

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 84

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE NATURAL
RESOURCES AND ENVIRONMENT DEPARTMENT; REPLACING THE ENERGY,
MINERALS AND NATURAL RESOURCES DEPARTMENT, THE DEPARTMENT OF
ENVIRONMENT, THE DEPARTMENT OF GAME AND FISH AND THE NATURAL
RESOURCES TRUSTEE; PROVIDING POWERS AND DUTIES; CONSOLIDATING
CERTAIN REGULATORY BOARDS; TRANSFERRING THE DUTIES OF THE STATE
GAME COMMISSION TO THE GAME AND FISH DIVISION OF THE NATURAL
RESOURCES AND ENVIRONMENT DEPARTMENT; ELIMINATING THE STATE
GAME COMMISSION; COMBINING THE MINING COMMISSION AND THE COAL
SURFACE MINING COMMISSION; ELIMINATING THE TECHNICAL ADVISORY
COMMITTEE TO THE OFFICE OF INTERSTATE NATURAL GAS MARKETS AND
THE NATURAL LANDS PROTECTION COMMITTEE; SUNSETTING ALL BOARDS
AND COMMISSIONS ADDRESSING ENERGY AND NATURAL RESOURCES ISSUES;
CHANGING THE DEPOSIT OF FINES FROM SPECIAL FUNDS TO THE GENERAL
FUND FOR CREDIT TO THE CURRENT SCHOOL FUND; TRANSFERRING

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY,
2 CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; REPEALING THE
3 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT ACT AND THE
4 DEPARTMENT OF ENVIRONMENT ACT; AMENDING, REPEALING, ENACTING
5 AND RECOMPILING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE
6 AMENDMENTS TO SECTIONS OF LAW IN LAWS 1997, LAWS 2000 AND LAWS
7 2005.

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

10 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
11 through 17 of this act may be cited as the "Natural Resources
12 and Environment Department Act".

13 SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the
14 Natural Resources and Environment Department Act is to
15 establish a single, unified department to administer laws and
16 exercise functions formerly administered and exercised by the
17 energy, minerals and natural resources department, the
18 department of environment, the department of game and fish and
19 the natural resources trustee.

20 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
21 Natural Resources and Environment Department Act:

22 A. "board" means the environmental improvement
23 board;

24 B. "department" means the natural resources and
25 environment department; and

.184126.1

underscored material = new
[bracketed material] = delete

1 C. "secretary" means the secretary of natural
2 resources and environment.

3 SECTION 4. [NEW MATERIAL] DEPARTMENT CREATED.--

4 A. The "natural resources and environment
5 department" is created as a cabinet department and includes the
6 following organizational units:

- 7 (1) the office of the secretary;
- 8 (2) the administrative services division;
- 9 (3) the environmental protection division,
10 which shall include:

- 11 (a) the air quality bureau;
- 12 (b) the environmental health bureau;
- 13 (c) the occupational health and safety

14 bureau;

- 15 (d) the natural resources trustee
16 bureau;

- 17 (e) the petroleum storage tank bureau;

18 and

- 19 (f) the solid waste bureau;

- 20 (4) the energy conservation and management
21 division;

- 22 (5) the forestry division;

- 23 (6) the mining and minerals division, which
24 shall include:

- 25 (a) the abandoned mine lands bureau;

.184126.1

underscored material = new
[bracketed material] = delete

- 1 (b) the mine regulatory bureau; and
- 2 (c) the mining reclamation bureau;
- 3 (7) the oil conservation division;
- 4 (8) the state parks division;
- 5 (9) the water and waste management division,

6 which shall include:

- 7 (a) the department of energy oversight
- 8 bureau;
- 9 (b) the ground water quality bureau;
- 10 (c) the hazardous waste bureau; and
- 11 (d) the surface water quality bureau;
- 12 (10) the water and wastewater infrastructure
- 13 development division; and
- 14 (11) the game and fish division.

15 B. The secretary may establish, merge or eliminate
16 organizational units for better efficiency or effectiveness,
17 but a reorganization of statutory divisions or bureaus shall be
18 reported to the next regular session of the legislature.

19 SECTION 5. [NEW MATERIAL] ADMINISTRATIVELY ATTACHED
20 AGENCIES.--The following boards, commissions, committees and
21 councils are administratively attached to the department:

- 22 A. the environmental improvement board;
- 23 B. the mining commission;
- 24 C. the natural lands protection committee;
- 25 D. the oil conservation commission;

underscored material = new
[bracketed material] = delete

- 1 E. the radiation technical advisory council;
- 2 F. the water quality control commission;
- 3 G. the New Mexico youth conservation corps
- 4 commission;
- 5 H. off-highway motor vehicle advisory board;
- 6 I. state parks advisory board;
- 7 J. tree planting advisory committee; and
- 8 K. fire planning task force.

9 SECTION 6. [NEW MATERIAL] SECRETARY OF NATURAL RESOURCES
10 AND ENVIRONMENT--APPOINTMENT.--

11 A. The administrative head of the natural resources
12 and environment department is the "secretary of natural
13 resources and environment", who shall be appointed by the
14 governor with the consent of the senate and who shall serve in
15 the executive cabinet.

16 B. An appointed secretary shall serve and have all
17 of the duties, responsibilities and authority of that office
18 during the period of time prior to final action by the senate
19 confirming or rejecting the appointment.

20 SECTION 7. [NEW MATERIAL] DUTIES AND GENERAL POWERS.--

21 A. The secretary is responsible to the governor for
22 the operation of the department. It is the secretary's duty to
23 manage all operations of the department and to administer and
24 enforce the laws with which the secretary or the department is
25 charged.

underscoring material = new
~~[bracketed material]~~ = delete

1 B. To perform the duties, the secretary has every
2 power expressly enumerated in the laws, whether granted to the
3 secretary, the department or any division of the department,
4 except where authority conferred upon any division is
5 explicitly exempt from the secretary's authority by statute.

6 In accordance with these provisions, the secretary shall:

7 (1) except as otherwise provided in the
8 Natural Resources and Environment Department Act, exercise
9 general supervisory and appointing authority over all
10 department employees, subject to any applicable personnel laws
11 and rules;

12 (2) delegate authority to subordinates as the
13 secretary deems necessary and appropriate, clearly delineating
14 that delegated authority and the limitations thereto;

15 (3) organize the department into those
16 organizational units the secretary deems will enable it to
17 function most efficiently, subject to any provisions of law
18 requiring or establishing specific organizational units;

19 (4) within the limitations of available
20 appropriations and applicable laws, employ and fix the
21 compensation of those persons necessary to discharge the duties
22 of the department;

23 (5) take administrative action by issuing
24 orders and instructions, consistent with the law, to assure
25 implementation of and compliance with the provisions of law for

.184126.1

underscored material = new
~~[bracketed material]~~ = delete

1 which administration or execution the department or the
2 secretary is responsible and to enforce those orders and
3 instructions by appropriate administrative action or actions in
4 the courts;

5 (6) conduct research and studies that will
6 improve the operations of the department and the provision of
7 services to the residents of the state;

8 (7) provide courses of instruction and
9 practical training for employees of the department and other
10 persons involved in the administration of programs with the
11 objective of improving the operations and efficiency of
12 administration;

13 (8) prepare an annual budget of the
14 department; and

15 (9) appoint, with the governor's consent, a
16 "director" for each division. These appointed positions are
17 exempt from the provisions of the Personnel Act. Persons
18 appointed to these positions shall serve at the pleasure of the
19 secretary.

20 C. The secretary may apply for and receive, with
21 the governor's approval and in the name of the department, any
22 public or private funds, including United States government
23 funds, available to the department to carry out its programs,
24 duties or services.

25 D. The secretary may make and adopt such reasonable

.184126.1

underscored material = new
[bracketed material] = delete

1 and procedural rules as necessary to carry out the duties of
2 the department and its divisions. No rule promulgated by the
3 director of any division in carrying out the functions and
4 duties of the division shall be effective until approved by the
5 secretary, unless otherwise provided by statute. Unless
6 otherwise provided by statute, no procedural rules affecting
7 any person or agency outside the department shall be adopted,
8 amended or repealed without a public hearing on the proposed
9 action before the secretary or a hearing officer designated by
10 the secretary. The public hearing shall be held in Santa Fe
11 unless otherwise permitted by statute. Notice of the subject
12 matter of the rule, the action proposed to be taken, the time
13 and place of the hearing, the manner in which interested
14 persons may present their views and the method by which copies
15 of the proposed rule, proposed amendment or repeal of an
16 existing rule may be obtained shall be published once at least
17 thirty days prior to the hearing date in a newspaper of general
18 circulation and mailed at least thirty days prior to the
19 hearing date to all persons who have made a written request for
20 advance notice of hearing. All rules shall be filed in
21 accordance with the State Rules Act.

22 SECTION 8. [NEW MATERIAL] DEPARTMENT--ADDITIONAL
23 DUTIES.--The department shall develop a comprehensive watershed
24 restoration strategy that sets guidelines for coordination with
25 state and federal land management agencies and political

.184126.1

underscoring material = new
[bracketed material] = delete

1 subdivisions, including the soil and water conservation
2 districts and other stakeholders. The strategy shall focus on
3 removing the overabundance of woody vegetation, particularly
4 non-native species of phreatophytes, that consume excessive
5 amounts of water and on reestablishing the natural ecology of
6 New Mexico. The strategy shall use:

- 7 A. incentives to encourage the formation of
- 8 businesses to clear vegetation;
- 9 B. incentives to encourage biomass energy use; and
- 10 C. inmates from the corrections department to
- 11 assist with watershed cleanup.

12 SECTION 9. [NEW MATERIAL] DIVISIONS--DIRECTORS.--The
13 secretary shall appoint, with the approval of the governor,
14 directors of the divisions established within the department.
15 Division directors are exempt from the Personnel Act.

16 SECTION 10. [NEW MATERIAL] BUREAUS--CHIEFS.--The
17 secretary shall establish within each division such "bureaus"
18 as deemed necessary to carry out the provisions of the Natural
19 Resources and Environment Department Act. The secretary shall
20 employ a "chief" to be the administrative head of each bureau.
21 The chief and all subsidiary employees of the department shall
22 be covered by the Personnel Act unless otherwise provided by
23 law.

24 SECTION 11. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
25 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO

underscored material = new
[bracketed material] = delete

1 INFORMATION.--Those organizational units of the department and
2 the officers of those units specified by law shall have all of
3 the powers and duties enumerated in the specific laws involved.
4 However, the carrying out of those powers and duties shall be
5 subject to the direction and supervision of the secretary, and
6 the secretary shall retain the final decision-making authority
7 and responsibility for the administration of any laws as
8 provided in Section 7 of the Natural Resources and Environment
9 Department Act. The department shall have access to all
10 records, data and information of other state departments,
11 agencies and institutions, including its own organizational
12 units, not specifically held confidential by law.

13 SECTION 12. [NEW MATERIAL] ADVISORY COMMITTEES.--

14 A. Advisory committees may be created. "Advisory"
15 means furnishing advice, gathering information, making
16 recommendations and performing such other activities as may be
17 instructed or delegated and as may be necessary to fulfill
18 advisory functions or to comply with federal or private funding
19 requirements and does not extend to administering a program or
20 function or setting policy unless specified by law. Advisory
21 committees shall be appointed in accordance with the provisions
22 of the Executive Reorganization Act.

23 B. All members of advisory committees appointed
24 under the authority of this section are entitled to receive as
25 their sole remuneration for services as a member those amounts

.184126.1

underscored material = new
[bracketed material] = delete

1 authorized under the Per Diem and Mileage Act.

2 SECTION 13. [NEW MATERIAL] STATE ALTERNATIVE FUEL PROGRAM
3 MANAGER--CREATION.--A "state alternative fuel program manager"
4 is created in the energy conservation and management division
5 of the department. The manager's duties include:

6 A. promoting, coordinating and monitoring the
7 implementation of state clean alternative fuel transportation
8 programs, including a mass transit demonstration project and
9 other demonstration projects that place New Mexico on the
10 leading edge of new clean fuel technologies;

11 B. coordinating and directing the provisions of the
12 Alternative Fuel Acquisition Act; and

13 C. mobilizing and coordinating necessary resources
14 and expertise from government, education and the private sector
15 to assist in clean alternative fuel transportation programs and
16 projects.

17 SECTION 14. [NEW MATERIAL] WASTEWATER TREATMENT TECHNICAL
18 ADVISORY COMMITTEE CREATED--DUTIES AND POWERS OF THE
19 COMMITTEE.--

20 A. The "wastewater treatment technical advisory
21 committee" is created. The committee shall consist of five
22 members to be appointed by and to serve at the pleasure of the
23 secretary. The members shall include:

24 (1) a wastewater treatment system engineer
25 with at least ten years of experience in wastewater system

.184126.1

underscored material = new
[bracketed material] = delete

1 design and construction;

2 (2) a faculty member from a university or
3 college located within New Mexico with a minimum of a master's
4 degree in biological science, microbiology, soil science or
5 engineering, and with a minimum of ten years of work or
6 academic experience with wastewater treatment or wastewater
7 treatment facility management;

8 (3) a representative from the New Mexico state
9 university water utilities technical assistance program;

10 (4) a class 4 certified wastewater operator
11 with at least ten years of experience; and

12 (5) a representative from the New Mexico home
13 builders association.

14 B. The term of appointed members shall be three
15 years. Members shall serve until their successors are
16 appointed and qualified. Vacancies occurring in the membership
17 of an appointed member shall be filled by the secretary for the
18 remainder of the unexpired term.

19 C. The committee shall conduct open meetings as
20 needed but not less than quarterly.

21 D. The department shall provide technical and legal
22 assistance to the committee as needed.

23 E. The committee shall:

24 (1) establish procedures, practices and
25 policies governing the committee's activities;

.184126.1

underscored material = new
[bracketed material] = delete

1 (2) provide standardized objective evaluation
2 of wastewater treatment and disposal technologies for both
3 large- and small-flow domestic, commercial and agricultural
4 wastewater systems and submit its findings to the secretary for
5 final approval by the secretary, who shall add the wastewater
6 treatment and disposal technologies to the list of approved
7 technologies maintained by the department, including the ground
8 water quality bureau and the liquid waste program of the water
9 and waste management division of the department or their
10 successors and their constituent agencies; and

11 (3) maintain a current list of approved
12 wastewater technologies accessible by the public on the
13 department's web site.

14 F. Members of the committee are entitled to receive
15 reimbursement for expenses incurred in the performance of their
16 duties pursuant to the Per Diem and Mileage Act and shall
17 receive no other compensation, perquisite or allowance.
18 Expenditures for this purpose shall be made from the budgeted
19 funds of the department.

20 SECTION 15. [NEW MATERIAL] COOPERATION WITH THE FEDERAL
21 GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE STATUS.--

22 A. The department is authorized to cooperate with
23 the federal government in the administration of natural
24 resource, energy or environmental programs in which financial
25 or other participation by the federal government is authorized

.184126.1

underscored material = new
[bracketed material] = delete

1 or mandated under state or federal laws, rules or orders. The
2 secretary may enter into agreements with agencies of the
3 federal government to implement natural resource, energy or
4 environmental programs subject to availability of appropriated
5 state funds and any provisions of state laws applicable to such
6 agreements or participation by the state.

7 B. The governor or the secretary may by appropriate
8 order designate the department or any organizational unit of the
9 department as the single state agency for the administration
10 of any natural resource, energy or environmental program when
11 that designation is a condition of federal financial or other
12 participation in the program under applicable federal law, rule
13 or order. Whether or not a federal condition exists, the
14 governor may designate the department or any organizational
15 unit of the department as the single state agency for the
16 administration of any natural resource, energy or environmental
17 program. No designation of a single state agency under the
18 authority granted in this section shall be made in
19 contravention of state law.

20 SECTION 16. [NEW MATERIAL] ENVIRONMENTAL IMPROVEMENT
21 BOARD--EXEMPTIONS FROM AUTHORITY OF SECRETARY.--The board shall
22 receive staff support from the department. All powers, duties
23 and responsibilities of the board under the Food Service
24 Sanitation Act, the New Mexico Food Act, the Flour and Bread
25 Act, the Occupational Health and Safety Act, the Environmental

.184126.1

underscored material = new
[bracketed material] = delete

1 Improvement Act, the Air Quality Control Act, the Radiation
2 Protection Act, the Hazardous Waste Act, the Ground Water
3 Protection Act, the Environmental Compliance Act, the Solid
4 Waste Act, the Rural Infrastructure Act, the Recycling and
5 Illegal Dumping Act and Sections 74-4A-1 and 74-8-1 through
6 74-8-3 NMSA 1978 are explicitly exempt from the authority of
7 the secretary under the provisions of Subsection B of Section 7
8 of the Natural Resources and Environment Department Act.

9 SECTION 17. [NEW MATERIAL] WATER QUALITY CONTROL
10 COMMISSION--EXEMPTIONS FROM AUTHORITY OF SECRETARY.--The water
11 quality control commission shall receive staff support from the
12 department. All powers, duties and responsibilities of the
13 water quality control commission under Section 74-6-11 NMSA
14 1978 and the Water Quality Act are hereby explicitly exempted
15 from the authority of the secretary under the provisions of
16 Subsection B of Section 7 of the Natural Resources and
17 Environment Department Act.

18 SECTION 18. Section 3-29-2 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-28-2, as amended) is amended to read:

20 "3-29-2. DEFINITIONS.--As used in the Sanitary Projects
21 Act:

22 A. "community" means a rural unincorporated
23 community and includes a combination of two or more rural
24 unincorporated communities when they have been combined for the
25 purposes set forth in the Sanitary Projects Act;

.184126.1

underscored material = new
[bracketed material] = delete

1 B. "association" includes an association or mutual
2 domestic water consumers association organized under Laws 1947,
3 Chapter 206, Laws 1949, Chapter 79 or Laws 1951, Chapter 52, as
4 well as any association organized under the provisions of the
5 Sanitary Projects Act;

6 C. "department" means the natural resources and
7 environment department [~~of environment~~];

8 D. "member" or "membership" means a person who has
9 paid the appropriate fees and has been issued a certificate as
10 required by association bylaws;

11 E. "person" means a single residence or property
12 owner, as determined by the rules adopted by the association's
13 board of directors; and

14 F. "project" means a water supply or reuse, storm
15 drainage or wastewater facility owned, constructed or operated
16 by an association."

17 **SECTION 19.** Section 6-10-3 NMSA 1978 (being Laws 1923,
18 Chapter 76, Section 2, as amended) is amended to read:

19 "6-10-3. PAYMENT OF STATE MONEY INTO TREASURY--SUSPENSE
20 FUNDS.--All public money in the custody or under the control of
21 any state official or agency obtained or received by any
22 official or agency from any source, except as in Section
23 6-10-54 NMSA 1978 provided, shall be paid into the state
24 treasury. It is the duty of every official or person in charge
25 of any state agency receiving any money in cash or by check,

.184126.1

underscored material = new
[bracketed material] = delete

1 draft or otherwise for or on behalf of the state or any agency
2 thereof from any source, except as in Section 6-10-54 NMSA 1978
3 provided, to forthwith and before the close of the next
4 succeeding business day after the receipt of the money to
5 deliver or remit it to the state treasurer. Provided, however,
6 that the money collected by the state [~~park and recreation~~
7 parks division of the [~~energy, minerals and~~ natural resources
8 and environment department and the state monuments [~~of the~~
9 ~~museum~~] division of the [~~office of~~] cultural affairs department
10 shall be deposited into the state treasury no later than ten
11 days following collection. Provided that county treasurers
12 shall remit all money received for taxes for state purposes or
13 that are by law required to be remitted to the state treasurer
14 on or before the tenth day of the next succeeding month
15 following the receipt or collection thereof. Provided further
16 that every official or person in charge of any state agency
17 receiving any money, except as in Section 6-10-54 NMSA 1978
18 provided, in cash or by check, draft or otherwise, on deposit,
19 in escrow or in evidence of good faith to secure the
20 performance of any contract or agreement with the state or with
21 any department, institution or agency of the state, which money
22 has not yet been earned so as to become the absolute property
23 of the state, shall deliver or remit to the state treasurer
24 within the times and in the manner in this section provided,
25 which money shall be by the state treasurer deposited in a

.184126.1

underscored material = new
[bracketed material] = delete

1 suspense account to the credit of the proper official, person,
2 board or bureau in charge of any state agency so receiving the
3 money; provided, however, that all money held by the
4 commissioner of public lands on deposit, in escrow or in
5 evidence of good faith to secure the performance of any
6 contract or agreement with the state shall be delivered or
7 remitted to the state treasurer within six months from the date
8 this act is approved and, at those times, in the amounts and
9 from the various banks in which it is deposited as may be
10 directed by the state board of finance."

11 SECTION 20. Section 6-21A-3 NMSA 1978 (being Laws 1997,
12 Chapter 144, Section 3, as amended) is amended to read:

13 "6-21A-3. DEFINITIONS.--As used in the Drinking Water
14 State Revolving Loan Fund Act:

15 A. "authority" means the New Mexico finance
16 authority;

17 B. "department" means the natural resources and
18 environment department [~~of environment~~];

19 C. "drinking water facility construction project"
20 means the acquisition, design, construction, improvement,
21 expansion, repair or rehabilitation of all or part of any
22 structure, facility or equipment necessary for a drinking water
23 system or water supply system;

24 D. "drinking water supply facility" means any
25 structure, facility or equipment necessary for a drinking water

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 system or water supply system;

2 E. "financial assistance" means loans, the purchase
3 or refinancing of debt obligation of a local authority at an
4 interest rate that is less than or equal to the market interest
5 rate in any case in which a debt obligation is incurred after
6 July 1, 1993, loan guarantees, bond insurance or security for
7 revenue bonds issued by the authority;

8 F. "fund" means the drinking water state revolving
9 loan fund;

10 G. "local authority" means any municipality,
11 county, incorporated county, sanitation district, water and
12 sanitation district or any similar district, public or private
13 water cooperative or association or any similar organization,
14 public or private community water system or nonprofit
15 noncommunity water system or any other agency created pursuant
16 to a joint powers agreement acting on behalf of any entity
17 listed in this subsection with a publicly owned drinking water
18 system or water supply system that qualifies as a community
19 water system or nonprofit noncommunity system as defined by the
20 Safe Drinking Water Act. "Local authority" does not include
21 systems owned by federal agencies;

22 H. "operate and maintain" means to perform all
23 necessary activities, including the replacement of equipment or
24 appurtenances, to assure the dependable and economical function
25 of a drinking water facility in accordance with its intended

.184126.1

underscored material = new
[bracketed material] = delete

1 purpose; and

2 I. "Safe Drinking Water Act" means the federal Safe
3 Drinking Water Act as amended in 1996 and its subsequent
4 amendments or successor provisions."

5 SECTION 21. Section 6-21D-2 NMSA 1978 (being Laws 2005,
6 Chapter 176, Section 2) is amended to read:

7 "6-21D-2. DEFINITIONS.--As used in the Energy Efficiency
8 and Renewable Energy Bonding Act:

9 A. "authority" means the New Mexico finance
10 authority;

11 B. "bonds" means energy efficiency bonds;

12 C. "department" means the [~~energy, minerals and~~]
13 natural resources and environment department;

14 D. "energy efficiency measure" means a modification
15 or improvement to a building or complex of buildings that is
16 designed to reduce energy consumption or operating costs or
17 that provides a renewable energy source and may include:

18 (1) insulation of the building structure or
19 systems within the building;

20 (2) storm windows or doors, caulking or
21 weatherstripping, multiglazed windows or doors, heat-absorbing
22 or heat-reflective glazed and coated window or door systems,
23 additional glazing, reductions in glass area or other window
24 and door system modifications that reduce energy consumption;

25 (3) automated or computerized energy control

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 systems;

2 (4) heating, ventilating or air conditioning
3 system modifications or replacements;

4 (5) replacement or modification of lighting
5 fixtures to increase the energy efficiency of the lighting
6 system;

7 (6) energy recovery systems;

8 (7) on-site photovoltaics, solar heating and
9 cooling systems or other renewable energy systems; or

10 (8) cogeneration or combined heat and power
11 systems that produce steam, chilled water or forms of energy
12 such as heat, as well as electricity, for use primarily within
13 a building or complex of buildings;

14 E. "fund" means the energy efficiency and renewable
15 energy bonding fund;

16 F. "school district" means a political subdivision
17 of the state established for the administration of public
18 schools, segregated geographically for taxation and bonding
19 purposes and governed by the Public School Code;

20 G. "school district building" means a building, the
21 title to which is held by a school district; and

22 H. "state building" means a building, the title to
23 which is held by the state or an agency of the state."

24 SECTION 22. Section 6-23-2 NMSA 1978 (being Laws 1993,
25 Chapter 231, Section 2, as amended) is amended to read:

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 "6-23-2. DEFINITIONS.--As used in the Public Facility
2 Energy Efficiency and Water Conservation Act:

3 A. "conservation-related cost savings" means cost
4 savings, other than utility cost savings, in the operating
5 budget of a governmental unit that are a direct result of
6 energy or water conservation measures implemented pursuant to a
7 guaranteed utility savings contract;

8 B. "energy conservation measure" means a training
9 program or a modification to a facility, including buildings,
10 systems or vehicles, that is designed to reduce energy
11 consumption or conservation-related operating costs and may
12 include:

13 (1) insulation of the building structure or
14 systems within the building;

15 (2) storm windows or doors, caulking or
16 weatherstripping, multiglazed windows or doors, heat absorbing
17 or heat reflective glazed and coated window or door systems,
18 additional glazing, reductions in glass area or other window
19 and door system modifications that reduce energy consumption;

20 (3) automated or computerized energy control
21 systems;

22 (4) heating, ventilating or air conditioning
23 system modifications or replacements;

24 (5) replacement or modification of lighting
25 fixtures to increase the energy efficiency of the lighting

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 system without increasing the overall illumination of a
2 facility, unless an increase in illumination is necessary to
3 conform to the applicable state or local building code or
4 nationally accepted standards for the lighting system after the
5 proposed modifications are made;

6 (6) energy recovery systems;

7 (7) solar energy generating or heating and
8 cooling systems or other renewable energy systems;

9 (8) cogeneration or combined heat and power
10 systems that produce steam, chilled water or forms of energy
11 such as heat, as well as electricity, for use primarily within
12 a building or complex of buildings;

13 (9) energy conservation measures that provide
14 long-term operating cost reductions;

15 (10) maintenance and operation management
16 systems that provide long-term operating cost reductions;

17 (11) traffic control systems; or

18 (12) alternative fuel options or accessories
19 for vehicles;

20 C. "governmental unit" means an agency, political
21 subdivision, institution or instrumentality of the state,
22 including two- and four-year institutions of higher education,
23 a municipality, a county or a school district;

24 D. "guaranteed utility savings contract" means a
25 contract for the evaluation and recommendation of energy or

.184126.1

underscored material = new
[bracketed material] = delete

1 water conservation measures and for the implementation of one
2 or more of those measures, and which contract provides that all
3 payments, except obligations on termination of the contract
4 before its expiration, are to be made over time and the savings
5 are guaranteed to the extent necessary to make the payments for
6 the conservation measures;

7 E. "qualified provider" means a person experienced
8 in the design, implementation and installation of energy or
9 water conservation measures and who meets the experience
10 qualifications developed by the [~~energy, minerals and~~] natural
11 resources and environment department for energy conservation
12 measures or the office of the state engineer for water
13 conservation measures;

14 F. "utility cost savings" means the amounts saved
15 by a governmental unit in the purchase of energy or water that
16 are a direct result of energy or water conservation measures
17 implemented pursuant to a guaranteed utility savings contract;
18 and

19 G. "water conservation measures" means a training
20 program, change in maintenance practices or facility or
21 landscape alteration designed to reduce water consumption or
22 conservation-related operating costs."

