: destroy five years from date file closed
[1.21.2.174 NMAC - N, 10/01/2015]

1.21.2.175 REQUESTS:

A. Category:
Administration - archives, library and museum management

B. Description: Records related to requests from the public.

C. Retention: destroy three years from the close of the calendar year in which file closed
[1.21.2.175 NMAC - N, 10/01/2015]

1.21.2.176 SCHOLARLY RESEARCH:

A. Category:

Administration - archives, library and museum management

B. Description: Records related to scholarly research.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.176 NMAC - N, 10/01/2015]

1.21.2.177 - 1.21.2.180
[RESERVED]

1.21.2.181 ASSESSMENTS:

A. Category:
Administration - education

B. Description: Records related to proficiency and learning assessments.

C. Retention: destroy five years from date file closed
[1.21.2.181 NMAC - N, 10/01/2015]

1.21.2.182 COURSE DEVELOPMENT AND ADMINISTRATION:

A. Category:
Administration - education

B. Description: Records related to development of courses including, but not limited to, outlines and syllabi.

C. Retention: destroy five years from date file closed
[1.21.2.182 NMAC - N, 10/01/2015]

1.21.2.183 ENROLLMENT - EDUCATION:

A. Category:
Administration - education

B. Description: Records related to student enrollment and withdrawal.

C. Retention: destroy two years from date file closed
[1.21.2.183 NMAC - N, 10/01/2015]

1.21.2.184 EXAMINATION AND TESTING:

A. Category:
Administration - education

B. Description: Records related to examination and testing including, but not limited to, grade results.

C. Retention: destroy two years from close of calendar year in which file created
[1.21.2.184 NMAC - N, 10/01/2015]

1.21.2.185 PROGRAMS - EDUCATION:

A. Category:
Administration - education

B. Description: Records related to academic, athletic and social

programs.

C. Retention: destroy
five years from date file created
[1.21.2.185 NMAC - N, 10/01/2015]

**1.21.2.186 PROGRAMS -
HIGHER EDUCATION:**

A. Category:
Administration - education
B. Description: Records
related to higher education programs.
C. Retention: destroy
three years from date file closed
[1.21.2.186 NMAC - N, 10/01/2015]

1.21.2.187 REGISTRATION:

A. Category:
Administration - education
B. Description: Records
related to class registration.
C. Retention: destroy
one year from date file closed
[1.21.2.187 NMAC - N, 10/01/2015]

**1.21.2.188 STUDENT
RECORDS:**

A. Category:
Administration - education
B. Description: Records
related to student evaluations, discipline,
assessments and attendance; does not
include transcripts.
C. Retention: destroy
two years from date file closed
[1.21.2.188 NMAC - N, 10/01/2015]

**1.21.2.189 STUDENT
TRANSCRIPTS:**

A. Category:
Administration - education
B. Description: Official
student transcripts.
C. Retention: destroy
100 years from date of birth
[1.21.2.189 NMAC - N, 10/01/2015]

**1.21.2.190 - 1.21.2.200
[RESERVED]**

1.21.2.201 CLAIMS:

A. Category: Employee
services - benefits management
B. Description: Records
related to employee benefit claims.
C. Retention: destroy
three years from date file closed
[1.21.2.201 NMAC - N, 10/01/2015]

**1.21.2.202 ENROLLMENT -
BENEFITS:**

A. Category: Employee
services - benefits management
B. Description: Records
related to employee enrollment in
government benefit plans.

C. Retention: destroy
five years from termination of coverage
[1.21.2.202 NMAC - N, 10/01/2015]

1.21.2.203 PLANS:

A. Category: Employee
services - benefits management
B. Description: Records
related to benefit plans and statements.
C. Retention: destroy
10 years from date file closed
[1.21.2.203 NMAC - N, 10/01/2015]

**1.21.2.204 - 1.21.2.205
[RESERVED]**

**1.21.2.206 EMPLOYMENT
SCREENING:**

A. Category: Employee
services - employer and labor services
B. Description: Records
related to pre-employment screening.
C. Retention: destroy
five years from date file created
[1.21.2.206 NMAC - N, 10/01/2015]

**1.21.2.207 LABOR
RELATIONS:**

A. Category: Employee
services - employer and labor services
B. Description: Records
related to labor relations.
C. Retention: destroy
three years from date file closed
[1.21.2.207 NMAC - N, 10/01/2015]

**1.21.2.208 PROGRAMS
- EMPLOYER AND LABOR
SERVICES:**

A. Category: Employee
services - employer and labor services
B. Description:
Records related to programs for labor and
employer services not identified in other
classifications.
C. Retention: destroy
five years from date file closed
[1.21.2.208 NMAC - N, 10/01/2015]

**1.21.2.209 - 1.21.2.210
[RESERVED]**

**1.21.2.211 DEDUCTIONS AND
GARNISHMENTS:**

A. Category: Employee
services - payroll management
B. Description: Records
related to deduction and garnishments
from employee paychecks.
C. Retention: destroy
three years from the close of the fiscal
year in which created
[1.21.2.211 NMAC - N, 10/01/2015]

1.21.2.212 PAYROLL

REGISTERS:

A. Category: Employee
services - payroll management
B. Description: Payroll
registers.

C. Retention: destroy
50 years from date file created
[1.21.2.212 NMAC - N, 10/01/2015]

**1.21.2.213 REPORTS -
PAYROLL:**

A. Category: Employee
services - payroll management
B. Description: Reports
for payroll.
C. Retention: destroy
three years from the close of the fiscal
year in which created
[1.21.2.213 NMAC - N, 10/01/2015]

1.21.2.214 TAXES - PAYROLL:

A. Category: Employee
services - payroll management
B. Description: Records
related to payroll taxes for employees
including, but not limited to, withholding,
remittances, filings and returns.
C. Retention: destroy
10 years from close of calendar year in
which created
[1.21.2.214 NMAC - N, 10/01/2015]

**1.21.2.215 - 1.21.2.220
[RESERVED]**

**1.21.2.221 AWARDS -
PERSONNEL MANAGEMENT:**

A. Category: Employee
services - personnel management
B. Description: Records
related to programs that award and
recognize employee contributions to
improvements in service, operations and
the work environment.
C. Retention: destroy
three years from date file closed
[1.21.2.221 NMAC - N, 10/01/2015]

**1.21.2.222 ADVERSE ACTION
AND REDUCTION IN FORCE:**

A. Category: Employee
services - personnel management
B. Description:
Records related to dismissal/reduction in
workforce/suspension appeal files.
C. Retention: destroy
30 years from date file closed
[1.21.2.222 NMAC - N, 10/01/2015]

1.21.2.223 CERTIFICATIONS:

A. Category: Employee
services - personnel management
B. Description:
Employee certifications.
C. Retention: destroy

three years from date file closed
[1.21.2.223 NMAC - N, 10/01/2015]

1.21.2.224 DRUG AND ALCOHOL TESTING:

A. Category: Employee services - personnel management
B. Description: Records related to drug and alcohol testing of employees.
C. Retention: destroy five years from date file closed
[1.21.2.224 NMAC - N, 10/01/2015]

1.21.2.225 EMPLOYEE MEDICAL RECORDS:

A. Category: Employee services - personnel management
B. Description: Records related to employee medical records excluding cases of hazardous material exposure.
C. Retention: destroy three years from date of separation from employment
[1.21.2.225 NMAC - N, 10/01/2015]

1.21.2.226 EMPLOYEE MEDICAL RECORDS - HAZARDOUS MATERIALS:

A. Category: Employee services - personnel management
B. Description: Records related to employee medical records specific to cases of hazardous material exposure.
C. Retention: destroy 30 years from date of separation from employment
[1.21.2.226 NMAC - N, 10/01/2015]

1.21.2.227 EMPLOYMENT DISCLOSURE:

A. Category: Employee services - personnel management
B. Description: Records related to the disclosure of secondary employment.
C. Retention: destroy one year from close of calendar year in which created
[1.21.2.227 NMAC - N, 10/01/2015]

1.21.2.228 EMPLOYMENT ELIGIBILITY VERIFICATION (I-9):

A. Category: Employee services - personnel management
B. Description: Records related to employment eligibility verification form I-9.
C. Retention: destroy three years from date of separation from employment
[1.21.2.228 NMAC - N, 10/01/2015]

1.21.2.229 EVALUATIONS - PERFORMANCE:

A. Category: Employee services - personnel management
B. Description: Performance evaluations and related records.
C. Retention: destroy three years from date of separation from employment
[1.21.2.229 NMAC - N, 10/01/2015]

1.21.2.230 GRIEVANCES AND INVESTIGATIONS:

A. Category: Employee services - personnel management
B. Description: Records related to filing of grievances and investigations related to employees.
C. Retention: destroy three years from date of separation from employment
[1.21.2.230 NMAC - N, 10/01/2015]

1.21.2.231 LEAVE RECORDS:

A. Category: Employee services - personnel management
B. Description: Employee leave records and related records.
C. Retention: destroy one year from close of fiscal year in which created
[1.21.2.231 NMAC - N, 10/01/2015]

1.21.2.232 MILITARY FILES:

A. Category: Employee services - personnel management
B. Description: Records related to military service.
C. Retention: permanent, transfer to archives 62 years from date file closed
[1.21.2.232 NMAC - N, 10/01/2015]

1.21.2.233 PERSONNEL FILES - CONTRIBUTING:

A. Category: Employee services - personnel management
B. Description: Records related to an individual government employee who contributes to a retirement plan, does not include medical files.
C. Retention: destroy 50 years from date file created
[1.21.2.233 NMAC - N, 10/01/2015]

1.21.2.234 PERSONNEL FILES - NON-CONTRIBUTING:

A. Category: Employee services - personnel management
B. Description: Records related to a temporary individual government employee who does not contribute to a retirement plan, does not

include medical files.

C. Retention: destroy three years from the date file closed
[1.21.2.234 NMAC - N, 10/01/2015]

1.21.2.235 TIME AND ATTENDANCE:

A. Category: Employee services - personnel management
B. Description: Records related to reporting and approving employee attendance.
C. Retention: destroy one year from the close of the fiscal year in which file closed
[1.21.2.235 NMAC - N, 10/01/2015]

1.21.2.236 VOLUNTEER FILES:

A. Category: Employee services - personnel management
B. Description: Records related to volunteers.
C. Retention: destroy three years from date file closed
[1.21.2.236 NMAC - N, 10/01/2015]

1.21.2.237 - 1.21.2.240 [RESERVED]

1.21.2.241 CONTRIBUTIONS:

A. Category: Employee services - retirement administration
B. Description: Records related to employee contributions to retirement or pension funds.
C. Retention: destroy 50 years from date file created
[1.21.2.241 NMAC - N, 10/01/2015]

1.21.2.242 MEMBER FILES - BENEFITS EXHAUSTED:

A. Category: Employee services - retirement administration
B. Description: Record related to membership in retirement funds and plans for retired employees.
C. Retention: destroy 10 years from date file closed
[1.21.2.242 NMAC - N, 10/01/2015]

1.21.2.243 MEMBER FILES - OTHER:

A. Category: Employee services - retirement administration
B. Description: Record related to membership in retirement funds and plans for former employees who are not eligible for retirement benefits.
C. Retention: destroy 50 years from date file closed
[1.21.2.243 NMAC - N, 10/01/2015]

1.21.2.244 - 1.21.2.245 [RESERVED]

| | | |
|--|---|--|
| <p>1.21.2.246 RECRUITMENT: A. Category: Employee services - staffing and recruiting B. Description: Records related to recruitment of employees. C. Retention: destroy three years from date file closed [1.21.2.246 NMAC - N, 10/01/2015]</p> | <p>[1.21.2.254 NMAC - N, 10/01/2015] 1.21.2.255 - 1.21.2.260 [RESERVED]</p> | <p>[RESERVED] 1.21.2.301 ACCOUNTS PAYABLE: A. Category: Financial and accounting - accounting management B. Description: Records relating to accounts payable including, but not limited to, purchasing and reimbursements. C. Retention: destroy three years from date audit report released [1.21.2.301 NMAC - N, 10/01/2015]</p> |
| <p>1.21.2.247 POSITIONS AND CLASSIFICATIONS: A. Category: Employee services - staffing and recruiting B. Description: Records related to preparation of job descriptions and position classifications. C. Retention: destroy three years from date file closed [1.21.2.247 NMAC - N, 10/01/2015]</p> | <p>1.21.2.261 CLAIMS: A. Category: Employee services - workers' compensation and unemployment B. Description: Records related to workers' compensation and unemployment claims. C. Retention: destroy three years from date file closed [1.21.2.261 NMAC - N, 10/01/2015]</p> | <p>1.21.2.302 ACCOUNTS PAYABLE - MEDICAID: A. Category: Financial and accounting - accounting management B. Description: Records relating to medicaid specific accounts payable including, but not limited to, purchasing, and reimbursements. C. Retention: destroy six years from date audit report released [1.21.2.302 NMAC - N, 10/01/2015]</p> |
| <p>1.21.2.248 - 1.21.2.250 [RESERVED]</p> | <p>1.21.2.262 EMPLOYER ACCOUNT FILES: A. Category: Employee services - workers' compensation and unemployment B. Description: Records related to employer accounts of workers' compensation and unemployment. C. Retention: destroy four years from close of calendar year in which file closed [1.21.2.262 NMAC - N, 10/01/2015]</p> | <p>1.21.2.303 ACCOUNTS RECEIVABLE: A. Category: Financial and accounting - accounting management B. Description: Records related to accounts receivable including, but not limited to, invoicing. C. Retention: destroy three years from date audit report released [1.21.2.303 NMAC - N, 10/01/2015]</p> |
| <p>1.21.2.251 COURSE MANAGEMENT: A. Category: Employee services - training management B. Description: Records related to management of courses not identified in other classifications. C. Retention: destroy five years from date file closed [1.21.2.251 NMAC - N, 10/01/2015]</p> | <p>1.21.2.263 REPORTS - INJURIES: A. Category: Employee services - workers' compensation and unemployment B. Description: Records related to reports of injuries resulting in no action or claim. C. Retention: destroy two years from date file created [1.21.2.263 NMAC - N, 10/01/2015]</p> | <p>1.21.2.304 ACCOUNT TRANSFERS: A. Category: Financial and accounting - accounting management B. Description: Records relating to transferring of funds. C. Retention: destroy three years from date audit report released [1.21.2.304 NMAC - N, 10/01/2015]</p> |
| <p>1.21.2.252 EMPLOYEE TRAINING FILES: A. Category: Employee services - training management B. Description: Records related to employee's training history. C. Retention: three years after date of separation from employment [1.21.2.252 NMAC - N, 10/01/2015]</p> | <p>1.21.2.264 UNDERWRITING: A. Category: Employee services - workers' compensation and unemployment B. Description: Records related to underwriting for workers' compensation and unemployment policies. C. Retention: destroy 10 years from date file closed [1.21.2.264 NMAC - N, 10/01/2015]</p> | <p>1.21.2.305 COLLECTIONS: A. Category: Financial and accounting - accounting management B. Description: Records related to collections of funds including, but not limited to, bankruptcy. C. Retention: destroy three years from date audit report released [1.21.2.305 NMAC - N, 10/01/2015]</p> |
| <p>1.21.2.253 INSTRUCTOR MANAGEMENT: A. Category: Employee services - training management B. Description: Records related to the management of training instructors. C. Retention: destroy five years from date file closed [1.21.2.253 NMAC - N, 10/01/2015]</p> | <p>1.21.2.265 WCA ACCIDENT REPORTING: A. Category: Employee services - workers' compensation and unemployment B. Description: Records related to workers' compensation administration accident reporting. C. Retention: destroy 60 years from date file closed [1.21.2.265 NMAC - N, 10/01/2015]</p> | <p>1.21.2.306 DONATIONS: A. Category: Financial and accounting - accounting management B. Description: Records related to donations of funds and assets to or from a government entity. C. Retention: destroy three years from date audit report released</p> |
| <p>1.21.2.254 TRAINING MATERIALS: A. Category: Employee services - training management B. Description: Records related to training and course materials not identified in other classifications. C. Retention: destroy three years from date file closed</p> | <p>1.21.2.266 - 1.21.2.300</p> | <p></p> |

[1.21.2.306 NMAC - N, 10/01/2015]

1.21.2.307 FUNDS MANAGEMENT:

A. Category: Financial and accounting - accounting management
B. Description: Records related to the management of funds including, but not limited to, inmate and patient funds.

C. Retention: destroy three years from date audit report released [1.21.2.307 NMAC - N, 10/01/2015]

1.21.2.308 JOURNAL ENTRIES:

A. Category: Financial and accounting - accounting management
B. Description: Journal entries.

C. Retention: destroy three years from date audit report released [1.21.2.308 NMAC - N, 10/01/2015]

1.21.2.309 LEDGERS:

A. Category: Financial and accounting - accounting management
B. Description: Records relating to ledger management.

C. Retention: destroy three years from date audit report released [1.21.2.309 NMAC - N, 10/01/2015]

1.21.2.310 REPORTS - ACCOUNTING:

A. Category: Financial and accounting - accounting management
B. Description: Records related to accounting processes and controls.

C. Retention: destroy one year from date audit report released [1.21.2.310 NMAC - N, 10/01/2015]

1.21.2.311 - 1.21.2.315 [RESERVED]**1.21.2.316 FIXED ASSETS:**

A. Category: Financial and accounting - asset management
B. Description: Records related to the control of fixed assets.

C. Retention: destroy three years from date audit report released [1.21.2.316 NMAC - N, 10/01/2015]

1.21.2.317 INVENTORIES:

A. Category: Financial and accounting - asset management
B. Description: Records related to the control of supplies and stock inventory.

