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New Mexico Register

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

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New Mexico Register

Volume XXVII, Issue 5

March 15, 2016

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Notices of Rulemaking and Proposed Rules

ENVIRONMENTAL IMPROVEMENT BOARD

Notice of Public Hearing to Consider Amendments to 7.18.1 NMAC through 7.18.5 NMAC - Public Swimming Pools, Spas and Baths

The New Mexico Environmental Improvement Board (Board) will hold a public hearing beginning at 9:00 a.m. on Friday, May 13, 2016, and continuing thereafter as necessary at the New Mexico State Capitol Building, Room 307, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The hearing location may change prior to the hearing date, and those interested in attending should check the EIB website: <http://www.env.nm.gov/eib> prior to the hearing. The purpose of the hearing is to consider proposed amendments to the Public Swimming Pools, Spas, and Baths Rules, 7.18.1 through 7.18.5 NMAC (Rules). The New Mexico Environment Department (NMED) is the proponent of the proposed amendments.

The amendments proposed by NMED to 7.18.1 through 7.18.5 NMAC would adopt the federal Model Aquatic Health Code, 1st Edition, with a number of additions, modifications, and omissions.

In addition, the proposed amendments include several other minor changes and clarifications to current definitions, regulations, and procedures. Please note that formatting and minor technical changes in the regulations other than those proposed by NMED may be proposed at the hearing. In addition, the Board may make other changes as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing.

The proposed amendments may be reviewed during regular business hours at the office of the Environmental Improvement Board located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505. In addition, a copy of the NMED proposed amendments is posted on the NMED website at http://www.env.nm.gov/fod/Swim_Pools/.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures - Environmental

Improvement Board), the Environmental Improvement Act, Section 74-1-9 NMSA 1978, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to 20.1.1.302 NMAC, persons wishing to present technical testimony must file with the Board a written notice of intent to do so on or before 5:00 p.m. on April 22, 2016. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- include a copy of the direct testimony of each technical witness in narrative form;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of the rule language being proposed.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board no later than 5:00 p.m. on April 22, 2016 and should reference the name of the regulation, the date of the hearing, and docket number EIB 16-01(R). Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Administrator of Boards and Commissions
Office of the Environmental Improvement Board
Harold Runnels Building
1190 South St. Francis Dr., Room S-2102
Santa Fe, NM 87505

Any person who wishes to do so may offer non-technical public comment at the hearing, or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Ms. Pam Castaneda, Administrator of Boards and Commissions, at the above address, and should reference docket number EIB 16-01(R).

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact Juan-Carlos Borrego by April 14, 2016. The Human Resources Bureau can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, NM 87502, (505) 383-2506. TDD or TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779 (voice); TTY users: 1-800-659-8331). Copies of the proposed amendments will be available in alternative forms if requested by April 14, 2016.

The Board may make a decision on the proposed regulatory change at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

GAMING CONTROL BOARD

Notice of Hearing on Amendments to Rule

NOTICE IS HEREBY GIVEN that the New Mexico Gaming Control Board ("Board") will hold a public hearing at 9:00 a.m. on April 18, 2016, at the New Mexico Gaming Control Board, 4900 Alameda Blvd., N.E., Albuquerque, New Mexico 87113 to consider amendments for the following rule: **15.1.9 NMAC, Internal Control Minimum Standards for Gaming Devices under the Gaming Control Act.**

Copies of the proposed amendments are available upon request to the New Mexico Gaming Control Board, 4900 Alameda Blvd., N.E., Albuquerque, New Mexico 87113, or by calling (505) 274-4345.

The proposed changes are also available on our website at www.nmgcb.org. The Board can provide public documents in various accessible formats.

The hearing will be held before a hearing officer appointed by the Board. All interested parties may attend the hearing and present their views orally or submit written comments prior to the hearing. Written comments should be directed to the Gaming Control Board, Office of the General Counsel, 4900 Alameda Blvd., N.E., Albuquerque, New Mexico 87113.

If you are an individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, please contact Denise Leyba, Gaming Control Board, at least one week prior to the hearing at (505) 274-4345.

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

Notice of Public Hearing to Receive Testimony on the Proposed Rule 8.311.3 NMAC

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing to amend the following rule that is part of the New Mexico Administrative Code (NMAC): 8.311.3 Methods and Standards for Establishing Payment - Inpatient Hospital Services. The register for the proposed amendments to this rule will be available March 15, 2016 on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>. If you do not have Internet access, a copy of the proposed rule may be requested by contacting MAD in Santa Fe at 505-827-6252. The rule is being amended to address available state and federal funding. The Department proposes an effective date of May 1, 2016.

Section 8.311.3.12(F)(6), relating to the Sole Community provider program, and 8.311.3.12(F)(7), State operated teaching hospital adjustment, will be removed in their entirety and the remainder of the section will be renumbered.

Section 8.311.3.12(F)(8) and (9) and Section 8.311.3.13(C) adds language to address state and federal funding availability.

A public hearing to receive testimony on the proposed rule 8.311.3 NMAC will be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road Santa Fe on April 14, 2016 from 10 a.m. to 11 a.m., Mountain Standard Time (MST).

Interested parties may submit written comments directly to:

Human Services Department
Office of the Secretary
ATT: Medical Assistance
Division Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to madrules@state.nm.us. Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. MST, April 14, 2016.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-6252. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

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

RACING COMMISSION

Notice of Rulemaking and Public Hearing

NOTICE IS HEREBY GIVEN that the New Mexico Racing Commission will hold a Regular Meeting and Rule Hearing on March 17, 2016. The hearing will be held during the Commission's regular business meeting with public session beginning at 8:30 a.m. The meeting will be held in the Boardroom at 4900 Alameda Blvd. NE, Albuquerque, NM.

The purpose of the Rule
Hearing is to consider adoption of the

proposed amendments and additions to the following Rules Governing Horse Racing in New Mexico No.15.2.1 NMAC, 15.2.2 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC & 16.47.1 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

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

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

Executive Director

Dated: February 23, 2016

REGULATION AND LICENSING DEPARTMENT LANDSCAPE ARCHITECTS, BOARD OF

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Landscape Architects will hold a Rule Hearing on Friday, April 29, 2016. Following the Rule Hearing, the New Mexico Board of Landscape Architects will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Landscape Architects Rule Hearing will begin at 11:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Toney Anaya Building, Regulation and Licensing Department, Rio Grande Room, 2550 Cerrillos Rd. Santa Fe, NM 87504.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.44 NMAC: Part 1, General

Provisions; Part 2, Educational and Examination Requirements for Licensure or Certification; Part 3, Registration for Licensure or Certification; Part 4, License or Certificate Expiration and Renewal; Part 5, Continuing Professional Education Requirements; Part 6, Inactive Status and Reinstatement; Part 7, Code of Professional Conduct; Part 8, Fees; and Part 9, Complaints.

Persons desiring to present their views on the proposed rules or obtain a copy of the agenda may write the Board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87504, or call (505) 476-4638. 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 April 15, 2016. 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) 476-44638 at least two weeks prior to the meeting or as soon as possible.

Joe Maldonado
PO Box 25101- Santa Fe, New Mexico
87504

**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.

AUDITOR, OFFICE OF THE STATE

The Office of the State Auditor, at its 1/7/2016 hearing, to repeal its rule 2.2.2 NMAC, Requirements For Contracting And Conducting Audits of Agencies (filed 3/2/2015) and replace it with 2.2.2 NMAC Requirements For Contracting And Conducting Audits of Agencies, effective 3/15/2016.

AUDITOR, OFFICE OF THE STATE

TITLE 2 PUBLIC FINANCE
CHAPTER 2 AUDITS OF
GOVERNMENTAL ENTITIES
PART 2 REQUIREMENTS
FOR CONTRACTING AND
CONDUCTING AUDITS OF
AGENCIES

2.2.2.1 ISSUING AGENCY:
 Office of the State Auditor.
 [2.2.2.1 NMAC - Rp, 2.2.2.1 NMAC, 3-15-16]

2.2.2.2 SCOPE: Agencies as defined by the Audit Act and independent public accountants (IPAs) interested in contracting to perform audit services for those agencies.
 [2.2.2.2 NMAC - Rp, 2.2.2.2 NMAC, 3-15-16]

2.2.2.3 STATUTORY AUTHORITY: The Audit Act, Section 12-6-12 NMSA 1978, requires the state auditor to promulgate reasonable regulations necessary to carry out the duties of his office, including regulations required for conducting audits in accordance with auditing standards generally accepted in the United States of America. The regulations become effective upon filing in accordance with the State Rules Act, (Chapter 14, Article 4 NMSA 1978). The Audit Act, (Chapter 12, Article 6 NMSA 1978), requires the state auditor to conduct financial and compliance audits of every agency in accordance with governmental auditing,

accounting and financial reporting standards, and local, state and federal laws, rules, and regulations. The audit act further establishes a tiered system of financial reporting for local public bodies in which the amount of a local public body’s annual revenue determines whether the local public body is subject to an agreed upon procedures engagement. The Audit Act also gives the state auditor the authority to cause the financial affairs and transactions of an agency to be audited in whole or in part, in addition to the annual audit.
 [2.2.2.3 NMAC - Rp, 2.2.2.3 NMAC, 3-15-16]

2.2.2.4 DURATION:
 Permanent.
 [2.2.2.4 NMAC - Rp, 2.2.2.4 NMAC, 3-15-16]

2.2.2.5 EFFECTIVE DATE:
 March 15, 2016, unless a later date is cited at the end of a section.
 [2.2.2.5 NMAC - Rp, 2.2.2.5 NMAC, 3-15-16]

2.2.2.6 OBJECTIVE:
 The objective is to establish policies, procedures, rules and requirements for contracting and conducting financial audits, special audits, attestation engagements, performance audits, and forensic audits of governmental agencies of the state of New Mexico.
 [2.2.2.6 NMAC - Rp, 2.2.2.6 NMAC, 3-15-16]

2.2.2.7 DEFINITIONS:
A. “Agency” means any department, institution, board, bureau, court, commission, district or committee of the government of the state, including district courts, magistrate or metropolitan courts, district attorneys and charitable institutions for which appropriations are made by the legislature; any political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived, including counties, county institutions, boards, bureaus or commissions; municipalities; drainage, conservancy, irrigation, or other special

districts; and school districts; any entity or instrumentality of the state specifically provided for by law, including the New Mexico finance authority, the New Mexico mortgage finance authority, the New Mexico lottery authority and every office or officer of any entity listed in Paragraphs (1) through (3) of Subsection A of Section 12-6-2 NMSA 1978.

B. “Auditor” means independent public accountant.

C. “AICPA” means American institute of certified public accountants.

D. “AU-C” means U.S. auditing standards-AICPA (Clarified)

E. “AUP” means agreed upon procedures.

F. “CPA” means certified public accountant.

G. “CPE” means continuing professional education.

H. “DFA” means the New Mexico department of finance and administration.

I. “ERB” means the New Mexico education retirement board.

J. “FCD” means financial control division of the department of finance and administration.

K. “FDIC” means federal deposit insurance corporation.

L. “FDS” means financial data schedule.

M. “GAAP” means accounting principles generally accepted in the United States of America.

N. “GAGAS” means generally accepted government auditing standards.

O. “GASB” means governmental accounting standards board

P. “GAAS” means auditing standards generally accepted in the United States of America.

Q. “GSD” means the New Mexico general services department.

R. “GRT” means gross receipts tax.

S. “HED” means the New Mexico higher education department.

T. “HUD” means United States (US) department of housing and urban development.

U. “IPA” means

independent public accountant.

V. "IRC" means internal revenue code.

W. "LGD" means the local government division of Department of Finance and Administration (DFA).

X. "Local public body" means a mutual domestic water consumers association, a land grant, an incorporated municipality or a special district.

Y. "NCUSIF" means national credit union shares insurance fund.

Z. "NMAC" means New Mexico administrative code.

AA. "NMSA" means New Mexico statutes annotated.

BB. "Office" or "OSA" means the New Mexico office of the state auditor.

CC. "OMB" means the United States office of management and budget.

DD. "PED" means the New Mexico public education department.

EE. "PERA" means the New Mexico public employee retirement association.

FF. "PHA" means public housing authority.

GG. "REAC" means real estate assessment center.

HH. "REC" means regional education cooperative.

II. "RSI" means required supplemental information.

JJ. "SAS" means the AICPA's statement on auditing standards.

KK. "SHARE" means statewide human resources accounting and management reporting system.

LL. "State auditor" may refer to either the elected state auditor of the state of New Mexico, or personnel of his office designated by him.

MM. "STO" means state treasurer's office.

NN. "Tier" is established based on the amount of each local public body's annual revenue, pursuant to Section 12-6-3 NMSA 1978 and 2.2.2.16 NMAC.

OO. "UFRS" means uniform financial reporting standards.

PP. "Uniform guidance for federal awards" 2CFR-200.0 et seq.

QQ. "U.S. GAO" means the United States government accountability office.

[2.2.2.7 NMAC - Rp, 2.2.2.7 NMAC, 3-15-16

2.2.2.8 THE PROCUREMENT AND AUDIT PROCESS:

A. Statutory authority: Section 12-6-3 NMSA 1978 (annual audits) mandates that:

(1) the financial affairs of every agency be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him, or by independent auditors approved by him;

(2) the comprehensive annual financial report for the state be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him or by independent auditors approved by him; and

(3) the audits be conducted in accordance with generally accepted auditing standards and rules issued by the state auditor.

B. 12-6-3 NMSA 1978: establishes a tiered system of financial reporting for local public bodies in which the amount of a local public body's annual revenue determines whether the local public body is subject to an agreed upon procedures engagement. See 2.2.2.16 NMAC for information applicable to local public bodies.

C. 12-6-3 NMSA 1978: states that in addition to the annual audit, the state auditor may cause the financial affairs and transactions of an agency to be audited in whole or in part. 2.2.2.15 NMAC provides regulations regarding this type of engagement. Section 12-6-14 NMSA 1978 (contract audits) states that "the state auditor shall notify each agency designated for audit by an independent auditor, and the agency shall enter into a contract with an independent auditor of its choice in accordance with procedures prescribed by rules of the state auditor; provided, however that a state-chartered charter school subject to oversight by the public education department or an agency subject to oversight by the higher education department shall receive approval from its oversight agency prior to submitting a recommendation for an independent auditor of its choice." The state auditor may select the auditor for an agency that has not submitted a recommendation within 60 days of notification by the state auditor to contract for the year being audited, and the agency being audited shall pay the cost of the audit. Each contract for auditing entered into between an agency and an independent auditor shall be approved in writing by the state auditor. Payment of public funds may not be made to an

independent auditor unless a contract is entered into and approved as provided in this section. Subsection B of Section 61-28B-13 NMSA 1978 of the 1999 Public Accountancy Act states that a firm with an office in New Mexico must hold a permit issued pursuant to this section of the 1999 Public Accountancy Act (Section 61-28B-1 NMSA 1978) in order to provide attest services including audits of financial statements. A permit is also required for a firm that does not have an office in New Mexico but performs attest services for a client whose principal place of business is in New Mexico. Pursuant to Subsection A of 16.60.3.14 NMAC, a person whose principal place of business is not New Mexico and who has a valid certificate/license as a certified public accountant from another state shall be presumed to have qualifications substantially equivalent to New Mexico's requirements if the person meets the requirements of the Public Accountancy Act, Section 61-21B-26 NMSA 1978.

D. Firm profiles: Except as otherwise provided in 2.2.2.16 NMAC, for an IPA to be included on the state auditor's list of approved firms, an IPA shall submit a firm profile annually on January 5th or on the next business day, in accordance with the guidelines set forth herein. The office shall review each firm profile for compliance with the requirements set forth in Subsections B through G of 2.2.2.8 NMAC. Firms are required to notify the state auditor of changes to the firm profile as information becomes available. The state auditor shall approve contracts only with IPAs who have submitted a complete and correct firm profile that has been approved by the office, and who have complied with all the requirements of this rule, including but not limited to:

(1) 2.2.2.14 NMAC, continuing education and quality control requirements for all staff that the firm will use on any New Mexico governmental engagements;

(2) listed professional service contracts the firm entered into pursuant to Subsection N of 2.2.2.8 NMAC;

(3) for IPAs who have audited agencies under this rule in the past, they must have previously complied with:

(a) 2.2.2.9 NMAC, Report Due Dates;

(b) 2.2.2.13 NMAC, Review of Audit Reports and Audit Documentation; and

(c) Paragraph (5) of Subsection A of 2.2.2.9

NMAC, notifying the state auditor regarding why audit reports will be late.

E. List of approved firms: The state auditor shall maintain a list of independent public accounting (IPA) firms that are approved and eligible to compete for audit contracts and agreed upon procedures engagements with agencies. The state auditor’s list of approved firms shall be reviewed and updated on an annual basis. An IPA on the list of approved firms is approved to perform government audits until the list of approved firms is published for the following year. The state auditor may approve contracts only with IPA firms that have submitted a complete and correct firm profile complying with all the requirements set forth in this rule and that has been approved by the office. The office shall inform all IPAs whose firm profiles were submitted by the deadline whether they are on the list of approved firms and shall publish the list of approved firms concurrent with notification to government agencies to begin the procurement process to obtain an IPA to conduct the agency’s annual financial audit.

F. Conditional approval: An IPA firm may be added to the list of approved firms even though the firm has one or more of the deficiencies of its firm profile listed below, except that the office shall not approve any contracts for the deficient IPA until the office receives documentation demonstrating all deficiencies have been cured:

- (1) the firm profile does not include at least one CPA with a current CPA certificate;
- (2) the firm does not have at least one CPA that meets the 80 hour GAGAS CPE requirement of Subsection A of 2.2.2.14 NMAC;
- (3) the firm profile does not include a copy of the IPA’s current proof of insurance;
- (4) the IPA employs only one CPA qualified to sign a GAGAS audit report and the firm has not submitted the completed original contingency subcontractor form required by Subsection M of 2.2.2.8 NMAC;
- (5) the IPA’s peer review is scheduled to be completed on or before publication of the list of approved firms, but is missing from the firm profile; or
- (6) the firm profile does not include either the signed attestation form regarding CPE or the signed attestation form regarding the firm profile.

G. Disqualified firms:

An IPA firm shall not be included on the list of approved firms if any of the following applies to that IPA:

- (1) the firm received a peer review rating of “failed”;
- (2) the firm does not have a current New Mexico firm permit to practice;
- (3) the firm profile does not include at least one certified public accountant with a current CPA certificate who has met the GAGAS CPE requirements described at Subsection A of 2.2.2.14 NMAC, to perform GAGAS audits;
- (4) the IPA has been restricted in the past and has not demonstrated improvement (this includes submitting excessively deficient audit reports or having excessively deficient workpapers); or
- (5) any other reason determined by the state auditor to serve the interest of the state of New Mexico.

H. Restriction:

- (1) IPAs may be placed on restriction based on the office’s review of the firm profile and deficiency considerations as described below. Restriction may take the form of limiting either the type of engagement or the number of audit contracts, or both, that the IPA may hold. The office may impose a corrective action plan associated with the restriction. The restriction remains in place until the office notifies the IPA that the restriction has been modified or removed. The deficiency considerations include, but are not necessarily limited to:
 - (a) failure to submit reports in accordance with Paragraph (1) of Subsection A of 2.2.2.9 NMAC, or the terms of their individual agency contract(s) whichever applies;
 - (b) failure to submit late report notification letters in accordance with Paragraph (5), Subsection A of 2.2.2.9 NMAC;
 - (c) failure to comply with Subsections M and N of 2.2.2.8 NMAC;
 - (d) poor quality reports as determined by the office;
 - (e) poor quality working papers as determined by the office;
 - (f) a peer review rating of “pass with deficiencies” with the deficiencies being related to governmental audits;
 - (g) failure to contract through the office for

New Mexico governmental audits or agreed upon procedures engagements;

- (h) lack of compliance with the procurement code;
- (i) failure to inform agency in prior years that the IPA is restricted;
- (j) failure to comply with the confidentiality requirements of 2.2.2.15 NMAC;
- (k) failure to invite the state auditor or his designee to engagement entrance conference, progress meetings or exit conferences after receipt of related notification from the office;
- (l) refusal to comply with office referrals or requests in a timely manner; or
- (m) any other reason determined by the state auditor to serve the interest of the state of New Mexico.

(2) The office shall notify IPAs that it proposes to place under restriction. If the proposed restriction includes a limitation on the number of engagements that an IPA is eligible to hold, the IPA shall not submit proposals or bids to new agencies if the number of multi-year proposals the IPA possesses at the time of restriction is equal to or exceeds the limitation on the number of engagements for which the IPA is restricted.

(3) An IPA under restriction is responsible for informing the agency whether the restricted IPA is eligible to engage in a proposed contract.

(4) If an agency or local public body submits an IPA recommendation letter to the office for an IPA that was ineligible to perform that contract due to its restriction, the office shall immediately reject the IPA recommendation in accordance with Subsection I of 2.2.2.8 NMAC.

I. Procedures for imposition of restrictions:

(1) The state auditor may place an IPA under restriction in accordance with Subsection G of 2.2.2.8 NMAC.

(a) The state auditor or his designee shall cause written notice of the restriction to be sent by certified mail, return receipt requested, to the IPA, which shall take effect as of the date of the letter of restriction.

(i) the letter shall contain the following information;

(ii) the office has placed a restriction on either the type of engagement or the number of audit contracts, or both, that the IPA is eligible to enter into;

(iii) the conditions of the restriction;

(iv) the reasons for the restriction;

(v) the action to place the IPA on restriction is brought pursuant to Subsection A of Section 12-6-3 NMSA 1978 and these regulations;

(vi) the IPA may request, in writing, reconsideration of the proposed contract restriction which must be received by the office within 15 calendar days from the day the IPA receives the letter of restriction; and

(vii) the e-mail or street address where the IPA's written request for reconsideration shall be delivered, and the name of the person to whom the request shall be sent.

(b) The IPA's written request for reconsideration shall include sufficient facts to rebut on a point for point basis each deficiency noted in the office's letter of restriction. The IPA may request an opportunity to present in person its written request for reconsideration and provide supplemental argument as to why the office's determination should be modified or withdrawn. The IPA may be represented by an attorney licensed to practice law in the state of New Mexico.

(c) The IPA shall have forfeited its opportunity to request reconsideration of the restriction(s) if the office does not receive a written request for reconsideration within the 15 calendar days of the date of receipt of the letter of restriction. The state auditor may grant, for good cause shown, an extension of time within which the IPA has to submit a request for reconsideration.

(2) The office shall review an IPA's request for reconsideration and shall make a determination on reconsideration within 15 calendar days of receiving the request unless the IPA has asked to present its request for reconsideration in person, in which case the office shall make a determination within 15 calendar days from the date of the personal meeting. The office may uphold, modify or withdraw its restriction pursuant to its review of the IPA's request for reconsideration, and shall notify the IPA of its final decision in writing which shall

be sent to the IPA via certified mail, return receipt requested.

J. Procedures to obtain professional services from an IPA: Concurrent with publication of the list of approved firms, the office shall inform agencies that they are to select an IPA to perform their audit or agreed-upon procedures engagement. The notification shall inform the agency that it should consult its prospective IPA to determine whether the prospective IPA has been restricted by the office as to the type of engagement or number of contracts it is eligible to perform. Agencies that may be eligible for the tiered system shall complete the evaluation described in Subsection B of 2.2.2.16 NMAC. The agency shall proceed to procure professional services from an IPA. Agencies that receive and expend federal awards must follow the uniform guidance for federal awards procurements requirements from 2 CFR Sections 200.317 to 200.326 and Section 200.509, and should also incorporate applicable guidance from the following requirements. Agencies should comply with the following procedures to obtain professional services from an IPA for an audit or agreed-upon procedures engagement.

(1) Upon receipt of written notification from the office to proceed, the agency shall identify all elements or services to be solicited pursuant to Subsection A of 2.2.2.10 NMAC, or Subsections A and B of 2.2.2.16 NMAC if applicable, and request quotations or proposals for each applicable element of the annual financial audit or agreed upon procedures engagement.

(2) Agencies that qualify for agreed-upon procedures engagements pursuant to the tiered system are strongly encouraged to select an IPA on the office's list of approved firms that are approved to perform audits and agreed-upon procedures engagements. However, a local public body may select an IPA whom the office has approved for agreed-upon procedures engagements only.

(3) Quotations or proposals for annual financial audits should contain quotations or proposals for each of the following elements:

(a) financial statement audit;

(b) federal single audit (if applicable);

(c) financial statement preparation so long as the IPA has considered any threat to

independence and mitigated it;

(d) other non-audit services (if applicable and allowed by current government auditing standards); and

(e) other (i.e., audits of component units such as housing authorities, charter schools, foundations and other types of component units).

(4) The office considers IPA services that cost less than \$60,000 excluding gross receipts tax to be small purchases for purposes of the audit rule. The agency may procure and contract for audit services for one year only. The agency is encouraged to request a multiple year proposal for the audit services (not to exceed three years) in which the cost of audit service is \$60,000 or less in each year (excluding gross receipts taxes). The agency is encouraged to obtain no fewer than three written or oral quotations to be recorded and placed in the procurement file. Section 13-1-191.1 NMSA 1978, requires prospective contractors to complete a standard campaign contribution disclosure form and file it with the state agency or local public body as part of the competitive sealed proposal, or in the case of a sole source or small purchase contract, on the date on which the contractor signs the contract.

(5) For IPA services that cost over \$60,000 excluding gross receipts tax for each year of the contract, the agency shall seek competitive sealed proposals and contract for audit services in accordance with the Procurement Code (Chapter 13, Article 1 NMSA 1978) or equivalent home rule procurement provisions; GSD Rule, 1.4.1 NMAC, Procurement Code Regulations, if applicable; and DFA Rule, 2.40.2 NMAC, Governing the Approval of Contracts for the Purchase of Professional Services. Section 13-1-191.1 NMSA 1978 requires prospective contractors to complete a standard campaign contribution disclosure form and submit it to the agency as part of the competitive sealed proposal. In addition, if the agency intends to allocate a portion of the audit cost to federal funds as direct or indirect charges, the agency should comply with applicable procurement requirements stated in the uniform guidance for federal awards.

(6) The agency may, and is strongly encouraged to, request a multiple year proposal to provide services not to exceed a term of three years. The term of the contract shall be one-year. The parties must enter a new audit contract each year. In the

event that either of the parties to the contract elects not to contract for all of the years contemplated by a multiple year proposal, or the state auditor disapproves the contract, the agency shall use the procedures described above to solicit services.

(7) Costs for the IPA to cooperate with the group engagement partner and team, and the primary government, caused by the requirements of AU-C 600 (group audit) should not be charged in addition to the cost of the engagement, as the office views this in the same manner as compliance with any other applicable standards.

(8) The agency shall evaluate all competitive sealed proposals or quotations received pursuant to this Subsection H of 2.2.2.8 NMAC using an evaluation process, preferably executed by a selection committee. Members of component units such as charter schools, housing authorities, etc., are encouraged to be included in the IPA selection process. As part of their evaluation process, agencies should consider the following criteria when selecting an IPA:

(a) the firm's responsiveness to the request for proposal (the firm's integrity, record of past performance, financial and technical resources);

(b) relevant experience, availability of staff with professional qualifications and technical abilities;

(c) the results of the firm's peer and external quality control reviews; and

(d) the price criteria that the office recommends not be weighted more than fifteen percent of the total criteria taken into consideration by the evaluation process or selection committee; if the office requests to review the IPA scoring documentation, the agency must make accessible to the office, all copies of the IPA evaluation documentation described above.

(9) After completing the evaluations for each IPA and making the IPA selection, each agency must enter the appropriate requested information online on the OSA-Connect website (www.osa-app.org). In order to do this, the agency shall register on OSA-connect and obtain a user-specified password. This can be done prior to contract season to avoid overloading the system. The agency's user shall then use the "generate contract" function on OSA-

connect to enter information necessary for the contract and for the OSA's evaluation of the IPA selection. After the agency enters the information, the OSA-connect system will generate a draft contract containing the required information already entered. The agency must submit to the office for approval a copy of the unsigned draft contract, by following the instructions on OSA-connect. Note that the IPA recommendation form no longer exists as a separate document, because OSA-connect will gather and deliver to the office the information historically submitted on the IPA recommendation form.

(10) The OSA will notify the agency as to the office's approval or rejection of the selected IPA and contract. Any notification of approval will be dependent on the agency using the correct form of contract. After the agency receives notification of approval of the selected IPA and contract from the office, the agency is responsible for getting the contract signed and sent to any oversight agencies, including DFA, for approval (if applicable). The office will not physically sign the contract. After the agency obtains all the required signature and approvals of the contract, the agency shall submit an electronic portable document format (PDF) copy of the final signed contract to the office by electronic mail to: *reports@osa.state.nm.us*.

(11) The agency shall deliver the unsigned contract generated by OSA-connect to the office by the deadlines shown below. In the event that the due date falls on a weekend or holiday, the due date will be the next business day. If the unsigned contract is not submitted to the state auditor by these deadlines, the IPA may, according to professional judgment, include a finding of non-compliance with Paragraph (9) of Subsection H of 2.2.2.8 NMAC in the audit report or agreed-upon procedures report.

(a) regional education cooperatives, cooperative educational services; independent housing authorities, hospitals and special hospital districts - April 15;

(b) school districts, counties, and higher education - May 1;

(c) local workforce investment boards and combined county/municipality governments (which only applies to Los Alamos), and local public bodies that do not qualify for the tiered system - May 15;

(d) councils of governments, district courts,

district attorneys, state agencies and the state of New Mexico CAFR - June 1;

(e) local public bodies that qualify for the tiered system pursuant to Subsections A and B of 2.2.2.16 NMAC - July 1; and

(f) agencies with a fiscal year end other than June 30 must use a due date 30 days before the end of the fiscal year; and

(g) component units that are being separately audited - on the primary government's due date;

(h) charter schools that are chartered by the public education department (PED) and agencies that are subject to oversight by the higher education department (HED) have the additional requirement of submitting their audit contract to PED or HED for approval prior to submitting the unsigned contract to the state auditor for approval, Section 12-6-14 NMSA 1978;

(i) in the event the agency's unsigned contract is submitted to the office, but is not approved by the state auditor, the state auditor will promptly communicate the decision, including the reason(s) for disapproval, to the agency, at which time the agency shall promptly submit a different contract using OSA-connect; this process may continue until the state auditor approves an unsigned contract; during this process, whenever an unsigned contract is not approved by the state auditor, the agency may submit a written request to the state auditor for reconsideration of the disapproval; the agency shall submit its request no later than 15 calendar days from the date of the disapproval and shall include documentation in support of its IPA selection; the state auditor may hold an informal meeting to discuss the request; the state auditor may set the meeting in a timely manner with consideration given to the agency's circumstances.

(12) If the agency fails to submit the unsigned contract within 60 days of notification from the state auditor to engage an IPA pursuant to Paragraph (5) of Subsection H of 2.2.2.8 NMAC, the state auditor may conduct the audit or select the IPA for that agency; the reasonable costs of such an audit shall be borne by the agency audited unless otherwise exempted pursuant to Section 12-6-4 NMSA 1978.

(13) In selecting an IPA for an agency pursuant to Paragraph (10) of Subsection H of 2.2.2.8 NMAC the state auditor shall at a minimum consider the following factors,

but may consider other factors in the state auditor's discretion that serve the best interest of the state of New Mexico and the agency:

- (a) the state auditor's IPA selection shall be drawn from the list of approved IPAs maintained by the state auditor;
 - (b) an IPA subject to restriction pursuant to Subsection G of 2.2.2.8 NMAC, is ineligible to be selected under this paragraph;
 - (c) whether the IPA has conducted one or more audits of similar government agencies;
 - (d) the physical proximity of the IPA to the government agency to be audited;
 - (e) whether the resources and expertise of the IPA are consistent with the audit requirements of the government agency to be audited;
 - (f) the IPA's cost profile, including examination of the IPA's fee schedule and blended rates;
 - (g) the state auditor shall not select an IPA in which a conflict of interest exists with the agency or that may be otherwise impaired, or that is not in the best interest of the state of New Mexico.
- (14) The state auditor shall consider, at a minimum, the following factors when considering which agencies will be subject to the state auditor's selection of an IPA:
- (a) whether agency is demonstrating progress in its own efforts to select an IPA;
 - (b) whether the agency has funds to pay for the audit;
 - (c) whether the agency is on the state auditor's "at risk" list;
 - (d) whether the agency is complying with the requirements imposed on it by virtue of being on the state auditor's "at risk" list;
 - (e) whether the agency has failed to timely submit its e-mailed draft unsigned contract copy in accordance with the audit rule on one or more occasions;
 - (f) whether the agency has failed to timely submit its annual financial audit report in accordance with the audit rule deadlines on one or more occasions.
- (15) The state auditor may appoint a committee

of the state auditor's staff to make recommendations for the state auditor's final determination as to which IPAs will be selected for each government agency subject to the discretion of the state auditor.

(16) Upon selection of an IPA to audit a government agency subject to the discretion of the state auditor, the state auditor shall notify the agency in writing regarding the selection of an IPA to conduct its audit. The notification letter shall include, at a minimum, the following statements:

- (a) the agency was notified by the state auditor to select an IPA to perform its audit or agreed upon procedures engagement;
- (b) 60 days or more have passed since such notification, and the agency failed to deliver its draft contract in accordance with this subsection;
- (c) pursuant to Section 12-6-14(A) NMSA 1978, the state auditor is selecting the IPA for the agency;
- (d) delay in completion of the agency's audit is contrary to the best interest of the state and the agency, and threatens the functioning of government and the preservation or protection of property;
- (e) in accordance with Section 12-6-4 NMSA 1978, the reasonable costs of such an audit shall be borne by the agency unless otherwise exempted;
- (f) selection of the IPA is final, and the agency should immediately take appropriate measures to procure the services of the selected IPA.

(17) The agency shall retain all procurement documentation, including completed evaluation forms, for five years and in accordance with applicable public records laws.

K. State auditor approval/disapproval of IPA

recommendation: The state auditor will use *discretion* and may not approve:

- (1) An audit recommendation or agreed upon procedures professional services contract recommendation under 2.2.2.16 NMAC that does not serve the best interests of the public or the agency or local body because of one or more of the following reasons:
 - (a) lack of experience of the IPA;
 - (b) failure to meet the auditor rotation

requirements as follows:

- (i) the IPA is prohibited from conducting the agency audit or agreed upon procedures engagement for a period of two years because the IPA already conducted those services for that agency for a period of six years; provided however, that any IPA that was previously allowed to contract with the same agency for 12 consecutive years, and has completed the first six years or more, and has completed the first or second year of a three-year multi-year proposal may continue to contract with that agency for the duration of that three-year multi-year proposal;
 - (ii) if firm A purchases the stock or assets of firm B, or if firm B merges into firm A with firm A being the surviving firm, firm A will not be affected for purposes of the auditor rotation requirement; the auditor rotation clock will continue to run without interruption for firm B's audit contracts, despite the fact that such audit contracts may be issued by firm A after the purchase or merger;
 - (iii) a firm may submit to the office for consideration a written request for an exemption from the rotation requirements above. The written request must document extraordinary circumstances that justify the exemption request.
 - (c) lack of competence or staff availability;
 - (d) circumstances that may cause untimely delivery of the audit report or agreed upon procedures report;
 - (e) unreasonably high or low cost to the agency or local public body;
 - (f) terms in the proposed contract that the state auditor considers to be unfavorable, unfair, unreasonable, or unnecessary;
 - (g) lack of compliance with the procurement code or this rule;
 - (h) the agency giving too much consideration to the price of the IPA's response to the request for bids or request for proposals in relation to other evaluation criteria; or
 - (i) any other reason determined by the state auditor to be in the best interest of the state of New Mexico.
- (2) Audit contracts or agreed-upon procedures contracts of an IPA that has:
- (a) breached a prior-year contract;
 - (b)

failed to deliver an audit or agreed upon procedures report on time;

(c) failed to comply with state laws or regulations of the state auditor;

(d) performed non-audit services (including services related to fraud) for an agency or local public body it is performing an audit or an agreed upon procedures for, without prior approval of the state auditor;

(e) performed non-audit services under a separate contract for services that may be disallowed by GAGAS independence standards (see Subsection N of 2.2.2.8 NMAC);

(f) failed to respond, in a timely and acceptable manner, to an audit or agreed upon procedures report review or working paper review;

(g) impaired independence during an engagement;

(h) failed to cooperate in providing prior-year working papers to successor IPAs;

(i) has not adhered to external quality control review standards as defined by GAGAS and Subsections A and B of 2.2.2.14 NMAC;

(j) has a history of excessive errors or omissions in audit or agreed upon procedures reports or working papers;

(k) released the audit report or agreed upon procedures report to the agency, local public body or the public before the audit release letter or the OSA letter releasing the agreed upon procedures report, described in Subsection G of 2.2.2.16 NMAC, was received from the office;

(l) failed to submit a completed signed original contingency subcontractor form, if required;

(m) failed to submit a completed firm profile as required by Subsection B of 2.2.2.8 NMAC or failed to include all staff in the firm profile who would be working on the firm's engagements;

(n) reached the limit of contracts to which the state auditor restricted the IPA;

(o) failed to respond to communications from the office or engagement clients within a reasonable amount of time; or

(p) otherwise, in the opinion of the state auditor, the IPA was unfit to be awarded or

continue in a contract.

(3) An audit or agreed-upon procedures contract for an IPA received by the office which the state auditor decides to perform himself with or without the assistance of an IPA, and pursuant to Section 12-6-3 NMSA 1978, even if the agency or local public body was previously designated for audit or agreed upon procedures to be performed by an IPA.

L. Audit contract requirements: The agency must use the appropriate audit or agreed upon procedures engagement contract form provided by the office through the OSA-connect website at www.osa-app.org. The office may provide audit or agreed-upon procedures engagement contract forms to the agency via facsimile or U.S. mail if specifically requested by the agency. Only contract forms provided by the state auditor will be accepted and shall:

(1) be completed and submitted in its unsigned form by the deadline indicated above at Paragraph (9) of Subsection H of 2.2.2.8 NMAC;

(2) for all state agencies whose contracts are approved through the DFA's contracts review bureau, have the IPA's combined reporting system (CRS) number verified by the taxation and revenue department (TRD) after approval by the state auditor; and

(3) in the compensation section of the contract, include the dollar amount that applies to each element of the contracted procedures that will be performed;

(4) if applicable to the agency's audit contract or agreed-upon procedures engagement, the auditor shall perform additional procedures indicated in the "other provisions section" of the contract; if the additional procedures required by the "other provisions" section of the contract cause a significant change in the scope of the audit, then the contract amendment provisions of Subsection S of 2.2.2.8 NMAC will apply.

M. Professional liability insurance: The IPA shall maintain professional liability insurance covering any error or omission committed during the term of the contract. The IPA shall provide proof of such insurance to the state auditor with the firm profile, or with the firm information if the IPA performs only engagements pursuant to 2.2.2.16 NMAC. The amount maintained should be commensurate with the risk assumed. The IPA must provide to the state auditor, prior to expiration, updated insurance

information.

N. Breach of contract: A breach of any terms of the contract shall be grounds for immediate termination of the contract. The injured party may seek damages for such breach from the offending party. Any IPA who knowingly makes false statements, assurances, or disclosures may be disqualified from conducting audits or agreed upon procedures engagements of agencies or local public bodies in New Mexico.

O. Subcontractor requirements:

(1) Audit firms that have only one individual qualified to supervise a GAGAS audit and issue the related audit report pursuant to Section 61-28B-17 NMSA 1978, and GAGAS Paragraph 3.76 must submit with the firm profile, a completed original contingency subcontractor form that is dated to be effective until the date the next firm profile must be submitted. The form shall indicate which IPA on the state auditor's current list of approved IPA's will complete the IPA's audits in the event the one individual with the qualifications described above becomes incapacitated and unable to complete the audit. See the related contingency subcontractor form available at www.osanm.org. The office will not approve audit contracts for such a firm without the required original contingency subcontractor form.

(2) In the event an IPA chooses to use a subcontractor to assist the IPA in working on an audit, then the IPA must obtain the *prior written approval* of the state auditor to subcontract a portion of the audit work. The IPA may subcontract only with IPAs who have submitted a completed and approved firm profile to the state auditor as required in Subsection B of 2.2.2.8 NMAC. The audit contract shall specify subcontractor responsibility, who will sign the report(s), and how the subcontractor will be paid. See the related subcontractor form available at www.osanm.org.

P. IPA independence: The GAGAS 2011 revision was issued by the United States government accountability office (GAO). It became effective for financial audits and attestation engagements for periods ending on or after December 15, 2012 (FY13), and for performance audits that began on or after December 15, 2011. Pursuant to GAGAS 3.08, "auditors should apply the GAGAS conceptual framework at the audit organization, engagement, and individual auditor level to: identify threats to independence; evaluate the significance of the threats identified; both

individually and in the aggregate; and apply safeguards as necessary to eliminate the threats or reduce them to an acceptable level.” Auditors should use GAGAS Paragraphs 3.33 and 3.58 in evaluating threats to independence related to non-audit services. Note that the old guidance on this subject, government auditing standards: Answers to independence standard questions (GAO-02-870G, July 2002), has been retired. Pursuant to GAGAS 3.40, “auditors should establish and document their understanding with the audited entity’s management or those charged with governance, the following: objectives of the non-audit services; services to be performed; audited entity’s acceptance of its responsibilities; the auditor’s responsibilities; and any limitations of the non-audit services.”

(1) An IPA who performs the agency’s annual financial audit shall not enter into any special audit or non-audit service contract with the respective agency without the prior written approval of the state auditor. The exception to this requirement is an engagement that costs \$1,000 and less (exclusive of gross receipts tax) for client assistance with responses to IRS and other regulators. Only one exception per agency will be allowed per fiscal year. Requests for approval of professional service contracts should be submitted to the office with the original version of the signed agreement by the fifth of each month. The office shall review the requests and respond to the agency and the IPA by the 25th of each month. The following documentation must be submitted to the office for review and approval.

(a) The original professional services contract must be submitted to the state auditor for review and approval after it has been signed by the agency and the IPA. The contract must include the contract fee, start and completion date, and the specific scope of services to be performed by the IPA.

(b) For non-audit services, include the auditor’s documentation of:

- (i) whether management has the ability to effectively oversee the non-audit service pursuant to GAGAS 3.34;
- (ii) the documented assurance from the entity that management will assume all management responsibilities, oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge,

or experience; evaluate the adequacy and results of the services performed; and accept responsibility for the results of the services pursuant to GAGAS 3.37;

(iii) the auditor’s establishment and documentation (engagement letter) of the auditor’s understanding with the entity’s management or those charged with governance of the objectives of the non-audit services, the services to be performed, audited entity’s acceptance of its responsibilities, the auditor’s responsibilities, and any limitations of the non-audit service, pursuant to GAGAS 3.39; and

(iv) the auditor’s consideration of significant threats (if applicable) to independence that have been eliminated or reduced to an acceptable level through the application of additional safeguards, and a description of those safeguards.

(c) Upon completion of the non-audit services, the IPA must provide the state auditor with a copy of any report submitted to the agency. Such reports are not subject to the office review and release procedures unless 2.2.2.15 NMAC requires such review and release procedures.

(2) An IPA that is not the external auditor for the agency may not enter into any type of fraud-related engagement (this includes waste and abuse related engagements) with a New Mexico governmental entity without first obtaining the prior written approval of the state auditor. See 2.2.2.15 NMAC for the requirements to submit such reports to the office for review and release. If the proposed engagement is not subject to 2.2.2.15 NMAC, then prior written approval by the state auditor is not required when the IPA is not the agency’s external auditor. However, a copy of the contract that is unrelated to fraud and a copy of any report resulting from such a contract must be submitted to the office when requested by the office.

(3) The state auditor will not approve any contract for:

- (a) An agency’s external auditor to perform the following non-audit services that are management responsibilities:
 - (i) setting policies and strategic direction for the audited entity;
 - (ii) directing and accepting responsibility for the actions of the audited entity’s employees in the performance of their routine, recurring activities;

(iii) having custody of an audited entity’s assets;

(iv) reporting to those charged with governance on behalf of management;

(v) deciding which of the auditor’s or outside third party’s recommendations to implement;

(vi) accepting responsibility for the management of an audited entity’s project;

(vii) accepting responsibility for designing, implementing, or maintaining internal control;

(viii) providing services that are intended to be used as management’s primary basis for making decisions that are significant to the subject matter of the audit;

(ix) developing an audited entity’s performance measurement system when that system is material or significant to the subject matter of the audit; and

(x) serving as a voting member of an audited entity’s management committee or board of directors (GAGAS 3.36).

(b) The following non-audit services, pursuant to GAGAS 3.50, always impair the auditor’s independence:

(i) determining or changing journal entries, account codes or classifications for transactions, or other accounting records for the entity without obtaining management’s approval;

(ii) authorizing or approving the entity’s transactions;

(iii) preparing or making changes to source documents without management approval; source documents include those providing evidence that transactions have occurred (for example, purchase orders, payroll time records, customer orders, and contracts); such records also include an audited entity’s general ledger and subsidiary records or equivalent.

(c) The following non-audit services, pursuant to GAGAS 3.53 and 3.54, always impair the auditor’s independence:

(i) setting internal audit policies or the strategic direction of internal audit activities;

(ii) performing procedures that form part of the internal control, such as reviewing

and approving changes to employee data access privileges; and

(iii) determining the scope of the internal audit function and resulting work; and performing or supervising ongoing internal control monitoring procedures.

(d) The following non-audit services, pursuant to GAGAS 3.56, always impair the auditor's independence:

(i) designing or developing a financial or other information technology (IT) system that will play a significant role in the management of an area of operations that is or will be the subject matter of an audit;

(ii) providing services that entail making other than insignificant modifications to the source code underlying such a system; and

(iii) operating or supervising the operations of such a system.

(e) Pursuant to GAGAS 3.47, "valuation services that would have a material effect, separately or in the aggregate, on the financial statements or other information on which the audit firm is reporting, and the valuation involves a significant degree of subjectivity would impair the auditor's independence."

(f) The auditor's independence would also be impaired by the performance of any of the non-audit services listed at GAGAS 3.58 regarding the entity's non tax disbursements, benefit plan administration, investment advisory or management services, listed prohibited consulting or advisory services, executive or employee personnel matters, and business risk consulting.

Q. Progress Payments:

The state auditor will approve progress and final payments for the annual audit contract as follows:

(1) Subsection A of Section 12-6-14 NMSA 1978 (contract audits) provides that "payment of public funds may not be made to an independent auditor unless a contract is entered into and approved as provided in this section."

(2) Subsection B of Section 12-6-14(B) NMSA 1978 (contract audits) provides that the state auditor may authorize progress payments on the basis of evidence of the percentage of audit work completed as of the date of the request for partial payment.

(3) Progress payments up to seventy percent do not

require state auditor approval provided that the agency certifies the receipt of services before any payments are made to the IPA. The agency must monitor audit progress and make progress payments only up to the percentage that the audit is completed. If requested by the state auditor, the agency shall provide a copy of the approved progress billing(s).

Progress payments of seventy percent to ninety percent require state auditor approval after being approved by the agency. When component unit audits are part of a primary government's audit contract, requests for progress payments on the component unit audit(s) should be included within the primary government's request for progress payment approval. In this situation, the office will not process separate progress payment approvals submitted by the component unit.

(4) The state auditor may allow only the first fifty percent of progress payments to be made without state auditor approval for an IPA whose previous audits were submitted after the due date specified in Subsection A of 2.2.2.9 NMAC.

(5) Section 12-6-14 NMSA 1978 (contract audits) provides that final payment under an audit contract may be made by the agency to the IPA only after the state auditor has stated, in writing, that the audit has been made in a competent manner in accordance with contract provisions and this rule. The state auditor's determination with respect to final payment shall be stated in the letter accompanying the release of the report to the agency. Final payment to the IPA by the agency prior to review and release of the audit report by the state auditor is considered a violation of Section 12-6-14 NMSA 1978 and this rule and must be reported as an audit finding in the audit report of the agency. If this statute is violated, the IPA may be removed from the list of approved auditors.

R. Requirements for preparation of financial statements:

(1) The financial statements presented in audit reports shall be prepared from the agency's books of record and contain amounts rounded to the nearest dollar.

(2) The financial statements are the responsibility of the agency. The agency shall maintain adequate accounting records, prepare financial statements in accordance with accounting principles generally accepted in the United States of America, and provide complete, accurate, and timely information to the IPA as requested to

meet the audit report due date imposed in Subsection A of 2.2.2.9 NMAC.