23 SECTION 23. Section 7-29A-2 NMSA 1978 (being Laws 1992,
24 Chapter 38, Section 2) is amended to read:

25 "7-29A-2. DEFINITIONS.--As used in the Enhanced Oil

.184126.1

underscored material = new
[bracketed material] = delete

1 Recovery Act:

2 A. "crude oil" means oil and other liquid
3 hydrocarbons removed from natural gas at or near the wellhead;

4 B. "division" means the oil conservation division
5 of the [~~energy, minerals and~~] natural resources and environment
6 department;

7 C. "enhanced recovery project" means the use or the
8 expanded use of any process for the displacement of crude oil
9 from an oil well or pool classified by the division pursuant to
10 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978
11 other than a primary recovery process, including but not
12 limited to the use of a pressure maintenance process, a water
13 flooding process, an immiscible, miscible, chemical, thermal or
14 biological process or any other related process;

15 D. "expansion or expanded use" means a significant
16 change or modification, as determined by the [~~oil conservation~~]
17 division in:

18 (1) the technology or process used for the
19 displacement of crude oil from an oil well or pool classified
20 by the division pursuant to Paragraph (11) of Subsection B of
21 Section 70-2-12 NMSA 1978; or

22 (2) the expansion, extension or increase in
23 size of the geologic area or adjacent geologic area that could
24 reasonably be determined to represent a new or unique area of
25 activity;

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 E. "operator" means the person responsible for the
2 actual physical operation of an enhanced recovery project;

3 F. "person" means any individual, estate, trust,
4 receiver, business trust, corporation, firm, copartnership,
5 cooperative, joint venture, association or other group or
6 combination acting as a unit, and the plural as well as the
7 singular number;

8 G. "positive production response" means that the
9 rate of oil production from the wells or pools affected by an
10 enhanced recovery project is greater than the rate that would
11 have occurred without the project;

12 H. "primary recovery" means the displacement of
13 crude oil from an oil well or pool classified by the division
14 pursuant to Paragraph (11) of Subsection B of Section 70-2-12
15 NMSA 1978 into the well bore by means of the natural pressure
16 of the oil well or pool, including but not limited to
17 artificial lift;

18 I. "recovered oil tax rate" means that tax rate, as
19 set forth in Paragraph (3) of Subsection A of Section 7-29-4
20 NMSA 1978, on crude oil produced from an enhanced recovery
21 project;

22 J. "secondary recovery project" means an enhanced
23 recovery project that:

24 (1) occurs subsequent to the completion of
25 primary recovery and is not a tertiary recovery project;

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 (2) involves the application, in accordance
2 with sound engineering principles, of carbon dioxide miscible
3 fluid displacement, pressure maintenance, water flooding or any
4 other secondary recovery method accepted and approved by the
5 division pursuant to the provisions of Paragraph (14) of
6 Subsection B of Section 70-2-12 NMSA 1978 that can reasonably
7 be expected to result in an increase, determined in light of
8 all facts and circumstances, in the amount of crude oil that
9 may ultimately be recovered; and

10 (3) encompasses a pool or portion of a pool
11 the boundaries of which can be adequately defined and
12 controlled;

13 K. "severance" means the taking from the soil of
14 any product in any manner whatsoever;

15 L. "termination" means the discontinuance of an
16 enhanced recovery project by the operator; and

17 M. "tertiary recovery project" means an enhanced
18 recovery project that:

19 (1) occurs subsequent to the completion of a
20 secondary recovery project;

21 (2) involves the application, in accordance
22 with sound engineering principles, of carbon dioxide miscible
23 fluid displacement, pressure maintenance, water flooding or any
24 other tertiary recovery method accepted and approved by the
25 division pursuant to the provisions of Paragraph (14) of

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 Subsection B of Section 70-2-12 NMSA 1978 that can reasonably
2 be expected to result in an increase, determined in light of
3 all facts and circumstances, in the amount of crude oil that
4 may ultimately be recovered; and

5 (3) encompasses a pool or portion of a pool
6 the boundaries of which can be adequately defined and
7 controlled."

8 SECTION 24. Section 7-29B-2 NMSA 1978 (being Laws 1995,
9 Chapter 15, Section 2, as amended by Laws 1999, Chapter 7,
10 Section 2 and as further amended by Laws 1999, Chapter 256,
11 Section 3) is amended to read:

12 "7-29B-2. DEFINITIONS.--As used in the Natural Gas and
13 Crude Oil Production Incentive Act:

14 A. "average annual taxable value" means the average
15 of the taxable value per barrel, determined pursuant to Section
16 7-31-5 NMSA 1978, of all oil produced in New Mexico for the
17 specified calendar year as determined by the department;

18 B. "average daily production" means, for any crude
19 oil or natural gas property assigned a single production number
20 by the department, the number derived by dividing the total
21 volume of crude oil or natural gas production from the property
22 reported to the division during a calendar year by the sum of
23 the number of days each eligible well within the property
24 produced or injected during that calendar year;

25 C. "department" means the taxation and revenue

.184126.1

underscored material = new
[bracketed material] = delete

1 department;

2 D. "division" means the oil conservation division
3 of the [~~energy, minerals and~~] natural resources and environment
4 department;

5 E. "eligible well" means a crude oil or natural gas
6 well that produces or an injection well that injects and is
7 integral to production for any period of time during the
8 preceding calendar year;

9 F. "natural gas" means any combustible vapor
10 composed chiefly of hydrocarbons occurring naturally;

11 G. "operator" means the person responsible for the
12 actual physical operation of a natural gas or oil well;

13 H. "person" means any individual or other legal
14 entity, including any group or combination of individuals or
15 other legal entities acting as a unit;

16 I. "production restoration incentive tax exemption"
17 means the tax exemption set forth in Subsection B of Section
18 7-29-4 NMSA 1978 for natural gas or oil produced from a
19 production restoration project;

20 J. "production restoration project" means the use
21 of any process for returning to production a natural gas or oil
22 well that had thirty days or less of production in any period
23 of twenty-four consecutive months beginning on or after January
24 1, 1993 as approved and certified by the division;

25 K. "severance" means the taking from the soil of

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 any product in any manner whatsoever;

2 L. "stripper well property" means a crude oil or
3 natural gas producing property that is assigned a single
4 production unit number by the department and:

5 (1) if a crude oil producing property,
6 produced an average daily production of less than ten barrels
7 of oil per eligible well per day for the preceding calendar
8 year;

9 (2) if a natural gas producing property,
10 produced an average daily production of less than sixty
11 thousand cubic feet of natural gas per eligible well per day
12 during the preceding calendar year; or

13 (3) if a property with wells that produce both
14 crude oil and natural gas, produced an average daily production
15 of less than ten barrels of oil per eligible well per day for
16 the preceding calendar year, as determined by converting the
17 volume of natural gas produced by the well to barrels of oil by
18 using a ratio of six thousand cubic feet to one barrel of oil;

19 M. "stripper well incentive tax rates" means the
20 tax rates set forth in Paragraphs (6) through (9) of Subsection
21 A of Section 7-29-4 NMSA 1978 and in Paragraphs (4) through (7)
22 of Subsection A of Section 7-31-4 NMSA 1978 for natural gas or
23 oil produced from a well within a stripper well property;

24 N. "well workover incentive tax rate" means the tax
25 rate set forth in Paragraphs (4) and (5) of Subsection A of

.184126.1

underscored material = new
[bracketed material] = delete

1 Section 7-29-4 NMSA 1978 on the natural gas or oil produced
2 from a well workover project; and

3 O. "well workover project" means any procedure
4 undertaken by the operator of a natural gas or oil well that is
5 intended to increase the production from the well and that has
6 been approved and certified by the division."

7 SECTION 25. Section 9-5B-1 NMSA 1978 (being Laws 1992,
8 Chapter 91, Section 1) is amended to read:

9 "9-5B-1. SHORT TITLE.--~~[This act]~~ Chapter 9, Article 5B
10 NMSA 1978 may be cited as the "New Mexico Youth Conservation
11 Corps Act"."

12 SECTION 26. Section 9-5B-3 NMSA 1978 (being Laws 1992,
13 Chapter 91, Section 3) is amended to read:

14 "9-5B-3. DEFINITIONS.--As used in the New Mexico Youth
15 Conservation Corps Act:

16 A. "commission" means the New Mexico youth
17 conservation corps commission;

18 B. "corps" means the New Mexico youth conservation
19 corps;

20 C. "corps member" means a person enrolled in the
21 corps;

22 D. "department" means the [~~energy, minerals and~~]
23 natural resources and environment department;

24 E. "nonprofit organization" means any organization
25 that has been granted an exemption from federal income tax by

.184126.1

underscored material = new
[bracketed material] = delete

1 the United States commissioner of internal revenue as an
2 organization described in Section 501(c) of the United States
3 Internal Revenue Code of 1986, as amended or renumbered;

4 F. "project" means an activity that can be
5 completed in six months or less, results in a specific
6 identifiable service or product that otherwise would not be
7 accomplished with existing funds and does not duplicate the
8 routine services or functions of the sponsor;

9 G. "resident" means an individual who has resided
10 in New Mexico for at least six months before applying for
11 employment with the corps; and

12 H. "sponsor" means any local unit of government,
13 state agency, federal agency, nonprofit organization or
14 federally recognized Native American tribe."

15 SECTION 27. Section 9-5B-5 NMSA 1978 (being Laws 1992,
16 Chapter 91, Section 5) is amended to read:

17 "9-5B-5. COMMISSION CREATED--MEMBERSHIP--APPOINTMENTS--
18 TERMS--VACANCIES--COMPENSATION.--

19 A. There is created a nine-member "New Mexico youth
20 conservation corps commission", which is administratively
21 attached to the department. The commission consists of the
22 following members:

23 (1) the ~~[superintendent of public instruction]~~
24 secretary of public education or ~~[his]~~ the secretary's
25 designee;

.184126.1

underscored material = new
[bracketed material] = delete

1 (2) the commissioner of public lands or [~~his~~]
2 the commissioner's designee;

3 (3) the secretary of [~~energy, minerals and~~]
4 natural resources and environment or [~~his~~] the secretary's
5 designee;

6 (4) the secretary of [~~the youth authority~~]
7 children, youth and families or [~~his~~] the secretary's designee;
8 and

9 (5) five members of the general public
10 appointed by the governor to reflect the geographic diversity
11 of the state, one of whom is knowledgeable in the current
12 policies of the United States forest service and one of whom is
13 Native American.

14 B. One [~~of the members~~] public member of the
15 commission shall be appointed by the governor for a one-year
16 term, two public members shall be appointed for two-year terms
17 and two public members shall be appointed for three-year terms
18 [~~and~~]. All subsequent appointments of public members shall be
19 made for three-year terms.

20 C. The public members shall serve at the pleasure
21 of the governor. Vacancies on the commission caused by the
22 loss of a public member shall be filled by appointment by the
23 governor for the unexpired term within sixty days of the
24 vacancy. Public commission members shall serve until their
25 successors have been appointed.

.184126.1

underscored material = new
[bracketed material] = delete

1 D. A majority of the members of the commission
2 constitutes a quorum for transaction of business. The
3 commission shall elect a [~~chairman~~] chair from its membership.

4 E. Public members of the commission [~~shall be~~
5 ~~compensated~~] are entitled to per diem and mileage as provided
6 in the Per Diem and Mileage Act and shall receive no other
7 compensation, perquisite or allowance."

8 SECTION 28. A new section of the New Mexico Youth
9 Conservation Corps Act is enacted to read:

10 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
11 REPEAL.--The New Mexico youth conservation corps commission is
12 terminated on July 1, 2017 pursuant to the provisions of the
13 Sunset Act. The commission shall continue to operate according
14 to the provisions of Chapter 9, Article 5B NMSA 1978 until July
15 1, 2018. Effective July 1, 2018, the New Mexico Youth
16 Conservation Corps Act is repealed."

17 SECTION 29. Section 11-16-1 NMSA 1978 (being Laws 2001,
18 Chapter 101, Section 1) is amended to read:

19 "11-16-1. SHORT TITLE.--[~~This act~~] Chapter 11, Article 16
20 NMSA 1978 may be cited as the "Wildlife Violator Compact"."

21 SECTION 30. Section 11-16-11 NMSA 1978 (being Laws 2001,
22 Chapter 101, Section 11) is amended to read:

23 "11-16-11. LICENSING AUTHORITY--ADMINISTRATOR--
24 EXPENSES.--

25 A. The [~~department of~~] game and fish division of

.184126.1

underscored material = new
[bracketed material] = delete

1 the natural resources and environment department is designated
2 as the licensing authority in New Mexico for the purposes of
3 the Wildlife Violator Compact.

4 B. The director of the [~~department of~~] game and
5 fish division shall furnish to the appropriate authorities of
6 the participating states any information or documents
7 reasonably necessary to facilitate the administration of the
8 Wildlife Violator Compact.

9 C. The compact administrator shall not be entitled
10 to any additional compensation for [~~his~~] service as the compact
11 administrator, but shall be entitled to expenses incurred in
12 connection with [~~his~~] the duties and responsibilities as
13 compact administrator in the same manner as for expenses
14 incurred in connection with other duties or responsibilities of
15 [~~his~~] the compact administrator's office or employment."

16 SECTION 31. Section 13-1B-2 NMSA 1978 (being Laws 1992,
17 Chapter 58, Section 2, as amended) is amended to read:

18 "13-1B-2. DEFINITIONS.--As used in the Alternative Fuel
19 Acquisition Act:

20 A. "alternative fuel" means natural gas, liquefied
21 petroleum gas, electricity, hydrogen, a fuel mixture containing
22 not less than eighty-five percent ethanol or methanol, a fuel
23 mixture containing not less than twenty percent vegetable oil
24 or a water-phased hydrocarbon fuel emulsion consisting of a
25 hydrocarbon base and water in an amount not less than twenty

.184126.1

underscored material = new
[bracketed material] = delete

1 percent by volume of the total water-phased fuel emulsion;

2 B. "conventional fuel" means gasoline or diesel
3 fuel;

4 C. "department" means the [~~energy, minerals and~~]
5 natural resources and environment department;

6 D. "fund" means the alternative fuel acquisition
7 loan fund;

8 E. "political subdivision" means a county,
9 municipality or school district; and

10 F. "vehicle" means a light duty vehicle under
11 [~~8,500~~] eight thousand five hundred pounds."

12 SECTION 32. Section 16-2-2 NMSA 1978 (being Laws 1977,
13 Chapter 254, Section 113, as amended) is amended to read:

14 "16-2-2. STATE PARKS ADVISORY BOARD CREATED--MEMBERSHIP--
15 COMPENSATION--DUTIES.--

16 A. The "advisory board" to the state parks division
17 of the [~~energy, minerals and~~] natural resources and environment
18 department is created. It shall be composed of seven to eleven
19 members appointed by the governor.

20 B. The advisory board shall provide advice and make
21 recommendations relating to the administration of [~~the~~] state
22 parks [~~division~~]. It shall advise on all matters of policy,
23 [~~regulations~~] rules, the formulation of a comprehensive
24 statewide recreation plan and such other matters as may be
25 requested by the director of that division.

.184126.1

underscored material = new
[bracketed material] = delete

1 C. The advisory board shall meet quarterly or at
2 the call of the ~~[chairman]~~ chair.

3 D. Each member of the advisory board shall annually
4 elect a ~~[chairman]~~ chair and vice ~~[chairman]~~ chair from its
5 membership. The director of the state parks division shall
6 serve as the executive secretary of the board.

7 E. Members of the advisory board shall not be paid
8 and shall not receive per diem.

9 F. The advisory board is terminated on July 1, 2017
10 pursuant to the provisions of the Sunset Act unless continued
11 by law. The provisions of the Sunset Act notwithstanding,
12 there is no wind-up period for the board."

13 SECTION 33. Section 16-2-3 NMSA 1978 (being Laws 1977,
14 Chapter 254, Section 12, as amended) is amended to read:

15 "16-2-3. MEANING OF DESIGNATIONS.--Wherever in the laws
16 of New Mexico, whether or not the statutes have been compiled
17 in the NMSA 1978, reference is made to the "state park and
18 recreation commission" ~~[or to the "commission"]~~, the term shall
19 mean the state ~~[park and recreation]~~ parks division of the
20 ~~[energy, minerals and]~~ natural resources and environment
21 department. As used in Chapter 16 NMSA 1978, "secretary" means
22 the secretary of ~~[energy, minerals and]~~ natural resources and
23 environment."

24 SECTION 34. Section 16-2-32 NMSA 1978 (being Laws 1935,
25 Chapter 57, Section 19, as amended) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "16-2-32. CRIMINAL OFFENSES--PENALTY.--A person who
2 commits any of the following acts is guilty of a petty
3 misdemeanor and shall be sentenced in accordance with the
4 provisions of Section 31-19-1 NMSA 1978:

5 A. cut, break, injure, destroy, take or remove a
6 tree, shrub, timber, plant or natural object in any state park
7 and recreation area, except in areas designated by the
8 secretary of natural resources and environment and permitted by
9 [~~regulations~~] rules adopted by the secretary. [~~such~~
10 ~~regulations~~] Rules shall only permit the removal of a tree,
11 shrub, timber, plant or natural object for scientific study or
12 for noncommercial use by an individual as a souvenir. The
13 quantity of material authorized for removal from any area shall
14 be strictly regulated by park personnel in order to minimize
15 resource damage;

16 B. kill, cause to be killed or pursue with intent
17 to kill a bird or animal in a state park and recreation area,
18 except in areas designated by the secretary and except in
19 conformity with the provisions of general law and the
20 [~~regulations~~] rules of the [~~state game commission~~] game and
21 fish division of the natural resources and environment
22 department;

23 C. take a fish from the waters of a state park and
24 recreation area, except in conformity with the provisions of
25 general law and the [~~regulations~~] rules of the [~~state game~~

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~commission~~] game and fish division;

2 D. willfully mutilate, injure, deface or destroy
3 any guidepost, notice, tablet, fence, enclosure or work that is
4 for the protection or ornamentation of a state park and
5 recreation area;

6 E. light a fire in a state park and recreation
7 area, except in those places authorized for fires by the
8 secretary, or willfully or carelessly permit any fire [~~which~~]
9 that is authorized and that [~~he~~] the person has lighted or
10 caused to be lighted or under [~~his~~] the person's charge to
11 spread or extend to or burn the shrubbery, trees, timber,
12 ornaments or improvements in a state park and recreation area
13 or leave a campfire that [~~he~~] the person has lighted or that
14 has been left in [~~his~~] the person's charge unattended by a
15 competent person without extinguishing it;

16 F. place in a state park and recreation area or affix
17 to an object in a state park and recreation area a word,
18 character or device designed to advertise a business,
19 profession, article, thing, exhibition, matter or event without
20 a written license from the secretary permitting [~~him~~] the
21 person to do it; or

22 G. violate a rule [~~or regulation~~] adopted by the
23 secretary pursuant to the provisions of Chapter 16, Article 2
24 NMSA 1978."

25 SECTION 35. Section 16-3-2 NMSA 1978 (being Laws 1973,

.184126.1

underscored material = new
[bracketed material] = delete

1 Chapter 372, Section 2, as amended) is amended to read:

2 "16-3-2. DEFINITIONS.--As used in the State Trails System
3 Act:

4 A. "local government" means any county, municipality
5 or other political subdivision of the state and includes rural
6 communities and unincorporated towns or villages in the state;
7 and

8 B. "secretary" means the secretary of [~~energy,~~
9 ~~minerals and~~] natural resources and environment."

10 SECTION 36. Section 16-4-3 NMSA 1978 (being Laws 1977,
11 Chapter 242, Section 3, as amended) is amended to read:

12 "16-4-3. DEFINITIONS.--As used in El Rio Chama Scenic and
13 Pastoral Act:

14 A. "corridor" means those lands immediately adjacent
15 to the riverbed essentially from rim to rim or four hundred
16 feet back from the river banks of the Rio Chama, whichever is
17 less;

18 B. "pastoral" means those free-flowing segments of
19 the river [~~which~~] that are affected by the works of [~~man~~]
20 humans but [~~which~~] that still possess natural and scenic value.
21 Included are areas with developed or partially developed
22 shorelines;

23 C. "river" means a flowing body of water or any
24 segment, portion or tributary thereof within the corridor,
25 including rivers, streams, creeks, branches or small lakes;

.184126.1

underscored material = new
[bracketed material] = delete

1 D. "scenic" means those sections of the river that
2 are free of impoundments, with shorelines remaining largely
3 undeveloped, but ~~[which]~~ that may be accessible in places by
4 primitive roads; and

5 E. "secretary" means the secretary of ~~[energy,~~
6 ~~minerals and]~~ natural resources and environment."

7 SECTION 37. Section 16-4-11 NMSA 1978 (being Laws 1983,
8 Chapter 18, Section 3, as amended) is amended to read:

9 "16-4-11. DEFINITIONS.--As used in the Rio Grande Valley
10 State Park Act:

11 A. "conservancy district" means the middle Rio Grande
12 conservancy district;

13 B. "operating party" means the party designated by
14 the secretary to manage the state park; and

15 C. "secretary" means the secretary of ~~[energy,~~
16 ~~minerals and]~~ natural resources and environment."

17 SECTION 38. Section 17-1-5 NMSA 1978 (being Laws 1931,
18 Chapter 117, Section 5, as amended) is amended to read:

19 "17-1-5. ~~[EMPLOYMENT AND DISCHARGE OF]~~ DIRECTOR ~~[AND~~
20 ~~OTHER EMPLOYEES--DEPARTMENT OF GAME AND FISH CREATED]~~ OF THE
21 GAME AND FISH DIVISION.--~~[A.]~~ The ~~[state game commission]~~
22 natural resources and environment department shall employ a
23 director of the game and fish division of the department, who
24 shall ~~[under such authorization that the game commission shall~~
25 ~~approve]~~ employ such conservation officers, clerks and other

.184126.1

underscored material = new
[bracketed material] = delete

1 employees as [~~he shall deem~~] the director deems proper and
2 necessary to enforce and administer the laws and [~~regulations~~]
3 rules relating to game and fish, and who shall prescribe their
4 duties respectively. [~~and who with the advice and consent of~~
5 ~~the state game commission shall fix the compensation of all the~~
6 ~~employees of the "department of game and fish", which is hereby~~
7 ~~created.~~

8 B. ~~The state game commission may at any time~~
9 ~~discharge the director for reasons that the state game~~
10 ~~commission shall deem sufficient. The director may dismiss~~
11 ~~employees in accordance with the provisions of the Personnel~~
12 ~~Act.]"~~

13 SECTION 39. Section 17-1-5.1 NMSA 1978 (being Laws 1994,
14 Chapter 129, Section 1) is amended to read:

15 "17-1-5.1. CONSERVATION SERVICES [~~DIVISION~~] BUREAU--
16 DUTIES.--

17 A. The "conservation services [~~division~~] bureau" is
18 created within the [~~department of~~] game and fish division of
19 the natural resources and environment department.

20 B. The conservation services [~~division~~] bureau is
21 responsible for:

22 (1) management, enhancement, research and
23 conservation of public wildlife habitat;

24 (2) the lease, purchase, enhancement and
25 management of state wildlife habitat;

.184126.1

underscored material = new
[bracketed material] = delete

1 (3) assisting landowners in improving wildlife
2 habitats;

3 (4) development of educational programs related
4 to conservation of wildlife and the environment, including the
5 expanded dissemination of wildlife publications; and

6 (5) communication and consultation with federal
7 and other state agencies, local governments and communities,
8 private organizations and affected interests responsible for
9 habitat, wilderness, recreation, water quality and
10 environmental protection to ensure comprehensive conservation
11 services for hunters, anglers and nonconsumptive wildlife
12 users."

13 SECTION 40. Section 17-1-7 NMSA 1978 (being Laws 1955,
14 Chapter 181, Section 1) is amended to read:

15 "17-1-7. RESERVE CONSERVATION OFFICER.--There is hereby
16 created within the [~~department of~~] game and fish division of
17 the natural resources and environment department the position
18 of "reserve conservation officer", which shall be a nonsalaried
19 position."

20 SECTION 41. Section 17-1-8 NMSA 1978 (being Laws 1955,
21 Chapter 181, Section 2) is amended to read:

22 "17-1-8. QUALIFICATIONS.--

23 A. Reserve conservation officer commissions shall be
24 issued only to [~~the following: (a)~~] persons who have
25 successfully completed a school of at least twenty-five hours

.184126.1

underscored material = new
[bracketed material] = delete

1 conducted by the [~~department of~~] game and fish division of the
2 natural resources and environment department covering
3 procedures and techniques of wildlife management, law
4 enforcement, public relations and such other subjects as may be
5 deemed desirable by the [~~department of game and fish~~] division.

6 [~~(b)~~] B. The director of the game and fish division
7 may substitute a minimum of six [~~months~~] months' experience as
8 an employee of a state or federal conservation agency or a
9 state livestock law enforcement board in lieu of the
10 [~~aforementioned~~] schooling required under Subsection A of this
11 section. Any substitution made under the provisions of this
12 [~~paragraph~~] subsection shall be limited to the personnel
13 currently employed by one of the [~~aforementioned~~] conservation
14 agencies set forth in this subsection. Any appointments the
15 director may make under the provisions of this [~~paragraph will~~]
16 subsection shall terminate automatically with the termination
17 of employment by [~~said~~] the agency of the individual so
18 appointed or the individual's transfer from the state."

19 **SECTION 42.** Section 17-1-9 NMSA 1978 (being Laws 1955,
20 Chapter 181, Section 3, as amended) is amended to read:

21 "17-1-9. POWERS AND DUTIES OF RESERVE CONSERVATION
22 OFFICERS.--

23 A. Under the supervision of the [~~department of~~] game
24 and fish [~~and subject to such restrictions as may be provided~~
25 ~~by the state game commission~~] division of the natural resources

.184126.1

underscored material = new
[bracketed material] = delete

1 and environment department, reserve conservation officers shall
2 have authority to enforce laws and valid [~~regulations~~] rules of
3 the [~~state game commission~~] division relating to game and fish
4 and perform such duties with respect to wildlife management and
5 conservation education as may be assigned to them from time to
6 time by the [~~department of game and fish~~] division. When on
7 duty, reserve conservation officers shall be covered by the
8 [~~Workmen's~~] Workers' Compensation Act. Reserve conservation
9 officers shall have only the rights of private citizens in the
10 enforcement of laws other than those relating to game and fish.

11 B. For the purpose of calculating the amount of
12 reserve conservation officer's disability or death benefits
13 pursuant to the [~~Workmen's~~] Workers' Compensation Act, the
14 officer's average weekly wages shall be deemed to be the base
15 wage of a wildlife management officer II as classified by the
16 personnel board."

17 SECTION 43. Section 17-1-11 NMSA 1978 (being Laws 1977,
18 Chapter 290, Section 5) is amended to read:

19 "17-1-11. CONSERVATION OFFICERS--OFFICIAL DUTIES--
20 INSURANCE.--Conservation officers shall, in emergency
21 situations, be considered on duty and within the scope of their
22 employment for purposes of employee benefits and risk insurance
23 when they follow specific instructions from a duly qualified
24 full-time peace officer and in aid of [~~such~~] the peace officer
25 in the carrying out of [~~his~~] the peace officer's duties. [~~The~~

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~state game commission shall expand current insurance coverage~~
2 ~~to provide protection in such situations.]"~~

3 SECTION 44. Section 17-1-13 NMSA 1978 (being Laws 1912,
4 Chapter 85, Section 46, as amended) is amended to read:

5 "17-1-13. [~~GAME WARDEN~~] DIRECTOR--SEAL OF OFFICE [~~SHALL~~
6 ~~KEEP~~].--[~~Sec. 46.~~] The [~~State Warden~~] director of the game and
7 fish division of the natural resources and environment
8 department shall keep a seal of office [~~which~~] that shall be
9 used to authenticate all papers and documents issued and
10 executed by [~~him~~] the director as such officer."

11 SECTION 45. Section 17-1-14 NMSA 1978 (being Laws 1921,
12 Chapter 35, Section 7, as amended by Laws 2005, Chapter 38,
13 Section 1 and by Laws 2005, Chapter 177, Section 1) is amended
14 to read:

15 "17-1-14. GENERAL POWERS AND DUTIES OF [~~STATE GAME~~
16 ~~COMMISSION~~] GAME AND FISH DIVISION--GAME PROTECTION FUND--
17 LIABILITY SUSPENSE ACCOUNT.--

18 A. The [~~state game commission~~] game and fish division
19 of the natural resources and environment department shall have
20 general control over the collection and disbursement of all
21 money collected or received under the state laws for the
22 protection and propagation of game and fish, which money shall
23 be paid over to the state treasurer to the credit of the game
24 protection fund, unless otherwise provided by law, and the
25 fund, including all earned income, shall not be transferred to

underscored material = new
[bracketed material] = delete

1 another fund. Prior to depositing money into the game
2 protection fund, the [~~department of game and fish~~] division
3 shall ensure that an amount adequate to cover the cost of
4 refunds allowed by the provisions of Chapter 17 NMSA 1978 is
5 held in a liability suspense account. All refunds shall be
6 made from the liability suspense account. Money not needed to
7 cover the cost of refunds shall be deposited in the game
8 protection fund at the end of each month. Chapter 17 NMSA 1978
9 shall be guaranty to the person who pays for hunting and
10 fishing licenses and permits that the money in that fund shall
11 not be used for any purpose other than as provided in Chapter
12 17 NMSA 1978.