C. Retention: destroy three years from date audit report released [1.21.2.317 NMAC - N, 10/01/2015]

1.21.2.318 SURPLUS AND DISPOSAL:

A. Category: Financial and accounting - asset management

B. Description: Records related to the disposal of surplus equipment.

C. Retention: destroy three years from date audit report released [1.21.2.318 NMAC - N, 10/01/2015]

1.21.2.319 - 1.21.2.320 [RESERVED]**1.21.2.321 BANK RELATIONSHIP:**

A. Category: Financial and accounting - bank administration

B. Description: Records relating to the establishment, maintenance and termination of bank accounts.

C. Retention: destroy three years from the close of the fiscal year in which file closed [1.21.2.321 NMAC - N, 10/01/2015]

1.21.2.322 STATEMENTS AND REPORTS - BANK ADMINISTRATION:

A. Category: Financial and accounting - bank administration

B. Description: Records related to bank account and credit card statements and reconciliations.

C. Retention: destroy three years from date audit report released [1.21.2.322 NMAC - N, 10/01/2015]

1.21.2.323 - 1.21.2.325 [RESERVED]**1.21.2.326 ANNUAL BUDGET:**

A. Category: Financial and accounting - budget management

B. Description: Records related to the request, recommendation and approved annual budget.

C. Retention: permanent, transfer to archives when no longer needed for reference [1.21.2.326 NMAC - N, 10/01/2015]

1.21.2.327 - 1.21.2.330 [RESERVED]**1.21.2.331 RECONCILIATIONS AND BALANCING:**

A. Category: Financial and accounting - financial statements and reports

B. Description: Records related to reconciliations and balancing for financial reports and statements.

C. Retention: destroy

three years from date audit report released [1.21.2.331 NMAC - N, 10/01/2015]

1.21.2.332 - 1.21.2.335 [RESERVED]**1.21.2.336 CASE FILES - LOANS:**

A. Category: Financial and accounting - grant, financial aid and loan management

B. Description: Records related to loan programs including, but not limited to, loan documents and tracking.

C. Retention: destroy three years from close of fiscal year in which file closed [1.21.2.336 NMAC - N, 10/01/2015]

1.21.2.337 EDUCATIONAL FINANCIAL AID:

A. Category: Financial and accounting - grant, financial aid and loan management

B. Description: Records related to scholarships, loans, grants and other aid.

C. Retention: destroy three years from the date file closed [1.21.2.337 NMAC - N, 10/01/2015]

1.21.2.338 GRANT ADMINISTRATION:

A. Category: Financial and accounting - grant, financial aid and loan management

B. Description: Records related to grant administration.

C. Retention: destroy three years from the date file closed [1.21.2.338 NMAC - N, 10/01/2015]

1.21.2.339 - 1.21.2.340 [RESERVED]**1.21.2.341 INVESTMENTS:**

A. Category: Financial and accounting - investment management

B. Description: Records related to investments, including, but not limited to, bonds and certificates of deposit.

C. Retention: destroy three years from the close of the fiscal year in which file created [1.21.2.341 NMAC - N, 10/01/2015]

1.21.2.342 STATEMENTS AND REPORTS - INVESTMENTS:

A. Category: Financial and accounting - investment management

B. Description: Records related to investment statements and reports.

C. Retention: destroy

three years from the date file closed
[1.21.2.342 NMAC - N, 10/01/2015]

1.21.2.343 - 1.21.2.345
[RESERVED]

1.21.2.346 BIDS, PROPOSALS AND QUOTES:

A. Category: Financial and accounting - procurement

B. Description: Bids, quotes and proposals and related records.

C. Retention: destroy three years from date file closed
[1.21.2.346 NMAC - N, 10/01/2015]

1.21.2.347 VENDOR MANAGEMENT:

A. Category: Financial and accounting - procurement

B. Description: Records related to management of vendors.

C. Retention: destroy three years from date file closed
[1.21.2.347 NMAC - N, 10/01/2015]

1.21.2.348 - 1.21.2.350
[RESERVED]

1.21.2.351 EXEMPTIONS:

A. Category: Financial and accounting - tax management

B. Description: Records related to exemptions from taxation.

C. Retention: destroy one year from close of calendar year in which file created
[1.21.2.351 NMAC - N, 10/01/2015]

1.21.2.352 [RESERVED]

1.21.2.353 REPORTS - TAX:

A. Category: Financial and accounting - tax management

B. Description: Tax reports.

C. Retention: destroy 10 years from close of calendar year in which file closed
[1.21.2.353 NMAC - N, 10/01/2015]

1.21.2.354 TAX ASSESSMENTS:

A. Category: Financial and accounting - tax management

B. Description: Records related to the general assessment of taxes, reductions and refunds, including, but not limited to, cigarette, alcohol, road and fuel, lodgers, estate, corporate, personal and employer tax.

C. Retention: destroy 10 years from close of calendar year in which file created
[1.21.2.354 NMAC - N, 10/01/2015]

1.21.2.355 VALUATIONS:

A. Category: Financial and accounting - tax management

B. Description: Records related to valuation for tax purposes not identified in other classifications.

C. Retention: destroy 10 years from close of calendar year in which file created
[1.21.2.355 NMAC - N, 10/01/2015]

1.21.2.356 VALUATIONS - HISTORICAL:

A. Category: Financial and accounting - tax management

B. Description: Records related to valuations for tax purposes including, but not limited to, tax schedules and annual renditions.

C. Retention: permanent, transfer to archives five years from close of calendar year in which file created
[1.21.2.356 NMAC - N, 10/01/2015]

1.21.2.357 - 1.21.2.360
[RESERVED]

1.21.2.361 UNCLAIMED PROPERTY:

A. Category: Financial and accounting - unclaimed property

B. Description: Records related to unclaimed property.

C. Retention: destroy 10 years from close of calendar year from date of final disposition of property
[1.21.2.361 NMAC - N, 10/01/2015]

1.21.2.362 - 1.21.2.400
[RESERVED]

1.21.2.401 COLLEGES AND UNIVERSITIES:

A. Category: Governance and compliance - accreditation and certification

B. Description: Records related to accreditation and certification of colleges and universities.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.401 NMAC - N, 10/01/2015]

1.21.2.402 COURSES AND PROGRAMS:

A. Category: Governance and compliance - accreditation and certification

B. Description: Records related to accreditation and certification of educational or training courses or programs.

C. Retention: destroy

10 years from date file closed
[1.21.2.402 NMAC - N, 10/01/2015]

1.21.2.403 CORRECTIONAL FACILITIES:

A. Category: Governance and compliance - accreditation and certification

B. Description: Records related to accreditation and certification of correctional facilities.

C. Retention: destroy five years from date file closed
[1.21.2.403 NMAC - N, 10/01/2015]

1.21.2.404 INDIVIDUAL CERTIFICATION:

A. Category: Governance and compliance - accreditation and certification

B. Description: Records related to accreditation and certification of individuals who meet specified criteria.

C. Retention: destroy five years from date individual is no longer certified
[1.21.2.404 NMAC - N, 10/01/2015]

1.21.2.405 HOSPITALS AND MEDICAL:

A. Category: Governance and compliance - accreditation and certification

B. Description: Records related to accreditation and certification of hospitals and medical facilities.

C. Retention: destroy 10 years from date file closed
[1.21.2.405 NMAC - N, 10/01/2015]

1.21.2.406 SCHOOLS:

A. Category: Governance and compliance - accreditation and certification

B. Description: Records related to accreditation and certification of schools.

C. Retention: destroy five years from date file closed
[1.21.2.406 NMAC - N, 10/01/2015]

1.21.2.407 - 1.21.2.410
[RESERVED]

1.21.2.411 CORPORATIONS:

A. Category: Governance and compliance - audit, oversight and compliance

B. Description: Records related to oversight of corporations including, but not limited to, corporate filings.

C. Retention: permanent, transfer to archives five years from date file closed

[1.21.2.411 NMAC - N, 10/01/2015]

1.21.2.412

ENVIRONMENTAL:

A. Category:
Governance and compliance - audit, oversight and compliance

B. Description: Records related to oversight of environmental programs.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.412 NMAC - N, 10/01/2015]

1.21.2.413 FEDERAL COMPLIANCE AND REPORTING:

A. Category:
Governance and compliance - audit, oversight and compliance

B. Description: Records related to oversight and federal compliance reporting.

C. Retention: destroy three years from date file closed
[1.21.2.413 NMAC - N, 10/01/2015]

1.21.2.414 FINANCIAL - AUDITS:

A. Category:
Governance and compliance - audit, oversight and compliance

B. Description: Records related to financial audits of agencies and programs.

C. Retention: destroy three years from the close of the fiscal year in which file created
[1.21.2.414 NMAC - N, 10/01/2015]

1.21.2.415 GENERAL - AUDITS AND COMPLIANCE:

A. Category:
Governance and compliance - audit, oversight and compliance

B. Description: Records related to general compliance and audits of agencies and programs.

C. Retention: destroy five years from date file closed
[1.21.2.415 NMAC - N, 10/01/2015]

1.21.2.416 INSURANCE:

A. Category:
Governance and compliance - audit, oversight and compliance

B. Description: Records related to oversight of insurance companies and agencies.

C. Retention: destroy 10 years from date file closed
[1.21.2.416 NMAC - N, 10/01/2015]

1.21.2.417 - 1.21.2.420 [RESERVED]

1.21.2.421 APPOINTMENTS - ELECTIONS:

A. Category:
Governance and compliance - election management

B. Description: Records related to appointments of election management positions.

C. Retention: destroy two years from date file closed
[1.21.2.421 NMAC - N, 10/01/2015]

1.21.2.422 CAMPAIGN - PUBLIC FUNDING:

A. Category:
Governance and compliance - election management

B. Description: Financial records of candidates who receive public funding and related records.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.422 NMAC - N, 10/01/2015]

1.21.2.423 CANDIDACY:

A. Category:
Governance and compliance - election management

B. Description: Records related to candidacy including, but not limited to, nominating petitions.

C. Retention: destroy two years from date file closed
[1.21.2.423 NMAC - N, 10/01/2015]

1.21.2.424 CANVASS:

A. Category:
Governance and compliance - election management

B. Description: Canvass of an election.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.424 NMAC - N, 10/01/2015]

1.21.2.425 ELECTION ADMINISTRATION - LOCAL:

A. Category:
Governance and compliance - election management

B. Description: Records related to the preparation of the canvass for elections in which no federal candidate appears on the ballot including, but not limited to, ballots, voting permits, signature rosters and tally sheets.

C. Retention: destroy 45 days from date file closed
[1.21.2.425 NMAC - N, 10/01/2015]

1.21.2.426 [RESERVED]

1.21.2.427 ELECTION

ADMINISTRATION - STATEWIDE:

A. Category:
Governance and compliance - election management

B. Description: Records related to the preparation of the canvass for elections in which a federal candidate appears on the ballot including, but not limited to, ballots, voting permits, signature rosters and tally sheets.

C. Retention: destroy 22 months from date file closed
[1.21.2.427 NMAC - N, 10/01/2015]

1.21.2.428 FINANCIAL - CAMPAIGN:

A. Category:
Governance and compliance - election management

B. Description: Records related to candidate, elected and appointed officials financial records.

C. Retention: destroy two years from date file closed
[1.21.2.428 NMAC - N, 10/01/2015]

1.21.2.429 INVESTIGATIONS:

A. Category:
Governance and compliance - election management

B. Description: Records related to election investigations.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.429 NMAC - N, 10/01/2015]

1.21.2.430 PETITIONS:

A. Category:
Governance and compliance - election management

B. Description: Records related to petitions, not including nominating petitions.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.430 NMAC - N, 10/01/2015]

1.21.2.431 REPORTS - ELECTION:

A. Category:
Governance and compliance - election management

B. Description: Records related to the reporting on the administration and management of elections.

C. Retention: destroy two years from date file closed
[1.21.2.431 NMAC - N, 10/01/2015]

1.21.2.432 VOTER

REGISTRATION:
A. Category:

Governance and compliance - election management

B. Description: Records related to voter registration.

C. Retention: destroy six years from date file closed [1.21.2.432 NMAC - N, 10/01/2015]

1.21.2.433 - 1.21.2.435 [RESERVED]

1.21.2.436 AIR, LAND AND WATER QUALITY:

A. Category: Governance and compliance - environment management

B. Description: Records related to environmental compliance for air, land and water quality.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.436 NMAC - N, 10/01/2015]

1.21.2.437 CONSENTS AND CLEARANCES:

A. Category: Governance and compliance - environment management

B. Description: Records related to environmental consents and clearances.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.437 NMAC - N, 10/01/2015]

1.21.2.438 CULTURAL RESOURCES:

A. Category: Governance and compliance - environment management

B. Description: Records related to the preservation of cultural resources.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.438 NMAC - N, 10/01/2015]

1.21.2.439 ENVIRONMENTAL IMPACT STATEMENTS:

A. Category: Governance and compliance - environment management

B. Description: Environmental impact statements and related records.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.439 NMAC - N, 10/01/2015]

1.21.2.440 REMEDIATION - SUPERFUND:

A. Category:

Governance and compliance - environment management

B. Description: Records related to remediations involving superfunds.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.440 NMAC - N, 10/01/2015]

1.21.2.441 REVIEWS AND MONITORING:

A. Category: Governance and compliance - environment management

B. Description: Records related to environmental reviews and monitoring.

C. Retention: destroy three years from date file closed [1.21.2.441 NMAC - N, 10/01/2015]

1.21.2.442 [RESERVED]

1.21.2.443 STORAGE TANKS:

A. Category: Governance and compliance - environment management

B. Description: Records related to the installation, remediation and removal of storage tanks.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.443 NMAC - N, 10/01/2015]

1.21.2.444 WATER FACILITIES:

A. Category: Governance and compliance - environment management

B. Description: Records related to water facilities.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.444 NMAC - N, 10/01/2015]

1.21.2.445 WATER POLLUTION:

A. Category: Governance and compliance - environment management

B. Description: Records related to water pollution including, but not limited to, national pollutant discharge elimination system (NPDES) permits and reporting.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.445 NMAC - N, 10/01/2015]

1.21.2.446 - 1.21.2.448 [RESERVED]

1.21.2.449 APPOINTMENTS - GOVERNANCE:

A. Category:

Governance and compliance - governance

B. Description: Records related to appointments not identified in other classifications.

C. Retention: destroy two years from date file closed [1.21.2.449 NMAC - N, 10/01/2015]

1.21.2.450 APPOINTMENTS - GOVERNOR:

A. Category:

Governance and compliance - governance

B. Description: Appointments made by the governor and related records.

C. Retention: permanent, transfer to archives when no longer needed for reference [1.21.2.450 NMAC - N, 10/01/2015]

1.21.2.451 BYLAWS:

A. Category:

Governance and compliance - governance

B. Description: Bylaws.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.451 NMAC - N, 10/01/2015]

1.21.2.452 MEETINGS:

A. Category:

Governance and compliance - governance

B. Description: Records related to meetings of statutory and policy making bodies including, but not limited to, minutes and not identified in other classifications.

C. Retention: permanent, transfer to archives five years from date file closed

[1.21.2.452 NMAC - N, 10/01/2015] [Those subject to the Open Meetings Act, Section 10-15-1(G) NMSA 1978, once the minutes are approved, audio recordings become non-record material.]

1.21.2.453 OATHS OF OFFICE:

A. Category:

Governance and compliance - governance

B. Description: Oaths of office and related records.

C. Retention: permanent, transfer to archives one year from date file closed [1.21.2.453 NMAC - N, 10/01/2015]

1.21.2.454 - 1.21.2.455 [RESERVED]

1.21.2.456 ADA ACCOMMODATIONS:

A. Category:

Governance and compliance - human rights management

B. Description: Records related to accommodations for disabilities under the Americans with Disabilities Act.

C. Retention: destroy three years from date file closed [1.21.2.456 NMAC - N, 10/01/2015]

1.21.2.457 INVESTIGATIONS - CIVIL AND HUMAN RIGHTS:

A. Category: Governance and compliance - human rights management

B. Description: Records related to civil and human rights investigations including, but not limited to, grievances and complaints.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.457 NMAC - N, 10/01/2015]

1.21.2.458 - 1.21.2.465 [RESERVED]

1.21.2.466 AIR QUALITY:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and testing of air quality.

C. Retention: destroy five years from date file closed [1.21.2.466 NMAC - N, 10/01/2015]

1.21.2.467 ASBESTOS:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and monitoring of asbestos.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.467 NMAC - N, 10/01/2015]

1.21.2.468 CONSTRUCTION MATERIAL SAMPLES:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and monitoring of samples of construction materials.

C. Retention: destroy 20 years from date file closed [1.21.2.468 NMAC - N, 10/01/2015]

1.21.2.469 BUILDING AND CONSTRUCTION:

A. Category: Governance and compliance - inspections

and monitoring

B. Description: Records related to inspections and monitoring of building and construction.

C. Retention: destroy 10 years from date file closed [1.21.2.469 NMAC - N, 10/01/2015]

1.21.2.470 INFRASTRUCTURE - INSPECTIONS AND MONITORING:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and monitoring of infrastructure including, but not limited to, safety.

C. Retention: permanent, transfer to archives 25 years from date file closed [1.21.2.470 NMAC - N, 10/01/2015]

1.21.2.471 EQUIPMENT AND VEHICLES:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and monitoring of equipment and vehicles.

C. Retention: destroy three years from date file closed [1.21.2.471 NMAC - N, 10/01/2015]

1.21.2.472 EQUIPMENT - RADIOACTIVE:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and monitoring of radioactive equipment.

C. Retention: destroy 75 years from date file closed [1.21.2.472 NMAC - N, 10/01/2015]

1.21.2.473 FIRE AND ELECTRICAL:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections for fire prevention and fire protection for buildings, facilities and structures including, but not limited to, fire reports.

C. Retention: destroy three years from date file closed [1.21.2.473 NMAC - N, 10/01/2015]

1.21.2.474 GENERAL - INSPECTION:

A. Category: Governance and compliance - inspections

and monitoring

B. Description: Records related to general inspections and tests, not identified in other classifications.

C. Retention: destroy five years from date file closed [1.21.2.474 NMAC - N, 10/01/2015]

1.21.2.475 HAZARDOUS MATERIALS:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and testing of hazardous materials.

C. Retention: permanent, transfer to archives 25 years from date file closed [1.21.2.475 NMAC - N, 10/01/2015]

1.21.2.476 HERBICIDE, PESTICIDE AND CHEMICALS:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and testing of herbicides, pesticides and chemicals.

C. Retention: destroy 10 years from date file closed [1.21.2.476 NMAC - N, 10/01/2015]

1.21.2.477 HOSPITALS AND MEDICAL FACILITIES:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections of hospitals and medical facilities.

C. Retention: destroy five years from date file closed [1.21.2.477 NMAC - N, 10/01/2015]

1.21.2.478 INVESTIGATIONS - INSPECTIONS AND MONITORING:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and investigations not identified in other classifications.