(3) If there are differences between the financial statements and the books, the IPA must provide to the agency the adjusting journal entries and the supporting documentation that reconciles the financial statements in the audit report to the books.

(4) If the IPA prepared the financial statements for management's review and approval, in conformance with Subsection M of 2.2.2.8 NMAC, including documenting the safeguards as required by GAGAS 3.59, the fact that the auditor prepared the financial statements must be disclosed in the exit conference page of the audit report. If the IPA prepared the financial statements, the auditor must determine whether an AU-C 265.09 and .10 related audit finding should be reported.

(5) If the agency is a component of a primary government, the agency's procurement for audit services must include the AU-C 600 (group audits) requirements for the IPA to communicate and cooperate with the group engagement partner and team, and the primary government. This requirement applies to agencies and universities that are part of the statewide CAFR, other component units of the statewide CAFR and other component units of any primary government that use a different audit firm from the primary government's audit firm.

S. Audit documentation requirements:

(1) The IPA's audit documentation must be retained for a minimum of five years from the date shown on the opinion letter of the audit report or longer if requested by the federal oversight agency, cognizant agency, or the state auditor. The state auditor shall have access to the audit documentation at the discretion of the state auditor.

(2) When requested by the state auditor, all of the audit documentation shall be delivered to the state auditor by the deadline indicated in the request.

(3) The audit documentation of a predecessor IPA must be made available to a successor IPA in accordance with AU-C 510.07 and 510.A3 to 510.A11, and the predecessor auditor's contract. Any photocopy costs incurred will be borne by the requestor. If the successor IPA finds that the predecessor IPA's audit documentation does not comply with applicable auditing standards and this rule, or does not support the financial data presented in the audit report, the successor IPA shall notify

the state auditor in writing specifying all deficiencies. If the state auditor determines that the nature of deficiencies indicate that the audit was not performed in accordance with auditing or accounting standards generally accepted in the United States of America and related laws, rules and regulations and this rule, any or all of the following actions may be taken:

(a)

the state auditor may require the predecessor IPA firm to correct its working papers and reissue the audit report to the agency, federal oversight or cognizant agency and any others receiving copies;

(b)

the state auditor may deny or limit the issuance of future audit contracts and require that the IPA give precedence to outstanding multiple year proposals; or

(c)

the state auditor may refer the predecessor IPA to the New Mexico public accountancy board for possible licensure action.

T. Auditor communication requirements:

(1) The AICPA

requirements for auditor communication with those charged with governance are set forth in AU-C 260, effective for periods ending on or after December 15, 2012 (FY13). The 2011 version of GAGAS has the following additional requirements at GAGAS 4.03 and 4.04:

(a)

Auditors should communicate pertinent information that in the auditors' professional judgment needs to be communicated to individuals contracting for or requesting the audit, and to cognizant legislative committees when auditors perform the audit pursuant to a law or regulation, or they conduct the work for the legislative committee that has oversight of the audited entity."

(b)

"In those situations where there is not a single individual or group that both oversees the strategic direction of the audited entity and the fulfillment of its accountability obligations or in other situations where the identity of those charged with governance is not clearly evident, auditors should document the process followed and conclusions reached for identifying the appropriate individuals to receive the required auditor communications."

(2) After the

agency and IPA have an approved audit contract in place, the IPA shall prepare a written and dated engagement letter during the planning stage of a financial

audit, addressed to the appropriate officials of the agency, keeping a photocopy of the signed letter as part of the audit documentation. In addition to meeting the requirements of the AICPA guidance and the GAGAS requirements, the engagement letter should state that the engagement will be performed in accordance with 2.2.2 NMAC.

(3) A separate

engagement letter and list of client prepared documents is required for each fiscal year audited. The IPA shall provide a copy of the engagement letter and list of client prepared documents immediately upon request from the state auditor.

(4) The IPA

shall conduct an audit entrance conference with the agency. The office has the authority to notify the agency or IPA that the state auditor should be informed of the date of the entrance conference, any progress meetings and the exit conference. If such notification is received, the IPA and agency must invite the state auditor or his designee to attend all such conferences no later than 72 hours before the proposed conference or meeting.

(5) All

communications with management and the agency oversight officials during the audit, regarding any instances of non-compliance or internal control weaknesses, must be communicated in writing. The auditor should obtain responsible officials' views responding to the audit findings, pursuant to GAGAS 4.33. Any violation of law or good accounting practice including instances of non-compliance or internal control weaknesses must be reported as an audit finding per Section 12-6-5 NMSA 1978. Separate management letter comments shall not be issued as a substitute for such findings.

U. Contract amendments requirements:

(1) Contract

amendments to contracts for audit services, agreed upon procedures services, or non-audit services may be submitted to the office regarding executed contracts. Contract amendments submitted on an expired contract will be rejected. Any amendments to contracts should be made on the contract amendment form available at www.saonm.org. The form no longer includes a place for the office signature because the office no longer signs the contracts. The office will communicate its approval or disapproval of a proposed contract amendment in a letter to the IPA and agency. The contract should be amended prior to the additional work being performed or as soon as practicable

thereafter. Any amendments to the contract must be in compliance with the New Mexico Procurement Code, Sections 13-1-1 to 13-1-199 NMSA 1978. Notwithstanding the delivery dates of the contract, audit report regulatory due dates are not subject to amendment.

(2) Contract

amendments submitted for state auditor approval shall include a detailed explanation of:

(a)

the work to be performed and the estimated hours and fees required for completion of each separate professional service contemplated by the amendment;

(b)

how the work to be performed is beyond the scope of work outlined in the original contract; and

(c)

when the auditor or agency became aware the work needed to be performed.

(3) Since

annual financial audit contracts are fixed-price contracts, contract amendments for fee increases will only be approved for extraordinary circumstances or a significant change in the scope of an audit; for example, if an audit contract did not include a federal single audit, a contract amendment will be approved if a single audit is required. Other examples of significant changes in the scope of an audit include: the addition of a new program, function or individual fund that is material to the government-wide financial statements; the addition of a component unit; and special procedures required by a regulatory body or a local, state or federal grantor. Contract amendments will not be approved to perform additional procedures to achieve an unqualified opinion. The state auditor shall also consider the auditor independence requirements of Subsection N of 2.2.2.8 NMAC when reviewing contract amendments for approval. Requests for contract amendments should be submitted to the office with the original version of the signed contract amendment by the fifth of each month. The request for contract amendment should include a description of the work to be performed and the estimated hours required to perform the additional work. The office will review the requests and respond to the agency and the IPA by the 25th of each month. Requests for contract amendments submitted after the fifth of each month will not be reviewed and responded to by the office until the 25th of the following month.

(4)

If a proposed contract amendment

is disapproved for lack of adequate information, the IPA and agency may submit a corrected version for reconsideration.

(5)

The audit engagement letter shall not include any fee contingencies. The engagement letter shall not be interpreted as amending the contract. Nothing in the engagement letter can impact or change the amount of compensation for the audit services. Only a contract amendment submitted pursuant to Paragraph (3) of Subsection S of 2.2.2.8 NMAC may amend the amount of compensation for the audit services set forth in the contract.

V. Termination of audit contract requirements:

(1) The state auditor may terminate an audit contract to be performed by an IPA after determining that the audit has been unduly delayed, or for any other reason, and perform the audit entirely or partially with IPAs contracted by the office (consistent with the October 6, 1993, stipulated order *Vigil v. King*, No. SF 92-1487(C)). The notice of termination of the contract will be in writing.

(2) If the agency or IPA terminate the audit or agreed upon procedures engagement contract pursuant to the termination paragraph of the contract, the office should be notified of the termination immediately. The party sending out the termination notification letter must simultaneously send a copy of the termination notification letter to the office with an appropriate cover letter, addressed to the state auditor.

(a) The agency should follow the Procurement Code and Subsection H of 2.2.2.8 NMAC, Subsection A of 2.2.2.15 NMAC or Subsection D of 2.2.2.16 NMAC, to obtain the services of a different IPA.

(b) The IPA recommendation and completed contract for the newly procured IPA should be submitted to the office within 30 calendar days of the date of the termination notification letter.

(c) As indicated in Paragraph (3) of Subsection A of 2.2.2.9 NMAC, the state auditor will grant no extensions of time to the established regulatory due dates.

(d) If the agency does not expect to deliver the engagement report by the regulatory due date, the agency must submit a written notification letter to the state auditor and oversight agency as required by Paragraph

(5) of Subsection A of 2.2.2.9 NMAC and Paragraph (2) of Subsection H of 2.2.2.16 NMAC.

[2.2.2.8 NMAC - Rp, 2.2.2.8 NMAC 3-15-16]

2.2.2.9 REPORT DUE DATES:

A. Report due dates:

The auditor shall deliver the organized and bound annual financial audit report to the state auditor by 5:00 p.m. on the date specified in the audit contract or send it postmarked by the due date.

(1) The audit report due dates are as follows:

(a) regional education cooperatives, cooperative educational services and independent housing authorities: September 30;

(b) hospitals and special hospital districts: October 15;

(c) counties: November 1;

(d) school districts and higher education: November 15;

(e) district courts, district attorneys, and county/municipality governments (of which Los Alamos is the only one): December 1;

(f) pursuant to Section 12-6-3 NMSA 1978, state agency reports are due no later than 60 days after the state auditor receives notice from the financial control division of the department of finance and administration (DFA-FCD) that the agency's books and records are ready and available for audit, see Paragraph (1) of Subsection A of 2.2.2.12 NMAC for additional details regarding due dates for state agencies; *state agency reports are due no later than December 1 after the close of the fiscal year;*

(g) workforce investment boards, councils of governments and local public bodies including municipalities (see also Subsection H of 2.2.2.16 NMAC): December 15;

(h) agencies with a fiscal year-end other than June 30 must submit the audit report no later than *five months after the fiscal year-end;*

(i) regarding component unit reports (e.g., housing authorities, charter schools, hospitals, foundations, etc.), all separate audit reports prepared by an auditor that is different from the primary government's

auditor, are *due fifteen days before the primary government's audit report is due*, unless some other applicable due dates requires the report to be submitted earlier; and

(j) the state of New Mexico comprehensive annual financial report (CAFR) is due February 15.

(k) the education retirement board (ERB) and public employee retirement association (PERA) schedules of employer allocations and pension amounts reports required by Subsection X of 2.2.2.10 are due June 15.

(2) If an audit report is not delivered on time to the state auditor, the auditor must include this instance of non-compliance with Subsection A of 2.2.2.9 NMAC as an audit finding in the audit report. This requirement is not negotiable. If appropriate, the finding should also be reported as a significant deficiency, or material weakness in the operation of internal control in the agency's internal controls over financial reporting pursuant to auditing standards 09 and 10 265 AU-C.

(3) An organized bound hard copy of the report should be submitted for review by the office with the following: copy of the signed management representation letter and a copy of the completed state auditor report review guide (available at www.saonm.org). The report review guide should reference applicable page numbers in the audit report and be signed by the person completing the review guide. The audit manager or person responsible for the firm's quality control system should either complete the report review guide or sign off as having reviewed it. A report will not be considered submitted to the office for the purpose of meeting the deadline until a copy of the signed management representation letter, and the completed report review guide are also submitted to the office. All separate reports prepared for component units should also be submitted to the office for review, along with a copy of the management representation letter, and a completed report review guide for each separate audit report. A separate component unit report will not be considered submitted to the office for the purpose of meeting the deadline until a copy of the signed management representation letter and the completed report review guide are also submitted to the office. If a due date falls on a weekend or holiday, or if the office is closed due to inclement weather, the audit

report is due the following workday by 5:00 p.m. If the report is mailed to the state auditor, it should be postmarked no later than the due date to be considered filed by the due date. If the due date falls on a weekend or holiday the audit report shall be postmarked by the following workday. The state auditor will grant no extensions of time to the established regulatory due dates.

(4) Auditing standards 700.41 AU-C requires the auditor's report to be dated after audit evidence supporting the opinion has been obtained and reviewed, the financial statements have been prepared and the management representation letter has been signed. Auditing standards 580.20 AU-C requires the management representation letter to be dated the same date as the independent auditor's report.

(5) As soon as the auditor becomes aware that circumstances exist that will make an agency's audit report be submitted after the applicable due date shown in Subsection A of 2.2.2 NMAC above, the auditor shall notify the state auditor and oversight agency of the situation in writing. This notification shall consist of a letter, not an email. However, a scanned version of the official letter sent via email is acceptable. There must be a separate notification for each late audit report. The notification must include a specific explanation regarding why the report will be late, when the IPA expects to submit the report and a concurring signature by a duly authorized representative of the agency. If the IPA is going to miss the expected report submission date, then the IPA should send a revised notification letter. In the event the contract was signed after the report due date, the notification letter must still be submitted to the office explaining the reason the audit report will be submitted after the report due date. A copy of the letter must be sent to the legislative finance committee and the applicable oversight agency: Public education department, DFA's FCD, DFA's local government division, or the higher education department. The late report notification letter is not required if the report was submitted to the office for review by the deadline, and then rejected by the office, making the report late when resubmitted. At the time the audit report is due, if circumstances still exist that will make the report late, the IPA or agency may consult the state auditor regarding the opinion to be rendered, but such a discussion should occur no later than the date the audit report is due. It is not the responsibility of the auditor to go beyond

the scope of auditing standards generally accepted in the United States of America, or the audit report due date, to assure an unmodified opinion. Therefore, reports resubmitted to the office with changes of the IPA's opinion after the report deadline will be considered late and a late audit finding must be included in the audit report.

B. Delivery and release of the audit report:

(1) All audit reports (and all separate reports of component units if applicable) must be organized, bound and paginated. The office does not accept facsimile or e-mailed versions of the audit reports for initial review. The IPA shall deliver to the state auditor a hard copy of the audit report for review by 5:00 p.m. on the day the report is due. Reports postmarked by the due date will be considered received by the due date. Unfinished or excessively deficient reports will not satisfy this requirement; such reports will be rejected and returned to the IPA and the office may take action in accordance with Subsection C of 2.2.2.13 NMAC. When the office rejects and returns a substandard audit report to the IPA, the office will consider the audit report late if the corrected report is not resubmitted by the due date. The IPA will also be required to report a finding for the late audit report in the audit report. The firm should submit an electronic version of the corrected rejected report for office review. The name of the electronic file should be "corrected rejected report" followed by the agency name and fiscal year.

(2) Before initial submission, the IPA should review the report using the appropriate report review guide available on the office's website. All questions in the guide must be answered, and the reviewer must sign and date the last page of the guide. The audit manager or person responsible for the IPA's quality control system must either complete the report review guide or sign off as having reviewed the completed questionnaire. If the review guide is not accurately completed or incomplete, the report will not be accepted.

(3) IPAs are encouraged to deliver completed audit reports before the due date to facilitate the review process performed by the office. The office will review all audit reports submitted by the report due date before reviewing reports that are submitted after the report due date. Once the review of the report is completed pursuant to 2.2.2.13 NMAC, and any significant deficiencies have been corrected by the

IPA, the office will indicate to the IPA that the report is ready to print. After the office review of the final version of the audit report pursuant to 2.2.2.13 NMAC, the office will authorize the IPA to submit the following items to the office within five business days; the required number of hardcopies specified in the audit contract; and an electronic searchable version of the audit report labeled "final," in PDF format, an electronic excel version of the summary of findings report, and an electronic excel version of the vendor schedule and an electronic excel version of the completed fund balance form (all available at www.saonm.org). The office will not release the report until the searchable electronic version of the report and the electronic excel versions of the summary of findings report, the vendor schedule and the fund balance form that meet the following criteria are received by the office. The electronic file containing the final audit report must:

(a) be created and saved as a PDF document in a single PDF file format (simply naming the file using a PDF extension .pdf does not by itself create a PDF file);

(b) be version 5.0 or newer;

(c) not exceed 10 megabyte (MB) per file submitted (contact the office to request an exception if necessary);

(d) have all security settings like self-sign security, user passwords, or permissions removed or deactivated so the office is not prevented from opening, viewing, or printing the file;

(e) not contain any embedded scripts or executables, including sound or movie (multimedia) objects;

(f) have a file name that ends with .pdf;

(g) be free of worms, viruses or other malicious content (a file with such content will be deleted by the office);

(h) be "flattened" into a single layer file prior to submission;

(i) not contain any active hypertext links, or any internal/external links (although it is permissible for the file to textually reference a URL as a disabled link);

(j) be saved at 300 dots per inch (DPI) (lower DPI will make the file hard to read and higher DPI will make the file too large);

(k) the electronic file name must start with

“final version,” followed by the name of the agency and the fiscal year, and then end with .pdf; and

(l) the electronic file must be searchable.
 (4) The IPA shall deliver to the agency the number of copies of the audit report indicated in the audit contract only after the state auditor has officially released the audit report with a “release letter” unless the agency submitted a letter to the office requesting to waive the five day waiting period. Release of the audit report to the agency or the public prior to it being officially released by the state auditor will result in an audit finding. The agency or the IPA shall ensure that every member of the agency’s governing authority receives a copy of the audit report.

(5) After the release of a report, the office will provide DFA and the legislative finance committee with notification that the report is available on the office website.

(6) If an audit report is reissued pursuant to auditing standards Section 560 AU-C, subsequent events and subsequently discovered facts, and AAG-GAS 23.29 and 23.30 for single audits, the reissued audit report must be submitted to the office with a cover letter addressed to the state auditor. The cover letter must explain that:

(a) the attached report is a “reissued” report;

(b) the circumstances that caused the reissuance; and

(c) a summary of the changes that appear in the reissued report; the office will subject the reissued report to the report review process and upon completion of that report review process, will issue a “release letter;” the contents of the reissued audit report are subject to the same confidentiality requirements described in Paragraph (3) of Subsection J of 2.2.2.10 NMAC; agency management and the IPA are responsible for ensuring that the latest version of the report is provided to each recipient of the prior version of the report; the office will notify the appropriate oversight agencies regarding the updated report on the office website.

(7) If changes to a released audit report are submitted to the office, and the changes do not rise to the level of requiring a reissued report, the IPA shall submit a cover letter addressed to the agency, with a copy to the state auditor, that includes the following minimum elements:

(a) a

statement that the changes did not rise to the level of requiring a reissued report;

(b) a description of the circumstances that caused the resubmitted updated report; and

(c) a summary of the changes that appear in the resubmitted updated report compared to the prior released report; agency management and the IPA are responsible for ensuring that the latest version of the resubmitted report is provided to each recipient of the prior version of the report; the office will notify the appropriate oversight agencies regarding the updated report on the office website.

C. Required status reports: For an agency that has failed to submit audit or agreed-upon procedures reports as required by this rule, the state auditor may require the agency to submit a status report to the office in accordance with deadlines specified by the state auditor. The status report shall be signed by a member of the agency’s governing authority, a designee of the governing authority or a member of the agency’s top management. At a minimum, the report shall include:

(1) a detailed explanation of the agency’s efforts to complete and submit its audit or agreed-upon procedures;

(2) an explanation of the current status of any ongoing audit or agreed-upon procedures work;

(3) a description of any obstacles encountered by the agency in completing its audit or agreed-upon procedures; and

(4) a projected completion date for the financial audit or agreed-upon procedures.

[2.2.2.9 NMAC - Rp, 2 2.2.9 NMAC, 3-15-16]

2.2.2.10 GENERAL

CRITERIA:

A. Scope of annual financial audit:

(1) The financial audit shall cover the entire financial reporting entity including the primary government and any component units of the primary government.

(a) Entities must be reported as component units within the financial statements of the primary government, if the primary government is financially accountable for the entity (GASBS 14 Paragraph 10) or if the nature and significance of the entity to the primary government

warrants inclusion (GASBS 39 Paragraphs 5 and 6). The primary government, in conjunction with its auditors, must determine whether an agency that is a separate legal entity from the primary government is a component unit of the primary government as defined by GASBS 14 (as amended) and 39. The flowchart at GASBS 61 Paragraph 68 is useful for this determination. All agencies that meet the criteria of GASBS 14 (as amended) or 39 to be a component unit of the primary government must be included with the audited financial statements of the primary government by discrete presentation unless otherwise approved by the state auditor. Exceptions may occur when an agency requires presentation other than discrete. An exemption must be requested by the agency, in writing, from the state auditor in order to present a component unit as other than a discrete component unit. The request for an exemption must include a detailed explanation, conclusion and supporting documentation justifying the request for blended component unit presentation. The approval of the state auditor for the exemption is required prior to issuing the report. Per Paragraph 1.01 of AAG-SLV, not-for-profit component units should be reported using the government financial reporting format if they have one or more of the following characteristics: popular election of officers or appointment (or approval) of a controlling majority of the members of the organization’s governing body by officials of one or more state or local governments; the potential for unilateral dissolution by a government with the net assets reverting to the government; or the power to enact and enforce a tax levy. If a not-for-profit does not qualify to be reported using the governmental format under the above criteria, that fact should be explained in the notes to the financial statements (summary of significant accounting policies financial reporting entity).

(b) If a primary government has no component units, that fact should be disclosed in the notes to the financial statements (summary of significant accounting policies financial reporting entity). If the primary government has component units that are not included in the financial statement due to materiality, that fact must also be disclosed in the notes. However, if the primary government is a state agency, department or board, or public institution of higher education or public post-secondary educational institution, county, municipality or public school district, Section 6-5A-1 NMSA 1978

requires all 501(c) 3 component unit organizations with a gross annual income in excess of two hundred fifty thousand dollars (\$250,000) to receive an audit. Such component units cannot be excluded from the audit based on the "materiality" criterion.

(c)

The state auditor requires the component unit(s) to be audited by the same audit firm that audits the primary government (except for public housing authority component units that are statutorily exempt from this requirement and the statewide CAFR). Requests for exemption from this requirement must be submitted in writing by the primary government to the state auditor. If the request to use a different auditor for the component unit is approved in writing by the state auditor, the following requirements must be met:

(i)

the group engagement partner should agree that the group engagement team will be able to obtain sufficient appropriate audit evidence through the use of the group engagement team's work or use of the work of the component auditors (auditing standards 600.15 AU-C);

(ii)

the component unit auditor selected must appear on the office of the state auditor list of eligible independent public accountants;

(iii)

the bid and auditor selection processes must comply with the requirements of this rule;

(iv)

the office of the state auditor standard contract form must be used;

(v)

the primary government, the primary engagement partner, management of the component unit, and the component auditor should all coordinate their efforts to ensure that the audit reports of the component unit and the primary government are submitted by the applicable deadlines;

(vi)

all component unit findings must be disclosed in the primary government's audit report (except the statewide CAFR is required to include only separate legal component unit findings that are significant to the state as a whole); and

(vii)

any separately issued component unit audit report must be submitted to the state auditor for the review process described in 2.2.2.13 NMAC.

(d)

The level of planning materiality required

by the state auditor for component units is at the individual fund level. This requirement does not apply to the audit of the statewide CAFR. College and university component units have a different materiality level. See Paragraph (3) of Subsection E of 2.2.2.12 NMAC.

(e)

With the exception of the statewide CAFR, the following supplemental information (SI) pertaining to component units should be audited at the more detailed fund level included in the scope of the audit and opined on as illustrated in example A-14 (AAG-SLV Appendix A at 15.103): Component unit fund financial statements, and the combining and individual fund financial statements if separately issued financial statements of the component units are not available (AAG-SLV 3.22); and individual fund budgetary comparisons when a legally adopted budget exists for a fund if separately issued financial statements are not available. The office interprets a "legally adopted budget" to exist any time the agency prepares a budget and in every case where an entity receives federal funds, state funds, or any other "appropriated" funds.

(2) Audits of

state and local governmental agencies shall be comprised of a financial and compliance audit of the financial statements and schedules as follows:

(a)

The level of planning materiality required by the state auditor is at the individual fund level. The state auditor requires that the budgetary comparison statements be audited and included as part of the basic financial statements consistent with GASBS 34 footnote 53 and AAG-SLV 11.13. The level of planning materiality described in the AICPA audit and accounting guide, state and local governments, paragraphs 4.72 to 4.73, should be used for the statewide CAFR audit.

(b)

The scope of the audit includes the following statements and disclosures which the auditor is required to audit and give an opinion on, the basic financial statements consisting of:

(i)

the government-wide financial statements;

(ii)

fund financial statements;

(iii)

budgetary comparison statements (for only the general fund and major special revenue funds when the budget information is available on the same fund structure basis as the GAAP fund

structure); and

(iv)

notes to the financial statements.

(c)

The auditor must audit the following required supplemental information, if applicable, and include it in the auditor's opinion (AAG-SLV 15.62 and 15.65). Budgetary comparisons for the general fund and major special revenue fund data presented on a fund, organization, or program structure basis because the budgetary information is not available on the GAAP fund structure basis for those funds (GASB statement No. 41, budgetary comparison schedules-perspective differences an amendment of GASB statement No. 34).

(d)

With the exception of the statewide CAFR, the auditor must audit the following supplemental information at the individual fund level, if applicable, and opine on it in the auditor's opinion following example A-14 (AAG-SLV Appendix A at 15.103):

(i)

component unit fund financial statements, and the combining and individual fund financial statements (if there are no separately issued financial statements on the component unit per AAG-SLV 3.22);

(ii)

combining and individual fund financial statements; and

(iii)

individual fund budgetary comparison statements for the remaining funds that have a legally adopted budget including any major capital project or debt service funds, non-major governmental funds, enterprise funds and internal service funds.

(e)

The auditor shall apply procedures and report in the auditor's report on the following RSI (if applicable) pursuant to AU-C 730:

(i)

management's discussion and analysis (GASBS 34.8-11);

(ii)

RSI data required by GASBS 67 and 68 for defined benefit pension plans;

(iii)

RSI schedules required by GASBS 43 for postemployment benefit plans other than pension plans;

(iv)

RSI schedules required by GASBS 45 regarding employer accounting and financial reporting for postemployment benefits other than pensions; and

(v)

infrastructure modified approach

schedules derived from asset management systems (GASBS 34 Paragraphs 132 and 133).

(f)

The audit engagement and audit contract compensation include an AU-C 725 opinion on the remaining supplemental information schedules presented in the audit report.

(i)

some examples of remaining SI schedules are; the schedule of expenditures of federal awards required by OMB Circular A-133; the schedule of pledged collateral required by Paragraph (3) of Subsection N of 2.2.2.10 NMAC; the schedule of changes in assets and liabilities for agency funds required by Subsection Z of 2.2.2.10 NMAC; the school district schedule of cash reconciliation required by Subparagraph (e) of Paragraph (4) of Subsection C of 2.2.2.12 NMAC.

(ii)

the auditor shall subject the information on the remaining SI schedules to the procedures required by AU-C 725;

(iii)

in addition, the school district schedule of cash reconciliation SI shall be subjected to audit procedures that ensure the cash per the schedule reconciles to the PED reports as required by Subparagraph (b) of Paragraph (4) of Subsection C of 2.2.2.12 NMAC;

(iv)

the auditor shall report on the remaining supplementary information (SI) in an explanatory paragraph following the opinion paragraph in the auditor’s report on the financial statements pursuant to AU-C 725; see also the independent auditors report example on the office website at www.saonm.org.

(g)

The audit engagement and audit contract compensation include AU-C 720 procedures and auditor reporting be performed on a *schedule of vendor information*. The agency shall prepare a schedule of vendors using the form and instructions available on www.saonm.org, for *procurements* exceeding \$60,000 (excluding gross receipts tax) that occurred during the audited fiscal year, that includes the following information: request for bid or request for proposal number; type of procurement, request for proposal (RFP), sole source, etc.; vendor that received the award; dollar amount of the awarded contract; dollar amount of any contract amendment during the fiscal year that caused a previously awarded contract to exceed \$60,000; the names and physical addresses of all vendors that responded to requests for bids or

requests for proposals during the fiscal year; whether the vendor was an in-state vendor or an out-of-state vendor (based on the statutory definition); if the vendor was in-state and chose the veterans’ preference instead of the in-state preference (this is n/a for federal funds); and a short description of the scope of work. The schedule should include the following for contracts totaling over \$60,000 (excluding gross receipts tax) regardless of whether related expenditures exceeded \$60,000 during the fiscal year: competitive procurements; sole-source procurements; and emergency procurements. The schedule should not include information on a multi-year procurement that occurred in a prior year unless there was a contract amendment during the current fiscal year that caused the previously existing contract to exceed \$60,000 for the first time. The schedule should not include procurements that agencies performed based on statewide pricing agreements obtained by general services department (GSD) or cooperative educational services. However, agencies like GSD and cooperative educational services that perform procurement services for other agencies that result in price agreements must disclose all their procurements in their vendor schedules in their own audit reports, including procurements that resulted in price agreements.

B. Reverting or

non-reverting funds: Legislation can designate a fund as reverting or non-reverting. The IPA must review the state law that appropriated funds to the agency to confirm whether any unexpended, unencumbered balance of a specific appropriation must be reverted and to whom. The law will also indicate the deadline for the required reversion. Appropriate audit procedures must be performed to determine compliance with the law and accuracy of the related liability account balances due to other funds, governmental agencies, or both. *The financial statements and the accompanying notes should fully disclose the reverting or non-reverting status of a fund or appropriation. The financial statements must disclose the specific legislation that makes a fund or appropriation non-reverting and any minimum balance required.* If non-reverting funds are commingled with reverting appropriations, the notes to the financial statements must disclose the methods and amounts used to calculate reversions. For more information regarding state agency reversions, see Subsection A of 2.2.2.12 NMAC and the DFA white papers “calculating reversions

to the state general fund,” and “basis of accounting—modified accrual and the budgetary basis.” The statewide CAFR is exempt from this requirement.

C. Governmental

auditing, accounting and financial reporting standards: The audits shall be conducted in accordance with:

(1) (GAGAS)

issued by the U.S. general accounting office, the 2011 revision;

(2) U.S.

auditing standards--AICPA (clarified) effective for periods ending on or after December 15, 2012;

(3) uniform

administrative requirements, cost principles, and audit requirements for federal awards (uniform administrative requirements) (applicable for FY16 audits);

(4) AICPA audit

guide, government auditing standards and single audits, (AAG-GAS) latest edition;

(5) AICPA

audit and accounting guide, state and local governments (AAG-SLV) latest edition; and

(6) 2.2.2

NMAC, requirements for contracting and conducting audits of agencies, latest edition.

D. Financial statements

and notes to the financial statements:

The financial statements and notes to the financial statements shall be prepared in accordance with accounting principles generally accepted in the United States of America. Governmental accounting principles are identified in the government accounting standards board (GASB) codification, latest edition. Auditors shall follow interpretations, technical bulletins, concept statements issued by GASB, other applicable pronouncements, and GASB illustrations and trends for financial statements. In addition to the revenue classifications required by NCGAS 1.110, the office requires that the statement of revenues, expenditures, and changes in fund balances governmental funds include intergovernmental revenue from federal sources and intergovernmental revenue from state sources, as applicable.

E. [RESERVED]

F. State auditor

workpaper requirement: The state auditor requires that audit workpapers include a written audit program for fund balances and net position that include tests for proper classification of fund balances pursuant to GASBS 54 and proper classification of net position as restricted or unrestricted pursuant to GASBS 34.34 to 34.37 (as amended) and GASBS 46.4

and 46.5 (as amended).

G. State compliance audit requirements: An IPA shall identify significant state statutes, rules and regulations applicable to the governmental agency under audit and perform tests of compliance. In addition to the significant state statutes, rules and regulations identified by the IPA, the following state statutes and constitutional provisions must be tested (with the exception of the statewide CAFR audit):

(1) Procurement code Sections 13-1-1 to 13-1-199 NMSA 1978 including providing the state purchasing agent with the name of the agency's or local public body's chief procurement officer, pursuant to Section 13-1-95.2 NMSA 1978, and state purchasing regulations 1.4.1 NMAC, or home rule equivalent.

(2) Per Diem and Mileage Act Sections 10-8-1 to 10-8-8 NMSA 1978, regulations governing the per diem and Mileage Act, and 2.42.2.11 NMAC, mileage-private conveyance, effective June 19, 2009.

(3) Public Money Sections 6-10-1 to 6-10-63 NMSA 1978 including the requirements of Subsection A and B of Section 6-10-10 NMSA 1978 that county and municipal treasurers deposit money in their respective counties, and the requirement of Section 6-10-17 NMSA 1978 that the agency receive a joint safe keeping receipt for pledged collateral.

(4) Public School Finance Act (Sections 22-8-1 to 22-8-48 NMSA 1978).

(5) Investment of Public Money (Sections 6-8-1 to 6-8-21 NMSA 1978).

(6) For Public Employees Retirement Act (Sections 10-11-1 to 10-11-141 NMSA 1978) auditors should test to ensure one hundred percent of payroll is reported to PERA. PERA membership is mandatory under the PERA Act, unless membership is specifically excluded pursuant to Section 10-11-3(B) NMSA 1978.

(7) Educational Retirement Act (Sections 22-11-1 to 22-11-55 NMSA 1978).

(8) Sale of public property (Sections 13-6-1 to 13-6-8 NMSA 1978).

(9) Anti-donation clause (NM constitution article IX, Section 14).

(10) Special, deficiency, and specific appropriations (appropriation laws applicable for the year under audit).

(11) State agency budget compliance with Sections 6-3-1 to 6-3-25 NMSA 1978, and local government budget compliance with Section 6-6-2 and Section 6-6-5 to Section 6-6-7 NMSA 1978.

(12) Lease purchase agreements (New Mexico Constitution Article IX, Section 8 and 11; Sections 6-6-11 to 6-6-12 NMSA 1978; Montano v. Gabaldon, 108 NM 94, 766 P.2d 1328, 1989).

(13) 2.20.1.1 to 2.20.1.18 NMAC, accounting and control of fixed assets of state government (updated for GASBS 34 as applicable).

(14) 2.2.2 NMAC, requirements for contracting and conducting audits of agencies.

(15) Article IX of the state constitution limits on indebtedness.

(16) For agencies receiving general fund appropriations, Laws of 2014 regular session, Chapter 63, Section 3, Subsection J states, "except for gasoline credit cards used solely for operation of official vehicles, telephone credit cards used solely for official business and procurement cards used as authorized by Section 6-5-9 NMSA 1978, none of the appropriations contained in the General Appropriation Act of 2014 may be expended for payment of agency-issued credit card invoices".

(17) For Retiree Health Care Authority Act (Section 10-7C-1 to 10-7C-19 NMSA 1978) auditors should test to ensure one hundred percent of payroll is reported to NMRHCA. RHCA employer and employee contributions are set forth in Section 10-7C-15 NMSA 1978.

(18) Governmental Conduct Act (Sections 10-16-1 to 10-16-18 NMSA 1978).

(19) School Personnel Act (Sections 22-10A-1 to 22-10A-39 NMSA 1978) and.

(20) Whether the district has submitted the school-district-level reports required by the School Athletics Equity Act (Sections 22-31-1 to 22-31-6 NMSA 1978), although no auditing of the reports or the data therein is required.

H. Federal requirements the following federal compliance audit requirements must be tested (with the exception of the statewide CAFR audit):

(1) The following government pronouncements establish requirements and give guidance

for "yellow book" and single audits:

(a) generally accepted government auditing standards (GAGAS) issued by the U.S. government accountability office, latest effective edition;

(b) uniform administrative requirements, cost principles, and audit requirements for federal awards;

(c) the compliance supplement, latest edition; and

(d) OMB catalog of federal domestic assistance (CFDA), latest edition.

(2) Internal revenue service (IRS) employee income tax compliance issues non-compliance with these IRS requirements requires a current year audit finding.

(a) Employee fringe benefits are presumed by the IRS to be income to the employee unless they are specifically excluded from income by the tax code. Any employee fringe benefits not excluded from income by the tax code must be reported on the employee's W-2. Examples of such fringe benefits could be: meal allowances paid to employees for meals away from home when overnight travel is not involved; discounted housing like school district teacherages, dues for membership in clubs organized for business, pleasure, recreation, or other social purpose (except rotary & kiwanis club); cash and non-cash awards, and employee insurance benefits for dependents who do not meet the IRS definition of a "dependent." Personal use of a government agency vehicle is always taxable income to the employee unless the vehicle is a qualified non-personal use vehicle provided to the employee as a "working condition fringe benefit," under applicable IRS guidance.

(i) examples of qualified non-personal use vehicles are: clearly marked police and fire vehicles; unmarked law enforcement vehicles (officer must be authorized to carry a firearm and have arrest authority); ambulance or hearse; vehicle with gross weight over 14,000 lbs.; 20 passenger bus and school bus; tractor and other farm equipment; and delivery truck with driver seating only;

(ii) the value of commuting and other personal use of a "nonqualified vehicle" must be included on the employee's W-2; there are three rules the IRS allows to be used for valuing personal use of an employer's vehicle; automobile lease valuation rule; cents-per-mile rule; and

the commuting rule (three dollars (\$3.00) per day); for more detailed information regarding valuation of personal use of vehicles see IRS Pub. 15-B.

(b)

For more information regarding these and other IRS issues please contact the federal state and local government specialist with the IRS, in Albuquerque, NM at 505-837-5610.

I. Audit finding requirements:

(1)

Communicating findings: Pursuant to GAGAS 4.23, “auditors should communicate in the report on internal control over financial reporting and compliance, based upon the work performed: significant deficiencies and material weaknesses in internal control; instances of fraud and non-compliance with provisions of laws or regulations that have a material effect on the audit and any other instances that warrant the attention of those charged with governance; non-compliance with provisions of contracts or grant agreements that has a material effect on the audit; and abuse that has a material effect on the audit.”

(a)

AU-C 260.09 requires the auditor to evaluate deficiencies to determine whether individually or in combination they are significant deficiencies or material weaknesses. Guidance for evaluating deficiencies is available at AU-C 260.A5 through 269.A11. Examples of circumstances that may be deficiencies, significant deficiencies, or material weaknesses are listed at AU-C 260.A37.

(b)

Findings that meet the requirements of AAG-GAS 4.12 should be included in the report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with government auditing standards. *As required by Uniform Guidance, only the findings that meet the requirements of AAG-GAS 23.35 Table 23-2 should be included in the Schedule of Findings and Questioned Costs.*

(c)

Section 12-6-5 NMSA 1978 requires that “each report set out in detail, in a separate section, any violation of law or good accounting practices found by the audit or examination.” Therefore, any findings required by this statute, that do not meet the requirements of AAG-GAS described above to be included in the report on internal controls or the schedule of findings and questioned costs, must be presented in a *separate schedule of*

findings labeled “Section 12-6-5 NMSA 1978 findings” in the back of the audit report following the schedule of findings that do meet the applicable AAG-GAS reporting requirements. Per the uniform guidance at AAG-GAS 23.45 there is no requirement for such findings to be included or referenced in the uniform guidance compliance report.

(2) Prior year

findings:

(a)

GAGAS Section 4.05 (2011 revision) requires auditors to “evaluate whether the audited entity has taken appropriate corrective action to address findings and recommendations from previous engagements that could have a material effect on the financial statements or financial data significant to the audit objectives. When planning the audit, auditors should ask management of the audited entity to identify previous audits, attestation engagements, and other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented. Auditors should use this information in assessing risk and determining the nature, timing, and extent of current audit work, including determining the extent to which testing the implementation of the corrective actions is applicable to the current audit objectives.” In addition to this standard, the IPA will report the status of *all* prior-year findings in the current year audit report including the current year finding reference number (if repeated) followed by the original finding reference number, appearing in brackets, the title of the finding, and whether the finding has been resolved or repeated in the current year. Findings from special audits performed by the state auditor must be included in the findings of the annual financial and compliance audits of the related fiscal year.

(b)

Uniform guidance regarding single audit prior year findings: uniform guidance Section 200.511, states, the auditee is responsible for follow-up and corrective action on all audit findings. As a part of this responsibility, the auditee must prepare a corrective action plan for current year audit findings and a summary schedule of prior audit findings. The corrective action plan and the summary schedule of prior audit findings must include the reference numbers the auditor assigns to the audit findings. The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements which are required to be

reported in accordance with government auditing standards. Per uniform guidance 200.511(c) *the auditee must prepare, in a document separate from the auditor’s findings, a corrective action plan to address each audit finding included in the current year auditor’s reports.* The corrective action plan must provide the names(s) of the contact persons(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, the corrective action plan must include an explanation and specific reasons. The summary schedule of prior audit findings must report the status of all audit findings included in the prior audit’s schedule of findings and questioned costs. Since the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred. The summary schedule must also include audit findings reported in the prior audit’s summary schedule of prior audit findings except audit findings listed as corrected in accordance with Paragraph (2) of Subsection I of 2.2.2.10 NMAC, or no longer valid or not warranting further action in accordance with Item (iii) of Subparagraph (b) of Paragraph (2) of Subsection I of 2.2.2.10 NMAC.

(i)

When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(ii)

When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding’s recurrence and planned corrective action, and any partial corrective action taken. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the federal agency’s or pass-through entity’s management decision, the summary schedule must provide an explanation.

(iii)

When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred: two years have passed since the audit report in which the findings occurred was submitted to the federal audit clearinghouse (FAC); the federal agency or pass-through

entity is not currently following up with the auditee on the audit findings; and a management decision was not issued. A management decision is a written decision to the auditee from the federal awarding agency or pass-through entity as to what corrective action is necessary.

(vi)

AAG-GAS 23.45 footnote 37 states that the summary schedule of prior year findings and the corrective action plan are two documents that are required to be included in the reporting package submitted to the FAC.

(c)

Pursuant to AAG-GAS 23.48 the auditor must follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with the uniform guidance, and report, as a current-year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding.

(3) Current-year

audit findings:

(a)

The data collection form requires federal award audit finding reference numbers to: have a standard format with the four digit audit year, a hyphen and a three digit sequence number (e.g. 2013-001, 2013-002...2013-999); and match the finding reference numbers on the data collection form (form SF-SAC) to those reported in the schedule of findings and questioned costs and the applicable auditor's report. Therefore, all current year audit findings will follow this required format. Depending on the IPA's classification of the finding, the finding reference number should be followed by one of the following descriptions: "material weakness" in internal control; "significant deficiency" in internal control; "material non-compliance"; "other non-compliance"; or "findings that do not rise to the level of a significant deficiency." Any unresolved prior-year findings must be repeated in the current year using this format. However, as noted above, the status report of all prior year findings will include the old original finding number in brackets, following the new standardized finding reference number, to enable the report user to see what year the finding was originally written.

(b)

Written audit findings should be prepared and submitted to the agency management as soon as the IPA becomes aware of the findings so the agency has time to respond to the findings prior to the exit conference.

Findings are not subject to negotiation.

The agency should also prepare "planned corrective actions" as required by GAGAS 4.33. The agency shall respond, in writing, to the IPA's audit findings within 10 business days. The agency's responses to the audit findings and the "planned corrective actions" should be included in the finding after the recommendation. Pursuant to GAGAS 4.38, "When the audited agency's comments are inconsistent or in conflict with findings, conclusions, or recommendations in the draft report, or when planned corrective actions do not adequately address the auditor's recommendations, the auditors should evaluate the validity of the audited agency's comments. If the auditors disagree with the comments, they should explain in the report their reasons for disagreement," after the agency's response. "Conversely, the auditors should modify their report as necessary if they find the comments valid and supported with sufficient, appropriate evidence." Lack of agency responses within the 10 business days does not warrant a delay of the audit report. Pursuant to GAGAS 4.39, "If the audited agency refuses to provide comments or is unable to provide comments within a reasonable period of time, the auditors may issue the report without receiving comments from the audited entity. In such cases, the auditors should indicate in the report that the audited entity did not provide comments."

(c)

Each audit finding (including unresolved prior-year findings) shall specifically state and describe the following:

(i)

condition (provides a description of a situation that exists and should include the extent of the condition and an accurate perspective; the number of instances found and the dollar amounts involved, if any, and *for repeat findings, include here, management's progress or lack of progress towards implementing the prior year planned corrective actions;*

(ii)

criteria (should identify the required or desired state or what is expected from the program or operation; should cite the specific section of law, regulation, ordinance, contract, or grant agreement if applicable);

(iii)

effect (the logical link to establish the impact or potential impact of the difference between the situation that exists (condition) and the required or desired state (criteria); demonstrates the need for corrective action in response to identified

problems or relevant risks;

(iv)

cause (identifies the reason or explanation for the condition or the factors responsible for the difference between what the auditors found and what is required or expected; the cause will serve as a basis for the recommendation);

(v)

recommendation addressing each condition and cause; and

(vi)

agency response (agency's comments about the finding including a specific planned corrective actions with a timeline and designation of what employee position(s) are responsible for meeting the deadlines in the timeline).

(4) If

appropriate in the auditor's professional judgment, failure to submit the completed audit contract to the office by the due date at Subparagraph (c) of Paragraph (6) of Subsection H of 2.2.2.8 NMAC may be considered a current year compliance finding.

(5) If an agency

has entered into any professional services contract with the IPA who performs the agency's annual financial audit, or the scope of work on any professional services contract relates to fraud, and the contract was not approved by the state auditor, this shall be reported as a finding of non-compliance with Subsection N of 2.2.2.8 NMAC.

(6) If an agency

subject to the procurement code failed to meet the requirement to have a certified chief procurement officer during the fiscal year, pursuant to 1.4.1.94 NMAC.

(7) Component

unit audit findings must be reported in the primary government's financial audit report. This is not required for the statewide CAFR unless a legally separate component unit's (like NM finance authority's or NM mortgage finance authority's) finding is significant to the state as a whole.

(8) A release of

the audit report by the IPA or agency prior to being officially released by the state auditor is a violation of Section 12-6-5 NMSA 1978 and will require an additional finding in the audit report.

(9) When

auditors detect immaterial violations of provisions of contracts or grant agreements or abuse that are required to be reported by Section 12-6-5 NMSA 1978, that do not rise to the level of significant deficiencies or material weaknesses, those findings should be classified as warranting the attention of

those charged with governance, since Section 12-6-5 NMSA 1978 requires any violation of law found by the audit to be set out in detail in the report. The auditor must communicate such violations in the “compliance and other matters” paragraph in the report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with government auditing standards. (see the report on internal control examples at www.saoonm.org).

(10) In the event that an agency response to a finding indicates in any way that the office is the cause of the finding, the office may require that a written response from the office of the state auditor be included in the report, below the other responses to that finding.

J. Exit conference and related confidentiality issues:

(1) The IPA must hold an exit conference with representatives of the agency’s governing authority and top management including representatives of any component units (housing authorities, charter schools, hospitals, foundations, etc.) if applicable. The office has the authority to notify the agency or IPA that the state auditor should be informed of the date of the entrance conference, any progress meetings and the exit conference. If such notification is received, the IPA and agency must invite the state auditor or his designee to attend all such conferences. If component unit representatives cannot attend the combined exit conference, a separate exit conference must be held with the component unit’s governing authority and top management. *Unless the cost of the audit is five thousand dollars (\$5,000) or less (excluding GRT), the exit conference must be held in person; a telephone or webcam exit conference will not meet this requirement.* If extraordinary circumstances exist that will prevent the exit conference from taking place in person, the IPA shall submit a written request for an exemption from this requirement to the state auditor at least 48 hours prior to the scheduled exit conference. The written request for the exemption must include the justification for the request and the concurring signature of the agency. The IPA may not hold a telephonic or webcam exit conference without prior written approval of the state auditor. The date of the conference(s) and the names and titles of personnel attending must be stated in the last page of the audit report.

(2) The IPA

with the agency’s cooperation shall deliver to the agency a complete and accurate draft of the audit report (stamped “draft”), a list of the “passed audit adjustments,” and a copy of all the adjusting journal entries before the exit conference. The draft audit report shall include the management’s discussion and analysis (MD&A), independent auditor’s report, a complete set of financial statements, notes to the financial statements, required schedules, audit findings that include responses from agency management, status of prior-year audit findings, and the reports on internal control and compliance required by *government auditing standards* and the *uniform administrative requirements, cost principle, and audit requirements for federal awards*.

(3) Agency personnel and the agency’s IPA shall not release information to the public relating to the audit until the audit report is released by the office, and has become a public record. Agencies subject to the Open Meetings Act who wish to have a quorum of the governing board present at the exit conference will have to schedule the exit conference during a closed meeting in compliance with the act, in order to avoid disclosing audit information that is not yet public record, in a public meeting.