13 B. The [~~state game commission~~] game and fish division
14 shall have authority to:

15 (1) establish and [~~through the director of the~~
16 ~~department of game and fish, to~~] operate fish hatcheries for
17 the purpose of stocking public waters of the state and to
18 furnish fish fry and fingerlings to stock private waters,
19 receipts from such sources to go into the game protection fund;

20 (2) declare closed seasons in any specified
21 locality and on any species of game or fish threatened with
22 undue depletion from any cause;

23 (3) establish game refuges for the purpose of
24 providing safe sanctuaries in which game may breed and
25 replenish adjacent hunting ranges, it being the purpose of this

.184126.1

underscored material = new
[bracketed material] = delete

1 provision to establish small refuges rather than large
2 preserves or to close large areas to hunting;

3 (4) purchase lands for game refuges where
4 suitable public lands do not exist, to purchase lands for fish
5 hatcheries and to purchase lands to be maintained perpetually
6 as public hunting grounds, particularly lands suitable for
7 waterfowl hunting, all such lands to be paid for from the game
8 protection fund;

9 (5) receive by gift or bequest, in the name and
10 on behalf of the state, lands suitable for game refuges,
11 hunting grounds, fish hatcheries or for any other purpose
12 necessary to carry out the provisions of Chapter 17 NMSA 1978;

13 (6) apply for and accept any state, federal or
14 private funds, grants or donations from any source for game and
15 fish programs and projects;

16 (7) designate certain areas as rest grounds for
17 migratory birds, in which hunting shall be forbidden at all
18 times or at such times as the [~~state game commission~~] division
19 shall provide, it being the purpose of this provision not to
20 interfere unduly with the hunting of waterfowl but to provide
21 havens in which they can rest and feed without molestation;

22 (8) close any public stream or lake or portion
23 thereof to fishing when such action is necessary to protect a
24 recently stocked water, to protect spawning waters or to
25 prevent undue depletion of the fish;

.184126.1

underscored material = new
[bracketed material] = delete

1 (9) propagate, capture, purchase, transport or
2 sell any species of game or fish needed for restocking any
3 lands or streams of the state;

4 (10) after reasonable notice and hearing,
5 suspend or revoke any license or permit issued pursuant to the
6 provisions of Chapter 17 NMSA 1978 and withhold license
7 privileges for a definite period not to exceed three years from
8 any person procuring a license through misrepresentation,
9 violating any provisions of Chapter 17 NMSA 1978 or hunting
10 without a proper license;

11 (11) adopt rules establishing procedures that
12 provide reasonable notice and a hearing before the [~~state game~~
13 ~~commission~~] director of the division for the suspension,
14 revocation or withholding of license privileges of a person
15 charged with violating the provisions of Chapter 17 NMSA 1978,
16 subject to such judicial review as may be provided by law;

17 (12) conduct studies of programs for the
18 management of endangered and nongame species of wildlife;

19 (13) establish licenses, permits and
20 certificates not otherwise provided for in Section 17-3-13 NMSA
21 1978 and charge and collect just and reasonable fees for them;
22 provided the fees shall not exceed the costs of administration
23 associated with the licenses, permits or certificates;

24 (14) permit, regulate or prohibit the commercial
25 taking or capturing of native, free-ranging amphibians or

.184126.1

underscored material = new
[bracketed material] = delete

1 reptiles not specifically protected by law, except for
2 rattlesnake roundups, collection of fish bait and lizard races;

3 (15) adopt rules to control, eradicate or
4 prevent the spread of a contagious disease, pest or parasite,
5 including chronic wasting disease, to or among game animals.

6 The rules shall include provisions for:

7 (a) notification to the [~~department of game~~
8 ~~and fish~~] division of the diagnosis or suspected presence of a
9 contagious disease;

10 (b) examination by the state veterinarian or
11 the state veterinarian's designee of suspected infected game
12 animals;

13 (c) quarantine, treatment or destruction of
14 an infected game animal;

15 (d) disinfection and isolation of a licensed
16 private park where an infected game animal has been; and

17 (e) indemnification and destruction of a
18 protected game animal;

19 (16) as necessary, designate areas of the state
20 in which bear-proof garbage containers are required on public
21 and private lands to reduce potential human-bear interactions;
22 and

23 (17) pursuant to appropriation by the
24 legislature, expend money from the game protection fund and the
25 habitat management fund for the improvement, maintenance,

.184126.1

underscored material = new
[bracketed material] = delete

1 development and operation of property for fish and wildlife
2 habitat management.

3 C. The director of the [~~department of~~] game and fish
4 division shall exercise all the powers and duties conferred
5 upon the state game and fish warden and the chair of the state
6 game commission by all previous statutes now in force not in
7 conflict with Chapter 17 NMSA 1978.

8 D. The [~~state game commission~~] game and fish division
9 shall have authority to prohibit all hunting in periods of
10 extreme forest fire danger, at such times and places as may be
11 necessary to reduce the danger of destructive forest fires.

12 E. The hunting, pursuing, capturing, killing or
13 wounding of any game animals, birds or fish in or upon any game
14 refuge, rest ground or closed water or closed area or during
15 any closed season established or proclaimed by the [~~state game~~
16 ~~commission~~] game and fish division in accordance with the
17 authority conferred in Chapter 17 NMSA 1978 constitutes a
18 misdemeanor and shall be punishable as prescribed in Chapter 17
19 NMSA 1978."

20 SECTION 46. Section 17-1-18 NMSA 1978 (being Laws 1964
21 (1st S.S.), Chapter 18, Section 3, as amended) is amended to
22 read:

23 "17-1-18. BONDING AUTHORITY.--Whenever the [~~state game~~
24 ~~commission, by vote of a majority of its full membership~~
25 ~~entered in its minutes~~] secretary of natural resources and

.184126.1

underscored material = new
[bracketed material] = delete

1 environment determines, [~~by resolution~~] upon recommendation of
2 the director of the game and fish division of the natural
3 resources and environment department, that it is necessary to
4 raise funds to provide for fish hatcheries and rearing
5 facilities, game and fish habitat acquisition, development and
6 improvement projects or other similar capital outlay projects,
7 the [~~commission~~] secretary may issue and sell bonds of the
8 state [~~of New Mexico~~] as provided in the Game and Fish Bond
9 Act, provided that the total amount of [~~such~~] bonds issued
10 under the authority of [~~this~~] the Game and Fish Bond Act shall
11 not exceed two million dollars (\$2,000,000). The purposes
12 stated by the [~~commission~~] secretary and the amount of each
13 bond issue shall be approved by the state board of finance
14 before issuance of the bonds. The [~~commission~~] secretary shall
15 report annually to the legislature any bonds issued pursuant to
16 [~~this~~] the Game and Fish Bond Act and the purpose for which
17 issued."

18 SECTION 47. Section 17-1-19 NMSA 1978 (being Laws 1964
19 (1st S.S.), Chapter 18, Section 4, as amended) is amended to
20 read:

21 "17-1-19. BONDS--FORM--TERMS.--Bonds issued under the
22 Game and Fish Bond Act shall be payable in consecutive order
23 over a period of not more than twenty years from the date of
24 issue. They shall be issued in denominations determined by the
25 [~~state game commission~~] secretary of natural resources and

.184126.1

underscored material = new
[bracketed material] = delete

1 environment and shall be sold at a net effective interest rate
2 not exceeding the maximum net effective interest rate permitted
3 by the Public Securities Act, as hereafter amended and
4 supplemented. The form of the bonds shall be determined by the
5 [~~state game commission~~] secretary and, except with respect to
6 bonds issued in book entry or similar form without the delivery
7 of physical securities, signatures of the governor, the state
8 treasurer and the [~~chairman of the state game commission~~]
9 secretary shall be affixed in compliance with the Uniform
10 Facsimile Signature of Public Officials Act. The form and
11 terms of the bonds shall be approved by the state board of
12 finance before issuance of the bonds."

13 SECTION 48. Section 17-1-20 NMSA 1978 (being Laws 1964
14 (1st S.S.), Chapter 18, Section 5, as amended) is amended to
15 read:

16 "17-1-20. SALE OF BONDS.--Bonds issued under the Game and
17 Fish Bond Act shall be sold at public or private sale as
18 determined by the [~~state game commission~~] secretary of natural
19 resources and environment. If sold at public sale, the
20 [~~chairman of the commission~~] secretary shall give notice of the
21 time, place and terms of the sale by publication in a newspaper
22 of general circulation published in Santa Fe, New Mexico, not
23 less than twenty days nor more than sixty days prior to the
24 sale date."

25 SECTION 49. Section 17-1-22 NMSA 1978 (being Laws 1964

.184126.1

underscored material = new
[bracketed material] = delete

1 (1st S.S.), Chapter 18, Section 7, as amended) is amended to
2 read:

3 "17-1-22. SECURITY--RETIREMENT OF BONDS.--

4 A. There is created in the state treasury the "game
5 and fish bond retirement fund". The [~~state game commission~~]
6 game and fish division of the natural resources and environment
7 department shall place into the game and fish bond retirement
8 fund the sum of one dollar (\$1.00) from each license enumerated
9 in this subsection that is sold after April 1, 1976:

- 10 (1) resident, fishing;
- 11 (2) resident, small game;
- 12 (3) resident, deer;
- 13 (4) resident, general hunting;
- 14 (5) resident, general hunting and fishing;
- 15 (6) resident, trapper;
- 16 (7) nonresident, fishing;
- 17 (8) nonresident, small game;
- 18 (9) temporary fishing, five days; and
- 19 (10) nonresident, deer.

20 Such payments to the game and fish bond retirement fund shall
21 be effective for all bonds issued under the Game and Fish Bond
22 Act up to the maximum limitation on the amount of bonds
23 provided in that act.

24 B. Money in the game and fish bond retirement fund is
25 first pledged for the payment of principal and interest on all

underscored material = new
[bracketed material] = delete

1 state game commission bonds [~~which~~] that have been issued and
2 are outstanding [~~at the time of the effective date of this 1983~~
3 ~~amendment~~] prior to June 17, 1983. Money in the game and fish
4 bond retirement fund is further pledged for the payment of
5 principal and interest on all state game commission bonds
6 issued [~~after the effective date of this 1983 amendment~~] as of
7 June 17, 1983. The issuance and sale of bonds under the Game
8 and Fish Bond Act [~~constitutes~~] constitute an irrevocable
9 contract between the [~~state game commission~~] natural resources
10 and environment department and the owner of any bond, and so
11 long as any bond remains outstanding, the fees pledged for
12 payment shall not be reduced.

13 C. Bonds issued under the Game and Fish Bond Act are
14 payable solely from the game and fish bond retirement fund, and
15 they are not general obligations of the state.

16 D. The [~~state game commission~~] game and fish division
17 shall continue to place in the game and fish bond retirement
18 fund the sum of one dollar (\$1.00) from each of the licenses
19 enumerated in Subsection A of this section, even after the fund
20 is sufficient to pay the principal and interest of the
21 outstanding bonds and after all bonds issued have been
22 retired."

23 SECTION 50. Section 17-1-22.1 NMSA 1978 (being Laws 1983,
24 Chapter 143, Section 2) is amended to read:

25 "17-1-22.1. GAME AND FISH CAPITAL OUTLAY FUND--CREATED--

.184126.1

underscored material = new
[bracketed material] = delete

1 TRANSFER OF MONEY--STATE BOARD OF FINANCE APPROVAL.--

2 A. There is created in the state treasury the "game
3 and fish capital outlay fund".

4 B. Upon request of the [~~state game commission~~]
5 director of the game and fish division of the natural resources
6 and environment department, approved by the state board of
7 finance, the state treasurer shall transfer to the game and
8 fish capital outlay fund all money in the game and fish bond
9 retirement fund except the amount necessary to meet all
10 principal and interest payments on state game commission or
11 game and fish division bonds due in the ensuing twelve months.

12 C. Money in the game and fish capital outlay fund may
13 be expended by the [~~department of~~] game and fish division to
14 provide for fish hatcheries and rearing facilities, game and
15 fish habitat acquisition, development and improvements and
16 other similar capital projects.

17 D. Projects to be funded pursuant to Subsection C of
18 this section shall be approved by the [~~state game commission~~]
19 secretary of natural resources and environment and the state
20 board of finance prior to any money being encumbered for the
21 project.

22 E. At any time that the game and fish bond retirement
23 fund is insufficient to pay the principal and interest on all
24 bonds [~~which~~] that have been issued and are outstanding, the
25 unencumbered balance in the game and fish capital outlay fund

.184126.1

underscoring material = new
[bracketed material] = delete

1 shall be transferred to the game and fish bond retirement
2 fund."

3 SECTION 51. Section 17-1-23 NMSA 1978 (being Laws 1964
4 (1st S.S.), Chapter 18, Section 8) is amended to read:

5 "17-1-23. CONSTRUCTION.--The Game and Fish Bond Act is
6 full authority for authorization and issuance by the [~~state~~
7 ~~game commission~~] natural resources and environment department
8 of bonds authorized by the state board of finance, and the
9 [~~commission~~] department may do anything necessary to carry out
10 the powers granted by the Game and Fish Bond Act."

11 SECTION 52. Section 17-1-25 NMSA 1978 (being Laws 1964
12 (1st S.S.), Chapter 18, Section 10) is amended to read:

13 "17-1-25. REFUNDING.--Any bonds issued under the Game and
14 Fish Bond Act may be refunded under the terms of resolutions
15 adopted by the [~~state game commission~~] secretary of natural
16 resources and environment subject to any contractual
17 limitations involved with any outstanding bonds, claims or
18 other obligations. The proceeds of refunding bonds shall be
19 applied to retirement of the bonds to be retired or refunded,
20 or placed in escrow to be applied to payment of the bonds upon
21 presentation for payment by the holders. Refunding bonds shall
22 be issued under all applicable conditions prescribed in the
23 Game and Fish Bond Act for issuance of the original bonds."

24 SECTION 53. Section 17-1-26 NMSA 1978 (being Laws 1931,
25 Chapter 117, Section 2, as amended) is amended to read:

.184126.1

1 "17-1-26. RULEMAKING POWER--PREDATOR ERADICATION.--

2 A. The ~~[state game commission is hereby authorized~~
3 ~~and directed to make such]~~ game and fish division of the
4 natural resources and environment department shall promulgate
5 rules ~~[and regulations]~~ and establish ~~[such service]~~ services
6 as it may deem necessary to carry out all the provisions and
7 purposes of ~~[this Act]~~ Chapter 17 NMSA 1978 and all other acts
8 relating to game and fish ~~[and]~~. In making such rules ~~[and~~
9 ~~regulations]~~ and in providing when, to what extent, if at all,
10 and by what means game animals, birds and fish may be hunted,
11 taken, captured, killed, possessed, sold, purchased and
12 shipped, the ~~[state game and Fish commission]~~ division shall
13 give due regard to the zones of temperatures and to the
14 distribution, abundance, economic value and breeding habits of
15 ~~[such]~~ the game animals, birds and fish.

16 B. The ~~[state game commission is hereby authorized~~
17 ~~to]~~ game and fish division may spend such reasonable amounts as
18 in its judgment is ~~[desirable and]~~ necessary annually, from
19 ~~[their]~~ the division's funds not otherwise needed, for the
20 eradication of predatory animals."

21 SECTION 54. Section 17-1-27 NMSA 1978 (being Laws 1921,
22 Chapter 35, Section 10) is amended to read:

23 "17-1-27. RULES--NOTICE AND HEARING.--Whenever three
24 percent of the duly qualified electors of any county affected
25 by a rule ~~[or regulation]~~ promulgated by the ~~[commission]~~ game

.184126.1

underscored material = new
[bracketed material] = delete

1 and fish division of the natural resources and environment
2 department, concerning hunting or fishing within [~~said~~] that
3 county, [~~shall~~] petition the [~~commission~~] division in writing
4 requesting a hearing, the [~~commission~~] division shall grant a
5 public hearing, the time, place and purpose of which shall be
6 set forth by advertising in one or more newspapers of general
7 circulation within the state not less than ten [~~(10)~~] days
8 before the date of [~~such~~] the hearing, and shall, on the date
9 of hearing, give full opportunity for all persons to be heard
10 on the point in controversy; [~~but~~] provided that nothing in
11 this section shall be construed as suspending or invalidating
12 any such rule [~~or regulation~~], unless it is suspended or
13 revoked by the [~~commission~~] division."

14 SECTION 55. Section 17-1-28 NMSA 1978 (being Laws 1939,
15 Chapter 19, Section 1) is amended to read:

16 "17-1-28. ASSENT TO ACT OF CONGRESS.--The state of New
17 Mexico hereby assents to the provisions of the act of congress
18 of the United States of America entitled "An act to provide
19 that the United States shall aid the states in wildlife
20 restoration projects, and for other purposes", approved
21 September [7] 2, 1937 (Public Number 415, 75th Congress), and
22 the [~~state game commission~~] game and fish division of the
23 natural resources and environment department is hereby
24 authorized and directed to perform all [~~such~~] acts as may be
25 necessary to the conduct and establishment of cooperative

.184126.1

underscored material = new
[bracketed material] = delete

1 wildlife restoration projects as defined by [~~said~~] that act of
2 congress and in compliance with [~~said~~] that act and rules and
3 regulations promulgated by the secretary of [~~agriculture~~] the
4 interior thereunder."

5 SECTION 56. Section 17-1-29 NMSA 1978 (being Laws 1939,
6 Chapter 19, Section 2) is amended to read:

7 "17-1-29. DISTRIBUTION OF FEDERAL FUNDS.--The [~~state game~~
8 ~~commission~~] game and fish division of the natural resources and
9 environment department is authorized to receive any [~~moneys~~]
10 money to which the state [~~of New Mexico~~] may become entitled
11 under the [~~aforesaid act of congress~~] federal Wildlife and
12 Sport Fish Restoration Programs Improvement Act of 2000. Such
13 [~~moneys~~] money, when received, [~~to~~] shall be deposited with the
14 state treasurer [~~of the state of New Mexico~~] to the credit of
15 the [~~state~~] game protection fund, expended for the purpose
16 designated and withdrawn [~~and~~] as other [~~moneys are~~] money is
17 withdrawn from the [~~state~~] game protection fund."

18 SECTION 57. Section 17-2-1 NMSA 1978 (being Laws 1931,
19 Chapter 117, Section 3, as amended) is amended to read:

20 "17-2-1. [~~COMMISSION~~] DIVISION POWERS.--The [~~state game~~
21 ~~commission~~] game and fish division of the natural resources and
22 environment department, in addition to the powers now vested in
23 it and not as a limitation of those powers, is expressly
24 authorized and empowered by [~~regulation~~] rule adopted and
25 promulgated in the manner provided in Chapter 17 NMSA 1978 to:

.184126.1

underscored material = new
[bracketed material] = delete

- 1 A. define game birds, game animals and game fish;
- 2 B. establish open and closed seasons for the killing
3 or taking of all kinds of game animals, game birds and game
4 fish and to change such open seasons from year to year and to
5 fix different seasons for different parts of the state;
- 6 C. establish bag limits covering all kinds of game
7 animals, game birds and game fish and the numbers thereof
8 [~~which~~] that may be killed or taken by any one person during
9 any one day or during any one open season;
- 10 D. authorize or prohibit the killing or taking of any
11 game animals, game birds or game fish of any kind or sex;
- 12 E. prescribe the manner, methods and devices [~~which~~]
13 that may be used in hunting, taking or killing game animals,
14 game birds and game fish;
- 15 F. prescribe rules [~~and regulations~~] to prohibit any
16 vehicle or vehicles used in transporting persons engaged in
17 hunting, taking or killing game animals, game birds and game
18 fish from leaving established roadways; and
- 19 G. appoint one or more advisory committees to furnish
20 advice, evaluations and recommendations for wildlife management
21 projects utilizing revenue derived from the sale of public land
22 management stamps. The advisory committees shall be created
23 pursuant to the procedures of Section 9-1-9 NMSA 1978, provided
24 that the restrictions on the life of advisory committees
25 contained in Subsection F of that section shall not be

.184126.1

underscored material = new
[bracketed material] = delete

1 applicable."

2 SECTION 58. Section 17-2-2 NMSA 1978 (being Laws 1937,
3 Chapter 23, Section 1) is amended to read:

4 "17-2-2. GAME TO BE PROTECTED.--The game animals and
5 quadrupeds, game birds and fowl and game fish as [~~herein~~]
6 defined in Chapter 17 NMSA 1978 shall be protected, and
7 hunting, taking, capturing, killing or possession of or attempt
8 to hunt, take, capture or kill [~~of~~] any or all species named
9 [~~herein~~] in that chapter shall be regulated by the [~~state game~~
10 ~~commission~~] game and fish division of the natural resources and
11 environment department under the authority of Chapter [~~17 of~~
12 ~~the 1931 Session Laws of the State of New Mexico~~] 17 NMSA
13 1978."

14 SECTION 59. Section 17-2-4.2 NMSA 1978 (being Laws 2001,
15 Chapter 66, Section 2) is amended to read:

16 "17-2-4.2. AMPHIBIANS AND REPTILES--PROTECTED--
17 PERMITS--UNLAWFUL TAKING--MISDEMEANOR--PENALTIES.--

18 A. All species, except for those collected in
19 rattlesnake roundups, for fish bait or for lizard races, of
20 native, free-ranging amphibians and reptiles are hereby
21 classified as protected nongame animals for commercial taking
22 purposes. The commercial taking or capturing of native, free-
23 ranging amphibians and reptiles is prohibited except by a
24 permit issued by the [~~state game commission~~] game and fish
25 division of the natural resources and environment department.

.184126.1

underscored material = new
[bracketed material] = delete

1 B. The ~~[state game commission]~~ game and fish division
2 shall adopt rules necessary to administer Paragraph (14) of
3 Subsection A of Section 17-1-14 NMSA 1978 and this section to
4 assure that viable populations of native, free-ranging
5 amphibians and reptiles are maintained in the state.

6 C. If the ~~[state game commission]~~ game and fish
7 division determines that it will offer permits to take or
8 capture native, free-ranging amphibians or reptiles, the
9 ~~[commission]~~ division shall adopt a rule listing protected
10 native, free-ranging amphibians and reptiles that may be taken
11 or captured after taking into consideration any criteria that
12 can be shown to have an effect from commercial takings on the
13 viability of the species population in the state.

14 D. Unlawful taking of a native, free-ranging
15 amphibian or reptile consists of intentionally taking or
16 capturing, for commercial purposes, a regulated native, free-
17 ranging amphibian or reptile without a valid permit from the
18 ~~[state game commission]~~ game and fish division.

19 E. Amphibians and reptiles may be removed, captured
20 or destroyed without a permit, by any person, in emergency
21 situations involving an immediate threat to human life or
22 private property.

23 F. Whoever commits unlawful taking of a native, free-
24 ranging amphibian or reptile is guilty of a misdemeanor and
25 shall be fined not less than fifty dollars (\$50.00) per

.184126.1

underscored material = new
[bracketed material] = delete

1 occurrence and not more than one thousand dollars (\$1,000) per
2 occurrence or be imprisoned for not more than one year or both.

3 G. As referred to in this section, "taking" means the
4 act of seizing amphibians or reptiles for a commercial
5 purpose."

6 SECTION 60. Section 17-2-7 NMSA 1978 (being Laws 1931,
7 Chapter 117, Section 8, as amended) is amended to read:

8 "17-2-7. UNLAWFUL HUNTING OR FISHING.--

9 A. Except as permitted by [~~regulations~~] rules adopted
10 by the [~~state game commission~~] game and fish division of the
11 natural resources and environment department or as otherwise
12 allowed by law, it is unlawful to:

13 (1) hunt, take, capture, kill or attempt to
14 take, capture or kill, at any time or in any manner, any game
15 animal, game bird or game fish in the state; or

16 (2) possess, offer for sale, sell, offer to
17 purchase or purchase in the state all or any part of any game
18 animal, game bird or game fish.

19 B. Notwithstanding any other law, the owner of
20 domestic livestock in this state or [~~his~~] the owner's regular
21 employee may hunt, take, capture or kill any cougar or bear
22 [~~which~~] that has killed domestic livestock. The owner of
23 livestock or [~~his~~] the owner's regular employee who takes
24 action under this provision [~~will~~] shall report this action to
25 the [~~department of~~] game and fish [~~who will~~] division, which

.184126.1

underscored material = new
[bracketed material] = delete

1 shall verify the necessity of the action taken.

2 C. Violation of this section is a misdemeanor and
3 shall be punished as provided in Section 17-2-10 NMSA 1978.

4 D. The provisions of this section shall not be deemed
5 to prohibit the possession of game animals, birds or fish taken
6 legally in any other jurisdiction."

7 SECTION 61. Section 17-2-7.1 NMSA 1978 (being Laws 1993,
8 Chapter 94, Section 1) is amended to read:

9 "17-2-7.1. INTERFERENCE PROHIBITED--CRIMINAL PENALTIES--
10 CIVIL PENALTIES--REVOCAION OF LICENSE, CERTIFICATE OR
11 PERMIT.--

12 A. It is unlawful for a person to commit interference
13 with another person who is lawfully hunting, trapping or
14 fishing in an area where hunting, trapping or fishing is
15 permitted by a custodian of public property or an owner or
16 lessee of private property.

17 B. A person who commits a:

18 (1) first offense of interference is guilty of a
19 petty misdemeanor and shall be sentenced pursuant to the
20 provisions of Section 31-19-1 NMSA 1978; and

21 (2) second or subsequent offense of interference
22 is guilty of a misdemeanor and shall be sentenced pursuant to
23 the provisions of Section 31-19-1 NMSA 1978.

24 C. When a person who commits interference possesses a
25 license, certificate or permit issued to ~~him~~ the person by

.184126.1

underscored material = new
[bracketed material] = delete

1 the ~~[state game commission]~~ game and fish division of the
2 natural resources and environment department, the license,
3 certificate or permit shall be subject to revocation by the
4 ~~[commission]~~ division pursuant to the provisions of Sections
5 17-1-14 and 17-3-34 NMSA 1978.

6 D. As used in this section, "interference" means:

7 (1) intentionally placing oneself in a location
8 where a human presence may affect the behavior of a game
9 animal, bird or fish or the feasibility of killing or taking a
10 game animal, bird or fish with the intent of interfering with
11 or harassing another person who is lawfully hunting, trapping
12 or fishing;

13 (2) intentionally creating a visual, aural,
14 olfactory or physical stimulus for the purpose of affecting the
15 behavior of a game animal, bird or fish with the intent of
16 interfering with or harassing another person who is lawfully
17 hunting, trapping or fishing; or

18 (3) intentionally affecting the condition or
19 altering the placement of personal property used for the
20 purpose of killing or taking a game animal, bird or fish.

21 E. Nothing in this section shall be construed to
22 include a farmer or rancher in pursuit of ~~[his]~~ normal farm or
23 ranch operation or a law enforcement officer in pursuit of
24 ~~[his]~~ official duties."

25 SECTION 62. Section 17-2-7.2 NMSA 1978 (being Laws 1997,
.184126.1

underscored material = new
[bracketed material] = delete

1 Chapter 224, Section 3) is amended to read:

2 "17-2-7.2. LANDOWNER TAKING--CONDITIONS--~~[DEPARTMENT]~~
3 DIVISION RESPONSIBILITIES.--

4 A. A landowner or lessee, or an employee of either,
5 may take or kill an animal on private land, in which [~~they~~
6 ~~have~~] the landowner or lessee has an ownership or leasehold
7 interest, including game animals and other quadrupeds, game
8 birds and fowl, that presents an immediate threat to human life
9 or an immediate threat of damage to property, including crops;
10 provided, however, that the taking or killing is reported to
11 the [~~department of game and fish~~] division within twenty-four
12 hours and before the removal of the carcass of the animal
13 killed, in accordance with [~~regulations~~] rules adopted by the
14 [~~commission~~] division.

15 B. A landowner or lessee, or an employee of either,
16 may take or kill animals on private land, in which [~~they have~~]
17 the landowner or lessee has an ownership or leasehold interest,
18 including game animals and other quadrupeds, game birds and
19 fowl, that present a threat to human life or damage to
20 property, including crops, according to [~~regulations~~] rules
21 adopted by the [~~commission~~] division. The [~~regulations~~] rules
22 shall:

23 (1) provide a method for filing a complaint to
24 the [~~department~~] division by the landowner or lessee, or an
25 employee of either of them, of the existence of a depredation

.184126.1

underscored material = new
[bracketed material] = delete

1 problem;

2 (2) provide for various [~~departmental~~]
3 interventions by the division, depending upon the type of
4 animal and depredation;

5 (3) require the [~~department~~] division to offer
6 at least three different interventions, if practical;

7 (4) require the [~~department~~] division to respond
8 to the initial and any subsequent complaints within ten days
9 with an intervention response to the complaint and to carry out
10 the intervention, if agreed upon between the [~~department~~]
11 division and the landowner, within five days of that agreement;

12 (5) permit the landowner or lessee to reject for
13 good cause the interventions offered by the [~~department~~]
14 division;

15 (6) require a landowner or lessee to demonstrate
16 that the property depredation is greater in value than the
17 value of any wildlife-related income or fee collected by the
18 landowner or lessee for permission to take or kill an animal of
19 the same species on the private property or portion of the
20 private property identified in the complaint as the location
21 where the depredation occurred; and

22 (7) permit the landowner, lessee or employee,
23 when interventions by the [~~department~~] division have not been
24 successful and after one year from the date of the filing of
25 the initial complaint, to kill or take an animal believed

.184126.1

underscored material = new
[bracketed material] = delete

1 responsible for property depredation.