C. Retention: destroy 25 years from date file closed [1.21.2.478 NMAC - N, 10/01/2015]

1.21.2.479 LABORATORY:

A. Category: Governance and compliance - inspections and monitoring

B. Description: Records related to inspections and testing of laboratories including, but not limited to, equipment.

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| <p>C. Retention: destroy 10 years from date file closed [1.21.2.479 NMAC - N, 10/01/2015]</p> | <p>[1.21.2.490 NMAC - N, 10/01/2015] [For filing of administrative rules, refer to Section 14-4-3 NMSA 1978]</p> | <p>[1.21.2.495 NMAC - N, 10/01/2015] [For filing or publication, refer to Section 14-4-7.1 NMSA 1978]</p> |
| <p>1.21.2.480 MINES: A. Category: Governance and compliance - inspections and monitoring B. Description: Records related to inspections of mines. C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.480 NMAC - N, 10/01/2015]</p> | <p>1.21.2.491 LEGISLATION: A. Category: Governance and compliance - legislation and regulation management B. Description: Legislation and related records including, but not limited to, bills, enrolled acts and vetoed legislation. C. Retention: permanent, transfer to archives one year from date file closed [1.21.2.491 NMAC - N, 10/01/2015]</p> | <p>1.21.2.496 ORDINANCES AND RESOLUTIONS: A. Category: Governance and compliance - legislation and regulation management B. Description: Records related to ordinances and resolutions. C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.496 NMAC - N, 10/01/2015] [For filing requirements, refer to Section 47-6-10 NMSA 1978]</p> |
| <p>1.21.2.481 TRADE AND SERVICE MARKS: A. Category: Governance and compliance - inspections and monitoring B. Description: Records related to the monitoring of trade and service marks. C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.481 NMAC - N, 10/01/2015]</p> | <p>1.21.2.492 LEGISLATIVE MEETINGS: A. Category: Governance and compliance - legislation and regulation management B. Description: Legislative committee meetings. C. Retention: permanent, transfer to archives 15 years from date file created [1.21.2.492 NMAC - N, 10/01/2015]</p> | <p>1.21.2.497 RESEARCH: A. Category: Governance and compliance - legislation and regulation management B. Description: Records related to legislative research. C. Retention: permanent, transfer to archives 75 years from date file created or from date confidentiality waiver received [1.21.2.497 NMAC - N, 10/01/2015] [Waiver required per Sections 2-3-13 NMSA 1978 and 14-3-7.1 NMSA 1978]</p> |
| <p>1.21.2.482 WATER FACILITIES: A. Category: Governance and compliance - inspections and monitoring B. Description: Records related to inspections of water treatment facilities. C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.482 NMAC - N, 10/01/2015]</p> | <p>1.21.2.493 JOURNALS - HOUSE AND SENATE: A. Category: Governance and compliance - legislation and regulation management B. Description: Journals of the house and senate and related records. C. Retention: permanent, transfer to archives one year from date file closed [1.21.2.493 NMAC - N, 10/01/2015]</p> | <p>1.21.2.498 - 1.21.2.500 [RESERVED]</p> |
| <p>1.21.2.483 WATER QUALITY: A. Category: Governance and compliance - inspections and monitoring B. Description: Records related to the inspection and testing of drinking and potable water. C. Retention: destroy 10 years from date file closed [1.21.2.483 NMAC - N, 10/01/2015]</p> | <p>1.21.2.494 LOBBYIST: A. Category: Governance and compliance - legislation and regulation management B. Description: Records related to lobbyists. C. Retention: permanent, transfer to archives one year from date file closed [1.21.2.494 NMAC - N, 10/01/2015]</p> | <p>1.21.2.501 INSPECTIONS AND INVESTIGATIONS: A. Category: Governance and compliance - occupational safety and health B. Description: Records related to occupational safety and health compliance inspections and investigations. C. Retention: destroy 10 years from date file closed [1.21.2.501 NMAC - N, 10/01/2015]</p> |
| <p>1.21.2.484 - 1.21.2.489 [RESERVED]</p> | <p>1.21.2.495 ORDERS AND PROCLAMATIONS: A. Category: Governance and compliance - legislation and regulation management B. Description: Orders and proclamations of an administrative, legislative or executive nature and related records. C. Retention: permanent, transfer to archives from date file closed</p> | <p>1.21.2.502 - 1.21.2.505 [RESERVED]</p> |
| <p>1.21.2.490 ADMINISTRATIVE RULES: A. Category: Governance and compliance - legislation and regulation management B. Description: Administrative rules and related records. C. Retention: permanent, transfer to archives five years from date file closed</p> | | <p>1.21.2.506 SHORT-TERM PERMITS: A. Category: Governance and compliance - permit management B. Description: Records related to short-term permits not identified in other classifications. C. Retention: destroy three years from date file closed [1.21.2.506 NMAC - N, 10/01/2015]</p> <p>1.21.2.507 TRANSPORTATION AND TRIP PERMITS:</p> |

A. Category:
Governance and compliance - permit management

B. Description: Records related to transportation and trip permits.

C. Retention: destroy three years from date file closed [1.21.2.507 NMAC - N, 10/01/2015]

1.21.2.508 - 1.21.2.510
[RESERVED]

1.21.2.511 POLICIES AND PROCEDURES:

A. Category:
Governance and compliance - policy and standards management

B. Description: Policies and procedures including, but not limited to, code of conduct.

C. Retention:
permanent, transfer to archives one year from date superseded or obsolete [1.21.2.511 NMAC - N, 10/01/2015]

1.21.2.512 STANDARDS:

A. Category:
Governance and compliance - policy and standards management

B. Description: Records related to standards and best practices including, but not limited to, information technology standards.

C. Retention:
permanent, transfer to archives one year from date superseded or obsolete [1.21.2.512 NMAC - N, 10/01/2015]

1.21.2.513 - 1.21.2.515
[RESERVED]

1.21.2.516 CONVERSION AUTHORIZATION:

A. Category:
Governance and compliance - records management

B. Description: Records related to the conversion of public records from one media format to another.

C. Retention:
permanent, transfer to archives five years from date file closed [1.21.2.516 NMAC - N, 10/01/2015]

1.21.2.517 DISPOSITION AUTHORIZATION:

A. Category:
Governance and compliance - records management

B. Description: Records related to the disposition of public records including, but not limited to, approvals.

C. Retention: destroy 25 years from date file closed [1.21.2.517 NMAC - N, 10/01/2015]

1.21.2.518 INFORMATION RELEASE:

A. Category:
Governance and compliance - records management

B. Description:
Records related to requests for release of information, does not include public records requests.

C. Retention: destroy one year from date file closed [1.21.2.518 NMAC - N, 10/01/2015]

1.21.2.519 PUBLIC RECORDS REQUESTS:

A. Category:
Governance and compliance - records management

B. Description: Records related to requests for information under the Inspection of Public Records Act including, but not limited to, tracking and responses.

C. Retention: destroy one year from date request fulfilled [1.21.2.519 NMAC - N, 10/01/2015] [For denied requests, refer to 1.21.2.107 NMAC]

1.21.2.520 RECORDS CUSTODY:

A. Category:
Governance and compliance - records management

B. Description: Records related to withdrawal and receipt of records.

C. Retention: destroy 25 years from date file closed [1.21.2.520 NMAC - N, 10/01/2015]

1.21.2.521 - 1.21.2.600
[RESERVED]

1.21.2.601 AGREEMENTS - OTHER:

A. Category: Legal and judiciary - contract management

B. Description: Records related to agreements not identified in other classifications.

C. Retention: destroy three years from date file closed [1.21.2.601 NMAC - N, 10/01/2015]

1.21.2.602 INTERSTATE COMPACTS/AGREEMENTS:

A. Category: Legal and judiciary - contract management

B. Description: Interstate compacts and agreements and related records.

C. Retention: permanent, transfer to archives five years

from date file closed [1.21.2.602 NMAC - N, 10/01/2015] [For filing requirements, refer to Section 14-3-20 NMSA 1978]

1.21.2.603 COOPERATIVE AGREEMENTS:

A. Category: Legal and judiciary - contract management

B. Description: Cooperative agreements including, but not limited to, memoranda of understanding.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.603 NMAC - N, 10/01/2015]

1.21.2.604 GOODS AND SERVICES:

A. Category: Legal and judiciary - contract management

B. Description: Records related to contracting of goods and services.

C. Retention: destroy three years from date file closed [1.21.2.604 NMAC - N, 10/01/2015]

1.21.2.605 LEASES:

A. Category: Legal and judiciary - contract management

B. Description: Leases and related records, does not include mineral leases.

C. Retention: destroy three years from date file closed [1.21.2.605 NMAC - N, 10/01/2015]

1.21.2.606 SETTLEMENTS:

A. Category: Legal and judiciary - contract management

B. Description: Records related to settlements of contract or agreement disputes.

C. Retention: destroy 14 years from date file closed [1.21.2.606 NMAC - N, 10/01/2015]

1.21.2.607 - 1.21.2.610
[RESERVED]

1.21.2.611 CALENDARS:

A. Category: Legal and judiciary - court administration

B. Description: Court calendars.

C. Retention: destroy one year from date file created [1.21.2.611 NMAC - N, 10/01/2015]

1.21.2.612 CASE FILES - LOWER COURTS (CIVIL):

A. Category: Legal and judiciary - court administration

B. Description: Court

case files, including, but not limited to, dockets; does not include DUI or domestic violence cases, district, appellate, supreme court or probate case files.

C. Retention: destroy
14 years from date file closed
[1.21.2.612 NMAC - N, 10/01/2015]

1.21.2.613 CASE FILES - LOWER COURTS (CRIMINAL):

A. Category: Legal and judiciary - court administration

B. Description: Court case files, including, but not limited to, dockets; does not include DUI or domestic violence cases, district, appellate, supreme court or probate case files.

C. Retention: destroy
one year from date file closed
[1.21.2.613 NMAC - N, 10/01/2015]

1.21.2.614 CASE FILES - JUVENILE:

A. Category: Legal and judiciary - court administration

B. Description: Juvenile court case files.

C. Retention: destroy
22 years from date of birth
[1.21.2.614 NMAC - N, 10/01/2015]

1.21.2.615 CASE FILES - COURT OF RECORD:

A. Category: Legal and judiciary - court administration

B. Description: Court case files including, but not limited to, dockets. Court cases include, but are not limited to, all DUI and domestic violence cases, district, appellate, supreme court or probate case files.

C. Retention:
permanent, transfer to archives 10 years from date file closed
[1.21.2.615 NMAC - N, 10/01/2015]

1.21.2.616 CASE FILES - DISMISSED:

A. Category: Legal and judiciary - court administration

B. Description:
Dismissed case files.

C. Retention: destroy
one year from date file closed
[1.21.2.616 NMAC - N, 10/01/2015]

1.21.2.617 EXHIBITS:

A. Category: Legal and judiciary - court administration

B. Description:
Exhibits.

C. Retention: destroy
one year from date of final disposition of associated case
[1.21.2.617 NMAC - N, 10/01/2015]

1.21.2.618 JURY

MANAGEMENT:

A. Category: Legal and judiciary - court administration

B. Description: Records related to the management of juries.

C. Retention: destroy
three months from date file closed
[1.21.2.618 NMAC - N, 10/01/2015]

1.21.2.619 PROBATION FILES:

A. Category: Legal and judiciary - court administration

B. Description: Records related to probation at the lower court level.

C. Retention: destroy
five years from date file closed
[1.21.2.619 NMAC - N, 10/01/2015]

1.21.2.620 - 1.21.2.625 [RESERVED]

1.21.2.626 ADOPTIONS:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to adoptions including, but not limited to, agreement and consents.

C. Retention:
permanent, transfer to archives 25 years from date file closed
[1.21.2.626 NMAC - N, 10/01/2015]

1.21.2.627 ADVICE AND OPINIONS:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to research and correspondence related to legal issues including, but not limited to, precedents and opinions.

C. Retention:
permanent, transfer to archives from date file closed
[1.21.2.627 NMAC - N, 10/01/2015]

1.21.2.628 BONDS:

A. Category: Legal and judiciary - legal matter management

B. Description: Court ordered bonds and related records.

C. Retention: destroy
three years from the close of the fiscal year in which created
[1.21.2.628 NMAC - N, 10/01/2015]

1.21.2.629 EXTRADITIONS AND REQUISITIONS:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to extraditions and requisitions.

C. Retention: destroy

three years from date file closed
[1.21.2.629 NMAC - N, 10/01/2015]

1.21.2.630 EXTRADITIONS AND RENDITIONS - GOVERNOR:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to extraditions and renditions issued by the governor.

C. Retention:
permanent, transfer to archives when no longer needed for reference
[1.21.2.630 NMAC - N, 10/01/2015]

1.21.2.631 SIGNATURE RECORDS:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to signatures including, but not limited to, facsimile and digital signatures.

C. Retention: destroy
10 years from date file closed
[1.21.2.631 NMAC - N, 10/01/2015]

1.21.2.632 HEARINGS AND APPEALS:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to hearings and appeals.

C. Retention: destroy
10 years from date file closed
[1.21.2.632 NMAC - N, 10/01/2015]

1.21.2.633 HEARINGS AND APPEALS - HISTORICAL:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to hearings and appeals which affect public policy.

C. Retention:
permanent, transfer to archives 10 years from date file closed
[1.21.2.633 NMAC - N, 10/01/2015]

1.21.2.634 INVESTIGATIONS - LEGAL MATTER MANAGEMENT:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to investigations including, but not limited to, criminal, evidence and crime laboratory reports.

C. Retention: destroy
10 years from date file closed
[1.21.2.634 NMAC - N, 10/01/2015]

1.21.2.635 INVESTIGATIONS - ATTORNEY GENERAL:

A. Category: Legal and judiciary - legal matter management

B. Description: Records

related to investigations conducted by the attorney general.

C. Retention:

permanent, transfer to archives five years from date file closed

[1.21.2.635 NMAC - N, 10/01/2015]

1.21.2.636 LEGAL CASE FILES:

A. Category: Legal and judiciary - legal matter management

B. Description: Legal case files other than historical case files.

C. Retention: destroy 10 years from date file closed

[1.21.2.636 NMAC - N, 10/01/2015]

1.21.2.637 LEGAL CASE FILES - HISTORICAL:

A. Category: Legal and judiciary - legal matter management

B. Description: Legal case files pertaining to the office of the governor, attorney general and regulation and remediation.

C. Retention: permanent, transfer to archives 10 years from date file closed

[1.21.2.637 NMAC - N, 10/01/2015]

1.21.2.638 MISSING PERSON FILES:

A. Category: Legal and judiciary - legal matter management

B. Description: Missing person files and related records.

C. Retention: permanent, transfer to archives five years from date file closed

[1.21.2.638 NMAC - N, 10/01/2015]

1.21.2.639 PUBLIC DEFENDER AND DISTRICT ATTORNEY CASE FILES - ADULT:

A. Category: Legal and judiciary - legal matter management

B. Description: Public defender and district attorney case files for adults, does not include capital offenses.

C. Retention: destroy 10 years from date file closed

[1.21.2.639 NMAC - N, 10/01/2015]

1.21.2.640 PUBLIC DEFENDER AND DISTRICT ATTORNEY CASE FILES - CAPITAL OFFENSES:

A. Category: Legal and judiciary - legal matter management

B. Description: Public defender and district attorney case files related to capital offenses.

C. Retention: permanent, transfer to archives 25 years from date file closed

[1.21.2.640 NMAC - N, 10/01/2015]

1.21.2.641 PUBLIC DEFENDER AND DISTRICT ATTORNEY CASE FILES - JUVENILE:

A. Category: Legal and judiciary - legal matter management

B. Description: Public defender and district attorney case files for juveniles.

C. Retention: destroy 22 years from date of birth

[1.21.2.641 NMAC - N, 10/01/2015]

1.21.2.642 WAIVERS AND RELEASES:

A. Category: Legal and judiciary - legal matter management

B. Description: Records related to waivers and releases.

C. Retention: destroy two years from date file closed

[1.21.2.642 NMAC - N, 10/01/2015]

1.21.2.643 VICTIM CLAIM FILES:

A. Category: Legal and judiciary - legal matter management

B. Description: Victim claim files and related records.

C. Retention: destroy 100 years from date of birth of claimant

[1.21.2.643 NMAC - N, 10/01/2015]

1.21.2.644 - 1.21.2.650 [RESERVED]

1.21.2.651 BRANDS:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to brands.

C. Retention: destroy six years from date file closed

[1.21.2.651 NMAC - N, 10/01/2015]

1.21.2.652 BUSINESS LICENSES:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licenses for businesses not determined to be historical.

C. Retention: destroy 10 years from date entity is no longer licensed

[1.21.2.652 NMAC - N, 10/01/2015]

1.21.2.653 BUSINESS LICENSES - HISTORICAL:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licenses for businesses

including, but not limited to, financial institutions, funeral homes, zoo, burial transit, child placement agency (foster care), private investigation, construction/contractor, liquid petroleum and natural gas, liquor license, private post-secondary institution, higher education distance learning, small brewer, winegrower or craft distiller, body art, medical marijuana producer and racing establishments.

C. Retention:

permanent, transfer to archives 10 years from date file closed

[1.21.2.653 NMAC - N, 10/01/2015]

1.21.2.654 CONCEALED FIREARMS:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to concealed firearms.

C. Retention: destroy two years from date file closed

[1.21.2.654 NMAC - N, 10/01/2015]

1.21.2.655 DEALERS, AGENTS AND OUTFITTERS:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licensed dealers, agents and outfitters.

C. Retention: destroy three years from date file closed

[1.21.2.655 NMAC - N, 10/01/2015]

1.21.2.656 DISCIPLINE AND INVESTIGATIONS - GENERAL:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to general discipline and investigations of license and certification violations.

C. Retention: destroy 25 years from date file closed

[1.21.2.656 NMAC - N, 10/01/2015]

1.21.2.657 DISCIPLINE AND INVESTIGATIONS - HISTORICAL:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to discipline and investigations of violations pertaining to licenses determined to be historical.

C. Retention: permanent, transfer to archives 10 years from date file closed

[1.21.2.657 NMAC - N, 10/01/2015]

1.21.2.658 DRIVERS' LICENSES:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to issuing and tracking drivers' licenses including, but not limited to, revocation and suspensions not identified in other classifications.

C. Retention: destroy three years from date file closed
[1.21.2.658 NMAC - N, 10/01/2015]

1.21.2.659 DRIVERS' LICENSES - SUSPENSION AND REVOCATION:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to vehicular homicide and DUI license suspension and revocation.

C. Retention: destroy 55 years from date file closed
[1.21.2.659 NMAC - N, 10/01/2015]

1.21.2.660 DRIVERS' LICENSES - LIFETIME SUSPENSION AND REVOCATION:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to permanent commercial driver's license suspensions and revocation.