(4) Once the audit report is officially released to the agency by the state auditor (by a release letter) and the required waiting period of five calendar days has passed, unless waived by the agency in writing, the audit report shall be presented by the IPA, to a quorum of the governing authority of the agency at a meeting held in accordance with the Open Meetings Act, if applicable. The presentation of the audit report should be documented in the minutes of the meeting. See AU-C 260.12 to 260.14 for information that should be communicated to those charged with governance.

(5) At all times during the audit and after the audit report becomes a public record, the IPA shall follow applicable standards and 2.2.2 NMAC regarding the release of any information relating to the audit. Applicable standards include but are not limited to the *AICPA Code of Conduct ET Section 1.700.001* and related interpretations and guidance, and GAGAS 4.30 to 4.32 and GAGAS 4.40 to 4.44.

K. Possible violations of criminal statutes in connection with financial affairs:

(1) GAGAS 2011 Revision, Paragraphs 4.06 to 4.08 state that “in addition to the AICPA

requirements concerning fraud and non-compliance with provisions of laws and regulations, when performing a GAGAS financial audit, auditors should extend the AICPA requirements pertaining to the auditors’ responsibilities for laws and regulations to also apply to consideration of compliance with provisions of contracts or grant agreements. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, or non-compliance with provisions of laws, regulations, contracts, or grant agreements. Because the determination of abuse is subjective, auditors are not required to detect abuse in financial audits. However, as part of a GAGAS audit, if auditors become aware of abuse that could be quantitatively, or qualitatively material to the financial statements or other financial data significant to the audit objectives, auditors should apply audit procedures specifically directed to ascertain the potential effect on the financial statements or other financial data significant to the audit objectives. After performing additional work, auditors may discover that the abuse represents potential fraud or non-compliance with provisions of laws, regulations, contracts, or grant agreements.”

(2) Pursuant to Section 12-6-6 NMSA 1978 (criminal violations), an agency or IPA shall notify the state auditor immediately, in writing, upon discovery of any violation of a criminal statute in connection with financial affairs. The notification shall include an estimate of the dollar amount involved, and a complete description of the violation, including names of persons involved and any action taken or planned. If warranted, the state auditor may cause an audit of the financial affairs and transactions of the agency in whole or in part pursuant to Section 12-6-3 NMSA 1978 and 2.2.2.15 NMAC. If the state auditor does not designate an agency for audit, an agency shall follow the provisions of 2.2.2.15 NMAC when entering into a professional services contract for a special audit, performance audit or attestation engagement regarding the financial affairs and transactions of the agency relating to financial fraud, waste and abuse.

(3) Section

12-6-6 NMSA 1978 states that the state auditor, immediately upon discovery of any violation of a criminal statute in connection with financial affairs, shall report the violation to the proper prosecuting officer and furnish the officer with all data and information in his possession relative to the violation.

L. Special revenue funds authority: The authority for creation of special revenue funds and any minimum balance required must be shown in the audit report (i.e., cite the statute number, code of federal regulation, executive order, resolution number, or other specific authority) on the divider page before the combining financial statements or in the notes to the financial statements. This requirement does not apply to the statewide CAFR.

M. Public monies:

(1) Definition

- All monies coming into all agencies (i.e., vending machines, fees for photocopies, telephone charges, etc.) shall be considered public monies and be accounted for as such. For state agencies, all revenues generated must be authorized by legislation (Section 6-4-2 NMSA 1978 and MAPS FIN 11.4).

(2) If the

agency has material derivatives or securities investments the auditor should seek the assistance of audit firm staff or of a specialist from outside the firm, that has the skill or knowledge required to plan and perform auditing procedures for specific assertions about derivatives and securities. See the related requirements at: AU-C 501, audit evidence-specific considerations for selected items, Paragraph .04 through .10; and AU-C 620, using the work of an auditor's specialist.

(3) List

of individual deposit accounts and investment accounts required by Section 12-6-5 NMSA 1978: Each audit report shall include a list of individual deposit and investment accounts held by the agency. The information presented in the audit report shall include at a minimum:

(a)

name of depository (i.e., bank, credit union, state treasurer, state investment council) and the statewide human resources accounting and management reporting system (SHARE) fund number (state agencies only);

(b)

account name;

(c)

type of deposit or investment account (also required in separate component unit audit reports):

(i)

types of deposits are non-interest bearing checking, interest bearing checking, savings, money market accounts, certificates of deposit; and

(ii)

types of investments are state treasurer general fund investment pool (SGFIP), state treasurer local government investment pool (LGIP), U.S. treasury bills, notes, bonds and strips; and U.S. agencies such as Fannie Mae (FNMA), Freddie Mac (FHLMC), government national mortgage association (GNMA), Sallie Mae, small business administration (SBA), federal housing administration FHA, federal financing bank, federal farm credit, financial assistance corporation, including the specific name of each bond, stock, commercial paper, bankers acceptances, mutual fund, foreign currency, etc.

(d)

account balance of deposits and investments as of the balance sheet date; and

(e)

reconciled balance of deposits and investments as of the balance sheet date as reported in the financial statements.

(f)

In auditing the balance in the investment in the state general fund investment pool (SGFIP) of a state agency, the IPA should review the individual state agency's cash reconciliation procedures and determine whether those procedures would reduce the agency's risk of misstatement in the investment in SGFIP, and whether the agency is actually performing those procedures. The IPA should also take into consideration the complexity of the types of cash transactions that the state agency enters into and whether the agency processes its deposits and payments through SHARE. For example, some agencies receive only the cash annually appropriated to the agency, and process all expenditures through SHARE, resulting in low risk that the investment in SGFIP could be misstated. Every state agency audit report should include disclosure in light of the reconciliation issues at the statewide level, and what the agency is doing to mitigate its risk of misstated SGFIP account balances. Taking all these and more facts gained during audit procedures into consideration, the IPA should use his or her professional judgment to determine each agency's risk of misstatement in the investment in the SGFIP and write findings and modify opinions as deemed appropriate by the IPA. The state auditor requires the IPAs auditing cash of state agencies to obtain a confirmation of cash at the individual

agency level from the state treasurer's office (state agencies only).

(4)

Pledged

collateral:

(a)

All audit reports should disclose the collateral requirements in the notes to the financial statements. In addition, there should be a supplementary schedule or note to the financial statements that discloses the collateral pledged by each bank and savings and loan association (S & L) that is a depository for public funds. The schedule should disclose the type of security (i.e., bond, note, treasury bill, etc.), security number, committee on uniform security identification procedures (CUSIP) number, fair market value and maturity date.

(b)

If the pledged collateral *for deposits in banks, savings and loan associations, or credit unions*, in an aggregate amount is not equal to one half of the amount of public money in each account (Section 6-10-17 NMSA 1978), there should be a finding in the audit report. No security is required for the deposit of public money that is insured by the federal deposit insurance corporation (FDIC) or the national credit union shares insurance fund (NCUSIF) according to Section 6-10-16 NMSA 1978. The collateral requirements should be calculated separately for each bank and disclosed in the notes as follows to show compliance and GASB 40 disclosure information (for line items iv-viii, delete the line items if custodial credit risk category does not apply):

Continued on the following page

Depository Account		Bank Balance
(i)	Insured	\$250,000
	Collateralized:	
(ii)	Collateral held by agency's agent in the agency's name	50,000
(iii)	Collateral held by pledging bank's trust department in the agency's name	75,000
(iv)	Collateral held by pledging bank's trust department not in the city's name	25,000
(v)	Uninsured and uncollateralized	50,000
Total Deposits		\$450,000

(c) Custodial credit risk is defined as the risk that the government's deposits may not be returned to it in the event of a bank failure. Per GASBS 40.8, the notes to the financial statements should disclose the amount of deposits subject to custodial credit risk for the categories above. To determine compliance with the fifty percent pledged collateral requirement of Section 6-10-17 NMSA 1978, the following disclosure must be made for each financial institution:

Fifty percent pledged collateral requirement per statute	\$100,000
Total pledged collateral	(150,000)
Uninsured and uncollateralized	(fifty thousand dollars (\$50,000))

(d) Repurchase agreements must be covered by one hundred and two percent of pledged collateral per Section 6-10-10(H) NMSA 1978. Disclosure similar to that shown above is also required for the one hundred two percent pledged collateral requirement.

(e) Per Section 6-10-16(A) NMSA 1978, "deposits of public money shall be secured by: securities of the United States, its agencies or instrumentalities; securities of the state of New Mexico, its agencies, instrumentalities, counties, municipalities or other subdivisions; securities, including student loans, that are guaranteed by the United States or the state of New Mexico; revenue bonds that are underwritten by a member of the financial industry regulatory authority (FINRA), and are rated medium grade or "BAA" or above by a nationally recognized bond rating service; or letters of credit issued by a federal home loan bank."

(f) Securities shall be accepted as security at market value pursuant to Section 6-10-16 NMSA 1978.

(g) State agency investments in the office of the state treasurer's general fund investment pool do not require disclosure of specific pledged collateral for amounts held by the state treasurer. However, the notes to the financial statements

should refer the reader to the state treasurer's separately issued financial statements which disclose the collateral pledged to secure state treasurer cash and investments. See Paragraph (14) of Subsection A of 2.2.2.12 NMAC for related GASBS 40 disclosure requirements.

(h) If an agency has other "authorized" bank accounts, pledged collateral information should be obtained from the bank and disclosed in the notes to the financial statements. The state treasurer monitors pledged collateral related to most state agency bank accounts. State agencies should not request the pledged collateral information from the state treasurer. In the event pledged collateral information specific to the state agency is not available, the following note disclosure should be made: Detail of pledged collateral specific to this agency is unavailable because the bank commingles pledged collateral for all state funds it holds. However, the office of the state treasurer's collateral bureau monitors pledged collateral for all state funds held by state agencies in such "authorized" bank accounts.

(5) State treasurer's external investment pool (local government investment pool):

(a) agencies that have investments in the state treasurer's short-term investment fund

must disclose the information required by GASB Statement No. 31 Paragraph 15 in the notes to the financial statements; the following information may be helpful for this disclosure;

(b) the investments are valued at fair value based on quoted market prices as of the valuation date;

(c) the state treasurer local government investment pool is not SEC registered; the state treasurer is authorized to invest the short-term investment funds, with the advice and consent of the state board of finance, in accordance with Subsection I of Section 6-10-10 through Subsection O of Section 6-10-10 and Paragraph (1) of Subsection A and E of Section 6-10-10 NMSA 1978;

(d) the pool does not have unit shares; per Paragraph (1) of Subsection F of Section 6-10-10 NMSA 1978, at the end of each month all interest earned is distributed by the state treasurer to the contributing entities in amounts directly proportionate to the respective amounts deposited in the fund and the length of time the amounts were invested;

(e) participation in the local government investment pool is voluntary; and

(f) the end of the fiscal year weighted average maturity (interest rate risk in number of

days) available on the state treasurer's website at http://www.nmsto.gov/gasb_40_disclosure.

N. Budgetary presentation:

(1) Prior year balance included in budget:

(a) If the agency prepares its budget on the accrual or modified accrual basis, the statement of revenues and expenditures (budget and actual) or the budgetary comparisons shall include the amount of fund balance on the budgetary basis required to balance the budget.

(b) If the agency prepares its budget on the cash basis, the statement of revenues and expenditures (budget and actual) or the budgetary comparisons shall include the amount of prior-year cash balance required to balance the budget (or fund balance on the cash basis).

(2) The differences between the budgetary basis and GAAP basis revenues and expenditures should be reconciled. *This reconciliation is required at the individual fund level.* If the required budgetary comparison information is included in the basic financial statements, the reconciliation should be included on the statement itself (preferred) or in the notes to the financial statements. If the budgetary comparison is presented as supplemental information as required by Subparagraph (c) of Paragraph (3) of Subsection N of 2.2.2.10 NMAC below, the reconciliation to GAAP basis should be presented at the bottom of the budgetary comparison. If the required budgetary comparison is presented as RSI (for reasons described below in Subparagraph (b) of Paragraph (3) of Subsection M of 2.2.2.10 NMAC) the reconciliation should appear in either a separate schedule or in notes to RSI according to the *AICPA audit and accounting guide, state and local governments*, (AAG-SLV 11.14). Also, the notes to the financial statements should disclose the legal level of budgetary control for the entity and any excess of expenditures over appropriations at the legal level of budgetary control. The legal level of budgetary control for local governments is at the fund level. The legal level of budgetary control is at the function level for school districts. The legal level of budgetary control for state agencies is explained at Paragraph (11) of Subsection A of 2.2.2.12 NMAC. For additional information regarding the legal level of budgetary control, the IPA should contact the applicable oversight agency,

DFA, HED, or PED.

(3) Budgetary comparisons must show the original and final appropriated budget (same as final budget approved by DFA, HED or PED), the actual amounts on the budgetary basis, and a column with the variance between the final budget and actual amounts.

(a) The basic financial statements must include budgetary comparison statements for only the general fund and major special revenue funds if the budget structure for those funds is similar enough to the GAAP fund structure to provide the necessary information.

(b) The required supplemental information section is the place where the budgetary comparisons should appear for the general fund and major special revenue funds if the agency budget structure differs from the GAAP fund structure enough that the budget information is unavailable for the general fund and major special revenue funds. An example of this "perspective difference" would occur if an agency budgets by program with portions of the general fund and major special revenue funds appearing across various program budgets. In a case like that the budgetary comparison would be presented for program budgets and include information in addition to the general fund and major special revenue funds budgetary comparison data. See GASB statement No. 41, budgetary comparison schedules - perspective differences, paragraphs 3 and 10. When budgetary comparisons have to be presented as RSI due to such perspective differences it is a requirement of the state auditor that they be audited and included in the auditor's opinion. See AAG-SLV 15.65 in the AICPA audit and accounting guide, state and local governments (latest edition).

(c) SI is the place where all other budgetary comparison information should appear except the general and major special revenue fund budgetary comparisons. Non-major governmental funds and proprietary funds that have legally adopted budgets (including budgets approved by a resolution) should have budgetary comparisons appearing in the SI section of the report. It is a requirement of the state auditor that budgetary comparison statements presented in the basic financial statements or as RSI or SI be audited and included in the auditor's opinion. For an example of an opinion that includes SI or RSI see example A-14 in the AICPA audit and accounting guide, state and local governments (latest

edition).

O. Appropriations to agencies:

(1) Budget related findings:

(a) If actual expenditures exceed budgeted expenditures at the legal level of budgetary control, that fact must be reported in a finding and disclosed in the notes to the financial statements.

(b) If budgeted expenditures exceed budgeted revenues (after prior-year cash balance and any applicable federal receivables required to balance the budget), that fact must also be reported in a finding after the auditor confirms the finding with the agency's budget oversight entity (if applicable), since budget deficits are generally not allowed.

(2) Special, deficiency, specific, and capital outlay appropriations:

(a) Special, deficiency, and specific appropriations and capital outlay appropriations funded by severance tax bonds or general obligation bonds of the state must be disclosed in the financial statements. The original appropriation, the appropriation period, expenditures to date, outstanding encumbrances and unencumbered balances should be shown in a supplementary schedule or in a note to the financial statements. This is a special requirement of the state auditor and it does not apply to the statewide CAFR audit.

(b) The accounting treatment of any unexpended balances should be fully explained in the supplementary schedule or in a note to the financial statements regarding the special appropriations.

P. Consideration of internal control and risk assessment in a financial statement audit: All financial audits performed under this rule are required to include tests of internal controls (manual or automated) over assertions about the financial statements and about compliance related to laws, regulations, and contract and grant provisions. Inquiry alone is not sufficient testing of internal controls. The requirement to test internal controls applies even in circumstances when the auditor has assessed control risk at maximum. *This is a special requirement of the state auditor.* This requirement does not require an auditor to retest controls previously tested during the performance of an AU-C 402 (previously SAS 70) audit, when the auditor is relying

on the AU-C 402 audit report.

Q. Lease purchase agreements:

(1) The New Mexico supreme court has held that it is unconstitutional for agencies to enter into lease purchase agreements after January 9, 1989, unless special revenue funds are the designated source of payments for the agreement (any agreements executed prior to that date may not be extended or amended without compliance with the guidelines of *Montano v. Gabaldon*, 108 N.M. 94, 766 P.2d 1328).

(a) The attorney general interpreted *Montano* to mean that long-term contracts for professional services, leases, and real property rental agreements may still be entered into within the constraints of the Bateman Act and the Procurement Code. However, any agreement which is in effect for more than one fiscal year, including leases of real property, must have a provision allowing the agency to terminate the agreement at will at any time, or at least at the end of each fiscal year, without penalty. Furthermore, the agency must have no “equitable or moral” duty to continue to make payments under the contract. The agreements must also contain a non-appropriation clause allowing for termination of the agreement in the event the agency decides not to appropriate funds for each fiscal year.

(b) The attorney general subsequently opined that if the source of funds to repay the debt is solely repaid from the project revenue or from a special non-general-tax fund and not from any general tax revenue, then the debt, be it in the form of bonds or a lease purchase agreement, is not the sort of debt which triggers the constitutional requirement of approval by the voters. This is the teaching of the *Connelly* case relied on by the court in *Montano*. *Montano* did not reverse *Connelly*, *Seward* and the other cases which have consistently limited the application of constitutional restrictions to debts which are paid out of general tax revenues.

(2) If specific questions as to the constitutionality of a particular lease agreement remain, an independent legal opinion should be obtained from the attorney general.

R. Required auditor’s reports:

(1) The independent auditor’s report should follow the examples contained in the AICPA audit and accounting guide, government auditing standards and

single audits (latest edition), chapter 4, appendix - illustrative auditor’s reports under government auditing standards, example 4-1 (including the reference to the schedule of expenditures of federal awards when applicable), and the AICPA audit and accounting guide state and local governments (latest edition), Chapter 15, Appendix A - illustrative auditor’s reports. Example A-14 illustrates how to opine on the basic financial statements and the combining and individual fund financial statements presented as supplementary information. See also the guidance provided in Chapter 15, Appendix A, Footnote 3 regarding wording that should be used when opining on budgetary statements on the GAAP basis. All independent auditor’s reports should include a statement that the audit was performed in accordance with auditing standards generally accepted in the United States of America *and with applicable government auditing standards* per GAGAS 4.18. This statement should be modified in accordance with GAGAS 2.24b if some GAGAS requirements were not followed. As applicable, the first sentence of the AU-C 725 opinion paragraph should state that the audit was conducted for the purpose of forming opinions on the basic financial statements, the combining and individual financial statements, and the budgetary comparisons. See also the report example on the office website at www.saonm.org. Reports for single audits of fiscal years beginning on or after December 26, 2014 should have all references to OMB Circular A-133 replaced with references to Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (Uniform Guidance 200.110(b), AAG-GAS 4.88 Example 4-1);

(2) The report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with government auditing standards should follow the applicable AICPA report examples available in the AICPA audit and accounting guide, *government auditing standards* and *three single audits*, (latest edition) examples 4-3 to 4-9 Chapter 4. See the report examples on the office website at www.saonm.org.

(a) The state auditor requires the report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with government

auditing standards be dated the same date as the independent auditor’s report.

(b) No separate management letters shall be issued to the agency by the auditor. Issuance of a separate management letter to an agency will be considered a violation of the terms of the audit contract and may result in further action by the state auditor. See also Paragraph (5) of Subsection Q of Section 2.2.2.8 NMAC above regarding this issue.

(3) The report on compliance for each major federal program; *report on internal control over compliance - single audit report examples under uniform guidance for audits of fiscal years beginning on or after December 26, 2014* are available in the AICPA audit and accounting guide, government auditing standards and single audits, 23 Paragraph 23.67 Chapter, Appendix - illustrative auditor’s reports under the uniform guidance for federal awards. *Single audits of fiscal years beginning before December 25, 2014 would follow the guidance of OMB circular A-133*. Report examples for single audits performed pursuant to OMB circular A-133 are available in the AICPA audit and accounting guide, government auditing standards and single audits, Paragraph 13.58 Chapter 13, Appendix - illustrative auditor’s reports under circular A-133.

(4) One report cover: the state auditor requires the financial statements, supplemental information, other information required by Subparagraph (g) in Paragraph (2) of Subsection A of 2.2.2.10 NMAC, and the following reports to be *included under one report cover*: the independent auditor’s report including the AU-C 725 report on supplemental information; the AU-C 720 other matter paragraph to disclaim an opinion on other information; the report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with *government auditing standards*; and the report on compliance for each major federal program; report on internal control over compliance (required by *uniform administrative requirements, cost principles, and audit requirements for federal awards* or OMB circular A-133 for older reports). If applicable, the independent auditor’s report must include the AU-C 725 opinion on the schedule of expenditures of federal awards and the HUD financial data schedule (required by HUD guidelines on reporting and attestation requirements of uniform financial reporting standards). The report

must also contain a table of contents and an official roster. The IPA should submit a written request for an *exemption* from the “one report cover,” and receive prior written approval from the state auditor, in order to present any of the above information under a separate cover.

S. Disposition of property: Sections 13-6-1 and 13-6-2 NMSA 1978 govern the disposition of obsolete, worn-out or unusable tangible personal property owned by state agencies, local public bodies, school districts, and state educational institutions. Pursuant to Subsection A of Section 13-6-4 NMSA 1978, municipalities are exempt from this requirement. At least 30 days prior to any disposition of property on the agency inventory list described below in Subsection U of 2.2.2.10 NMAC, written notification of the official finding and proposed disposition duly sworn and subscribed under oath by each member of the authority approving the action must be sent to the state auditor.

T. Joint powers agreements and memorandums of understanding:

(1) All joint powers agreements (JPA) and memorandums of understanding (MOU) must be listed in a supplementary schedule in the audit report. The statewide CAFR schedule should include JPAs and MOUs that are significant to the state as a whole. The schedule should include the following information for each JPA or MOU:

- (a) participants;
- (b) party responsible for operations;
- (c) description;
- (d) beginning and ending dates of the JPA or MOU;
- (e) total estimated amount of project and portion applicable to the agency;
- (f) amount the agency contributed in the current fiscal year;
- (g) audit responsibility;
- (h) fiscal agent if applicable; and
- (i) name of government agency where revenues and expenditures are reported.

(2) For self-insurance obtained under joint powers agreements or memorandums of understanding, see the GASB Codification Section J50.113.

U. Capital asset inventory:

(1) The Audit Act (Section 12-6-10 NMSA 1978) requires agencies to capitalize only chattels and equipment that cost over \$5,000. All agencies are required to update their capitalization policy and implement it in accordance with the law. This change in capitalization threshold should be accounted for prospectively from June 17, 2005 forward, as a change in estimate per GASBS 62.69. Older capital assets that were capitalized under previous lower capitalization thresholds should not be removed from the capital assets list during the implementation of the most recent capitalization threshold increase. Any new items received after June 17, 2005 should be added to the inventory list only if they meet the new capitalization threshold. Regarding safeguarding and management of assets that do not meet the capitalization threshold, the state auditor encourages agencies to maintain a separate accountability report for those items that cost five thousand dollars (\$5,000) or less.

(2) Subsection A of Section 12-6-10 NMSA 1978 requires each agency to conduct an annual physical inventory of movable chattels and equipment on the inventory list at the end of each fiscal year. The agency shall certify the correctness of the inventory after the physical inventory. This certification should be provided to the agency’s auditors.

V. Schedule of changes in assets and liabilities for the agency funds: Agency funds are excluded from the statement of changes in fiduciary net position (GASBS 34 Paragraph 110 as amended by GASBS 63) because they have no “net position.” Therefore it is a requirement of the state auditor that a schedule of changes in assets and liabilities for the agency funds be included as SI for all agencies that have agency funds. The schedule should show additions and deductions for each agency fund except for school districts. School districts should see Subparagraph (e) of Paragraph (4) of Subsection C of 2.2.2.12 NMAC for more information regarding the presentation of the statement of changes in assets and liabilities agency funds for school districts. The schedule should appear toward the end of the table of contents and requires an AU-C 725 opinion in the independent auditor’s report.

W. Tax increment development districts: Pursuant to Subsection C of Section 5-15-9 NMSA 1978, tax increment development districts (TIDDs) are political subdivisions of the

state, and they are separate and apart from the municipality or county in which they are located. Section 5-15-10 NMSA 1978, states that the district shall be governed by the governing body that adopted a resolution to form the district or by a five-member board composed of four members appointed by that governing body; provided, however, that the fifth member of the five-member board is the secretary of finance and administration or the secretary’s designee with full voting privileges. However, in the case of an appointed board of directors that is not the governing body, at the end of the appointed directors’ initial terms, the board shall hold an election of new directors by majority vote of owners and qualified resident electors. Therefore, a TIDD and its audit firm will have to apply the criteria of GASB 14 Paragraph 132 (as amended by GASBS 61) to determine whether the TIDD is a component unit of the municipality or county that approved it, or whether the TIDD is a related organization of the municipality or county that approved it. If the TIDD is determined to be a related organization per the GAAP requirements, then the TIDD will have to contract separately for an audit separate from the audit of the municipality or county that approved it.

X. GASBS 68, accounting and financial reporting for pensions:

(1) After their FY15 audit reports are audited and released, PERA and ERB plan to provide each of their participant employers with their allocated pension liability information as of June 30, 2015. The state auditor is requiring that:

(a) prior to distribution of this information to the participant employers, the PERA and ERB will obtain an audit of the schedules of allocated pension liability information, pursuant to AU-C 805, special considerations - audits of single financial statement and specific elements, accounts, or items of a financial statement and government auditing standards;

(b) pursuant to AU-C 805.16, the PERA and ERB auditors will provide PERA and ERB with a separate report on the AU-C 805 audit performed;

(c) the AU-C 805 audits and resulting separate reports on the PERA and ERB schedules of allocated pension liability information must be submitted to the office for review and release pursuant to 2.2.2.13 NMAC, prior to distribution to the PERA and ERB participant employers; and

(d) as soon as the AU-C 805 reports, including the allocated pension information, become public record, PERA and ERB will make the information available to the participant employers.

(2) On the subject of whether the liability should be included in the stand-alone financial statements of funds see implementation guide-GASB statement 68, question and answer 122, that says, “except for blended component units, which are discussed in statement 68, questions 34 and 35 does not establish specific requirements for allocation of the employer’s proportionate share of the collective net pension liability or other pension-related measures to individual funds. However, for proprietary and fiduciary funds, consideration should be given to NCGA paragraph 42, statement 1, as amended, which requires that long-term liabilities that are ‘directly related to and expected to be paid from’ those funds be reported in the statement of net position or statement of fiduciary net position, respectively.” Stand-alone state agency financial statements that exclude the proportionate share of the collective net pension liability of the state of New Mexico based on the above guidance, should include note disclosure referring the reader to the statewide CAFR for the state’s pension liability and other pension-related information. The stand-alone report for the New Mexico component appropriation funds should include note disclosure of the net pension liability for all the state agencies of the state of New Mexico.

Y. Uniform administrative requirements: Cost principles, and audit requirements for federal awards: OMB Circular A-133 has been replaced by “uniform guidance for federal awards” (uniform guidance). The standards set forth in Subpart F - Audit Requirements, became effective December 26, 2013, and apply to audits of fiscal years beginning on or after December 26, 2014 (calendar-year-end December 31, 2015 and FY16 audits). For one full fiscal year after the effective date of the uniform guidance, non-federal entities must comply with the terms and conditions of their federal award, which will specify whether the uniform guidance applies. Regarding the new procurement standards, “the non-federal entity must document whether it is in compliance with the old or new standard, and must meet the documented standard. For example, the first full fiscal year for a non-federal entity with a June 30th year end would be the year ending June

30, 2016” (FY16). “The single audit compliance supplement will instruct auditors to review procurement policies and procedures based on the documented standard. For future fiscal years, all non-federal entities will be required to comply fully with the uniform guidance for federal awards Section 200.110, frequently asked questions for OMB uniform administrative requirements, cost principles, and audit requirement for federal awards at 2 CFR 200.

Z. New standards that become effective in FY16 are:

(1) GASBS Statement 72, fair value measurement and application;

(2) the latter underlined portion of GASBS Statement 73, accounting and financial reporting for pensions and related assets that are not within the scope of GASBS statement 68, and amendments to certain provisions of GASBS statements 67 and 68; and

(3) GASBS statement 76, the hierarchy of generally accepted accounting principles for state and local governments;

(4) For non-federal entities that expend seven hundred fifty thousand dollars (\$750,000) or more in federal awards the audit requirements of Subpart F of the uniform administrative requirements, cost principles, and audit requirements for federal awards, become effective for audits of fiscal years beginning on or after December 26, 2014 (in general, fiscal years ending December 31, 2015 and later). Such a non-federal entity must have a single or program-specific audit conducted for that fiscal year.

AA. Additional new standard to note: GASB Statement 77, tax abatement disclosures, will become effective for financial statements for periods beginning after December 15, 2015 (FY17). This statement requires disclosure of tax abatement information about:

(1) a reporting government’s own tax abatement agreements; and

(2) those that are entered into by other governments that reduce the reporting government’s tax revenues. Governments should start preparing to implement this new standard. [2.2.2.10 NMAC - Rp, 2.2.2.10 NMAC, 3-15-16]

2.2.2.11 THE ACCOUNTABILITY IN GOVERNMENT ACT:

A. This section applies to agencies that have performance measures associated with their budgets. The purpose of the accountability in Government Act (Sections 6-3A-1 to 6-3A-9 NMSA 1978) is to provide for more cost-effective and responsive government services by using the state budget process and defined outputs, outcomes and performance measures to annually evaluate the performance of state government programs.

B. Agency performance measures are included in the General Appropriations Act. The agency shall include a schedule of performance data (outcomes, outputs, efficiency, etc.) if the schedule is required by an oversight agency such as the legislative finance committee, DFA, HED or PED, and preparation guidelines are issued by the oversight agency.

C. The auditor’s responsibilities for performing procedures and reporting on supplemental information are provided in AU-C Section 725, supplementary information in relation to the financial statements as a whole. The auditor should apply the procedures required by AU-C 725 to the agency’s performance data included in the schedule in order to determine whether it is fairly stated, in all material respects, in relation to the financial statements as a whole.

D. The IPA should include this schedule in the related reporting in the other-matter paragraph pursuant to AU-C 725.09, regarding whether such information is fairly stated in all material respects in relation to the financial statements as a whole. [2.2.2.11 NMAC - Rp, 2.2.2.11 NMAC, 3-15-16]

2.2.2.12 SPECIFIC CRITERIA: The specific criteria should be considered in planning and conducting governmental audits. These requirements are not intended to be all-inclusive; therefore, the state New Mexico statutes annotated (NMSA) and New Mexico administrative code (NMAC) should be reviewed while planning governmental audits.

A. Pertaining to audits of state agencies:

(1) Due dates for agency audits: Subsection D of Section 12-6-3 NMSA 1978 states that state agency reports are due no later than 60 days after the state auditor receives notice from the financial control division of DFA that the agency’s books and records are ready and available for audit.

The financial control division requires that each agency submit a management representation letter documenting management's responsibility for the accounting records, the agency has recorded all transactions properly in SHARE, and the agency is ready and available for audit. In addition, the financial control division mandates that each agency, with the help of its independent auditor, identify and submit with the management representation letter a schedule of deliverables, and agreed to milestones for the audit. The milestones ensure that the agency's books and records are ready and available for audit and the auditor delivers services on time. Once the financial control division receives the management representation letter, the schedule of deliverables, and milestones, the financial control division will notify the state auditor in writing regarding the expected audit deadline for the agency. The 60 days to the audit deadline will be based on the date of financial control division's notification to the state auditor, which will be based on input from the agency to the financial control division and the agency's schedule of deliverables and milestones. *State agency reports are due no later than December 1 after the close of the fiscal year.*

(2) **Materiality** at the *individual fund level* means at the individual SHARE fund level for state agencies. All the individual SHARE funds should be reported in the financial statements and opined on in the independent auditor's report.

(3) **Accounts payable** at year-end and reversion calculation: If goods and services were received (as defined by generally accepted accounting principles) by the end of the fiscal year but not paid for by the end of the fiscal year, an accounts payable should be reported for the respective amount due in both the government-wide financial statements and the fund financial statements (NCGAS 1 Paragraph 70). Per Section 6-10-4 NMSA 1978, the "*actual*" expenditures in the budgetary comparison exclude any accounts payable that were not paid timely and therefore require a request to the financial control division to pay prior year bills out of current year budget. They will be paid out of the budget of the following fiscal year. An agency's reversions should be calculated using the *budgetary basis expenditures* because the agency does not have the legal authority to obligate the state for liabilities once the appropriation period has lapsed. Thus, the agency cannot keep the cash related to accounts payable that were not

paid timely. This will result in a negative fund balance in the modified accrual basis financial statements of a reverting fund.

(4) **Net position/fund balance:**

(a) Pursuant to GASBS 63.8 the government-wide statement of net position and the proprietary fund statement of net position should show net position as:

(i) net investment in capital assets;

(ii) restricted (distinguishing between major categories of restrictions); and

(iii) unrestricted pursuant to GASBS 63.10, "restricted component of net position consists of restricted assets reduced by liabilities and deferred inflows of resources related to those assets; generally, a liability relates to restricted assets if the asset results from a resource flow that also results in the recognition of a liability or if the liability will be liquidated with the restricted assets reported;" pursuant to GASBS 63.11, "the unrestricted component of net position is the net amount of the assets, deferred outflows of resources, liabilities, and deferred inflows of resources that are not included in the determination of net investment in capital assets or the restricted component of net position."

(b) Governmental fund financial statement fund balances should be reported in accordance with GASBS 54. This statement was effective for financial statements for periods beginning after June 15, 2010 (FY11).

(c) The statement of fiduciary net position (fiduciary fund financial statement) should show net position as "held in trust for" (GASBS 34 Paragraph 108 as amended by GASBS 63).

(5) **Book of record:**

(a) The state maintains the centralized accounting system SHARE. *The SHARE data and reports are the original book of record that the auditor is auditing.* Each fiscal year, the agency is required to record all audit adjusting journal entries in SHARE. The financial information in SHARE is to agree to the agency's audited financial statements, with the exception of accounts payable as explained in Paragraph (3) of Subsection A of 2.2.2.12 NMAC (accounts payable). If the independent auditor finds that the agency did not record all audit adjusting journal entries, the auditor must include in

a finding this instance of non-compliance with Sections 6-5-2.1 and 6-5-4.1 NMSA 1978. If the agency maintains a separate accounting system, it should be reconciled with the SHARE system and all applicable adjustments should be recorded in SHARE periodically through the fiscal year. The financial control division provides to agencies:

(i) the manual of model accounting practices (MAPs);

(ii) various white papers, yearly closing instructions; and

(iii) various accounting guideline memos;

(iv) these documents provide guidance for an auditor regarding policy and procedure requirements and they are available on the financial control division's website at <http://www.nmdfa.state.nm.us> under "resource information."

(b) The SHARE chart of accounts reflects the following appropriation unit levels. The statement of revenues and expenditures in the audit report should be presented in accordance with GAAP, by function or program classification and object code. However, the budgetary comparison statements must be presented using the level of appropriation reflected in the final approved budget.

Continued on the following page

Appropriation unit code/appropriation unit description

200	personal services & employee benefits
300	contractual services
400	Other
500	other financing uses
600	non-budgeted

(c) Revenue categories of appropriations to state agencies are listed below. The budgetary comparison statements for state agencies must be presented in the audit report by the revenue categories shown below and by the expenditure categories that appear in the agency's final approved budget.

- (i) state general fund;
- (ii) other state funds;
- (iii) internal service funds/inter-agency transfers; or
- (iv) federal funds.

(d) For more detail about the chart of accounts see the DFA website.

(6) Reversions to state general fund:

(a) All reversions to the state general fund must be identified in the financial statements by the fiscal year of appropriation (i.e., reversion to state general fund - FY 15). The gross amount of the appropriation and the gross amount of the reversion must be shown separately.

(b) Subsection A of Section 6-5-10 NMSA 1978 requires "all unreserved, undesignated fund balances in reverting funds and accounts as reflected in the central accounting system as of June 30 shall revert by September 30 to the general fund. The division may adjust the reversion within 45 days of release of the audit report for that fiscal year." Failure to transfer reverting funds timely in compliance with the statute requires an audit finding.

(7) Nonreciprocal (not payments for materials or services rendered) interfund (internal) activity includes;

(a) transfers; and

(b) reimbursements (GASBS 34 Paragraph 410):

(i) intra-agency transfers between funds within the agency should offset. Reasons for intra-agency transfers should be fully explained in the notes to the financial statements; in the separate audit reports of state agencies, transfers between their internal funds should be shown as other financing sources or uses in the fund financial statements and as transfers (that get eliminated) in the government-wide financial statements;

(ii) inter-agency transfers (between an agency's internal funds and other funds of the state that are outside the agency such as state general fund appropriations, special appropriations, bond proceeds appropriations, reversions to the state general fund, and transfers to/from other state agencies) should be segregated from intra-agency transfers and should be fully explained in the notes to the financial statements along with the agency number and SHARE fund number to whom and from whom transferred; the transfers may be detailed in supporting schedules rather than in the notes, but agency and SHARE fund numbers must be shown; the schedule should be presented on the modified accrual basis; the IPA is responsible for performing audit procedures on all such inter-agency transfers.

(c) Regarding inter-agency transfers between legally separate component units and the primary government (the state of New Mexico):

(i) if the inter-agency transfer is between a blended component unit of the state and other funds of the state, then the component unit's separately issued financial statements should report such activity between itself and the primary government as revenues and expenses; when the blended component unit is included in the primary government's financial statements, such inter-agency transfers would be reclassified as transfers (GASBS 34 Paragraph 318);

(ii) all resource flows between a discretely

presented component unit of the state and other funds of the state are required to be reported as external transactions-revenues and expenses in the primary government's financial statements and the component unit's separately issued financial statements (GASBS 34 Paragraph 318).

(d) All transfers to and from SHARE fund 853, the state general fund appropriation account, must be clearly identifiable in the audit report as state general fund appropriations, reversions, or collections.

(e) Reimbursements are transfers between funds that are used to reallocate the revenues and expenditures/expenses to the appropriate fund. Reimbursements should not be reported as inter-fund activity in the financial statements.

(8) General service department capital projects: In general, GSD records the state of New Mexico capitalized land and buildings for which it is responsible, in its accounting records. The cost of furniture, fixtures, and moveable equipment owned by agencies is to be capitalized in the accounting records of the agency that purchased them. The agency must capitalize those assets based on actual amounts expended in accordance with GSD instructions issued in 2.20.1.10 NMAC, valuation of assets.

(9) State-owned motor vehicle inventory: successful management of the state-owned vehicles pursuant to the Transportation Services Act (Sections 15-8-1 to 15-8-11 NMSA 1978) is dependent on reliable and accurate capital assets inventory records and physical verification of that inventory. Thus, the annual audit of state agencies shall include specific tests of the reliability of the capital assets inventory and verification that a physical inventory was conducted for both the agency's owned vehicles and long-term leased vehicles.

(10) Independent auditor's report:

(a) The independent auditor's report for state agencies, district attorneys, district courts, and the educational institutions

created by New Mexico Constitution Article XII, Section 11, *must include an explanatory paragraph preceding the opinion paragraph*. The explanatory paragraph should reference the summary of significant accounting principles disclosure regarding the reporting agency, and indicate that the financial statements are not intended to present the financial position and changes in financial position of the primary government, the state, but just the financial position and the changes in financial position of the department. The auditor should follow example A-16 in appendix A - illustrative auditor's reports at paragraph 15.103 of the *AICPA audit and accounting guide, state and local governments (latest edition)*.

(b) A statement should be included that the audit was made in accordance with generally accepted *government auditing standards* per GAGAS Paragraphs 4.18 and 2.24 and 2.25.

(11) Budgetary basis for state agencies: Per the General Appropriation Act, Laws of 2015, Chapter 101, Section 3, item L, "for the purpose of administering the General Appropriation Act of 2015, the state of New Mexico shall follow the modified accrual basis of accounting for governmental funds in accordance with the manual of model accounting practices issued by the department of finance and administration." The budget is adopted on the modified accrual basis of accounting except for accounts payable accrued at the end of the fiscal year that do not get accrued by the statutory deadline per Section 6-10-4 NMSA 1978. Those accounts payable that do not get paid timely or accrued by the statutory deadline must be paid out of the next year's budget. As previously stated in Paragraph (3) Subsection A of 2.2.2.12 NMAC (accounts payable), if goods and services were received by the end of the fiscal year but not paid for by the end of the fiscal year, an accounts payable should be recorded for the respective amount due in both the government-wide financial statements and the fund financial statements (NCGAS 1 Paragraph 70). If an agency needs to recognize additional accounts payable amounts that were not accrued by the statutory deadline, then the budgetary statements and the fund financial statements will require a reconciliation of expenditures, see Paragraph (2) of Subsection N of 2.2.2.10 NMAC (budgetary presentation). Since SHARE is the book of record for the state, all transactions are recorded in SHARE under the modified accrual basis of accounting except for accounts payable

not meeting the statutory deadline; therefore, the "actual" expenditures in the budgetary comparison schedules shall equal the expenditures as recorded in SHARE for the fund. Encumbrances related to single year appropriations lapse at year end. Appropriation periods are sometimes for periods in excess of 12 months (multiple-year appropriations). When multiple-year appropriation periods lapse, the authority for the related budgets also lapse and encumbrances can no longer be charged to those budgets. The legal level of budgetary control should be disclosed in the notes to the financial statements. Per Section 9 of Subsection C of the General Appropriation Act of 2015, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other. Therefore, the legal level of budgetary control would be the appropriation program level (A-Code, P-Code, R-Code, and Z-Code). The A-Code pertains to capital outlay appropriations (general obligation/severance tax or state general fund). The P-Code pertains to operating funds. The R-Code pertains to American Recovery & Reinvestment Act (ARRA) funds. The Z-Code pertains to special appropriations. Total expenditures for the program need to be compared to the program's approved final budget for compliance.

(12) Accounting for special capital outlay appropriations financed by bond proceeds:

(a) STO administers the debt service funds for various bond issues that are obligations of the state of New Mexico. STO should not report in its basic financial statements bonds payable that are obligations of the state of New Mexico. The proper reporting of these payables and the related bond face amounts (proceeds) is in the state's CAFR. The STO audit report, notes to the financial statements must explain the following:

(i) by statute, STO is responsible for making the state's bond payments and keeping the related records; however, it is not responsible for the related debt, the state is; and

(ii) refer the reader to the detailed supplemental information in the STO audit report and the statewide CAFR; the STO's financial statements include *audited* (SI) regarding the state of New Mexico bond obligations; the SI schedules must show;

(iii)

the beginning and end-of-year bond payable balances, increases and decreases (separately presented), and the portions of each bond issuance that are due within one year, as required by GASBS 34 Paragraph 119;

(iv) the details of debt service requirements to maturity required by GASBS 38 Paragraph 10; and

(v) any violations of bond covenants and related actions taken to address violations of bond covenants, required by GASBS 38 Paragraph (9) and Section 12-6-5 NMSA 1978.

(b) DFA has provided accounting and reporting guidance for state agencies that receive or administer any special capital outlay appropriations from the state legislature that are financed by bond proceeds. DFA's guidance is available in the "FY 2008 Audit Forum" section at <http://www.nmdfa.state.nm.us/Forums.aspx>. In the notes to the financial statements, agencies should disclose that the bond proceeds were allocated by the legislature to the agency to administer disbursements to the project recipients, and the agency is not obligated in any manner for the related indebtedness. Agencies should also disclose the specific revenue recognition policy for these appropriations. Each agency's IPA should audit the agency's financial statement presentation of this capital outlay project information and the related budget comparisons, to ensure that they are presented in accordance with accounting principles that are generally accepted in the United States.

(13) Amounts "due from other state agencies" and "due to other state agencies": If a state agency has amounts "due from" or "due to" other state agencies in its balance sheet, the notes should disclose the amount "due to" or "due from" each agency, the name of each agency, the SHARE fund account numbers, and the purpose of the account balance.

(14) Investments in the state treasurer's general fund investment pool (SGFIP): these investments should be recorded as investments in the statement of net position and the balance sheet, not as cash or cash equivalents. The notes to the financial statements should contain the following disclosures for the SGFIP as required by GASBS 40:

(a) an explanation that credit risk is the risk that an issuer or other counterparty to an

investment will not fulfill its obligations, and a statement that the SGFIP is not rated for credit risk (GASBS 40 Paragraph 7);

(b)

interest rate risk:

(i)

an explanation that interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment;

(ii)

disclosure required by GASB 40 Paragraph 15, of the agency's SGFIP investment fair value as of the end of the fiscal year, and the maturities of the SGFIP for the fiscal year (per DFA and STO); and

(iii)

a statement that the agency does not have an investment policy that limits investment interest rate risk.

(c)

the disclosure should also refer the reader to the separate audit report for the state treasurer's office for additional information regarding the SGFIP.

(15) Format for

the statement of activities: state agencies that have more than one program or function must use the financial statement format like GASBS 34, Illustrations B-1 through B-4(b). The simplified statement of activities (GASBS 34, illustration B-5) should not be used for agencies that have multiple programs or functions. GASBS 34 Paragraph 41 requires governments to report direct expenses for each function.

(16) Oversight

duties of the department of finance and administration's financial control division: on October 3, 2008, the state controller and the state auditor distributed a letter to agencies regarding the statewide financial reporting & accountability bureau's (SFRAB's) request for agencies' draft financial statements for the preparation of the CAFR for the state. Agencies were concerned about violating Paragraph (4) of Subsection B of 2.2.2.9 NMAC, delivery and release of the audit report. Section 6-5-2.1.S NMSA 1978 provides the financial control division to "have access to and authority to examine books, accounts, reports, vouchers, correspondence files and other records, bank accounts, money and other property of a state agency." In addition, Section 6-5-4.1 NMSA 1978 mandates that FCD shall compile the CAFR. After some consideration and discussion of the conflicting regulations, the state controller and the state auditor concluded, "pursuant to these rules, Sections 6-5-4.1 and 12-6-5 NMSA 1978 should be construed to give effect to both statutes and the

corresponding administrative rules.

Therefore, an agency shall provide a copy of its draft audited financial statements to financial control division in order that the division may compile the CAFR. The agency's audit report is not public record unless released in accordance with Section 12-6-5 NMSA 1978. The unaudited draft financial statements submitted to DFA shall exclude the opinions and findings. Submission of the unaudited draft financial statements is the responsibility of the agency and not the auditor. The unaudited draft financial statements submitted to DFA shall exclude the opinion and findings. Submission of the unaudited draft financial statements is the responsibility of the agency and not the audit To review the entire letter, the DFA-FCD oversight letter, go to the financial control division website at:

<http://www.nmdfa.state.nm.us/uploads/FinancialLinks/293b21bdbc044c04bd0dbc6de01def7e/DFA-FCD%20Oversight%20Letter.pdf>.

B. Pertaining to audits of housing authorities:

(1) Housing

authorities within the state of New Mexico consist of regional housing authorities, component units or departments of local governments, component units of housing authorities, and a housing authority created by an intergovernmental agreement between a city and county that is authorized to exercise all powers under the Municipal Housing Law Section 3-45-1 et seq. NMSA 1978.

(2) The

financial statements of a housing authority that is a department or component unit of a primary government, must be included in the financial audit report of the primary government by discrete presentation unless an exemption from this requirement has been obtained from the state auditor.

(a)

Discrete presentation shows financial data of the component unit in a column to the right of and separate from the financial data of the primary government. See GASBS 14 Paragraphs 44 through 50, as amended.

(b)

The primary government in cooperation with its auditor must make the determination whether the housing authority is a component unit of the primary government. See Paragraph (1) of Subsection A of 2.2.2.10 NMAC for guidance in this determination. In the event the primary government and auditor determine that the housing authority is a department of, rather than a component unit of the primary

government, a request for exemption from the discrete presentation requirement must be submitted to the state auditor, by the primary government, explaining why the housing authority should not be a discretely presented component unit. The request for exemption must include evidence that the housing authority is not a separate legal agency from the primary government and that the corporate powers of the housing authority are held by the primary government. Evidence included in the request must address these issues:

(i)

the housing authority is not a corporation registered with the secretary of state;

(ii)

there was never a resolution or ordinance making the housing authority a public body corporate; and

(iii)

the housing authority was authorized under the Municipal Housing Law, Section 3-45-1 et seq. NMSA 1978.

(c)

Upon receipt of the exemption granted by the state auditor from the requirement for discrete presentation, the housing authority department or program would be included in the financial report of the primary government like any other department or program of the primary government.

(3) Audits of

the public housing authorities that are departments of the local government shall be conducted by the same IPA that performs the audit of the local government. Separate audit contracts will not be approved.