2 C. For purposes of this section:

3 [~~(1)~~ "commission" means the state game
4 ~~commission;~~

5 ~~(2)~~ "department"] (1) "division" means the
6 [~~department of~~] game and fish division of the natural resources
7 and environment department; and

8 [~~(3)~~] (2) "intervention" means a solution
9 proposed by the [~~department~~] division to eliminate the
10 depredation."

11 SECTION 63. Section 17-2-8 NMSA 1978 (being Laws 1977,
12 Chapter 70, Section 1) is amended to read:

13 "17-2-8. WASTE OF GAME.--It is unlawful for any person:

14 A. who hunts or fishes and takes any game mammal
15 designated in [~~Paragraphs~~] Paragraph (2), (3) or (4) of
16 Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978,
17 any game bird or any game fish to fail to transport the edible
18 portions of the meat obtained to [~~his~~] the person's home for
19 human consumption or to provide for the human consumption
20 thereof under any [~~commission regulations~~] rules of the game
21 and fish division of the natural resources and environment
22 department pertaining to exportation, transportation and
23 donation of game; or

24 B. who wounds or may have wounded any game mammal
25 designated in [~~Paragraphs~~] Paragraph (2), (3) or (4) of

.184126.1

underscored material = new
[bracketed material] = delete

1 Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978 to
2 fail to go to the place where the mammal sustained or may have
3 sustained the wound and make a reasonable attempt to track the
4 mammal and reduce it to possession."

5 SECTION 64. Section 17-2-9 NMSA 1978 (being Laws 1931,
6 Chapter 117, Section 9, as amended) is amended to read:

7 "17-2-9. JURISDICTION OF MAGISTRATE COURT.--The
8 magistrate court has jurisdiction in all cases arising under
9 Chapter [~~53-NMSA-1953~~] 17 NMSA 1978 and [~~regulations~~] rules
10 promulgated by the [~~state game commission~~] game and fish
11 division of the natural resources and environment department.

12 In addition to other jurisdiction, a magistrate has
13 jurisdiction over such cases arising in any magistrate district
14 adjoining at any point that in which [~~he~~] the magistrate
15 serves, with the consent of the accused."

16 SECTION 65. Section 17-2-10 NMSA 1978 (being Laws 1931,
17 Chapter 117, Section 7, as amended) is amended to read:

18 "17-2-10. VIOLATION OF GAME AND FISH LAWS OR
19 [~~REGULATIONS~~] RULES--PENALTIES.--

20 A. [~~Any~~] A person violating any of the provisions of
21 Chapter 17 NMSA 1978 or any [~~regulations~~] rule adopted by the
22 [~~state game commission~~] game and fish division of the natural
23 resources and environment department that [~~relate~~] relates to
24 the time, extent, means or manner that game animals, birds or
25 fish may be hunted, taken, captured, killed, possessed, sold,

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 purchased or shipped is guilty of a misdemeanor and upon
2 conviction may be sentenced to imprisonment in the county jail
3 for a term not to exceed six months. In addition, the person
4 shall be sentenced to the payment of a fine in accordance with
5 the following schedule:

6 (1) for illegally taking, attempting to take,
7 killing, capturing or possessing of each deer, antelope,
8 javelina, bear or cougar during a closed season, a fine of four
9 hundred dollars (\$400);

10 (2) for illegally taking, attempting to take,
11 killing, capturing or possessing of each elk, bighorn sheep,
12 oryx, ibex or Barbary sheep, a fine of one thousand dollars
13 (\$1,000);

14 (3) for hunting big game without a proper and
15 valid license, lawfully procured, a fine of one hundred dollars
16 (\$100);

17 (4) for exceeding the bag limit of any big game
18 species, a fine of four hundred dollars (\$400);

19 (5) for attempting to exceed the bag limit of
20 any big game species by the hunting of any big game animal
21 after having tagged a similar big game species, a fine of two
22 hundred dollars (\$200);

23 (6) for signing a false statement to procure a
24 resident hunting or fishing license when the applicant is
25 residing in another state at the time of application for a

.184126.1

underscored material = new
[bracketed material] = delete

1 license, a fine of four hundred dollars (\$400);

2 (7) for using a hunting or fishing license
3 issued to another person, a fine of one hundred dollars (\$100);

4 (8) for a violation of Section 17-2-31 NMSA
5 1978, a fine of three hundred dollars (\$300);

6 (9) for selling, offering for sale, offering to
7 purchase or purchasing any big game animal, unless otherwise
8 provided by Chapter 17 NMSA 1978, a fine of one thousand
9 dollars (\$1,000);

10 (10) for illegally taking, attempting to take,
11 killing, capturing or possessing of each jaguar, a fine of two
12 thousand dollars (\$2,000); and

13 (11) for a violation of the provisions of
14 Subsection A of Section 17-2A-3 NMSA 1978, a fine of five
15 hundred dollars (\$500).

16 B. A person convicted a second time for violating any
17 of the provisions of Chapter 17 NMSA 1978 or any [~~regulations~~]
18 rule adopted by the [~~state game commission~~] game and fish
19 division that [~~relate~~] relates to the time, extent, means or
20 manner that game animals, birds or fish may be hunted, taken,
21 captured, killed, possessed, sold, purchased or shipped is
22 guilty of a misdemeanor and upon conviction may be sentenced to
23 imprisonment in the county jail for a term of not more than
24 three hundred sixty-four days. In addition, the person shall
25 be sentenced to the payment of a fine in accordance with the

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 following schedule:

2 (1) for illegally taking, attempting to take,
3 killing, capturing or possessing of each deer, antelope,
4 javelina, bear or cougar during a closed season, a fine of six
5 hundred dollars (\$600);

6 (2) for illegally taking, attempting to take,
7 killing, capturing or possessing of each elk, bighorn sheep,
8 oryx, ibex or Barbary sheep, a fine of one thousand five
9 hundred dollars (\$1,500);

10 (3) for hunting big game without a proper and
11 valid license, lawfully procured, a fine of four hundred
12 dollars (\$400);

13 (4) for exceeding the bag limit of any big game
14 species, a fine of six hundred dollars (\$600);

15 (5) for attempting to exceed the bag limit of
16 any big game species by the hunting of any big game animal
17 after having tagged a similar big game species, a fine of six
18 hundred dollars (\$600);

19 (6) for signing a false statement to procure a
20 resident hunting or fishing license when the applicant is
21 residing in another state at the time of application for a
22 license, a fine of six hundred dollars (\$600);

23 (7) for using a hunting or fishing license
24 issued to another person, a fine of two hundred fifty dollars
25 (\$250);

.184126.1

underscored material = new
[bracketed material] = delete

1 (8) for a violation of Section 17-2-31 NMSA
2 1978, a fine of five hundred dollars (\$500);

3 (9) for selling, offering for sale, offering to
4 purchase or purchasing any big game animal, unless otherwise
5 provided by Chapter 17 NMSA 1978, a fine of one thousand five
6 hundred dollars (\$1,500);

7 (10) for illegally taking, attempting to take,
8 killing, capturing or possessing of each jaguar, a fine of four
9 thousand dollars (\$4,000); and

10 (11) for a violation of the provisions of
11 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one
12 thousand dollars (\$1,000).

13 C. Notwithstanding the provisions of Section 31-18-13
14 NMSA 1978, a person convicted a third or subsequent time for
15 violating any of the provisions of Chapter 17 NMSA 1978 or any
16 [~~regulations~~] rule adopted by the [~~state game commission~~] game
17 and fish division that [~~relate~~] relates to the time, extent,
18 means or manner that game animals, birds or fish may be hunted,
19 taken, captured, killed, possessed, sold, purchased or shipped
20 is guilty of a misdemeanor and upon conviction may be sentenced
21 to imprisonment in the county jail for a term of not less than
22 ninety days, which shall not be suspended or deferred, and not
23 more than three hundred sixty-four days. In addition, the
24 person shall be sentenced to the payment of a fine in
25 accordance with the following schedule:

.184126.1

1 (1) for illegally taking, attempting to take,
2 killing, capturing or possessing of each deer, antelope,
3 javelina, bear or cougar during a closed season, a fine of one
4 thousand two hundred dollars (\$1,200);

5 (2) for illegally taking, attempting to take,
6 killing, capturing or possessing of each elk, bighorn sheep,
7 oryx, ibex or Barbary sheep, a fine of three thousand dollars
8 (\$3,000);

9 (3) for hunting big game without a proper and
10 valid license, lawfully procured, a fine of one thousand
11 dollars (\$1,000);

12 (4) for exceeding the bag limit of any big game
13 species, a fine of one thousand two hundred dollars (\$1,200);

14 (5) for attempting to exceed the bag limit of
15 any big game species by the hunting of any big game animal
16 after having tagged a similar big game species, a fine of one
17 thousand dollars (\$1,000);

18 (6) for signing a false statement to procure a
19 resident hunting or fishing license when the applicant is
20 residing in another state at the time of application for a
21 license, a fine of one thousand two hundred dollars (\$1,200);

22 (7) for using a hunting or fishing license
23 issued to another person, a fine of one thousand dollars
24 (\$1,000);

25 (8) for a violation of Section 17-2-31 NMSA

underscored material = new
[bracketed material] = delete

1 1978, a fine of one thousand dollars (\$1,000);

2 (9) for selling, offering for sale, offering to
3 purchase or purchasing any big game animal, unless otherwise
4 provided by Chapter 17 NMSA 1978, a fine of three thousand
5 dollars (\$3,000);

6 (10) for illegally taking, attempting to take,
7 killing, capturing or possessing of each jaguar, a fine of six
8 thousand dollars (\$6,000); and

9 (11) for a violation of the provisions of
10 Subsection A of Section 17-2A-3 NMSA 1978, a fine of two
11 thousand dollars (\$2,000).

12 D. ~~Any~~ A person who is convicted of a violation of
13 any ~~regulations~~ rule adopted by the ~~state game commission~~
14 game and fish division that ~~relate~~ relates to the time,
15 extent, means or manner that game animals, birds or fish may be
16 hunted, taken, captured, killed, possessed, sold, purchased or
17 shipped or of a violation of any of the provisions of Chapter
18 17 NMSA 1978, for which a punishment is not set forth under
19 this section, shall be fined not less than fifty dollars
20 (\$50.00) or more than five hundred dollars (\$500) or imprisoned
21 not more than six months or both.

22 E. The provisions of this section shall not be
23 interpreted to prevent, constrain or penalize a Native American
24 for engaging in activities for religious purposes, as provided
25 in Section 17-2-14 or 17-2-41 NMSA 1978.

.184126.1

underscored material = new
[bracketed material] = delete

1 F. The provisions of this section shall not apply to
2 a landowner or lessee, or an employee of either of them, who
3 kills an animal on private land, in which they have an
4 ownership or leasehold interest, that is threatening human life
5 or damaging or destroying property, including crops; provided,
6 however, that the killing is reported to the [~~department of~~]
7 game and fish division within twenty-four hours and before the
8 removal of the carcass of the animal killed; and provided
9 further that all actions authorized in this subsection are
10 carried out according to [~~regulations~~] rules of the
11 [~~department~~] division."

12 SECTION 66. Section 17-2-10.1 NMSA 1978 (being Laws 1995,
13 Chapter 177, Section 1) is amended to read:

14 "17-2-10.1. GAME AND FISH PENALTY ASSESSMENT
15 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

16 A. As used in Chapter 17 NMSA 1978, "penalty
17 assessment misdemeanor" means a violation of any of the
18 following listed sections of the NMSA 1978 for which the listed
19 penalty assessment is established:

20 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
21 Fishing without a license	17-3-17	\$ 75.00
22 Hunting small game without		
23 a license	17-3-1	\$100.00.

24 B. When an alleged violator of a penalty assessment
25 misdemeanor elects to accept a notice to appear in lieu of a

underscored material = new
[bracketed material] = delete

1 notice of penalty assessment, no fine imposed upon later
2 conviction shall exceed the penalty assessment established for
3 the particular penalty assessment misdemeanor.

4 C. With the penalty assessment collected for each
5 penalty assessment misdemeanor pursuant to this section, there
6 shall be assessed and collected the cost of the appropriate
7 license that the violator failed to produce. Upon presentation
8 of proof of payment of the penalty assessment, the director of
9 the [~~department of~~] game and fish division of the natural
10 resources and environment department shall issue the
11 appropriate license."

12 SECTION 67. Section 17-2-10.2 NMSA 1978 (being Laws 1995,
13 Chapter 177, Section 2) is amended to read:

14 "17-2-10.2. GAME AND FISH PENALTY ASSESSMENT--PAYMENT.--

15 A. Unless a warning notice is given to an alleged
16 violator, at the time the alleged violator is charged with a
17 penalty assessment misdemeanor, the conservation officer shall
18 offer the alleged violator the option of accepting a penalty
19 assessment. The signature of the alleged violator on the
20 penalty assessment notice constitutes an acknowledgment of
21 guilt of the offense stated in the notice. The acknowledgment
22 shall be included in accrual of points toward revocation of
23 licenses as provided for in Section 17-3-34 NMSA 1978 or in
24 [~~regulations~~] rules adopted to implement that section.

25 B. Payment of [~~any~~] a penalty assessment, including

.184126.1

underscored material = new
[bracketed material] = delete

1 cost of the appropriate license, shall be mailed to the [~~state~~
2 ~~game commission~~] game and fish division of the natural
3 resources and environment department within thirty days from
4 the date of charge. Payment of penalty assessments are timely
5 if postmarked within thirty days from the date of the charge.
6 The [~~commission~~] division may issue a receipt when a penalty
7 assessment is paid by currency, but checks tendered by the
8 violator upon which payment is received are sufficient receipt.

9 C. No record of [~~any~~] a penalty assessment payment is
10 admissible as evidence in court in [~~any~~] a civil action."

11 SECTION 68. Section 17-2-10.3 NMSA 1978 (being Laws 1995,
12 Chapter 177, Section 3) is amended to read:

13 "17-2-10.3. GAME AND FISH PENALTY ASSESSMENT--LICENSE
14 REVOCATION.--

15 A. The [~~state game commission~~] game and fish division
16 of the natural resources and environment department is
17 authorized to revoke the hunting or fishing license, or both,
18 of a person who fails to pay a penalty assessment or who fails
19 to appear, after proper notice, for hearings as required by law
20 or [~~regulation~~] rule.

21 B. The [~~state game commission~~] game and fish division
22 may revoke the hunting or fishing license, or both, of any
23 person, resident or nonresident, who is convicted in another
24 state of any single offense that, if committed in New Mexico,
25 would be grounds for revocation of license."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 69. Section 17-2-11 NMSA 1978 (being Laws 1912,
2 Chapter 85, Section 40, as amended) is amended to read:

3 "17-2-11. [~~GAME--FISH~~] PROSECUTIONS--~~[ACCOMPLICES MAY~~
4 ~~TESTIFY--EVIDENCE]~~ ACCOMPLICE TESTIMONY--IMMUNITY.--[SEC. 40.]

5 In any prosecution under [~~this~~] Chapter 17 NMSA 1978, any
6 participant in a violation thereof, when so requested by the
7 district attorney, [~~State Warden~~] director of the game and fish
8 division of the natural resources and environment department or
9 other officer instituting the prosecution, may testify as a
10 witness against any other person charged with violating the
11 same, and [~~his~~] the accomplice's evidence so given shall not be
12 used against [~~him~~] the accomplice in any prosecution for [~~such~~]
13 that violation."

14 SECTION 70. Section 17-2-12 NMSA 1978 (being Laws 1937,
15 Chapter 23, Section 3, as amended) is amended to read:

16 "17-2-12. REFUGES--~~FIREARMS~~ [~~ON~~] PROHIBITED--
17 ~~EXCEPTIONS.--~~It is unlawful for any person to carry, transport
18 or have in [~~his~~] the person's possession bows, arrows,
19 crossbows or firearms of any kind or description within or upon
20 any game refuge or to discharge any firearm or arrow into or
21 within any state game refuge in New Mexico; provided that this
22 section shall not apply to any county, state or federal officer
23 in the discharge of [~~his~~] official duties [~~nor~~] or to persons
24 crossing refuges over public roads and trails with firearms
25 unloaded or taken down; and provided further that permits may

.184126.1

underscored material = new
[bracketed material] = delete

1 be issued by the director of the game and fish division of the
2 natural resources and environment department to stockmen,
3 trappers, ranchers and property owners, or their employees, to
4 carry firearms while engaged in the discharge of their
5 legitimate affairs on or within game refuges."

6 SECTION 71. Section 17-2-13 NMSA 1978 (being Laws 1912,
7 Chapter 85, Section 55, as amended) is amended to read:

8 "17-2-13. SONGBIRDS--TRAPPING, KILLING OR INJURING
9 PROHIBITED.--It [~~shall be~~] is unlawful for any person to shoot,
10 ensnare or trap for the purpose of killing or in any other
11 manner to injure or destroy any songbird or birds whose
12 principal food consists of insects, comprising all the species
13 and varieties of birds represented by the several families of
14 bluebirds, including the western and mountain bluebirds; also
15 bobolinks, catbirds, chickadees, cuckoos, which includes the
16 chaparral bird or roadrunner (*Geococcyx novo mexicanus*),
17 flickers, flycatchers, grosbeaks, hummingbirds, kinglets,
18 martins, meadowlarks, nighthawks or bull bats, nuthatches,
19 orioles, robins, shrikes, swallows, swifts, tanagers, titmice,
20 thrushes, vireos, warblers, waxwings, [~~whippoorwills~~]
21 whippoorwills, woodpeckers, wrens and all other perching birds
22 [~~which~~] that feed entirely or chiefly on insects. This section
23 does not prohibit the killing of such birds for scientific
24 purposes under permits from the [~~department of~~] game and fish
25 division of the natural resources and environment department."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 72. Section 17-2-14 NMSA 1978 (being Laws 1973,
2 Chapter 104, Section 1, as amended) is amended to read:

3 "17-2-14. HAWKS, VULTURES AND OWLS--TAKING, POSSESSING,
4 TRAPPING, DESTROYING, MAIMING OR SELLING PROHIBITED--EXCEPTION
5 BY PERMIT--PENALTY.--

6 A. It is unlawful for any person to take, attempt to
7 take, possess, trap or ensnare or in any manner to injure, maim
8 or destroy birds of the order Falconiformes, comprising all of
9 the species and varieties of birds represented by the several
10 families of vultures and hawks, and all of the order
11 Stringiformes, comprising all of the species and varieties of
12 owls. It is also unlawful to purchase, sell or trade, or to
13 possess for the purpose of selling or trading, any parts of
14 these birds.

15 B. The director of the [~~department of~~] game and fish
16 division of the natural resources and environment department
17 may issue permits to allow any person to take, possess, trap,
18 ensnare or destroy any bird protected by this section or to
19 possess, give, purchase, sell or trade, or to possess for the
20 purpose of selling or trading, any parts of any birds protected
21 by this section. Permits shall be granted for the following
22 purposes:

- 23 (1) Indian religious purposes;
- 24 (2) scientific purposes in accordance with law
- 25 and the [~~regulations~~] rules of the [~~department of~~] game and

underscored material = new
[bracketed material] = delete

1 fish division; or

2 (3) falconry purposes in accordance with law and
3 the [~~regulations~~] rules of the [~~department~~] division.

4 C. Notwithstanding any other law, any person engaged
5 in the commercial raising of poultry or game birds may take,
6 capture or kill any hawk, owl or vulture that has killed such
7 poultry or game birds. The owner of [~~such~~] a game or poultry
8 farm who takes action under this provision shall report this
9 action to the [~~department of~~] game and fish division, which
10 shall verify the necessity of the action taken.

11 D. Any person violating the provisions of this
12 section is guilty of a petty misdemeanor."

13 SECTION 73. Section 17-2-17 NMSA 1978 (being Laws 1912,
14 Chapter 85, Section 26, as amended) is amended to read:

15 "17-2-17. GAME AND FISH--[~~HELD IN~~] STORAGE [~~WHEN~~
16 ~~LAWFUL~~].--[~~SEC. 26.~~] No game or fish shall be received or held
17 in storage except as follows [~~namely~~]:

18 [(1)] A. during the open season [~~therefor~~] for such
19 game and fish and for five days thereafter when the [~~same~~] game
20 or fish is stored for the person lawfully in possession of [~~the~~
21 ~~same~~] it;

22 [(2)] B. at any time of the year when there is
23 attached [~~thereto~~] to the game or fish a proper and valid
24 officer's invoice as provided in [~~this~~] Chapter 17 NMSA 1978
25 relating to the seizure of game and fish, for not more than

.184126.1

underscored material = new
[bracketed material] = delete

1 thirty days after the date of [~~such~~] that invoice; or
2 [~~(3)~~] C. when there is attached [~~thereto~~] to the game
3 or fish a proper and valid certificate or permit signed by the
4 [~~State Warden or deputy~~] director of the game and fish division
5 of the natural resources and environment department or
6 conservation officer and on its face authorizing storage of the
7 [~~article named therein~~] game or fish listed in the certificate
8 or permit and during the period [~~therein stated~~] listed on the
9 certificate or permit."

10 SECTION 74. Section 17-2-19 NMSA 1978 (being Laws 1912,
11 Chapter 85, Section 57, as amended) is amended to read:

12 "17-2-19. ENFORCEMENT OF GAME LAWS--POWERS OF
13 CONSERVATION OFFICERS.--

14 A. The director of the [~~department of~~] game and fish
15 division of the natural resources and environment department,
16 each conservation officer, each sheriff in [~~his~~] the sheriff's
17 respective county and each member of the New Mexico state
18 police shall enforce Chapter 17 NMSA 1978 and shall:

19 (1) seize any game or fish held in violation of
20 that chapter;

21 (2) with or without warrant, arrest any person
22 whom [~~he~~] the director, conservation officer, sheriff or state
23 police officer knows to be guilty of a violation of that
24 chapter; and

25 (3) open, enter and examine all camps, wagons,

underscored material = new
[bracketed material] = delete

1 cars, tents, packs, boxes, barrels and packages where ~~[he has]~~
2 there is reason to believe any game or fish taken or held in
3 violation of that chapter is to be found, and seize it.

4 B. Any warrant for the arrest of a person shall be
5 issued upon sworn complaint, the same as in other criminal
6 cases, and any search warrant shall issue upon a written
7 showing of probable cause, supported by oath or affirmation,
8 describing the places to be searched or the persons or things
9 to be seized.

10 C. Conservation officers may, under the direction of
11 the ~~[state game commission and the]~~ director of the ~~[department~~
12 ~~of]~~ game and fish division:

13 (1) establish ~~[from time to time, as needed for~~
14 ~~the proper functioning of the game and fish research and~~
15 ~~management division]~~ checking stations at points along
16 established roads, or roadblocks, for the purpose of collecting
17 biological information or detecting and apprehending persons
18 violating the game and fish laws and the ~~[regulations]~~ rules
19 referred to in Section 17-2-10 NMSA 1978;

20 (2) under emergency circumstances and while on
21 official duty only enforce the provisions of the Criminal Code
22 and the Motor Vehicle Code; and

23 (3) while on official duty only, enforce the
24 provisions of:

25 (a) Sections 30-14-1 and 30-14-1.1

.184126.1

underscored material = new
[bracketed material] = delete

1 NMSA 1978 pertaining to criminal trespass;

2 (b) Section 30-7-4 NMSA 1978 pertaining to
3 negligent use of a deadly weapon;

4 (c) Section 30-15-1 NMSA 1978 pertaining to
5 criminal damage to property;

6 (d) Section 30-22-1 NMSA 1978 pertaining to
7 resisting, evading or obstructing an officer; and

8 (e) Section 72-1-8 NMSA 1978 pertaining to
9 camping next to a manmade water hole."

10 SECTION 75. Section 17-2-20 NMSA 1978 (being Laws 1912,
11 Chapter 85, Section 31, as amended) is amended to read:

12 "17-2-20. [~~PUBLIC NUISANCE--NETS, TRAPS, EXPLOSIVES--WHEN~~
13 ~~DEEMED TO BE--PROVISIO~~] UNLAWFUL DEVICES--SEIZURE AND
14 DESTRUCTION.--[SEC. 31.] Every net, trap, explosive, poisonous
15 or stupefying substance or device used or intended for use in
16 taking or killing game or fish in violation of [~~this~~] Chapter
17 17 NMSA 1978 and set, kept or found in or upon any of the
18 streams or waters in this state or upon the shores thereof, and
19 every trap, device, blind or deadfall found baited in violation
20 of [~~this~~] that chapter, is declared to be a public nuisance and
21 may be abated and summarily destroyed by any person [~~and~~]. It
22 [~~shall be~~] is the duty of every officer authorized to enforce
23 [~~this~~] that chapter to seize and summarily destroy the same,
24 and no prosecution or suit shall be maintained for such
25 destruction; provided that nothing in [~~this~~] that chapter shall

.184126.1

underscored material = new
[bracketed material] = delete

1 be construed as affecting the right of the [~~State Warden~~]
2 director of the game and fish division of the natural resources
3 and environment department to use such means as may be proper
4 for the promotion of game and fish propagation and culture
5 [~~nor~~] or as authorizing the seizure or destruction of
6 firearms."

7 SECTION 76. Section 17-2-20.3 NMSA 1978 (being Laws 1979,
8 Chapter 321, Section 3) is amended to read:

9 "17-2-20.3. PENALTIES.--The following violations [~~shall~~]
10 constitute a misdemeanor:

11 A. illegal possession or transportation of big game
12 during closed season;

13 B. taking or attempting to take big game during
14 closed season;

15 C. taking or attempting to take big game by the use
16 of spotlight or artificial light;

17 D. selling or attempting to sell big game or parts
18 thereof, except as permitted by [~~regulation~~] rules of the
19 [~~state game commission~~] game and fish division of the natural
20 resources and environment department; and

21 E. exceeding the bag limit on any big game species
22 during open season."

23 SECTION 77. Section 17-2-21 NMSA 1978 (being Laws 1912,
24 Chapter 85, Section 23, as amended) is amended to read:

25 "17-2-21. GAME AND FISH--SEIZED BY OFFICERS--DISPOSAL

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~[OF]~~--PROCEEDS.--~~[SEC. 23.]~~ All game and fish seized under the
2 game laws shall without unnecessary delay be sold by the
3 officer making ~~[such]~~ the seizure or by the ~~[State Warden]~~
4 director of the game and fish division of the natural resources
5 and environment department, except when such sale is
6 impracticable or likely to incur expenses exceeding the
7 proceeds, in which case the ~~[same]~~ game or fish shall be
8 donated to some charitable institution or needy person not
9 concerned in the unlawful killing or possession thereof. The
10 officer making ~~[such]~~ the seizure shall sign and give to each
11 purchaser or donee an invoice stating the time and place of
12 disposition, the kind and weight as near as may be of the game
13 or fish disposed of and the name of the purchaser or donee.
14 ~~[Such]~~ The invoice ~~[shall authorize]~~ authorizes possession,
15 transportation and use within the state and storage for thirty
16 days from date. The proceeds from ~~[such]~~ the sale, after
17 deducting the cost of seizure and sale, shall, if made by the
18 ~~[State Warden]~~ director of the division or any ~~[deputy]~~
19 conservation officer under salary, be paid into the game
20 protection fund, but if made by a ~~[deputy warden]~~ conservation
21 officer not under salary, or any other officer, the proceeds
22 shall be paid one-half to the officer making ~~[such]~~ the
23 seizure."

24 SECTION 78. Section 17-2-26 NMSA 1978 (being Laws 1912,
25 Chapter 85, Section 45, as amended) is amended to read:

.184126.1

1 "17-2-26. CIVIL LIABILITY.--

2 A. The director of the [~~department of~~] game and fish
3 division of the natural resources and environment department,
4 or any other officer charged with enforcement of the laws
5 relating to game and fish if so directed by the director, may
6 bring a civil action in the name of the state against any
7 person unlawfully wounding or killing, or unlawfully in
8 possession of, any game quadruped, bird or fish, or part
9 thereof, and recover judgment for the following minimum sums as
10 damages for the taking, killing or injuring:

11	for each elk-----	\$ 500.00
12	for each deer-----	250.00
13	for each antelope-----	250.00
14	for each mountain sheep-----	1,000.00
15	for each Barbary sheep-----	250.00
16	for each black bear-----	500.00
17	for each cougar-----	500.00
18	for each bison-----	600.00
19	for each ibex-----	1,000.00
20	for each oryx-----	1,000.00
21	for each javelina-----	100.00
22	for each beaver-----	65.00
23	for each bird-----	20.00
24	for each fish-----	5.00
25	for each endangered species-----	500.00

.184126.1

underscored material = new
[bracketed material] = delete

1 for each raptor----- 200.00
2 for each turkey----- 150.00
3 for each jaguar----- 2,000.00.