C. Retention: destroy 100 years from date of birth of licensee
[1.21.2.660 NMAC - N, 10/01/2015]

1.21.2.661 FACILITIES, ESTABLISHMENTS AND PRODUCTS:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licensing and certification of facilities, establishments and products.

C. Retention: destroy five years from date file closed
[1.21.2.661 NMAC - N, 10/01/2015]

1.21.2.662 MOTOR VEHICLES - TITLES:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to motor vehicle titles.

C. Retention: destroy 25 years from date of change of ownership
[1.21.2.662 NMAC - N, 10/01/2015]

1.21.2.663 MOTOR VEHICLES - REGISTRATION:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to motor vehicle registration.

C. Retention: destroy three years from date file closed
[1.21.2.663 NMAC - N, 10/01/2015]

1.21.2.664 MOTOR VEHICLES, IDENTIFICATION:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to motor vehicle identification.

C. Retention: destroy three years from date file closed
[1.21.2.664 NMAC - N, 10/01/2015]

1.21.2.665 MOTOR VEHICLES, LICENSE PLATES:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to motor vehicle license plates.

C. Retention: destroy one year from date file closed
[1.21.2.665 NMAC - N, 10/01/2015]

1.21.2.666 NOTARY:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licenses for notaries.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.666 NMAC - N, 10/01/2015]

1.21.2.667 PROFESSIONAL LICENSES:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to professional licenses not identified as historical.

C. Retention: destroy 10 years from date individual is no longer licensed
[1.21.2.667 NMAC - N, 10/01/2015]

1.21.2.668 PROFESSIONAL LICENSES - HISTORICAL:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to professional licenses including, but not limited to, attorney, architect, certified public accountants, body art and piercing, nutritionist, dietician, optometrist, osteopathic, pharmacist, podiatry, polygraph examiner, private investigator, psychologist, otolaryngologist, funeral service practitioner, physician, physician's assistant, nursing, medication aid and hemodialysis, well driller, midwife, radioactive material licensee and educator lifetime licensure.

C. Retention: permanent, transfer to archives 10 years from date file closed
[1.21.2.668 NMAC - N, 10/01/2015]

1.21.2.669 SECURITIES:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licensing securities.

C. Retention: destroy five years from date file closed
[1.21.2.669 NMAC - N, 10/01/2015]

1.21.2.670 SPORTSMEN'S LICENSURE:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to licenses and permitting for hunting, angling and trapping.

C. Retention: destroy five years from date file closed
[1.21.2.670 NMAC - N, 10/01/2015]

1.21.2.671 SPORTSMEN'S LICENSURE - LIFETIME:

A. Category: Legal and judiciary - licensing and registration

B. Description: Records related to lifetime licenses and permitting for hunting, angling and trapping.

C. Retention: destroy 100 years from date of birth of licensee
[1.21.2.671 NMAC - N, 10/01/2015]

1.21.2.672 TESTS AND EXAMINATIONS:

A. Category: Legal and judiciary - licensing and registration

B. Description: Tests and examinations for licenses and certifications.

C. Retention: destroy two years from date file closed
[1.21.2.672 NMAC - N, 10/01/2015]

1.21.2.673 - 1.21.2.675 [RESERVED]

1.21.2.676 APPRAISALS - VALUATIONS:

A. Category: Legal and judiciary - real property

B. Description: Records related to appraisals for valuation, does not include tax valuations.

C. Retention: destroy five years from date file closed
[1.21.2.676 NMAC - N, 10/01/2015]

1.21.2.677 LAND AND EASEMENTS:

A. Category: Legal and judiciary - real property

B. Description: Records related to property rights, exchanges, sale or acquisition of land including, but not limited to, easements.

C. Retention:

permanent, transfer to archives five years from date file closed
[1.21.2.677 NMAC - N, 10/01/2015]

1.21.2.678 RIGHT OF WAY:

A. Category: Legal and judiciary - real property
B. Description: Records related to property rights of way.

C. Retention:
permanent, transfer to archives five years from date file closed
[1.21.2.678 NMAC - N, 10/01/2015]

1.21.2.679 WATER RIGHTS:

A. Category: Legal and judiciary - real property
B. Description: Records related to water rights and permits.

C. Retention:
permanent, transfer to archives five years from date file closed
[1.21.2.679 NMAC - N, 10/01/2015]

1.21.2.680 - 1.21.2.699 [RESERVED]**1.21.2.700 FOOD AND DRUG INFORMATION:**

A. Category: Natural resource management - agriculture
B. Description: Records related to food and drug information.
C. Retention: destroy five years from date file closed
[1.21.2.700 NMAC - N, 10/01/2015]

1.21.2.701 SURVEYS AND INSPECTIONS:

A. Category: Natural resource management - agriculture
B. Description: Records related to agricultural surveys and inspections.

C. Retention: destroy five years from date file closed
[1.21.2.701 NMAC - N, 10/01/2015]

1.21.2.702 WEIGHTS AND MEASURES:

A. Category: Natural resource management - agriculture
B. Description: Records related to weights and measures.
C. Retention: destroy one year from date file closed
[1.21.2.702 NMAC - N, 10/01/2015]

1.21.2.703 - 1.21.2.705 [RESERVED]**1.21.2.706 DISEASE MANAGEMENT:**

A. Category: Natural resource management - animal and

livestock

B. Description: Records related to the management and prevention of animal disease.

C. Retention: destroy 10 years from date file closed
[1.21.2.706 NMAC - N, 10/01/2015]

1.21.2.707 INSPECTIONS:

A. Category: Natural resource management - animal and livestock

B. Description: Records related to animal and livestock inspections.

C. Retention: destroy five years from date file closed
[1.21.2.707 NMAC - N, 10/01/2015]

1.21.2.708 - 1.21.2.710 [RESERVED]**1.21.2.711 CONSERVATION PLANS:**

A. Category: Natural resource management - land and water
B. Description: Conservation plans and related records.
C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.711 NMAC - N, 10/01/2015]

1.21.2.712 FOREST MANAGEMENT:

A. Category: Natural resource management - land and water
B. Description: Records related to the management of forests.
C. Retention: destroy five years from date file closed
[1.21.2.712 NMAC - N, 10/01/2015]

1.21.2.713 LAND MANAGEMENT:

A. Category: Natural resource management - land and water
B. Description: Records related to management of state trust land.
C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.713 NMAC - N, 10/01/2015]

1.21.2.714 [RESERVED]**1.21.2.715 NATURAL RESOURCES:**

A. Category: Natural resource management - land and water
B. Description: Records related to the management of natural resources not identified in other classifications.

C. Retention:

permanent, transfer to archives five years from date file closed
[1.21.2.715 NMAC - N, 10/01/2015]

1.21.2.716 WATER MANAGEMENT AND PLANNING:

A. Category: Natural resource management - land and water
B. Description: Records related to management of water including, but not limited to, planning.

C. Retention:
permanent, transfer to archives five years from date file closed
[1.21.2.716 NMAC - N, 10/01/2015]

1.21.2.717 - 1.21.2.720 [RESERVED]**1.21.2.721 FACILITIES:**

A. Category: Natural resource management - recreation
B. Description: Records related to the management of government parks, trails and facilities.

C. Retention: permanent, transfer to archives 10 years from date file closed
[1.21.2.721 NMAC - N, 10/01/2015]

1.21.2.722 RECREATIONAL ACCESS:

A. Category: Natural resource management - recreation
B. Description: Records related to recreational access to government property and facilities.
C. Retention: destroy two years from date file closed
[1.21.2.722 NMAC - N, 10/01/2015]

1.21.2.723 - 1.21.2.725 [RESERVED]**1.21.2.726 FISH MANAGEMENT:**

A. Category: Natural resource management - wildlife
B. Description: Records related to the management of fish and aquatic animals.

C. Retention: permanent, transfer to archives five years from date file closed
[1.21.2.726 NMAC - N, 10/01/2015]

1.21.2.727 GAME MANAGEMENT:

A. Category: Natural resource management - wildlife
B. Description: Records related to the management of protected species including, but not limited to, hunter survey, tagging and harvest information; and not identified in other

classifications.

C. Retention: destroy five years from date file closed [1.21.2.727 NMAC - N, 10/01/2015]

1.21.2.728 GAME MANAGEMENT - HISTORICAL:

A. Category: Natural resource management - wildlife
B. Description: Records related to the management of protected species including, but not limited to, bighorn sheep, species transplant, importation, protected mammal and wildlife surveys.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.728 NMAC - N, 10/01/2015]

1.21.2.729 - 1.21.2.800 [RESERVED]

1.21.2.801 CASE FILES - CHILD AND YOUTH SERVICES:

A. Category: Public health and social services - child and youth

B. Description: Child and social service case files including abuse or neglect cases not resulting in transfer of custody to the state.

C. Retention: destroy 19 years from date of birth [1.21.2.801 NMAC - N, 10/01/2015]

1.21.2.802 CASE FILES - FOSTER CARE:

A. Category: Public health and social services - child and youth

B. Description: Records related to abuse or neglect cases resulting in transfer of custody to the state.

C. Retention: permanent, transfer to archives 25 years from date file closed [1.21.2.802 NMAC - N, 10/01/2015]

1.21.2.803 CHILD SUPPORT SERVICES:

A. Category: Public health and social services - child and youth

B. Description: Records related to child support services.

C. Retention: destroy three years from date file closed [1.21.2.803 NMAC - N, 10/01/2015]

1.21.2.804 FOSTER HOMES:

A. Category: Public health and social services - child and youth

B. Description: Records

related to foster care homes.

C. Retention: permanent, transfer to archives 10 years from date file closed [1.21.2.804 NMAC - N, 10/01/2015]

1.21.2.805 JUVENILE RECORDS:

A. Category: Public health and social services - child and youth

B. Description: Case files of at-risk or delinquent youth.

C. Retention: destroy 22 years from date of birth [1.21.2.805 NMAC - N, 10/01/2015]

1.21.2.806 - 1.21.2.810 [RESERVED]

1.21.2.811 ASSISTANCE - EMPLOYMENT:

A. Category: Public health and social services - family and aging

B. Description: Records related to employment assistance.

C. Retention: destroy five years from date file closed [1.21.2.811 NMAC - N, 10/01/2015]

1.21.2.812 ASSISTANCE - EMPLOYMENT (REFUGEE):

A. Category: Public health and social services - family and aging

B. Description: Records related to employment assistance for refugees.

C. Retention: permanent, transfer to archives 10 years from date file closed [1.21.2.812 NMAC - N, 10/01/2015]

1.21.2.813 ASSISTANCE - FINANCIAL:

A. Category: Public health and social services - family and aging

B. Description: Records related to financial assistance.

C. Retention: destroy five years from date file closed [1.21.2.813 NMAC - N, 10/01/2015]

1.21.2.814 ASSISTANCE - MEDICAL:

A. Category: Public health and social services - family and aging

B. Description: Records related to medical assistance.

C. Retention: destroy six years from date audit report released

[1.21.2.814 NMAC - N, 10/01/2015]

1.21.2.815 ASSISTANCE - NUTRITION:

A. Category: Public health and social services - family and aging

B. Description: Records related to nutrition assistance including, but not limited to, case files, participation and authorizations.

C. Retention: destroy three years after date file closed [1.21.2.815 NMAC - N, 10/01/2015]

1.21.2.816 CASE FILES - FAMILY AND AGING:

A. Category: Public health and social services - family and aging

B. Description: Family and aging services case files.

C. Retention: destroy six years from date file closed [1.21.2.816 NMAC - N, 10/01/2015]

1.21.2.817 - 1.21.2.820 [RESERVED]

1.21.2.821 HAZARDOUS WASTE:

A. Category: Public health and social services - hazardous material management

B. Description: Records related to hazardous waste, materials and biohazards, including agency programs and response.

C. Retention: destroy 30 years from date file closed [1.21.2.821 NMAC - N, 10/01/2015]

1.21.2.822 RADIOACTIVE MATERIAL:

A. Category: Public health and social services - hazardous material management

B. Description: Records related to the receipt, maintenance and disposal of radioactive material.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.822 NMAC - N, 10/01/2015]

1.21.2.823 MATERIAL SAFETY DATA SHEETS:

A. Category: Public health and social services - hazardous material management

B. Description: Records related to identifying hazardous materials and chemicals including, but not limited to, use and analyses.

C. Retention: destroy
30 years from date file closed
[1.21.2.823 NMAC - N, 10/01/2015]

**1.21.2.824 - 1.21.2.825
[RESERVED]**

**1.21.2.826 ANALYSIS - X-RAY
AND CHEMICAL:**

A. Category: Public
health and social services - hospital and
medical

B. Description: Records
related to the analysis of x-rays and
chemicals.

C. Retention: destroy
12 years from date file closed
[1.21.2.826 NMAC - N, 10/01/2015]

**1.21.2.827 DISEASE
MANAGEMENT:**

A. Category: Public
health and social services - hospital and
medical

B. Description: Records
related to diseases including CDC
reportable diseases.

C. Retention: destroy
80 years from date file closed
[1.21.2.827 NMAC - N, 10/01/2015]

**1.21.2.828 DRUGS AND
CONTROLLED SUBSTANCES:**

A. Category: Public
health and social services - hospital and
medical

B. Description: Records
related to drugs and controlled substances
including, but not limited to, inventories
and prescriptions.

C. Retention: destroy
three years from date file closed
[1.21.2.828 NMAC - N, 10/01/2015]

1.21.2.829 INCIDENTS:

A. Category: Public
health and social services - hospital and
medical

B. Description: Records
related to incidents including minor injury
reports.

C. Retention: destroy
three years from date file closed
[1.21.2.829 NMAC - N, 10/01/2015]

**1.21.2.830 PATIENT
MANAGEMENT:**

A. Category: Public
health and social services - hospital and
medical

B. Description: Records
related to management of patients
including, but not limited to, accounts and
client files.

C. Retention: destroy

five years from date file closed
[1.21.2.830 NMAC - N, 10/01/2015]

**1.21.2.831 PATIENT
RECORDS - ADULT:**

A. Category: Public
health and social services - hospital and
medical

B. Description: Adult
patient records.

C. Retention: destroy
10 years from date file closed
[1.21.2.831 NMAC - N, 10/01/2015]

**1.21.2.832 PATIENT
RECORDS - MINOR (≥9 YEARS OF
AGE):**

A. Category: Public
health and social services - hospital and
medical

B. Description: Patient
records for minors nine years of age or
over at date of last discharge.

C. Retention: destroy
10 years from date of last discharge
[1.21.2.832 NMAC - N, 10/01/2015]

**1.21.2.833 PATIENT
RECORDS - MINOR (≤8 YEARS OF
AGE):**

A. Category: Public
health and social services - hospital and
medical

B. Description: Patient
records for minors eight years of age or
under at date of last discharge.

C. Retention: destroy
19 years from date of birth
[1.21.2.833 NMAC - N, 10/01/2015]

**1.21.2.834 PROGRAMS -
HOSPITAL AND MEDICAL:**

A. Category: Public
health and social services - hospital and
medical

B. Description: Records
related to clinical and health programs.

C. Retention: destroy
five years from date file closed
[1.21.2.834 NMAC - N, 10/01/2015]

**1.21.2.835 - 1.21.2.840
[RESERVED]**

1.21.2.841 CALIBRATION:

A. Category: Public
health and social services - laboratory
management

B. Description:
Calibration logs and files.

C. Retention: destroy
10 years from date file closed
[1.21.2.841 NMAC - N, 10/01/2015]

**1.21.2.842 CASE FILES -
LABORATORY:**

A. Category: Public
health and social services - laboratory
management

B. Description: Records
related to laboratory analysis.

C. Retention: destroy
10 years from date file closed
[1.21.2.842 NMAC - N, 10/01/2015]

**1.21.2.843 REPORTS -
LABORATORY:**

A. Category: Public
health and social services - laboratory
management

B. Description:
Laboratory samples and reports.

C. Retention: destroy
four years from date file created
[1.21.2.843 NMAC - N, 10/01/2015]

**1.21.2.844 FORENSIC
ANALYSIS:**

A. Category: Public
health and social services - laboratory
management

B. Description: Records
related to forensic analysis.

C. Retention: destroy
10 years from date of final disposition of
corresponding case
[1.21.2.844 NMAC - N, 10/01/2015]

**1.21.2.845 FORENSIC
ANALYSIS - MEDICAL
INVESTIGATOR:**

A. Category: Public
health and social services - laboratory
management

B. Description: Records
related to forensic analysis conducted by
the medical investigator.

C. Retention:
permanent, transfer to archives five years
from date file closed
[1.21.2.845 NMAC - N, 10/01/2015]

**1.21.2.846 - 1.21.2.850
[RESERVED]**

**1.21.2.851 BIRTHS AND
DEATHS:**

A. Category: Public
health and social services - vital records

B. Description: Records
related to births and deaths.

C. Retention:
permanent, transfer to archives five years
from date file closed
[1.21.2.851 NMAC - N, 10/01/2015]

**1.21.2.852 - 1.21.2.900
[RESERVED]**

**1.21.2.901 COMPLAINTS
AND INVESTIGATIONS:**

A. Category: Public safety services - correctional institutions
B. Description: Records related to investigations including, but not limited to, shakedown, site or staff and search logs.
C. Retention: destroy five years from date file closed
 [1.21.2.901 NMAC - N, 10/01/2015]

1.21.2.902 INMATE FILES - JAIL:

A. Category: Public safety services - correctional institutions
B. Description: Jail inmate files.
C. Retention: destroy five years from date file closed
 [1.21.2.902 NMAC - N, 10/01/2015]

1.21.2.903 INMATE FILES - JUVENILE:

A. Category: Public safety services - correctional institutions
B. Description: Juvenile inmate files.
C. Retention: destroy 22 years from date of birth
 [1.21.2.903 NMAC - N, 10/01/2015]

1.21.2.904 INMATE FILES - PENITENTIARY:

A. Category: Public safety services - correctional institutions
B. Description: Penitentiary inmate files.
C. Retention: permanent, transfer to archives 50 years from date file closed
 [1.21.2.904 NMAC - N, 10/01/2015]

1.21.2.905 INMATE MAIL:

A. Category: Public safety services - correctional institutions
B. Description: Records related to offenders mail including, but not limited to, unidentified foreign objects.
C. Retention: destroy five years from close of calendar year in which file closed
 [1.21.2.905 NMAC - N, 10/01/2015]