(a)

Local governments are encouraged to include representatives from the public housing authorities that are departments in the IPA selection process.

(b)

The IPA shall include the housing authority's governing board and management representatives in the entrance and exit conferences with the primary government. If it is not possible to hold such combined conferences, the IPA shall hold a separate entrance and exit conference with housing authority's management and a member of the governing board. The office has the authority to notify the agency or IPA that the state auditor should be informed of the date of the entrance conference, any progress meetings and the exit conference. If such notification is received, the IPA and agency must invite the state auditor or his designee to attend all such conferences no later than 72 hours before the proposed conference.

(4) Housing authorities that are component units of a local government:

(a) must account for financial activity in proprietary funds;

(b) are authorized by Subsection E of Section 12-6-3 NMSA 1978, and “at the public housing authority’s discretion, may be audited separately from the audit of its local primary government entity; if a separate audit is made, the public housing authority audit shall be included in the local primary government entity audit and need not be conducted by the same auditor who audits the financial affairs of the local primary government entity; the statute further stipulates in Subsection A of Section 12-6-4 NMSA 1978, that “a public housing authority other than a regional housing authority shall not bear the cost of an audit conducted solely at the request of its local primary government entity;”

(c) any separate audits of component unit housing authorities must be conducted according to the following requirements.

(i) the primary engagement partner should agree that the group engagement team will be able to obtain sufficient appropriate audit evidence through the use of the group engagement team’s work or the use of the work of the component auditors (AU-C 600.15);

(ii) the component unit auditor selected must appear on the office of the state auditor list of eligible independent public accountants;

(iii) the bid and auditor selection processes must comply with the requirements of this rule;

(iv) the office of the state auditor standard contract form must be used;

(v) the primary government, the primary engagement partner, management of the component unit, and the component auditor should all coordinate their efforts to ensure that the audit reports of the component unit and the primary government are submitted by the applicable deadlines at Subparagraph (i) of Paragraph (1) of Subsection A of 2.2.2.9 NMAC.

(vi) all component unit findings must be disclosed in the primary government’s audit report.

(vii)

any separately issued component unit audit report must be submitted to the state auditor for the review process described in 2.2.2.13 NMAC.

(viii) the audit report will be released by the state auditor separately from the primary government’s report under a separate release letter to the housing authority.

(5) Auditors and public housing authorities must follow the requirements of guidelines on reporting and attestation requirements of uniform financial reporting standards (UFRS) for public housing authorities not-for-profit multifamily program participants and their independent accountants, which is available on the U.S. department of housing and urban development website under a search for UFRS. Additional administrative issues related to the audit of public housing authorities follow.

(a) Housing authority audit contracts must include the cost of the audit firm’s AU-C 725 opinion on the financial data schedule (FDS). The public housing authority must electronically submit a final approved FDS based on the audited financial statements no later than nine months after the PHA’s fiscal year end. The auditor must:

(i) electronically report on his comparison of the electronic FDS submission in the REAC staging data base through the use of an identification (ID) and password;

(ii) include a hard copy of the FDS in the audit report;

(iii) render an AU-C 725 opinion on the FDS; and

(iv) explain in the notes any material differences between the FDS and the financial statements.

(b) The audit must include this separate attestation engagement. The preparation and submission cost for this HUD requirement must be included in the audit contract. The IPA shall consider whether any fee accountant used by the housing authority is a service organization. The IPA shall follow applicable guidance at AU-C 402 regarding service organizations.

(c) The IPA shall provide the housing authority with an itemized cost breakdown by program area for audit services rendered in conjunction with the housing authority.

(6) Single audit reporting issue: If a single audit is performed on the separate audit report for the PHA, including the housing authority’s schedule of expenditures of federal awards, then the housing authority federal funds do not need to be subjected a second time to a single audit during the single audit of the primary government. In this situation, the housing authority’s federal expenditures do not need to be included in the primary government’s schedule of expenditures of federal awards. See Paragraphs 6.18 and 16.15 of the *AICPA audit guide, government auditing standards and single audits* for more information regarding this issue.

C. Pertaining to audits of school districts:

(1) The auditor selection process: in the event that a state-chartered charter school subject to oversight by the PED is not subject to the requirement to use the same auditor as PED, that charter school shall submit its IPA recommendation to PED for approval, prior to submitting the audit contract to the state auditor for approval. This process must be completed in time to meet the deadline for submission of the audit contract to the office. The IPA completed contract that has already been approved by PED is due to the state auditor on or before May 1. In the event the due date falls on a weekend or a holiday the due date will be the next business day.

(2) Audit planning level of materiality:

(a) As explained in Paragraphs (1) and (2) of Subsection A of 2.2.2.10 NMAC, the level of planning materiality and required auditor opinion will be at the individual fund level for the primary government and at the individual fund level for the component units.

(b) If a 501(c) component unit organization had a gross annual income in excess of two hundred fifty thousand dollars (\$250,000), Section 6-5A-1 NMSA 1978 requires that entity to be audited regardless of its materiality in relation to the primary government.

(3) Regional education cooperative (REC) audits:

(a) A separate financial and compliance audit is required on activities of RECs. The IPA shall provide a copy of this report to the participating school districts and the PED once the report has been released by the state auditor. The presentation of these funds should be in conformity with accounting principles generally accepted

in the United States of America.

(b)

Audits of RECs should test for compliance with PED Regulation, 6.23.3.7 NMAC through 6.23.3.12 NMAC.

(c)

If applicable, any on-behalf payments for fringe benefits and salaries made by RECs for employees of school districts should be accounted for in accordance with GASB Cod. Sec. N50.135 and communicated to the employer in accordance with Sec. N50.131.

(d)

The audit report of each REC shall include a cash reconciliation schedule which reconciles the cash balance as of the end of the previous fiscal year to the cash balance as of the end of the current fiscal year. This schedule shall account for cash in the same categories used by the REC in its monthly cash reports to the PED. If there are differences in cash per the REC financial statements and cash per the REC accounting records, the IPA should provide the adjusting entries to the REC to reconcile cash per the financial statements to cash per the REC accounting records. However, if cash per the REC accounting records differs from the cash amount the REC reports to PED in the monthly cash report, then the IPA should write a finding stating that the PED reports do not reconcile to the REC accounting records.

(4) School

district audits must address the following issues:

(a)

Audits of school districts shall test for compliance with PED Regulation 6.20.2 NMAC, Governing Budgeting and Accounting for New Mexico Public Schools and School Districts, 6.13.4 NMAC, The School Athletics Equity Act and the Manual of Procedures, primarily Supplement 7, Cash Controls.

(b)

The audit report of each school district shall include a cash reconciliation schedule which reconciles the cash balance as of the end of the previous fiscal year to the cash balance as of the end of the current fiscal year. This schedule is also required for each charter school chartered by a school district and each charter school chartered by the PED. This schedule will account for cash in the same categories used by the District in its monthly cash reports to the PED. Subsections D and E of 6.20.2.13 NMAC, state that “the cash basis of accounting is used for budgeting and reporting” to PED. The financial statements are prepared on the accrual basis of accounting. “If there are differences between the financial

statements, school district records and department records, the IPA should provide the adjusting entries to the school district to reconcile the report to the school district records.” However, if there is some difference between the school district records and the PED report amounts, other than those explained by the adjusting entries, then the IPA should write a finding stating that the PED reports do not reconcile to the school district records.

(c)

Any joint ventures or other entities created by the school districts are agencies subject to the Audit Act.

(d)

Agency fund reporting: under GASBS 34 a statement of changes in fiduciary net position is required for pension trust funds, investment trust funds, and private-purpose trust funds. However, agency funds have no net position and will be excluded from this presentation (GASBS 34 Paragraph 110 as amended by GASBS 63). Therefore, it is a requirement of the state auditor that a schedule of changes in assets and liabilities - agency funds for the fiscal year be included as supplemental information in the audit report for each school district and each charter school. The schedules should show the changes (both additions and deductions) in the agency funds summarized by school or for each activity. The schedule should appear toward the end of the table of contents and requires an AU-C 725 opinion in the independent auditor’s report.

(e)

Capital expenditures by the New Mexico public school facilities authority: school districts must: review capital expenditures made for repairs and building construction projects of the school district by the New Mexico public school facilities authority; determine the amount of capital expenditures that should be added to the capital assets of the school district; and account for those additions properly. The auditor should test the school district capital asset additions for proper inclusion of these expenditures.

(f)

Functions of the federal fund: The school district audit reports must include individual fund financial statements and budgetary comparisons for the following functions of the general fund: operational, transportation, instructional materials and teacherage (if applicable).

(5) Pertaining

to charter schools:

(a)

A charter school is a conversion school or start-up school within a school district

authorized by the local school board or authorized by the PED to operate as a charter school. A charter school is considered a public school, accredited by the state board of public education and accountable to the school district’s local school board, or to the PED, for ensuring compliance with applicable laws, rules and charter provisions. A charter school is administered and governed by a governing body in a manner set forth in the charter.

(b)

Certain GASBS 14 criteria must be applied to determine whether a charter school is a component unit of the chartering entity (the district or PED). GASBS 14 was amended by GASBS 61. The district, the PED, the charter school and the IPA must evaluate whether the amended GASBS 14 criteria requires a charter school to be presented as a component unit of its chartering entity. If a charter school is determined to be a component unit, then the charter school must be included in the financial statements of its sponsoring school district or PED by discrete presentation or blended presentation, if the GASB 34 (as amended) criterion for blended presentation is met.

(c)

The financial statements for charter schools that are determined to be component units pursuant to the criteria of the amended GASBS 14 should be presented and opined on in the following manner.

(i)

any charter school that has been determined to be a component unit should not be omitted based on materiality; all charter schools that are component units should be included in the basic financial statements (full accrual basis presentation) in one of the following manners; a separate column for each component unit presented in the government-wide statement; combining statements of component units presented as a basic financial statement after the fund financial statements; or as condensed financial statements in the notes to the basic financial statements (GASBS 34 Paragraphs 124 to 126);

(ii)

when separate audited financial statements are not available for a charter school, the fund financial statements for that charter school must be presented in the primary government’s financial statements on the modified accrual basis of accounting; if applicable, combining and individual fund financial statements should also be presented for the nonmajor funds; the financial statements should be

presented as supplemental information (SI) according to AAG-SLV 3.22 (latest edition);

(iii)

the state auditor requires that individual fund budgetary comparison statements for all of the charter school's funds must be included in the supplemental information section of the financial statements following the fund financial statements and the combining statements for the non-major funds to demonstrate compliance with legally adopted budgets; the budgetary comparisons must be audited and included in the auditor's opinion.

D. Pertaining to audits of counties:

(1) Tax roll reconciliation county governments: audit reports for counties must include two supplementary schedules. The first one is a "tax roll reconciliation of changes in the county treasurer's property taxes receivable" showing the June 30 receivable balance and a breakout of the receivable for the most recent fiscal year ended, and a total for the previous nine fiscal years. Per Subsection C of Section 7-38-81 NMSA 1978, property taxes that have been delinquent for more than 10 years, together with any penalties and interest, are presumed to have been paid. The second schedule titled "county treasurer's property tax schedule" must show by property tax type and agency, the amount of taxes: levied; collected in the current year; collected to-date; distributed in the current year; distributed to-date; the amount determined to be uncollectible in the current year; the uncollectible amount to-date; and the outstanding receivable balance at the end of the fiscal year. This information is necessary for proper revenue recognition on the part of the county as well as on the part of the recipient agencies, under GASBS 33. Property taxes levied in January 2015 are budgeted for the fiscal year July 1, 2015 through June 30, 2016. If the county does not have a system set up to gather and report the necessary information for the property tax schedule, a finding is required to be reported.

(2) The following is an example of the required tax roll reconciliation schedule:

Continued on the following page

STATE OF NEW MEXICO (NAME) COUNTY TAX ROLL RECONCILIATION - CHANGES IN THE COUNTY TREASURER'S PROPERTY TAXES RECEIVABLE FOR THE YEAR ENDED JUNE 30, 2016	
Property taxes receivable, beginning of year:	\$641,290
Changes to tax roll:	
Net taxes charged to treasurer for fiscal year:	4,466,602
Adjustments:	
Increases in taxes receivables:	3,066
Charge off of taxes receivables:	(6,144)
Total receivables prior to collections:	5,104,814
Collections for fiscal year ended June 30, 2016:	(4,330,993)
Property taxes receivable, end of year:	\$773,821
Property taxes receivable by years:	
2007 – 2015	\$226,344
2016	547,477
Total taxes receivable:	\$773,821

(3) An example of the schedule titled "county treasurer's property tax schedule may be found on the office website at www.saonm.org.

E. Pertaining to audits of colleges and universities: update to the auditor selection process:

(1) After completing the evaluation for each IPA the college or university shall submit the unsigned audit contract to HED for approval, prior to submitting the audit contract to the state auditor for approval. The unsigned audit contract is due to the state auditor on or before May 1. In the event that the due date falls on a weekend or holiday, the due date will be the next workday.

(2) Budgetary comparisons: the legal level of budgetary control per 5.3.4.10 NMAC should be disclosed in the notes to the financial statements. The state auditor requires that every college and university's audit report include budgetary comparisons as SI. The budgetary comparisons must be audited and an auditor's opinion must be rendered. An AU-C 725 opinion does not meet this requirement. The budgetary comparisons must show columns for: the original budget; the revised budget; actual amounts on the budgetary basis; and a variance column. The auditor must confirm the final adjusted and approved budget with the HED. The auditor must compare the financial statement budget comparison to the related September 15 budget submission to HED. The only differences that should exist between the

HED budget submission and the financial statement budget comparisons are:

(a) adjustments made by the institution after September 15; and

(b) audit adjustments; if the HED budget submission does not tie to the financial statement budget comparison, taking into account only those differences, then the auditor should write a related finding; a reconciliation of actual revenue and expense amounts on the budgetary basis to the GAAP basis financial statements should be disclosed at the bottom of the budgetary comparisons (preferred) or in the notes to the financial statements; the reconciliation is required only at the "rolled up" level of unrestricted and restricted - all operations and should include revenues and expenses; the HED approved the following format which must be used for the budgetary comparisons:

- (i) unrestricted and restricted all operations (schedule 1);
- (ii) beginning fund balance;
- (iii) unrestricted and restricted revenues;
- (iv) state general fund appropriations;
- (v) federal revenue sources;
- (vi) tuition and fees;
- (vii) land and permanent fund;
- (viii)

endowments and private gifts;

- (ix) other;
- (x) total unrestricted & restricted revenues;
- (xi) unrestricted and restricted expenditures;
- (xii) instruction;
- (xiii) academic support;
- (xiv) student services;
- (xv) institutional support;
- (xvi) operation and maintenance of plant;
- (xvii) student social & cultural activities;
- (xviii) research;
- (xix) public service;
- (xx) internal services;
- (xxi) student aid, grants & stipends;
- (xxii) auxiliary services;
- (xxiii) intercollegiate athletics;
- (xxiv) independent operations;
- (xxv) capital outlay;
- (xxvi) renewal & replacement;
- (xxvii) retirement of indebtedness;

total unrestricted & restricted expenditures;	(xxviii)	ending fund balance;	(d)	state and local governments, Section 4.73, must be used for the audit of these institutions. Planning materiality for component units is at the individual component unit level. If a 501(c) component unit organization had a gross annual income in excess of two hundred fifty thousand dollars (\$250,000), Section 6-5A-1, NMSA 1978, requires that entity to be audited regardless of materiality. See Paragraph (1) of Subsection A of 2.2.2.10 NMAC for more information about contracting for these required audits.
net transfers;	(xxix)	restricted instruction & general (schedule 3);	(i)	(4)
change in fund balance (budgetary basis) ;	(xxx)	beginning fund balance;	(ii)	Compensated absence liability should be shown as follows: The statement of net position should reflect the current portion of compensated absences under current liabilities, and the long-term portion of compensated absences under noncurrent liabilities.
ending fund balance.	(xxxi)	restricted revenues;	(iii)	(5) Component
unrestricted instruction & general (schedule 2);	(c)	tuition;	(iv)	unit issues: legally separate entities that meet the criteria set forth in GASBS 14, as amended by GASBS 39 and GASBS 61, to qualify as a component unit of an educational institution must be included in the educational institution's audit report as a discrete component unit. An exemption must be obtained from the state auditor in order to present any component unit as blended. The same auditor must audit the component unit and the educational institution unless an exemption is obtained from the state auditor.
beginning fund balance;	(i)	miscellaneous fees;	(v)	(a)
unrestricted revenues;	(ii)	federal government appropriations;	(vi)	If the college or university has no component units there should be a statement to that effect in the notes to the financial statement in the description of the reporting entity.
tuition;	(iii)	state government appropriations;	(vii)	(b)
miscellaneous fees;	(iv)	local government appropriations;	(viii)	Individual component unit budgetary comparisons are required if the component unit has a "legally adopted budget." A component unit has a legally adopted budget if it receives any federal funds, state funds, or any other appropriated funds whose expenditure authority derives from an appropriation bill or ordinance that was signed into law.
federal government appropriations;	(v)	federal government contracts/grants;	(ix)	(c)
state government appropriations;	(vi)	state government contracts/grants;	(x)	There is also no level of materiality for reporting findings of component units that do not receive public funds. All component unit findings must be disclosed in the primary government's audit report.
local government appropriations;	(vii)	local government contracts/grants;	(xi)	(6)
federal government contracts/grants;	(viii)	private contracts/grants;	(xii)	Management discussion and analysis (MD&A): The MD&A analysis of significant variations between original and final budget amounts and between final budget amount and actual budget results is required by this rule for colleges
state government contracts/grants;	(ix)	endowments;	(xiii)	
local government contracts/grants;	(x)	land & permanent fund;	(xiv)	
private contracts/grants;	(xi)	private gifts;	(xv)	
endowments;	(xii)	sales and services;	(xvi)	
land & permanent fund;	(xiii)	other;	(xvii)	
private gifts;	(xiv)	total restricted revenues;	(xviii)	
sales and services;	(xv)	restricted expenditures;	(xix)	
other;	(xvi)	instruction;	(xx)	
total unrestricted revenues;	(xvii)	academic support;	(xxi)	
unrestricted expenditures;	(xviii)	student services;	(xxii)	
instruction;	(xix)	institutional support;	(xxiii)	
academic support;	(xx)	operation & maintenance of plant;	(xxiv)	
student services;	(xxi)	total restricted expenditures;	(xxv)	
institutional support;	(xxii)	net transfers;	(xxvi)	
operation & maintenance of plant;	(xxiii)	change in fund balance (budgetary basis) ;	(xxvii)	
total unrestricted expenditures;	(xxiv)	ending fund balance.	(3)	
net transfers;	(xxv)		The level of planning materiality required by the state auditor follows: Institutions should present their financial statements using the business type activities (BTA) model. The level of planning materiality described in the AICPA audit and accounting guide,	
change in fund balance (budgetary basis);	(xxvi)			
	(xxvii)			

and universities. The analysis should include any currently known reasons for those variations that are expected to have a significant effect on future services or liquidity.

(7) Submit draft copy of financial statements to financial control division: Section 11 of Article XII of the New Mexico state constitution established the following New Mexico educational institutions:

- (a) the university of New Mexico;
- (b) nm state university;
- (c) nm highlands university;
- (d) western nm university;
- (e) eastern nm university;
- (f) nm institute of mining and technology;
- (g) nm military institute;
- (h) nm school for the visually handicapped;
- (i) nm school for the deaf; and
- (j) northern nm college; these educational institutions should provide the FCD with a draft copy of their financial statements excluding opinions and findings, pursuant to Paragraph (16) of Subsection A of 2.2.2.12 NMAC, and the letter dated October 3, 2008, described therein, from the state controller and the state auditor. [2.2.2.12 NMAC, Rp, 2.2.2.12 NMAC, 3-15-16]

2.2.2.13 REVIEW OF AUDIT REPORTS AND AUDIT DOCUMENTATION:

A. Statutory requirement to review audit reports: Subsection B of Section 12-6-14 NMSA 1978 requires that the state auditor or personnel of his office designated by him examine all reports of audits of agencies made pursuant to contract. All audits under the contracts approved by the state auditor are subject to review. The office will review all reports submitted by the IPA to determine if the reports are presented in accordance with the requirements of this rule and applicable auditing, accounting and financial reporting standards. The office will review all audit reports submitted by the report due date before reviewing reports that are submitted after the report due date. In addition, as discussed in Paragraph (6) of Subsection C of 2.2.2.9 NMAC, audit reports reissued by the

agency and IPA, pursuant to AU-C 560, are also subject to office review procedures.

B. Comprehensive reviews: Released audit reports are subject to a comprehensive report and audit documentation review by the state auditor. The IPA’s audit documentation must be assembled in one complete file or one complete set of files in one location, whether the documentation is hardcopy or electronic, pursuant to AU-C 230.16. The documentation must be either all hardcopy or all electronic. The office reviews of audit and AUP working papers include the review of firm documentation of compliance with governmental auditing, accounting and financial reporting standards issued by GASB, AICPA, GAO, OMB Circular A-133 or uniform administrative requirements, cost principles, and audit requirements for federal awards, and the requirements of this rule.

C. Consequences of deficiencies: If during the course of its review of an audit report or the related audit documentation, the office finds significant deficiencies that warrant a determination that the audit was not made in a competent manner in accordance with the provisions of the contract or applicable standards, or requirements of this rule, any or all of the following action(s) may be taken;

- (1) as instructed by the office, the IPA may be required to correct the deficiencies and if necessary the working papers, and reissue the audit report to the agency, and any others receiving copies;
- (2) the IPA may be required to submit working papers along with the audit report to the state auditor for review by the office, prior to the release of future audit reports, for some or all audit contracts; or
- (3) the IPA may be referred to the New Mexico public accountancy board for possible licensure action.

D. Results of work paper reviews: After the review is completed, the office will issue a letter to advise the IPA about the results of the review. The IPA is required to respond in writing to all review comments when directed. If the firm disagrees with any comments, the firm shall provide references to professional standards supporting the firm’s disagreement. Failure to respond will be noted during the firm profile review process. 2.2.2.13 NMAC - Rp, 2 2.2.13 NMAC, 3-15-16]

2.2.2.14 CONTINUING PROFESSIONAL EDUCATION AND PEER REVIEW REQUIREMENTS:

A. Continuing professional education: U.S. GAO Government Auditing Standards, 2011 Revision (GAGAS), Section 3.76 states “auditors performing work in accordance with GAGAS, including planning, directing, performing audit procedures, or reporting on an audit in accordance with GAGAS, should maintain their professional competence through CPE. Therefore, each auditor performing work in accordance with GAGAS should complete, every two years, at least 24 hours of CPE that directly relates to government auditing, the government environment, or the specific or unique environment in which the audited entity operates. Auditors who are involved in any amount of planning, directing, or reporting on GAGAS audits and auditors who are not involved in those activities but charge twenty percent or more of their time annually to GAGAS audits should also obtain at least an additional 56 hours of CPE (for a total of 80 hours of CPE in every two-year period) that enhances the auditor’s professional proficiency to perform audits. Auditors required to take the total 80 hours of CPE should complete at least 20 hours of CPE in each year of the two-year period. Auditors hired or initially assigned to GAGAS audits after the beginning of an audit organization’s two-year CPE period should complete a prorated number of CPE hours.” The GAO issued *government auditing standards: Guidance on GAGAS requirements for continuing professional education, GAO-05-568G, April 2005*. It provides helpful guidance to auditors and audit organizations regarding the implementation of the GAGAS CPE requirements. The guide is available at www.gao.gov/govaud.

B. Peer review requirements: GAGAS Section 3.82 states “each audit organization performing audits in accordance with GAGAS must: establish and maintain a system of quality control that is designed to provide the audit organization with reasonable assurance that the organization and its personnel comply with professional standards and applicable legal and regulatory requirements; and have an external peer review performed by reviewers independent of the audit organization being reviewed at least once every three years.” Required elements of each audit organization’s system of quality control are described at GAGAS 3.83 to 3.96. Section 3.96 states “the audit

organization should obtain an external peer review at least once every three years that is sufficient in scope to provide a reasonable basis for determining whether, for the period under review, the reviewed audit organization's system of quality control was suitably designed and whether the audit organization is complying with its quality control system in order to provide the audit organization with reasonable assurance of conforming with applicable professional standards."

(1) Per AICPA PR Section 100 standards for performing and reporting on peer reviews, a firm's due date for its initial peer review is 18 months from the date the firm enrolled in the peer review program or should have enrolled, whichever is earlier. A firm's subsequent peer review is due three years and six months from the previous peer review year end.

(2) If the firm is unable to submit its latest current peer review documentation by the date the annual firm profile review process is completed, the firm will be put on "conditional approval" status by the office pursuant to Subsection D of 2.2.2.8 NMAC.

(3) The state auditor requires the location of the external quality control review to be the office of the firm under review, regardless of whether the firm reviewed is a sole practitioner and regardless of the number of firm employees. External quality control reviews performed at a location other than the office of the firm under review will not be accepted by the state auditor.

(4) IPAs who perform government audits are expected to maintain professional libraries, which may include electronic resources, including current editions of the publications and standards noted at Subsections C and D of 2.2.2.10 NMAC. The PPC audit guides published by Thomson Reuters or similar authors' practice aides are not considered to be authoritative guidance.

(5) The IPA firm profile submission to the state auditor should include copies of the following peer review documentation:

(a) proof that the firm your peer reviewer is associated with is a firm that received a peer review rating of "pass";

(b) the peer review report for the auditor's firm;

(c) if applicable, the detailed description

of the findings, conclusions and recommendations related to deficiencies or significant deficiencies required by (GAGAS 3.103);

(d) auditor's response to deficiencies or significant deficiencies (if applicable);

(e) the letter of acceptance from the peer review program in which the firm is enrolled; and

(f) a list of the governmental audits reviewed during the peer review; the office assumes that at least one of these will be a New Mexico governmental audit.

(6) A peer review rating of "failed" on the auditor's peer review will disqualify the IPA from performing New Mexico governmental audits.

(7) During the procurement process audit firms shall provide a copy of their most recent external peer review report to the agency upon submitting a bid proposal or offer and any subsequent peer review reports received during the period of the contract.

(8) The peer review should meet the requirements of GAGAS 3.96 to 3.107.

(9) The New Mexico public accountancy board's substantial equivalency provision has been replaced with mobility pursuant to Section 61-28B-13 NMSA 1978. If the CPA is performing any type of attest work, his firm must apply for a firm permit.

(10) The reviewer should be familiar with this rule. This is a requirement of the state auditor that can be achieved by attendance at audit rule training provided by the office.

C. State auditor quality control reviews: The state auditor performs its own quality control review of IPA audit reports and working papers. When the result of the state auditor's quality control review differs significantly from the external quality control report and corresponding peer review rating, the state auditor may no longer accept external peer review reports performed by that reviewer. In making this determination, the state auditor will take into consideration the fact that AICPA peer reviews are performed on a risk-based or key-element approach looking for systemic problems, while the state auditor reviews are engagement-specific reviews.

[2.2.2.14 NMAC - Rp, 2.2.2.14 NMAC, 3-15-16]

2.2.2.15 SPECIAL AUDITS, ATTESTATION ENGAGEMENTS, PERFORMANCE AUDITS AND FORENSIC AUDITS:

A. Fraud, waste or abuse in government reported by agencies, IPAs or members of the public:

(1) Reports of fraud, waste & abuse: Pursuant to the authority set forth in Subsection C of Section 12-6-3 NMSA 1978, the state auditor may conduct initial fact-finding procedures in connection with reports of financial fraud, waste and abuse in government made by agencies, IPAs or members of the public. Reports may be made telephonically or in writing through the fraud hotline or website established by the state auditor for the confidential reporting of financial fraud, waste, and abuse in government. Reports may be made telephonically to the fraud hotline by calling 1-866-OSA-FRAUD (1-866-672-3728) or reported in writing through the state auditor's website at www.saonm.org. Reports received or created by the state auditor are audit information and audit documentation in connection with the state auditor's statutory duty to examine and audit the financial affairs of every agency, or in connection with the state auditor's statutory discretion to audit the financial affairs and transactions of an agency in whole or in part.

(2) Confidential sources: The identity of a person making a report directly to the state auditor orally or in writing, or telephonically or in writing through the state auditor's fraud hotline or website, alleging financial fraud, waste, or abuse in government is confidential audit information and may not be disclosed, unless the person making the report agrees to the disclosure of that person's name.

(3) Confidentiality of files: A report alleging financial fraud, waste, or abuse in government that is made directly to the state auditor orally or in writing, or telephonically or in writing through the state auditor's fraud hotline or website, any resulting special audit, performance audit, attestation engagement or forensic audit, and all records and files related thereto are confidential audit documentation and may not be disclosed prior to the release of an audit report, except to an independent auditor, performance audit team or forensic audit team in connection with a special audit, performance audit, attestation engagement, forensic audit or other existing or potential engagement regarding

the financial affairs or transactions of an agency.

B. Special audit or attestation examinations, performance audits and forensic audits:

(1) Designation: Pursuant to Section 12-6-3 NMSA 1978, in addition to the annual audit, the state auditor may cause the financial affairs and transactions of an agency to be audited in whole or in part. Accordingly, the state auditor may designate an agency for special audit or attestation, performance audit or forensic audit engagement regarding the financial affairs and transactions of an agency or local public body based on information or a report received from an agency, IPA or member of the public. For purposes of this rule, the term "special audit or attestation engagement, performance audit or forensic audit" includes, without limitation, agreed-upon procedures and consulting engagements that address financial fraud, waste or abuse in government. The state auditor shall inform the agency of the designation by sending the agency a notification letter. The state auditor may specify the audit subject matter, the scope and any procedures required, the AICPA professional standards that apply, and for a performance audit, performance aspects to be included and the potential findings and reporting elements that the auditors expect to develop. Pursuant to Section 200.503 of Uniform Guidance for Federal Awards, if a single audit was previously performed, the special audit, attestation engagement, performance audit or forensic audit must be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed by other auditors. The attestation and performance audit engagements may be conducted pursuant to government auditing standards if so specified by the office.

(2) Costs: All reasonable costs of special audits or attestation engagements or forensic audits conducted pursuant to this section shall be borne by the agency audited pursuant to Section 12-6-4 NMSA 1978. All reasonable costs of a single-entity performance audit conducted pursuant to this section shall be borne by the entity audited pursuant to Section 12-6-4 NMSA 1978. The state auditor, in its sole discretion, may apportion among the entities audited some or all of the reasonable costs of a multi-entity performance audit.

(3) Who

performs the engagement: The state auditor may perform the special audit or attestation engagement, performance audit or forensic audit, alone or with other professionals selected by the state auditor. Alternatively, the state auditor may require the audit or attestation engagement to be performed by an IPA or a team that may be comprised of any of the following: independent public accountants; individuals with master's degrees or doctorates in a relevant field such as business, public administration, public policy, finance, economics; individuals with their juris doctorate; CFE-certified fraud examiners; CFF-certified forensic auditors; CIA-certified internal auditors; or other specialists. If the state auditor designates an agency for an engagement to be conducted by an IPA or professional team, the agency shall:

(a) upon receipt of notification to proceed from the state auditor, identify all elements or services to be solicited, and obtain the state auditor's written approval of the proposed scope of work and request quotations or proposals for each applicable element of the engagement;

(b) follow all applicable procurement requirements in accordance with the Uniform Guidance for Federal Awards (if applicable), Procurement Code, Chapter 13 Article 1, or equivalent home rule procurement provisions when selecting an IPA or team to perform the engagement;

(c) evaluate all competitive sealed proposals or quotations received by using an evaluation process, preferably executed by a selection committee, as described in Subsection H of 2.2.2.8 NMAC; and

(d) after completing the evaluations for each professional and making the professional selection, each agency shall submit the following information to the state auditor by the due date specified by the state auditor:

(i) a completed recommendation form for special audits, or attestation engagements, performance audits or forensic audits (the form) provided at www.osanm.org, which the agency shall print on agency letterhead; and

(ii) a completed audit contract form including the contract fee, start and completion date, and the specific scope of services to be performed, provided at www.osanm.org, with all required signatures on the contract.

(e)

recommendation forms and contracts that are submitted to the office with errors or omissions will be rejected by the state auditor; the state auditor will return the rejected form and contract to the agency with a checklist indicating the reason(s) for the rejection;

(f) in the event the agency's recommendation is not approved by the state auditor, the state auditor will promptly communicate the decision, including the reason(s) for disapproval, to the agency, at which time the agency shall promptly submit a different recommendation; this process will continue until the state auditor approves a recommendation and related contract; during this process, whenever a recommendation and related contract are not approved, the agency may submit a written request to the state auditor for reconsideration of the disapproval; the agency shall submit its request no later than 15 days from the date of the disapproval and shall include documentation in support of its recommendation; if warranted, after review of the request, the state auditor may hold an informal meeting to discuss the request; the state auditor may set the meeting in a timely manner with consideration given to the agency's circumstances.

(g) any contract amendments will be processed in accordance with Subsection S of 2.2.2.8 NMAC.

(4) Access to records and documents: For any special audit, attestation engagement, performance audit or forensic audit, the state auditor and any engaged professionals shall have available to them all documents necessary to conduct the special audit, attestation engagement, performance audit or forensic audit. Furthermore, pursuant to Section 12-6-11 NMSA 1978, when necessary for a special audit, attestation engagement, performance audit or forensic audit, the state auditor may apply to the district court of Santa Fe county for issuance of a subpoena to compel the attendance of witnesses and the production of books and records.

(5) Entrance, progress and exit conferences: The IPA or other professional will hold an entrance conference and an exit conference with the agency, unless the IPA or other professional has submitted a written request to the state auditor for an exemption from this requirement and has obtained written approval of the exemption. The state auditor has

the authority to notify the agency or IPA or other professional that the state auditor should be informed of the date of the entrance conference, any progress meetings and the exit conference. If such notification is received, the IPA or other professional and agency must invite the state auditor or his designee to attend all such conferences. The state auditor may also require the IPA or other professional to submit its audit plan to the state auditor for review and approval.

(6) Required reporting: All reports for special audit, attestation, performance audit, or forensic audit engagements related to financial fraud, waste or abuse in government undertaken pursuant to 2.2.2.15 NMAC (regardless of whether they are conducted pursuant to AICPA standards for consulting services or for attestation engagements) should report as findings any fraud, illegal acts, non-compliance or internal control deficiencies, consistent with Section 12-6-5 NMSA 1978. The findings should include the following elements:

(a) the condition or description of the situation that exists, including the extent of the condition, like the number of instances the condition was found out of the number of samples tested and the amount of dollars involved compared to the amount of dollars and for repeat findings, include here, management's progress towards implementing the prior year planned corrective actions (if applicable);

(b) the criteria of the policy or procedure, law, regulation, ordinance, contract, or grant agreement except that illustrates what is expected;

(c) the cause of the condition, if it can be determined;

(d) the effect or impact of the condition;

(e) the IPA or other professional(s)' recommendation addressing each condition and cause;

(f) agency response (agency's comments about the finding including a specific planned corrective action with a timeline and designation of what employee position(s) are responsible for meeting the deadlines in the timeline); upon completion of the report, the IPA or other professional shall deliver the organized and bound report to the state auditor with a copy of any signed management representation letter.

(7) Reports:

The state auditor will review reports of any special audit or attestation engagement, performance audit or forensic audit made pursuant to this section for compliance with the professional services contract and this 2.2.2.15 NMAC; upon completion of the report, the IPA or other professional shall deliver the organized and bound report to the state auditor; unfinished or excessively deficient reports will be rejected by the state auditor; the firm should submit an electronic version of the corrected rejected report for state auditor review; the name of the electronic file should be "corrected rejected report" followed by the agency name and fiscal year; the IPA or other professional is required to respond to all review comments as directed by the state auditor.

(8) Report

release: After its review of the report for compliance with the professional services contract, the state auditor will authorize the IPA to print and submit the final report; the required number of hardcopies specified in the professional services contract, a completed electronic excel version of the summary of findings form available at www.saonm.org and an electronic version of the report, in the PDF format described at Paragraph (3) of Subsection C of 2.2.2.9 NMAC, all must be delivered to the state auditor within five business days. The state auditor will not release the report until the electronic version of the report and the *summary of findings* form are received by the state auditor. The state auditor will provide the agency with a letter authorizing final payment to the IPA and the release of the report pursuant to Section 12-6-5 NMSA 1978. Agency and local public body personnel shall not release information to the public relating to the special audit, performance audit or attestation engagement until the report is released and has become a public record pursuant to Section 12-6-5 NMSA 1978. Except for the exception under Paragraph (10) of Subsection B of 2.2.2.15 NMAC at all times during the engagement and after the engagement report becomes a public record, the IPA or other professional(s) shall not disclose to the public confidential information about the auditee or about the engagement. Confidential information is information that is not generally known to the public through common means of providing public information like the news media and internet.

(9) Disclosure

by the state auditor: The state auditor shall disclose special audit, performance

audit, attestation engagement, and forensic audit documentation that is confidential under Paragraphs (2) and (3) of Subsection A of 2.2.2.15 NMAC, only if and when required by Section 12-6-6 NMSA 1978.

(10) Disclosure

by professionals: The IPA or other professional shall not disclose information provided to them by the state auditor unless otherwise specified by the state auditor. Disclosure of confidential information by the IPA or other professional team may result in legal action by the state auditor, or in the case of an IPA, being restricted pursuant to Subsection F and G of 2.2.2.8 NMAC.

(11) Payment:

Progress payments up to (but not including) ninety percent of the contract amount do not require state auditor approval and may be made by the agency if the agency monitors the progress of the services procured. If requested by the state auditor, the agency shall provide a copy of the approved progress billing(s). Final payments of ninety percent and above may be made by the agency only after the state auditor has stated in a letter to the agency that the report has been released by the state auditor.

C. Agency-initiated special audits, attestation engagements, performance audits and forensic audits:

(1)

Applicability: With the exception of agencies that are authorized by statute to conduct performance audits and forensic audits, this section applies to all instances in which an agency enters into a professional services contract for a special audit or attestation engagement, performance audit, or forensic audit relating to financial fraud, waste or abuse, but the agency has not been designated by the state auditor for the engagement pursuant to Subsection B of 2.2.2.15 NMAC. For purposes of this rule, the term "special audit or attestation engagement, performance audit or forensic audit" includes, without limitation, agreed-upon procedures and consulting engagements that address financial fraud, waste or abuse in government.

(2) Contracting:

An agency, IPA or other professional shall not enter into a professional services contract for a special audit or attestation engagement, performance audit, or forensic audit regarding the financial affairs and transactions of an agency and relating to financial fraud, waste or abuse in government without the prior written approval of the state auditor. The

proposed professional services contract must be submitted to the state auditor for review and approval after it has been signed by the agency and the IPA or other professional, unless the agency or IPA or other professional applies to the state auditor for an exemption and the state auditor grants the exemption. When contracting with an IPA or other professional, the agency shall contract only with an IPA or other professional that has been approved by the state auditor to conduct such work. The state auditor may, in its sole discretion, require a non-IPA professional to submit proof of qualifications, a firm profile or equivalent documentation prior to approving the contract. The contract must include the contract fee, start and completion date, and the specific scope of services to be performed, and must follow any template that the state auditor may provide.

(3) Applicability of other rules: The provisions outlined in Paragraphs (4) through (11) of Subsection B of 2.2.2.15 NMAC apply to agency-initiated special audits and attestation engagements, performance audits and forensic audits. [2.2.2.15 NMAC - Rp, 2.2.2.15 NMAC, 3-15-16]

2.2.2.16 ANNUAL FINANCIAL PROCEDURES REQUIRED FOR LOCAL PUBLIC BODIES WITH ANNUAL REVENUES LESS THAN FIVE HUNDRED THOUSAND DOLLARS (five hundred thousand dollars (\$500,000)):

A. Annual revenue determines type of financial reporting: Pursuant to Subsection B of Section 12-6-3 NMSA 1978, the annual revenue of a local public body determines the type of financial reporting a local public body shall submit to the office. Local public bodies are mutual domestic water consumers associations, land grants, incorporated municipalities, and special districts. The annual revenue of a local public body shall be calculated on a cash basis, excluding capital outlay funds, federal and private grants.

B. Determination of revenue and services: Annually, the state auditor shall provide local public bodies written authorization to proceed with obtaining services to conduct a financial audit or other procedures. Upon receipt of the authorization, a local public body shall determine its annual revenue in accordance with Subsection A of 2.2.2.16 NMAC. The following requirements for financial reporting apply to the following annual revenue amounts:

(1) if a local public body's annual revenue is less than \$10,000 and the local public body did not directly expend at least fifty percent of, or the remainder of, a single capital outlay award, then the local public body is exempt from submitting and filing quarterly reports and budgets for approval to the local government division of the department of finance and administration and from submitting a financial report to the state auditor, except as otherwise provided in Subsection C of 2.2.2.16 NMAC;

(2) if a local public body's annual revenue is \$10,000 or more but less than fifty thousand dollars (\$50,000), then the local public body shall comply with the requirements of Section 6-6-3 NMSA 1978; and is exempt from any financial reporting to the state auditor, except as otherwise provided in Subsection C of 2.2.2.16 NMAC;

(3) if a local public body's annual revenue is less than fifty thousand dollars (fifty thousand dollars (\$50,000)), and the local public body expended at least fifty percent of, or the remainder of, a single capital outlay award, then the local public body shall procure the services of an IPA for the performance of a tier 3 agreed upon procedures engagement in accordance with the Tier 3 Agreed Upon Procedures checklist on the state auditor's website;

(4) if a local public body's annual revenue is fifty thousand dollars (\$50,000) or more, but less than \$250,000, then the local public body shall procure the services of an IPA for the performance of a tier 4 agreed upon procedures engagement in accordance with the tier 4 agreed upon procedures checklist on the state auditor's website;

(5) if a local public body's annual revenue is fifty thousand dollars (\$50,000) or greater, but less than two hundred fifty thousand dollars (\$250,000) and the local public body expended any capital outlay funds, then the local public body shall procure the services of an IPA for the performance of a tier 5 agreed upon procedures engagement in accordance with the tier 5 agreed upon procedures checklist on the state auditor's website;

(6) if a local public body's annual revenue is two hundred fifty thousand dollars (\$250,000) or greater, but less than five hundred thousand dollars (\$500,000), the local public body shall procure services of an IPA for the performance of a tier 6 agreed upon procedures engagement in

accordance with the tier 6 agreed upon procedures checklist on the state auditor's website;

(7) if a local public body's annual revenue is five hundred thousand dollars (\$500,000) or more, the section shall not apply and the local public body shall procure services of an IPA for the performance of a financial and compliance audit in accordance with other provisions of 2.2.2 NMAC;

(8) notwithstanding the annual revenue of a local public body, if the local public body expended seven hundred fifty thousand dollars (\$750,000) or more of federal funds subject to a federal single audit during the fiscal year then the local public body must procure a single audit in accordance with 2.2.2.8 NMAC.

C. Exemption from financial reporting: A local public body that is exempt from financial reporting to the state auditor pursuant to Paragraphs (1) and (2) of Subsection B of 2.2.2.16 NMAC shall submit written certification to the local government division and the state auditor. The certification shall be provided on the form made by the state auditor and available on the state auditor's website at www.saonm.org. The local public body shall certify, at a minimum:

(1) the local public body's annual revenue for the fiscal year; and

(2) that the local public body did not expend fifty percent of or the remainder of a single capital outlay award.

D. Procurement of IPA services: A local public body required to perform an agreed-upon procedures engagement shall procure the services of an IPA in accordance with 2.2.2.8 NMAC. A local public body is strongly encouraged to select an IPA on the state auditor's list of audit firms approved to perform audits of New Mexico government agencies. However, a local public body may select an IPA who has submitted the following firm information and been approved by the office pursuant to applicable procedures described at Subsections B through F of 2.2.2.8 NMAC:

(1) a New Mexico firm permit to practice;

(2) current liability insurance; and

(3) a current peer review (if applicable), with a rating of at least "pass with deficiencies."

E. Requirements of the IPA selected to perform the agreed-upon procedures:

(1) The IPA will provide the local public body with a dated engagement letter during the planning stages of the engagement, describing the services to be provided. See Paragraph (5) of Subsection S of 2.2.2.8 NMAC for applicable restrictions on the engagement letter.

(2) The IPA may not subcontract any portion of the services to be performed under the contract with the local public body except for the activation of a contingency subcontractor form in the event the IPA is unable to complete the engagement.

(3) The IPA will hold an entrance conference and an exit conference with the local public body unless the IPA has submitted a written request to the office for an exemption from this requirement and has obtained written approval of the exemption from the office. Unless the cost of the AUP is \$5,000 (excluding GRT) or less, the exit conference must be held in person; a telephone or webcam exit conference will not meet this requirement. The office has the authority to notify the agency or IPA that the state auditor should be informed of the date of the entrance conference, any progress meetings and the exit conference. If such notification is received, the IPA and agency must invite the state auditor or his designee to attend all such conferences no later than 72 hours before the proposed conference or meeting.

(4) The report should be submitted to the office for review. After the report has been reviewed by the office, an electronic excel version of the summary of findings form (available at www.saonm.org) must be submitted to the office along with the final report. Once the report is officially released to the agency by the state auditor by a release letter and the required waiting period of five calendar days has passed or has been waived by the local public body, the agreed-upon procedures report shall be presented by the IPA, to a quorum of the governing authority of the local public body at a meeting held in accordance with the Open Meetings Act, if applicable.

F. Progress payments:

(1) Progress payments up to ninety percent of the contract amount do not require state auditor approval and may be made by the local public body if the local public body ensures that progress payments made do not exceed the percentage of work completed by the IPA. If requested by the state auditor, the local public body shall provide the office a copy of the approved progress billing(s).

(2) Final payments from ninety one percent to one hundred percent may be made by the local public body only after the state auditor has stated in a letter to the local public body that the agreed-upon procedures report has been released by the state auditor and the engagement and management representation letter have been received by the state auditor.

G. Report due dates, notification letters and confidentiality:

(1) For local public bodies with a June 30 fiscal year-end, the report or certification due date is December 15. Local public bodies with a fiscal year end other than June 30 must submit the agreed-upon procedures report or certification no later than five months after the fiscal year-end. An organized bound hard copy of the report should be submitted. Reports submitted via fax or email will not be accepted. A copy of the signed dated management representation letter shall be submitted with the report. If a due date falls on a weekend or holiday, or if the office is closed due to inclement weather, the report is due the following business day by 5:00 p.m. If the report is mailed to the state auditor, it should be postmarked no later than the due date to be considered filed by the due date. If the due date falls on a weekend or holiday the audit report should be postmarked by the following workday. The state auditor will grant no extensions of time to the established regulatory due dates.

(2) As soon as the auditor becomes aware that circumstances exist that will make the local public body's agreed-upon procedures report be submitted after the applicable due date shown in Paragraph (1) of Subsection G of 2.2.2.16 NMAC above, the auditor shall notify the state auditor and oversight agency of the situation in writing. This notification shall consist of a letter with official signatures, not an email. However, a scanned version of the official letter sent via email that contains the required signatures is acceptable. There must be a separate notification for each late agreed-upon procedures report. The notification must include a specific explanation regarding why the report will be late, when the IPA expects to submit the report *and a concurring signature by the local public body. If the IPA will not meet the expected report submission date, then the IPA should send a revised notification letter.* In the event the contract was signed after the report due date, the notification letter must still be submitted to the office explaining the reason the agreed-upon

procedures report will be submitted after the report due date. A copy of the letter must be sent to the LGD, if LGD oversees the local public body. The late report notification letter is not required if the report was submitted to the Office for review by the deadline, and then rejected by the office, making the report late when resubmitted.

(3) Local public body personnel shall not release information to the public relating to the agreed-upon procedures engagement until the report is released and has become a public record pursuant to Section 12-6-5 NMSA 1978. At all times during the engagement and after the agreed-upon procedures report becomes a public record, the IPA shall follow applicable standards and 2.2.2 NMAC regarding the release of any information relating to the agreed-upon procedures engagement.

H. Findings: All agreed upon procedures engagements should report as findings any fraud, illegal acts, non-compliance or internal control deficiencies, consistent with Section 12-6-5 NMSA 1978. The findings should include the content listed at Subparagraph (c) of Paragraph (3) of Subsection I of 2.2.2.10 NMAC.