4 B. Notwithstanding the provisions of Subsection A of
5 this section, the [~~state game commission~~] game and fish
6 division shall establish damages recoverable by civil judgment
7 on a game animal, bird or fish designated to be a trophy animal
8 by [~~commission~~] division rule.

9 C. Damages recovered pursuant to this section are
10 intended to compensate the state for the loss of unique public
11 resources and shall not be limited or reduced by the extent of
12 fines assessed pursuant to any criminal statute. The
13 [~~department of~~] game and fish division shall not award or issue
14 a license, permit or certificate to a debtor owing damages
15 pursuant to this section until the judgment has been paid in
16 full to the [~~department~~] division.

17 D. No verdict or judgment recovered by the state in
18 an action shall be for less than the sum fixed in this section.
19 The action for damages may be joined with an action for
20 possession, and recovery may be had for the possession as well
21 as the damages.

22 E. The pendency or determination of an action for
23 damages or payment of a judgment, or the pendency or
24 determination of a criminal prosecution for the same taking,
25 wounding, killing or possession, is not a bar to the other, nor

.184126.1

underscored material = new
[bracketed material] = delete

1 does either affect the right of seizure under any other
2 provision of the laws relating to game and fish.

3 F. The provisions of this section shall not be
4 interpreted to prevent, constrain or penalize a Native American
5 for engaging in activities for religious purposes, as provided
6 in Section 17-2-14 or 17-2-41 NMSA 1978.

7 G. The provisions of this section shall not apply to
8 a landowner or lessee, or employee of either, who kills an
9 animal, on private land in which the person has an ownership or
10 leasehold interest, that is threatening human life or damaging
11 or destroying property, including crops; provided, however,
12 that the killing is reported to the [~~department of~~] game and
13 fish division within twenty-four hours and before the removal
14 of the carcass of the animal killed; and provided further that
15 all actions authorized in this subsection are carried out
16 according to rules of the [~~department~~] division."

17 SECTION 79. Section 17-2-33 NMSA 1978 (being Laws 1971,
18 Chapter 61, Section 2) is amended to read:

19 "17-2-33. USE OF FIREARMS BY MINORS.--

20 A. It is unlawful after April 1, 1972 for any person
21 born after January 1, 1958 to hunt with or shoot a firearm,
22 unless the person:

23 (1) [~~he~~] is supervised by a parent, legal
24 guardian or a responsible adult designated by the parent or
25 guardian; [~~or~~]

.184126.1

underscored material = new
[bracketed material] = delete

1 (2) [he] carries a certificate indicating that
2 [he] the person has successfully completed the New Mexico
3 hunter training course or the hunter training course of another
4 state [which] that is approved by the [~~New Mexico department~~
5 ~~of~~] game and fish division of the natural resources and
6 environment department; or

7 (3) [he] is eighteen years of age or older.

8 B. It is unlawful after April 1, 1976 for any person
9 under the age of eighteen years to hunt with or shoot a firearm
10 unless [he] the person is carrying a certificate indicating
11 that [he] the person has successfully completed the New Mexico
12 hunter training course or a hunter training course of another
13 state [which] that is approved by the [~~New Mexico department~~
14 ~~of~~] game and fish division.

15 C. Any person violating the [~~provisions~~] provisions
16 of this section is guilty of a petty misdemeanor."

17 SECTION 80. Section 17-2-34 NMSA 1978 (being Laws 1971,
18 Chapter 61, Section 3) is amended to read:

19 "17-2-34. HUNTER TRAINING PROGRAM--INSTRUCTOR
20 CERTIFICATION--CERTIFICATE OF COMPETENCY.--

21 A. The [~~department of~~] game and fish division of the
22 natural resources and environment department shall provide a
23 course of instruction in the safe handling of firearms for
24 individuals interested in obtaining a certificate of competency
25 in the safe handling of firearms. The [~~department~~] division

.184126.1

underscored material = new
[bracketed material] = delete

1 may cooperate with the [~~superintendent~~] secretary of public
2 [~~instruction~~] education or any reputable association or
3 organization as determined by the [~~department~~] division and
4 having as one of its objectives the promotion of safety in
5 firearm handling.

6 B. The [~~department of~~] game and fish division shall
7 prescribe the type of instruction and the qualifications of
8 instructors and shall designate annually those persons
9 qualified to give instruction in the safe handling of firearms.
10 Persons designated by the [~~department of game and fish~~]
11 division to be instructors are authorized to give the course of
12 instruction in the safe handling of firearms to all interested
13 persons. Upon the completion of the course and certification
14 to the [~~department~~] division by the instructor, the
15 [~~department~~] division shall cause to be issued, to the person
16 instructed, a certificate of competency in the safe handling of
17 firearms, which shall be valid unless revoked by the
18 [~~department of game and fish~~] division for such cause as
19 determined by [~~regulation~~] rule of the [~~department~~] division to
20 be unsafe handling of a firearm.

21 C. The [~~department of~~] game and fish division shall
22 promulgate rules [~~and regulations~~] to implement the provisions
23 of the Hunter Training Act."

24 SECTION 81. Section 17-2-38 NMSA 1978 (being Laws 1974,
25 Chapter 83, Section 2, as amended) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "17-2-38. DEFINITIONS.--As used in the Wildlife
2 Conservation Act:

3 [~~A. "commission" means the state game commission;~~

4 ~~B.] A. "director" means the director of the
5 [~~department of game and fish] division;~~~~

6 B. "division" means the game and fish division of the
7 natural resources and environment department;

8 C. "ecosystem" means a system of living organisms and
9 their environment;

10 D. "endangered species" means any species of fish or
11 wildlife whose prospects of survival or recruitment within the
12 state are in jeopardy due to any of the following factors:

- 13 (1) the present or threatened destruction,
14 modification or curtailment of its habitat;
- 15 (2) overutilization for scientific, commercial
16 or sporting purposes;
- 17 (3) the effect of disease or predation;
- 18 (4) other natural or man-made factors affecting
19 its prospects of survival or recruitment within the state; or
- 20 (5) any combination of the foregoing factors.

21 The term may also include any species of fish or wildlife
22 appearing on the United States list of endangered native and
23 foreign fish and wildlife as set forth in Section 4 of the
24 federal Endangered Species Act of 1973 as endangered species,
25 provided that the [~~commission] division adopts those lists in~~

underscoring material = new
[bracketed material] = delete

1 whole or in part. The term shall not include any species
2 covered by the provisions of 16 U.S.C. 1331 through 1340 (1971)
3 and shall not include any species of the class insecta
4 determined by the director to constitute a pest whose
5 protection under the Wildlife Conservation Act would present an
6 overwhelming and overriding risk to man;

7 E. "investigation" means a process pursuant to
8 Subsections B through L of Section 17-2-40 NMSA 1978 undertaken
9 whenever the ~~[director]~~ secretary suspects that a species may
10 be threatened or endangered and ~~[which]~~ that consists of a
11 formal review of existing data and studies and may include
12 additional field research to determine whether a species is
13 threatened or endangered;

14 F. "land or aquatic habitat interests" means
15 interests in real property or water rights consisting of fee
16 simple title, easements in perpetuity, time certain easements,
17 long-term leases and short-term leases;

18 G. "management" means the collection and application
19 of biological information for the purposes of establishing and
20 maintaining a congruous relationship between individuals within
21 species and populations of wildlife and the carrying capacity
22 of their habitat. The term includes the entire range of
23 activities that constitutes a full scientific resource program
24 ~~[of]~~, including ~~[but not limited to]~~ research, census, law
25 enforcement, propagation, acquisition or maintenance of land or

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 aquatic habitat interests appropriate for recovery of the
2 species; improvement and maintenance, education and related
3 activities; ~~[Ø-]~~ and protection and regulated taking;

4 H. "recovery plan" means a designated program or
5 methodology reasonably expected to lead to restoration and
6 maintenance of a species and its habitat;

7 I. "peer review panel" means an advisory panel of
8 scientists, each of whom possesses expertise relevant to the
9 proposed investigation and at least one of whom is a wildlife
10 biologist, convened to review the scientific methodology for
11 collection and analysis of data by a researcher based on
12 commonly accepted scientific peer review;

13 J. "secretary" means the secretary of natural
14 resources and environment;

15 ~~[J-]~~ K. "species" means any species or subspecies;

16 ~~[K-]~~ L. "substantial public interest" means a
17 nonfrivolous claim indicated by a broad-based expression of
18 public concern;

19 ~~[L-]~~ M. "take" or "taking" means to harass, hunt,
20 capture or kill any wildlife or attempt to do so;

21 ~~[M-]~~ N. "threatened species" means any species that
22 is likely to become an endangered species within the
23 foreseeable future throughout all or a significant portion of
24 its range in New Mexico; the term may also include any species
25 of fish or wildlife appearing on the United States list of

.184126.1

underscored material = new
[bracketed material] = delete

1 endangered native and foreign fish and wildlife as set forth in
2 Section 4 of the federal Endangered Species Act of 1973 as
3 threatened species, provided that the [~~commission~~] division
4 adopts the list in whole or in part; and

5 [N.] O. "wildlife" means any nondomestic mammal,
6 bird, reptile, amphibian, fish, mollusk or crustacean or any
7 part, egg or offspring or the dead body or parts thereof."

8 SECTION 82. Section 17-2-40 NMSA 1978 (being Laws 1974,
9 Chapter 83, Section 4, as amended) is amended to read:

10 "17-2-40. BIENNIAL REVIEW--INVESTIGATIONS--
11 RECOMMENDATIONS OF THE [~~DIRECTOR~~] SECRETARY--PROCEDURES.--

12 A. The secretary, in consultation with the director,
13 shall conduct a biennial review of all species of wildlife
14 named on the list required by Section 17-2-41 NMSA 1978. The
15 [~~director~~] secretary may conduct investigations at any time of
16 those other species of wildlife indigenous to the state that
17 are suspected of being threatened or endangered in order to
18 develop information relating to population, distribution,
19 habitat needs, limiting factors and other biological and
20 ecological data to determine [~~his~~] recommendations for listing
21 or not listing a species and management measures and
22 requirements necessary for [~~their~~] its survival. The
23 [~~director~~] secretary shall also conduct, within a reasonable
24 time, an investigation to support listing or delisting [~~of~~] a
25 species based upon new evidence or [~~with the advice and consent~~

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~of the commission, based upon~~ substantial public interest.
2 Upon completion of an investigation ~~[or investigations, he]~~,
3 the secretary shall ~~[make written recommendations to the~~
4 ~~commission]~~ determine whether to list or not list any unlisted
5 species or to delist any listed species investigated. In
6 conducting any investigation for new listing or delisting
7 required or undertaken pursuant to this subsection, the
8 ~~[director]~~ secretary shall comply with the procedures
9 established in Subsections B through L of this section.
10 Species listed as threatened or endangered on the state list
11 through adoption of the United States list pursuant to
12 Subsections D and M of Section 17-2-38 NMSA 1978 shall not be
13 subject at the time of adoption to the listing procedures
14 established in Subsections B through K of this section.

15 B. The secretary, in consultation with the director,
16 shall select a researcher to conduct an investigation pursuant
17 to Subsection A of this section and request the appointment of
18 a peer review panel composed of one qualified individual from
19 each of the four-year state universities to be appointed by the
20 presidents of the respective universities. The peer review
21 panel shall be requested to submit comments according to a
22 schedule determined by the ~~[director]~~ secretary. The
23 researcher shall submit ~~[his]~~ the research design to the peer
24 review panel.

25 C. When additional field research is undertaken as

.184126.1

underscored material = new
[bracketed material] = delete

1 part of an investigation, the peer review panel shall examine
2 the proposed research design for methodology for collection and
3 analysis of data. Upon receipt of the peer review panel's
4 submitted comments, the researcher shall initiate the field
5 research regarding the designated species.

6 D. To the extent practicable, as part of [~~his~~] the
7 researcher's investigation, the researcher shall meet and
8 consult with private landowners, lessees and land and resource
9 managers who are or may be affected by or have information
10 pertinent to the investigation.

11 E. When the researcher initiates [~~his~~] the
12 investigation, the [~~director~~] secretary shall:

13 (1) create a public repository file in which
14 copies of all documents filed with the [~~director~~] secretary
15 pertaining to the investigation or a potential recovery plan,
16 to be developed pursuant to Section 17-2-40.1 NMSA 1978,
17 including all peer review comments, shall be maintained;

18 (2) mail a notice of the initiation of the
19 investigation to federal and state agencies, local and tribal
20 governments that are or may be affected by the results of the
21 investigation and individuals and organizations that have
22 requested notification of [~~department~~] division actions
23 regarding threatened or endangered species;

24 (3) notify the general public of the initiation
25 of the investigation by information releases to the media in

.184126.1

underscored material = new
[bracketed material] = delete

1 the area of the state affected;

2 (4) indicate, in all notices and information
3 releases, where and until what date information may be
4 submitted for inclusion in the public repository file;

5 (5) accept data, views or information about the
6 biological or ecological status of the species for use in both
7 the investigation and the development of the potential recovery
8 plan; and

9 (6) accept data, views and information on the
10 potential economic or social impacts or opportunities of a
11 change in the legal status of the species for inclusion in the
12 recovery plan.

13 F. The ~~[director]~~ secretary shall file all written
14 comments, data, views and information furnished pursuant to
15 Subsection ~~[D]~~ E of this section in the public repository file
16 and shall preserve that file for use in connection with the
17 listing process and development of any recovery plan developed
18 pursuant to the provisions of Section 17-2-40.1 NMSA 1978. The
19 ~~[director]~~ secretary shall file in the public repository file
20 all records indicating contact by the secretary, director, the
21 researcher, employees or contractors with landowners or public
22 or private resource managers affected by the potential action.

23 G. Information from the public repository file
24 relating to social and economic impacts shall not be considered
25 by the ~~[director]~~ secretary in making ~~[his recommendation or~~

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~the commission in making its~~ a decision to list, delist, not
2 list, continue to list, upgrade or downgrade a species, but
3 shall be considered only in the development of any recovery
4 plan for the species.

5 H. The [~~commission~~] division shall [~~adopt,~~
6 ~~notwithstanding the provisions of Section 14-2-1 NMSA 1978,~~
7 ~~regulations by January 1, 1996~~] promulgate rules governing the
8 confidentiality of data from an investigation.

9 I. The researcher shall prepare and submit draft
10 reports to the peer review panel and to the public repository
11 file. The peer review panel will be requested to examine and
12 comment on the draft report in a timely manner.

13 J. After consideration of the peer review panel's
14 submitted comments on the draft reports, the researcher shall
15 prepare final reports and file them and all peer review panel
16 comments with the [~~director~~] secretary and in the public
17 repository file. The peer review panel shall not be compelled
18 to attend any hearing before the [~~commission~~] division.

19 K. Upon receipt of the researcher's final reports,
20 the [~~director~~] secretary shall [~~make recommendations to the~~
21 ~~commission to list, not list or delist the species based upon~~
22 ~~criteria listed in Subsection L of this section. The~~
23 ~~commission shall~~] establish dates and locations for public
24 hearings on the recommended actions and give notice of the
25 public hearings in the same manner and to the same persons as

.184126.1

underscoring material = new
[bracketed material] = delete

1 notice was given of the initiation of the investigation and, in
2 addition, publish legal notice in a newspaper of general
3 circulation in the area affected at least ninety days before
4 the date set for the hearing. Public hearings shall be held at
5 a place within any quadrant of the state affected by the
6 recommended actions when the ~~[director]~~ secretary determines
7 that there is substantial public interest indicated in holding
8 a hearing in that quadrant. All hearings on the recommended
9 actions shall be held within six months of the date the
10 ~~[director makes his recommendations]~~ researcher files the final
11 report with the secretary. The notice shall:

12 (1) include the date, time and location of all
13 hearings on the matter;

14 (2) include a statement of the recommended
15 action;

16 (3) include an indication of the location and
17 availability of the public repository file;

18 (4) indicate where and by what date written
19 comments and testimony to be included in the hearing record may
20 be filed;

21 (5) indicate that views, data and comments
22 pertaining to the final report may be presented orally at or in
23 writing to the hearing;

24 (6) specify that notice of intent to present
25 technical and scientific testimony and a written copy of the

.184126.1

underscored material = new
[bracketed material] = delete

1 testimony to be presented shall be submitted to the
2 [~~commission~~] secretary not less than thirty days prior to the
3 initial hearing; and

4 (7) specify that the public record shall remain
5 open for comments for thirty days after the date of the final
6 hearing.

7 L. The [~~commission~~] secretary shall make [~~its~~
8 ~~decisions~~] a decision and take action based upon relevant and
9 reliable evidence to list, not list or delist a species [~~at its~~
10 ~~next regularly scheduled meeting within~~] no more than thirty
11 days after the close of the hearing record. The [~~commission~~]
12 secretary shall:

13 (1) list or maintain a species as endangered and
14 shall not delist a species if [~~it~~] the secretary finds that the
15 species' prospects for survival or recruitment within the state
16 are in jeopardy based upon the biological and ecological
17 evidence in the public repository file and based upon
18 biological and ecological evidence received in the public
19 hearings; and

20 (2) list or maintain a species as threatened and
21 shall not delist a species if [~~it~~] the secretary finds that the
22 species' prospects for survival or recruitment within the state
23 are likely within the foreseeable future to be in jeopardy
24 based upon the biological and ecological evidence in the public
25 repository file and biological and ecological evidence received

.184126.1

underscored material = new
[bracketed material] = delete

1 in public hearings.

2 M. Whenever the [~~director~~] secretary finds that there
3 is an emergency posing a significant risk to the well-being of
4 any species and that risk is likely to jeopardize the continued
5 survival or recruitment of the species within the state, the
6 [~~director~~] secretary shall [~~recommend to the commission that~~
7 ~~the species should be listed as endangered. The commission~~
8 ~~shall act upon the director's recommendation~~] immediately [~~and~~
9 ~~shall~~] either list or not list the species by [~~regulation~~] rule
10 based upon the evidence supporting the recommendation if [~~it~~]
11 the secretary finds that the continued survival of the species
12 is in jeopardy. If the [~~commission~~] secretary lists the
13 species as endangered, [~~it shall waive~~] the requirements of
14 Subsections A through L of this section shall be waived.

15 Whenever the [~~commission~~] secretary adopts a [~~regulation~~] rule
16 listing a species as endangered pursuant to this subsection, it
17 shall give notice of the listing in the same manner and to the
18 same persons as notice is given in the initiation of
19 investigations and in addition shall publish legal notice in a
20 newspaper of general circulation in the area affected. The
21 emergency listing shall cease to have force and effect at the
22 close of a three-year period following the date of the finding
23 unless, during the three-year period, the procedures for
24 listing pursuant to Subsections B through L of this section or
25 continuing to list pursuant to [~~commission regulations~~] rules

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 for the biennial review are completed."

2 SECTION 83. Section 17-2-40.1 NMSA 1978 (being Laws 1995,
3 Chapter 145, Section 5) is amended to read:

4 "17-2-40.1. RECOVERY PLANS--PROCEDURES.--

5 A. To the extent practicable, a recovery plan shall
6 be developed pursuant to Subsections B through G of this
7 section for any species listed as threatened or endangered. If
8 indicated, the director shall conduct a social and economic
9 analysis and, if adverse impacts are found, develop a social or
10 economic mitigation plan.

11 B. To the extent practicable, the director shall
12 develop recovery plans that include several threatened or
13 endangered species that utilize similar habitats or share a
14 common threat or both. A multiple-species recovery plan shall
15 be designed to accomplish recovery of the shared habitat or
16 reduce a common threat or both.

17 C. As the initial action in the development of a
18 recovery plan, the director shall, within one year of listing,
19 schedule a public information meeting in each of the quadrants
20 of the state determined by the director to be affected by the
21 development of a recovery plan. These meetings shall be held
22 in a manner calculated to provide a reasonable opportunity for
23 individuals and private and public entities to participate and
24 express their views about the development of a recovery plan
25 for one or more species and the attendant adverse social or

.184126.1

underscored material = new
[bracketed material] = delete

1 economic impacts, if any, that may result from implementation
2 of a recovery plan. At these meetings, the director shall
3 present background information about the basis of the listing,
4 an explanation of the process to develop a recovery plan and
5 the probable content in general terms, if known, of the
6 recovery plan and if needed, the process to develop a social
7 and economic mitigation plan.

8 D. Upon completion of the public information [~~meeting~~
9 ~~or~~] meetings on a recovery plan, the director shall consult and
10 cooperate with other states or countries when appropriate and
11 shall solicit interest from representatives of affected local
12 governments, tribal governments, landowners, state and federal
13 agencies and other interested individuals and organizations to
14 serve on an advisory committee. [~~He~~] The director shall
15 appoint to the advisory committee all of those who are willing
16 to participate in the development of the recovery plan. When
17 necessary, [~~he~~] the director may appoint from the membership of
18 the advisory committee a working group reflecting the diversity
19 of the advisory committee.

20 E. With the assistance of the advisory committee, the
21 director shall develop a draft recovery plan to achieve the
22 following objectives:

23 (1) restoration and maintenance of a viable
24 population of the threatened or endangered species and its
25 habitat reasonably expected to lead to the delisting of the

.184126.1

underscored material = new
[bracketed material] = delete

1 species;

2 (2) avoidance or mitigation of adverse social or
3 economic impacts;

4 (3) identification of social or economic
5 benefits and opportunities; and

6 (4) use of volunteer resources and existing
7 economic recovery and assistance programs and funding available
8 from public and private sources to implement the plan.

9 F. The director shall mail the draft recovery plan to
10 federal and state agencies, local and tribal governments that
11 are or may be affected by the recovery plan and individuals and
12 organizations that have requested notification of [~~department~~]
13 division actions regarding threatened or endangered species.

14 G. [~~The final recovery plan shall be presented to the~~
15 ~~commission for its consideration not later than two years from~~
16 ~~the date the species was listed.~~] If, after receiving comment
17 from the entities listed in Subsection F of this section, the
18 [~~commission~~] director determines that the proposed plan has
19 achieved the objectives set forth in Subsection E of this
20 section, [~~it~~] the director shall approve the recovery plan or
21 approve with conditions. After approval of the plan, the
22 director shall seek cooperation with other states and
23 countries, when appropriate, and landowners, state and federal
24 agencies and local and tribal governments for implementation of
25 the recovery plan and when appropriate submit the recovery plan

.184126.1

underscored material = new
[bracketed material] = delete

1 to the secretary of the interior for approval pursuant to the
2 federal Endangered Species Act of 1973."

3 SECTION 84. Section 17-2-41 NMSA 1978 (being Laws 1974,
4 Chapter 83, Section 5, as amended) is amended to read:

5 "17-2-41. ENDANGERED SPECIES.--

6 A. On the basis of investigations concerning
7 wildlife, other available scientific and commercial data and
8 after consultation with wildlife agencies in other states,
9 appropriate federal agencies, local and tribal governments and
10 other interested persons and organizations, the [~~commission~~
11 division] shall by [~~regulation~~] rule develop a list of those
12 species of wildlife indigenous to the state that are determined
13 to be threatened or endangered within the state, giving their
14 common and scientific names by species and subspecies.

15 B. The director shall conduct a review of the state
16 list of threatened or endangered species [~~and shall present~~
17 biennially to [~~the commission his recommendations for~~
18 appropriate] determine what action [~~The commission shall act on~~
19 ~~the director's biennial recommendations at its next regularly~~
20 ~~scheduled meeting. The commission shall adopt, no later than~~
21 ~~January 1, 1996, regulations providing procedures for~~
22 ~~commission actions on the director's recommendations to~~
23 ~~continue to list or to upgrade or downgrade] to take relating
24 to the upgrade or downgrade of a species.~~

25 C. Except as otherwise provided in the Wildlife

.184126.1

underscored material = new
[bracketed material] = delete

1 Conservation Act, it is unlawful for any person to take,
2 possess, transport, export, process, sell or offer for sale or
3 ship any species of wildlife appearing on any of the following
4 lists:

5 (1) the list of wildlife indigenous to the state
6 determined to be endangered within the state as set forth by
7 ~~[regulations]~~ rules of the ~~[commission]~~ division; and

8 (2) the United States lists of endangered native
9 and foreign fish and wildlife as set forth in Section 4 of the
10 federal Endangered Species Act of 1973 as endangered or
11 threatened species, but only to the extent that those lists are
12 adopted for this purpose by ~~[regulations]~~ rules of the
13 ~~[commission]~~ division; provided that any species of wildlife
14 appearing on any of the lists set forth in this subsection,
15 transported into the state from another state or from a point
16 outside the territorial limits of the United States and ~~[which]~~
17 that is destined for a point beyond the state, may be
18 transported across the state without restriction in accordance
19 with the terms of any federal permit or permit issued under the
20 laws or ~~[regulations]~~ rules of another state or otherwise in
21 accordance with the laws of another state.

22 D. The provisions of Subsection C of this section
23 shall not apply to a taking of wildlife by a Native American
24 for religious purposes, unless it materially and negatively
25 affects an endangered species or threatened species."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 85. Section 17-2-42 NMSA 1978 (being Laws 1974,
2 Chapter 83, Section 6) is amended to read:

3 "17-2-42. MANAGEMENT PROGRAMS.--

4 A. The director shall establish such programs,
5 including programs for research and the acquisition of land or
6 aquatic habitat, as authorized and deemed necessary [~~by the~~
7 ~~commission~~] for the management of endangered species.

8 B. In carrying out programs authorized by the
9 Wildlife Conservation Act, the director may enter into
10 agreements with federal agencies, political subdivisions of the
11 state or with private persons for administration and management
12 of any program established under this section or utilized for
13 management of endangered species.

14 C. The director may authorize by permit the taking,
15 possession, transportation, exportation or shipment of species
16 or subspecies [~~which~~] that have been deemed [~~by the commission~~]
17 to be in need of management as provided in the Wildlife
18 Conservation Act, so long as such use is for scientific,
19 zoological or educational purposes, for propagation in
20 captivity of such wildlife or to protect private property.

21 D. Endangered species may be removed, captured or
22 destroyed where necessary to alleviate or prevent damage to
23 property or to protect human health. Such removal, capture or
24 destruction may be carried out only by prior authorization by
25 permit from the director, unless otherwise provided by law;

.184126.1

underscored material = new
[bracketed material] = delete

1 provided that endangered species may be removed, captured or
2 destroyed without permit by any person in emergency situations
3 involving an immediate threat to human life or private
4 property. [~~Regulations~~] Rules governing the removal, capture
5 or destruction of endangered species shall be [~~adopted~~]
6 promulgated by the [~~commission within one year after the~~
7 ~~effective date of the Wildlife Conservation Act~~] division."

8 SECTION 86. Section 17-2-43 NMSA 1978 (being Laws 1974,
9 Chapter 83, Section 7) is amended to read:

10 "17-2-43. [~~COMMISSION~~] DIVISION--POWER TO REGULATE.--The
11 [~~commission~~] division is authorized and directed to establish
12 such [~~regulations~~] rules as it may deem necessary to carry out
13 all the provisions and purposes of the Wildlife Conservation
14 Act."

15 SECTION 87. Section 17-2-43.1 NMSA 1978 (being Laws 1995,
16 Chapter 145, Section 8, as amended) is amended to read:

17 "17-2-43.1. JUDICIAL REVIEW--ADMINISTRATIVE ACTIONS.--

18 A. Any person adversely affected by an order of the
19 [~~commission~~] division or secretary may appeal to the district
20 court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

21 B. Any person adversely affected by a [~~regulation~~]
22 rule adopted by the [~~commission~~] division or secretary may
23 appeal to the court of appeals. All appeals shall be upon the
24 record made at the hearing or contained in the public
25 repository file and shall be taken to the court of appeals

.184126.1

underscored material = new
[bracketed material] = delete

1 within thirty days following the date of the filing of the
2 [~~regulation~~] rule by the [~~commission~~] division pursuant to the
3 provisions of the State Rules Act.

4 C. Upon appeal, the court of appeals shall set aside
5 the [~~regulation~~] rule only if it is found to be:

6 (1) arbitrary, capricious or an abuse of
7 discretion;

8 (2) not supported by substantial evidence in the
9 record; or

10 (3) otherwise not in accordance with law.