1.21.2.906 PAROLE AND PROBATION FILES:

A. Category: Public safety services - correctional institutions
B. Description: Parole and probation files.
C. Retention: permanent, transfer to archives 50 years from date probation or parole completed
 [1.21.2.906 NMAC - N, 10/01/2015]

1.21.2.907 PROGRAMS - CORRECTIONAL INSTITUTION:

A. Category: Public safety services - correctional institutions
B. Description: Records related to inmate programs including, but not limited to, medical and recreational.
C. Retention: destroy three years from date file closed
 [1.21.2.907 NMAC - N, 10/01/2015]

1.21.2.908 SAFETY RECORDS:

A. Category: Public safety services - correctional institutions
B. Description: Safety records.
C. Retention: destroy five years from the close of the calendar year in which file created
 [1.21.2.908 NMAC - N, 10/01/2015]

1.21.2.909 SECURITY AND ACCESS:

A. Category: Public safety services - correctional institutions
B. Description: Records related to security and access.
C. Retention: destroy five years from date file closed
 [1.21.2.909 NMAC - N, 10/01/2015]

1.21.2.910 SURVEILLANCE:

A. Category: Public safety services - correctional institutions
B. Description: Records related to surveillance including, but not limited to, radio, telephone and cameras.
C. Retention: destroy two years from date file closed
 [1.21.2.910 NMAC - N, 10/01/2015]

1.21.2.911 UNIT FILES:

A. Category: Public safety services - correctional institutions
B. Description: Records related to unit files.
C. Retention: destroy three years from date file closed
 [1.21.2.911 NMAC - N, 10/01/2015]

1.21.2.912 - 1.21.2.915 [RESERVED]

1.21.2.916 DISASTER FILES:

A. Category: Public safety services - emergency and disaster management
B. Description: Records related to management and history of disasters.
C. Retention: permanent, transfer to archives five years from date file closed
 [1.21.2.916 NMAC - N, 10/01/2015]

1.21.2.917 EMERGENCY AND FIRE DRILLS:

A. Category: Public safety services - emergency and disaster management
B. Description: Records related to emergency and fire drills.
C. Retention: destroy one year from date file closed
 [1.21.2.917 NMAC - N, 10/01/2015]

1.21.2.918 RESPONSE:

A. Category: Public safety services - emergency and disaster management
B. Description: Records related to responses to a disaster or emergency situation including, but not limited to, communications with responding agencies, details of the activation and all documentation or issues relating to or arising from the disaster.
C. Retention: destroy five years from date file closed
 [1.21.2.918 NMAC - N, 10/01/2015]

1.21.2.919 RESPONSE - NATIONAL GUARD:

A. Category: Public safety services - emergency and disaster management
B. Description: Records related to New Mexico national guard responses to a disaster or emergency situation including, but not limited to, communications with responding agencies, details of the activation and all documentation or issues relating to or arising from the disaster.
C. Retention: permanent, transfer to archives five years from date file closed
 [1.21.2.919 NMAC - N, 10/01/2015]

1.21.2.920 - 1.21.2.925 [RESERVED]

1.21.2.926 ACCIDENTS AND INCIDENTS:

A. Category: Public safety services - law enforcement
B. Description: Records related to accident reports and incidents.
C. Retention: destroy 10 years from date file closed
 [1.21.2.926 NMAC - N, 10/01/2015]

1.21.2.927 ACCIDENTS AND INCIDENTS - FATALITY:

A. Category: Public safety services - law enforcement
B. Description: Records related to accident reports and incidents involving fatalities.
C. Retention: destroy 25 years from date file closed
 [1.21.2.927 NMAC - N, 10/01/2015]

1.21.2.928 [RESERVED]

1.21.2.929 **CASE FILES - LAW ENFORCEMENT:**
A. Category: Public safety services - law enforcement
B. Description: Law enforcement case files.
C. Retention: destroy 10 years from date file closed [1.21.2.929 NMAC - N, 10/01/2015]

1.21.2.930 **CITATION MANAGEMENT:**
A. Category: Public safety services - law enforcement
B. Description: Records related to the management of citations, including, but not limited to, parking, traffic or game and fish violations; does not include DUI citations.
C. Retention: destroy three years from date file closed [1.21.2.930 NMAC - N, 10/01/2015]

1.21.2.931 **CITATION MANAGEMENT - DUI:**
A. Category: Public safety services - law enforcement
B. Description: Records related to the management of DUI citations.
C. Retention: destroy 55 years from date file closed [1.21.2.931 NMAC - N, 10/01/2015]

1.21.2.932 **CRIME REPORTING:**
A. Category: Public safety services - law enforcement
B. Description: Records related to the central repository for the reporting of crime.
C. Retention: destroy 99 years from date file created [1.21.2.932 NMAC - N, 10/01/2015]

1.21.2.933 **EVIDENCE:**
A. Category: Public safety services - law enforcement
B. Description: Records relating to the tracking and disposition of evidence.
C. Retention: destroy three years from the close of the fiscal year in which file closed [1.21.2.933 NMAC - N, 10/01/2015]

1.21.2.934 **FINGERPRINT IDENTIFICATION - CRIMINAL:**
A. Category: Public safety services - law enforcement
B. Description: Records related to criminal fingerprint identification.

C. Retention: destroy 99 years from date file created [1.21.2.934 NMAC - N, 10/01/2015]

1.21.2.935 **FINGERPRINT IDENTIFICATION - NON-CRIMINAL:**
A. Category: Public safety services - law enforcement
B. Description: Records related to non-criminal fingerprint identification.
C. Retention: destroy upon completion of report [1.21.2.935 NMAC - N, 10/01/2015]

1.21.2.936 **SEX OFFENDER REGISTRATION:**
A. Category: Public safety services - law enforcement
B. Description: Records related to sex offender registration.
C. Retention: destroy 99 years from date file created [1.21.2.936 NMAC - N, 10/01/2015]

1.21.2.937 **VICTIM NOTIFICATION:**
A. Category: Public safety services - law enforcement
B. Description: Records related to victim notification program files.
C. Retention: destroy one year from date file created [1.21.2.937 NMAC - N, 10/01/2015]

1.21.2.938 - 1.21.2.940 [RESERVED]

1.21.2.941 **FIRE FIGHTERS:**
A. Category: Public safety services - training management
B. Description: Records related to training for fire fighters including, but not limited to, certifications.
C. Retention: destroy 10 years from date individual is no longer certified [1.21.2.941 NMAC - N, 10/01/2015]

1.21.2.942 **FORESTRY:**
A. Category: Public safety services - training management
B. Description: Records related to training for forestry.
C. Retention: destroy 10 years from date individual is no longer certified [1.21.2.942 NMAC - N, 10/01/2015]

1.21.2.943 **LAW ENFORCEMENT:**
A. Category: Public safety services - training management

B. Description: Records related to training for law enforcement.
C. Retention: destroy 10 years from date individual is no longer certified [1.21.2.943 NMAC - N, 10/01/2015]

HISTORY OF 1.21.2 NMAC: [RESERVED]

RACING COMMISSION

Explanatory Paragraph: This is an amendment to 15.2.1 NMAC, Section 9, effective September 16, 2015. In 15.2.1.9 NMAC, Subsection A, and Paragraphs (1) through (2) and (4) through (10) of Subsection B & Subsection C were not published as there were no changes.

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

B. PROCEEDINGS BEFORE THE STEWARDS:

(3) Summary suspension.
 (a) If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, the stewards may summarily suspend the license pending a hearing.

(b) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third day after the license was summarily suspended. The licensee may waive their right to a hearing on the summary suspension within the three-day limit.

(c) The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

(d) If a positive test arises in a trial race, the horse is eligible for entry [during the period the split is tested and reported to the commission. If the report confirms a positive test, the horse is disqualified from both the trial and the race for which the trial was conducted.] into a race for which the trial was conducted. The purse for both the trial and the race for which the

trial was conducted will be held until the case has been adjudicated.

[15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 03/15/2001; A, 03/31/2003; A, 05/30/2003; A, 06/15/2004; A, 06/30/2009; A, 09/15/2009; A, 12/1/2010; A, 05/01/2013; A, 01/01/2014; A, 03/16/2015; A, 05/01/2015; A, 09/16/15]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Section 9, effective September 16, 2015. In 15.2.6.9 NMAC, Subsection A and Paragraphs (1) through (7) in Subsection B, Subsections C through G, Subsection I and Subsections K through O were not published as there were no changes.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:

The “uniform classification guidelines for foreign substances and recommended penalties and model rule”, [~~December 2014, version 8.0 and “arci controlled therapeutic medication schedule”, version 2.1 revised April 17, 2014~~] April 2015, version 9.0 and “arci controlled therapeutic medication schedule for horses”, version 2.2 revised April 2015 (furosemide has been modified in the “arci controlled therapeutic medication schedule, refer to Subsection E of 15.2.6.9 NMAC for current rule) as issued by the association of racing commissioners international, are incorporated by reference. Upon a finding of a violation of any medication and prohibited substances rule, which includes the possession of contraband as listed in 15.2.6.9 NMAC, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures as determined by the New Mexico racing commission.

B. PENALTIES:

(8) When the penalty assessed against a licensee for a medication or drug violation in a trial

race results in a disqualification or loss of purse, or both, the licensee is subject to the same penalties for any race for which the trial race was conducted.

~~(8)~~ **(9)** Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

~~(9)~~ **(10)** The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.

~~(10)~~ **(11)** Any veterinarian found to be involved in the administration of any drug carrying the penalty category of “A” shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

~~(11)~~ **(12)** Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

~~(12)~~ **(13)** Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean license holder’s spouse or spouse’s mother, father brother, sister, son or daughter;

(b) first degree of consanguinity shall mean license holder’s mother, father, brother, sister, son or daughter.

H. ANDROGENIC-ANABOLIC STEROIDS:

(1) No

AAS shall be permitted in test sample collected from racing horses except for residues of the major metabolite of **nandrolone**, and the naturally occurring substances **boldenone** and testosterone at concentrations less than the indicated thresholds.

(2) Concentrations of these AAS shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

(a) boldenone (Equipoise ® is the undecylenate ester of boldenone) in male horses other than geldings - 15 ng/ml in urine; no boldenone shall be permitted in geldings or female horses;

(b) nandrolone (Durabolin ® is the phenylpropionate ester and Deca-Durabolin ® is the decanoate ester) (in geldings - 1 ng/ml in urine, in fillies and mares - 1 ng/ml in urine); in male horses other than geldings-45 ng/ml of metabolite, 5 alpha oestrane-3 beta, 17 alpha - diol in urine;

(c) testosterone (in geldings - 20 ng/ml in urine, in fillies and mares - 55 ng/ml in urine).

(3) Any other anabolic steroids are prohibited in racing horses.

(4) The presence of more than one of the three AAS identified in Paragraph (2) of this subsection at concentrations greater than the individual thresholds indicated above shall not be permitted.

(5) Post-race urine samples collected from intact males must be [~~identified~~] identified to the laboratory.

(6) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian’s list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list.

J. ALKALINIZING SUBSTANCES: The use of agents that elevate the horses TCO2 or base excess level above those existing naturally in the untreated horse at normal physiological

concentrations is prohibited. The following levels also apply to blood gas analysis:

(1) the regulatory threshold for TCO₂ is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample, or a base excess level of [10.4] 10.0 millimoles per liter of plasma/serum;

(2) the decision level to be used for the regulation of TCO₂ is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample, or a base excess level of 10.4 millimoles per liter of plasma/serum;

(3) such violation is that of a class 4 drug and shall be the maximum penalty - 60 days suspension, \$1,000 fine and loss of purse.

P. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs): The use of NSAIDs shall be governed by the following conditions:

(1) NSAIDs included in the "arici controlled therapeutic medication schedule for horses" are not to be used in a manner inconsistent with the restrictions contained herein. NSAIDs not included on the "arici controlled therapeutic medication schedule for horses are not to be present in a racing horse's biological sample at the laboratory concentration of detection.

(2) The presence of more than one NSAID may constitute a NSAID stacking violation.

(3) A class 1 NSAID stacking violation with a penalty class B occurs when two non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

(a) Diclofenac - 5 nanograms per milliliter of plasma or serum;

(b) Firocoxib - 20 nanograms per milliliter of plasma or serum;

(c) Flunixin - 20 nanograms per milliliter of plasma or serum;

(d) Ketoprofen - 2 nanograms per milliliter of plasma or serum;

(e) Phenylbutazone - 2 micrograms per milliliter of plasma or serum; or

(f) all other non-steroidal anti-inflammatory drugs - laboratory concentration of

detection.

(4) A class 1 NSAID stacking violation with a penalty class B occurs when three or more non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

(a) Diclofenac - 5 nanograms per milliliter of plasma or serum;

(b) Firocoxib - 20 nanograms per milliliter of plasma or serum;

(c) Flunixin - 3 nanograms per milliliter of plasma or serum;

(d) Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(e) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum; or

(f) all other non-steroidal anti-inflammatory drugs - laboratory concentration of detection.

(5) A class 2 NSAID stacking violation with a penalty class C occurs when any one substance noted in paragraph c above is found in excess of the restrictions contained therein in combination with any one of the following substances at levels below the restrictions so noted but in excess of the following levels:

(a) Flunixin - 3 nanograms per milliliter of plasma or serum;

(b) Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(c) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum.

(6) A class 3 NSAID stacking violation with a penalty class C (fines only) occurs when any combination of two of the following non-steroidal anti-inflammatory drugs are found at or below the restrictions in Subparagraphs (a) through (e) of Paragraph 3 above but in excess of the noted restrictions:

(a) Flunixin - 3 nanograms per milliliter of plasma or serum;

(b) Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(c) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum.

(7) Any horse to which a NSAID has been administered shall be subject to having a blood sample

or urine sample, or both blood and urine sample(s), taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) or the presence of other drugs which may be present in the blood or urine sample(s) or both the quantitative NSAID level(s) and the presence of other drugs which may be present in the blood or urine sample(s). [15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 04/13/2001; A, 08/30/2001; A, 07/15/2002; A, 08/15/2002; A, 09/29/2006; A, 10/31/2006; A, 08/30/2007; A, 01/31/2008; A, 03/01/2009; A, 06/15/2009; A, 06/30/2009; A, 09/15/2009; A, 12/15/2009; A, 03/16/2010; A, 07/05/2010; A, 09/01/2010; A, 12/01/2010; A, 11/01/2011; A, 02/15/2012; A, 04/30/2012; A, 07/31/2012; A, 12/14/2012; A, 05/01/2013; A/E, 05/02/2013; A, 09/30/2013; A, 04/01/2014; A, 05/16/2014; A, 08/15/2014; A, 09/15/2014; A, 03/16/2015; A, 09/16/15]

**REGULATION AND LICENSING DEPARTMENT
ACCUPUNCTURE AND ORIENTAL MEDICINE**

This is an amendment to 16.2.4 NMAC, Section 15, effective 9-15-2015.

16.2.4.15 FORFEITURE OF CLINICAL SKILLS EXAMINATION FEE: Once the clinical skills examination fee is received in the board office, the applicant shall take the next scheduled clinical skills examination or forfeit the clinical skills examination fee. Under special circumstances the applicant may be allowed to take the next subsequent scheduled clinical skills examination without paying an additional examination fee. [3-23-93...7-1-96; 4-1-97; N, 8-31-98, 5-15-99, 2-17-00; 16.2.4.14 NMAC - Rn & A, 16 NMAC 2.4.14, 5-20-00; 16.2.4.15 NMAC - Rn, 16.2.4.14 NMAC, 7-26-01; A, 7-26-01; A, 3-02-03; A, 6-16-15; A, 9-15-15]

**REGULATION AND LICENSING DEPARTMENT
ACCUPUNCTURE AND ORIENTAL MEDICINE**

This is an amendment to 16.2.9 NMAC, Section 9, effective 9-15-2015.

16.2.9.9 CONTINUING EDUCATION FOR LICENSEES CERTIFIED FOR EXPANDED PRACTICE:

In addition to the continuing education requirements listed in 16.2.9.8 NMAC, doctors of oriental medicine previously certified in expanded practice are subject to the following requirements beginning August 1, 2013:

A. a doctor of oriental medicine certified for expanded practice in one (1) or more areas as defined in 16.2.19 NMAC shall complete continuing education hours as follows:

- (1) three (3) hours every three (3) years for recertification in basic injection therapy;
- (2) seven (7) hours every three (3) years for recertification in injection therapy;
- (3) seven (7) hours every three (3) years for recertification in intravenous therapies; and
- (4) seven (7) hours every three (3) years for recertification in bioidentical hormone therapy;

(5) except that a doctor of oriental medicine recertifying in injection therapy or intravenous therapy need not complete an additional three (3) hours in basic injection therapy; [and]

(6) a doctor of oriental medicine certified in basic injection therapy, injection therapy or intravenous therapy must complete an America society of health-systems pharmacists (ASHP) accredited course relative to USP 797 prior to July 31, 2016; and every six (6) years thereafter; and

(7) doctors of oriental medicine previously certified as Rx1 shall need seven (7) hours, every three (3) years, for recertification in prolotherapy as specified in 16.2.19.16 NMAC.

B. license holders who are newly certified for expanded practice shall complete continuing education hours on a prorated basis during the first years(s) of certification, and then shall comply with recertification requirements every three (3) years thereafter;

C. courses approved for recertification taken within one hundred

twenty (20) days prior to a renewal cycle may be carried over and applied to the next renewal cycle, but may not be used for both renewal cycles.

D. the continuing education shall be about substances in the board approved appropriate expanded practice formulary or formularies defined in 16.2.20 NMAC or updated information in improving current techniques or [new and advanced] other techniques that are part of the expanded practice certification as defined in 16.2.19 NMAC;

E. continuing education courses, including teachers, shall be approved by the board:

(1) course providers requesting approval for Rx continuing education certification shall be required to submit the following materials to the board for approval no less than forty five (45) days prior to the date of the course offering and the materials shall include:

(a) an application fee as defined in Subsection C of 16.2.10.9 NMAC;

(b) course description, including objectives, subject matter, number of hours, date time and location; and

(c) curriculum vitae of the instructor(s) including previous experience of at least five (5) years in subjects they are engaged to teach;

(2) courses approved by national providers of continuing medical education(CME) are recognized by the board as approved providers for expanded practice continuing education units (CEU) including but not limited to A4M, ACAM, AMA, IFM;

(3) individual practitioners requesting approval for a specific course that has not already been approved as defined in Paragraph [(+)] (2) of Subsection D of 16.2.9.9 NMAC, for their own personal continuing education shall submit a copy of the course brochure including a course description, subject matter, contact hours, and curriculum vitae of the instructor forty five (45) days prior to the course offering;

(4) the continuing education committee shall meet each month on or before the fifteenth (15th) to review course materials if applications have been submitted; electronic review is acceptable;

(5) a doctor of oriental medicine certified for expanded practice in basic injection, injection or intravenous therapies must remain current

in basic life support, BLS, and CPR with proof of having completed an American heart association approved course; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of each triennial expanded practice certification renewal; and

F. teaching an approved continuing education course shall be equivalent to taking the approved course; the first time that the course is offered continuing education that is appropriate for regularly licensed doctors of oriental medicine shall not be considered as fulfilling the above requirements for expanded practice continuing education; the board may determine specific mandatory courses that must be completed; specific mandatory courses shall be noticed at least six (6) months prior to the date of the course; exceptions to being required to complete a specific mandatory course may be made for good cause.