I. Review of agreed-upon procedures reports and related workpapers: Agreed-upon procedures reports will be reviewed by the office for compliance with the professional services contract. Unfinished or excessively deficient reports will not be considered received. Such reports will be returned to the firm and a copy of the rejection letter will be sent to the local public body. If the office rejects and returns a substandard agreed upon procedures report to the firm, the report will be considered late if the revised report is not submitted by the due date, and the firm must include a finding for non-compliance with the due date. The firm should submit an electronic version of the corrected rejected report for office review. The name of the electronic file should be "corrected rejected report" followed by the agency name and fiscal year. The office encourages early submission of reports to avoid findings for late reports. After its review of the agreed-upon procedures report for compliance with the professional services contract, the office will authorize the IPA to print and submit the final report; the required number of hardcopies specified in the professional services contract, an electronic excel version of the findings summary form and an electronic version of the agreed upon procedures report, in PDF format described at Paragraph (3)

of Subsection C of 2.2.2.9 NMAC, all must be delivered to the office within five business days. The office will not release the agreed-upon procedures report until the electronic version of the report is received by the office. The office will provide the local public body with a letter authorizing the release of the report after the required five day waiting period, and final payment to the IPA. Released reports may be selected by the office for comprehensive report and workpaper reviews. After a comprehensive review is completed, the office will issue a letter to advise the IPA about the results of the review. The IPA is required to respond to all review comments as directed. If during the course of its review, the office finds significant deficiencies that warrant a determination that the engagement was not performed in accordance with the provisions of the contract, applicable AICPA standards, or the requirements of this rule, any or all of the following action(s) may be taken:

(1) as instructed by the office, the IPA may be required to correct the working papers and reissue the agreed upon procedures report to the agency, and any others receiving copies;

(2) the IPA's future engagements may be limited in number pursuant to Subsections F and G of 2.2.2.8 NMAC;

(3) the IPA may be required to submit working papers along with the agreed-upon procedures report to the state auditor for review by the office, prior to the release of future agreed upon procedures reports, for some or all contracts; or

(4) the IPA may be referred to the New Mexico public accountancy board for possible licensure action.

J. IPA Independence: IPA's that perform agreed-upon procedure engagements under the tiered System must maintain independence in mind and appearance, in all matters relating to the engagement.

(1) An IPA who performs the local public body's annual agreed-upon procedures engagement shall not enter into any special audit or non-audit service contract with that local public body without the prior written approval of the state auditor. To obtain this approval, the IPA should follow the requirements set forth in Subsection N of 2.2.2.8 NMAC.

(2) Except as provided in Paragraph (2) of Subsection C of 2.2.2.15 NMAC, a local public body and an IPA who does not perform that

local public body's annual financial audit shall submit a copy to the state auditor of each professional services contract entered into between the local public body and the IPA for a special audit, agreed-upon procedures or any other non-audit services. The contract shall not require approval by the state auditor, but shall be submitted to the state auditor within 30 days of execution.

[2.2.2.16 NMAC, Rp, 2.2.2.16, 3-15-16]

HISTORY of 2.2.2 NMAC:

Pre-NMAC Regulatory Filing History:

The material in this part was derived from that previously filed with the State Records Center and Archives under SA Rule No. 71-1, Regulations of State Auditor Relating to Audit Contracts with Independent Auditors by State Agencies, filed 5-14-71; SA Rule No. 71-2, Regulations of State Auditor for Audits by Independent Auditors, filed 5-27-71; SA Rule No. 72-1, Regulations of State Auditor Relating to Audit Contracts With Independent Auditors by Agencies of the State of New Mexico, filed 6-1-72; SA Rule No. 72-2, Regulations of State Auditor for Audits by Independent Auditors, filed 6-1-72; SA Rule No. 74-1, Regulations of State Auditor Relating to Reporting Statutory Violations, filed 2-28-74; SA Rule No. 74-2, Rotation of Assignments, filed 2-28-74; SA No. 78-1, Regulations Governing the Auditing of New Mexico Governmental Agencies, filed 11-3-78; Amendment No. 1 to SA Rule 78-1, Regulations Governing the Auditing of New Mexico Governmental Agencies, filed 5-28-80; SA Rule No. 82-1, Regulation Governing the Auditing of New Mexico Governmental Agencies, filed 12-17-82; SA Rule No. 84-1, Regulations Governing the Auditing of Agencies of the State of New Mexico, filed 4-10-84; SA Rule No. 85-1, Regulations Governing the Auditing of Agencies of the State of New Mexico, filed 1-28-85; SA Rule No. 85-3, Regulation for State Agencies Concerning NCGA Statement No. 4 - Accounting and Financial Reporting Principles for Claims and Judgements and Compensated Absences, filed 4-16-80; SA Rule No. 85-4, Regulations Governing the Auditing of Housing Authorities of the State of New Mexico, filed 6-12-85; SA Rule No. 85-5, Regulations Pertaining to Single Audits of State Agencies and Local Public Bodies, filed 6-17-85; SA Rule No. 85-6, Audits of Grants to Subrecipients, filed 6-17-85; SA Rule 86-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 1-20-86; SA Rule No. 86-2, Regulation Governing Violations

of Criminal Statutes in Connection with Financial Affairs, filed 3-20-86; SA Rule No. 86-3, Professional Services Contracts, filed 7-9-86; SA Rule 87-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 2-13-87; SA Rule 87-2, Approval of Audit Contracts, filed 4-2-87; SA Rule 87-3, Audit Requirements for Deferred Compensation, Retirement Plans, Budget and Public Money for the State of New Mexico, filed 8-14-87; SA Rule 88-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 2-10-88; SA Rule 89-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 3-10-89; SA Rule 90-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 3-1-90; SA Rule 90-3, Auditor's Responsibilities Related to Fees Collected on Convictions Relating to Intoxicating Liquor and Controlled Substances, filed 5-7-90; SA Rule 91-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 3-13-91; SA Rule 92-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 3-6-92; SA Rule 93-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 2-25-93; SA Rule 94-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 2-25-94; Amendment 1 to SA Rule 94-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 5-16-94; SA Rule 95-1, Regulations Governing the Audits of Agencies of the State of New Mexico, filed 3-16-95; and 2 NMAC 2.2, Requirements for Contracting and Conducting Audits of Agencies, filed 4-2-96.

History of Repealed Material:

2 NMAC 2.2, Requirements for Contracting and Conducting Audits of Entities - Repealed, 3-30-01.

2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 3-29-02.

2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 4-30-03.

2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 3-31-04.

2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 5-13-05.

2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 3-16-06.

2.2.2 NMAC Requirements for Contracting and Conducting Audits of

Entities - Repealed, 4-16-07.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 4-15-08.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 2-27-09.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 2-12-10.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 2-28-11.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 2-15-12.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 2-28-13.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 2-28-14.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 3-16-15.
 2.2.2 NMAC Requirements for Contracting and Conducting Audits of Entities - Repealed, 3-15-16.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

The Children, Youth and Families Department, Protective Services Division at its 2/08/2016 public hearing, repealed its rule 8.8.4 NMAC, Administrative Appeals (filed 2/15/2002) and replaced it with 8.8.4 NMAC, Administrative Appeals, effective 3/15/2016.

The Children, Youth and Families Department, Protective Services Division at its 2/08/2016 public hearing, repealed its rule 8.10.6 NMAC, In-Home Services (filed 10/30/2008) and replaced it with 8.10.6 NMAC, In-Home Services, effective 3/15/2016.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 8 CHILDREN,
YOUTH AND FAMILIES GENERAL
PROVISIONS
PART 4 ADMINISTRATIVE
APPEALS

8.8.4.1 ISSUING AGENCY:
 Children, Youth and Families Department.
 [8.8.4.1 NMAC - Rp, 8.8.4.1 NMAC,
 3/15/2016]

8.8.4.2 SCOPE: Department staff and the general public.
 [8.8.4.2 NMAC - Rp, 8.8.4.2 NMAC,
 3/15/2016]

8.8.4.3 STATUTORY AUTHORITY: Subsection D of 9-2A-7 NMSA 1978 provides that the secretary may make and adopt such reasonable procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions.
 [8.8.4.3 NMAC - Rp, 8.8.4.3 NMAC,
 3/15/2016]

8.8.4.4 DURATION:
 Permanent.
 [8.8.4.4 NMAC - Rp, 8.8.4.4 NMAC,
 3/15/2016]

8.8.4.5 EFFECTIVE DATE:
 March 15, 2016, unless a later date is cited at the end of a section.
 [8.8.4.5 NMAC - Rp, 8.8.4.5 NMAC,
 3/15/2016]

8.8.4.6 OBJECTIVE: The objective of this rule is to implement the department's policy on administrative appeals hearings consistent with federal and state constitutions and laws.
 [8.8.4.6 NMAC - Rp, 8.8.4.6 NMAC,
 3/15/2016]

8.8.4.7 DEFINITIONS:
A. "Administrative hearing" means the process to address appeals, protests, and disputes dealing with substantiations of abuse and neglect, licensing, certification, procurement, contracts, termination or modification of existing services, or any other action that warrants the commencement of a formal hearing.

B. "Appellant" means the party seeking administrative appeal of a decision of a division of the department.

C. "Burden of proof" means the burden of persuasion, the onus on the party to convince the hearing officer of all elements of the case.

D. "Cease and desist order" means a formal, enforceable order issued when a facility is found to be operating without a license.

E. "Certification" means the determination which is conveyed to the appropriate oversight body as to whether a facility or agency complies with all federal or state regulations and conditions of participation to provide services. Certification of noncompliance may be the basis for a denial or termination of provider participation in a program.

F. "Department" means the New Mexico children, youth and families department.

G. "Director" means the director of any division of the children, youth and families department.

H. "Emergency suspension" means the prohibition of operation of a facility for a stated period of time by the temporary withdrawal of the license or certification, prior to a hearing on the matter, when immediate action is required to protect human health and safety. The emergency suspension is carried out by personal service of an emergency suspension order and a notice of hearing.

I. "Facility" means any facility or agency required to be licensed or certified under state or federal law or regulation.

J. "Final decision" means the written document following a hearing, stating the final determination of the secretary made after review of the hearing officer's report and recommendation.

K. "Five-day hearing" means the hearing noted in the emergency suspension order and notice of hearing.

L. "Hearing" means a proceeding in which legal rights, duties or privileges of a party are at issue which includes an opportunity for the parties to present testimony and evidence.

M. "Hearing officer" means an individual designated by the secretary to conduct pre-hearing conferences and hearings and to make reports and recommendations, based on the evidence taken, to the secretary.

N. "Hearing office administrator" means an individual who assists the hearing officer with administrative tasks.

O. "IFB" means an invitation to bid and is used to initiate a competitive procurement contract.

P. "Intervenor" means a party permitted to intervene in the hearing proceeding by written order of the hearing officer and includes the department.

Q. "Official notice" means administrative notice, the act by which the hearing officer, in conducting the hearing or framing his/her decision, recognizes the existence and truth of certain facts without the production of evidence by the parties.

R. "Party" or "parties" means the persons, entities, or agencies with a direct interest and participation in the subject matter of a hearing and such intervenors permitted to intervene by written order of the hearing officer.

S. “Person” means an individual, partnership, proprietorship, agency, corporation, company, association, tribal government or tribal organization, state or local government entity, or similar legal entity and the legal successor thereof.

T. “RFP” means a request for proposals and is used to initiate a competitive proposal procurement.

U. “Secretary” means the secretary for the children, youth and families department.

V. “Service” means a notification by personal delivery, fax or certified mail.

W. “Subpoena” means a written command issued by the hearing officer to appear at a certain time and place to give testimony upon a certain matter. The subpoena may include a command to produce books, papers, documents and other things.

X. “Working days” means, when determining compliance with various deadlines in these regulations, Monday through Friday of each calendar week, excluding state observed holidays.
[8.8.4.7 NMAC - Rp, 8.8.4.7 NMAC, 3/15/2016]

8.8.4.8 HEARING OFFICER:

A. All administrative hearings are conducted by a hearing officer appointed by the secretary or his/her designee. The hearing officer may be assisted by a hearing office administrator in completing mailings, notices of hearings, subpoenas, and other administrative tasks.

B. Qualifications of the hearing officer:
(1) The hearing officer may be an employee of the children, youth and families department, but has not been involved, directly or indirectly, with the administrative decision at issue.

(2) The hearing officer need not be a licensed attorney. However, he or she shall be familiar with the applicable law, regulations, procedures, and constitutional requirements related to the administrative decision at issue.

C. Disqualification of the hearing officer:

(1) A hearing officer shall not participate in any proceeding if, for any reason, the hearing officer cannot afford a fair and impartial hearing to either party.

(2) The hearing

officer can only be removed for good cause. Any party seeking to recuse the hearing officer must file a motion with the officer within seven days of receipt of the initial communication from the hearing officer, setting forth the grounds for disqualification and accompanied by all supporting reasons, affidavits, and authorities. The hearing officer rules on the request to disqualify, and an appeal of the ruling may be made to the secretary within seven days of the ruling. The secretary promptly determines the validity of the grounds alleged and takes any appropriate action.

(3) A written request to disqualify and an appeal of the hearing officer’s ruling on the matter tolls any applicable timetable for completion of the proceedings.

D. The hearing officer may not dismiss a hearing and must submit all recommended decisions to the secretary upon completion of proceedings except as outlined in Subsection J of 8.8.4.9 NMAC.

[8.8.4.8 NMAC - Rp, 8.8.4.8 NMAC, 3/15/2016]

8.8.4.9 PRE-HEARING:

A. Within five business days of receipt of the request for administrative hearing, the division director, or his/her designee, submits a memorandum of information to the hearing office, with a copy of the notice of contemplated action, cease and desist order, or emergency suspension order and a copy of the notice of appeal included. An additional copy of those items will be forwarded to the department’s office of general counsel.

B. Unless otherwise agreed, the hearing officer and all parties will confer within 30 days from the date the memorandum of information is received in the hearing office to choose an agreeable date for hearing.

C. The hearing shall be held within 180 days from the date the memorandum of information is received in the hearing office. Extensions may only be granted under extenuating circumstances as determined by the hearing officer.

D. Upon receipt of the memorandum of information, cease and desist order, or emergency suspension order and copy of the notice of appeal, the hearing officer or hearing office administrator establishes an official record which will contain all the filed notices, pleadings, briefs, recommendations, correspondence, documents or items admitted into evidence, recordings of the

proceedings, and decisions. The hearing officer will make contact with the parties as soon as practicable, but in any case, no later than seven days from the date the appeal is filed in the hearing office.

E. No person may discuss the merits of any pending adjudicatory proceeding with the designated hearing officer or the secretary, unless both parties or their representatives are present.

F. The hearing officer may consolidate or join cases if there is commonality of legal issues or parties and if it would expedite final resolution of the cases and would not adversely affect the interests of the parties. The hearing officer may join the appeals of an appellant who has two or more appeals pending.

G. The hearing officer may permit a person to enter into a proceeding as an intervenor only when the intervention is necessary to protect some right or interest of that person which may be directly affected by the proceedings. The purpose of an intervention is to prevent delay and unnecessary duplication. A request may be denied, however, if it interferes with the rights of the original parties to conduct their cause on their own terms.

H. Upon request of a party or upon the hearing officer’s own motion, a pre-hearing order may be required or a pre-hearing conference may be scheduled by the hearing officer at a time and place reasonably convenient to all parties to:

- (1)** limit and define issues;
- (2)** discuss possible pre-hearing dispositions;
- (3)** set a discovery plan;
- (4)** consider possible admissions of fact or stipulations;
- (5)** identify and limit the number of witnesses; and
- (6)** discuss such other matters as may aid in the simplification of evidence and disposition of the proceedings.

I. A pre-hearing conference is an informal proceeding and may occur telephonically. The pre-hearing conference may or may not be recorded, at the discretion of the hearing officer.

J. No offer of settlement made in a pre-hearing conference is admissible as evidence at a later hearing. Stipulations and admissions are binding and may be used as evidence at the hearing. Any stipulation, settlement or consent order reached between the parties is written and signed by the hearing officer

and the parties or their attorneys.

K. The hearing officer may dismiss an appeal with prejudice in accordance with the provisions of a settlement agreement approved by the hearing officer, upon a motion to withdraw the appeal at any time before the deadline for the completion of discovery, or for failure to prosecute.

M. Upon request of a party or upon the hearing officer's own motion, a status conference may be held to assess pre-hearing issues and progression of the case. A status conference is an informal proceeding and may occur telephonically. The status conference may or may not be recorded, at the discretion of the hearing officer.

N. The hearing officer has the power to compel the appearance of witnesses and the production of written materials or other evidence the hearing officer may deem relevant or material. The hearing officer, upon request by a party, may issue subpoenas and subpoenas *duces tecum*. The parties have a right to discovery limited to depositions or interviews of named witnesses, interrogatories, requests for production, and requests for admission. The parties shall confer in good faith to schedule requested interviews or depositions. All discovery is subject to the control of the hearing officer and may be made a part of the pre-hearing order.

[8.8.4.9 NMAC - Rp, 8.8.4.9 NMAC, 3/15/2016]

8.8.4.10 HEARING ON IMMEDIATE SANCTIONS:

A. An immediate sanction affecting a child care license or registration requires that a hearing is held within five working days of the effective date of the immediate sanction as noticed in the immediate sanction order and notice of hearing *unless*, no later than 24 hours prior to the expiration of the five-day period, the right to a five-day hearing is waived and a request for a hearing at a later date is made. An appeal of an immediate sanction does not stay the sanction. This section does not apply to actions against a foster care license.

B. If the person affected intends to appear for the five-day hearing noticed in the emergency suspension order and notice of hearing, a request for hearing need not be made.

C. If the person affected timely waives the five-day hearing and requests a hearing to be held at a later date, the extension is provided. Pre-hearing discovery can occur; however, an extension of the five-day hearing date

does not stay the immediate sanctions.

D. A person or facility is operating illegally if operations continue after the effective date of an immediate suspension or revocation and is subject to appropriate administrative and judicial sanctions and criminal charges.

[8.8.4.10 NMAC - Rp, 8.8.4.10 NMAC, 3/15/2016]

8.8.4.11 CONDUCT OF THE HEARING:

A. Notice of a hearing is made by certified mail with return receipt requested at least 14 calendar days prior to the hearing unless prior agreement of the time and manner of the hearing has been agreed to in the pre-hearing order or otherwise agreed to by the parties and the hearing officer.

B. Failure of a party to appear on the date and time set for hearing, without good cause shown, constitutes a default, and the hearing officer so notifies the parties in writing.

C. The hearing is open to the public unless the hearing officer directs that the hearing be closed.

D. A party may appear at the hearing through a legal representative, provided such representative has made a written entry of appearance prior to the hearing date.

E. The hearing officer may clear the room of witnesses not under examination, if either party so requests, and of any person who is disruptive. The department is entitled to have a person, in addition to its attorney, in the hearing room during the course of the hearing, even if the person will also testify in the hearing.

F. The hearing is conducted in an orderly and informal manner without strict adherence to the rules of evidence that govern proceedings in the courts of the state of New Mexico. However, in order to support the secretary's decisions, there must be a residuum of legally competent evidence to support a verdict in a court of law.

G. Both parties have certain procedural due process rights during the hearing.

(1) Each party may make opening and closing statements.

(2) Each party may call and examine witnesses and introduce exhibits.

(3) Each party may cross-examine witnesses.

(4) Each party may re-direct their witnesses following cross-examination.

(5) Each party may impeach any witness.

(6) Each party may rebut any relevant evidence.

(7) Each party may introduce evidence relevant to the choice of sanction if it was raised as an issue in the pre-hearing order.

H. Oral evidence is taken only under oath or affirmation.

I. Generally, except as provided in the following subsection, the order of presentation for hearings is as follows:

(1) opening of proceeding and taking of appearances by the hearing officer;

(2) disposition of preliminary and pending matters;

(3) opening statement of the department;

(4) opening statement of the appellant;

(5) department's case-in-chief;

(6) appellant's case-in-chief;

(7) department's rebuttal;

(8) department's closing argument;

(9) appellant's closing argument;

(10) department's rebuttal argument; and

(11) losing of the proceedings by the hearing officer.

J. The order of presentation in a denial of an initial annual license or certification, denial of an award in an RFP or IFB, or cease and desist order matters, will vary from the general order of presentation in that appellant will make an opening statement before the department makes its opening statement, will present a case-in-chief before the department presents its case-in-chief, will make a closing argument before the department makes its closing argument, and will have the option to make a rebuttal argument following the department's closing argument

K. The burden of proof in matters arising from substantiation of abuse or neglect, suspension, revocation, denial of renewal of a license, certification, or registration, denial or termination of subsidies or monetary benefits, intermediate sanctions, emergency suspension, or emergency intermediate sanctions lies with the department. The burden of proof in matters arising from a denial of an initial annual license or certification, denial of an award in an RFP or IFB, or cease and

desist orders lies with the appellant. In all cases the parties must prove their case by a preponderance of the evidence.

L. The technical rules of evidence are generally not applicable but will be used as a guide and may be considered in determining the weight to be given any item of evidence. The hearing officer admits all evidence, including affidavits, if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing officer may exclude, with or without formal objection, immaterial, irrelevant, unreliable or unduly cumulative testimony. The hearing officer may question witnesses.

M. The hearing officer may take official notice of those matters in which courts of this state may take judicial notice.

N. The rules of privilege are effective to the extent that they are required to be recognized in civil actions in the district courts of the state of New Mexico.

O. The hearing officer admits evidence relevant only to those allegations against the appellant included in the notice of results of investigation, notice of contemplated action, notice of revocation of foster care license, or which are contested issues as set forth in the pre-hearing order.

P. The hearing is recorded by a sound-recording device under the supervision of the hearing officer. No other recording of the hearing, by whatever means, is permitted without the approval of the hearing officer. [8.8.4.11 NMAC - Rp, 8.8.4.11 NMAC, 3/15/2016]

8.8.4.12 POST-HEARING:

A. The hearing officer may require or permit written closing arguments, post-hearing briefs and proposed findings of facts and conclusions of law according to a scheduling order issued by the hearing officer. If case law is cited, a copy of the case will be provided to the hearing officer.

B. After the expiration of any time set for the submittal of the last post-hearing requests of documents, findings and conclusions, arguments or briefs, the hearing officer submits a recommended decision to the secretary as soon as practicable, but no later than 25 working days for regular hearings and five working days for immediate suspensions and immediate revocations.

C. As a general rule, the secretary will only consider the hearing officer's recommended decision,

post-hearing briefs, proposed findings of fact and conclusions of law. Where circumstances warrant, the secretary or designee may review all or a portion of the record before the hearing officer.

(1) The secretary or designee will not consider any additional evidence or affidavits not in the official record of the hearing or in pleadings not filed in accordance with the hearing officer's scheduling order.

(2) If the secretary or designee agrees with the findings and conclusions of the hearing officer, the secretary or designee will sign the decision as prepared by the hearing officer.

(3) If the secretary or designee disagrees with the findings and conclusions of the hearing officer, a separate order is issued which defines the findings and conclusions at issue and the reasons a different decision is warranted.

D. The secretary or designee renders a final determination as soon as practicable but no later than 20 working days after submission of the hearing officer's recommended decision. The hearing officer or hearing office administrator will notify parties of the final decision personally, by telephone, regular mail or electronic mail, and a copy of the final decision is mailed to each party or attorney of record as soon as practicable but no later than 15 working days from receipt of the secretary's final decision.

[8.8.4.12 NMAC - Rp, 8.8.4.12 NMAC, 3/15/2016]

8.8.4.13 JUDICIAL REVIEW:

A. An appeal of final decisions by the secretary must be made to the appropriate district court pursuant to Rules 1-074 or 1-075, NMRA.

B. The hearing officer or hearing office administrator is responsible for creating the record proper.

C. All exhibits admitted into evidence, orders, submissions or motions filed and tapes or other transcripts of the hearing compose the record proper.

D. The expense of copying tape recorded testimony and any other expense of preparing the record, including accompanying costs, are the appealing party's responsibility.

E. Filing for judicial review does not stay enforcement of the final decision. A motion in state district court is filed concerning any issuance of a stay. Health and safety of department clients is the primary consideration when

a stay is requested. [8.8.4.13 NMAC - Rp, 8.8.4.13 NMAC, 3/15/2016]

8.8.4.14 PROCUREMENT PROTESTS: Any bidder or offeror that falls within the scope and authority of the Procurement Code will have the right to protest as provided in 1 NMAC 5-2-80 through 5-2-93.

[8.8.4.14 NMAC - Rp, 8.8.4.14 NMAC, 3/15/2016]

HISTORY OF 8.8.4 NMAC:

History of Repealed Material:
8.8.4 NMAC, Administrative Appeals, filed 2/15/2002 - Repealed effective 3/15/2016.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

**TITLE 8 SOCIAL SERVICES
CHAPTER 10 CHILD
PROTECTIVE SERVICES
PART 6 IN-HOME
SERVICES**

8.10.6.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD), Protective Services Division (PSD).

[8.10.6.1 NMAC - Rp, 8.10.6.1 NMAC, 03/15/16]

8.10.6.2 SCOPE: Protective services division employees and the general public.

[8.10.6.2 NMAC - Rp, 8.10.6.2 NMAC, 03/15/16]

8.10.6.3 STATUTORY AUTHORITY: Children, Youth and Families Department Act, Subsection D of 9-2A-7 NMSA 1978; New Mexico Children's Code, Section 32A-1-1 NMSA 1978.

[8.10.6.3 NMAC - Rp, 8.10.6.3 NMAC, 03/15/16]

8.10.6.4 DURATION: Permanent.

[8.10.6.4 NMAC - Rp, 8.10.6.4 NMAC, 03/15/16]

8.10.6.5 EFFECTIVE DATE: March 15, 2016, unless a later date is cited at the end of a section.

[8.10.6.5 NMAC - Rp, 8.10.6.5 NMAC, 03/15/16]

8.10.6.6 OBJECTIVE: To

establish guidelines for the provision of in-home services to families at high or moderate risk, or with a child under the age of three, to reduce risk of maltreatment and to promote the continued safety of children.

[8.10.6.6 NMAC - Rp, 8.10.6.6 NMAC, 03/15/16]

8.10.6.7 DEFINITIONS:

A. "Abused child" as defined in the Children's Code, Subsection B of 32A-4-2 NMSA 1978, means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child.

B. "Case management" is a service provided to the clients that includes, but is not limited to, assessment of needs, reports, monitoring of progress, coordination of services, facilitation of inter-agency collaboration and documentation of efforts to meet the client's needs.

C. "Client" means a person who is receiving services from PSD.

D. "Community resources" are agencies, contractors, individuals, and community organizers that deliver services or other support for clients during and after PS involvement.

E. "Conditionally safe" means that one or more safety threats have been identified that places the child in present or impending danger of serious harm, however one or more protective capacities has been identified to offset, mitigate or control the threat of present or impending danger of serious harm.

F. "Custodian" as defined in the Children's Code, Subsection E of 32A-1-4 NMSA 1978, means an adult with whom the child lives who is not

a parent or guardian of the child.

G. "CYFD" refers to the New Mexico children, youth and families department.

H. "Direct service" is a service provided by PSD staff to an individual or family that supports one or more goals in the family plan.

I. "Emergency discretionary funds (EDF)" are funds used to secure services or items necessary to achieve goals of the family plan.

J. "Engagement" refers to the family's commitment to the PSD intervention and subsequent involvement of the family with PSD and community resources throughout the case.

K. "FACTS" refers to the family automated client tracking system (FACTS), the official data management system for CYFD.

L. "Family assessment" is a collaborative effort between PSD workers and the family to assess the family's needs and protective capacities based upon identified safety threats and risk factors.

M. "Family centered meeting" is a facilitated meeting where PSD workers and supervisors meet with parents, guardians and others for the purpose of safety planning, case planning and decision making.

N. "Family plan" is a plan developed by PSD in collaboration with each household member, based on the information collected through the family assessment, which identifies the specific changes in behaviors and circumstances that are expected as a result of the in-home services intervention.

O. "Foster care candidate" is a child who is at serious risk of removal from home where PSD is either pursuing the child's removal from the home or making reasonable effort to prevent the child's removal from the home.

P. "Guardian" as defined in the Children's Code, Subsection I of 32A-1-4 NMSA 1978, means a person appointed as guardian by a court or Indian tribal authority or a person authorized to care for the child by a parental power of attorney as permitted by law.

Q. "Impending danger" is when a child is living in a state of danger or position of continual danger due to a family circumstance or behavior. The threat caused by the circumstance or behavior is not presently occurring, but it can be anticipated to have severe effects on a child at any time.

R. "In-home services" (IHS) are services provided without

court intervention that are expected to enhance the family's ability to function independently of PSD, improve safety for children, create stability within the home, and develop healthy and supportive on-going community relationships.

S. "Neglected child" as defined in the Children's Code, Subsection E of 32A-4-2 NMSA 1978, means a child:

(1) who has been abandoned by the child's parent, guardian or custodian;

(2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of faults or habits of the child's parent, guardian or custodian, or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(5) who has been placed for care of adoption in violation of the law; provided that nothing in the Children's Code, Section 32A-1-1 NMSA 1978, shall be construed to imply that a child who is being provided with treatment by spiritual needs alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code.

T. "Parent" as defined in the Children's Code, Subsection O of 32A-1-4 NMSA 1978, includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child.

U. "Placement" is an out of home residential arrangement for the care of children in PSD custody, which may include, but is not limited to family foster care, relative foster care and treatment foster care, or a facility such as residential treatment center, group home, or emergency shelter.

V. "Present danger"

means immediate, significant and observable severe harm or threat of severe harm that is presently occurring to a child and requiring an immediate protective services response.

W. “Protective capacities” are those assets possessed by the parent or guardian that help reduce, control or prevent present or impending danger of serious harm to a child.

X. “Protective services division (PSD)” refers to the protective services division of the children, youth and families department, and is the state’s designated child welfare agency.

Y. “Risk” is the term used to describe PSD’s assessment, based on established criteria, of the likelihood that child will be abused or neglected by his or her parent, guardian, or custodian.

Z. “Safe” as used in this policy means that there are no safety threats placing the child in present or impending danger of serious harm.

AA. “Safety plan” is a document that identifies the strategy or group of strategies implemented to control a safety threat. It is the intrusion into family life in the form of ongoing assessment and specific strategies designed to match the duration and level of the safety threat up to including the removal of the child from the home.

BB. “Structured decision making (SDM) instruments” are standardized assessments located in FACTS that the worker completes to determine the child’s safety and risk of abuse or neglect based upon the application of pre-determined criteria.

CC. “Unsafe” means that one or more safety threats have been identified that place the child in present or impending danger of serious harm and there are not sufficient protective capacities to offset, mitigate or control the threat of present or impending danger of serious harm.

DD. “Voluntary service intake (VSI)” is the category under which an IHS case is opened in FACTS. [8.10.6.7 NMAC - Rp, 8.10.6.7 NMAC, 03/15/16]

8.10.6.8 PURPOSE OF IN-HOME SERVICES:

A. The purpose of IHS is to promote the safety of children and reduce the risk of the recurrence of abuse or neglect of children by their parents, guardians or custodians without the intervention of the courts.

B. A child may not be determined to be safe or conditionally safe solely on the basis of the provision of IHS.

[8.10.6.8 NMAC - Rp, 8.10.6.8 NMAC, 03/15/16]

8.10.6.9 ELIGIBILITY:

A. A family is eligible to receive IHS without regard to income.

B. A family may be eligible to receive IHS when:

(1) the child has been determined to be conditionally safe and the risk of child abuse or neglect has been determined to be moderate or high; or

(2) the child has been determined to be unsafe and the risk of child abuse or neglect has been determined to be very low, low, moderate, or high.

C. Parents who are involved in an active legal case through an abuse or neglect petition or a voluntary placement are ineligible for IHS.

[8.10.6.9 NMAC - Rp, 8.10.6.9 NMAC, 03/15/16]

8.10.6.10 FOSTER CARE CANDIDACY DETERMINATION:

A. The IHS practitioner shall make a foster care candidacy determination for each child in a family receiving IHS. A child may be considered a foster care candidate when a child is determined to be conditionally safe and the risk of maltreatment is moderate or high, or when a child is determined to be unsafe.

B. A child may be determined to be a foster care candidate at any point during the IHS case when there has been a change in a family’s circumstances that affects the safety of a child.

C. Once a child has been initially determined a foster care candidate, then the foster care candidacy is re-determined for the child every six months. [8.10.6.10 NMAC - Rp, 8.10.6.10 NMAC, 03/15/16]

8.10.6.11 CASE TRANSFER TO IN-HOME SERVICES:

A. IHS are assigned within five calendar days of the disposition of the investigation.

B. The investigation is closed within five calendar days of case transfer to an IHS practitioner. [8.10.6.11 NMAC - Rp, 8.10.6.11 NMAC, 03/15/16]

8.10.6.12 DURATION OF SERVICE DELIVERY: IHS case interventions are provided for a maximum of 180 days, unless the IHS practitioner

requests the county office manager grant a 45 day extension. The IHS practitioner documents that an extension of services would assist the family in achievement of goals, reduce the risk of recurrent abuse or neglect, and ensure the child is safe, conditionally safe. No more than three 45 day extensions will be granted. [8.10.6.12 NMAC - N, 03/15/16]

8.10.6.13 PROVISION OF SERVICES:

A. No waiting list is established or maintained for IHS.

B. Families participate in safety related IHS without court intervention.

C. Services are provided to the family based on assessment of safety of the child and risk of abuse or neglect to the child by the parent, guardian or custodian. Services provided to the family utilize family strengths, family resources, community resources, and PSD resources.

D. PSD favors the use of family and community services over direct services whenever possible and appropriate.

E. IHS are delivered as a collaborative effort between PSD, the family, and community partners. [8.10.6.13 NMAC - Rp, 8.10.6.12 NMAC, 03/15/16]

8.10.6.14 FAMILY CONTACT:

A. The IHS practitioner schedules the initial face-to-face contact with the family within 72 hours from transfer of the case to IHS.

B. The IHS practitioner shall meet with the family at least weekly through the duration of the case.

C. When determining the meeting frequency and other types of intervention, safety of the child is always the first consideration.

D. If the IHS practitioner identifies a non-participating or absent parent, guardian or custodian the practitioner shall meet with their supervisor. [8.10.6.14 NMAC - Rp, 8.10.6.13 NMAC, 03/15/16]

8.10.6.15 IN-HOME FAMILY ASSESSMENT, SAFETY AND FAMILY PLANS:

A. The IHS practitioner, in collaboration with the family, completes a family assessment and develops a safety plan and family plan.

B. The IHS practitioner, in collaboration with the family, reviews

and updates the family's safety plan, addressing all individuals in the family.

C. The IHS practitioner completes a family assessment and family plan for all IHS cases. [8.10.6.15 NMAC - Rp, 8.10.6.14 NMAC, 03/15/16]

8.10.6.16 CASE STAFFING AND ON-GOING ASSESSMENT:

IHS practitioners utilize staffing and conferences to develop, assess, or review plans and to review services and the safety of a child. [8.10.6.16 NMAC - Rp, 8.10.6.15 NMAC, 03/15/16]

8.10.6.17 EMERGENCY DISCRETIONARY FUNDS (EDF):

PSD may use EDF to assist the family with the goals identified in the family plan to reduce safety and risk factors for children in the home. EDF, when related to safety and risk, can be used to purchase products or services such as rent or rent deposits, utilities, clothing, transportation, food, home or car repair, and appliance repair. EDF are dispersed according to the emergency discretionary fund manual. [8.10.6.17 NMAC - Rp, 8.10.6.16 NMAC, 03/15/16]

8.10.6.18 SUBSEQUENT REPORTS OF ABUSE OR NEGLECT:

If a report is made to statewide central intake when there is reason to believe abuse or neglect has occurred subsequent to the original report that resulted in providing IHS, then a new investigation will occur. A new investigation does not disqualify a family from receiving IHS. PSD may continue to provide IHS during and after an investigation resulting from additional child abuse or neglect allegations if the safety of a child can be ensured. [8.10.6.18 NMAC - Rp, 8.10.6.17 NMAC, 03/15/16]

8.10.6.19 FAMILY REFUSAL OF IN-HOME SERVICES:

A decision by the family to refuse or withdraw from services does not constitute abuse or neglect. When the family refuses IHS, the IHS practitioner, in consultation with the supervisor, reviews the results of the safety and risk assessments as well as other pertinent information to determine if PSD should pursue involuntary service through a court order. [8.10.6.19 NMAC - Rp, 8.10.6.18 NMAC, 03/15/16]

8.10.6.20 FAMILY WITHDRAWAL FROM IN-HOME SERVICES:

When the family withdraws after beginning IHS, the practitioner shall conduct a safety assessment and a risk assessment and review the results. The practitioner also considers information from the investigation, as well as other pertinent information, to determine an appropriate course of action. Action may include, but is not limited to:

- A. revision of the IHS family plan;
- B. report of the family to statewide central intake (SCI);
- C. case closure; or
- D. pursuit of involuntary services through a court order.

[8.10.6.20 NMAC - Rp, 8.10.6.18 NMAC, 03/15/16]

8.10.6.21 CASE CLOSURE:

IHS cases may be closed with no further intervention from PSD when the structured decision making instruments are completed and:

- A. the safety assessment instrument documents that the child is safe, or conditionally safe;
- B. the safety assessment and risk assessment instruments document either no escalation of risk, or a decrease in the risk level;
- C. the goals of the family plan have been achieved; or
- D. the family withdraws from services.

[8.10.6.21 NMAC - Rp, 8.10.6.20 NMAC, 03/15/16]

8.10.6.22 CASE

DOCUMENTATION: Case plans, case contracts, and supervisory consultations are documented in FACTS.

[8.10.6.22 NMAC - Rp, 8.10.6.21 NMAC, 03/15/16]

HISTORY OF 8.10.6 NMAC:

Pre-NMAC History: [RESERVED]

History of Repealed Material:

8 NMAC 10.6, Family Preservation Services, filed 6/16/97 - Repealed effective 11/15/05.

8.10.6 NMAC, In-Home Services, filed 11/1/2005 - Repealed effective 10/30/08.

8.10.6 NMAC, In-Home Services, filed 10/30/08 - Repealed effective 3/15/16.

GAME AND FISH, DEPARTMENT OF

The State Game Commission at its meeting on 8-27-2015, repealed its rule 19.31.11 NMAC, Bear and Cougar, filed 2-22-2011 and replaced it with 19.31.11 NMAC, Bear and Cougar, effective 4-1-2016.

The State Game Commission at its meeting on 11-19-2015, repealed its rule 19.31.12 NMAC, Barbary Sheep, Oryx, and Persian Ibex, filed 3-17-2015 and replaced it with 19.31.12 NMAC, Barbary Sheep, Oryx, and Persian Ibex, effective 4-1-2016.

The State Game Commission at its meeting on 9-29-2015, repealed its rule 19.31.14 NMAC, Elk, filed 2-16-2015 and replaced it with 19.31.14 NMAC, Elk, effective 4-1-2016.

The State Game Commission at its meeting on 11-19-2015, repealed its rule 19.31.15 NMAC, Pronghorn Antelope, filed 3-17-2015 and replaced it with 19.31.15 NMAC, Pronghorn Antelope, effective 4-1-2016.

The State Game Commission at its meeting on 9-29-2015, repealed its rule 19.31.16 NMAC, Turkey, filed 3-17-2015 and replaced it with 19.31.16 NMAC, Turkey, effective 4-1-2016.

GAME AND FISH, DEPARTMENT OF

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND
FISHING
PART 11 BEAR AND
COUGAR**

19.31.11.1 ISSUING AGENCY:

New Mexico Department of Game and Fish.

[19.31.11.1 NMAC - Rp, 19.31.11.1 NMAC, 4-1-16]

19.31.11.2 SCOPE:

Sportspersons interested in bear and cougar management and hunting. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.

[19.31.11.2 NMAC - Rp, 19.31.11.2 NMAC, 4-1-16]

19.31.11.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish. [19.31.11.3 NMAC - Rp, 19.31.11.3 NMAC, 4-1-16]

19.31.11.4 DURATION: April 1, 2016 through March 31, 2020. [19.31.11.4 NMAC - Rp, 19.31.11.4 NMAC, 4-1-16]

19.31.11.5 EFFECTIVE DATE: April 1, 2016, unless a later date is cited at the end of an individual section. [19.31.11.5 NMAC - Rp, 19.31.11.5 NMAC, 4-1-16]

19.31.11.6 OBJECTIVE: Establishing open hunting seasons and regulation, rules and procedures governing the distribution and issuance of bear and cougar licenses by the department. [19.31.11.6 NMAC - Rp, 19.31.11.6 NMAC, 4-1-16]

19.31.11.7 DEFINITIONS:

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

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

C. "Bear entry hunt" shall mean the valid official document awarded through a public drawing for hunting bear. This valid official permit shall entitle the holder of a bear license to hunt where hunter numbers are limited by rule.

D. "Bear license" shall mean a valid official document that is issued or approved by the director that each person hunting bear in New Mexico must have or obtain prior to hunting.

E. "Bear zones" shall define hunt areas consisting of one or more game management units as documented in the state game commission's rule 19.30.4 NMAC.

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

G. "Cougar license" shall mean a valid official document that is issued or approved by the director

that each person hunting cougar in New Mexico must have or obtain prior to hunting.

H. "Cougar zones" shall define hunt areas consisting of one or more game management units as documented in the state game commission's rule 19.30.4 NMAC.

I. "Crossbow" shall mean a device with a bow limb or band of flexible material 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.

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

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

L. "Game management unit" or "GMU" shall mean those areas as described in the state game commission's rule 19.30.4 NMAC.

M. "Hunter designee" shall mean a person given a written statement by the properly licensed hunter who lawfully killed and possessed the bear or cougar. A written statement consists of: the kind and number of bear and cougar, the date and game management unit of where the bear or cougar was lawfully taken, the hunter's name, address, and license number under which the bear or cougar was lawfully killed, and the date and place where the written statement was given.

N. "License year" shall mean the period from April 1 through March 31.

O. "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.

P. "Muzzle-loader" or "muzzle-loading firearms" shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only 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.

Q. "Foot snare" shall mean a wire or cable with a single closing device set to capture a cougar by the foot.

R. "Trap" shall mean a spring actuated device designed to capture a cougar by the foot.

S. "Unlimited" shall mean there is no set limit on the number

of permits or licenses established for the described hunt areas.

T. "Website" shall refer to accessing the department's internet address.

U. "Wildlife management areas" or "WMAs" shall mean those areas as described in the state game commission's rule 19.34.5 NMAC. [19.31.11.7 NMAC - Rp, 19.31.11.7 NMAC, 4-1-16]

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

A. The director, with verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits or harvest limits, up or down by no more than twenty percent within the GMU or zone, to address critical department management needs, significant changes in population levels or habitat availability. This adjustment may be applied to any or all of the specific hunt codes, harvest limits, or sustainable total mortality for bear and cougar. The director, with verbal concurrence of the chairman or his designee, may also modify the season dates and manner and method of take to facilitate target removals or embedded quotas for cougars and bears in specific areas or zones for ungulate protection or conflict minimization in densely populated residential areas.

B. The director, with verbal concurrence of the chairman or his designee, may take management actions independent of seasons, harvest limits or female sub-limits for population management or to address critical situations including ungulate population protection, depredation, and human health and safety. The decision to take management actions pursuant to this subsection shall be reported to the commission within 48 hours.

C. The previous year's harvest data and management implications shall be presented to the commission at a regularly scheduled state game commission meeting by August of each year. The results of this annual review shall be made available to the public at least 30 days prior to presentation at a regularly scheduled and noticed commission meeting. [19.31.11.8 NMAC - Rp, 19.31.11.8 NMAC, 4-1-16]

19.31.11.9 BEAR AND COUGAR LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:

A. One license per year:

It shall be unlawful for anyone to hold more than one permit or license for bear or cougar during the current license year unless otherwise allowed by rule.

B. Validity of license or permit: All bear entry permits or licenses shall be valid only for specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit or license. Over-the-counter bear licenses shall be valid only for specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by rule or regulation. Over-the-counter cougar licenses shall be valid only with concurrent possession of a cougar identification course completion number as described in Subsection G of 19.31.11.9 NMAC and for specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by rule or regulation.

C. Valle Vidal (as described in 19.30.4.11 NMAC): It shall be unlawful to hunt bear or cougar on the Valle Vidal except for properly licensed bear or cougar hunters that possess a Valle Vidal elk hunting muzzleloader, bow, or rifle license and only during the dates of the elk hunt specified or successful applicants for the Valle Vidal and Greenwood Area bear entry permit.

D. Bear entry hunt: It shall be unlawful to hunt bear in designated wildlife management areas or other specifically designated special entry hunt areas without having a valid bear entry permit and a valid bear license in the hunter's possession or as allowed by Subsection O of 19.31.11.10 NMAC. Bear entry hunters shall be allowed to hunt in any other open bear hunt provided they have a valid bear license. No more than one person may apply under each application number for bear entry permits.

E. License purchase: Cougar hunters must purchase a cougar license at least two days prior to hunting cougar. Bear hunters must purchase a bear license at least two days prior to hunting bear.

F. Youth only (YO) hunts: It shall be unlawful for anyone to participate in youth only (YO) hunts except as allowed by 19.31.3.11 NMAC.

G. Mandatory cougar identification course: It shall be unlawful to hunt cougars without carrying a department issued alpha-numeric number which shall be proof of successful completion of the mandatory cougar identification course as offered on the department's website.

[19.31.11.9 NMAC - Rp, 19.31.11.9 NMAC, 4-1-16]

19.31.11.10 BEAR AND COUGAR MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Season and hours: Bear and cougar may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset and only in zones or areas designated as open on the department hotline or website. Twenty-four hours prior to hunting bear or cougar, every hunter or hunter's designee must call the toll free number designated by the department or access the department's website to determine if their desired hunt zone is open. Failure to call or check prior to hunting is unlawful. Cougar and bear seasons in each zone will close within 72 hours of when the number of cougars or bears harvested is within ten percent of the female sub-limit, or ten percent of the sustainable mortality limit for that zone, whichever occurs first.

B. Bag limit: It is unlawful for any person to hunt for or take more than one bear or two cougars during a current license year unless otherwise provided by regulation. Holders of a valid cougar license who have harvested two cougars under their license may request authorization from the department to take an additional two cougars in the same license year in any cougar management zone that has not closed in at least two of the past three years. Additional take may be requested once the bag limit for the previous authorization has been met.

(1) It shall be unlawful to kill a female bear accompanied by cub(s), or any cub less than one year old.

(2) It shall be unlawful to kill a female cougar accompanied by spotted kitten(s), or any spotted kitten.

C. Proof of sex of bear or cougar: It shall be unlawful for anyone to transport or possess the pelt (even if the pelt is attached to the carcass) of a bear or cougar without proof of sex. External genitalia of any bear or cougar killed shall remain attached to the pelt and be readily visible until the pelt has been inspected and pelt-tagged by a department official.

D. Bear and cougar pelt tagging requirements:

(1) Any bear or cougar killed shall be tagged with a pelt tag furnished free of charge by the department.

(2) The hunter who kills the bear or cougar or the hunter's designee must present the unfrozen skull and pelt to a department official for tooth removal and pelt tagging within five calendar days from the date of harvest before the pelt can be processed by a taxidermist, or before taking the pelt out of New Mexico, whichever comes first.

(3) Any hunter who appoints a designee to present the skull and pelt for pelt tagging is required to contact a conservation officer prior to having the pelt inspected and tagged.

(4) The pelt tag shall remain attached until the pelt is tanned.

(5) The skull of the bear or cougar must remain unfrozen with the mouth fixed open for removal of a premolar tooth by a department official.

(6) Licensed bear or cougar hunters who provide false or fraudulent information regarding the required information including, but not limited to, sex, date, or location of harvest shall be assessed 20 revocation points pursuant to 19.31.2 NMAC.

E. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses or pelts of bear or cougar that are improperly tagged, presented for pelt tagging without proof of sex attached or without presenting the skull along with the pelt.

F. Use of dogs in hunting: Dogs may be used only to hunt bear and cougar during specific open seasons unless otherwise restricted. It shall be unlawful to:

(1) hunt for or pursue bear or cougar with dog(s) in any WMA as described in 19.34.5 NMAC except as provided by regulation;

(2) hunt for or pursue bear or cougar during September bow seasons statewide except as otherwise allowed by rule;

(3) release dogs with the intent of pursuing or hunting bear or cougar or to pursue or hold bear or cougar, outside of legal shooting hours or during closed seasons, it shall be unlawful to pursue a bear or cougar with dog(s) for dog training purposes;

(4) pursue bear or cougar with dog(s) without the licensed hunter, who intends to kill or who kills the bear or cougar, present continuously from the initial release of any dog(s).