11 D. After a hearing and a showing of good cause by the
12 appellant, a stay of the [~~regulation~~] rule being appealed may
13 be granted:

14 (1) by the [~~commission~~] division; or

15 (2) by the court of appeals if the [~~commission~~]
16 division denies a stay or fails to act upon an application for
17 a stay within sixty days after receipt of the application.

18 E. The appellant shall pay all costs for any appeal
19 found to be frivolous by the court of appeals."

20 SECTION 88. Section 17-2A-2 NMSA 1978 (being Laws 1996,
21 Chapter 89, Section 4) is amended to read:

22 "17-2A-2. STATEWIDE SYSTEM FOR HUNTING ACTIVITIES.--The
23 [~~state game commission~~] game and fish division of the natural
24 resources and environment department shall develop a statewide
25 system for hunting activities that increases participation by

.184126.1

underscored material = new
[bracketed material] = delete

1 New Mexico residents and considers hunter safety, quality
2 hunts, high demand areas, guides and outfitters, quotas and
3 local and financial interests."

4 SECTION 89. Section 17-3-7 NMSA 1978 (being Laws 1912,
5 Chapter 85, Section 48, as amended) is amended to read:

6 "17-3-7. BLANK FORMS--LICENSE ISSUED ONLY ON
7 APPLICATION--FALSE STATEMENT VOIDS LICENSE--RECORDS--REPORTS--
8 ACCOUNTING FOR FEES COLLECTED--REFUND OF FEES--TRANSFER OF
9 HUNTING LICENSE.--

10 A. The director of the [~~department of~~] game and fish
11 division of the natural resources and environment department
12 shall prescribe and procure the printing of all forms and
13 blanks that may be required to carry out the intent of Chapter
14 17 NMSA 1978. All necessary blanks shall be furnished by the
15 director to the license collectors. No license shall be issued
16 except as provided in Section 17-3-5 NMSA 1978. Any false
17 statement in any application shall render the license issued
18 void.

19 B. A license collector shall keep a correct and
20 complete record of licenses issued, which record shall remain
21 in the license collector's office and be open to inspection by
22 the public at all times.

23 C. A license collector may collect and retain a
24 vendor fee for each license or permit issued; provided the fee
25 shall be just and reasonable, as determined by [~~regulation~~]

.184126.1

underscored material = new
[bracketed material] = delete

1 rule of the [~~state game commission~~] game and fish division, and
2 shall not exceed one dollar (\$1.00) for each license or permit
3 issued; and provided further that no such fee shall be
4 collected by the [~~department of game and fish~~] division from
5 the purchaser of a special license. "Special license" includes
6 those licenses for the following species: antelope, elk,
7 Barbary sheep, bighorn sheep, bison, oryx, ibex, gazelle and
8 javelina.

9 D. A license collector shall remit to the director of
10 the [~~department of~~] game and fish division the statutory fee of
11 all licenses and permits sold on or before the tenth day of the
12 month following and shall by the same time report the number
13 and kind of licenses issued.

14 E. Except as provided in Section 17-1-14 NMSA 1978,
15 the director of the [~~department of~~] game and fish division
16 shall turn over all money so received to the state treasurer to
17 be credited to the game protection fund.

18 F. The director of the [~~department of~~] game and fish
19 division, in the director's sole discretion, may authorize a
20 refund of the amount of a hunting license fee from the game and
21 fish suspense fund if:

22 (1) upon written application by the licensee,
23 prior to the time of the hunt for which the license has been
24 issued, the director finds that:

25 (a) the licensee has a disability, due to a

.184126.1

underscored material = new
[bracketed material] = delete

1 verified injury or life-threatening illness, that prohibits the
2 licensee from hunting during the period that the license is
3 valid; or

4 (b) the licensee has been deployed by the
5 military and the deployment prevents the licensee from
6 traveling to the hunt during the period that the license is
7 valid; or

8 (2) upon written application by a personal
9 representative of a licensee's estate, the director finds that
10 the licensee died prior to the time of the hunt for which the
11 license was issued.

12 G. The director of the [~~department of~~] game and fish
13 division, in the director's sole discretion, may authorize a
14 transfer of a hunting license:

15 (1) to the licensee's designee if, upon written
16 application by the licensee, prior to the time of the hunt for
17 which the license has been issued, the director finds that:

18 (a) the licensee has a disability, due to a
19 verified injury or life-threatening illness, that prohibits the
20 licensee from hunting during the period that the license is
21 valid; or

22 (b) the licensee has been deployed by the
23 military and the deployment prevents the licensee from
24 traveling to the hunt during the period that the license is
25 valid;

.184126.1

underscored material = new
[bracketed material] = delete

1 (2) to the designee of the licensee's estate if,
2 upon written application by the personal representative of the
3 licensee's estate, the director finds that the licensee died
4 prior to the time of the hunt for which the license was issued;
5 or

6 (3) upon written application by a licensee, to a
7 nonprofit organization approved by the [~~state game commission~~]
8 division.

9 H. The [~~state game commission~~] game and fish division
10 may prescribe, by rule, the documentation necessary for a
11 finding pursuant to Subsection F or G of this section."

12 SECTION 90. Section 17-3-12 NMSA 1978 (being Laws 1959,
13 Chapter 144, Section 6) is amended to read:

14 "17-3-12. ACCOUNTING FOR LICENSES.--When a license vendor
15 is unable to account for hunting and fishing licenses issued to
16 [~~him~~] the license vendor, the [~~state game commission~~] game and
17 fish division of the natural resources and environment
18 department shall determine the extent of liability of the
19 vendor, and the decision of the [~~commission~~] division shall be
20 final."

21 SECTION 91. Section 17-3-13.5 NMSA 1978 (being Laws 2003,
22 Chapter 290, Section 1) is amended to read:

23 "17-3-13.5. ELK LICENSES RESERVED.--The [~~state game~~
24 ~~commission~~] game and fish division of the natural resources and
25 environment department shall reserve no more than two elk

.184126.1

underscored material = new
[bracketed material] = delete

1 licenses a year for sale to persons under the age of twenty-one
2 who have been determined by a licensed physician to have a
3 life-threatening illness and who have been qualified through a
4 nonprofit wish-granting organization approved by the
5 [~~commission~~] division."

6 SECTION 92. Section 17-3-14.1 NMSA 1978 (being Laws 1989,
7 Chapter 86, Section 1) is amended to read:

8 "17-3-14.1. LANDOWNER PERMITS FOR ELK.--The director of
9 the [~~department of~~] game and fish division of the natural
10 resources and environment department shall issue landowner
11 permits for the lawful taking of elk in accordance with
12 [~~regulations~~] rules of the [~~state game commission~~] division."

13 SECTION 93. Section 17-3-14.2 NMSA 1978 (being Laws 1998,
14 Chapter 12, Section 1) is amended to read:

15 "17-3-14.2. LANDOWNER PERMITS--MANAGEMENT OF CERTAIN BIG
16 GAME SPECIES.--The director of the [~~department of~~] game and
17 fish division of the natural resources and environment
18 department may issue landowner permits for the lawful taking of
19 elk, antelope, oryx and deer. The permits may be issued when,
20 in the determination of the director, they are necessary to
21 effectively reduce conflicts between humans and wildlife and
22 provide sport-hunting opportunities in accordance with
23 [~~regulations~~] rules of the [~~state game commission~~] division."

24 SECTION 94. Section 17-3-15 NMSA 1978 (being Laws 1964
25 (1st S.S.), Chapter 17, Section 6, as amended) is amended to

.184126.1

underscored material = new
[bracketed material] = delete

1 read:

2 "17-3-15. ADDITIONAL DEER LICENSE.--

3 A. It is a misdemeanor for any person to procure or
4 use more than one license to hunt big game in one year, except
5 as provided in this section, or to use any tag after it has
6 been used once.

7 B. For the purpose of effectuating better game
8 management and control, the [~~state game commission~~] game and
9 fish division of the natural resources and environment
10 department may by [~~regulation~~] rule authorize the sale of not
11 more than one additional deer license each year to any person
12 holding a license that entitled the person to hunt deer during
13 that year. The fee for an additional deer license shall be the
14 resident or nonresident deer license fee pursuant to Section
15 17-3-13 NMSA 1978.

16 C. It is a misdemeanor for any person to take or
17 attempt to take a deer with an additional deer license unless
18 the person has the additional deer license and the other
19 license that entitled the person to hunt deer for that year in
20 the person's possession. Possession of an additional deer
21 license without the other license that entitled the person to
22 hunt deer for that year is prima facie evidence of violation of
23 this section."

24 SECTION 95. Section 17-3-16.1 NMSA 1978 (being Laws 1989,
25 Chapter 384, Section 1, as amended) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "17-3-16.1. BIGHORN SHEEP ENHANCEMENT PERMITS--ISSUANCE--
2 USE.--

3 A. The [~~state game commission shall direct the~~
4 ~~department of~~] game and fish [~~to~~] division of the natural
5 resources and environment department shall authorize not more
6 than two of the permits available for issuance in the license
7 year for the taking of two bighorn rams for the purpose of
8 raising funds for programs and projects to benefit bighorn
9 sheep.

10 B. The [~~state game commission~~] game and fish division
11 shall prescribe by [~~regulation~~] rule the form, design and
12 manner of issuance of the bighorn sheep enhancement permits.
13 The issuance of one permit shall be subject to auction by the
14 [~~department~~] division or by an incorporated nonprofit
15 organization dedicated to conservation of wildlife, as
16 determined by the [~~commission~~] division and shall be sold to
17 the highest bidder. The issuance of the other permit shall be
18 subject to a lottery by the [~~department~~] division, or by an
19 incorporated nonprofit organization dedicated to conservation
20 of wildlife, as determined by the [~~commission~~] division.

21 C. All money collected from the issuance and sale of
22 the bighorn sheep enhancement permits shall be credited to the
23 game protection fund to be used exclusively for bighorn sheep
24 preservation, restoration and management."

25 SECTION 96. Section 17-3-16.2 NMSA 1978 (being Laws 1999,

.184126.1

underscored material = new
[bracketed material] = delete

1 Chapter 69, Section 1) is amended to read:

2 "17-3-16.2. ELK ENHANCEMENT PERMIT--ISSUANCE--USE.--

3 A. The [~~state game commission shall direct the~~
4 ~~department of~~] game and fish [~~to~~] division of the natural
5 resources and environment department shall authorize two elk
6 enhancement permits each license year for the taking of two elk
7 bulls to raise funds for programs and projects to better manage
8 elk.

9 B. The [~~state game commission~~] game and fish division
10 shall prescribe by rule the form, design and manner of issuance
11 of the two elk enhancement permits. The issuance of one permit
12 shall be subject to auction by the [~~department~~] division or by
13 an incorporated nonprofit organization dedicated to
14 conservation of wildlife, as determined by the [~~commission~~]
15 division, and shall be sold to the highest bidder. The
16 issuance of the other permit shall be subject to a lottery by
17 the [~~department~~] division or by an incorporated nonprofit
18 organization dedicated to conservation of wildlife, as
19 determined by the [~~commission~~] division.

20 C. All money collected from the issuance and sale of
21 the elk enhancement permits shall be credited to the game
22 protection fund to be used exclusively for elk restoration and
23 management."

24 SECTION 97. Section 17-3-16.3 NMSA 1978 (being Laws 2003,
25 Chapter 69, Section 1) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "17-3-16.3. LIEUTENANT GOVERNOR'S DEER ENHANCEMENT
2 PERMITS--ISSUANCE--USE.--

3 A. The [~~state game commission shall direct the~~
4 ~~department of~~] game and fish [~~to~~] division of the natural
5 resources and environment department shall authorize two deer
6 enhancement permits each license year for the taking of two
7 deer to raise funds for programs and projects to better manage
8 deer.

9 B. The [~~state game commission~~] game and fish division
10 shall prescribe by rule the form, design and manner of issuance
11 of the two deer enhancement permits. The issuance of one
12 permit shall be subject to auction by the [~~department~~] division
13 or by an incorporated nonprofit organization dedicated to
14 conservation of wildlife, as determined by the [~~commission~~]
15 division, and shall be sold to the highest bidder. The
16 issuance of the other permit shall be subject to a lottery by
17 the [~~department~~] division or by an incorporated nonprofit
18 organization dedicated to conservation of wildlife, as
19 determined by the [~~commission~~] division.

20 C. All money collected from the issuance and sale
21 of the lieutenant governor's deer enhancement permits shall
22 be credited to the game protection fund to be used
23 exclusively for deer restoration and management."

24 SECTION 98. Section 17-3-16.4 NMSA 1978 (being Laws
25 2005, Chapter 149, Section 1) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "17-3-16.4. GOULD'S TURKEY ENHANCEMENT PERMITS--
2 ISSUANCE--USE.--

3 A. The [~~state game commission may direct the~~
4 ~~department of~~] game and fish [~~to~~] division of the natural
5 resources and environment department may authorize Gould's
6 turkey enhancement permits for the taking of Gould's turkeys,
7 Meleagris gallopavo mexicana, to raise funds for programs and
8 projects to better manage the Gould's turkey population in
9 New Mexico.

10 B. The [~~state game commission~~] game and fish
11 division shall prescribe by rule the form, design and manner
12 of issuance of the Gould's turkey enhancement permits. The
13 issuance of the permits shall be subject to a lottery or
14 auction. Such allotment of the permits may be conducted by
15 an incorporated nonprofit organization dedicated to
16 conservation of wildlife, in cooperation with and overseen by
17 the [~~commission and the department of game and fish~~]
18 division.

19 C. The [~~state game commission~~] game and fish
20 division shall [~~direct the department of game and fish to~~]
21 authorize Gould's turkey enhancement permits only after the
22 [~~department~~] division has documented that the issuance of
23 each enhancement permit will not jeopardize the prospects for
24 the survival and recruitment of the Gould's turkey within New
25 Mexico.

.184126.1

underscored material = new
[bracketed material] = delete

1 D. Gould's turkey enhancement permits shall be
2 authorized only when doing so does not conflict with the
3 Wildlife Conservation Act or any rules implementing that act.

4 E. Money collected from the issuance and sale of
5 the Gould's turkey enhancement permits shall be credited to
6 the game protection fund to be used exclusively for the
7 restoration and management of Gould's turkeys and Gould's
8 turkey habitats, which support a variety of other unique and
9 rare wildlife of southwestern New Mexico."

10 **SECTION 99.** Section 17-3-16.5 NMSA 1978 (being Laws
11 2007, Chapter 105, Section 1) is amended to read:

12 "17-3-16.5. HUNTING AND FISHING AUTHORIZATIONS--
13 GOVERNOR'S SPECIAL EVENTS.--The director of the [~~department~~
14 ~~of~~] game and fish division of the natural resources and
15 environment department may annually make available to the
16 governor no more than twelve big game special authorizations
17 and twelve game bird or trophy fish special authorizations.
18 The authorizations shall be allocated by auction in
19 conjunction with special events called by the governor to
20 raise money for fish and wildlife conservation. Any auction
21 used to allocate an authorization shall comply with rules
22 adopted by the [~~state game commission~~] division. Each
23 authorization shall allow the holder to purchase a license to
24 hunt or fish for the species indicated on the authorization
25 during dates and times at locations specified by the [~~state~~

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~game commission]~~ division. The director may designate the
2 species allowable for each authorization, but no more than
3 three authorizations shall be issued for any one species each
4 year. Money collected pursuant to the special authorizations
5 of the governor shall be deposited in the game protection
6 fund."

7 **SECTION 100.** Section 17-3-16.6 NMSA 1978 (being Laws
8 2007, Chapter 243, Section 1) is amended to read:

9 "17-3-16.6. ENHANCEMENT AUTHORIZATION PACKAGES--HABITAT
10 ENHANCEMENT.--The [~~state game commission]~~ game and fish
11 division of the natural resources and environment department
12 shall adopt rules [~~for the department of game and fish]~~ to
13 issue enhancement authorization packages each license year
14 for the taking of one each of elk, deer, oryx, ibex and
15 pronghorn antelope. Each enhancement authorization package
16 shall be auctioned by the [~~department of game and fish]~~
17 division or by an incorporated nonprofit organization
18 dedicated to the conservation of wildlife and sold to the
19 highest bidder. Money collected from the enhancement
20 authorization packages shall be deposited in the game
21 protection fund and shall be used exclusively for big game
22 habitat enhancement, conservation and protection."

23 **SECTION 101.** Section 17-3-17 NMSA 1978 (being Laws 1964
24 (1st S.S.), Chapter 17, Section 8, as amended) is amended to
25 read:

.184126.1

1 "17-3-17. FISHING WITHOUT LICENSE--EXCEPTIONS.--

2 A. It is a misdemeanor for any person, except
3 children who have not reached their twelfth birthday, to take
4 or attempt to take any game fish from any public stream or
5 water in this state without ~~[having on his person]~~ carrying a
6 proper fishing license as provided by law. The presence of
7 any person, except children who have not reached their
8 twelfth birthday, along any public stream or water in this
9 state with fishing rod, hook or line, without ~~[having on his~~
10 ~~person]~~ carrying a proper fishing license, is prima facie
11 evidence of the violation of this section. The director of
12 the ~~[department of]~~ game and fish division of the natural
13 resources and environment department or any conservation
14 officer may require any person along any public stream or
15 water in this state with fishing rod, hook or line to exhibit
16 ~~[his]~~ the person's license.

17 B. The director ~~[with the approval of the state~~
18 ~~game commission]~~ of the game and fish division may designate
19 no more than two nonconsecutive Saturdays in each year as
20 free fishing days. During the free fishing days, residents
21 and nonresidents may exercise the privileges of holders of
22 proper fishing licenses without having proper fishing
23 licenses and without payment of any license fees, subject to
24 all limitations, restrictions, conditions, laws and rules
25 ~~[and regulations]~~ applicable to holders of proper fishing

.184126.1

underscored material = new
[bracketed material] = delete

1 licenses."

2 SECTION 102. Section 17-3-21 NMSA 1978 (being Laws
3 1949, Chapter 149, Section 3) is amended to read:

4 "17-3-21. FISHING LAWS APPLICABLE TO SPECIAL
5 LICENSEES.--All fishing under the privileges granted to the
6 holders of [~~such~~] special licenses issued pursuant to Section
7 17-3-19 NMSA 1978 shall be in accordance with the seasons and
8 bag limits and other [~~regulations~~] rules established by the
9 [~~state game commission~~] game and fish division of the natural
10 resources and environment department."

11 SECTION 103. Section 17-3-24 NMSA 1978 (being Laws
12 1951, Chapter 60, Section 2) is amended to read:

13 "17-3-24. FISHING SUPERVISION AT BOYS' SCHOOL.--
14 [~~Provided however, that such~~] Fishing by [~~said wards~~]
15 resident children as provided by Section [~~1 of this act~~]
16 17-3-23 NMSA 1978 shall be done under the supervision of the
17 officials of [~~said~~] the New Mexico [~~Industrial~~] boys' school
18 and in conformity with seasons and bag limits established by
19 the [~~state game commission~~] game and fish division of the
20 natural resources and environment department."

21 SECTION 104. Section 17-3-26 NMSA 1978 (being Laws
22 1939, Chapter 27, Section 1, as amended) is amended to read:

23 "17-3-26. TAKING MINNOWS AND NONGAME FISH TO SELL AS
24 BAIT--LICENSE REQUIRED--EXCEPTION.--It is unlawful for any
25 person, except children under the age of twelve years, to

.184126.1

underscored material = new
[bracketed material] = delete

1 take from the streams or public waters of this state minnows
2 and nongame fish for the purpose of sale to fishermen or
3 others for bait without having first procured from the [~~state~~
4 ~~game commission~~] game and fish division of the natural
5 resources and environment department a license therefor as
6 provided in Sections 17-3-26 through 17-3-28 NMSA 1978."

7 SECTION 105. Section 17-3-27 NMSA 1978 (being Laws
8 1939, Chapter 27, Section 2, as amended) is amended to read:

9 "17-3-27. BAIT LICENSE--BOND--FEE--ISSUANCE.--Any
10 person desiring to procure a license for the purpose of
11 engaging in the business of selling minnows and nongame fish
12 for bait or taking minnows and nongame fish from the streams
13 of this state for the purpose of sale to others shall apply
14 to the [~~state game commission~~] game and fish division of the
15 natural resources and environment department for a license.

16 The application shall be upon forms provided by the
17 [~~commission~~] division and shall set forth the public streams
18 or waters out of which the applicant intends to take the
19 minnows and nongame fish and the place at which they are to
20 be sold. The application shall be accompanied by a just and
21 reasonable fee as determined by [~~regulation~~] rule of the
22 [~~state game commission~~] division. Upon receipt of the
23 application, it [~~shall be~~] is the duty of the [~~state game~~
24 ~~commission or, when it is not in session, the~~] director of
25 the [~~department of game and fish~~] division to pass upon the

.184126.1

underscored material = new
[bracketed material] = delete

1 application and to issue a license authorizing the taking and
2 the manner of taking of the minnows and nongame fish by the
3 applicant from those waters in the state as in the opinion of
4 the [~~state game commission or~~] director will not be
5 detrimental to the public or injurious to protected fish.

6 The license when so issued shall specify the manner of taking
7 and the waters from which the applicant is permitted to take
8 minnows and nongame fish for sale for bait."

9 SECTION 106. Section 17-3-28 NMSA 1978 (being Laws
10 1939, Chapter 27, Section 3) is amended to read:

11 "17-3-28. EXCEPTIONS--PROHIBITIONS.--Nothing in [~~this~~
12 ~~act~~] Sections 17-3-26 through 17-3-28 NMSA 1978 shall be
13 construed to prevent licensed fishermen from taking minnows
14 and other nongame fish for [~~his~~] their own use for bait or to
15 prevent any minor under fifteen [~~(15)~~] years of age from
16 taking minnows not for resale; provided, however, that it
17 shall be unlawful for licensed fishermen or any other person
18 using nongame fish for bait to place any of [~~such~~] the
19 nongame fish [~~which~~] that are not used for bait in any waters
20 stocked or reserved for game fish by the [~~state game~~
21 ~~commission of the state of New Mexico~~] game and fish division
22 of the natural resources and environment department."

23 SECTION 107. Section 17-3-29 NMSA 1978 (being Laws
24 1912, Chapter 85, Section 42, as amended) is amended to read:

25 "17-3-29. PERMIT TO TAKE GAME, BIRDS OR FISH AS

.184126.1

underscored material = new
[bracketed material] = delete

1 SPECIMENS OR FOR SCIENTIFIC OR PROPAGATING PURPOSES--
2 ELIGIBILITY--ISSUANCE--CONTENTS--NONASSIGNABLE--SALE FOR FOOD
3 PURPOSES PROHIBITED.--The [~~state~~] director of the game and
4 fish division of the natural resources and environment
5 department may issue permits to any person to take, capture,
6 kill or transport within or out of the state any game, birds
7 or fish mentioned in [~~this~~] Chapter 17 NMSA 1978 at any time
8 when satisfied that [~~such~~] the person desires the [~~same~~]
9 game, birds or fish exclusively as specimens or for
10 scientific or propagating purposes. [~~Such~~] The permit shall
11 be in writing and shall state the kind and number to be taken
12 and the manner of taking, the name of the person to whom
13 issued, the name of the place to which the [~~same is~~] game,
14 birds or fish are to be transported and the name of the
15 persons shipping [~~such~~] the game, birds or fish, and shall be
16 signed by [~~him. Such~~] the person. The permit shall not be
17 transferable, nor shall it be lawful to sell or barter any of
18 the [~~animals~~] game, birds or fish taken or exported under
19 [~~such~~] the permit for food purposes, and the holder [~~such~~] of
20 the permit shall be liable to the penalties provided in
21 [~~this~~] Chapter 17 NMSA 1978 if [~~he~~] the person violates any
22 of its provisions."

23 SECTION 108. Section 17-3-30 NMSA 1978 (being Laws
24 1912, Chapter 85, Section 43, as amended) is amended to read:

25 "17-3-30. GAME AND FISH [~~WARDEN MAY TRANSMIT SPECIMENS~~]

.184126.1

underscored material = new
[bracketed material] = delete

1 FURNISHED TO OTHER STATES.--[~~SEC. 43.~~] The [~~State Warden~~]
2 director of the game and fish division of the natural
3 resources and environment department may, upon application
4 from the game and fish warden or corresponding officer of any
5 other state, procure and transmit to [~~such~~] that officer
6 alive specimens of the game animals, birds and fish of this
7 state to be used for scientific or propagating purposes."

8 SECTION 109. Section 17-3-34 NMSA 1978 (being Laws
9 1912, Chapter 85, Section 35, as amended) is amended to read:

10 "17-3-34. REVOCATION OF LICENSE, CERTIFICATE OR PERMIT
11 FOR VIOLATION OF LAW--NOTICE AND HEARING--JUDICIAL REVIEW.--

12 A. If the holder of [~~any~~] a license, certificate or
13 permit persistently, flagrantly or knowingly violates or
14 countenances the violation of any of the provisions of
15 Chapter 17 NMSA 1978 or of any [~~regulations~~] rules referred
16 to in Section 17-2-10 NMSA 1978, the license, certificate or
17 permit shall be revoked by the [~~state game commission~~] game
18 and fish division of the natural resources and environment
19 department after reasonable notice given the accused of the
20 alleged violation and after the accused is afforded an
21 opportunity to appear and show cause against the charges.

22 B. At the hearing, the [~~state game commission~~] game
23 and fish division shall cause a record of the hearing to be
24 made and shall allow the person charged to examine witnesses
25 testifying at the hearing. [~~Any~~] A person whose license,

.184126.1

underscored material = new
[bracketed material] = delete

1 certificate or permit has been revoked by the [~~commission~~]
2 division may appeal to the district court pursuant to the
3 provisions of Section 39-3-1.1 NMSA 1978."

4 SECTION 110. Section 17-3-35 NMSA 1978 (being Laws
5 1957, Chapter 194, Section 1) is amended to read:

6 "17-3-35. SHORT TITLE.--[~~This act~~] Sections 17-3-35
7 through 17-3-42 NMSA 1978 may be cited as the "Regulated
8 Shooting Preserve Act".

9 SECTION 111. Section 17-3-36 NMSA 1978 (being Laws
10 1957, Chapter 194, Section 2, as amended) is amended to read:

11 "17-3-36. REGULATED SHOOTING PRESERVES--FEES.--The
12 [~~state game commission~~] game and fish division of the natural
13 resources and environment department may issue licenses
14 authorizing the establishment and operation of regulated
15 propagated game bird shooting preserves on private lands when
16 in the judgment of the [~~commission~~] division such areas will
17 not conflict with any reasonable prior interest. The
18 [~~commission~~] division shall govern and prescribe by
19 [~~regulation~~] rule the following:

20 A. the minimum and maximum size of the areas,
21 including the type of fences and signs;

22 B. the method of hunting;

23 C. the open and closed seasons, which need not
24 conform to the regular hunting seasons;

25 D. the releasing, possession and use of legally

.184126.1

underscored material = new
[bracketed material] = delete

1 propagated pen-raised game birds on the preserves; and

2 E. the fee for the licenses, which shall be just
3 and reasonable."

4 SECTION 112. Section 17-3-38 NMSA 1978 (being Laws
5 1957, Chapter 194, Section 4) is amended to read:

6 "17-3-38. TAGS.--All game birds taken from preserves
7 shall be tagged, with tags to be furnished by the
8 [~~commission~~] game and fish division of the natural resources
9 and environment department at a reasonable fee, before being
10 transported."

11 SECTION 113. Section 17-3-39 NMSA 1978 (being Laws
12 1957, Chapter 194, Section 5) is amended to read:

13 "17-3-39. SPECIAL NONRESIDENT LICENSES.--The
14 [~~commission~~] game and fish division of the natural resources
15 and environment department may issue special nonresident bird
16 licenses to nonresidents to hunt on regulated shooting
17 preserves with the owner's consent for legally propagated
18 game birds upon the payment of a license fee of five dollars
19 [~~and~~] twenty-five cents (\$5.25). The license must be carried
20 on the person at all times when hunting on private shooting
21 preserves.

22 Five dollars (\$5.00) of the special nonresident bird
23 license fee is to be paid to the [~~state game and fish~~
24 ~~department~~] division. Twenty-five cents (\$.25) of the fee is
25 to be retained by the issuing agent."

.184126.1

underscoring material = new
[bracketed material] = delete

1 SECTION 114. Section 17-3-42 NMSA 1978 (being Laws
2 1957, Chapter 194, Section 8) is amended to read:

3 "17-3-42. REVOCATION OF PERMITS.--Any permit issued
4 under the [~~Private~~] Regulated Shooting Preserve Act may be
5 revoked for a violation of any provision or any [~~regulation~~]
6 rule made by the [~~commission~~] game and fish division of the
7 natural resources and environment department relating to
8 [~~the~~] that act."