[16.2.9.9 NMAC - N, 10-1-03; A, 02-15-05; A, 11-28-09; A, 02-08-13; A, 03-02-14; A, 6-16-15; A, 9-15-2015]

**REGULATION AND LICENSING DEPARTMENT
PUBLIC ACCOUNTANCY BOARD**

This is an amendment to 16.60.1 NMAC, Sections 7 and 10, effective 09-15-2015.

16.60.1.7 DEFINITIONS:

A. "Acceptance letter" means a document issued by the administering entity indicating the type of report (unmodified, modified, or adverse) when all review documents and, if applicable, all remedial/corrective actions have been completed and accepted by the peer review committee.

B. "Act" means the New Mexico 1999 Public Accountancy Act, Sections 61-28B-1 to 61-28B-29 NMSA 1978.

C. "Administering entity" means an entity (any form of organization allowed by state law or professional organization or association of CPA's) that has met, and at all relevant times continues to meet, the standards specified by the board for administering the review. The board shall periodically publish a list of administering entities that have applied for and received approval.

D. "Agreed upon procedures" are those which are to be

performed in accordance with applicable attestation standards. They are also those in which a license is engaged to issue a written finding that is based on specific procedures that the specified parties agreed are sufficient for their purpose, is restricted to the specified parties, and does not provide an opinion or negative assurance.

E. “Audit” means the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or a basis of accounting described in the report.

F. “Client” means the person or entity who retains a licensee for the performance of professional services.

G. “Enterprise” means any person or entity who retains a licensee for the performance of professional services.

H. “Financial statements” means statements and footnotes related thereto that purport to show an actual or anticipated financial position or results of operations, cash flow, or changes in financial position based on generally accepted accounting principles or another comprehensive basis of accounting. The term includes specific elements, accounts, or items of such statements, but it does not include incidental financial data included in management advisory service reports which support recommendations made to clients. In addition, it does not include tax returns and supporting schedules.

I. “He, his, him” means masculine pronouns when used herein also include the feminine and the neuter.

J. “Holding out to the public as a permit holder or registered firm” means the phrase “holding himself out to the public as a permit holder or registered firm” as used in the definition of “practice of public accountancy” in Section [3G] 3L of the act, and in these rules it means any representation, other than by an individual holding a certificate or firm registration issued by this board pursuant to the 1999 Public Accountancy Act, Sections 61-28B-7 thru 61-28B-9, 61-28B-1 or 61-28B-13, of the fact that a certificate holder holds a permit, certificate or is a registered firm in connection with the performance of, or an offer to perform, services for the public, except as allowed under the practice privilege pursuant to the 1999 Public Accountancy

Act, Sections 61-28B-26. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate, registration, or permit in connection with the professional services offered to be performed. For the purpose of this rule, a representation shall be deemed to include any oral or written communication conveying the fact that the person holds a certificate, permit or firm registration, including without limitation the use of titles or legends on letterheads, business cards, office doors, advertisements, internet, email or other electronic media.

K. “Manager” has, when used in these rules, the same meaning as the term “manager” in a limited liability company.

L. “Member” has, when used in these rules, the same meaning as the term “member” in a limited liability company.

M. “Peer review” means a program to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies.

N. “Peer review committee” means a committee comprised exclusively of CPAs practicing public accountancy and formed by an administering entity for the purpose of accepting peer review reports submitted by firms on peer review engagements.

O. “Practice Privilege” as defined in the 1999 Public Accountancy Act, Section 61-28B-26, a person whose principal place of business or residence in not in New Mexico shall be presumed to have qualifications substantially similar to New Mexico’s requirements, may exercise all the practice privileges of certificate holders of New Mexico without the need to obtain a certificate pursuant the 1999 Public Accountancy Act, Sections 61-28B-9 NMSA 1978, if the individual meets the requirements of the 1999 Public Accountancy Act, Section 61-28B-26.

P. “Professional engagement” means a written or oral agreement between a client and a licensee relative to the performance of professional services and the services performed under this agreement. Oral agreements may only be used when allowed by professional standards.

Q. “Professional services” means any service performed or offered to be performed by a licensee for a client in the course of the practice of public accountancy.

[Q-] R. “Public communication” means a communication made in identical form to multiple persons

or to the world at large, including but not limited to television, radio, motion pictures, newspaper, pamphlet, mass mailing, letterhead, business card, the internet, email or directory.

[R-] S. “Quality review” means an interchangeable term for peer review.

[S-] T. “Report” as defined in Section 61-28 [B] 3N of the act and in these rules includes forms of language which refers to financial statements, when such forms of language express or deny any assurance as to the reliability of the financial statements to which they refer. Among the possible sources of such forms of language are pronouncements by authoritative bodies describing the work that should be performed and the responsibilities that should be assumed for specified kinds of professional engagements. In addition, these pronouncements prescribe the form of report that should be issued upon completion of such engagements. A form of report prescribed by such a pronouncement will ordinarily constitute a form of language which is conventionally understood as implying assurance and expertise. For this reason, as provided in Section [17B] 3N of the act, the term “report” includes the issuance of reports using the forms of language set out in the American institute of certified public accountants (AICPA) statement on standards for accounting and review services (SSARS) [No-1] as amended, modified, or superseded from time to time, for reports with respect to both “reviews” of financial statements, and also compilations of financial statements, as well as the forms of language for “special reports” set out in the AICPA’s statement on auditing standards (SAS) [No-14- No-35 and No-62] as amended, modified, or superseded from time to time. These statements on standards are incorporated in the AICPA professional standards: code of professional conduct.

[T-] U. “Services involving accounting or auditing skills” means “services involving accounting or auditing skills” as used in the definition of “practice of public accountancy” in Sections 3K and L of the act. It includes the provision of advice or recommendations in connection with the sale or offer for sale of products, when the advice or recommendations require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

[U-] V. “Statement of compliance” means a certified statement from the human services department

(HSD) stating that an applicant or licensee is in compliance with a judgment and order for support.

~~[V:] W.~~ **“Statement of non-compliance”** means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and order for support. [16.60.1.7 NMAC - Rp 16 NMAC 60.1.7 and 16 NMAC 60.11.7, 02-14-2002; A, 11-30-2007; A, 4-15-2008; A, 06-30-2008; A, 01-17-2013; A, 10-01-2015]

16.60.1.10 FEES AND

OBLIGATIONS: Fees charged by the board shall be as follows.

A. Fees set by the board for CPA examination applicants shall not unreasonably exceed the amount required for the board to operate CPA examination administration on a break even basis, but in no case shall the fee be less than the state’s cost of procuring and administering the exam.

B. Initial examination qualification review under Section 27F of the act shall be \$75.

C. Delinquency fee for incomplete or delinquent continuing education reports, certificate/license or firm permit renewals under Section 27D of the act shall be \$50.

D. Certificate application under Section 27B of the act shall be: initial certificate, \$175; certificate renewal, \$130.

E. No annual renewal fee shall be assessed for an individual who holds an inactive certificate and who has reached the age of 70.

F. Firm permit application or renewal fee under Section 27C of the act shall be \$75 for each firm, regardless of form of entity.

G. Firm permit renewal delinquency fee under Section 27C of the act shall be \$50 and includes all practitioners whose renewal applications are delinquent.

H. Certificate/license/firm permit reinstatement fee under Section ~~[27G]~~ 27H of the act shall be \$175. For certificate/individual license reinstatements only, reinstatement fee and an additional fee of [plus] the current year’s renewal fee. No delinquency fee shall be assessed.

I. ~~[No fee shall be charged for firm permit reinstatement, and no delinquency fee shall be assessed; only the current year’s renewal fee shall be assessed.~~

~~_____~~ **J.** Continuing professional education waiver and reentry into active certificate status and to comply

with continuing professional education under Sections 27H and 27I of the act shall not exceed \$75 each occurrence.

~~[K:] L.~~ Administrative fees for services under Section 27F shall be:

- (1) list of certificate or permit holders, \$250;
- (2) duplicate or replacement certificate card or permit card, \$10 each;
- (3) duplicate or replacement wall certificate, \$25 each;
- (4) board evaluation of coursework for continuing professional education credit, \$50 per hour of board staff research and study;
- (5) certificate application package for reciprocity, \$20 each;
- (6) grade transfer candidates, \$75 each;
- (7) replacement packages for by-examination candidates, \$75 each;
- (8) copies of combined Accountancy Act and board rules, \$10 each;
- (9) copies of records and documents, \$.25 per page;
- ~~[and]~~ (10) name change due to marriage, divorce, legal name change, etc. for replacement license shall be \$130; and

(11) the board may, at its discretion, charge for other administrative costs as it deems appropriate.

~~[L:] K.~~ Fee for the transfer of licensure or examination information to a third party under Section 27E of the act shall be \$75.

~~[M:] L.~~ Fee for criminal history background check under Section 8.1 of the act shall be the amount established by the department of public safety for the processing of criminal history background checks.

~~[N:] M.~~ The board may waive charges as it deems appropriate.

~~[O:] N.~~ All fees are non-refundable.

[16.60.1.10 NMAC - Rp 16 NMAC 60.2.8, 02-14-2002; A, 01-15-2004; A, 04-29-2005; A, 11-30-2007; A, 06-30-2008; A, 05-29-2009; A, 11-13-2009; A, 9-15-2010; A, 01-17-2013, A, 12-01-2014; A, 09-15-2015]

REGULATION AND LICENSING DEPARTMENT PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.3 NMAC, Sections 9 and 15, effective 09-15-2015.

16.60.3.9 INITIAL CERTIFICATE/ LICENSE REQUIREMENTS:

A. An applicant for initial certification/licensure shall demonstrate to the board’s satisfaction that he:

- (1) is of good moral character and lacks a history of dishonest or felonious acts;
- (2) meets the education, experience and examination requirements of the board; and
- (3) passes the American institute of certified public accountants ethics examination with a score of 90 percent or higher.

B. Moral character requirements: The board may assess moral character requirements based upon applicant-provided character references and background checks to determine an applicant’s history of dishonest or felonious acts. The board may request the presence at a board meeting of an applicant for whom it has unanswered questions.

C. Criminal history background check: Pursuant to Section 61-28B-8.1 of the act, all applicants for initial issuance or reinstatement of a certificate and license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check. As of November 5, 2013, New Mexico department of public safety (DPS) will no longer accept hardcopy fingerprint cards. Applicants will conduct a fingerprinting through the Cogent live scan location prescribed by DPS.

(1) The applicant will register online, through the Cogent website, with the board’s Originating Agency (ORI) number and make payment with registration. After the process is complete, the applicant will receive a registration confirmation.

(2) The applicant shall take their registration confirmation to an approved Cogent live scan facility and conduct the electronic fingerprinting process.

(3) Results will be sent to the board electronically. The board shall not issue a certificate or license until the applicant’s background check has been successfully completed.

(4) Out-of-state applicants, who are unable to visit a Cogent fingerprinting facility, may follow the same registration process and submit a hardcopy fingerprint card to Cogent CardScan in Dublin, OH. The results will be sent to the board electronically. The board shall not issue a certificate or license until the applicant's background check has been successfully completed.

D. Education and examination requirements: Education and examination requirements are specified in Section 8 of the act and are further delineated in Part 2 of board rules. An applicant who has passed the uniform CPA examination prior to July 1, 2004, is exempt from the 150-semester-hour requirement.

E. Experience required: Applicants documenting their required experience for issuance of an initial certificate pursuant to Section 7H of the act, and after July 1, 2004 Section 8H of the act shall:

(1) provide documentation of experience in providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax or consulting skills; acceptable experience shall include experience gained through employment in industry, government, academia or public practice;

(2) have their experience verified by an active, licensed CPA as defined in the act or by an active, licensed CPA from another state; the board shall consider and evaluate factors such as complexity and diversity of the work in determining acceptability of experience submitted:

(a) one year of experience or it's 2,000 hour equivalent shall consist of full or part-time employment that extends over a period of [no less than 1 year and] no more than [3] three years and includes no fewer than 2,000 hours of performance of services described above;

(b) the CPA verifying an applicant's experience must be employed by, or a consultant to, or provide professional services to, the same organization as the applicant;

(c) experience documented in support of an initial application must be obtained within the [7] seven years immediately preceding passing of the examination or within [7] seven years of having passed the examination upon which the application is based; this does not apply to applicants who qualified and sat for the examination

during or prior to the November 2001 administration;

(d) any licensee requested by an applicant to submit evidence of the applicant's experience and who has refused to do so shall, upon request of the board, explain in writing or in person the basis for such refusal; the board may require any licensee who has furnished evidence of an applicant's experience to substantiate the information;

(e) the board may inspect documentation relating to an applicant's claimed experience; any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

F. Certificate and license issuance: upon receipt of a complete application packet and successful completion of a fingerprint background check that revealed no arrests, board staff are authorized to approve and issue a certificate and license to an applicant for whom no licensing issues are present. Pursuant to Section I of 16.60.2.13 NMAC, uniform CPA examination scores must be approved by the board's administrative staff prior to the issuance of a certificate and license to an applicant who sat for the uniform CPA examination as a New Mexico candidate.

G. Swearing in ceremony: Every new licensee must participate in a swearing in ceremony before the board within one year from the date of the issuance of the initial license. Swearing in ceremonies shall be held two times per year in locations to be determined by the board or the board's administrative staff. Upon good cause presented in writing prior to the expiration of the one-year period of initial licensure, the board may extend the period for being sworn in or arrange an alternate method for the licensee to be sworn in. If an extension for good cause is granted, the licensee shall arrange with the board's administrative staff to present him or herself for swearing in before the board within the time prescribed by the board. Failure to appear at a swearing in ceremony before the board may result in the imposition of a fine or other disciplinary action, as deemed appropriate by the board.

H. Replacement wall certificates and licenses to practice: Replacement wall certificates and licenses to practice may be issued by the board in appropriate cases and upon payment by the CPA or RPA of the fee as set by the board. A certificate/license

holder is specifically prohibited from possessing more than one wall certificate and more than one license to practice as a CPA or RPA. When a replacement wall certificate or license to practice is requested, the certificate/license holder must return the original certificate/license or submit a notarized affidavit describing the occurrence that necessitated the replacement certificate or license.

I. Renewal requirements: Certificates/licenses for individuals will have staggered expiration dates based on the individual's birth month. Deadline for receipt of certificate/license renewal applications and supporting continuing professional education affidavits or reports is no later than the last day of the CPA or RPA certificate/license holder's birth month or the next business day if the deadline date falls on a weekend or holiday.

(1) The board may accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications.

(2) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(3) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the continuing professional education requirements of Sections 9E and 12A of the act and of these rules.

(4) The board shall mail renewal application notices no less than 30 days prior to the renewal deadline.

J. Expedited licensure/certification by reciprocity for military spouses licensed in another jurisdiction:

(1) If a military service member, the spouse of a military service member, or a recent veteran submits an application for a license or certification and is a qualified applicant pursuant to this part, the board shall expedite the processing of such application and issue the license as soon as practicable. The terms "military service member" and "recent veteran" are defined in the Uniform Licensing Act, NMSA 1978, Section 61-1-34. Any qualified veteran applicant seeking expedited licensure pursuant to this section shall submit a copy of form DD214, certificate of release or discharge from active duty, with the application.

(2) A license issued pursuant to this section shall not be renewed automatically, and shall be

renewed only if the licensee satisfies all requirements for the issuance and renewal of a license pursuant to the 1999 Public Accountancy Act, including NMSA 1978, Section 61-28B-9 and 16.60.3.9(I) NMAC.

[16.60.3.9 NMAC - Rp 16 NMAC 60.4.8.2 & 16 NMAC 60.4.8.3, 02-14-2002; A, 01-15-2004; A, 06-15-2004; A, 12-30-2004; A, 04-29-2005; A, 07-29-2005; A, 11-30-2007; A, 06-30-2008; A, 02-27-2009; A, 01-17-2013; A, 12-01-2014; A 09-15-2015]

16.60.3.15 CONTINUING PROFESSIONAL EDUCATION (CPE) REQUIRED TO OBTAIN OR MAINTAIN AN “ACTIVE” CPA LICENSE:

A. The following requirements of continuing professional education apply to certificate/license renewals and reinstatements pursuant to Sections 9E and 12A of the act. An applicant for certificate/license renewal shall show completion of no less than 120 clock hours of CPE, complying with these rules during the 36-month period ending on the last day of the certificate/license holder’s birth month.

(1) Any applicant seeking a license/certificate or renewal of an existing license shall demonstrate participation in a program of learning meeting the standards set forth in the statement on standards for continuing professional education (CPE) programs jointly approved by NASBA and AICPA or standards deemed comparable by the board. An initial license is the first license issued to an individual. CPE reporting will begin on the first day following the licensee’s initial expiration date (birth month) for license renewal. No CPE will be required for the period between issue date and first expiration date (birth month).

(2) Each person holding an active CPA certificate/license issued by the board shall show completion of no less than 120 hours of continuing professional education complying with these rules during the preceding 36-month period ending on the last day of the certificate/license holder’s birth month, with a minimum of 20 hours completed in each reporting year. For any CPE reporting period which begins on or after January 1, 2010, continuing professional education must include a minimum of [4] four hours of ethics education during the 36-month period after January 1, 2010. Licensees shall report CPE completion on board prescribed forms including a signed statement indicating they have met the

requirements for participation in the CPE program set forth in board rules.

(3) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with CPE provisions.

(4) Deadline for receipt of license renewal applications and supporting CPE reports or affidavits is no later than the last day of the certificate/license holder’s birth month. Renewal applications and supporting CPE affidavits or reports shall be postmarked or hand-delivered no later than the renewal deadline date or the next business day, if the deadline date falls on a weekend or holiday.