G. Use of baits or scents: It shall be unlawful for anyone to take or attempt to take any bear or cougar

by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

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

I. Use of calling devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any bear, such calling devices are allowed for taking cougar.

J. Killing out-of-season: It shall be unlawful to kill any bear or cougar out of their respective hunting seasons.

K. Bullets: It shall be unlawful to take or attempt to take bear or cougar by the use of tracer ammunition or any ammunition loaded with full metal jacketed bullets that does not expand or mushroom. Soft-nosed or hollow-pointed bullets may be used in hunting or taking bear or cougar.

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

M. Legal weapon types for bear and cougar are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles; bows and arrows; and crossbows and bolts. The Sandia ranger district portion of the Cibola national forest in zone 4 shall be open for hunting with crossbow and bow only.

N. Areas closed to bear and cougar hunting: The following areas shall remain closed to bear and cougar hunting, except as permitted by regulation: Sugarite canyon state park; Rio Grande wild and scenic river area, including the Taos valley overlook; all wildlife management areas including the Water canyon and Marquez WMAs in GMU 9 (Marquez is open only to hunters with valid bear entry permit and bear hunting license); the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve). Cougar hunting is allowed by legal deer or elk hunters in possession of a valid cougar license in the E.S. Barker, Colin Neblett, Humphries, Marquez, Sargent, and Urraca WMAs, and the Valle Vidal and Greenwood areas. Deer or elk hunters choosing to hunt cougar under this provision may only hunt in open cougar zones, and must adhere to the weapon type restriction and season dates as specified by their deer or elk licenses. Dogs are not allowed. Cougar hunting is closed in the Florida mountains hunt

area during any open Persian ibex season, except by legal Persian ibex hunters in possession of a valid cougar license. Persian ibex hunters choosing to hunt cougar under this provision may only hunt in open cougar zones, and must adhere to the weapon type restriction and season dates as specified by their ibex license.

O. Use of traps and foot snares: Hunters with a valid cougar license may use traps or foot snares to harvest cougars on state trust land, or private deeded land with written permission from the landowner. Neck snares are not permitted. Restrictions for cougar take using traps or foot snares shall follow the regulations on methods, trap specification, trap inspection, and cougar removal as defined in 19.32.2.10 NMAC Manner and Method of Take, and 19.32.2.11 NMAC Trap Inspection and Furbearer Removal. Foot snares shall be prohibited in GMU 27 and those portions of GMU 26 designated by the United States fish and wildlife service as critical habitat for jaguar.

P. Any take of cougar on public land, other than state trust lands, by the use of traps or snares shall be unlawful unless authorized by the director.

Q. It shall be unlawful to attach any collar or electronic tracking device to any bear or cougar except as expressly permitted by the department. [19.31.11.10 NMAC - Rp, 19.31.11.10 NMAC, 4-1-16]

19.31.11.11 BEAR HUNTING SEASONS:

A. Over-the-counter bear hunts for the 2016-17 through 2019-20 hunt seasons: The following table lists bear zones, open GMUs or areas within zones, weapon type restrictions, season dates, total harvest limits, and female harvest sub-limits.

Continued on the following page

zone	open GMUs or areas	bow only	any legal weapon	2016-17 total limit (female)	2017-18 total limit (female)	2018-19 total limit (female)	2019-20 total limit (female)
1	4, 5, 6, 7, 51, 52	9/1 - 24	9/25 - 11/15	158 (63)	158 (63)	158 (63)	158 (63)
2	2	9/1 - 24	9/25 - 11/15	15 (6)	15 (6)	15 (6)	15 (6)
3	49, 50 and 53	9/1 - 24	8/16 - 8/31 and 9/25 - 11/15	65 (26)	65 (26)	65 (26)	65 (26)
4	45, 46, and 48	9/1 - 24	8/16 - 8/31 and 9/25 - 11/30	109(43)	109(43)	109(43)	109(43)
5	54 and 55	9/1 - 24	8/16 - 8/31 and 9/25 - 11/15	92 (37)	92 (37)	92 (37)	92 (37)
6	39, 40, 41, 42, 43, 47 and 59	9/1 - 24	8/16 - 8/31 and 9/25 - 11/15	33 (13)	33 (13)	33 (13)	33 (13)
7	56, 57 and 58	9/1 - 24	8/16 - 8/31 and 9/25 - 11/15	35 (14)	35 (14)	35 (14)	35 (14)
8	8	9/1 - 24	10/15 - 11/15	11 (4)	11 (4)	11 (4)	11 (4)
9	9 and 10	9/1 - 24	8/16 - 8/31 and 9/25 - 11/15	36 (14)	36 (14)	36 (14)	36 (14)
10	12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, and 27	9/1 - 24	8/16 - 8/31 and 9/25 - 11/30	146 (58)	146 (58)	146 (58)	146 (58)
11	37 and 38	9/1 - 24	8/16 - 8/31 and 9/25 - 11/30	36 (14)	36 (14)	36 (14)	36 (14)
12	34	9/1 - 24	8/16 - 8/31 and 9/25 - 11/30	33 (13)	33 (13)	33 (13)	33 (13)
13	36	9/1 - 24	8/16 - 8/31 and 9/25 - 11/15	16 (6)	16 (6)	16 (6)	16 (6)
14	14	9/1 - 24	10/15 - 11/15	19 (7)	19 (7)	19 (7)	19 (7)

B. Entry hunts for the 2016-17 through 2019-20 hunting seasons shall be as indicated below, listing the open areas, hunt dates, hunt codes, number of licenses, and bag limit.

open GMUs or areas	hunt start	hunt end	hunt code	licenses	bag limit
2, YO	8/1	8/31	BER-1-100	5	1 bear
4: Sargent WMA only	8/1	8/31	BER-1-101	10	1 bear
4: Humphries WMA only	8/1	8/31	BER-1-102	5	1 bear
9: Marquez WMA only	8/1	8/31	BER-1-103	5	1 bear
54/55: E.S. Barker/Colin Neblett WMAs	8/1	8/31	BER-1-104	12	1 bear
55: Valle Vidal and Greenwood areas	8/1	8/31	BER-1-105	20	1 bear
55: Valle Vidal and Greenwood areas	4/15	5/20	BER-1-106	20	1 bear
57: Sugarite Canyon State Park/archery only	8/1	8/31	BER-2-107	5	1 bear

C. Bear hunting is closed in the Valle Vidal and Greenwood areas except by legal Valle Vidal and Greenwood area elk hunters or successful applicants for bear entry hunts BER-1-105 and BER-1-106. Dogs are permitted for BER-1-105 and BER-1-106. Valle Vidal and Greenwood area elk hunters choosing to hunt bears under this provision must adhere to the weapon type restriction and season dates specified by their elk license.

D. Bears taken from the Sargent and William A. Humphries WMAs in zone 1, Elliot Barker/Colin Neblett WMAs and Valle Vidal and Greenwood areas in zone 5, Sugarite Canyon State Park in zone 7, or Marquez WMA in zone 8 shall count towards the harvest limit in those zones.

[19.31.11.11 NMAC - Rp, 19.31.11.11 NMAC, 4-1-16]

19.31.11.12 COUGAR HUNTING SEASONS:

A. Over the counter cougar hunt season shall be from April 1 through March 31 or until the total mortality limit, or female sub-limit, whichever comes first, is met in any given cougar management zone.

B. Cougar trapping and foot snaring season on state trust land and private deeded land shall be from November 1 through March 31, or until the total mortality limit, or female sub-limit, whichever comes first, is met in any given cougar management zone.

C. The following table lists cougar zones, open GMUs or areas within zones, weapon type restrictions, season dates, total harvest limits and female harvest sub-limits for the 2016-2020 seasons.

zone	open GMUs or areas	2016-17 total limits (female)	2017-18 total limits (female)	2018-19 total limits (female)	2019-20 total limits (female)
A	2 and 7	42 (13)	42 (13)	42 (13)	42 (13)
B	5, 50, and 51	28 (8)	28 (8)	28 (8)	28 (8)
C	43, 45, 46, 48, 49, 53	85 (43)	85 (43)	85 (43)	85 (43)
D	41, 42, 47 and 59	23 (12)	23 (12)	23 (12)	23 (12)
E	9 and 10	50 (15)	50 (15)	50 (15)	50 (15)
F	6	46 (23)	46 (23)	46 (23)	46 (23)
G	13, and 17	73 (37)	73 (37)	73 (37)	73 (37)
H	18, 19 and 20	37(16)	37(16)	37(16)	37(16)
I	36, 37, and 38	24 (7)	24 (7)	24 (7)	24 (7)
J	15, 16, 21, and 25	89 (27)	89 (27)	89 (27)	89 (27)
K	22, 23, and 24	66 (33)	66 (33)	66 (33)	66 (33)
L	26 and 27	19 (10)	19 (10)	19 (10)	19 (10)
M	31, 32, 33, 39, and 40	31 (9)	31 (9)	31 (9)	31 (9)
N	4 and 52	15 (5)	15 (5)	15 (5)	15 (5)
O	12	21 (6)	21 (6)	21 (6)	21 (6)
P	56, 57, and 58	14 (7)	14 (7)	14 (7)	14 (7)
Q	28, 29, 30, and 34	35 (11)	35 (11)	35 (11)	35 (11)
R	54 and 55	26 (8)	26 (8)	26 (8)	26 (8)
S	8 and 14	25 (13)	25 (13)	25 (13)	25 (13)

[19.31.11.12 NMAC - Rp, 19.31.11.12 NMAC, 4-1-16]

19.31.11.13 PROCEDURES FOR CONDUCTING COUGAR DEPREDATION CONTROL IN OCCUPIED BIGHORN SHEEP RANGES:

A. The department shall investigate all bighorn sheep deaths to determine if cougar depredation has occurred. To determine cougar depredation, a field examination and a standardized necropsy of the dead bighorn sheep shall be completed by a department employee or contractor.

B. Should it be determined that a depredation has occurred, the following procedures will be used.

(1) The department will make an evaluation of the following: viability of the statewide bighorn population, review of long-term and recent data on the local population (or meta-population), review of data on recent predation, alternative management options such as habitat manipulation or transplants, feasibility of taking the offending animal(s), effects on the predator population, and feasibility of having a positive effect on the local bighorn population.

(2) The wildlife management division and the appropriate area operations office will be contacted.

(3) A permit for the taking of each depredating cougar(s) will be issued to the local district wildlife officer. Physical possession of the permit is not required to initiate action.

(4) A decision to hound hunt or snare will be based on evidence at the kill site.

(5) If the bighorn sheep kill is fresh enough that the cougar may return or is likely to still be in the immediate area, the department will attempt to get a hound-hunter or trapper to begin hunting the cougar(s) the same day the bighorn carcass is discovered.

(6) The size of the hunted area will be determined from the sex and, in some cases, number of cougars (i.e. female with kittens) involved in the bighorn kill.

(7) Where possible, cougar feces shall be taken at the scene of the depredation and tissue samples from the cougar killed by the hunter(s) will be collected. Deoxyribonucleic acid (DNA) testing will be performed to determine if the scat and tissue samples are from the same cougar.

[19.31.11.13 NMAC - Rp, 19.31.11.15 NMAC, 4-1-16]

19.31.11.14 **DURATION OF DEPREDATION CONTROL PROGRAMS:** The duration of the special permit to take depredating cougars shall be for no more than six weeks from the onset to the end of the measures taken. An evaluation and justification for extension of the permit shall be written before measures will continue beyond six weeks.

[19.31.11.14 NMAC - Rp, 19.31.11.16 NMAC, 4-1-16]

19.31.11.15 PROCEDURES FOR CONDUCTING PREVENTIVE COUGAR CONTROL IN BIGHORN SHEEP RANGES:

A. The New Mexico department of game and fish may conduct preventive cougar control within bighorn sheep

ranges.

B. The total number of cougars removed per license year from any zone containing bighorn ranges will not exceed the sustainable mortality limit for that zone unless approved pursuant to 19.31.11.8 NMAC.

C. The department will obtain the services of houndsmen or trappers either from the department's depredation list or through private contract.

D. A decision to hunt with hounds or to use snares will be made by the department.

E. All cougars taken for preventive control will be reported to the department.

F. The department will provide a program evaluation update to the commission no later than December biennially beginning in December 2010. [19.31.11.15 NMAC - Rp, 19.31.11.17 NMAC, 4-1-16]

HISTORY OF 19.31.11 NMAC:

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

Regulation No. 482, Establishing Seasons on Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared and Chickaree Squirrel, and Barbary Sheep, filed 5/31/67;

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

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

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

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

Regulation No. 495, Establishing a Season on Bighorn Sheep, filed 10/2/68;

Regulation No. 496, Establishing an Elk Season in the Tres Piedras Area, Elk Area P-6, filed 12/11/68;

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

Regulation No. 503, Establishing 1969 Deer Seasons for Bowhunting Only and Big Game Seasons for the Jicarilla Indian Reservation, filed 3/5/69;

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

Regulation No. 507, Establishing a Season on Bighorn Sheep, filed 8/26/69;

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

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

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

Regulation No 520, Establishing Turkey Seasons for the Spring of 1971, filed 3/9/71;

Regulation No. 522, Establishing 1971 Seasons on Deer, Bear, Turkey, and Elk on the Jicarilla Apache Indian Reservation, filed 3/9/71;

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

Regulation No. 531, Establishing a Season on Javelina, filed 12/17/71;

Regulation No. 532, Establishing Turkey Seasons for the Spring of 1972, filed 3/20/72;

Regulation No. 534, Establishing 1972 Seasons on Deer, Bear, Turkey, and Elk on the Jicarilla Apache Indian Reservation, filed 3/20/72;

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

Regulation No. 542, Establishing a Season on Javelina, filed 12/1/72;

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

Regulation No. 546, Establishing 1973 Seasons on Deer, Bear, Turkey, and Elk on the Jicarilla Apache Indian Reservation, filed 2/26/73;

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

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

Regulation No. 556, Establishing 1974 Seasons on Deer, Bear, Turkey, and Elk on the Jicarilla Apache Indian Reservation, filed 3/14/74;

Regulation No. 558, Establishing Seasons on Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared and Chickaree Squirrel, Elk, Antelope, Barbary Sheep,

Bighorn Sheep, Javelina, Oryx, and Ibex, filed 5/29/74;

Regulation No. 565, Establishing Special Turkey Seasons for the Spring of 1975, filed 3/24/75;

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

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

Regulation No. 573, Establishing Seasons on Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared and Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex, filed 2/23/76;

Regulation No. 583, Establishing Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex, filed 2/11/77;

Regulation No. 590, Establishing Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex, filed 2/15/78;

Regulation No. 596, Establishing Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex, filed 2/23/79;

Regulation No. 603, Establishing Open Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex for the Period April 1, 1980 through March 31, 1981, filed 2/22/80;

Regulation No. 609, Establishing Open Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex for the Period April 1, 1981 through March 31, 1982, filed 3/17/81;

Regulation No. 614, Establishing Open Seasons on Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex for the Period April 1, 1982 through March 31, 1983, filed 3/10/82;

Regulation No. 622, Establishing Open Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex for the Period April 1, 1983 through March 31, 1984, filed 3/9/83;

Regulation No. 628, Establishing Open Seasons on Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx and Ibex for the Period April 1, 1984 through March 31, 1985, filed 4/2/84;

Regulation No. 634, Establishing Open

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

History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-

2007.

19.31.11 NMAC, Bear and Cougar, filed 12-1-2006 - duration expired 3-31-2009.
 19.31.11 NMAC, Bear and Cougar, filed 3-13-2009 - duration expired 3-31-2011.
 19.31.11 NMAC, Bear and Cougar, filed 2-22-2011 - duration expired 3-31-2016.

GAME AND FISH, DEPARTMENT OF

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

19.31.12.1 ISSUING AGENCY:
New Mexico Department of Game and Fish.

[19.31.12.1 NMAC - Rp, 19.31.12.1 NMAC, 4-1-16]

19.31.12.2 SCOPE:
Sportspersons interested in Barbary sheep, oryx, and Persian ibex management and hunting. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.
[19.31.12.2 NMAC - Rp, 19.31.12.2 NMAC, 4-1-16]

19.31.12.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.
[19.31.12.3 NMAC - Rp, 19.31.12.3 NMAC, 4-1-16]

19.31.12.4 DURATION: April 1, 2016 through March 31, 2019.
[19.31.12.4 NMAC - Rp, 19.31.12.4 NMAC, 4-1-16]

19.31.12.5 EFFECTIVE DATE: April 1, 2016, unless a later date is cited at the end of an individual section.
[19.31.12.5 NMAC - Rp, 19.31.12.5 NMAC, 4-1-16]

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

NMAC, 4-1-16]

19.31.12.7 DEFINITIONS:

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

B. "Baiting" shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take Barbary sheep, oryx, or Persian ibex.

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

D. "Broken-horned oryx" or "BHO" shall mean an oryx of either sex that possesses at least one horn missing at least twenty-five percent of its normal growth. This may be determined by comparing the broken horn's length to the remaining horn or where it is readily apparent the terminal end would not taper to a point for another twenty-five percent of growth.

E. "Crossbow" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.

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

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

H. "ES" or "either sex" shall mean any one animal of the species.

I. "F-IM" or "female or immature Persian ibex" shall mean a Persian ibex with horns less than 15 inches long.

J. "Game management unit" or "GMU" shall mean those areas as described in the state game commission's rule 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

K. "License" shall mean a valid official document that is issued or approved by the director that each person hunting Barbary sheep, oryx, or Persian ibex in New Mexico must have or obtain prior to hunting.

L. "License year" shall mean the period from April 1 through March 31.

M. "Male Persian ibex" shall mean any Persian ibex of the male gender.

N. "Centerfire firearms" shall mean any center-

fire firearms, not to include any fully automatic firearms.

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

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

Q. “Premier” or “once-in-a-lifetime oryx” shall mean those special hunts, or licenses, that are restricted by rule or regulation to those persons that never held a license for an “once-in-a-lifetime” oryx hunt.

R. “TBD” or “to be determined” shall mean the details of hunt dates or hunt areas will be provided by the department or military agency where the hunt will occur to the hunter when the designated hunt is initiated.

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

T. “Wildlife management areas” or “WMAs” shall mean those areas as described in the state game commission’s rule 19.34.5 NMAC Wildlife Management Areas.

U. “Iraq/Afghanistan veterans” or “I/A vets” shall refer to only New Mexico residents returning from military service in Iraq or Afghanistan as eligible to apply for designated oryx hunts.

V. “TBA” or “to be assigned” shall mean the details of hunt dates or hunt areas will be assigned or restricted by the military agency where the hunt will occur.
[19.31.12.7 NMAC - Rp, 19.31.12.7 NMAC, 4-1-16]

19.31.12.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS: The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, harvest limits, or authorization for oryx, Barbary sheep, or Persian ibex up or down to address significant changes in population levels or to address critical department management needs. This adjustment may be applied to any or all of the specific hunt codes for oryx, Barbary sheep, or Persian ibex. The director, at his discretion, may

adjust the number of oryx licenses and hunt dates on White Sands missile range pending negotiations with White Sands missile range officials. Hunt dates may extend into future hunting seasons. The director may change or cancel all hunts on military lands to accommodate closures on those lands; provided the season length and bag limit shall remain the same as assigned on the original hunt code.
[19.31.12.8 NMAC - Rp, 19.31.12.8 NMAC, 4-1-16]

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

A. One license per Barbary sheep, oryx, or Persian ibex per year: It shall be unlawful for anyone to hold more than one permit or license for any Barbary sheep, oryx, or Persian ibex during a current license year unless otherwise allowed by rule.

B. Validity of license or permit: All oryx, Barbary sheep and Persian ibex entry permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt code printed on the permit or license. Licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by rule or regulation.

C. Ibex once-in-a-lifetime: It shall be unlawful for anyone to apply for an once-in-a-lifetime ibex license if he or she ever held a once in a lifetime license to hunt ibex. Persian ibex hunts for youth, muzzle-loading rifles, bows, year-round off-mountain hunts, and hunts for female or immature (F-IM) ibex, are not restricted to those persons that never held an once-in-a-lifetime Persian ibex hunting license.

D. Oryx once-in-a-lifetime: It shall be unlawful, beginning April 1, 1993, for anyone to apply for a premier, or, once-in-a-lifetime, oryx license if he or she ever held an “once-in-a-lifetime” license to hunt oryx. Once-in-a-lifetime oryx hunts include all premier or trophy on-range, mobility impaired, and Iraq/Afghanistan veteran hunts. Hunts not once-in-a-lifetime include population management, broken-horned, youth, and incentive hunts. Anyone may apply for population management, youth, and incentive hunts regardless if they held a license for an once-in-a-lifetime hunt, if they have met the other applicable requirements or restrictions. Those who

have held an once-in-a-lifetime oryx hunting license may apply for broken-horned hunts.

E. Mobility impaired (MI) oryx hunts: It shall be unlawful for anyone to apply for a mobility impaired oryx license, except as allowed by 19.31.3.11 NMAC.

F. Youth only (YO) oryx and Persian ibex hunts: It shall be unlawful for anyone to apply for youth only (YO) oryx or Persian ibex license except as allowed by 19.31.3.11 NMAC.

G. Military only (MO) Barbary sheep and oryx hunts: It shall be unlawful for anyone to apply for a military only Barbary sheep or oryx license, except as allowed by 19.31.3.11 NMAC.

H. Iraq/Afghanistan veterans (I/A) hunts: It shall be unlawful for anyone to apply for an Iraq/Afghanistan veteran oryx license, except as allowed by 19.31.3.11 NMAC.
[19.31.12.9 NMAC - Rp, 19.31.12.9 NMAC, 4-1-16]

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

A. Season and hours: Barbary sheep, oryx or Persian ibex may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

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

C. [RESERVED]

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

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

F. Proof of bag limit: It shall be unlawful for anyone to transport or possess the carcass of any oryx without proof of bag limit. The horns of any oryx

taken shall remain attached to the skull until arriving at a residence, taxidermist, meat processing facility, or place of final storage.

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

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

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

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

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

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

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

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

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

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

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

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

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

[19.31.12.10 NMAC - Rp, 19.31.12.10 NMAC, 4-1-16]

19.31.12.11 POPULATION MANAGEMENT HUNTS:

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

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

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

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

[19.31.12.11 NMAC - Rp, 19.31.12.11 NMAC, 4-1-16]

19.31.12.12 BARBARY SHEEP HUNTING SEASONS:

Barbary sheep hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses, and bag limit. Public land Barbary sheep licenses for GMUs 29, 30, 32, 34, 36, and 37 are available only through application in the special entry draw. Private land only licenses for GMUs 29, 30, 32, 34, 36, and 37 shall not be issued through the public draw and will only be available from department offices or through the department's web site and shall only be valid on deeded private lands. BBY-1-

100 and BBY-1-101 licenses shall also be valid for over-the-counter hunt areas. The department shall issue military only Barbary sheep hunting licenses for McGregor range to full time military personnel providing a valid access authorization issued by Fort Bliss (BBY-1-102).

Continued on the following page

A. Southeast area public lands entry hunts:

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	lic.	bag limit
32, 34, 36, 37	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	BBY-1-100	675	ES
29, 30	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	BBY-1-101	600	ES
28 McGregor range, MO	12/26-12/27	12/31-1/1	12/30-12/31	12/29-12/30	BBY-1-102	8	ES
28 McGregor range	12/26-12/27	12/31-1/1	12/30-12/31	12/29-12/30	BBY-1-103	8	ES

B. Southeast area private land-only hunts: Private land-only licenses shall only be available through department offices or the department's web site.

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

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

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

D. Special management properties: For private lands within GMUs 29, 30, 32, 34, 36 and 37, the department may work with interested landowners to develop appropriate bag limits, weapon types, season dates and authorization numbers for private land hunting needed to achieve the proper harvest within the exterior boundaries of participating ranches.
[19.31.12.12 NMAC - Rp, 19.31.12.12 NMAC, 4-1-16]

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	10/14-10/16	10/13-10/15	10/12-10/14	ORX-1-102	45	ES
Stallion range I/A vets	10/2-10/4	10/14-10/16	10/13-10/15	10/12-10/14	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. Youth hunters must provide hunter education certificate number on application.

open areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	lic.	bag limit
Stallion range	10/2-10/4	10/14-10/16	10/13-10/15	10/12-10/14	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. Oryx hunt for injured service men and women: The department shall annually issue three authorizations for hunting by injured service men and women 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. [19.31.12.13 NMAC - Rp, 19.31.12.13 NMAC, 4-1-16]

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

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

[19.31.12.14 NMAC - Rp, 19.31.12.14 NMAC, 4-1-16]

HISTORY OF 19.31.12 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
 Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;
 Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;
 Regulation No. 489, Establishing Turkey Seasons For The Spring Of 1968, filed 3/1/68;
 Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;
 Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And

Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;
 Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;
 Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;
 Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;
 Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;
 Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;
 Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;
 Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed

2/20/70;
 Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;
 Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;
 Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;
 Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;
 Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;
 Regulation No. 531, Establishing A

Season On Javelina, filed 12/17/71;
 Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;
 Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;
 Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;
 Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;
 Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;
 Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;
 Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;
 Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;
 Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;
 Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;
 Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;
 Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;
 Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;
 Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;
 Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;

Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;
 Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;
 Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;
 Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;
 Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;
 Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;
 Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;
 Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;
 Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;
 Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;
 Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;
 Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed

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

History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12-1-2006 - duration expired 3-31-2009.
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3-13-2009 - duration expired 3-31-2011.
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12-16-2013 - duration expired 3-31-2015.
 19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3-17-2015, repealed 3-31-2016.

**GAME AND FISH,
DEPARTMENT OF**

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND
FISHING
PART 14 ELK**

19.31.14.1 ISSUING AGENCY:
New Mexico Department of Game and Fish.
[19.31.14.1 NMAC - Rp, 19.31.14.1 NMAC, 4-1-16]

19.31.14.2 SCOPE:
Sportspersons interested in elk management and hunting. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.
[19.31.14.2 NMAC - Rp, 19.31.14.2 NMAC, 4-1-16]

19.31.14.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.
[19.31.14.3 NMAC - Rp, 19.31.14.3 NMAC, 4-1-16]

19.31.14.4 DURATION: April 1, 2016 through March 31, 2019.
[19.31.14.4 NMAC - Rp, 19.31.14.4 NMAC, 4-1-16]

19.31.14.5 EFFECTIVE DATE: April 1, 2016, unless a later date is cited at the end of an individual section.
[19.31.14.5 NMAC - Rp, 19.31.14.5 NMAC, 4-1-16]

19.31.14.6 OBJECTIVE:
Establishing open hunting seasons and basic regulation, rules, and procedures governing the issuance of special elk permits and licenses by the department.
[19.31.14.6 NMAC - Rp, 19.31.14.6 NMAC, 4-1-16]

19.31.14.7 DEFINITIONS:
A. "A" or "antlerless elk" shall mean any one elk without antlers.

B. "APRE/6" shall mean any antler point restricted bull elk with a minimum of six visible antler points on one side, a brow tine or eye guard constitutes a point, a burr at the base does not.

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

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

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

F. "Core occupied elk range" or "COER" shall mean the portion of land within the boundaries of a game management unit (GMU) that is designated by the department as containing the majority of routine and substantial elk use. This shall be the area on which elk management goals and subsequent harvest objectives are based.

G. "Crossbow" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.

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

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

J. "Elk" as used herein, shall mean any wild cervid of the genus Cervus.

K. "Elk enhancement program" and "special elk permits" as used herein, shall mean the department activity that allows the issuance of not more than two permits for the taking of one bull elk per permit with the purpose of raising funds for programs and projects to benefit elk.

L. "Elk harvest success rate" will mean the success rate of elk hunters who hunted pursuant to licenses issued through the conversion of private land authorizations and public draw licenses in each game management unit as determined by hunter harvest surveys.

M. "Elk region" shall mean a portion of the state designated by the department to administer elk management activities. An elk region describes an assemblage of one or more herd units and encompasses one or more GMUs.

N. "Entry permit" shall entitle the holder of a valid official license to hunt where hunter numbers are limited by rule.

O. "ES" or "either sex" shall mean any one elk.

P. "Game management

unit" or "GMU" shall mean those areas as described in the state game commission's rule 19.30.4 NMAC Boundary Descriptions for Game Management Units.

Q. "High demand hunt" is hereby defined as a special draw hunt where the total number of non-resident applicants for an elk hunt exceeds twenty-two percent of the total applicants based on data for the two immediately preceding years.

R. "License" shall mean a valid official document that is issued or approved by the director that each person hunting elk in New Mexico must have or obtain prior to hunting.

S. "License year" shall mean the period from April 1 through March 31.

T. "MB" or "mature bull" shall mean a male elk with at least one brow tine extending six or more inches from the main beam or at least one forked antler with both branches six or more inches long.

U. "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.

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

W. "Private land authorization certificate" shall mean the document generated by the department and issued to a private landowner that authorizes the holder to purchase a specified license to hunt elk.

X. "Quality hunt" is hereby defined as a hunt designed to provide a hunter with an opportunity to achieve one or more of the following: a pleasurable experience based on timing and length of hunt season, lower hunter density, and an increased opportunity for success.

Y. "TBD" or "to be determined" shall mean the details of a hunt will be provided to the hunter as designated by the director.

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

AA. "Valles Caldera

national preserve (VCNP)” shall mean the hunt area within game management sub-unit 6B known as the Valles Caldera national preserve.

BB. “Web sale” shall refer to accessing the department’s internet address to initiate the process to purchase specific elk hunting licenses as designated by the director annually.

CC. “Wildlife management area” or “WMA” shall mean those areas as described in the state game commission’s rule 19.34.5 NMAC Wildlife Management Areas.

DD. “Mentor/youth only hunts” or “M/Y” shall be limited to one adult (18 years and older) and up to three youth (under 18 years as of opening day of the hunt) hunters. Youth applicants for any mentor/youth only firearm hunts must provide their hunter education certificate number on application.

[19.31.14.7 NMAC - Rp, 19.31.14.7 NMAC, 4-1-16]

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

The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, or authorization certificates, up or down by no more than twenty percent to address significant changes in population levels or to address critical department management needs (exception: GMU 34, elk licenses and authorizations may be adjusted beyond this amount as necessary to meet management objectives). This adjustment may be applied to any or all permits, authorizations, licenses for elk in a specific GMU or designated area.

[19.31.14.8 NMAC - Rp, 19.31.14.8 NMAC, 4-1-16]

19.31.14.9 ELK LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:

A. One elk permit or license per year: It shall be unlawful for anyone to hold more than one permit or license to hunt elk during the current license year unless otherwise specifically allowed by rule.

B. Validity of license or permit: All elk permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area specified by the hunt information printed on the permit or license. In GMUs 4, 5A, 46, 55A, and 55B private land “ranch only” elk licenses shall be valid on other private lands within the GMU only if

accompanied by written permission from the landowner or designee.

C. Valle Vidal elk once-in-a-lifetime hunts: It shall be unlawful for anyone to apply for a license to hunt bull elk on the Valle Vidal (as described in 19.30.4.10 NMAC) if he or she has ever held a license allowing them to take a bull elk on the Valle Vidal since 1983 except persons that have held a youth-only license may apply for non-youth only licenses as long as they are eligible. This restriction applies to all licenses valid for a bag limit that allows the harvest of an antlered bull elk. It shall be unlawful for anyone to apply for a license to hunt antlerless elk on the Valle Vidal if he or she has ever held a Valle Vidal elk license valid for a bag limit of antlerless since 1983 except persons that have held a youth-only antlerless license may apply for non-youth only antlerless licenses as long as they are eligible. Either sex (ES) or mature bull/antlerless (MB/A) shall not be considered as an “antlerless” license for this restriction. Persons who have held a Valle Vidal elk license through any incentive program are exempt from this restriction.

D. Mobility impaired (MI) elk hunts: It shall be unlawful for anyone to apply for a mobility impaired elk license, except as allowed by 19.31.3.11 NMAC.

E. Youth only (YO) elk hunts: It shall be unlawful for anyone to apply for a youth only (YO) elk license except as allowed by 19.31.3.11 NMAC. [19.31.14.9 NMAC - Rp, 19.31.14.9 NMAC, 4-1-16]

19.31.14.10 ELK MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

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

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

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize any elk carcasses that are improperly notched.

D. Proof of sex: It shall be unlawful for anyone to transport or possess the carcass of an elk without proof of sex. The antlers of any bull elk taken shall remain attached to the skull plate until arriving at a residence, taxidermist,

meat processing facility, or place of final storage. The scalp and both ears of female or immature male shall accompany the carcass in the same manner.

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

F. Use of baits or scents: It shall be unlawful for anyone to take or attempt to take any elk by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one’s person are allowed.

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

H. Use of calling devices: It shall be unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any elk.

I. Killing out-of-season: It shall be unlawful to kill any elk out of elk hunting season.

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

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

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

M. Areas closed to elk hunting. The following areas shall remain closed to elk hunting, except as permitted by regulation: Sugarite canyon state park; portion of the Wild Rivers recreation area: an area bounded on the north by the power line from Bear Crossing to Red River hatchery, south along the Red River to the confluence of the Rio Grande, and north along the Rio Grande to the power lines at Bear Crossing is closed to all hunting; Taos Valley Overlook; all wildlife management areas; and the Valle Vidal area. The Cerro portion of GMU 53 is closed to hunting with modern firearms or muzzleloading

firearms.

[19.31.14.10 NMAC - Rp, 19.31.14.10 NMAC, 4-1-16]

19.31.14.11 CHRONIC WASTING DISEASE CONTROL - ELK:

The director has the authority to designate possession criteria to any elk hunter where chronic wasting disease (CWD) is a concern. It shall be unlawful to transport dead elk, or their parts, taken from any GMU or area identified by the director in which the presence of, or possibility of, exposure to chronic wasting disease has been identified to any location outside that GMU except for the following parts of elk:

- A. meat that is cut and wrapped (either commercially or privately);
- B. quarters or other portions of meat with no part of the spinal column or head attached;
- C. meat that has been boned out;
- D. hides with no heads attached;
- E. clean skull plates with antlers attached; clean is defined as having been immersed in a bath of at least one part chlorine bleach and two parts water with no meat or tissue attached;
- F. antlers with no meat or tissue attached;
- G. upper canine teeth, also known as "buglers," "whistlers," or "ivorines";
- H. finished taxidermied heads.

[19.31.14.11 NMAC - Rp, 19.31.14.11 NMAC, 4-1-16]

19.31.14.12 QUALITY ELK HUNTS:

Quality hunts for elk are as follows:

- A. all Valle Vidal and Greenwood area hunts;
- B. first three mature bull hunts and both bow hunts on the Sargent WMA as follows: ELK-1-141, ELK-1-142, ELK-1-143, ELK-2-139 and ELK-2-140;
- C. any elk hunt in GMUs 13, 15, 16 and 17, including all sub-units, except antlerless or youth only hunts, that are closest to the rut period of September 15 to October 15 for each weapon type as follows: ELK-2-222, ELK-3-224, ELK-2-230, ELK-3-232, ELK-2-238, ELK-1-240, ELK-2-245, ELK-1-246, ELK-2-249, ELK-1-251, ELK-2-256, ELK-1-258, ELK-2-263, ELK-3-265, ELK-1-266, ELK-2-270, and ELK-3-272;
- D. the mobility impaired elk hunts in GMUs 16A and 16D as

follows: ELK-1-239 and ELK-1-257;

E. all GMU 6B Valles Caldera national preserve hunts that allow the hunter to take an antlered bull;

F. quality hunt fees in Subsections C and D above shall apply to the conversion of any mature bull or either sex, except youth only, private land authorizations that include any hunt dates from September 15 through October 15 for private lands that lie within the COER, but not to private lands outside COER areas.

[19.31.14.12 NMAC - Rp, 19.31.14.12 NMAC, 4-1-16]

19.31.14.13 SPECIAL ELK HUNTING OPPORTUNITIES:

A. Elk enhancement program:

(1) Program

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

(2)

Requirements for issuance of special elk permits:

(a)

The state game commission shall authorize the director of the department to issue not more than two special elk permits in any one license year to take one bull elk per permit. The director shall allow the sale of one permit through auction to the highest bidder and one permit to a person selected through a random drawing of a lottery ticket by the department or an incorporated, non-profit organization dedicated to the conservation of elk.

(b)

Proposals for auctioning one special elk permit and the sale of lottery tickets to obtain one special elk permit through a random drawing shall be submitted to the director of the department prior to January 31, preceding the license year when the permit may be legally used.

(c)

The proposals for auctioning one permit, and for the sale of lottery tickets and subsequent selection of a recipient for a second permit through a random draw

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

(d)

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

(e)

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

(f)

The marketing organization must agree in writing to the following: **(i)** to transfer all proceeds on or before the tenth day of the month following the auction and drawing for the lottery, and **(ii)** to provide the department with the names, addresses, and the physical descriptions of the individuals to whom the special elk permits are issued.

(g)

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

(h)

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

(i) The special elk permits issued through auction and lottery may be transferred, through sale, barter or gift by the successful individuals to only other individuals qualified to hunt.

(j) Special elk permits granted through auction or lottery, as described above, shall not be considered ‘once-in-a-lifetime’ permits.

(3) **Enhancement hunts:** Elk enhancement licenses shall be valid from September 1 through January 31 for any legal sporting arms. These licenses shall be valid statewide where hunting is allowed. Bag limit shall be one bull elk. The hunt code shall be ELK-1-500. The authorization to obtain an elk enhancement license may be used either by the applicant or any individual. The authorization may be transferred through sale, barter, or gift.

B. Elk incentive programs: The director may annually allow up to two elk authorizations to be issued for deer and elk hunters submitting their legally harvested animal for CWD testing. Authorization certificates to purchase an incentive license may be used either by the applicant or any individual. The authorization may be transferred through sale, barter or gift. Elk incentive hunts shall be valid only for the dates, legal sporting arms, bag limit and area specified by the director.

C. Unique late season archery bull elk hunts: Late season bow-only elk hunts. These hunts will be administered by the department through an internet registration process, web sale, rather than the random draw process. The open GMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses	bag limit
12	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-2-533	25	APRE/6
34	12/19-12/23	12/17-12/21	12/16-12/20	12/15-12/19	ELK-2-534	200	APRE/6
37	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-2-535	50	APRE/6

D. Youth encouragement hunts:

(1) Only youth hunters as defined by 19.31.3.11 NMAC that successfully fulfilled all application requirements and responsibilities for draw hunts for deer, elk, pronghorn antelope, ibex, oryx, or bighorn sheep in the current license year and were unsuccessful in drawing any licenses will be eligible to apply for licenses for these hunts for 14 days subsequent to the original posting of availability of these hunts on the department website. Licenses remaining after the first 14 days of availability shall be available to any youth hunters as defined by 19.31.3.11 NMAC and eligible to purchase an elk license.

(2) The director, with concurrence of the chairman of the state game commission, may adjust the number of licenses available in all youth encouragement hunts listed below based on changes in population levels, harvest rates, habitat availability, or increases in unlawful hunting activities resulting from these hunts.

(3) These hunts will be administered by the department through an internet registration process, web sale, rather than the random draw process. The open GMUs, hunt dates, hunt code, number of licenses and bag limit shall be as indicated below.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses	bag limit
5B	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-501	20	A
6A	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-502	50	A
6A	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-503	50	A
6C	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-504	50	A
6C	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-505	50	A
9	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-3-506	30	A
9	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-3-507	30	A
10	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-508	35	A
13	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-3-509	60	A
13	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-3-510	60	A
15	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-3-511	75	A
15	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-3-512	75	A
16A	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-513	75	A
16A	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-514	75	A
16C	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-515	75	A
16C	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-516	75	A
16D	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-517	75	A
16D	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-518	75	A
16E	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-519	75	A

16E	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-520	75	A
17	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-3-521	60	A
17	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-3-522	60	A
34	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-523	80	A
36	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-524	60	A
36	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-525	60	A
49	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-526	50	A
50	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-527	60	A
51	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-528	75	A
51	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-529	75	A
52	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-530	50	A
53	11/27-12/1	11/25-11/29	11/24-11/28	11/23-11/27	ELK-1-531	60	A
53	12/26-12/30	12/26-12/30	12/26-12/30	12/26-12/30	ELK-1-532	60	A

[19.31.14.13 NMAC - Rp, 19.31.14.13 NMAC, 4-1-16]

19.31.14.14 POPULATION MANAGEMENT HUNTS:

- A.** The director or his/her designee may authorize population management hunts for elk when justified in writing by department personnel.
- B.** The director or his/her designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses or permits. No qualifying license holder shall take more than one elk per license year.
- C.** Applications must be submitted by the deadline date set by the department.
- D.** Applications for licenses may be rejected, and fees returned to an applicant, if such applications are not on the proper form or do not supply adequate information.
- E.** In the event that an applicant is not able to hunt on the dates specified, the applicant's name shall be moved to the bottom of the list and another applicant may be contacted for the hunt.
- F.** In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunter's names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

[19.31.14.14 NMAC - Rp, 19.31.14.14 NMAC, 4-1-16]

19.31.14.15 ELK HUNTS IN COER GMUs: This section lists elk management information and subsequent hunting opportunities for GMUs in elk regions where a COER has been established. The listed information includes regional elk population information, management goals, harvest objectives, total number of hunting opportunities, GMUs or areas open for hunting, season dates, hunt codes, bag limits, legal weapons, number of licenses available in the public draw and the number and type of authorization certificates available for private lands within the COER of each GMU. Hunt codes for elk hunts allowing the "any legal weapon" type shall be designated ELK-1, hunt codes for elk hunts allowing the "bow only" weapon type shall be designated as ELK-2, hunt codes for elk hunts allowing the "muzzle loading rifles or bow" weapon type shall be designated as ELK-3. Youth hunters must provide their hunter education certification number on the application. Military only hunters must be full time active military and proof of military status must accompany application. Proof of this service is required. Mobility impaired hunt applicants shall meet eligibility requirements, as designated by the director, prior to applying for mobility impaired hunts.

- A. Elk management goals:**
- (1) **Quality hunt management (QHM):**
- (a) Elk harvest in regional populations, herd units or GMUs within a region results in the trend of annual bull mortality rates to be below thirty-five percent.
- (b) Seasons should be designed to ensure timing and length of hunts are desirable.
- (c) At least two-thirds of all hunters are "satisfied" with the experience.
- (2) **Optimal opportunity management (OOM):**
- (a) Elk harvest in regional populations, herd units or GMUs within a region results in the trend of annual bull mortality rates to be below forty-five percent and harvest near optimal sustainable yield.
- (b) Season structure should be designed to ensure timing and length of hunts provides significant amount of opportunity.
- (c) At least one-third of all hunters are "satisfied" with the experience.
- B. Northwest region: GMUs 2, 5A, 9 and 10.**
- (1) Quality hunt management within COER area in GMU 2.
- (2) Optimal opportunity management within COER areas in GMUs 5A, 9 and 10.
- (3) Foundational resource information for the northwest region is indicated below.

northwest region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
San Juan (GMU 2)	1359-1865	37:100:39	92-155	122-167
Lindrith (GMU 5A)	1912-2408	34:100:36	123-191	164-207
Mt. Taylor (GMU 9)	3500-4500	37:100:12	86-127	143-147
Zuni (GMU 10)	1008-1758	27:100:38	71-152	94-164

GMU	management goals	total licenses by bag limit			
		MB or ES-1 or ES-3	A	ES bow only	total licenses
2	QHM	235	177	282	694
5A	OOM	250	250	65	565
9	OOM	356	373	500	1229
10	OOM	206	324	368	898
Total		1047	1124	1215	3386

(4) Public land elk hunts listing the eligibility requirements or restrictions, GMU or area, hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses	bag limit
2	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-100	120	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-101	120	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-102	125	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-103	75	MB
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-104	100	A
2 YO	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-105	50	A
5A public land only	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-106	5	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-107	5	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-108	10	MB
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-109	10	A
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-110	10	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-111	10	A
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-112	10	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-113	10	A
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-114	10	MB
10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-115	10	A	
9 Marquez WMA	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-116	5	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-117	5	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-118	5	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-119	5	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-3-120	5	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-3-121	5	A
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-3-122	5	A
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-3-123	5	A
9 including Water canyon WMA	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-124	160	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-125	160	ES
9 including Water canyon WMA, MI	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-126	40	ES

9 including Water canyon WMA	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-127	70	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-3-128	70	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-3-129	40	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-3-130	80	A
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-3-131	80	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-3-132	79	A
10	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-133	125	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-134	125	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-135	70	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-136	70	MB
10 YO	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-137	120	A
10	12/19-12/23	12/17-12/21	12/16-12/20	12/15-12/19	ELK-1-138	100	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits, and weapon types shall be as indicated below.

open GMUs or areas	2015-16, 2016-17, 2017-18, 2018-19 hunt seasons			
	MB or ES-1 or ES-3	A	ES bow only	total
2	35	27	42	104
5A	210	210	55	475
9	121	119	170	410
10	66	104	118	288
Total	432	460	385	1277

(6) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, season dates, and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during the “mobility impaired hunters” or “youth only” hunt periods.

legal sporting arms	open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates
bows only	2, 5A, 9, 10	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14
		9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24
muzzle loading rifles and bows	2, 10	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
	9, MI	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10
	9	any 5 consecutive days, 10/17 - 12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
	9 Antlerless Only	any 5 consecutive days, 11/7-12/31	any 5 consecutive days, 11/5-12/31	any 5 consecutive days, 11/4-12/31	any 5 consecutive days, 11/3-12/31
any legal sporting arms	2, 10	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
	5A	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31

C. North central region: COER areas of GMUs 4, 5B, 50, 51 and 52.

(1) Optimal opportunity management within COER areas in GMUs 4, 5B, 50, 51 and 52.

(2) Foundational resource information for the north central region shall be as indicated below.

north central region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Chama-San Antonio (GMUs 4, 5B, 50, 51, and 52)	22928-24683	37:100:35	1423-1758	1890-2034

GMU	management goals	total licenses by bag limit			
		MB (or ES-1 or ES-3)	A	ES bow only	total licenses
4	OOM	1060	645	475	2180
5B	OOM	367	188	160	715
50	OOM	331	117	156	604
51	OOM	970	909	434	2313
52	OOM	685	406	500	1591
Total		3413	2265	1725	7403

(3) Public land elk hunts listing the eligibility requirements or restrictions, GMU or area, hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt code	licenses	bag limit
4:Sargent WMA	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-139	10	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-140	10	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-141	10	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-142	10	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-143	10	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-144	10	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-145	10	A
4:Sargent WMA, YO	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-146	10	A
4:Humphries WMA only	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-147	10	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-148	10	ES
4:Humphries/Rio Chama WMAs	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-149	15	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-150	15	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-151	10	A
4:Humphries/Rio Chama WMAs, YO	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-152	15	A
5B	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-153	75	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-154	75	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-155	86	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-156	59	A
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-157	86	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-158	59	A
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-159	86	MB
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-160	59	A
	12/12-12/16	12/17-12/21	12/16-12/20	12/15-12/19	ELK-1-161	87	MB
50	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-162	60	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-163	55	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-164	120	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-165	41	A
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-166	123	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-167	45	A

51	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-168	180	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-169	180	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-170	220	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-171	220	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-172	220	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-173	251	A
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-174	251	A
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-175	252	A
52	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-3-176	145	ES
	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-177	230	ES
52	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-178	230	ES
	52 MI	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-179	50
52	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-180	120	MB
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-181	50	A
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-182	230	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-183	230	MB
52 YO	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-184	80	A
52 MI	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-185	56	A
52	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-186	70	A
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-187	115	A

(4) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2015-16, 2016-17, 2017-18, 2018-19 hunt seasons			
	MB (or ES-1 or ES-3)	A	ES bow only	Total
4	990	600	435	2025
5B	22	11	10	43
50	88	31	41	160
51	165	155	74	394
52	55	33	40	128
Total	1320	830	600	2750

(5) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, season dates and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during the “mobility impaired hunters” or “youth only” hunt periods.

legal sporting arms	open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates
bows only	4, 5B, 50, 51, 52	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14
		9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24
muzzle loading rifles and bows	52	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
any legal sporting arms	4	any 5 consecutive days, 10/1-12/31	any 5 consecutive days, 10/1-12/31	any 5 consecutive days, 10/1-12/31	any 5 consecutive days, 10/1-12/31
	5B, 50, 51	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
	52	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31

D. Jemez region: COER areas of GMUs 6A, 6B, 6C and 7.
 (1) Quality hunt management goals for GMU 6A and 6B.

- (2) Optimal opportunity management within COER areas in GMU 6C and 7.
- (3) Foundational resource information for the Jemez region shall be as indicated below.