9 SECTION 115. Section 17-3-49 NMSA 1978 (being Laws
10 2006, Chapter 86, Section 1) to read:

11 "17-3-49. COMPUTER-ASSISTED REMOTE HUNTING PROHIBITED--
12 PENALTIES.--

13 A. A person shall not:

14 (1) engage in computer-assisted remote
15 hunting;

16 (2) provide or operate facilities for the
17 purpose of computer-assisted remote hunting;

18 (3) create, maintain, provide, advertise or
19 sell computer software or an internet web site for the
20 purpose of computer-assisted remote hunting; or

21 (4) entice, possess or confine an animal or
22 bird for the purpose of computer-assisted remote hunting.

23 B. A person who violates the provisions of this
24 section shall be sentenced in accordance with the provisions
25 of Section 17-2-10 NMSA 1978.

.184126.1

underscored material = new
[bracketed material] = delete

1 C. When a person who violates the provisions of
2 this section possesses a license, certificate or permit
3 issued by the [~~state game commission~~] game and fish division
4 of the natural resources and environment department, the
5 license, certificate or permit shall be subject to revocation
6 by the [~~commission~~] division pursuant to Sections 17-1-14 and
7 17-3-34 NMSA 1978.

8 D. As used in this section:

9 (1) "computer-assisted remote hunting" means
10 the use of a computer or other electronic device, equipment
11 or software to access the internet and remotely control the
12 aiming and discharge of a bow, crossbow or firearm of any
13 kind for the purpose of hunting, taking or capturing an
14 animal or bird; and

15 (2) "facilities for computer-assisted remote
16 hunting" means the real property and improvements on the
17 property associated with computer-assisted remote hunting,
18 including hunting blinds, offices and rooms equipped to
19 facilitate computer-assisted remote hunting."

20 SECTION 116. Section 17-4-1 NMSA 1978 (being Laws 1939,
21 Chapter 223, Section 1, as amended) is amended to read:

22 "17-4-1. POWER TO ACQUIRE LAND.--The [~~state game~~
23 ~~commission of the state of New Mexico~~] game and fish division
24 of the natural resources and environment department is
25 [~~hereby~~] authorized and empowered to acquire by purchase,

.184126.1

underscored material = new
[bracketed material] = delete

1 gift, bequest or lease, and to hold, develop and improve,
2 lands for fish hatcheries, game farms, game refuges, bird
3 refuges, resting and nesting grounds, field stations, dams,
4 lakes, ditches, flumes, waterways, pipelines, canals, rights
5 of way, trails, roads and for all purposes incidental to the
6 propagation, preservation, protection and management of the
7 game, birds, fish and wildlife of the state [~~of New Mexico~~]."

8 SECTION 117. Section 17-4-2 NMSA 1978 (being Laws 1939,
9 Chapter 223, Section 2, as amended) is amended to read:

10 "17-4-2. EMINENT DOMAIN POWER--ABANDONMENT OR
11 RELINQUISHMENT OF PROPERTY ACQUIRED.--Any property or rights
12 of way required for use by the [~~state game commission~~] game
13 and fish division of the natural resources and environment
14 department may be acquired as for a public purpose and as a
15 matter of public necessity under the power of eminent domain,
16 by and with the written approval of the board of county
17 commissioners of the county in which the property or rights
18 of way sought are located, in an action instituted and
19 prosecuted in the name of the state, according to the
20 procedure for condemnation provided by the Eminent Domain
21 Code; provided, nevertheless, that any property right
22 acquired under the provisions of this section, if and when
23 the use for which it was acquired has been abandoned for
24 three years or otherwise relinquished, shall revert to the
25 grantor from whom it was derived."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 118. Section 17-4-3 NMSA 1978 (being Laws 1939,
2 Chapter 223, Section 3, as amended) is amended to read:

3 "17-4-3. SALE, EXCHANGE OR LEASE OF LANDS--PROCEEDS.--

4 The ~~[state game commission]~~ game and fish division of the
5 natural resources and environment department, except as
6 ~~[herein]~~ limited in this section, is authorized to exchange,
7 sell, lease, sublease or assign any interest in any lands and
8 leases heretofore or hereafter acquired, including but not
9 limited to the sale or lease of timber, oil, gas, minerals or
10 any other severable product of or interest in real estate,
11 when in the ~~[judgement]~~ judgment of ~~[said commission such]~~
12 the division the transaction will be in the interest of the
13 ~~[state game commission]~~ division and ~~[said]~~ the lands,
14 leases, products or severable parts thereof are in the
15 opinion of ~~[such commission]~~ the division no longer necessary
16 for the purposes for which ~~[such]~~ the lands were acquired or
17 where ~~[such]~~ the lease or sublease will not materially
18 interfere ~~[with]~~ or conflict with the use of ~~[such]~~ the lands
19 for the purpose for which they were acquired. The proceeds
20 of any such sale, exchange, lease or assignment shall be
21 converted into the game protection fund and disbursed as the
22 other ~~[moneys]~~ money in ~~[said]~~ the fund ~~[are]~~ is disbursed."

23 SECTION 119. Section 17-4-12 NMSA 1978 (being Laws
24 1912, Chapter 85, Section 63, as amended) is amended to read:

25 "17-4-12. LICENSE--APPLICATION--CONTENTS--LIMITS.--Any

.184126.1

underscored material = new
[bracketed material] = delete

1 person having already established or desiring to establish or
2 maintain a park or lake for the purpose of keeping or
3 propagating and selling the game or game fish ~~[therein]~~ in
4 the park or lake, or to be placed therein, shall apply in
5 writing to the ~~[Warden]~~ director of the game and fish
6 division of the natural resources and environment department,
7 stating the name, location, extent and proprietorship of the
8 ~~[same]~~ park or lake and the kind and, as near as may be, the
9 number of game or game fish kept or desired to be kept
10 therein and the term for which the license is desired and
11 ~~[inclosing]~~ enclosing the fee ~~[therefor, and]~~ for the
12 license. If upon examination by the ~~[Warden]~~ director it
13 ~~[shall appear]~~ appears that the application is in good faith
14 and in other respects proper and reasonable, ~~[he]~~ the
15 director shall grant to ~~[such]~~ the applicant a license
16 therefor; provided that the maximum area that may be included
17 within any park shall not exceed three thousand two hundred
18 acres and that every park shall be enclosed by a game-proof
19 fence ~~[which]~~ that shall conform to specifications required
20 by the ~~[state game commission]~~ division."

21 SECTION 120. Section 17-4-13 NMSA 1978 (being Laws
22 1912, Chapter 85, Section 64, as amended) is amended to read:

23 "17-4-13. LICENSE--~~[SEC. 63]~~ FORM ~~[OF]~~.--~~[SEC. 64.]~~
24 Such license shall be substantially in the following form:

25 GAME AND FISH

.184126.1

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW MEXICO

[~~DEPARTMENT OF~~] GAME AND FISH DIVISION

LICENSED PARKS AND LAKES

No. _____ Class A. Santa Fe _____ [~~19~~] 20__

This certifies that _____
proprietor of a (public or private) (park or lake)
called _____ and situated on
_____ Sec _____ Twp
_____ Range _____ in
_____ county, New Mexico, is hereby
authorized to keep and propagate [~~therein~~] and dispose
of as provided by law the following (game quadrupeds,
birds or fish), viz: _____ together
with such additions thereto (with the natural increase
of all) as may be hereafter lawfully acquired. This
license expires _____ years after date.
_____ [~~Warden~~] Director."

SECTION 121. Section 17-4-16 NMSA 1978 (being Laws
1912, Chapter 85, Section 67, as amended) is amended to
read:

"17-4-16. GAME OR FISH FROM PARKS OR LAKES--SALE [OF--
OWNER--DUTY]--INVOICE--FORM [WARDEN].--[SEC. 67.] When the
proprietor of any licensed park or lake of Class A shall
sell or dispose of any game or game fish as [~~herein~~]
provided [~~he~~] in Sections 17-4-8 through 17-4-28 NMSA 1978,

.184126.1

underscored material = new
[bracketed material] = delete

1 the proprietor shall at the same time deliver to the
2 purchaser or donee or attach thereto an invoice signed by
3 [~~such~~] the proprietor or [~~his~~] the proprietor's agent,
4 stating the number of the license and name of [~~such~~] the
5 park or lake, the date of disposition, the kind and as near
6 as practicable the number and weight of [~~such~~] the game or
7 fish and the name and address of the purchaser, consignee
8 or donee. [~~Such~~] The invoice shall authorize
9 transportation within this state, possession and use for
10 thirty days after its date and shall be substantially in
11 the following form:

STATE OF NEW MEXICO

[~~DEPARTMENT OF~~] GAME AND FISH DIVISION

PRIVATE PARKS AND LAKES--INVOICE

Name of park or
lake _____ Class A No. of
license _____ Date _____ [~~19~~] 20
_____ Kind and number of game and
fish _____ Weight of same _____
lbs. Name of consignee _____
Address of consignee _____

This authorizes transportation within this state,
possession and sale for thirty days after date if
attached to article.

_____ Proprietor _____

underscored material = new
[bracketed material] = delete

1 By _____ Agent.

2 [~~Such~~] The proprietor or [his] the proprietor's agent
3 shall at the same time mail, postpaid, a duplicate of [~~such~~]
4 the invoice to the [Warden] director of the game and fish
5 division of the natural resources and environment department
6 at Santa Fe."

7 SECTION 122. Section 17-4-30 NMSA 1978 (being Laws
8 1951, Chapter 66, Section 1) is amended to read:

9 "17-4-30. FEDERAL AID.--The state of New Mexico hereby
10 assents to the provisions of the act of congress of the
11 United States [~~of America~~] entitled "An Act to Provide That
12 The United States Shall Aid The States In Fish Restoration
13 And Management Projects, And For Other Purposes", approved
14 August 9, 1950 (Public Law 681, 81st Congress), and the
15 [~~state game commission~~] game and fish division of the
16 natural resources and environment department is hereby
17 authorized and directed to perform all [~~such~~] acts as may be
18 necessary to the conduct and establishment of cooperative
19 fish restoration and management projects as defined by
20 [~~said~~] that act of congress and in compliance with [~~said~~]
21 that act and rules and regulations promulgated by the
22 secretary of [~~Agriculture~~] the interior thereunder."

23 SECTION 123. Section 17-4-31 NMSA 1978 (being Laws
24 1951, Chapter 66, Section 2) is amended to read:

25 "17-4-31. FEDERAL FUNDS--DISBURSEMENT.--The [~~state game~~

underscored material = new
[bracketed material] = delete

1 ~~commission]~~ game and fish division of the natural resources
2 and environment department is authorized to receive any
3 [~~moneys~~] money to which the state [~~of New Mexico~~] may become
4 entitled under the [~~aforsaid~~] act of congress set forth in
5 Section 17-4-30 NMSA 1978, such [~~moneys~~] money when received
6 to be deposited with the state treasurer [~~of the state of~~
7 ~~New Mexico~~] to the credit of the [~~State~~] game protection
8 fund, expended for the purpose designated and withdrawn as
9 other [~~moneys are~~] money is withdrawn from the [~~State~~] game
10 protection fund."

11 SECTION 124. Section 17-4-32 NMSA 1978 (being Laws
12 1965, Chapter 73, Section 1) is amended to read:

13 "17-4-32. DESTRUCTION OF BOUNDARY MARKERS.--Every
14 person who shall [~~wilfully~~] willfully, maliciously and
15 without cause break down, injure, remove or destroy any
16 sign, marker or poster erected for the purpose of
17 designating the boundaries of any tract of land, refuge or
18 sanctuary for wildlife, or for the purpose of designating
19 the boundaries of a hunting area set forth by [~~the state~~
20 ~~game commission~~] or under the direction of the director of
21 the [~~department of~~] game and fish division of the natural
22 resources and environment department, shall upon conviction
23 thereof be deemed guilty of a petty misdemeanor."

24 SECTION 125. Section 17-4-33 NMSA 1978 (being Laws
25 2005, Chapter 173, Section 1) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "17-4-33. GAINING ACCESS INTO NATURE PROGRAM--POLICY--
2 ADDITIONAL POWERS OF [~~STATE GAME COMMISSION~~] GAME AND FISH
3 DIVISION.--

4 A. It is the policy of the state [~~of New Mexico~~] to
5 encourage and promote wildlife-associated recreation in New
6 Mexico and to provide for public participation in the use of
7 available natural resources in a manner that will benefit the
8 general public in its enjoyment of public assets and the state
9 and its political subdivisions in increased economic
10 development.

11 B. To implement the state policy, the [~~state game~~
12 ~~commission~~] game and fish division of the natural resources and
13 environment department shall develop and administer a "gaining
14 access into nature program" pursuant to the provisions of this
15 section.

16 C. In addition to its other powers, in order to
17 develop and administer the gaining access into nature program,
18 the [~~state game commission~~] game and fish division may:

19 (1) designate areas and properties under its
20 control where activities other than hunting, fishing and
21 trapping are available to the public;

22 (2) designate activities that may take place on
23 properties under its control and designate conditions and
24 qualifications for the activities;

25 (3) enter into partnership and joint powers

underscored material = new
[bracketed material] = delete

1 agreements, leases and other contractual arrangements with
2 other state agencies, private landowners and other private
3 entities to jointly administer, promote and expand the gaining
4 access into nature program;

5 (4) issue permits, special use licenses and
6 other authorizations for access to individuals and
7 organizations to access [~~state game commission~~] division
8 properties for purposes of participating in gaining access into
9 nature programs and charge fees for the access privileges;
10 provided that the fees do not exceed the reasonable costs
11 associated with developing and administering the gaining access
12 into nature program;

13 (5) engage in public outreach programs to
14 identify through public meetings, surveys and educational
15 programs the interests of the public that may be best served by
16 the gaining access into nature program;

17 (6) adopt such rules as it deems necessary for
18 programs, events or other activities to properly implement the
19 goals and the administration of the gaining access into nature
20 program; and

21 (7) subject to appropriation by the legislature,
22 expend money from the game protection fund necessary to develop
23 and administer the gaining access into nature program,
24 including:

25 (a) the reasonable costs of improving

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 habitat and properties in order to make them suitable for the
2 public uses intended;

3 (b) costs of personnel necessary to service
4 the properties being used for the program and to provide
5 informational and interpretive services on the properties;

6 (c) the reasonable costs of maintenance and
7 repair of habitat and properties being used for public access
8 under the provisions of this section; and

9 (d) costs associated with issuing permits,
10 licenses and other authorizations for access.

11 D. All money collected from issuing and selling
12 gaining access into nature permits, licenses and other
13 authorizations for access shall be deposited in the game
14 protection fund."

15 SECTION 126. Section 17-4-34 NMSA 1978 (being Laws
16 2005, Chapter 177, Section 2) is amended to read:

17 "17-4-34. HABITAT MANAGEMENT STAMP--FUND--EXPENDITURE
18 FOR HABITAT MANAGEMENT--EXCEPTION.--

19 A. On and after April 1, 2006, each of the
20 following licenses or permits shall include a habitat
21 management stamp. The fee for a habitat management stamp
22 shall be three dollars (\$3.00). Each of the following
23 licenses or permits shall not be considered to be a proper
24 and valid license unless the licensee can demonstrate, by a
25 stamp, check off or other official mark, that the fee for the

.184126.1

underscored material = new
[bracketed material] = delete

1 habitat management stamp has been paid, provided that an
2 individual purchaser shall be required to purchase only one
3 stamp each license year, regardless of the number of licenses
4 or permits purchased by that purchaser:

5 (1) a resident or nonresident license
6 specified in Section 17-3-13 NMSA 1978; or

7 (2) a wildlife-associated recreation permit
8 issued by the [~~state game commission~~] game and fish division
9 of the natural resources and environment department pursuant
10 to Section [~~17-1-4~~] 17-1-14 NMSA 1978.

11 B. Revenue from the sale of habitat management
12 stamps shall be deposited in the "habitat management fund",
13 hereby created in the state treasury. The fund shall consist
14 of money appropriated and transferred to the fund and revenue
15 from the sale of habitat management stamps deposited in the
16 fund. Earnings from investment of the fund shall be credited
17 to the fund. Any unexpended or unencumbered balance
18 remaining at the end of a fiscal year shall not revert.

19 Disbursements from the fund shall be made upon warrants drawn
20 by the secretary of finance and administration pursuant to
21 vouchers signed by the director of the [~~department of~~] game
22 and fish division.

23 C. Upon appropriation by the legislature, money in
24 the habitat management fund may be expended by the [~~state~~
25 ~~game commission~~] game and fish division only for the

.184126.1

underscored material = new
[bracketed material] = delete

1 improvement, maintenance, development and operation of
2 property for fish and wildlife habitat management.

3 D. A habitat management stamp shall not be required
4 for persons under the age of eighteen."

5 SECTION 127. Section 17-4-35 NMSA 1978 (being Laws
6 2009, Chapter 38, Section 1, as amended) is amended to read:

7 "17-4-35. AQUATIC INVASIVE SPECIES CONTROL.--

8 A. Based on a determination of credible scientific
9 evidence, the director, after consulting with the secretary
10 of [~~energy, minerals and~~] natural resources and environment
11 and with the concurrence of the director of the New Mexico
12 department of agriculture, is authorized to designate:

13 (1) species of exotic or nonnative animals or
14 plants as aquatic invasive species;

15 (2) water bodies within the state as infested
16 waters; and

17 (3) specific requirements to decontaminate
18 conveyances and equipment.

19 B. Prior to entering a conveyance or equipment into
20 any water body in the state, the owner or person in control
21 of a warning-tagged conveyance or warning-tagged equipment or
22 a conveyance or equipment that has been in an infested water
23 body in New Mexico or elsewhere shall:

24 (1) have the conveyance or equipment
25 decontaminated by a person or entity approved by the director

.184126.1

underscoring material = new
~~[bracketed material]~~ = delete

1 to effect decontamination, and only the person legally
2 effecting the decontamination is authorized to remove a
3 warning tag and provide certification that the conveyance or
4 equipment is free from infestation; or

5 (2) have the conveyance or equipment inspected
6 and certified as free from infestation by trained personnel
7 prior to entering a water body or if certification or other
8 documentation of decontamination is not available, otherwise
9 demonstrate compliance with the decontamination requirements
10 established by the director.

11 C. A law enforcement officer may impound a
12 conveyance or equipment if the person transporting the
13 conveyance or equipment refuses to submit to an inspection
14 authorized by this section and the officer has reason to
15 believe that an aquatic invasive species may be present, or
16 if the conveyance or equipment has a warning tag affixed and
17 the operator of the conveyance is attempting to enter a state
18 water body and cannot provide evidence that the conveyance or
19 equipment has been decontaminated. A law enforcement officer
20 shall take action to prevent equipment or conveyances
21 believed or known to contain an aquatic invasive species and
22 warning-tagged equipment or conveyances from entering a state
23 water body.

24 D. The impoundment of a conveyance or equipment may
25 continue for a reasonable period necessary to inspect and

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 decontaminate the conveyance or equipment.

2 E. Notwithstanding any provision to the contrary,
3 no motor vehicle that is drawing a conveyance shall be
4 impounded pursuant to this section.

5 F. Trained personnel may:

6 (1) establish, operate and maintain aquatic
7 invasive species check stations and conduct inspections at or
8 adjacent to the entrance to any state-controlled water body
9 or, pursuant to a cooperative agreement, at or adjacent to
10 any county, municipal or federally or privately controlled
11 water body or at or adjacent to the exit point of an infested
12 water body or at a location agreed to by the owner of the
13 conveyance or equipment in order to inspect conveyances and
14 equipment prior to a conveyance or equipment entering, being
15 launched onto or being directly exposed to water bodies of
16 the state or upon the conveyance's or equipment's departure
17 from infested waters;

18 (2) affix a warning tag to equipment or a
19 conveyance where the presence of an aquatic invasive species
20 has been found;

21 (3) affix a warning tag to a conveyance or
22 equipment upon the conveyance or equipment leaving an
23 infested water; or

24 (4) affix a warning tag to a conveyance or
25 equipment that the trained personnel have reason to believe

.184126.1

1 is infested with an aquatic invasive species based on its
2 point of origin or use.

3 G. Except for state, local, tribal or federal
4 agencies and their respective agents, employees and
5 contractors while performing their duties or contractual
6 obligations specific to management or control of an aquatic
7 invasive species, it is unlawful for a person to:

8 (1) knowingly possess, import, export, ship or
9 transport an aquatic invasive species into, within or from
10 the state;

11 (2) knowingly release, place, plant or cause
12 to be released, placed or planted an aquatic invasive species
13 into a water body or adjacent to a water body where it
14 reasonably might be anticipated to be introduced into a water
15 body that is not infested;

16 (3) remove a warning tag other than as
17 provided pursuant to this section;

18 (4) introduce any tagged conveyance or
19 equipment or any equipment or conveyance from which a warning
20 tag has been unlawfully removed into a water body without
21 first having that conveyance or equipment decontaminated and
22 certified pursuant to the provisions of this section; or

23 (5) knowingly introduce into any water body a
24 conveyance or equipment that has been exposed to an infested
25 water body or a water body in any other state known to

.184126.1

underscored material = new
[bracketed material] = delete

1 contain aquatic invasive species without first being
2 decontaminated and certified pursuant to the provisions of
3 this section.

4 H. Knowingly or willfully violating any provision
5 of this section as a first offense is a petty misdemeanor. A
6 second or subsequent violation of any provision of this
7 section is a misdemeanor. Any violation is punishable
8 pursuant to Section 31-19-1 NMSA 1978.

9 I. The director or the director's designee shall
10 coordinate the monitoring of the water bodies of the state
11 for the presence of aquatic invasive species, including
12 privately controlled waters if the director has authorized
13 access to them or has received permission to monitor them
14 from the persons controlling access to such waters.

15 J. Upon determination of an infested water body in
16 New Mexico, the director shall immediately recommend to the
17 person in control of the infested water body actions to limit
18 access or take other actions to prevent the potential spread
19 of an aquatic invasive species to other water bodies.

20 K. The [~~commission~~] division is authorized to adopt
21 rules pursuant to Section 17-1-26 NMSA 1978, and the
22 secretary of [~~energy, minerals and~~] natural resources and
23 environment is authorized to adopt rules pursuant to Section
24 16-2-32 NMSA 1978 as necessary to implement and enforce the
25 provisions of this section.

.184126.1

underscored material = new
[bracketed material] = delete

1 L. The director may enter into cooperative
2 agreements with any federal, state, county or municipal
3 authority or private entity that may be in control of a water
4 body potentially affected by aquatic invasive species.

5 M. As used in this section:

6 (1) "aquatic invasive species" means quagga
7 mussels and zebra mussels and other exotic or nonnative
8 aquatic animals, including invertebrates but excluding those
9 species listed as protected in Chapter 17 NMSA 1978, or any
10 plant or animal species whose introduction into an aquatic
11 ecosystem is determined by the director, after consulting
12 with the secretary of [~~energy, minerals and~~] natural
13 resources and environment and with the concurrence of the
14 director of the New Mexico department of agriculture, to
15 cause or be likely to cause harm to the economy, environment
16 or human health or safety;

17 [~~(2) "commission" means the state game~~
18 ~~commission;~~

19 ~~(3)]~~ (2) "conveyance" means a motor vehicle,
20 vessel, trailer or any associated equipment or containers,
21 including, but not limited to, live wells, fish-hauling
22 tanks, ballast tanks, motorized skis and bilge areas that may
23 contain or carry an aquatic invasive species or any other
24 equipment by which aquatic invasive species may be introduced
25 into an aquatic ecosystem;

.184126.1

underscored material = new
[bracketed material] = delete

1 [~~(4)~~] (3) "decontaminate" means to wash,
2 drain, dry or otherwise treat a conveyance in accordance with
3 guidelines established by the director in order to remove or
4 destroy an aquatic invasive species;

5 [~~(5)~~] (4) "director" means the director of the
6 [~~department of game and fish~~] division;

7 (5) "division" means the game and fish
8 division of the natural resources and environment department;

9 (6) "equipment" means an article, a tool, an
10 implement, a device or a piece of clothing, including boots
11 and waders, that is capable of containing or transporting
12 water;

13 (7) "infested water" means a geographic
14 region, water body or water supply system or facility within
15 the state that the director, after consulting with the
16 secretary of [~~energy, minerals and~~] natural resources and
17 environment and with the concurrence of the director of the
18 New Mexico department of agriculture, identifies as carrying
19 or containing an aquatic invasive species or a water body
20 outside the state that has been identified as carrying or
21 containing an aquatic invasive species;

22 (8) "inspect" means to examine a conveyance or
23 equipment to determine whether an aquatic invasive species is
24 present;

25 (9) "law enforcement officer" means a state or

.184126.1

underscored material = new
[bracketed material] = delete

1 federal certified law enforcement officer;

2 (10) "trained personnel" means individuals who
3 have successfully completed the United States fish and
4 wildlife service's aquatic invasive species watercraft
5 inspection and decontamination training, level I or level II,
6 or an equivalent training recognized by the director;

7 (11) "warning tag" means a tag that is affixed
8 to equipment or a conveyance upon the equipment or conveyance
9 leaving an infested water or upon an inspection determining
10 that the equipment or conveyance contains an aquatic invasive
11 species that requires the equipment or conveyance to be
12 decontaminated; and

13 (12) "water body" means a natural or impounded
14 surface water, including a stream, river, spring, lake,
15 reservoir, pond, wetland, tank or fountain."

16 SECTION 128. Section 17-5-3 NMSA 1978 (being Laws 1939,
17 Chapter 178, Section 3, as amended) is amended to read:

18 "17-5-3. SEASONS--SPECIAL PERMITS TO TAKE ANIMALS DOING
19 DAMAGE.--Fur-bearing animals as defined in Section 17-5-2
20 NMSA 1978 shall be taken only during the seasons declared by
21 [~~regulation~~] rule of the [~~state game commission~~] game and
22 fish division of the natural resources and environment
23 department promulgated as provided in Section 17-5-4 NMSA
24 1978. The director of the division may, however, issue
25 permits at any time for the taking of fur-bearing animals

.184126.1

underscored material = new
[bracketed material] = delete

1 doing damage to game, private property, poultry or
2 livestock."

3 SECTION 129. Section 17-5-4 NMSA 1978 (being Laws 1939,
4 Chapter 178, Section 4, as amended) is amended to read:

5 "17-5-4. ~~[STATE GAME COMMISSION]~~ GAME AND FISH DIVISION
6 TO ADMINISTER ACT--RULES [AND REGULATIONS].--The ~~[state game~~
7 ~~commission]~~ game and fish division of the natural resources
8 and environment department is authorized and directed to
9 administer the provisions of Sections 17-5-1 through
10 17-5-9 NMSA 1978 and to make such rules ~~[and regulations]~~ and
11 establish such ~~[service]~~ services as it may deem necessary to
12 carry out all the provisions and purposes of those sections.
13 In making ~~[such]~~ rules [and regulations] and providing when
14 and by what means fur-bearing animals may be hunted, taken,
15 captured, possessed or killed, the ~~[state game commission]~~
16 division shall give due regard to the zones of temperatures
17 and to the distribution, abundance, economic value and
18 breeding habits of ~~[such]~~ the animals. Provided, nothing in
19 Sections 17-5-1 through 17-5-9 NMSA 1978 shall interfere with
20 the authority granted to the president of New Mexico state
21 university under Sections 77-15-1 through 77-15-5 NMSA 1978
22 or ~~[shall]~~ prevent livestock producers without a permit from
23 the taking of bobcats that are doing damage to livestock."

24 SECTION 130. Section 17-5-5 NMSA 1978 (being Laws 1939,
25 Chapter 178, Section 5, as amended) is amended to read:

.184126.1

1 "17-5-5. TRAPPER'S LICENSES.--

2 A. No resident who has reached [~~his twelfth~~
3 ~~birthday~~] the age of twelve shall capture, trap or possess
4 any fur-bearing animal or attempt to do so without first
5 procuring a resident trapper's license; or, in the case of a
6 resident who has reached [~~his twelfth birthday~~] the age of
7 twelve but not [~~his eighteenth birthday~~] the age of eighteen,
8 a resident junior trapper's license.

9 B. No nonresident shall capture, trap or possess
10 any fur-bearing animal or skunk or coyote or attempt to do so
11 without first procuring a nonresident trapper's license.

12 C. No nonresident who resides in a state that does
13 not permit New Mexico residents to procure nonresident
14 trapper's licenses may purchase a New Mexico nonresident
15 trapper's license.

16 D. Trappers shall release all fur-bearing animals
17 trapped during closed seasons, and resident trappers who
18 release all fur-bearing animals during open seasons need not
19 procure a trapper's license.

20 E. Trappers on official business, paid from state
21 and federal funds and under supervision of the [~~department~~
22 ~~of~~] game and fish division of the natural resources and
23 environment department, the New Mexico department of
24 agriculture or the United States fish and wildlife service
25 need not purchase a trapper's license.