(5) In the event that a renewal applicant has not completed the requisite CPE by the renewal deadline, he shall provide a written explanation for failure to complete CPE and shall also submit a written request for an extension for completion of the required CPE.

(a) The approval of an extension request is not automatic. The board has the discretion to grant or deny a request.

(b) The request for extension shall include documentation of the extenuating circumstances that prevented him from completing the CPE. A written plan of action to remediate the deficiency must accompany the renewal application and extension request.

(c) If a request for extension is received in the board office after the expiration date of the license, the license shall not be renewed, and the file shall be referred to the board for possible disciplinary action.

(d) An extension up to 60 days beyond the expiration date of the license may be granted by board staff; extenuating circumstances beyond the control of the licensee necessitating an extension beyond 60 days requires the approval of the board. Failure to complete the required CPE within the extension period shall result in disciplinary action against the licensee.

(e) ~~[Although a plan of action may be approved immediately upon receipt, the board reserves the right to levy a fine at a later date for late CPE of \$10.00 per day not to exceed \$1,000.~~

(f) The board may waive this fine for good

cause.

~~(g)~~ (f) If all CPE requirements are not met within 90 days beyond the expiration date of the license, the license shall be subject to cancellation.

(6) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(7) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the CPE requirements of Sections 9E and 12A of the act and of these rules.

(8) Reinstatement applicants whose certificates/licenses have lapsed shall provide documented evidence of completion of 40 hours of CPE for each year the certificate/license was expired, not to exceed 200 hours. If the license was expired for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months. For any post-2009 year for which the certificate/license was expired, the continuing professional education must include a minimum of [4] four hours of ethics education during the 36 months preceding reinstatement.

(a) The length of expiration shall be calculated from the date the license expired to the date the application for reinstatement was received by the board office.

(b) If the license was expired for less than one year, documented evidence of 40 hours of CPE earned within the 12 months immediately preceding the date of application for reinstatement must be provided.

(c) If the license was expired for longer than one year, for the purpose of determining the number of CPE hours required, the length of expiration shall be rounded down to the last full year if the partial year was less than six months and rounded up to the next full year if the partial year was more than six months.

B. Exemption from CPE requirements through change of certificate/license status between inactive/retired and active status.

(1) Pursuant to Section 9E of the act, the board may grant an exception to CPE requirements for certificate holders who do not provide services to the public. Public means any private or public corporate or governmental entity or individual.

An individual who holds an inactive certificate/license is prohibited from practicing public accounting and may only use the CPA-inactive designation if they are not offering accounting, tax, tax consulting, management advisory, or similar services either in New Mexico or in another state or country. Persons desiring exemption from CPE rules requirements may request to change from "active" to "inactive" or "retired" certificate/license status, provided that they:

- (a) complete board-prescribed change-of-status forms and remit related fees;
 - (b) not practice public accountancy as defined in Section 3M of the act; public accountancy means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters; and
 - (c) place the word "inactive" or "retired" adjacent to their CPA or RPA title on a business card, letterhead or other documents or devices, except for a board-issued certificate.
- (2) Persons requesting to change from "inactive" or "retired" to "active" certificate/license status shall:

- (a) complete board-prescribed change-of-status forms and remit related fees; and
- (b) provide documented evidence of 40 hours of CPE for each year the certificate/license was inactive, not to exceed 200 hours; if the license was inactive for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months. For any post-2009 year for which the certificate/license was inactive, the continuing professional education must include a minimum of [4] four hours of ethics education during the 36 months preceding application for change of status to "active".
- (c) _____

If an individual has not held an active license within 10 years preceding the date of the application for "change of status", the approval of the board will be required.

~~[(3) The effective date of this provision shall be January 1, 2007. An individual who holds an inactive certificate/license as of January 1, 2006 and expects to be subject~~

~~to the provisions of this rule shall be permitted to obtain an active certificate/license between January 1, 2006 and December 31, 2006 provided they:~~

- ~~(a) complete board-prescribed change-of-status forms and remit related fees; and~~
- ~~(b) provide documented evidence of 40 hours of CPE earned between January 1, 2005 and December 31, 2006 or complete 120 hours of CPE within the three year period immediately prior to the date of application for active status, provided that the application is received by the board no later than December 31, 2006.~~

~~(4) An individual who obtains an active certificate/license during this transitional period of January 1, 2006 to December 31, 2006 shall not be subject to the provisions of sub paragraph (b) of paragraph (2) above.]~~

C. Hardship exceptions:
The board may make exceptions to CPE requirements for reason of individual hardship including health, military service, foreign country residence, or other good cause. Requests for such exceptions shall be subject to board approval and presented in writing to the board. Requests shall include such supporting information and documentation as the board deems necessary to substantiate and evaluate the basis of the exception request.

D. Programs qualifying for CPE credit: A program qualifies as acceptable CPE for purposes of Sections 9E and 12A of the act and these rules if it is a learning program contributing to growth in professional knowledge and competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the statement on standards for continuing professional education programs jointly approved by NASBA and AICPA, by accounting societies recognized by the board, or such other standards deemed acceptable to the board.

(1) The following standards will be used to measure the hours of credit to be given for acceptable CPE programs completed by individual applicants:

- (a) an hour is considered to be a 50-minute period of instruction;
- (b) a full 1-day program will be considered to equal [8] eight hours;
- (c) only class hours or the equivalent (and not student hours devoted to preparation) will

be counted;

(d) one-half credit increments are permitted after the first credit has been earned in a given learning activity;

(e) for reporting periods on or after January 1, 2010, acceptable ethics topics may include, but are not limited to, instruction focusing on the AICPA code of professional conduct, the New Mexico occupational and professional licensing code of professional conduct applicable to certified public accountants, treasury circular 230, malpractice avoidance, organization ethics, moral reasoning, and the duties of the CPA to the public, clients, and colleagues; ethics hours may be earned as part of any professional development program otherwise qualifying under this rule, provided the ethics content and the time devoted to such content are separately identifiable on the program agenda.

(2) Service as a lecturer, discussion leader, or speaker at continuing education programs or as a university professor/instructor (graduate or undergraduate levels) will be counted to the extent that it contributes to the applicant's professional competence.

(3) Credit as a lecturer, discussion leader, speaker, or university professor/instructor may be allowed for any meeting or session provided that the session would meet the continuing education requirements of those attending.

(4) Credit allowed as a lecturer, discussion leader, speaker or university professor/instructor will be on the basis of [2] two hours for subject preparation for each hour of teaching and [+1] one hour for each hour of presentation. Credit for subject preparation may only be claimed once for the same presentation.

(5) Credit may be allowed for published articles and books provided they contribute to the professional competence of the applicant. The board will determine the amount of credit awarded.

(6) Credit allowed under provisions for a lecturer, discussion leader, speaker at continuing education programs, or university professor/instructor or credit for published articles and books may not exceed one half of an individual's CPE requirement for a 3-year reporting period (shall not exceed 60 hours of CPE credit during a 3-year reporting period).

(7) For a continuing education program to qualify

under this rule, the following standards must be met:

- (a) an outline of the program is prepared in advance and preserved;
 - (b) the program is at least [±] one hour in length;
 - (c) a qualified instructor conducts the program; and
 - (d) a record of registration or attendance is maintained.
- (8) The following programs are deemed to qualify, provided the above are met:
- (a) professional development programs of recognized national and state accounting organizations;
 - (b) technical sessions at meetings of recognized national and state accounting organizations and their chapters; and
 - (c) no more than [4] four hours CPE annually may be earned for board meeting attendance.
- (9) University or college graduate-level courses taken for academic credit are accepted. Excluded are those courses used to qualify for taking the CPA exam. Each semester hour of credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal 10 hours.
- (10) Non-credit short courses - each class hour shall equal [±] one hour toward the requirement and may include the following:
- (a) formal, organized in-firm educational programs;
 - (b) programs of other accounting, industrial, and professional organizations recognized by the board in subject areas acceptable to the board;
 - (c) formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.
- (11) The board will allow up to a total of 24 hours of CPE credits for firm peer review program participation. Hours may be earned and allocated [~~in the calendar year of the acceptance letter for the firm's CPAs participating in the peer review~~] on the date the peer reviewer issues their report.
- (a) Firms having an engagement or report

peer review will be allowed up to 12 hours of CPE credits.

- (b) Firms having a system peer review will be allowed up to 24 hours of CPE credits.
 - (c) Firms having a system peer review at a location other than the firm's office shall be considered an engagement peer review and will be allowed up to 12 hours of CPE credits.
 - (d) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.
- (12) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of the credit to be allowed for individual courses. The board will accept programs meeting the standards set forth in the NASBA CPE registry, AICPA guidelines, NASBA quality assurance service, or such other programs deemed acceptable to the board.
- (13) For each 3-year reporting period, at least 96 of the hours reported shall be courses, programs or seminars whose content is in technical subjects such as audit; attestation; financial reporting; tax, management consulting; financial advisory or consulting; and other areas acceptable to the board as directly related to the professional competence of the individual.
- (14) Effective for CPE reporting periods ending on or after July 31, 2007, for each 3-year reporting period, at least 24 of the hours reported shall not include CPE sponsored by the licensee's firm, agency, company, or organization but may include all methods of CPE delivery, provided that each hour meets the standards specified in paragraphs (1) through (10) of this subsection.
- (15) For each 3-year reporting period, credit will be allowed once for any single course, program or seminar unless the individual can demonstrate that the content of such course, program or seminar was subject to substantive technical changes during the reporting period.
- E. Programs not qualifying for CPE:**
- (1) CPA examination review or "cram" courses;
 - (2) industrial

development, community enhancement, political study groups or similar courses, programs or seminars;

- (3) courses, programs or seminars that are generally for the purpose of learning a foreign language;
 - (4) partner, shareholder or member meetings, business meetings, committee service, and social functions unless they are structured as formal programs of learning adhering to the standards prescribed in this rule.
- F. Continuing professional education records requirements:** When applications to the board require evidence of CPE, the applicants shall maintain such records necessary to demonstrate evidence of compliance with requirements of this rule.
- (1) Reinstatement and reciprocity applicants shall file with their applications a signed report form and statement of the CPE credit claimed. For each course claimed, the report shall show the sponsoring organization, location of program, title of program or description of content, the dates attended, and the hours claimed.
- (2) Responsibility for documenting program acceptability and validity of credits rests with the licensee and CPE sponsor. Such documentation should be retained for a period of [5] five years after program completion and at minimum shall consist of the following:
- (a) copy of the outline prepared by the course sponsor along with the information required for a program to qualify as acceptable CPE as specified in this rule; or
 - (b) for courses taken for scholastic credit in accredited universities and colleges, a transcript reflecting completion of the course. For non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.
- (3) Institutional documentation of completion is required for formal, individual self-study/ correspondence programs.
- (4) The board may verify CPE reporting information from applicants at its discretion. Certificate holders/licensees or prospective certificate holders/licensees are required to provide supporting documentation or access to such records and documentation as necessary to substantiate validity of CPE hours claimed. Certificate holders/licensees are required to maintain documentation to support CPE hours claimed for a period

of [5] five years after course completion/ CPE reporting. Should the board exercise its discretion to accept an affidavit in lieu of a CPE report, the board shall audit certificate/license holder CPE rules compliance of no less than 10 percent of active CPA/RPA licensees annually.

(5) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action.

(6) An individual who has submitted a sworn affidavit on their renewal application as evidence of compliance with CPE requirements and is found, as the result of a random audit, not to be in compliance will be subject to a minimum \$250.00 fine and any other penalties deemed appropriate by the board as permitted by Section 20B of the act.

(7) The sponsor of a continuing education program is required to maintain an outline of the program and attendance/registration records for a period of [5] five years after program completion.

(8) Licensees reporting of CPE must document their participation and retain evidence for a period of [5] five years after course completion. Documentation and/or evidence must include, at minimum:

- (a) sponsor name and identification number;
- (b) title and description of content;
- (c) date(s) of completion;
- (d) location; and
- (e) number of credit hours.

(9) The board may, at its discretion, examine certificate holder/licensee or CPE sponsor documentation to evaluate program compliance with board rules. Non-compliance with established standards may result in denial of CPE credit for non-compliant programs and may be a basis for disciplinary action by the board for fraudulent documentation and representation by a CPE sponsor or certificate holder/licensee of a knowingly non-compliant CPE program.

[16.60.3.15 NMAC - Rp 16 NMAC 60.6.6, 02-14-2002; A, 09-16-2002; A, 06-15-2004; A, 07-30-2004; A, 12-30-2004; A, 04-29-2005; A, 12-30-2005; A, 05-15-2006; A, 07-29-2007; A, 02-27-2009; A,

9-15-2010; A, 01-17-2013; A, 12-01-14; A, 09-15-2015]

**REGULATION AND LICENSING DEPARTMENT
PUBLIC ACCOUNTANCY BOARD**

This is an amendment to 16.60.4 NMAC, Section 8, 10 and 11, effective 09-15-2015

16.60.4.8 FIRM PERMIT APPLICATION, RENEWAL, REINSTATEMENT AND NOTIFICATION REQUIREMENTS:

A. Pursuant to Sections 12B and 13A, B, E, F, and L of the 1999 Public Accountancy Act, any CPA or RPA acting as the sole proprietor, partner, shareholder or member of a legal business entity who performs or offers to perform accountancy for a client or potential client by holding themselves out to the public must obtain a firm permit to be granted authority to practice public accountancy as a CPA or RPA firm. Pursuant to Section 13I of the 1999 Public Accountancy Act, each office of the firm within New Mexico must obtain a firm permit. All firm permit applications for initial issue, renewal, or reinstatement shall be made on board-prescribed forms and meet all information and fee requirements to be considered complete and filed with the board.

B. Renewal requirements: Deadline for receipt of firm permit renewal applications is no later than 30 calendar days prior to the expiration date printed on the firm permit. Renewal applications shall be postmarked or hand-delivered no later than the last day of the month preceding the month of expiration or the next business day if the deadline falls on a weekend or holiday. The board shall mail firm permit renewal application forms to firm permit holders no less than 30 days prior to the renewal deadline date.

C. Reinstatement requirements:

(1) Reinstatement due to non-renewal/ expiration: Requests to reinstate a firm permit that lapsed or expired as a result of non-renewal shall be made on board-prescribed forms and meet all board-prescribed requirements for reinstatement including the current year's renewal fee and peer review program requirements. This rule shall not apply to firms whose permits lapsed or expired for a period of [3] three years or more.

(2)

Reinstatement applications for relief from disciplinary penalties: A firm whose permit to practice has been subject to board disciplinary action may apply to the board for modification of the board action after completion of all requirements contained in the board's original order:

(a) the application shall be in writing and substantiate the reasons constituting good cause for the relief sought; and

(b) shall be accompanied by at least [2] two supporting recommendations, under oath, from practitioners who have personal knowledge of the activities of the applicant since the board action was imposed.

D. Action by the board: An application pursuant to Section 21 of the 1999 Public Accountancy Act will be processed by the board upon the basis of the application materials submitted, supplemented by such additional inquiries the board may require. At the board's discretion, a hearing may be held on an application following procedures the board may find suitable for the particular case.

(1) The board may impose appropriate terms and conditions for firm permit reinstatement or modification of board disciplinary action.

(2) In considering a reinstatement application, the board may consider:

(a) all activities of the applicant since the disciplinary penalty from which relief is sought was imposed;

(b) the offense for which the applicant was disciplined;

(c) the applicant's activities during the time the firm permit was in good standing;

(d) the applicant's rehabilitative efforts;

(e) restitution to damaged parties in the matter for which the penalty was imposed; and

(f) the applicant's general reputation for trust and professional probity.

(3) No application for reinstatement will be considered while the applicant is under sentence for any criminal offense, including any period during which the applicant is on court imposed probation or parole.

E. Notification requirements: A firm registered pursuant to Section 13 of the 1999 Public

Accountancy Act shall file written notification with the board of any of the following events concerning the practice of public accountancy within this state within 30 days of occurrence:

- (1) formation of a new firm;
- (2) change in legal form or name of a firm;
- (3) firm termination;
- (4) establishment of a new branch office, (register by obtaining a new firm permit for the new branch office, pursuant to Section 61-28B-13I, NMSA 1978) or the closing or change of address of a branch office in this state; or
- (5) the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the act or these rules.

[16.60.4.8 NMAC - Rp, 16 NMAC 60.4.11, 02-14-2002; A, 04-29-05; A, 05-15-2006; A, 06-30-2008; A, 09-15-2015]

16.60.4.10 PEER REVIEW REQUIREMENTS:

A. Participation: A firm seeking to obtain or renew a firm permit to engage in the practice of public accountancy in New Mexico must undergo a peer review at least once every [3] three years beginning with initial firm permit application. Peer review program objectives are established pursuant to Section 13L of the 1999 Public Accountancy Act to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard-setting bodies. Emphasis is on education, including appropriate education programs or remedial procedures that may be recommended or required where reporting does not comply with appropriate professional standards.

(1) Firms contracting to perform audits of state agencies as defined in the Audit Act must also comply with peer review standards applicable to those audits.

(2) Participation is required of each firm registered with the board who performs accounting and auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections..

Exceptions to peer review participation: preparation of financial statements (accounting) and tax return preparation service shall be in accordance with AICPA standards.

B. Reporting to the board: Within 90 days from the scheduled

due date of the peer review for those administered by state societies and 150 days for all others, the firm must submit a copy of the interim or conditional or final acceptance letter or any combination of the above from the administering entity. This must be accompanied by the letter of comments, the reviewer's report, and other supporting documentation as requested by the board.

(1) If within 90 days from the scheduled due date of the peer review for those administered by state societies and 150 days for all others the firm cannot provide the final acceptance letter, the firm must submit a letter to the board explaining its failure to comply. The board may take disciplinary action for failure to comply.

(2) Each holder of a board-issued firm permit shall schedule a review to commence no later than the end of their first year of operations. Firms applying for their initial permit with a current (within the [3] three years preceding initial application) peer review acceptance letter may submit that year's acceptance letter in support of their initial application and shall then schedule and maintain a subsequent review for each successive 3-year review period thereafter.

(3) Upon completion of the scheduled peer review, each firm shall schedule and maintain subsequent reviews for each successive 3-year period thereafter. It is the responsibility of the firm to anticipate its needs for review services in sufficient time to enable completion and acceptance of the review within the requirement of each successive 3-year reporting period.

(4) The board, at its sole discretion, may grant any reasonable extensions that it deems necessary.