Jemez region population information			sustainable harvest pursuant to goals	
Jemez herd unit	population estimate	bull:cow:calf ratio	bulls	cows
GMUs 6A, 6B, 6C, and 7	6702-7084	42:100:33	385-407	512-541

GMU	management goal	total licenses by bag limit			
		MB	A	ES	total licenses
6A	QHM	361	117	297	775
6B	QHM	50	155	40	245
6C	OOM	429	259	300	988
7	OOM	68	62	36	166
Total		908	593	673	2174

- (4) Public land elk hunts listing the eligibility requirements or restrictions, GMU or area, hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

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
6A	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-188	150	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-189	100	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-190	104	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-191	100	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-192	100	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-193	99	A
6B:VCNP		9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-194	20	ES
6B:VCNP		9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-195	20	ES
6B:VCNP		10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-196	15	MB
6B:VCNP		10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-197	15	MB
6B:VCNP		10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-198	20	MB
6B:VCNP MI		10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-199	15	A
6B:VCNP		11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-200	35	A
6B:VCNP		11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-201	35	A
6B:VCNP YO		11/26-11/30	11/25-11/29	11/24-11/28	ELK-1-202	35	A
6B:VCNP		12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-203	35	A
6C	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-209	150	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-210	108	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-211	155	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-212	109	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-213	109	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-214	110	A
	11/21-11/25	11/26-11/30	11/25-11/29	11/24-11/28	ELK-1-215	115	A
7	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-216	15	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-217	15	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-218	25	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-219	30	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-220	50	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2015-16, 2016-17, 2017-18, 2018-19 hunt seasons			
	bull	antlerless	ES	total
6A	57	18	47	122
6C	56	34	39	129
7	13	12	6	31
Total	126	64	92	282

(6) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, season dates and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during the “mobility impaired hunters” or “youth only” hunt periods.

legal sporting arms	open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates
bows only	6A, 6C, 7	9/1-9/14 9/15-9/24	9/1-9/14 9/15-9/24	9/1-9/14 9/15-9/24	9/1-9/14 9/15-9/24
muzzle loading rifles & bows	6A, 6C, 7	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
any legal weapon	6A, 6C, 7	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31

E. Southwest region:

- (1) Quality hunt management for COER areas of GMUs 13, 15, 16A, 16B/22, 16C, 16D, 16E and 17.
- (2) Optimal opportunity management for COER areas of GMUs 21A, 21B 23 and 24.
- (3) Foundational resource information for the southwest region shall be as indicated below.

southwest region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Datil (GMU 13)	2939-3313	41:100:40	198-275	263-297
greater Gila (GMUs 15, 16A-E)	20693-21923	37:100:36	1313-1711	1744-1848
lesser Gila (GMUs 21A, 21B, 22, 23, 24)	1046-4258	33:100:30	59-294	78-317
San Mateo (GMU 17)	2066-2155	48:100:40	131-168	175-182

GMU	management goals	total licenses by bag limit			
		MB (or ES-1 or ES-3)	A	ES bow only	total licenses
13	QHM	583	370	556	1509
15	QHM	923	641	769	2333
16A	QHM	232	155	412	799
16B/22	QHM	323	0	394	717
16C	QHM	200	118	294	612
16D	QHM	148	114	171	433
16E	QHM	239	217	217	673
totals (13, 15, 16A-E)		2648	1615	2813	7076
17	QHM	291	262	233	786
21A	OOM	102	31	102	235
21B	OOM	94	118	94	306
23	OOM	180	21	206	407
24	OOM	39	5	28	72
totals (17, 21A, 21B, 23, 24)		706	437	663	1806

southwest region total	3354	2052	3476	8882
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(4) Public land elk hunts listing the eligibility requirements or restrictions, hunt dates, hunt code, number of licenses, bag limits, and weapon types shall be as indicated below.

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
13	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-221	175	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-222	125	ES
13 YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-223	25	ES
13	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-224	75	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-3-225	115	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-3-226	100	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-3-227	100	A
15	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-3-228	100	A
	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-229	350	ES
15	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-230	250	ES
	15 YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-231	25
15	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-232	200	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-3-233	245	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-3-234	250	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-3-235	250	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-3-236	250	A
16A	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-237	250	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-238	150	ES
16A MI	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-239	25	MB
16A	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-240	75	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-241	125	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-242	75	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-243	75	A
16B/22	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-244	225	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-245	165	ES
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-246	160	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-247	160	MB
16C	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-248	150	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-249	100	ES
16C YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-250	25	ES
16C	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-251	50	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-252	95	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-253	50	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-254	50	A
16D	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-255	90	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-256	60	ES
16D MI	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-257	25	MB
16D	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-258	55	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-259	50	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-260	50	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-261	50	A

16E	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-262	90	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-263	60	ES
16E YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-264	25	ES
16E	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-265	70	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-266	70	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-267	75	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-268	75	A
17	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-269	125	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-270	75	ES
17 YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-271	25	ES
17	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-272	100	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-3-273	100	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-3-274	25	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-3-275	25	A
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-3-276	100	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-3-277	100	A
21A	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-278	50	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-279	50	ES
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-280	50	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-281	50	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-282	30	A
21B	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-283	25	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-284	25	ES
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-285	25	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-286	25	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-287	15	A
	12/19-12/23	12/17-12/21	12/16-11/20	12/15-12/19	ELK-1-288	20	A
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-289	15	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-290	15	A
23	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-291	125	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-292	75	ES
23 YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-293	25	ES
23	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-294	75	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-295	75	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-296	20	A
24-excluding Ft. Bayard management area	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-297	15	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-298	10	ES
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-299	15	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-300	15	MB
24: including Ft. Bayard management area, YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-301	5	ES
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-302	5	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2015-16, 2016-17, 2017-18, 2018-19 hunt seasons			
	MB (or ES-1 or ES-3)	A	ES bow only	total

13	268	170	256	694
15	203	141	169	513
16A	7	5	12	24
16B	3	0	4	7
16C	35	20	51	106
16D	18	14	21	53
16E	74	67	67	208
17	41	37	33	111
21A	2	1	2	5
21B	44	53	44	141
23	5	1	6	12
24	4	0	3	7
Total	704	509	668	1885

(6) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, season dates and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during the “mobility impaired hunters” or “youth only” hunt periods.

legal sporting arms	open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates
bows only	13, 15, 16A, 16B/22, 16C, 16D, 16E, 17, 21A, 21B, 23, 24	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14
		9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24
muzzle loading rifles and bows	13, 15, 16E, 17, 23, 24	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
	YO: 13, 15, 17	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
muzzle loading rifles only with approval of director or designee and state game commission chairman	13: antlerless elk only	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31
any legal sporting arms	16E, 23, 24	any 5 consecutive days, 10/24-12/31	any 5 consecutive days, 10/22-12/31	any 5 consecutive days, 10/21-12/31	any 5 consecutive days, 10/20-12/31
	16A, 16B/22, 16C, 16D, 21A, 21B	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
	YO: 16C, 16E, 23, 24	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10
	MI: 16A, 16D	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10

- F. **South central region:** GMUs 34 and 36.
 (1) Quality hunt management for GMU 36.
 (2) Optimal opportunity management goals for GMU 34.
 (3) Foundational resource information for the south central region shall be as indicated below.

southeast region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Sacramento (GMU 34)	6010-6262	49:100:46	432-554	574-598

Ruidoso (GMU 36)	4654-4816	58:100:43	335-426	445-460
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GMU	management goal	total licenses by bag limit			
		MB (or ES-1 or ES-3)	A	ES bow only	total licenses
34	OOM	603	975	460	2038
36	QHM	507	278	320	1105
Total		1110	1253	780	3143

(4) Public land elk hunts listing the hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

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
34	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-303	200	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-304	200	ES
34 YO	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-305	75	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-306	100	A
34 MI	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-307	50	ES
34	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-3-308	250	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-309	150	MB
	11/21-11/25	11/26-11/30	11/25-11/29	11/24-11/28	ELK-1-310	250	A
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-311	250	A
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-312	250	A
36	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-313	130	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-314	111	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-315	135	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-316	123	MB
	10/31-11/4	10/29-11/2	10/28-11/1	10/27-10/31	ELK-1-317	124	MB
	11/21-11/25	11/26-11/30	11/25-11/29	11/24-11/28	ELK-1-318	105	A
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-319	105	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs or areas	2015-16, 2016-17, 2017-18, 2018-19 hunt seasons			
	MB (or ES-1 or ES-3)	A	ES bow only	total
34	78	124	60	262
36	125	69	79	273
Total	203	193	139	535

(6) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, season dates and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during the “mobility impaired hunters” or “youth only” hunt periods.

legal sporting arms	open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates
bows only	34, 36	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14
		9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24
any legal sporting arms	YO & MI: 34	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10
muzzle loading rifles and bows	34	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
	36	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31

any legal sporting arms	34	any 5 consecutive days, 10/24-12/31	any 5 consecutive days, 10/22-12/31	any 5 consecutive days, 10/21-12/31	any 5 consecutive days, 10/20-12/31
	36	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
rifles only with approval of the director or his/her designee and state game commission chairman	36 : antlerless elk only	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31

G. Northeast region:

- (1) Quality hunt management for COER areas of GMU 45.
- (2) Optimal opportunity management goals for COER areas of GMUs 48, 49 and 53.
- (3) Foundational resource information for the northeast region shall be as indicated below.

northeast region population information			sustainable harvest pursuant to goals	
herd unit	population estimate	bull:cow:calf ratio	bulls	cows
Pecos (GMU 45)	1665-2553	27:100:27	89-168	118-181
Whites peak (GMU 48)	998-1790	32:100:44	79-168	101-181
Penasco (GMU 49)	1257-1545	28:100:30	73-110	97-119
Ute-Midnight-San Cristobal (GMU 53)	1254-2291	40:100:32	71-160	94-173

GMU	management goal	total licenses by bag limit			
		MB (or ES-1 or ES-3)	A	ES bow only	total licenses
45	QHM	457	54	163	674
48	OOM	286	170	304	760
49	OOM	161	162	125	448
53	OOM	362	317	174	853
Total		1266	703	766	2735

(4) Public land elk hunts listing the hunt dates, hunt code, number of licenses, bag limits and weapon types shall be as indicated below.

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
45	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-320	75	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-321	75	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-322	140	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-323	140	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-324	140	MB
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-3-325	50	A
48	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-326	92	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-327	92	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-328	80	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-329	60	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-330	50	A
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-331	33	MB
	12/5-12/9	12/3-12/7	12/2-12/6	12/1-12/5	ELK-1-332	53	A

49	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-333	61	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-334	60	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-335	80	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-336	76	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-337	80	A
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-338	77	A
53	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-339	60	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-340	60	ES
53 (exc. Cerro portion)	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-341	50	ES
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-342	75	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-343	125	MB
	11/21-11/25	11/19-11/23	11/18-11/22	11/17-11/21	ELK-1-344	90	A
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-345	90	A
53 (North of Sunshine Valley road)	1/2-1/17	1/7-1/22	1/6-1/21	1/5-1/20	ELK-1-346	40	A

(5) Private land elk authorization certificates for qualifying ranches listing the number of authorization certificates, bag limits and weapon types shall be as indicated below.

open GMUs and areas	2015-16, 2016-17, 2017-18, 2018-19 hunt seasons			
	MB (or ES-1 or ES-3)	A	ES bow only	Total
45	37	4	13	54
48	113	67	120	300
49	5	5	4	14
53	112	97	54	263
Total	267	173	191	631

(6) Private land elk hunts for ranches designated as “ranch only” shall be limited to the following eligibility requirements or restrictions, season dates and legal sporting arms. All private land mobility impaired and youth only hunters must satisfy licensing requirements as stated in 19.31.3 NMAC in order to hunt during “mobility impaired” or “youth only” hunt periods.

legal sporting arms	open GMUs or area	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates
bows only	45, 48, 49, 53	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14
		9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24
muzzle loading rifles and bows	45, 48, 53	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
any legal sporting arms	45, 53	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
	49	any 5 consecutive days, 10/10-12/31	any 5 consecutive days, 10/8-12/31	any 5 consecutive days, 10/7-12/31	any 5 consecutive days, 10/6-12/31
	48	any 5 consecutive days, 10/17-12/31	any 5 consecutive days, 10/15-12/31	any 5 consecutive days, 10/14-12/31	any 5 consecutive days, 10/13-12/31
rifles only with approval of director or designee and state game commission chairman	48: antlerless elk only	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31	any 5 consecutive days 1/1-1/31

[19.31.14.15 NMAC - Rp, 19.31.14.15 NMAC, 4-1-16]

19.31.14.16 ELK HUNTS WHERE NO COER IS ESTABLISHED: This section lists public draw elk hunts in GMUs with no established COER. The list includes eligibility requirements or restrictions, GMUs or areas open for hunting, season dates, hunt codes, weapon types, number of available licenses and bag limits. Hunt codes for elk hunts for “any legal weapon” hunts shall be designated ELK-1, hunt codes for elk hunts allowing the “bow only” weapon type shall be designated as ELK-2, elk hunt codes

for elk hunts allowing “muzzle loading rifles or bow” shall be designated as ELK-3. Youth hunters must provide hunter education certification number on application. Military only hunters must be full time active military and proof of military status must accompany application. Proof of this service is required. Mobility impaired hunt applicants shall meet eligibility requirements, as designated by the director, prior to applying for mobility impaired hunts.

A. Public lands in GMUs with no established core occupied elk range:

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
12	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-347	15	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-348	15	ES
	10/1-10/5	10/1-10/5	10/1-10/5	10/1-10/5	ELK-1-349	20	MB
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-350	20	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-351	20	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-20/24	ELK-1-352	20	A
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-353	20	A
18	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-355	25	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-356	25	ES
28 McGregor range, military only	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-357	10	ES
28 McGregor range	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-358	10	ES
30	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-359	20	ES
	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-360	10	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-361	10	ES
37	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-362	40	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-363	30	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-364	30	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-365	30	MB
	11/28-12/2	11/26-11/30	11/25-11/29	11/24-11/28	ELK-1-366	45	A
38	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-367	15	ES
43	9/27-10/4	9/27-10/4	9/27-10/4	9/27-10/4	ELK-1-368	30	ES
54: Colin Neblett WMA/south	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-369	20	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-370	20	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-371	20	MB
	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-372	10	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-373	10	ES
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-374	20	A
55: Colin Neblett WMA/north	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-375	20	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-376	20	MB
	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-377	20	MB
	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-378	10	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-379	10	ES
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-380	20	A
55 ES Barker WMA	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-381	5	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-382	5	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-383	10	MB

55: Urraca WMA	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-384	5	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-385	5	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-386	10	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-387	10	MB
	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-388	10	MB
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-389	15	A
	11/28-12/2	11/26-11/30	11/25-11/29	11/24-11/28	ELK-1-390	15	A
55: Valle Vidal and Greenwood areas	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-391	25	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-392	25	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-3-393	40	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-394	20	MB
55: Valle Vidal and Greenwood areas, YO	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-395	20	MB
55: Valle Vidal and Greenwood areas	10/24-10/28	10/22-10/26	10/21-10/25	10/20-10/24	ELK-1-396	35	MB
55: Valle Vidal and Greenwood areas, YO	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-397	35	A
55: Valle Vidal and Greenwood areas	11/7-11/11	11/5-11/9	11/4-11/8	11/3-11/7	ELK-1-398	15	A
	11/14-11/18	11/12-11/16	11/11-11/15	11/10-11/14	ELK-1-399	70	A
56	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-400	5	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-401	5	ES
	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-402	10	MB
	10/17-10/21	10/15-10/19	10/14-10/18	10/13-10/17	ELK-1-403	10	A
57: Sugarite canyon state park	9/1-9/14	9/1-9/14	9/1-9/14	9/1-9/14	ELK-2-404	3	ES
	9/15-9/24	9/15-9/24	9/15-9/24	9/15-9/24	ELK-2-405	2	ES
57/58	10/10-10/14	10/8-10/12	10/7-10/11	10/6-10/10	ELK-1-406	10	MB
	12/12-12/16	12/10-12/14	12/9-12/13	12/8-12/12	ELK-1-407	10	A

B. Private land-only elk hunting: For private lands that are not within core occupied elk range or private lands that lie within GMUs with no designated core occupied elk range, the department may work with interested landowners to develop appropriate bag limits, weapon types, season dates and authorization numbers for private land hunting needed to achieve the proper harvest within the exterior boundaries of participating ranches.
[19.31.14.16 NMAC - Rp, 19.31.14.16 NMAC, 4-1-16]

HISTORY OF 19.31.14 NMAC:

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

Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;

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

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

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

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And

Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68; Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;

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

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

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

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

Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed

2/20/70;

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

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

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

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

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

Regulation No. 531, Establishing A

Season On Javelina, filed 12/17/71;
 Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;
 Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;
 Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;
 Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;
 Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;
 Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;
 Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;
 Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;
 Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;
 Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;
 Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;
 Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;
 Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;
 Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;
 Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;

Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;
 Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;
 Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;
 Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;
 Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;
 Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;
 Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;
 Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;
 Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;
 Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;
 Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;
 Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed

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

History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.
 19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.
 19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.
 19.31.14 NMAC, Elk, filed 12-1-2006 - duration expired 3-31-2009.
 19.31.14 NMAC, Elk, filed 3-13-2009 - duration expired 3-31-2011.
 19.31.14 NMAC, Elk, filed 9-15-2010 - Repealed 3-29-2013.
 19.31.14 NMAC, Elk, filed 3-29-2013 - Repealed 2-27-2015.
 19.31.14 NMAC, Elk, filed 2-16-2015 - Repealed 3-31-2016.

**GAME AND FISH,
DEPARTMENT OF**

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

19.31.15.1 ISSUING AGENCY:
New Mexico Department of Game and Fish.
[19.31.15.1 NMAC - Rp, 19.31.15.1 NMAC, 4-1-16]

19.31.15.2 SCOPE:
Sportspersons interested in pronghorn antelope hunting and management. Additional requirements may be found in Chapter 17, NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.
[19.31.15.2 NMAC - Rp, 19.31.15.2 NMAC, 4-1-16]

19.31.15.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.
[19.31.15.3 NMAC - Rp, 19.31.15.3 NMAC, 4-1-16]

19.31.15.4 DURATION: April 1, 2016 through March 31, 2019.
[19.31.15.4 NMAC - Rp, 19.31.15.4 NMAC, 4-1-16]

19.31.15.5 EFFECTIVE DATE: April 1, 2016, unless a later date is cited at the end of an individual section.
[19.31.15.5 NMAC - Rp, 19.31.15.5 NMAC, 4-1-16]

19.31.15.6 OBJECTIVE:
Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of pronghorn antelope authorizations and licenses by the department.
[19.31.15.6 NMAC - Rp, 19.31.15.6 NMAC, 4-1-16]

19.31.15.7 DEFINITIONS:
A. "Antelope private land use system" or "A-PLUS" shall mean the program in which the director may issue authorization certificates or numbers to private lands whose owners, manager, or lessees sign and return a

hunting agreement with the department.

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

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

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

E. "Crossbows" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.

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

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

H. "ES" or "either sex" shall mean any one pronghorn antelope.

I. "Entry permit" shall entitle the holder of a valid official license to hunt where hunter numbers are limited by rule.

J. "F-IM" or "female or immature pronghorn antelope" shall mean a pronghorn antelope without horns or with both horns shorter than its ears.

K. "Game management unit" or "GMU" shall mean those areas as described in 19.30.4 NMAC, Game Management Units.

L. "License" shall mean a valid official document that is issued or approved by the director that each person hunting pronghorn antelope in New Mexico must have or obtain prior to hunting.

M. "License year" shall mean the period from April 1 through March 31.

N. "MB" or "mature buck pronghorn antelope" shall mean a pronghorn antelope with at least one horn longer than its ears.

O. "Centerfire firearms" shall mean any center-fire firearms, not to include any fully automatic firearms.

P. "Shotgun" shall mean only those shotguns firing shot or slug that are designed to be fired from the shoulder.

Q. "Muzzle-loader" or "muzzle-loading firearms" shall mean those rifles and shotguns in which the charge and projectile are loaded through

the muzzle. Only black powder, Pyrodex or equivalent black powder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.

R. "Private land authorization certificate or number" shall mean a valid official document that entitles a person to purchase a pronghorn antelope hunting license for specific season dates, weapon types, bag limits, and hunt areas.

S. "TBD" or "to be determined" shall mean the details of hunt dates, license numbers, or hunt areas will be determined by the department.

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

U. "Wildlife management areas" or "WMAs" shall mean those areas as described in 19.34.5 NMAC, Wildlife Management Areas.
[19.31.15.7 NMAC - Rp, 19.31.15.7 NMAC, 4-1-16]

19.31.15.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS: The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, or authorization certificates for pronghorn antelope up or down to address significant changes in population levels or to address critical department management needs. This adjustment may be applied to any or all of the specific hunt codes for pronghorn antelope. The director, with verbal concurrence of the chairman, may consider requests by private landowners for alternative season dates or weapon types to accommodate providing special pronghorn hunting opportunities to children suffering from terminal illnesses or disease on a case by case basis. The director may change or cancel any hunts on military lands to accommodate closures on those lands; provided the subsequent hunts have the same season length and bag limit as assigned on original hunt code.
[19.31.15.8 NMAC - Rp, 19.31.15.8 NMAC, 4-1-16]

19.31.15.9 PRONGHORN ANTELOPE LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:

A. One license per pronghorn antelope per year: It shall be unlawful for anyone to hold more than one permit or license for pronghorn

antelope during a current license year unless otherwise allowed by rule.

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

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

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

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

[19.31.15.9 NMAC - Rp, 19.31.15.9 NMAC, 4-1-16]

19.31.15.10 PRONGHORN ANTELOPE MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

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

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

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

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

E. Use of dogs in hunting: It shall be unlawful to use

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

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

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

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

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

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

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

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

[19.31.15.10 NMAC - Rp, 19.31.15.10

NMAC, 4-1-16]

19.31.15.11 PRONGHORN ANTELOPE POPULATION MANAGEMENT HUNTS:

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

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

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

D. Applications for licenses may be rejected, and fees returned to an applicant, if such applications are not on the proper form or do not supply adequate information.

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

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

[19.31.15.11 NMAC - Rp, 19.31.15.11 NMAC, 4-1-16]

19.31.15.12 PRONGHORN ANTELOPE HUNTING SEASONS FOR PUBLIC DRAW LICENSES:

Numbers of licenses are evaluated annually based upon population dynamics, weather conditions, sustainable harvest, and department management objectives. Values listed are 'up to' or the upper limit of available licenses under current conditions, these may be modified as needed pursuant to 19.31.15.8 NMAC. Pronghorn antelope hunt seasons are listed below by weapon type, eligibility requirements or restrictions, each table lists the open areas or GMUs, hunt dates, hunt codes, licenses, and bag limit for the 2015-16 through the 2018-19 hunt seasons. Hunt codes for pronghorn hunts

allowing “any legal weapon” type shall be designated ANT-1, hunt codes for pronghorn hunts allowing “archery only” weapon type shall be designated as ANT-2, hunt codes for pronghorn hunts allowing “muzzle loading rifles, crossbows or archery weapons only” shall be designated ANT-3. Youth hunters must provide their hunter education certification number on their application. Mobility impaired hunt applicants shall meet eligibility requirements, as designated by the director, prior to applying for mobility impaired hunts. Military only hunters must be full time active military and proof of military status must accompany application or, if applying online, forwarded to the department by the application deadline date.

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

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

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

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic.	Bag limit
2: YO	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-130	1	ES
7, 9, 12, 13	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-131	8	ES
8, 14, 43 (west of Hwy. 3)	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-132	3	ES
15, 16, 17, 21 (north of Hwy. 152)	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-133	18	ES
19 (White Sands Missile Range)	10/2-10/4	10/14-10/16	10/13-10/15	10/12-10/14	ANT-1-134	5	ES
20	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-135	5	ES
21 (south of Hwy. 152), 23, 24	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-136	5	ES
25, 26, 27	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-139	3	ES

29	10/24-10/27	10/22-10/25	10/21-10/24	10/20-10/23	ANT-3-149	15	ES
31	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-142	9	ES
32, 33	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-143	20	ES
portions of 32	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-144	5	ES
18, 36, 37, 38	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-145	20	ES
39, 40	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-146	5	ES
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	10/24-10/26	10/22-10/24	10/21-10/23	10/20-10/22	ANT-1-147	50	ES
50 (north of Hwy. 64), 52	8/15-8/18	8/13-8/16	8/12-8/15	8/11-8/14	ANT-3-150	40	ES

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

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

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

Open GMUs	2015-2016 hunt dates	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	Hunt code	Lic.	Bag limit
7, 9, 12, 13	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-170	25	MB
8, 14, 43 (west of Hwy. 3)	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-171	5	MB
15, 16, 17, 21 (north of NM 152)	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-172	70	MB
20	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-175	10	MB
21 (south of NM 152), 23, 24	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-176	10	MB
25, 26, 27	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-177	20	MB
30	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-179	50	MB
31	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-180	75	MB
32, 33	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-181	75	MB
18, 36, 37, 38	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-182	25	MB
39, 40	8/22-8/30	8/20-8/28	8/19-8/27	8/18-8/26	ANT-2-183	10	MB
41, 42, 43 (east of Hwy. 3), 46, 47, 48, 54, 55, 56, 57, 58, 59	8/15-8/23	8/13-8/21	8/12-8/20	8/11-8/19	ANT-2-184	100	MB

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

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

[19.31.15.12 NMAC - Rp, 19.31.15.12 NMAC, 4-1-16]

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

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

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

[19.31.15.13 NMAC - Rp, 19.31.15.13 NMAC, 4-1-16]

HISTORY OF 19.31.15 NMAC:

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

Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;

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

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

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

- Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;
- Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;
- Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;
- Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;
- Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;
- Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;
- Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;
- Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;
- Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;
- Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;
- Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;
- Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;
- Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;
- Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;
- Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;
- Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;
- Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;
- Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;
- Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;
- Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;
- Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;
- Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;
- Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;
- Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;
- Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;
- Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;
- Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;
- Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;
- Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;
- Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;
- Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;
- Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;
- Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;
- Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;
- Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;
- Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;
- Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;
- Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;
- Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;
- Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;
- Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;
- Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;
- Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;
- Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31,

1992, filed 2/8/91;

Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;

Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.

19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.

19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.

19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 12-1-2006 - duration expired 3-31-2009.

19.31.15 NMAC, Pronghorn Antelope and Javelina, filed 3-13-2009 - duration expired 3-31-2011.

19.31.15 NMAC, Pronghorn Antelope, filed 8-15-2010 - duration expired 3-31-2015.

19.31.15 NMAC, Pronghorn Antelope, filed 3-17-2015, repealed 3-31-2016.

GAME AND FISH, DEPARTMENT OF

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

19.31.16.1 ISSUING AGENCY:
New Mexico Department of Game and Fish.
[19.31.16.1 NMAC - Rp, 19.31.16.1 NMAC, 4-1-16]

19.31.16.2 SCOPE:
Sportspersons interested in turkey management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19.
[19.31.16.2 NMAC - Rp, 19.31.16.2 NMAC, 4-1-16]

19.31.16.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority

to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.

[19.31.16.3 NMAC - Rp, 19.31.16.3 NMAC, 4-1-16]

19.31.16.4 DURATION: April 1, 2016 through March 31, 2019.
[19.31.16.4 NMAC - Rp, 19.31.16.4 NMAC, 4-1-16]

19.31.16.5 EFFECTIVE DATE: April 1, 2016, unless a later date is cited at the end of an individual section.
[19.31.16.5 NMAC - Rp, 19.31.16.5 NMAC, 4-1-16]

19.31.16.6 OBJECTIVE: Establishing open hunting seasons and regulation, rules, and procedures governing the distribution and issuance of turkey permits and licenses by the department.
[19.31.16.6 NMAC - Rp, 19.31.16.6 NMAC, 4-1-16]

19.31.16.7 DEFINITIONS:

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

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

C. "Bearded turkey" shall mean a turkey with a visible beard.

D. "Crossbow" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light nor magnify.

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

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

G. "Entry permit" shall entitle the holder of a valid official license to hunt where hunter numbers are limited by rule.

H. "Game management unit" or "GMU" shall mean those areas as described in state game commission rule 19.30.4 NMAC Boundary Descriptions for Game Management Units.

I. "Gould's turkey permit" as used herein, shall mean a

document issued by the department that authorizes the holder to participate in the activity as specified on the permit.

J. "Bearded Gould's turkey" shall mean a turkey with a visible beard of the species *meleagris gallopavo mexicana*.

K. "License year" shall mean the period from April 1 through March 31.

L. "Modern shotguns" shall mean center-fire shotguns. Legal shotguns shall be only those shotguns capable of being fired from the shoulder.

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

N. "Non-toxic shot" shall mean shot approved for use by the U.S. fish and wildlife service.

O. "Turkey license" shall mean a valid official document that is issued or approved by the director that each person hunting turkey in New Mexico must have or obtain prior to hunting.

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

Q. "Wildlife management areas" or "WMAs" shall mean those areas as described in the state game commission's rule 19.34.5 NMAC, Wildlife Management Areas.
[19.31.16.7 NMAC - Rp, 19.31.16.7 NMAC, 4-1-16]

19.31.16.8 ADJUSTMENT OF LICENSES, PERMITS, AUTHORIZATIONS AND HARVEST LIMITS: The director, with the verbal concurrence of the chairman or his designee, may adjust the number of licenses, permits, authorizations, or harvest limits, up or down by no more than twenty percent to address significant changes in population levels or habitat availability. This adjustment may be applied to any or all of the entry hunt codes for turkey.
[19.31.16.8 NMAC - Rp, 19.31.16.8 NMAC, 4-1-16]

19.31.16.9 TURKEY LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:

A. License limitations:

A hunter is limited to purchasing only one license in the fall and one in the spring during a license year, unless otherwise allowed by rule.

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

C. Youth only (YO) hunts: It shall be unlawful for anyone to apply for a youth only (YO) turkey permit or hunt during the over-the-counter youth only (YO) hunts except as allowed by 19.31.3.11 NMAC. [19.31.16.9 NMAC - Rp, 19.31.16.9 NMAC, 4-1-16]

19.31.16.10 TURKEY MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

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

B. Bag limit: It shall be unlawful for any person to hunt for or take more than the number and type of turkey during the current license year as specified by the hunt code printed on the permit or license unless otherwise provided by regulation.

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

D. Proof of sex: It shall be unlawful for anyone to transport or possess the carcass of a turkey without proof of sex. When the required bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the same turkey carcass until arriving at a residence, taxidermist, meat processing place, or place of final storage.

E. Use of dogs in hunting: It shall be unlawful to use dogs to hunt turkey.

F. Use of baits: It shall be unlawful for anyone to take or attempt to take any turkey by baiting.

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

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

I. Killing out-of-season: It shall be unlawful to kill any turkey out of turkey hunting season.

J. Roost shooting: It shall be unlawful to shoot a turkey while it is located in a tree or structure used for resting.

K. Legal weapon types for turkey are as follows: shotguns firing shot, including muzzle-loading shotguns; bows and arrows; and crossbows and bolts.

L. Non-toxic shot use is required on all state game commission owned lands.

M. Areas closed to hunting turkey: The following areas shall remain closed to hunting turkey, except as permitted by regulation: Sugarite canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos valley overlook; all wildlife management areas except Humphries, Rio Chama, and Sargent WMAs; the Valle Vidal area; and Rattlesnake canyon in sub-unit 2A. [19.31.16.10 NMAC - Rp, 19.31.16.10 NMAC, 4-1-16]

19.31.16.11 CHRONIC WASTING DISEASE (CWD) REPORTING INCENTIVE: The director may annually allow up to two turkey authorizations to be issued by drawing for deer and elk hunters submitting their legally harvested animal for CWD testing. Authorization certificates awarded pursuant to this rule may be transferred through sale, barter, or gift. Turkey incentive hunts shall be valid only for Unit 2, the Sargent WMA in Unit 4 and the Valle Vidal area. [19.31.16.11 NMAC - Rp, 19.31.16.11 NMAC, 4-1-16]

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

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

Continued on the following page

(1) Spring seasons:

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

(2) Fall seasons:

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

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

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

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

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

open GMUs or areas	2016-2017 hunt dates	2017-2018 hunt dates	2018-2019 hunt dates	hunt codes	permits
33: WS Huey WMA, YO	4/9-10	4/8-9	4/14-15	TUR-1-105	TBD
33: WS Huey WMA, YO	4/16-17	4/15-16	4/21-22	TUR-1-106	TBD
55: Valle Vidal and Greenwood areas	4/15-4/30	4/15-4/30	4/15-4/30	TUR-1-112	20
6B, the Valle Caldera National Preserve	4/15-4/30	4/15-4/30	4/15-4/30	TUR-1-113	20

[19.31.16.12 NMAC - Rp, 19.31.16.12 NMAC, 4-1-16]

19.31.16.13 TURKEY POPULATION MANAGEMENT HUNTS:

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

B. The director or his designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, and number of licenses or permits.

C. The specific hunt dates, hunt area, and other pertinent hunt information shall be printed on the license or permit.

D. Applications must be submitted by the deadline date set by the department.

E. Applications for permits may be rejected, and fees returned to an applicant, if such applications are not on the proper form or do not supply adequate information.

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

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

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

I. In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunter's names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.
[19.31.16.13 NMAC - Rp, 19.31.16.13 NMAC, 4-1-16]

19.31.16.14 GOULD'S TURKEY ENHANCEMENT PERMITS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) All manner and method restrictions and requirements set forth in 19.31.16.10 NMAC shall apply to individuals hunting turkey pursuant to Gould's turkey enhancement permits.
[19.31.16.14 NMAC - N, 4-1-16]

HISTORY OF 19.31.16 NMAC:
Pre-NMAC History: The material in

this part was derived from that previously filed with the State Records Center and Archives under:
Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;
Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;
Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;
Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;
Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;
Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;
Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;
Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;
Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;
Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;
Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;
Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;
Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;
Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;
Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;
Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;
Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;
Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;

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

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

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

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

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

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

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

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

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

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

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

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

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

Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;

Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;

Regulation No. 590, Establishing Seasons

On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;

Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;

Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;

Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;

Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;

Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;

Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;

Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;

Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;

Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;

Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;

Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;

Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;

Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;

Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;

Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;

Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

History of Repealed Material:

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.

19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration expired 3-31-2005.

19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.

19.31.16 NMAC, Turkey, filed 12-1-2006 - duration expired 3-31-2009.

19.31.16 NMAC, Turkey, filed 2-26-2009 - duration expired 3-31-2011.

19.31.16 NMAC, Turkey, filed 9-15-2010 - duration expired 3-31-2015.

19.31.16 NMAC, Turkey, filed 3-17-2015, repealed 3-31-2016.

PUBLIC RECORDS, COMMISSION OF

The Commission of Public Records approved, at its 02/23/2016 hearing, to repeal its rules 1.13.6 NMAC, New Mexico Historical Records Scholarship Program Guidelines (filed 6/16/2004) and 1.13.8 NMAC, New Mexico Office of the State Historian Service Learning Student Internship Program (filed 6/16/2008), effective 3/15/2016.

**PUBLIC RECORDS,
COMMISSION OF**

This is an amendment to 1.21.2 NMAC, amending Sections 165, 171-177, 201, 261, 341, 444, 482, 642, 706 & 827 and repealing Section 438, effective 03/15/2016.

**1.21.2.165 WAIVERS AND
RELEASES - RISK MANAGEMENT:**

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; A, 03/15/2016]

**1.21.2.171 COLLECTION
MANAGEMENT - LIBRARY:**

A. Category:
Administration - [archives, library and museum management] historical and cultural resource 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; A, 03/15/2016]

**1.21.2.172 COLLECTION
MANAGEMENT - MUSEUMS AND
ARCHIVES:**

A. Category:
Administration - [archives, library and museum management] historical and cultural resource 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; A, 03/15/2016]

1.21.2.173 LENDING:

A. Category:
Administration - [archives, library and museum management] historical and cultural resource 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; A, 03/15/2016]

**1.21.2.174 PATRON
MANAGEMENT:**

A. Category:
Administration - [archives, library and museum management] historical and cultural resource 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; A, 03/15/2016]

1.21.2.175 REQUESTS:

A. Category:
Administration - [archives, library and museum management] historical and cultural resource 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; A, 03/15/2016]

**1.21.2.176 SCHOLARLY
RESEARCH:**

A. Category:
Administration - [archives, library and museum management] historical and cultural resource 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; A, 03/15/2016]

**1.21.2.177 CULTURAL
RESOURCES:**

A. Category:
Administration - historical and cultural resource management

B. Description: Records related to the preservation of cultural resources.

C. Retention: permanent, transfer to archives five years from date file closed [1.21.2.177 NMAC - Rn & A, 1.21.2.438 NMAC, 03/15/2016]

**1.21.2.201 CLAIMS -
BENEFITS MANAGEMENT:**

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; A, 03/15/2016]

**1.21.2.261 CLAIMS -
WORKERS' COMPENSATION AND
UNEMPLOYMENT:**

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; A, 03/15/2016]

1.21.2.341 INVESTMENTS:

A. Category: Financial and accounting - investment management
B. Description: Records related to investments including, but not limited to, bonds, debt issuance and certificates of deposit.

C. Retention: [destroy three years from the close of the fiscal year in which file closed] destroy six years from date file closed [1.21.2.341 NMAC - N, 10/01/2015; A, 11/30/2015; A, 03/15/2016]

**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~~ [RESERVED] [1.21.2.438 NMAC - N, 10/01/2015; Repealed, 03/15/2016]

**1.21.2.444 WATER
FACILITIES - ENVIRONMENT
MANAGEMENT:**

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; A, 03/15/2016]

**1.21.2.482 WATER
FACILITIES - INSPECTIONS AND
MONITORING:**

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; A, 03/15/2016]

1.21.2.642 WAIVERS AND RELEASES - LEGAL MATTER MANAGEMENT:

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; A, 03/15/2016]

1.21.2.706 DISEASE MANAGEMENT - ANIMAL AND LIVESTOCK:

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; A, 03/15/2016]

1.21.2.827 DISEASE MANAGEMENT - HOSPITAL AND MEDICAL:

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; A, 03/15/2016]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.1 NMAC, Section 9, effective March 15, 2016. In 15.2.1.9 NMAC, Subsection A, Paragraphs (1) through (3) and Paragraphs (5) through (10) of Subsection B and Subsection C were not published as there were no changes.

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

B. PROCEEDINGS**BEFORE THE STEWARDS:**

(4) Notice.
(a)

Except as provided by these rules regarding summary suspension, jockey riding infractions and trial races, the stewards or a racing commission designee shall provide written notice, at least 10 days before the hearing, to a person who is the subject of a disciplinary hearing. The person may waive their right to 10 days notice by executing a written waiver.

(b)

Notice given under this section must include: a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes or rules involved; a short, plain description of the alleged conduct that has given rise to the disciplinary hearing; the possible penalties that may be imposed.

(c)

If possible, the stewards or [their] the racing commission designee shall hand deliver the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the stewards or a racing commission designee shall forthwith mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the stewards or a racing commission designee shall provide notice of the hearing to the owner of the horse in the manner provided by this subsection.

(d)

Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the stewards. The stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent, in compliance with this subsection.

[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; A, 03/15/2016]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.5 NMAC, Section 11, effective March 15, 2016. In 15.2.5.11 NMAC, Subsections B through D were not published as there were no changes.

15.2.5.11 WORKOUTS:**A. REQUIREMENTS:****(1)**

A non-starter must have had within sixty (60) days of entry one (1) approved official schooling race or at least two (2) workouts recorded at a pari mutuel or commission recognized facility and posted with the racing secretary prior to [entry] time of race, one (1) of the two (2) workouts shall be from the starting gate, and be gate approved. It shall be the trainer's responsibility to establish validity as to workouts and gate approvals.

(2)

Any horse which has started, but not within six (6) months, must have one (1) official workout from the starting gate or must have proof of standing the horse at least one (1) time within a sixty (60) day period. Any horse which has started, but not within sixty (60) days, must have at least one (1) workout within sixty (60) days prior to [entry] time of race. Horses that have not started within six (6) months of entry must have at least two (2) approved workouts within the sixty (60) days.

(3)

Horses that have never raced around the turn will be required to have within thirty (30) days prior to [entry] time of race, at least one (1) workout at 660 yards or farther. Horses that have previously started in a race around the turn, but not within sixty (60) days, will be required to have at least one (1) workout at 660 yards or farther prior to [entry] time of race.

(4)

Gate approvals at a licensed facility must be made by a licensed starter on a commission approved form.

[15.2.5.11 NMAC - Rp, 15 NMAC 2.5.11, 03/15/2001; A, 03/30/2007; A, 06/15/2009; A, 07/05/2010; A, 01/01/2013; A, 03/15/2016]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Section 9, effective March 15, 2016. In 15.2.6.9

NMAC, Subsections A through D and Paragraphs (1), (4) & (5) of Subsection E, Subsections F through M and Subsections O through P 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”, [April 2015, version 9.0] December 2015, version 11.00 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.

E. FUROSEMIDE:

(2) The use of furosemide (Salix) shall be permitted under the following circumstances on association grounds where a detention barn is utilized: furosemide (Salix) shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than [three hours prior to post time for a quarter horse race] four hours prior to post for which the horse is entered and no less than four hours prior to post time for a thoroughbred race for which a horse is entered. A horse qualified for a furosemide (Salix) administration must be brought to the detention barn one hour prior to the [three-hour or] four-hour administration requirement specified above. After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody and control of its trainer or the trainer’s designated representative under association or commission security supervision until called to the saddling paddock.

(3) The use of furosemide (Salix) shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: furosemide (Salix) shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than [three hours prior to post time for a quarter horse race for which the horse is entered and no less than four hours prior to post time for a thoroughbred race] four hours prior to post for which a horse is entered; the horse must be logged in at the stable gate with time and location no less than one hour prior to administration; the furosemide (Salix) dosage administered shall not exceed [250 milligrams nor be less than 100 milligrams for horses entered in a quarter horse race and the furosemide (Salix) dosage administered shall not exceed 500 milligrams nor be less than 150 milligrams for horses entered in a thoroughbred race;] 500 milligrams nor be less than 150 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission: the racetrack name, the date and time the furosemide (Salix) was administered to the entered horse; the dosage amount of furosemide (Salix) administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the furosemide (Salix).

N. ENVIRONMENTAL CONTAMINANTS AND SUBSTANCES OF HUMAN USE:

[Although the following environmental contaminants or substances may be found in the horse, no sample or specimen shall exceed the following levels when tested: benzoylcegonine - 150 nanograms per milliliter in urine; caffeine - 100 nanograms per milliliter in plasma/serum; eathinone - 10 nanograms per milliliter in urine; hydrocortisone - 1000 nanograms per milliliter in urine; morphine/ morphine glucuronides - 100 nanograms per milliliter in urine; scopolamine - 75 nanograms per milliliter in urine; strychnine - 100 nanograms per milliliter in urine; theobromine - 2000 nanograms per milliliter in urine; and, theophylline - 400 nanograms per milliliter in urine.]

(1)

Environmental contaminants are either endogenous to the horse or can arise from

plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(2) Substances of human use and addiction which may be found in the horse due to its close association with humans.

(3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be consider in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds listed below:

(a) Arsenic - 0.3 micrograms per milliliter total arsenic in urine;

(b) Benzoylcegonine - 150 nanograms per milliliter in urine;

(c) Caffeine - 100 nanograms per milliliter of plasma or serum;

(d) Cathinone - 10 nanograms per milliliter in urine;

(e) Cobalt - 25 ppb in blood plasma or serum (penalties for cobalt vary depending on the concentration; see uniform classification guidelines for foreign substances for recommended penalty for concentrations of 25 parts per billion or greater of blood plasma or serum and for concentrations of 50 parts per billion of blood plasma or serum);

(f) Estranediol - 0.045 micrograms per milliliter, free + conjugated 5 α -estrane-3 β , 17 α -diol, in the urine of male horses other than geldings;

(g) Gamma Aminobutyric Acid - 110 nanograms per milliliter of plasma or serum;

(h) Hydrocortisone - 1 microgram per milliliter of urine;

(i) Methoxytyramine - 4 micrograms per milliliter, free + conjugated in urine;

(j) Morphine/morphine glucuronides - 100 nanograms per milliliter in urine;

(k) Salicylate/Salicylic Acid - 750 micrograms per milliliter of urine or 6.5 micrograms per milliliter of serum or

plasma;
(l)
 Scopolamine - 75 nanograms per milliliter of urine;
(m)
 Strychnine - 100 nanograms per milliliter of urine;
(n)
 Theobromine - 2 micrograms per milliliter of urine or 0.3 micrograms per milliliter of serum or plasma; and
(o)
 Theophylline - 400 nanograms per milliliter of urine.

[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; A, 03/15/2016]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 16.47.1 NMAC, Section 10, effective March 15, 2016. In 16.47.1.10 NMAC, Subsections B through F were not published as there were no changes.

16.47.1.10 TRAINERS: ELIGIBILITY:
A. (1) An applicant for a license as trainer or assistant trainer must be at least 18 years of age. [~~be qualified, as determined by the stewards or other commission designee, by reason of experience, background and knowledge of racing; a trainer's license from another jurisdiction, having been issued within a 24 month period by the commission, may be accepted as evidence of experience and qualifications; evidence of qualifications may require passing one or more of the following: a written examination; an oral examination; a demonstration of practical skills in a barn test witnessed by a steward or a designee approved by the commission.~~]
(2) Applicants

not previously licensed as a trainer shall be required to pass a written/oral examination, demonstrate practical skills, and submit at least two written statements as to the character and qualifications of the applicant, and documentation of having completed a six month apprenticeship under the direct supervision of a licensed trainer or assistant trainer.]
(2) Applicants not previously licensed as a trainer shall be qualified, as determined by the stewards or other commission designee, by reason of:

(a)
 At least two (2) years experience as a licensed assistant trainer, or comparable experience in other equine disciplines, or college-level education in equine science or horsemanship or both.

(b)
 Shall be required to pass a written examination, oral interviews with stewards or regulatory veterinarian; and demonstrate practical skills.

(c)
 Must submit two (2) written statements from trainers currently licensed in New Mexico as to the character and qualifications of the applicant and one written statement from a currently licensed owner stating intent to place one (1) or more horses with the applicant, when licensed.

(d)
 Applicants failing the first written/oral examination must wait thirty (30) days before retaking the trainer's test.

(e)
 Applicants failing the second written/oral examination must wait sixty (60) days before retaking the trainer's test.

(f)
 Applicants failing the third written/oral examination must wait one (1) year before retaking the trainer's test.

(3) A trainer licensed and in good standing in another jurisdiction, having been issued within a twenty-four (24) month period, may be accepted of evidence of experience and qualifications are provided. Evidence of qualifications shall require passing one or more of the following:

(a) A written test.

(b) A demonstration of practical skills.

(c)
 An interview with the stewards.

(d)
 Have no record of a class 1 or 2 violation, or has less than three class 3, 4, or 5 violations in the preceding twenty-four (24) month period in the jurisdiction the

license was issued.
(4) Upon timely request to the steward's or commission designee due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations shall be made for the applicant including, but not limited to, oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the stewards or commission designee administering the examination.

~~(5)~~ (5) Beginning in 2015, trainers shall take and pass a written examination every three (3) years prior to renewing their license. All trainer licenses expiring in the year 2015 and thereafter are subject to this requirement.

~~(6)~~ (6) A trainer, with a New Mexico trainer's license obtained before 2015 and that has been maintained for ten (10) consecutive years, is exempt from the written examination requirement in Paragraph ~~(5)~~ (5) of this subsection, provided the trainer has no record of a class 1 or 2 violation, or has less than three class 3, 4, or 5 violations in the preceding twenty-four (24) month period in New Mexico.

(7) Beginning no later than June 1, 2016, in order to maintain a current license, trainers must complete at least (4) four hours per calendar year of continuing education courses approved by the arci or the New Mexico racing commission.