C. Peer review program standards:

(1) The board adopts the standards for performing and reporting on peer reviews or any successor standards for peer review promulgated by the American institute of certified public accountants (AICPA) as its minimum standards for review of practice firms. This shall not require a membership in any specific administering entity or the AICPA.

(2) Approved administering entities shall be AICPA, the national conference of CPA practitioners (NCCPAP), state CPA societies fully involved in the administration of the AICPA peer review program and such other entities which register with and are approved by the board on their adherence

to the peer review minimum standards.

(3) The board may, for cause, revoke approval of an administering entity.

D. Hardship exceptions:

The board may make exceptions to the requirements set out in this section for hardships. All hardship requests must be in writing, setting forth detailed reasons for the request, and must be submitted no later than six months prior to expected completion date of the peer review.

E. Exemptions: A firm which does not perform accounting or auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections is exempt from the peer review program and shall re-certify annually to the board as to this exempt status as part of the firm permit renewal process. A previously exempt firm which begins providing the above described services must initiate and complete a review within 18 months of the date the services were first provided.

F. Procedures for an administering entity.

(1) To qualify as an administering entity, an organization must submit a peer review administration plan to the board for review and approval. The plan of administration must:

(a) establish a peer review committee (PRC) and subcommittees as needed, and provide professional staff as needed for the operation of the peer review programs;

(b) establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the administering entity;

(c) establish procedures for resolving any disagreement which may arise out of the performance of a peer review;

(d) establish procedures to evaluate and document the performance of each reviewer and conduct hearings which may lead to the disqualification of a reviewer who does not meet the AICPA standards; and

(e) require the maintenance of records of peer reviews conducted under the program in accordance with the records retention rules of the AICPA.

(2) A PRC is comprised exclusively of CPAs practicing public accountancy and formed by an administering entity for the purpose of accepting peer review reports submitted

by firms on peer review engagements.

(3) Each member of a PRC must be active in the practice of public accountancy at a supervisory level in the accounting or auditing function while serving on the committee. The member's firm must be enrolled in an approved practice-monitoring program and have received a "pass" rating on its most recent peer review. A majority of the committee members must satisfy the qualifications required of on-site peer review team captains as established and reported in the AICPA standards for performing and reporting on peer reviews.

(4) The PRC members' terms shall be staggered to provide for continuity.

(5) A PRC member may not concurrently serve as a member of his state's board of accountancy.

(6) A PRC member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence of or has a conflict of interest with the firm.

(7) A PRC decision to accept a report must be made by a majority of a quorum of members.

(8) Responsibilities of peer review committee. The PRC shall:

(a) establish and administer the administering entities' peer review program in accordance with the AICPA standards for performing and reporting on peer reviews;

(b) when necessary in reviewing reports on peer reviews, prescribe actions designed to assure correction of the deficiencies in the reviewed firm's system of quality control policies and procedures;

(c) monitor the prescribed remedial and corrective actions to determine compliance by the reviewed firm;

(d) resolve instances in which there is a lack of cooperation and disagreement between the committee and review teams or reviewed firms in accordance with the administering entities adjudication process;

(e) promptly act upon requests from firms for changes in the timetable of their review;

(f) appoint members to subcommittees and task forces as necessary to carry out its functions;

(g)

establish and perform procedures for insuring that reviews are performed and reported on in accordance with the AICPA standards for performing and reporting on peer reviews;

(h) establish a report acceptance process which facilitates the exchange of viewpoints among committee members; and

(i) provide to the board administrative statistical reports regarding their peer review program as requested.

G. Disciplinary action.

(1) The board shall take disciplinary action against a firm for failure to comply with peer review requirements. Actions shall include, but are not limited to, remedial and corrective procedures, fines, and denial of firm registration.

(2) In the event a firm is unwilling or unable to comply with established standards, or a firm's professional work is so egregious as to warrant disciplinary action, the board shall take appropriate action to protect the public interest.

(3) A copy of the peer review acceptance letter from the administering entity must be submitted to the board office no later than 90 days after the scheduled date for the peer review as determined by the administering entity.

(a) For each day the firm is delinquent in submitting the acceptance letter, the board may assess a fine of \$10 per day not to exceed \$1,000.

(b) If a peer review acceptance letter is submitted more than 100 days late, a notice of contemplated action may be issued against all licensees listed on the most recent firm permit renewal application as owners of the firm.

(4) If an extension for completion of a peer review is granted by the administering entity, the board shall also accept this extension, provided that the firm provides the board office with documentation of the extension from the administering entity.

H. Privileged information: A report, statement, memorandum, transcript, funding record, or working paper prepared for and an opinion formulated in connection with any positive enforcement or peer review is privileged information held by the administering entity and may not be subject to discovery, subpoena, or other means of legal compulsion for release to any person and is not admissible as

evidence in any judicial or administrative proceeding except for a board hearing.

I. Peer review

continuing professional education (CPE) credit: The board will allow a firm up to a total of 24 hours of CPE credits for its CPAs. These hours shall be allocated by the firm to participating firm CPAs and must be used in the calendar year of the acceptance letter.

(1) Firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.

(2) Firms having a system peer review will be allowed up to 24 hours of CPE credits.

(3) Firms having a system peer review at a location other than the firm's office shall be considered a system peer review and will be allowed up to 12 hours of CPE credits.

(4) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.

[16.60.4.10 NMAC - Rp 16 NMAC 60.11.8 & 16 NMAC 60.11.9, 02-14-2002; A, 06-15-2004; A, 12-30-2005; A, 06-30-2008; A, 09-15-2015]

16.60.4.11 FIRM MERGERS, COMBINATIONS, DISSOLUTIONS, SEPARATIONS, OR PERMIT EXPIRATION/REQUEST FOR REINSTATEMENT:

~~[A]~~ In the event of a firm merger, combination, dissolution or separation, the firms must notify the board of changes in quality review cycles.

~~[(+)]~~ **A.** In the event that ~~[2]~~ two or more firms are merged or sold and combined, the surviving firm shall retain the peer review year of the largest (based on accounting and auditing hours) firm.

~~[(2)]~~ **B.** In the event that a firm is divided, the firm(s) shall retain the review year of the former practice unit. In the event that such review is due in less than 12 months, a review year shall be assigned so that the review occurs within 18 months of the commencement of the new firm(s).

~~[(3)]~~ **C.** In the event that a firm's permit expires/lapses due to non-renewal, the firm shall retain the year of the previously established firm peer review reporting completion dates.

Peer review completion with a supporting acceptance letter shall be required to support any reinstatement application request.

[(4)] D. The firm must notify the board within 20 days of an extension, approved by the administering entity, as a result of a merger, combination, dissolution, or separation. Extension may not exceed 180 days.

[B.] Hardship Exceptions: The board may make exceptions to the requirements set out in this section for hardships. All hardship requests must be in writing, setting forth detailed reasons for the request, and must be submitted no later than 6 months prior to expected completion date of the peer review.

C. Exemptions: A firm which does not perform accounting and/or auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections is exempt from the peer review program and shall re-certify annually to the board as to this exempt status as part of the firm permit renewal process. A previously exempt firm which begins providing the above described services must initiate and complete a review within 18 months of the date the services were first provided.

D. Procedures for an administering entity:

(1) To qualify as an administering entity, an organization must submit a peer review administration plan to the board for review and approval. The plan of administration must:

(a) establish a peer review committee (PRC) and subcommittees as needed, and provide professional staff as needed for the operation of the peer review programs;

(b) establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the administering entity;

(c) establish procedures for resolving any disagreement which may arise out of the performance of a peer review;

(d) establish procedures to evaluate and document the performance of each reviewer and conduct hearings which may lead to the disqualification of a reviewer who does not meet the AICPA standards; and

(e) require the maintenance of records of peer reviews conducted under the program in accordance with the records retention

rules of the AICPA:

(2) A peer review committee (PRC) is comprised exclusively of CPAs practicing public accountancy and formed by an administering entity for the purpose of accepting peer review reports submitted by firms on peer review engagements.

(3) Each member of a PRC must be active in the practice of public accountancy at a supervisory level in the accounting or auditing function while serving on the committee. The member's firm must be enrolled in an approved practice-monitoring program and have received an unmodified report on its most recent peer review. A majority of the committee members must satisfy the qualifications required of on-site peer review team captains as established and reported in the AICPA standards for performing and reporting on peer reviews.

(4) The PRC members' terms shall be staggered to provide for continuity.

(5) A PRC member may not concurrently serve as a member of his state's board of accountancy.

(6) A PRC member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence of or has a conflict of interest with the firm.

(7) A PRC decision to accept a report must be made by a majority of a quorum of members.

(8) Responsibilities of peer review committee. The PRC shall:

(a) establish and administer the administering entities' peer review program in accordance with the AICPA standards for performing and reporting on peer reviews;

(b) when necessary in reviewing reports on peer reviews, prescribe actions designed to assure correction of the deficiencies in the reviewed firm's system of quality control policies and procedures;

(c) monitor the prescribed remedial and corrective actions to determine compliance by the reviewed firm;

(d) resolve instances in which there is a lack of cooperation and disagreement between the committee and review teams or reviewed firms in accordance with the administering entities adjudication process;

(e)

promptly act upon requests from firms for changes in the timetable of their review;

(f) appoint members to subcommittees and task forces as necessary to carry out its functions;

(g) establish and perform procedures for insuring that reviews are performed and reported on in accordance with the AICPA standards for performing and reporting on peer reviews;

(h) establish a report acceptance process which facilitates the exchange of viewpoints among committee members; and

(i) provide to the board administrative-statistical reports regarding their peer review program as requested.

E. Disciplinary Action.

(1) The board shall take disciplinary action against a firm for failure to comply with peer review requirements. Actions may include, but are not limited to, remedial and corrective procedures, fines, and denial of firm registration.

(2) In the event a firm is unwilling or unable to comply with established standards, or a firm's professional work is so egregious as to warrant disciplinary action, the board shall take appropriate action to protect the public interest.

(3) A copy of the peer review acceptance letter from the administering entity must be submitted to the board office no later than 90 days after the scheduled date for the peer review as determined by the administering entity.

(a) For each day the firm is delinquent in submitting the acceptance letter, the board may assess a fine of \$10 per day not to exceed \$1,000.

(b) If a peer review acceptance letter is submitted more than 100 days late, a notice of contemplated action may be issued against all licensees listed on the most recent firm permit renewal application as owners of the firm.

(4) If an extension for completion of a peer review is granted by the administering entity, the board shall also accept this extension, provided that the firm provides the board office with documentation of the extension from the administering entity.

F. Privileged information: A report, statement, memorandum, transcript, funding record, or working paper prepared for and an

opinion formulated in connection with any positive enforcement or peer review is privileged information held by the administering entity and may not be subject to discovery, subpoena, or other means of legal compulsion for release to any person and is not admissible as evidence in any judicial or administrative proceeding except for a board hearing.

~~G. Peer review continuing professional education (CPE) credit. The board will allow a firm up to a total of 24 hours of CPE credits for its CPAs. These hours shall be allocated by the firm to participating firm CPAs and must be used in the calendar year of the acceptance letter.~~

~~(1) Firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.~~

~~(2) Firms having a system peer review will be allowed up to 24 hours of CPE credits.~~

~~(3) Firms having a system peer review at a location other than the firm's office shall be considered a system peer review and will be allowed up to 12 hours of CPE credits.~~

~~(4) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.]~~

~~[16.60.4.11 NMAC - Rp, 16 NMAC 60.4.10 through 60.4.16, 02-14-2002; A, 01-15-2004; A, 09-15-2015]~~

REGULATION AND LICENSING DEPARTMENT PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.5 NMAC, Section 11 and adding Section 13, effective 09-15-2015.

16.60.5.11 RULES OF CONDUCT: In addition to abiding by the AICPA code of professional conduct, New Mexico Certified Public Accountant (CPA)/ Registered Public Accountancy (RPA) certificate/license holders shall abide by the following board rules:

A. [Rule 904] Responses to board communications. An individual certificate/license or firm permit holder shall, when requested, substantively and honestly respond in writing to

all communications from the board requesting a response within 30 days of the mailing of such communications by registered or certified mail to the last address furnished the board by the applicant, certificate or registration holder.

(1) Failure to respond substantively and honestly to written board communications or failure to furnish requested documentation or working papers constitutes conduct indicating lack of fitness to serve the public as a professional accountant and shall be grounds for disciplinary action.

(2) Each applicant, certificate or firm permit holder and each person required to be registered with the board under the act shall notify the board, in writing, of any and all changes in such person's mailing address and the effective date thereof within 30 days before or after such effective date.

B. [Rule 902] Reportable events. A licensee shall report in writing to the board the occurrence of any of the following events within 30 days of the date the licensee had knowledge of these events:

(1) Receipt of a final peer review report indicating "pass with deficiencies" or "fail" or a public company accounting oversight board (PCAOB) firm inspection report containing deficiencies or identifying potential defects in the quality control systems. For the purposes of Subsection B of 16.60.5.11 NMAC, "deficiency reports" are reports indicating either "pass with deficiencies" or "fail" as defined in the AICPA peer review standards.

(2) Receipt of a second consecutive deficiency peer review report.

(3) Imposition upon the license of discipline, including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, suspension, revocation, or modification of a license, certificate, permit, or practice rights by:

(a) the securities and exchange commission (SEC), the PCAOB, or the internal revenue service (IRS); or

(b) another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or

(c) any other federal or state agency regarding the licensee's conduct while rendering professional services; or

(d) any foreign authority or credentialing body that regulates the practice of accountancy.

(4) The occurrence of any matter reportable that must be reported by the licensee to the PCAOB pursuant to Sarbanes Oxley Action Section 102(b)(2)(f) and PCAOB Rules and forms adopted pursuant thereto.

(5) Notice of disciplinary charges filed by the SEC, the PCAOB, the IRS, or another state board of accountancy, or a federal or state taxing, insurance or securities regulatory authority, or a foreign authority or credentialing body that regulates the practice of accountancy.

(6) Unless prohibited by the terms of the agreement, any judgment, award or settlement of a civil action or arbitration proceeding of \$150,000 or more in which the licensee was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, licensed firms shall only notify the board regarding civil judgments, settlements, or arbitration awards directly involving the firm's practice of public accounting in this state.

(7) Criminal charges, deferred prosecution or conviction or plea of no contest to which the licensee is a defendant if the crime is:

(a) any felony under the laws of the United States or of any state of the United States or any foreign jurisdiction; or

(b) a misdemeanor if an essential element of the offense is dishonesty, deceit, or fraud.

C. [Rule 903] Frivolous complaints. An individual certificate/license or firm permit holder who, in writing to the board, accuses another certificate/license or firm permit holder of violating the act or board rules shall assist the board in any investigation or prosecution resulting from the written accusation. Failure to do so, such as not appearing to testify at a hearing or to produce requested documents necessary to the investigation or prosecution, without good cause, is a violation of this rule.

D. [Rule 904] Compliance with the Parental Responsibility Act. If an applicant for a certificate/license or a CPA or RPA certificate/license or firm permit holder is identified by the state of New Mexico human services department (HSD) as not in compliance with a judgment and

order for support, the board or its legally authorized designee shall: deny an application for a license; deny the renewal of a license; have grounds for suspension or revocation of a license; and shall initiate a notice of contemplated action under provisions of the Uniform Licensing Act.

(1) If an applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division. An applicant or licensee can provide the board with a subsequent statement of compliance, which shall preclude the board from taking any action based solely on the prior statement of non-compliance from HSD.

(2) When a disciplinary action is taken under this section solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for reapplications or reinstatement of lapsed licenses.

E. [Rule 905] Specialty designations. A CPA/RPA certificate/license holder may only represent a claim of special expertise through the use of "specialty designations" in conjunction with the CPA/RPA designation if the specialty designation is:

(1) consistent with designations prescribed by national or regional accreditation bodies offering the designations pursuant to a prescribed course of study, experience, or examination, and

(2) cannot be construed by the public or clients of the CPA/RPA practitioner to be a false fraudulent, misleading, or deceptive claim unsubstantiated by fact.

[16.60.5.11 - Rp 16 NMAC 60.7, 16 NMAC 60.9, and 16 NMAC 60.10, 02-14-2002; A, 06-30-2008; A, 01-01-2011; A, 01-17-2013; A, 09-15-2015]

16.60.5.13 UNAUTHORIZED USE OF THE CPA TITLE:

A. Pursuant to Section 61-28B-26 and 61-28B-13 NMSA 1978, a person whose principal place of business is not in New Mexico can use the term CPA while serving clients in New Mexico as long as (1) the CPA is actively licensed in good standing in his principal place of business and is eligible

for practice privileges in New Mexico, and (2) the out-of-state firm obtains a New Mexico firm permit if attest services are performed through mobility for New Mexico clients. However, anyone residing in this state who is not licensed by the New Mexico public accountancy board as a CPA or not granted the practice privilege by 61-28B-26 of the 1999 Public Accountancy Act is restricted to using the term "accountant" in connection with his or her name on all reports, letters of transmittal, or advice, and on all stationery and documents used in connection with his or her services as an accountant, and must refrain from the use in any manner of any other title or designation in such practice while in this state. The exception to this restriction is when an individual residing in this state who is licensed by another jurisdiction wishes to provide a résumé to a prospective employer, the individual may use "CPA" or "certified public accountant" on his or her résumé. However, the individual must clearly indicate the jurisdiction in which he or she holds a CPA certificate as well as the status of that certificate if other than active (inactive, lapsed, retired, etc.). Pursuant to Section 61-28B-17 NMSA 1978, it is unlawful for any person who has not received a certificate as a certified public account or not been granted a practice privilege, under Section 61-28B-26 NMSA 1978, admitting the person to practice as a certified public accountant to assume or use such a title, or to use any words, letters, abbreviations, symbols or other means of identification to indicate that the person using same has been admitted to practice as a certified public accountant.

B. A person licensed as a CPA in another jurisdiction who moves to New Mexico with the intention of using the CPA title (whether in public practice, industry, government, or education) must obtain a certificate of from the board prior to using the CPA title in any way in this state. Oral or written statements such as "I am a licensed CPA in another jurisdiction" when used in connection with the individual's name on all reports, letters of transmittal, or advice, and on all stationery and documents used in connection with the individual's services as an accountant do not exempt the individual from obtaining a certificate of qualification from the board. Non-resident CPAs who wish to practice in New Mexico may do so only in accordance with Section 61-28B-26 NMSA 1978.

[16.60.5.13 NMAC - N, 09-15-2015]

End of Adopted Rules

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