[16.47.1.10 NMAC - Rp, 16 NMAC 47.1.10, 03/15/2001; A, 11/15/2001; A, 03/30/2007; A, 08/30/2007; A, 06/30/2009; A, 09/15/2009; A, 07/05/2010; A, 05/16/2014; A, 09/15/2014; A, 03/15/2016]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

The Construction Industries Division of Regulation and Licensing Department, following its 9/14/2015 rule hearing, approved the repeal of its rule 14.6.6 NMAC, Classifications and Scopes (filed 12-2-13) and replace it with 14.6.6 NMAC, Classifications and Scopes, effective 4/1/2016.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 6 CONSTRUCTION
INDUSTRIES LICENSING
PART 6 CLASSIFICATIONS
AND SCOPES**

14.6.6.1 ISSUING AGENCY:

The Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.6.6.1 NMAC - Rp, 14.6.6.1 NMAC, 4/1/2016]

14.6.6.2 SCOPE: This rule applies to any person who engages in contracting, as that term is defined in Construction Industries Licensing Act (CILA) Section 60-13-3, in New Mexico.
[14.6.6.2 NMAC - Rp, 14.6.6.2 NMAC, 4/1/2016]

14.6.6.3 STATUTORY AUTHORITY: Section 60-13-9 NMSA 1978.
[14.6.6.3 NMAC - Rp, 14.6.6.3 NMAC, 4/1/2016]

14.6.6.4 DURATION: Permanent.
[14.6.6.4 NMAC - Rp, 14.6.6.4 NMAC, 4/1/2016]

14.6.6.5 EFFECTIVE DATE: April 1, 2016, unless a later date is cited at the end of a section.
[14.6.6.5 NMAC - Rp, 14.6.6.5 NMAC, 4/1/2016]

14.6.6.6 OBJECTIVE: The objective of this rule is to set forth the classifications of licenses and certificates issued by CID.
[14.6.6.6 NMAC - Rp, 14.6.6.6 NMAC, 4/1/2016]

14.6.6.7 DEFINITIONS:

A. Commercial or industrial work means all electrical, mechanical or plumbing work not defined as residential work in this rule.

B. Direct supervision means reasonable oversight, inspection and evaluation of the work of a person by constant on the jobsite supervision by a certified journeyman.

C. Electrical wiring means installation; alteration; connection; maintenance; demolition; or repair of

raceways; conduits; conductors; cables; boxes; fittings; wiring devices; luminaires; overcurrent devices; distribution equipment; or other equipment or apparatus that is used as part of, or in connection with, an electrical installation.

D. Mechanical and or plumbing work means installation; alteration; connection; maintenance; demolition; or repair or piping; fixture; equipment; ducts or appurtenances other equipment that is used as part of, or in connection with a mechanical or plumbing system installation.

E. Residential work means work on one and two family dwelling units, and residences and apartment houses accommodating not in excess of four family units (Groups R-1, R-2) as defined in 14.7.3 NMAC. This includes structures in Group U, as defined in 14.7.3 NMAC, when incidental to groups R-1 and R-2.

F. Roof coating a fluid material applied in the field as a sacrificial film to the roof surface to provide weather protection over the original waterproof membrane. The coating protects the waterproof roof substrate from the weather (solar radiation, heat and moisture) and may change the appearance of the roof. Roof coatings do not replace a roof assembly or roof covering.

G. Unregistered apprentice means a person who, for the purpose of learning a trade of journeyman and is not registered in an apprenticeship program recognized by the New Mexico state apprenticeship council.
[14.6.6.7 NMAC - Rp, 14.6.6.7 NMAC, 4/1/2016]
[See Sections 60-13-2 and 3 of the act.]

14.6.6.8 GENERAL INFORMATION:

A. Any license issued pursuant to the CILA and Title 14 NMAC authorizes contracting in the activities covered by the classification(s) of the issued license only. Work performed outside that scope constitutes a violation of the act and these rules and constitutes grounds for disciplinary action.

B. Bidding as a prime contractor:

(1) A validly licensed person may bid and contract as the prime contractor of a project only if the major portion of the work, based on dollar amount, is authorized by the classification of the prime contractor's license. Any work outside the scope of the prime contractor's license classification(s) must be subcontracted.

(2) A GB-98

contractor may bid and contract and contract as the prime contractor of a project that involves work authorized by the GB-98 license certification, regardless of the percentage of work in the mechanical/plumbing or electrical trades. The work outside the scope of the prime contractor's license classification(s) must be subcontracted to an entity validly licensed in the appropriate classification(s).

(3) A GB-98 contractor may not bid and contract as the prime contractor of an entire project if the major portion of the work to be performed, based on dollar amount, is covered by the scope of any GA or any of the following GF classifications: GF-1, GF-2, GF-3, GF-4, GF-6, GF-8, and GF-9.

C. Any work subcontracted by a prime contractor must be performed by an entity that is validly licensed in the classification(s) of the work that is to be subcontracted.

D. Any license issued in a classification that is subsequently discontinued, shall be renewed under that classification until the license becomes invalid. When a license issued in a discontinued classification becomes invalid, the entity that held that license will be required to apply for a new license in the appropriate classification in effect at the time of the application in order to be validly licensed to engage in contracting in the state of New Mexico. Such an applicant will be required to satisfy all requirements for licensure as provided in the CILA and Title 14 NMAC.
[14.6.6.8 NMAC - Rp, 14.6.6.8 NMAC, 4/1/2016]

14.6.6.9 GENERAL CONSTRUCTION CLASSIFICATIONS:

A. General information. Any trade or classification not listed below that is regulated by the division may be issued as a GS-29.

B. GA Asphalt, bitumen and concrete construction: Applies to surfaces used by vehicular traffic, not airborne craft.

(1) GA-1 Streets, roads and highways, including tunnels, parking lots, alleys, seal coat and surfacing. Requires two years experience. Clear, align, fill, compress, compact, build up or remove earth and do all work necessary to prepare, within the assigned rights-of-way, the land to accept a street, road, highway, including tunnels, parking lots, alleys or driveways, including curbs, gutters, culverts, public sidewalks. Place and finish concrete or

bituminous materials and apply sealcoat. This classification includes the scopes of work authorized by GA-2 and GA-3.

(2) **GA-2**

Maintenance and repair. Requires two years experience. Fix, maintain, repair, patch, mend, cover, fill or replace materials of like substances to that being repaired on streets, roads, highways, parking lots, driveways and alleys. Apply seal coat to driveways and parking lots. Install rumble strips.

(3) **GA-3**

Curbs, gutters and driveway culverts. Requires two years experience. Form, place and finish concrete curbs, gutters, culverts, public sidewalks and bituminous ridge curbs for the deflection of water.

(4) **GA-4**

Striping. Requires two years' experience. Paint directional stripes on paved roads, streets, highways, alleys and parking lots. Install auto parking bumpers or stops and highway lane markers/reflectors.

(5) **GA-**

5 Highway signs and guard rails.

Requires two years experience. Erect and stabilize signs and guard rails along public highways, streets, roads and alleys, which are used for the direction and safety of vehicular traffic. Electrical signs must be installed by a properly licensed electrical contractor.

(6) **GA-**

98 Asphalt, bitumen and concrete construction. Requires licensure in classifications GA-1 through GA-5; and covers all work authorized in those classifications.

C. Residential and commercial building.

(1) **GB-**

2 Residential. Requires two years experience. Erect, alter, repair or demolish homes, residences and apartment houses accommodating not in excess of four family units, Groups R-1 and R-3, as those groups are defined in 14.7.3 NMAC. May also bid and contract for items included in Group U, as defined in 14.7.3 NMAC, when incidental to these structures. Includes all work described by the GS specialty classifications, provided the work is limited to residential construction as defined under this provision.

(2) **GB-**

98 General building. Requires four years experience. Erect, alter, repair or demolish residential and commercial buildings, and certain structures. Includes all work authorized by the GB-2 and GS specialty classifications, GF-5, GF-7 classifications, seal coating and striping of driveways and parking lots.

D. Fixed works.

Authorized to construct, alter or repair fixed works facilities; provided, however, that work in any trade or craft that is authorized by any one, or a combination of, the mechanical, electrical, general building or LP Gas classifications must be performed by an entity validly licensed in the appropriate classification. Except as may be expressly provided in a specific classification description, fixed works classifications may not construct buildings that are primarily for the use and occupancy of the general public, but may bid and contract for such buildings when they are incidental to a fixed works project, pursuant to Subsection B of 14.6.6.8 NMAC, above.

(1) **GF-1**

Airports. Requires two years experience. Construct, alter and repair airports, including marking, excavating, grading, surfacing and sub surfacing (dirt or bitumen and concrete), compacting and other work on surfaces to be used for aircraft traffic, landing, take-off and taxi.

(2) **GF-2**

Bridges. Requires two years experience. Erect, construct, alter, repair or demolish any bridge, overpass or underpass, culvert and ramp, generally used for vehicular traffic.

(3) **GF-3**

Canals, reservoirs, irrigation systems. Requires two years experience. Construct, erect, alter, repair, or demolish canals, reservoirs or irrigation systems, including pivot irrigation systems. May excavate, ditch, fill, compact and place pre-cast components, waterproof membranes and liners, concrete reinforcement, abutments and buttresses in connection therewith. May install tanks, pumps, pipelines and substations incidental to the project.

(4) **GF-4.**

Drainage or flood control systems. Requires two years experience. Construct, erect, install, repair and alter drainage or flood control systems. May dig, excavate, fill, prepare embankments for such purposes, place pre-cast components, concrete reinforcement and perform all other work incidental to these projects. May install storm sewers, including trenching, boring, shoring, backfilling, compacting, and paving.

(5) **GF-**

5 Recreation areas. Requires two years experience. Construct, prepare, clear, repair or alter facilities for use as recreation areas, including but not limited to golf courses, tennis courts, playgrounds, outdoor athletic facilities, miniature golf courses, pitch-and-putt golf courses. May prepare the area by

excavation, fill, including foundations, retaining walls, sprinkler systems, rest benches, shade and rain shelters. Also includes public campgrounds and parks, including toilet facilities and lean-tos.

(6) **GF-6**

Railroad and tunnel construction. Requires two years experience. Construct railroad lines, including clearing, filling, shaping, compacting, placing rip-rap, stabilizing, setting roadbeds, ties, tie plates, rails, rail connectors, frogs, switch plates, switches, and all appurtenances necessary for an operational railroad line, including bridges, culverts, tunnels, retaining walls, dikes, gates, tool sheds and landing or parking platforms for equipment. Includes welding operations necessary for rail construction.

(7) **GF-7**

Tanks and towers. Requires two years experience. Fabricate and install tanks for the storage of solids or liquids, above or below ground, and towers such as radio and microwave towers, including all necessary site-work, excavation and the construction of concrete pads and foundations, cutting, welding, placement of structural members, engineered structural support systems for elevated tanks, and engineered or prefabricated towers. Includes the repair, cleaning, and placement of liners in tanks, and incidental fencing and buildings.

(8) **GF-**

8 Transmission lines, tanks and substations (non-electrical). Requires two years experience. Build, construct and place lines for the transmission or conveyance of petroleum and other fluid substances, including the application of protective coatings, trenching, boring, shoring, backfilling, compacting, paving and surfacing necessary and incidental to the completion of the installation of such facilities. Includes incidental buildings, tanks, and substations required for the project.

(9) **GF-**

9 Utility lines and systems (sewage, water, natural gas and underground telephone cables). Requires two years experience. Construct, install, alter or repair utility lines and utility systems for the transmission of sewage, natural gas and water, including excavating, grading, trenching, boring, shoring, backfilling, compacting, paving and surfacing. Includes tanks necessary to the project. Construct, alter, or repair treatment plants and facilities incidental thereto. Install direct burial telephone or data cable and vaults as directed by the telephone utility. May not perform installation of electrical raceways, splicing, termination,

installation of load pots, overhead cabling work, or other activities considered under the scope of the ES-7, EL-1 or EE-98 electrical classifications.

(10) **GF-98**

Construct, alter or repair fixed works facilities. Requires four years experience. Requires licensure in classifications GF-1 through GF-9 and covers all work described in these classifications.

E. Specialty

classifications. General construction includes numerous specialties. Therefore, CID has established the GS classification series to enable entities that perform this kind of work to be licensed in their respective areas of expertise. The most common of these specialties are described below.

(1) **GS-1**

Acoustical insulation and insulation.

Requires two years experience. Install any insulating material, including urethane foam and approved waterproof membranes and coatings, in or on buildings, structures and on piping for the purpose of energy conservation, temperature and sound control, and fireproofing. Does not include the installation of urethane roof systems.

(2) **GS-2**

Awnings and canopies. Requires two years experience. Construct, erect and install awnings and canopies, attached to buildings and structures or free standing, including, but not limited to carports and service station canopies, and including necessary excavation and foundation work. All electrical work shall be performed by a properly licensed electrical contractor.

(3) **GS-**

4 Concrete, cement, walkways and driveways.

Requires two years experience practical trade experience, one year of which must be foreman level. Mix, pour, place, and finish concrete, including all necessary preparatory work including excavation, form work, and placing of reinforcement materials. Includes curbs, gutters, sidewalks, and driveway culverts installed on private property, may not perform this work in public rights-of-way.

(4) **GS-**

5 Demolition. Requires two years experience. Demolish all or any portion of a building and certain structures, including such demolition to portions of buildings and structures as to permit additions and alterations to the remaining portions of the building and structure.

(5) **GS-**

7 Drywall installation and texture.

Requires two years experience. Install

gypsum wallboard, gypsum sheathing, taping, bedding and coating the surfaces of the wallboard and sheathing with gypsum joint systems, tape and drywall mud, or a combination of other materials to create a permanent surface of coating. Includes texturing of walls and ceilings. May install steel or wood stud systems (non-structural) and channel iron work to provide a base for the application of drywall.

(6) **GS-8**

Earthmoving, excavating and ditching.

Requires two years experience. Perform earthwork, using hand or power tools, machines that use air, fluids, or other material under pressure, or heavy equipment, in such a manner that cutting, filling, excavating, grading, trenching, backfilling, boring and any similar excavating activity can be executed. Includes the use of explosives for such purposes and may be subject to certain restrictions.

(7) **GS-**

9 Elevators, escalators, and related machinery (non-electrical).

Requires two years experience. Erect, install or repair elevators, escalators and related machinery, including sheave beams, sheaves, cable and wire rope, guides, cab, counterweights, doors, including sidewalk elevators, automatic and manual controls, signal systems and all other devices, apparatus, machinery and equipment (including fabrication on job site) essential to the safe and efficient installation and operation of electrical, hydraulic and manually operated elevators and escalators and conveyors designed specifically for the transportation of people.

(8) **GS-13**

Framing.

Requires two years experience. Cut, join and install wood, and wood and metal products for the framing of a structure or building, including bearing and non-bearing walls, rafters, headers, trusses, joists, studs, door and window rough frames, and roof decks, including repair to any of the above.

(9) **GS-14**

Windows, doors and skylights.

Requires two years experience. Fabricate and install windows and doors in buildings and structures, including the necessary installation of window and door framing, and the installation of necessary hardware. Cut, assemble and install glass work, and execute the glazing of frames, panels, sash and doors. Fabricate and install storm doors, windows, and skylights including flashing. Does not include structural alterations to enlarge any opening.

(10) **GS15**

Caissons, piers and pile driving.

Requires two years experience. Install piers, caissons and pilings through the use of pile driving equipment and machinery, including necessary excavation, grading and clearing for site preparation for pile driving activities. Cut, weld, join and fabricate caissons or piles. Install all necessary concrete and reinforcing steel within the caissons to create a structural member.

(11) **GS-16**

Masonry.

Requires two years experience. Install or erect brick and other baked clay products, rough cut and dressed stone, artificial stone and pre-cast blocks, structural glass brick or block adobe, laid at random or in courses, with or without mortar, to form masonry walls, anchored stone or masonry veneer, including building walls, freestanding walls six feet or higher and retaining walls. Does not include the execution, fabrication and erecting of poured cement and concrete, except as a foundation for a wall.

(12) **GS-21**

Roofing.

Requires two years experience. Install, alter or repair roof systems on existing roof decks to create a weatherproof waterproof protective membrane, with or without insulation, using asphalt, pitch, tar, sealants, felt, shakes, shingles, roof tile, slate, urethane or any other approved materials including the preparatory work necessary to bring such surfaces to a condition where roofing can be installed, and sealed or repaired. Includes cutting, shaping, fabricating, and installing of sheet metal such as cornices, flashing, skylights excluding structural framing, roof coatings, gutters, leaders, rainwater downspouts, pans, prefabricated chimneys, at or near roof lines, metal flues, or doing any part of any combination thereof, which relate to and are incidental to the principal contracting business of installing roofing.

(13) **GS-23**

Sign construction (non-electrical).

Requires two years experience. Fabricate, install and erect signs of wood, steel, plastic or any material, or any combination of materials, which are to be embedded in the earth, in concrete or other base material, or attached to buildings or structures using anchors, attached cables, bars or similar devices and appurtenances. Electrified signs may be installed by contractors holding ES-1 without being classified hereunder.

(14) **GS-24**

Structural steel erection. Requires two years experience. Fabricate and erect structural steel shapes and plates, of any profile, perimeter or cross-section

that may be used as structural members for buildings and structures, including riveting and welding. Does not include construction of concrete foundations or complete buildings.

(15) GS-25

Swimming pools (non-mechanical/electrical). Requires two years experience. Construct and repair swimming pools including excavation, installation of reinforcing steel or mesh, application of concrete and special coatings. May not perform any trade or craft which is authorized by any mechanical, electrical or LP Gas classification.

(16) GS-30

Plastering, stucco and lathing. Requires two experience. Prepare wall and ceiling surfaces, interior or exterior, with wood, metal lath, wallboard or other properly prepared surfaces which will accept and hold a mixture of sand, plaster (including gypsum plaster), lime and water, or sand and cement with water or any combination of materials to create a permanent surface coating. These coatings may be applied manually or mechanically on surfaces which will support such coating. May install steel or wood stud systems (non-structural), channel iron work and affix lath or any other materials or products, prepared or manufactured to provide a base for such coatings.

(17) GS-31

Siding. Requires two years experience. Apply siding consisting of slate, gypsum, wood, plastics or other products, including the application of furred up networks on which the siding can be installed. May not install or paint doors or windows.

(18) GS-32

Miscellaneous sheet metal. Requires two years experience. Fabricate and install sheet metal (galvanized iron) such as cornices, flashing, gutters, leaders, rainwater downspouts, pans, and prefabricated chimneys. May not install heating, ventilation & air conditioning (HVAC) duct systems, vents, grease hoods, or other appurtenances that are authorized by any mechanical classification.

(19) GS-34

Concrete coring, drilling and slab sawing. Requires two years experience. Coring, boring, drilling, cutting, and sawing concrete, including the removal or demolition of the material. Does not include the installation of wiring or plumbing in such bored, drilled, cut or sawed concrete.

(20) GS-29

specialties. The GS-29 classification is a sub-category of the specialty

classification. It is a miscellaneous classification that is used to identify uncommon specialties on a case-by-case basis. Requires two years experience. [14.6.6.9 NMAC - Rp, 14.6.6.9 NMAC, 4/1/2016]

14.6.6.10 ELECTRICAL CLASSIFICATIONS:**A. General information.****(1) A**

journeyman certificate of competence in the appropriate trade classification for the work to be performed is required of all individuals performing electrical wiring; provided however, that an apprentice, as defined in Section 60-13-2 NMSA 1978, may work under the direct supervision of a validly certified journeyman, as defined in Section 60-13-2 NMSA 1978, who is employed by a validly licensed person, as defined in Section 60-13-2 NMSA 1978, or a holder of a valid annual permit. Journeyman certifications shall be issued such that the certificates parallel the electrical license classification numbers and scopes. Ratio of unregistered apprentices. The ratio of certified journeyman to unregistered apprentices must not exceed:

(a)

one journeyman to two unregistered apprentices on commercial or industrial work;

(b)

one journeyman to two unregistered apprentices on commercial or industrial special systems low-voltage work;

(c)

one journeyman to three unregistered apprentices on residential work.

(2) Conduit

installation: All conduit installations within, or on, buildings shall be performed by a contractor holding an EE-98 license, except where ER-1 licensees and journeymen are installing conduit that is incidental to residential wiring. Specialty electrical license holders (ES-1, 2, 3, and 7) shall not install conduit within, or on, buildings.

(3) Electrical

contracting defined: The definition of contracting is set forth in Section 60-13-3 of the CILA, and nothing in this rule shall be construed to conflict with that definition. However, for the purposes of clarity in this rule, contracting is understood to include installations, alterations, repairs, servicing and maintenance involving electrical work.

(4) Electrical

customer-owned distribution systems are subject to all adopted codes, standards, and regulations. Customer-owned

distribution systems include all (non-utility owned or operated) overhead or underground primary or secondary voltage electrical power line construction, installation, alteration, repairs, and maintenance.

B. License**classifications.****(1) Residential****and commercial.****(a)**

EE-98 Residential and commercial electrical wiring 5000 volts, nominal or less. Requires four years experience. Includes all electrical wiring operating at 5000 volts, nominal, or less, electrical wiring identified in electrical specialty classifications ES-1, ES-2, ES-3 and ES-7, residential electrical wiring identified in classification ER-1, and only trenching and ductwork associated with classification EL-1. Does not include electrical wiring defined in the EL-1 classification other than trenching and duct work as specified above. May bid and contract as the prime contractor of an entire project provided the electrical contractor's portion of the contract, based on dollar amount, is the major portion of the contract.

(b)**ER-1 Residential electrical wiring.**

Requires two years experience. Includes one and two-family dwelling units and multi-family dwellings when all such units are all on the ground floor with no occupancies above or below, as set forth in 14.10.4 NMAC. May not install wiring for commercial use, such as motels, hotels and similar occupancies. May not contract for more than four dwelling units in any single building or structure.

(c)**EL-1 Electrical distribution and transmission systems over 5000 volts, nominal.**

Requires four years experience. Includes all electrical wiring operating at over 5000 volts, nominal, including overhead or underground electrical distribution and transmission circuits, equipment, associated towers, tower foundations and other supporting structures, trenching and ductwork and sub-stations and terminal facilities. Does not include any electrical wiring specified on other electrical classifications EE-98, ER-1, ES-1, ES-2, ES-3 or ES-7.

(2) Specialty**licenses.****(a)****ES-1 Electrical signs and outline**

lighting. Requires two years experience. Electrical signs and outline lighting, including electrical wiring to connect signs installed where a "sign circuit"

has been provided within 10 feet, and concrete for the foundation of poles, and build structures for the support of such signs. Outline lighting is an arrangement of incandescent lamps or gaseous tubes to outline and call attention to certain features such as the shape of a building or the decoration of a window and may or may not contribute to the general illumination of an area.

(b)

ES-2 Cathodic protection and lightning protection systems. Requires two years experience. Electrically activated systems to prevent galvanic damage to metallic pipelines or structures, usually underground and electrical work involved in the equipment for connection rectifier systems. Also includes lightning protection systems. May not install the service riser, main service or service grounding.

(c)

ES-3 Low voltage special systems (under 50 volts). Requires two years experience. Public address or other sound, voice communication systems normally involving low energy signal circuits. Also, electrical burglar and fire alarm systems, computer data systems, one and two-family and multifamily dwelling telephone systems and cable TV systems normally involving coaxial cable for the purpose of transmitting radio frequency (RF) signals and other intelligence by wire and cable. Includes other low voltage specialty systems such as, but not limited to, door and gate operated control circuits, and temperature control circuits. An installer of television receive-only (TVROs) (dishes) is not required to have a contractor's license when the installation is in a single-family dwelling and does not require the use of 120 volts for tracking.

(d)

ES-7 Telephone communication systems. Requires two years experience. In-plant and out-plant telephone systems, telephone interconnections in public or privately owned buildings, computer data systems and underground cables or aerial supporting structures, trenching, duct work, terminal facilities, repeaters, including the installation of instruments at their terminating locations. Interior wiring of a building housing any of the above equipment requires an EE-98 classification. Note: Refer to GF-9 classification for additional underground telephone cable installations. The GF-9 classification does not include electrical raceway installation.

(e)

ES-10R Residential water well pump

installer. Requires two years experience. This classification covers residential water well pumps, 120/240 volts or less, single phase 15 HP or less. Install, maintain, repair or replace electrical equipment, wiring, and accessories used in connection with water well pump systems, including single phase variable frequency drives. Also includes subpanels, luminaires, and receptacle outlets installed within the well pit or well enclosure. Branch circuit or feeder conductors from the service equipment or panel board to the well pump location. Incidental excavation, trenching and solar photo-voltaic arrays 5 kW or less when dedicated to pumping equipment. This classification does not include systems over 240 volts, pumps over 15 HP, electrical services, building wiring or any other electrical wiring.

(f)

ES-10 Water well pump installer. Requires two years experience. This classification covers residential and commercial water well pumps, 600 volts or less, single or three phase. Install, maintain, repair or replace electrical equipment wiring and accessories used in connection with water well pump systems, including variable frequency drives. Also includes subpanels, luminaires, and receptacle outlets installed within the well pit or well enclosure, branch circuit or feeder conductors from the service equipment or panel board to the well pump location. Incidental excavation, trenching and solar photo-voltaic arrays 5 kW or less when dedicated to pumping equipment. This classification does not include systems over 600 volts, electrical services, building wiring or any other electrical wiring.

C. Journeyman classifications.

(1) **EE-**

98J. Journeyman residential and commercial electrical. Requires four years experience.

(2) **ER-**

1J. Journeyman residential wiring. Requires two years experience.

(3) **EL-1J.**

Journeyman electrical distribution systems, including transmission lines. Requires four years experience.

(4) **ES-1J**

Journeyman electrical signs and outline lighting. Requires two years experience.

(5) **ES-2**

Journeyman cathodic protection and lightning protection systems. Requires two years experience.

(6)

ES-3J. Journeyman sound, intercommunication, electrical alarm

systems, and systems 50 volts and under. Requires two years experience.

(7) **ES-7J**

Journeyman telephone communication systems and telephone interconnect systems. Requires two years experience.

(8) **ES-10RJ**

Journeyman residential water well pump installer. Requires two years experience.

(9) **ES-10J**

Journeyman water well pump installer. Requires two years experience. [14.6.6.10 NMAC - Rp, 14.6.6.10 NMAC, 4/1/2016]

14.6.6.11 MECHANICAL AND PLUMBING CLASSIFICATIONS:

A. General information.

(1) **A**

journeyman certificate of competence in the appropriate trade classification for the work to be performed is required of all individuals performing mechanical and plumbing work; provided however, that an apprentice, as that term is defined in Section 60-13-2 NMSA 1978, may work under the direct supervision of a validly certified journeyman, as that term is defined in Section 60-13-2 NMSA 1978, who is employed by a validly licensed person, as that term is defined in Section 60-13-2 NMSA 1978, or a holder of a valid annual permit. Journeyman certifications shall be issued such that the certificates parallel the mechanical and plumbing license classification numbers and scopes. Ratio of unregistered apprentices. The ratio of certified journeyman to unregistered apprentices must not exceed:

(a)

one journeyman to two unregistered apprentices on commercial or industrial work;

(b)

one journeyman to three unregistered apprentices on residential work.

(2) **The**

definition of contracting is set forth in Section 60-13-3 NMSA 1978 and nothing in this rule shall be construed to conflict with that definition. However, for the purpose of clarity in this rule, contracting is understood to include installations, alterations, repairs, servicing and maintenance involving plumbing or mechanical work.

(3) **The**

definitions of plumbing, fixtures and gas fitting as set forth in Section 60-13-32 NMSA 1978 should be referenced when reading these classifications.

B. License classifications. Residential and

commercial.

(1) **MM-1 Plumbing.** Requires four years experience. Install, alter, repair and service plumbing fixtures, and piping, including pneumatic or electric controls and control wiring not greater than 24 volts, concrete supports, and excavating, trenching and backfilling. Includes hot water heating systems not exceeding 30 p.s.i. or 400,00 b.t.u./hour input; piping for fuel, oil and gasoline and for solar energy systems; septic tanks, manholes and sewer lines; irrigation sprinkler systems; swimming pools and spas. Does not include installation of natural gas fired appliances or natural gas piping.

(2) **MM-2 Natural gas fitting.** Requires four years experience. Install, alter, repair and service natural gas piping and fittings and incidental controls and control wiring, pneumatic control systems, excavating, trenching and backfilling. Includes installation of hot water systems exceeding 30 p.s.i. or 400,000 b.t.u./hour input; steam and hot water boilers; and warm air heating systems such as chimney connections, flues, refractories, burners, fittings valves, thermal insulation, accessories and incidental piping; warm air appliances and other listed gas appliances. May not install LP Gas systems.

(3) **MM-3 Heating, ventilation & air conditioning (HVAC).** Requires four years experience. Install, alter, repair and service HVAC air handling and refrigeration equipment and piping, including fans, coils, condensing units, self-contained packaged air conditioning or heating units, evaporative cooling units, solar energy systems, ductwork and pneumatic tube systems. May connect water to existing valved outlets, and install controls, and control wiring not to exceed 24 volts. May bid and contract for structural alterations, painting, electrical wiring and other work incidental to this scope of work, provided such work is performed by a properly licensed contractor.

(4) **MM-4 Heating, cooling and process piping.** Requires four years experience. Install, alter, repair and service hydronic heating, cooling and process piping for steam hot water systems of any temperature pressure range, chilled water systems, condensing water systems and process piping systems. Includes pressure vessels, heat exchangers, boilers, refrigeration water chillers, cooling towers, fuel oil tanks and fuel oil piping, and pneumatic or electric controls and control wiring not to exceed

24 volts. Install high pressure and process piping solar energy systems of any temperature or any pressure conveying gas or fluids other than potable water, and pneumatic tube systems.

(5) **MM-98 Mechanical.** Requires four years experience. Requires licensure in classifications MM-1 through MM-4 and covers all work described in these classifications, as well as work described in the MS-3, MS-6, MS-12 and MS-14.

C. Specialty classifications:

(1) **MS-3 Septic tanks & sewer.** Requires two years experience. Install, alter, repair or service septic tanks and systems, manholes and sewer lines, starting at a point five feet beyond the outside wall of a building and ending at a connection to a public or private utility. May excavate, trench, backfill and grade as necessary, and install or repair plug-in type electrical control panels, controls and control wiring not to exceed 24 volts.

(2) **MS-6 Lawn sprinklers.** Requires two years experience. Install, alter, repair or service sprinkler systems which are connected to a potable water supply. May excavate and backfill as necessary and install or repair plug-in type electrical control panels, controls and control wiring not to exceed 24 volts.

(3) **MS-12 Fire protection sprinkler systems.** Requires four years experience. Install alter, repair or service fire protection systems using water, including any pressure or storage tanks required, controls and control wiring up to 24 volts. May excavate and backfill and install piping from structure to off-premise water supply adjacent to property involving a fire protection system. May bid or contract for structural alterations, painting, electrical wiring, etc., incidental to the system installation, provided such work is performed by a properly licensed contractor.

(4) **MS-14 Dry chemical fire protection.** Requires four years experience. Install, alter, repair or service fire protection systems using gas or chemical, including carbon dioxide (CO), clean agent. Includes pressurized storage tanks, valves, temperature sensing devices and other incidental control wiring up to 24 volts. May install solenoid or shut-off valve devices in these systems. May bid or contract for structural alterations, painting, electrical wiring, etc., incidental to the system installation, provided such work is performed by a properly licensed contractor.

D. Journeyman classifications. Requires two years experience.

(1) **JP journeyman plumber.**

(2) **JPF journeyman pipe fitter.**

(3) **JG journeyman natural gas fitter.**

(4) **JPG journeyman plumber and natural gas fitter.**

(5) **JR journeyman refrigeration.** Must demonstrate compliance with environmental protection agency (EPA) recovery requirements before certificate may be issued.

(6) **JS journeyman sprinkler.**

(7) **JSM journeyman sheet metal.**

(8) **JW journeyman welder.** Must obtain either a JP or JG or JPG or JSM certification and show American society of mechanical engineers (ASME) section 9 certification. Is not required to test separately for this certificate of competence.

(9) **JMG journeyman medical gas installer.** Must obtain either JP, JG, JPG or JPF certification and show approved medical gas certification as referenced in 14.9.5 NMAC.

(10) **BO1 journeyman boiler operator. Low pressure only.**

(11) **BO2 journeyman boiler operator. Low and high pressure.**

(12) **MS-12J journeyman fire protection sprinkler systems.** Requires four years experience.

(13) **MS-14J journeyman dry chemical fire protection.** Requires four years experience.

[14.6.6.11 NMAC - Rp, 14.6.6.11 NMAC, 4/1/2016]

History of 14.6.6 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11-25-70;
CIC 72-4, General Construction Classifications, filed 02-16-72;
CIC 76-2, Rules And Regulations, filed 05-05-76;
CID 78-2, Rules And Regulations, filed 12-05-78;

CID 79-1, Rules And Regulations, filed 06-06-79;
 CID 82-1, Construction Industries Rules And Regulations, filed 04-14-82;
 CID 85-1, Construction Industries Rules And Regulations, filed 02-04-85;
 CID 90-1, Construction Industries Rules And Regulations, filed 05-31-90.

History of Repealed Material:

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 9/2/1997), repealed effective 12/1/2000.
 14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 10/16/2000), repealed 7/1/2004.
 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 5/27/2004), repealed 2/1/2006.
 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1/3/2006), repealed 1/1/2014.
 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 12/2/2013), repealed 4/1/2016.

Other History:

That portion of CID 90-1, Construction Industries Rules And Regulations, filed 05-31-90 - renumbered, reformatted and amended to 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications And Scopes, effective 9/14/1996.
 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications And Scopes (filed 9/03/1996) replaced by 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, effective 9/23/1997.
 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, filed 9/2/1997 replaced by 14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, effective 12/1/2000.
 14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 10/16/2000), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 7/1/2004.
 14.6.6 NMAC, Housing and Construction

- Construction Industries Licensing - Classifications and Scopes (filed 5/27/2004), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 2/1/2006.
 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1/3/2006), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 1/1/2014.
 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 12/2/2013), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 4/1/2016.

**REGULATION AND
 LICENSING DEPARTMENT
 DENTAL HEALTH CARE, BOARD
 OF**

This is an amendment to 16.5.16 NMAC, Sections 7 and 10, effective 3-25-16.

16.5.16.7 DEFINITIONS:

A. "Addiction" means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

B. "Chronic pain" means a pain state which is persistent and in which the cause of the pain cannot be removed or otherwise treated.

C. "Direct reference" means a phone number or website where names and contact information of the [dentist(s)] licensee can be referenced.

D. "Drug abuser" means a person who takes a drug or drugs for other than legitimate medical purposes.

E. "Pain" means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation or damage.

F. "Patient abandonment" means withdrawing a patient from treatment without giving reasonable notice or providing a competent replacement provider.

G. "Physical

dependence" means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. "Tolerance" means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

[9-30-96; 16.5.16.7 NMAC - Rn, 16 NMAC 5.16.7, 12-14-00; A, 01-09-12; A, 07-17-13; A, 3-25-16]

16.5.16.10 GUIDELINES: The board shall use the following as guidelines for disciplinary action.

A. "Gross incompetence" or "gross negligence" means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients.

B. "Unprofessional conduct" means, but is not limited to because of enumeration:

(1) performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental profession;

(2) failure to refer a patient, after emergency treatment, to his/her regular dentist and inform the latter of the conditions found and treated;

(3) failure to release to a patient copy of that patient's records and x-rays within 15 business days regardless whether patient has an outstanding balance;

(4) failure to seek consultation whenever the welfare of the patient would be safeguarded or advanced by referral to individuals with special skills, knowledge, and experience;

(5) failure to advise the patient in simple understandable terms of the proposed treatment, the anticipated fee, the expectations of success, and any reasonable alternatives;

(6) failure of a dentist to comply with the following advertising guidelines, no person shall:

(a) practice dentistry under the name of a corporation, company, association, limited liability company, or trade name without

full and outward disclosure of his/her full name, which shall be the name used in his/her license or renewal certificate as issued by the board, or his/her commonly used name;

(b)

practice dentistry without displaying his/her full name as it appears on the license issued by the board on the entrance of each dental office;

(c)

fail to include in all advertising media for the practice (excluding building signage and promotional items), in a reasonably visible and legible manner, the dentist's names(s), address and telephone number or direct reference where the name of the dentist(s) can be found as defined in 16.5.16.7 NMAC;

(d)

~~advertise as a specialist unless the dentist is licensed by the board to practice the specialty or unless the dentist has earned a post-graduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is accredited by commission on dental accreditation (CODA) in one of the specialty areas of dentistry recognized by the American dental association;~~ advertise an offer for goods or services that does not meet the following requirements:

(i)

for a printed advertisement, all applicable conditions and restrictions of an offer, as well as the direct reference to the licensee(s), shall be no smaller than twenty percent of the largest font contained in the advertisement;

(ii)

for an audio advertisement, all applicable conditions and restrictions of an offer, as well as the direct reference to the licensee(s), must be stated at the same volume and speed as the offer language;

(iii)

advertise a practice in a false, fraudulent or misleading manner; if the name of the practice or office contains one of the American dental association recognized specialties and only a general dentists performs that service, the advertisement, signage, or broadcast media must say "services provided by a general dentist", so as not to imply that a specialist is performing such procedures; and

(iv)

advertise as a specialist unless the dentist is licensed by the board to practice the specialty or unless the dentist has earned a post-graduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is accredited by commission

on dental accreditation (CODA) in one of the specialty areas of dentistry recognized by the American dental association.

(7) failure

to use appropriate infection control techniques and sterilization procedures;

(8) deliberate

and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another dentist licensed or applying for licensure by the board;

(9) accept

rebates, or split fees or commissions from any source associated with the service rendered to a patient; provided, however, the sharing of profits in a dental partnership, association, HMO or DMO, or similar association shall not be construed as fee-splitting, nor shall compensating dental hygienists or dental assistants on a basis of percentage of the fee received for the overall service rendered be deemed accepting a commission;

(10) prescribe,

dispense or administer drugs outside the scope of dental practice;

(11) charge a

patient a fee which is not commensurate with the skill and nature of services rendered, such as to be unconscionable;

(12) sexual

misconduct;

(13) breach of

ethical standards, an inquiry into which the board will begin by reference to the most current code of ethics of the American dental association;

(14) the use of a

false, fraudulent or deceptive statement in any document connected with the practice of dentistry;

(15) employing

abusive billing practices;

(16) fraud, deceit

or misrepresentation in any application;

(17) violation

of any order of the board, including any probation order;

(18) injudicious

prescribing, administration, or dispensing of any drug or medicine;

(19) failure to

report to the board any adverse action taken by any licensing board, peer review body, malpractice insurance carrier or any other entity as defined by the board or committee; the surrender of a license to practice in another state, surrender of membership on any medical staff or in any dental or professional association or society, in lieu of, and while under disciplinary investigation by any authority;

(20) negligent

supervision of a dental hygienist or dental assistant;

(21) cheating on

an examination for licensure; or

(22) failure

to comply with the terms of a signed collaborative practice agreement;

(23) failure of

a dentist of record, or consulting dentist, to communicate with a collaborative practice dental hygienist in an effective professional manner in regard to a shared patient's care [~~under part 17 of these rules~~] as defined in 16.5.17 NMAC;

(24) assisting a

health professional, or being assisted by a health professional that is not licensed to practice by a New Mexico board, agency or commission;

(25) failure

to make available to current patients of record a reasonable method of contacting the treating dentist or on-call service for dental emergencies; dental practices may refer patients to an alternate urgent care or emergency facility if no other option is available at the time, or if the contacted dentist deems it necessary for the patient's well-being;

(26) conviction

of either a misdemeanor or a felony punishable by incarceration;

(27) aiding and

abetting a dental assistant, expanded function dental auxiliary or community dental health coordinator who is not properly certified;

(28) patient

abandonment;

(29) habitually

addicted as defined in [NMSA 1978,] Sections 61.5A-21 4 & 6 or 61.5B-3 (C) and (D) NMSA 1978 habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act Section (30-31-1 NMSA 1978) or habitual or excessive use or abuse of alcohol;

(30) failure of

the licensee to furnish the board within ten business days of request, its investigators or representatives with information requested by the board;

(31) failure to

appear before the board when requested by the board in any disciplinary proceeding;

(32) failure

to be in compliance with the Parental Responsibility Act [NMSA 1978,] Section 40-5A-3 NMSA 1978 seq.;

(33) fraudulent

record keeping;

(34) failure to

properly install amalgam separator as

defined in 16.5.58 NMAC;
(35) failure to properly operate and maintain amalgam separator as defined in 16.5.58 NMAC; and
(36) failure to properly dispose of amalgam waste as defined in 16.5.58 NMAC.
 [9-13-69, 10-21-70, 4-11-81, 3-9-89, 3-11-89, 10-16-92, 5-31-95, 6-4-96, 2-14-00; 16.5.16.10 NMAC - Rn & A, 16 NMAC 5.16.10, 12-14-00; A, 07-16-07; A, 07-19-10; A, 01-09-12; A, 06-14-12; A, 07-17-13; A, 01-04-14; A, 01-15-15; A, 3-25-16]

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

This is an amendment to 16.19.4 NMAC, Section 9, effective 03-23-2016.

16.19.4.9 DEFINING UNPROFESSIONAL OR DISHONORABLE CONDUCT:

A. Preamble: In defining “unprofessional conduct” the definitions of professional conduct and a pharmacist’s duty should be considered.

B. Professional conduct may be defined as complying with all the laws and regulations that apply to a given professional activity.

C. Definition: Unprofessional or dishonorable conduct by a pharmacist shall mean, among other things, but not be limited to.

(1) Violation of any provision of the Pharmacy Act as determined by the board.

(2) Violation of the board of pharmacy regulations as determined by the board.

(3) Violation of the Drug and Cosmetic Act as determined by the board.

(4) Violation of the Controlled Substances Act as determined by the board.

(5) Failure of the pharmacist to conduct himself professionally in conformity with all applicable federal, state and municipal laws and regulations to his relationship with the public, other health professions and fellow pharmacists.

(6) Failure to keep his pharmacy and/or area of professional practice clean, orderly, maintained and secured for the proper performance of his professional duties.

(7) Acquiring prescription stock from unlicensed sources.

(8) Failure to hold on the strictest confidence all knowledge concerning patrons, their prescriptions, and other confidence entrusted or acquired of by him; divulging in the interest of the patron only by proper forms, or where required for proper compliance with legal authorities.

(9) Participation in a plan or agreement which compromises the quality or extent of professional services, or facilities at the expense of public health or welfare.

(10) The solicitation of prescription business by providing prescribers with prescription blanks with the name of any licensed pharmacy or pharmacist printed thereon.

(11) Failure to report a theft or loss of controlled substances in accordance with 16.19.20.36 NMAC.

(12) Failure to report an impaired licensee in compliance with Subparagraph (a) of Paragraph (1) of Subsection C of 16.19.4.12 NMAC.

(13) Failure to train or supervise adequately supportive personnel or the use of supportive personnel in activities outside the scope of their permitted activities.

(14) Conviction, plea of nolo contendere, or entering into any other legal agreements for any violation of the Pharmacy Act, Controlled Substances Act, Drug Device and Cosmetic Act or any similar act of another state or territory of the United States.

(15) Suspension, revocation, denial, or forfeiture of license to practice or similar disciplinary action by a licensing agency of another state or territory of the United States.

(16) Dispensing a prescription for a dangerous drug to a patient without an established practitioner-patient relationship:

(a) except for the provision of treatment of partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health;

(b) except for on-call practitioners providing services for a patient’s established practitioner;

(c) except for delivery of dangerous drug therapies to patients ordered by a New Mexico department of health physician as part of a declared public health emergency;

(d) except for dispensing a prescription for the dangerous drug naloxone to a person for administration to another as authorized in public health law 24-23 administration of opioid antagonist;

(e) except for the prescribing or dispensing and administering for immunizations programs.

(17) Dispensing a prescription order for a dangerous drug to a patient if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was issued on the basis of an internet-based questionnaire or an internet-based consultation without a valid practitioner-patient relationship.

(18) Failure to perform a prospective drug review as described in [~~Subsection D of 16.19.4.16 NMAC~~] Subsection D of 16.19.4.17 NMAC and document steps taken to resolve potential problems.

[03-01-93; 16.19.4.9 NMAC - Rn, 16 NMAC 19.4.9, 03-30-02; A, 07-15-02; A, 01-15-08; A, 09-16-11; A, 8-31-12; A, 03-23-16]

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

This is an amendment to 16.19.12 NMAC, Section 13, effective 03-23-2016.

16.19.12.13	LICENSE FEES:
A.	Drug manufacturer \$700.00 bi-ennially
B.	Wholesale drug distributor \$700.00 bi-ennially
C.	Drug manufacturer/re-packer \$700.00 bi-ennially
D.	Re-packer \$700.00 bi-ennially
E.	Retail pharmacy \$300.00 bi-ennially
F.	Hospital pharmacy \$300.00 bi-ennially
G.	Nonresident pharmacy \$400.00 bi-ennially
H.	Seller or dispenser of contact lenses \$400.00 bi-ennially
I.	[Alternative reduced licensure fee for wholesale drug distributor/manufacturer/re-packer as determined by the board or board’s designee:
J.	Dangerous drug research \$200.00 bi-ennially
K. L.	Drug warehouse \$200.00 bi-ennially

~~[E:] K.~~ Duplicate license or permit (for all types) \$10.00 per each request

~~[M:] L.~~ Letter of good standing, verification, and certification \$10.00 per each request

~~[N:] M.~~ Roster of New Mexico board of pharmacy license database \$30.00 per license category

~~N.~~ Outsourcing facility \$2000.00 bi-ennially

[03-07-80...05-01-93; 16.19.12.13 NMAC - Rn, 16 NMAC 19.12.13, 03-30-02; A, 09-30-03; A, 07-15-04; A, 01-15-2005; A, 12-15-05; A, 01-31-07; A, 11-15-10; A, 12-13-15; A, 03-23-16]

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

This is an amendment to 16.19.29 NMAC, Section 8, effective 03-23-2016.

16.19.29.8 MANDATORY REPORTING OF PRESCRIPTION INFORMATION TO THE PMP:

A. The board shall monitor the dispensing of all Schedule II - V controlled substances by all dispensers licensed to dispense such substances to patients in this state.

B. Each dispenser shall submit to the board by electronic means information regarding each prescription dispensed for a drug included under Subsection A of this section. Information to be submitted for each prescription as well as the standards for how this information shall be formatted, not contrary to law, is defined in the PMP data reporting manual available on the state PMP website at <http://nmpmp.org> shall include at a minimum:

- ~~(1)~~ [dispenser drug enforcement agency (DEA) number;
- ~~(2)~~ date prescription filled;
- ~~(3)~~ prescription number;
- ~~(4)~~ whether the prescription is new or a refill;
- ~~(5)~~ national drug code (NDC) code for drug dispensed;
- ~~(6)~~ quantity dispensed;
- ~~(7)~~ patient name;
- ~~(8)~~ patient address;

- ~~(9)~~ patient date of birth;
- ~~(10)~~ prescriber DEA number;
- ~~(11)~~ date prescription issued by prescriber;
- ~~(12)~~ and payment classification:] dispenser NPI number;
- ~~(2)~~ dispenser NCPDP number;
- ~~(3)~~ dispenser DEA number;
- ~~(4)~~ patient name;
- ~~(5)~~ patient address;
- ~~(6)~~ patient date of birth;
- ~~(7)~~ patient gender;
- ~~(8)~~ reporting status (new, revised, void);
- ~~(9)~~ prescription number;
- ~~(10)~~ date prescription written;
- ~~(11)~~ refills authorized;
- ~~(12)~~ date prescription filled;
- ~~(13)~~ refill number;
- ~~(14)~~ product ID (NDC) + product ID qualifier;
- ~~(15)~~ quantity dispensed;
- ~~(16)~~ days supply;
- ~~(17)~~ drug dosage units;
- ~~(18)~~ transmission form of Rx origin;
- ~~(19)~~ payment type;
- ~~(20)~~ prescriber NPI number;
- ~~(21)~~ prescriber DEA number.

C. Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board; but shall report at least within one (1) business day of the prescription being filled. The PMP director shall have the authority to approve submission schedules that exceed one (1) business day.

D. Corrections to information submitted to the PMP must be addressed including:

- (1) file upload or "outstanding uncorrected errors" as defined in the PMP data reporting manual;
- (2) prescriptions that were not dispensed to the patient must be voided from the PMP;

(3) incorrect information in prescriptions records submitted to the PMP must be corrected as soon as possible after the dispenser has been notified.

[16.19.29.8 NMAC - N, 07-15-04; A, 06-11-11; A, 08-31-12; A, 03-22-15; A, 03-23-16]

END OF ADOPTED RULES

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