.184126.1

underscored material = new
[bracketed material] = delete

1 F. Trapping of animals, both fur-bearing and
2 nongame, by a resident in order to protect [~~his~~] livestock or
3 domesticated animals or fowl shall not be subject to rules
4 [~~and regulations~~] on trapping made pursuant to Section 17-5-4
5 NMSA 1978 or to licensing requirements provided in this
6 section.

7 G. The [~~state game commission~~] game and fish
8 division may by [~~regulation~~] rule require holders of
9 trapper's licenses to use bobcat pelt tags and may specify
10 the conditions for use of the tags."

11 SECTION 131. Section 17-5-8 NMSA 1978 (being Laws 1939,
12 Chapter 178, Section 9) is amended to read:

13 "17-5-8. OFFICERS AUTHORIZED TO ENFORCE ACT.--All peace
14 officers, [~~Port of Entry~~] employees of the motor
15 transportation division of the department of public safety
16 and [~~deputy game wardens~~] conservation officers are hereby
17 authorized and required to cooperate fully with the [~~state~~
18 ~~game commission~~] game and fish division of the natural
19 resources and environment department in the enforcement of
20 [~~this Act~~] Sections 17-5-1 through 17-5-9 NMSA 1978. It
21 shall be the duty of all [~~such~~] those persons to make
22 searches, seizures and arrests as in the case of other
23 misdemeanors."

24 SECTION 132. Section 17-6-1 NMSA 1978 (being Laws 1973,
25 Chapter 242, Section 1) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "17-6-1. SHORT TITLE.--~~[This act]~~ Chapter 17, Article 6
2 NMSA 1978 may be cited as the "Habitat Protection Act"."

3 SECTION 133. Section 17-6-2 NMSA 1978 (being Laws 1973,
4 Chapter 242, Section 2) is amended to read:

5 "17-6-2. DEFINITIONS.--As used in the Habitat
6 Protection Act:

7 A. [~~commission~~] division means the [~~state game~~
8 ~~commission~~] game and fish division of the natural resources
9 and environment department;

10 B. "cross-country" means travel over the
11 countryside other than by road;

12 C. "vehicle" means any motor-powered mechanical
13 device used for conveyance; and

14 D. "road" means any maintained or unmaintained
15 right of way that has been utilized by the public, and
16 includes roads, streets, highways and state scenic,
17 recreation or historical trails."

18 SECTION 134. Section 17-6-3 NMSA 1978 (being Laws 1973,
19 Chapter 242, Section 3, as amended) is amended to read:

20 "17-6-3. RESTRICTIONS ON MOTOR VEHICLE USE--
21 ~~RECOMMENDATIONS--RULES [AND REGULATIONS].--~~

22 A. When the [~~commission~~] division determines that
23 the operation of vehicles within a certain area is or may be
24 damaging to wildlife reproduction, wildlife management or the
25 wildlife habitat of the area, the [~~department~~] division, with

underscored material = new
[bracketed material] = delete

1 the concurrence of the private land owner or the land
2 management agency involved, after proper notice, shall hold
3 public meetings in the area affected on the necessity and
4 desirability of closing such lands to the operation of any
5 vehicles for a stated definite period. Upon finding, after
6 public meetings, that the use of vehicles on such lands is or
7 may be damaging to wildlife reproduction or habitat and that
8 it is necessary and desirable to close such lands to vehicles
9 in order to avoid such damage, the ~~[commission]~~ division
10 shall make and publish an order closing such lands to vehicle
11 operation except on established roads that are marked by
12 appropriate signs.

13 B. The ~~[commission]~~ division may also recommend to
14 the appropriate land management agency or the legislature
15 that particular areas of land be set aside or made available
16 for recreational vehicles.

17 C. The ~~[commission]~~ division may also enter into
18 agreements with or recommend to public land management
19 agencies that certain areas be closed to camping during
20 particular open hunting seasons or that camping be permitted
21 only in designated areas during such open hunting seasons.

22 D. The ~~[commission]~~ division may enter into
23 agreements with private landowners and land management
24 agencies controlling areas that the ~~[commission]~~ division has
25 made recommendations on pursuant to Subsection B of this

.184126.1

underscored material = new
[bracketed material] = delete

1 section. Any such agreement shall stipulate the
2 restrictions, prohibitions and permitted uses of vehicles in
3 such area and the duties of the [~~commission~~] division and
4 such private landowner or land management agency relating to
5 the enforcement of the terms of such agreement. Agreements
6 with private landowners may also include provisions for
7 sharing costs of performing any of the functions as set forth
8 in Section [~~53-6-7 NMSA 1953~~] 17-6-7 NMSA 1978.

9 E. The [~~commission~~] division shall adopt and file,
10 in accordance with the State Rules Act, rules [~~and~~
11 ~~regulations~~] necessary to carry out the provisions of the
12 Habitat Protection Act, including [~~regulations~~] rules setting
13 out procedures for hearings and notice."

14 SECTION 135. Section 17-6-4 NMSA 1978 (being Laws 1973,
15 Chapter 242, Section 4) is amended to read:

16 "17-6-4. NOTICES OF RESTRICTIONS--POSTING--
17 PUBLICATION.--

18 A. For all areas closed to vehicles pursuant to
19 Section [~~53-6-3 NMSA 1953~~] 17-6-3 NMSA 1978, the [~~commission~~]
20 division shall cause notices of the restrictions,
21 prohibitions or permitted uses of such areas to be posted
22 prior to their effective date on the main traveled roads
23 entering such areas and at such other locations as the
24 [~~commission~~] division deems appropriate.

25 B. In addition to the public meetings required by

.184126.1

underscored material = new
[bracketed material] = delete

1 Section [~~53-6-3 NMSA 1953~~] 17-6-3 NMSA 1978 and posted
2 notices required by Subsection A of this section, the
3 [~~commission~~] division shall publish a notice of such
4 restrictions, prohibitions or permitted uses, together with a
5 description of the area, in a newspaper of general
6 circulation in the area of the state affected for three
7 consecutive weeks prior to the effective date of such
8 restrictions, prohibitions or permitted uses. Copies of the
9 notices of restrictions, prohibitions or permitted uses
10 together with a description or appropriate map of the area
11 affected by the notices shall be made available to the public
12 by the [~~commission~~] division."

13 SECTION 136. Section 17-6-7 NMSA 1978 (being Laws 1973,
14 Chapter 242, Section 7) is amended to read:

15 "17-6-7. EXPENDITURE OF FUNDS--FUNCTIONS.--The
16 [~~commission~~] division may expend such funds as become
17 available from the game protection fund, state or federal
18 grants or other sources to carry out the provisions of the
19 Habitat Protection Act, including but not limited to:

20 A. investigations and surveys of actual or possible
21 wildlife habitat damage by vehicles and the study of areas to
22 be recommended for recreational vehicle use;

23 B. posting notices of restrictions, prohibitions
24 and permitted use of vehicles;

25 C. providing maps and other necessary information

.184126.1

underscoring material = new
[bracketed material] = delete

1 to the public;

2 D. an informational and educational program on
3 wildlife habitat preservation and restoration; or

4 E. the enforcement of the provisions of the Habitat
5 Protection Act."

6 SECTION 137. Section 17-6-8 NMSA 1978 (being Laws 1973,
7 Chapter 242, Section 8) is amended to read:

8 "17-6-8. LIMITATION OF LIABILITY ON LANDOWNERS.--No
9 person or corporation, or their successors in interest, [~~who~~]
10 that has granted a right of way or easement across [~~his~~] the
11 person's land to the [~~commission~~] division for use under the
12 Habitat Protection Act shall be liable to any user of the
13 land for injuries suffered on [~~said~~] the right of way or
14 easement unless the injuries are caused by the willful or
15 wanton misconduct of the grantor."

16 SECTION 138. Section 17-7-1 NMSA 1978 (being Laws 1976
17 (S.S.), Chapter 43, Section 1) is amended to read:

18 "17-7-1. SHORT TITLE.--~~[This act]~~ Chapter 17, Article 7
19 NMSA 1978 may be cited as the "Shooting Range Fund Act"."

20 SECTION 139. Section 17-7-2 NMSA 1978 (being Laws 1976
21 (S.S.), Chapter 43, Section 2, as amended) is amended to
22 read:

23 "17-7-2. FUND CREATED.--There is created in the state
24 treasury a special fund to be known as the "shooting range
25 fund". All money appropriated to this fund or accruing to it

.184126.1

underscored material = new
[bracketed material] = delete

1 as a result of gift, deposit or from other sources, except
2 interest earned on the fund ~~[which]~~ that shall be credited to
3 the general fund, shall not be transferred to another fund or
4 encumbered or disbursed in any manner except as provided in
5 the Shooting Range Fund Act. Appropriated money in the fund
6 shall not revert to the general fund. Money in the fund
7 shall be used for construction or improvement of public
8 shooting ranges pursuant to the Shooting Range Fund Act.
9 Disbursements from the fund shall be made only upon warrant
10 drawn by the secretary of finance and administration pursuant
11 to vouchers signed by the director of the ~~[department of]~~
12 game and fish division of the natural resources and
13 environment department."

14 SECTION 140. Section 17-7-3 NMSA 1978 (being Laws 1976
15 (S.S.), Chapter 43, Section 3) is amended to read:

16 "17-7-3. ADMINISTRATION.--

17 A. The ~~[state game commission]~~ game and fish
18 division of the natural resources and environment department
19 shall administer the provisions of the Shooting Range Fund
20 Act and shall, pursuant to the State Rules Act, adopt such
21 rules ~~[and regulations]~~ as deemed necessary to carry out the
22 provisions of the Shooting Range Fund Act.

23 B. Rules ~~[and regulations]~~ shall include:

24 (1) a method for the determination of a county
25 or municipality eligibility for grants from the shooting

.184126.1

underscored material = new
[bracketed material] = delete

1 range fund;

2 (2) procedures for applications, approvals and
3 rejections of grant proposals;

4 (3) a requirement that a county or
5 municipality contribute at least twenty-five percent of the
6 cost necessary to complete a shooting range grant proposal;

7 (4) a requirement that one-half of the local
8 contribution required by Paragraph (3) of this subsection is
9 to be money;

10 (5) a requirement that a shooting range
11 project shall be undertaken in accordance with specifications
12 determined by the [~~department of~~] game and fish division.
13 Such specifications may provide for pistol, rifle, shotgun
14 and archery facilities; and

15 (6) provisions for the operation and
16 maintenance of shooting range facilities.

17 C. Grants from the shooting range fund shall be
18 awarded by the [~~state game commission~~] game and fish division
19 only for new public shooting range construction or for
20 improvements to existing public shooting ranges. No funds
21 shall be approved for maintenance of shooting ranges [~~nor~~] or
22 for shooting range renovation prior to 1980. No grant from
23 the money appropriated to the shooting range fund shall
24 exceed:

25 (1) twenty-five percent of the cost of any one

.184126.1

underscored material = new
[bracketed material] = delete

1 project; ~~not~~ or

2 (2) more than ten percent of the amount
3 appropriated to the shooting range fund by the Shooting Range
4 Fund Act.

5 D. The ~~[state game commission]~~ game and fish
6 division may expend not more than five percent of the
7 appropriated money in the shooting range fund each fiscal
8 year for administrative purposes to carry out the provisions
9 of the Shooting Range Fund Act."

10 SECTION 141. Section 25-1-2 NMSA 1978 (being Laws 1977,
11 Chapter 309, Section 2, as amended) is amended to read:

12 "25-1-2. DEFINITIONS.--As used in the Food Service
13 Sanitation Act:

14 A. "agency" or "division" means the natural
15 resources and environment department ~~[of environment]~~;

16 B. "board" means the environmental improvement
17 board;

18 C. "employee" means ~~[any individual]~~ a person
19 employed in a food service establishment who transports food
20 or food containers, who handles food during storage,
21 preparation or serving, who comes in contact with any
22 utensils or who is employed in a room in which food is
23 stored, prepared or served;

24 D. "food" means any solid or liquid substance
25 intended for human consumption by eating or drinking;

.184126.1

underscored material = new
[bracketed material] = delete

1 E. "general public" includes beneficiaries of
2 governmental feeding programs and private charitable feeding
3 programs and residents and employees of institutions that
4 provide meals to their residents and employees either with or
5 without direct payment to the institution by the residents or
6 employees;

7 F. "temporary food service establishment" means a
8 food service establishment that operates at a fixed location
9 in conjunction with a single event or celebration for a short
10 period of time not exceeding the event or celebration or not
11 exceeding thirty days;

12 ~~G. "person" means an individual or any other legal~~
13 ~~entity;~~

14 H.] G. "food service establishment" means:

15 (1) any fixed or mobile place where food is
16 served and sold for consumption on the premises;

17 (2) any fixed or mobile place where food is
18 prepared for sale to or consumption by the general public
19 either on or off the premises, including any place where food
20 is manufactured for ultimate sale in a sealed original
21 package, but "prepared" as used in this paragraph does not
22 include the preparation of raw fruits, vegetables or pure
23 honey for display and sale in a grocery store or similar
24 operation. For purposes of this paragraph, "pure honey"
25 means natural liquid or solid honey, extracted from the combs

.184126.1

underscored material = new
[bracketed material] = delete

1 or in the comb, taken from beehives, with no processing or
2 additional ingredients. "Food service establishment" does
3 not mean a dairy establishment; and

4 (3) meat markets, whether or not operated in
5 conjunction with a grocery store;

6 [~~F.~~] H. "utensil" means any implement used in the
7 storage, preparation, transportation or service of food; and

8 [~~J.~~] I. "dairy establishment" means a milk
9 processing or milk producing facility."

10 SECTION 142. Section 25-2-2 NMSA 1978 (being Laws 1951,
11 Chapter 169, Section 2, as amended) is amended to read:

12 "25-2-2. DEFINITIONS.--For the purpose of the New
13 Mexico Food Act:

14 A. "board" means the environmental improvement
15 board;

16 B. "dairy establishment" means a milk processing or
17 milk producing facility;

18 C. "division" means the natural resources and
19 environment department [~~of environment~~];

20 D. "director" means the secretary of natural
21 resources and environment or [~~his~~] the secretary's authorized
22 representative;

23 E. "person" includes an individual, partnership,
24 corporation and association;

25 F. "food" means:

.184126.1

underscored material = new
[bracketed material] = delete

1 (1) articles used for food or drink for [~~man~~]
2 people or animals;

3 (2) chewing gum; and

4 (3) articles used for components of food or
5 drink or chewing gum for [~~man~~] people or animals;

6 G. "label" means a display of written, printed or
7 graphic matter upon the immediate container of any article.

8 A requirement made by or under authority of the New Mexico
9 Food Act that any word, statement or other information appear
10 on the label shall not be considered to be complied with
11 unless such word, statement or other information also appears
12 on the outside container or wrapper, if any, of the retail
13 package of such article or is easily legible through the
14 outside container or wrapper;

15 H. "immediate container" does not include package
16 liners;

17 I. "labeling" means all labels and other written,
18 printed or graphic matter:

19 (1) upon an article or any of its containers
20 or wrappers; or

21 (2) accompanying such article;

22 J. if an article is alleged to be misbranded
23 because the labeling is misleading or if an advertisement is
24 alleged to be false because it is misleading, then in
25 determining whether the labeling or advertisement is

.184126.1

underscored material = new
[bracketed material] = delete

1 misleading, there shall be taken into account, among other
2 things, not only representations made or suggested by
3 statement, word, design, device, sound or in any combination
4 thereof, but also the extent to which the labeling or
5 advertisement fails to reveal facts material in the light of
6 such representations or material with respect to consequences
7 [~~which~~] that may result from the use of the article to which
8 the labeling or advertisement relates under the conditions of
9 use prescribed in the labeling or advertisement thereof or
10 under such conditions of use as are customary or usual;

11 K. "advertisement" means all representations
12 disseminated in any manner or by any means, other than by
13 labeling, for the purpose of inducing, or [~~which~~] that are
14 likely to induce, directly or indirectly, the purchase of
15 food;

16 L. "contaminated with filth" applies to any food
17 not securely protected from dust, dirt and, so far as may be
18 necessary by all reasonable means, [~~from~~] all foreign or
19 injurious contaminations, or any food found to contain any
20 dust, dirt, foreign or injurious contamination or
21 infestation;

22 M. the provisions shall be considered to include
23 the manufacture, production, processing, packing, exposure,
24 offer, possession and holding of any such article and the
25 supplying or applying of any such articles in the conduct of

.184126.1

underscored material = new
[bracketed material] = delete

1 any food establishment; and

2 N. "federal act" means the Federal Food Drug and
3 Cosmetic Act, [~~21 USC § 301 et seq.~~] the Federal Meat
4 Inspection Act [~~21 USC § 601 et seq.~~] and the federal Poultry
5 Products Inspection Act [~~21 USC § 451 et seq.~~]."

6 SECTION 143. Section 25-5-1 NMSA 1978 (being Laws 1955,
7 Chapter 244, Section 1, as amended) is amended to read:

8 "25-5-1. DEFINITIONS.--As used in the Flour and Bread
9 Act, unless the context otherwise requires:

10 A. "flour" means foods commonly known in the
11 milling and baking industries [~~as~~] and:

12 (1) includes:

13 (a) white flour, also known as wheat flour
14 or plain flour;

15 [~~(2)~~] (b) bromated flour;

16 [~~(3)~~] (c) self-rising flour, also known as
17 self-rising white flour or self-rising wheat flour; and

18 [~~(4)~~] (d) phosphated flour, also known as
19 phosphated white flour or phosphated wheat flour; [~~but~~] and

20 (2) excludes whole wheat flour and [~~also~~
21 ~~excludes~~] special flours not used for bread, roll, bun or
22 biscuit baking, such as specialty cake, pancake and pastry
23 flours;

24 B. "white bread" means any bread made with flour as
25 defined in Subsection A of this section, whether baked in a

.184126.1

underscored material = new
[bracketed material] = delete

1 pan or on a hearth or screen, ~~[which]~~ that is commonly known
2 or usually represented and sold as white bread, including
3 Vienna bread, French bread and Italian bread;

4 C. "rolls" includes plain white rolls and buns of
5 the semi-bread dough type, namely: soft rolls such as
6 hamburger rolls, hot dog rolls and Parker House rolls and
7 hard rolls such as Vienna rolls and Kaiser rolls; but ~~[shall]~~
8 "rolls" does not include yeast-raised sweet rolls or sweet
9 buns made with fillings or coatings such as cinnamon rolls or
10 buns and butterfly rolls;

11 D. "board" means the environmental improvement
12 board;

13 E. "director" means the ~~[director of the division]~~
14 secretary of natural resources and environment or ~~[his]~~ the
15 secretary's authorized representative;

16 F. "division" means the ~~[environmental improvement~~
17 ~~division of the health]~~ natural resources and environment
18 department; and

19 G. "person" means an individual, corporation,
20 partnership, association, joint stock company, trust or any
21 group of persons, whether incorporated or not, engaged in the
22 commercial manufacture or sale of flour, white bread or
23 rolls."

24 SECTION 144. Section 29-4A-3 NMSA 1978 (being Laws
25 1995, Chapter 59, Section 3, as amended) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "29-4A-3. DEFINITIONS.--As used in the Peace Officers'
2 Survivors Supplemental Benefits Act:

3 A. "fund" means the peace officers' survivors fund;

4 B. "peace officer" means any full-time salaried and
5 commissioned or certified law enforcement officer of a police
6 or sheriff's department or a conservation officer of the
7 natural resources and environment department [~~of game and~~
8 ~~fish~~] as used in Chapter 17 NMSA 1978 that is part of or
9 administered by the state or any political subdivision of the
10 state; and

11 C. "secretary" means the secretary of public
12 safety."

13 SECTION 145. Section 30-8-5 NMSA 1978 (being Laws 1975,
14 Chapter 199, Section 2) is amended to read:

15 "30-8-5. ENFORCEMENT.--The [~~state game commission~~] game
16 and fish division of the natural resources and environment
17 department may designate trained employees of the
18 [~~commission~~] division vested with police powers to enforce
19 the provisions of Section [~~40A-8-4 NMSA 1953~~] 30-8-4 NMSA
20 1978. In addition, members of the state police, county
21 sheriffs and their deputies, police officers and those
22 employees of the state [~~park and recreation commission~~] parks
23 division of the department vested with police powers shall
24 enforce the provisions of that section."

25 SECTION 146. Section 30-8-7 NMSA 1978 (being Laws 1975,

.184126.1

underscored material = new
[bracketed material] = delete

1 Chapter 199, Section 4) is amended to read:

2 "30-8-7. PUBLIC EDUCATION.--The [~~state game commission,~~
3 ~~the state highway]~~ department of transportation and the state
4 [~~park and recreation commission]~~ parks division and the
5 [~~environmental improvement agency]~~ game and fish division of
6 the natural resources and environment department are
7 encouraged to institute public education programs through the
8 news media in order to inform the public of the litter
9 problem in New Mexico and of individual efforts that can be
10 made to assist in the abatement of the problem. In addition,
11 these agencies are authorized to work with industry
12 organizations in a joint anti-litter campaign so that
13 additional effect may be given to the anti-litter effort in
14 New Mexico."

15 SECTION 147. Section 30-14-1 NMSA 1978 (being Laws
16 1963, Chapter 303, Section 14-1, as amended) is amended to
17 read:

18 "30-14-1. CRIMINAL TRESPASS.--

19 A. Criminal trespass consists of knowingly entering
20 or remaining upon posted private property without possessing
21 written permission from the owner or person in control of the
22 land. The provisions of this subsection do not apply if:

23 (1) the owner or person in control of the land
24 has entered into an agreement with the [~~department of]~~ game
25 and fish division of the natural resources and environment

.184126.1

underscored material = new
[bracketed material] = delete

1 department granting access to the land to the general public
2 for the purpose of taking any game animals, birds or fish by
3 hunting or fishing; or

4 (2) a person is in possession of a landowner
5 license given to ~~him~~ the person by the owner or person in
6 control of the land that grants access to that particular
7 private land for the purpose of taking any game animals,
8 birds or fish by hunting or fishing.

9 B. Criminal trespass also consists of knowingly
10 entering or remaining upon the unposted lands of another
11 knowing that such consent to enter or remain is denied or
12 withdrawn by the owner or occupant ~~thereof~~ of the lands.
13 Notice of no consent to enter shall be deemed sufficient
14 notice to the public and evidence to the courts, by the
15 posting of the property at all vehicular access entry ways.

16 C. Criminal trespass also consists of knowingly
17 entering or remaining upon lands owned, operated or
18 controlled by the state or any of its political subdivisions
19 knowing that consent to enter or remain is denied or
20 withdrawn by the custodian ~~thereof~~ of the lands.

21 D. Any person who enters upon the lands of another
22 without prior permission and injures, damages or destroys any
23 part of the realty or its improvements, including buildings,
24 structures, trees, shrubs or other natural features, is
25 guilty of a misdemeanor and ~~he~~ shall be liable to the

.184126.1

underscored material = new
[bracketed material] = delete

1 owner, lessee or person in lawful possession for civil
2 damages in an amount equal to double the value of the damage
3 to the property injured or destroyed.

4 E. ~~[Whoever]~~ Any person who commits criminal
5 trespass is guilty of a misdemeanor. Additionally, any
6 person who violates the provisions of Subsection A, B or C of
7 this section, when in connection with hunting, fishing or
8 trapping activity, shall have ~~[his]~~ the person's hunting or
9 fishing license revoked by the ~~[state game commission]~~ game
10 and fish division for a period of not less than three years,
11 pursuant to the provisions of Section 17-3-34 NMSA 1978.

12 F. ~~[Whoever]~~ Any person who knowingly removes,
13 tampers with or destroys any "no trespass" sign is guilty of
14 a petty misdemeanor; except when the damage to the sign
15 amounts to more than one thousand dollars (\$1,000), ~~[he or~~
16 ~~she]~~ the person is guilty of a misdemeanor and shall be
17 subject to imprisonment in the county jail for a definite
18 term less than one year or a fine not more than one thousand
19 dollars (\$1,000) or to both such imprisonment and fine in the
20 discretion of the judge.

21 G. This section, as amended, shall be published in
22 all issues of "Big Game Hunt Proclamation" as published by
23 the ~~[department of]~~ game and fish division."

24 **SECTION 148.** Section 30-32-3 NMSA 1978 (being Laws
25 1921, Chapter 33, Section 6, as amended) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "30-32-3. ARREST FOR VIOLATIONS.--All peace officers of
2 the state, including [~~department of game and fish~~]
3 conservation officers of the game and fish division of the
4 natural resources and environment department, have the power
5 to make arrests on warrant issued by any magistrate of the
6 state for violation of any of the state forest fire laws,
7 including Chapter 68, Article 2 NMSA 1978, rules implementing
8 Chapter 68, Article 2 NMSA 1978 or fire restrictions issued
9 pursuant to such rules, or without warrant for violations of
10 those laws committed in their presence, and shall not be
11 liable to civil action for trespass for acts done in the
12 discharge of their duties."

13 **SECTION 149.** Section 33-13-2 NMSA 1978 (being Laws
14 1998, Chapter 57, Section 2) is amended to read:

15 "33-13-2. DEFINITIONS.--As used in the Inmate Forestry
16 Work Camp Act:

17 A. "department" means the corrections department;

18 B. "forestry division" means the forestry division
19 of the [~~energy, minerals and~~] natural resources and
20 environment department;

21 C. "program" means the inmate forestry work camp
22 program; and

23 D. "work camp" means a minimum security facility
24 operated by the department that houses inmates training or
25 working in the program."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 150. Section 35-7-6 NMSA 1978 (being Laws 1968,
2 Chapter 62, Section 101) is amended to read:

3 "35-7-6. MAGISTRATE ADMINISTRATION--CURRENT STATUTES.--

4 A. Each magistrate shall obtain without cost:

5 (1) the volume of compiled laws relating to
6 magistrates, along with current [~~pocket~~] supplements, from
7 the New Mexico compilation commission;

8 (2) all current laws relating to motor
9 vehicles from the [~~commissioner~~] director of the motor
10 [~~vehicles~~] vehicle division of the taxation and revenue
11 department;

12 (3) all current laws relating to game animals
13 and fish [~~along with all regulations of the state game~~
14 ~~commission~~] from the [~~department of~~] game and fish division
15 of the natural resources and environment department; and

16 (4) all current laws relating to motor
17 carriers, along with all regulations of the [~~state~~
18 ~~corporation~~] public regulation commission relating to motor
19 carriers, from the [~~state corporation~~] public regulation
20 commission.

21 B. These materials remain the property of the state
22 and shall be delivered by each magistrate to [~~his~~] the
23 magistrate's successor in office or to the administrative
24 office of the courts. Each magistrate is responsible for the
25 care of the materials and for the cost of replacement in case

.184126.1

underscored material = new
[bracketed material] = delete

1 of loss, damage or if not disposed of as required in this
2 section."

3 SECTION 151. Section 40-5A-1 NMSA 1978 (being Laws
4 1995, Chapter 25, Section 1) is amended to read:

5 "40-5A-1. SHORT TITLE.--~~[This act]~~ Chapter 40, Article
6 5A NMSA 1978 may be cited as the "Parental Responsibility
7 Act"."

8 SECTION 152. Section 40-5A-3 NMSA 1978 (being Laws
9 1995, Chapter 25, Section 3, as amended) is amended to read:

10 "40-5A-3. DEFINITIONS.--As used in the Parental
11 Responsibility Act:

12 A. "applicant" means an obligor who is applying for
13 issuance of a license;

14 B. "board" means:

15 (1) the construction industries commission,
16 the construction industries division and the electrical
17 bureau, mechanical bureau and general construction bureau of
18 the construction industries division of the regulation and
19 licensing department;

20 (2) the manufactured housing committee and
21 manufactured housing division of the regulation and licensing
22 department;

23 (3) a board, commission or agency that
24 administers a profession or occupation licensed pursuant to
25 Chapter 61 NMSA 1978;

.184126.1

underscored material = new
[bracketed material] = delete

1 (4) any other state agency to which the
2 Uniform Licensing Act is applied by law;

3 (5) a licensing board or other authority that
4 issues a license, certificate, registration or permit to
5 engage in a profession or occupation regulated in New Mexico;

6 (6) the [~~department of~~] game and fish division
7 of the natural resources and environment department;

8 (7) the motor vehicle division of the taxation
9 and revenue department; or

10 (8) the alcohol and gaming division of the
11 regulation and licensing department;

12 C. "certified list" means a verified list that
13 includes the names, social security numbers and last known
14 addresses of obligors not in compliance;

15 D. "compliance" means that:

16 (1) an obligor is no more than thirty days in
17 arrears in payment of amounts required to be paid pursuant to
18 an outstanding judgment and order for support; and

19 (2) an obligor has, after receiving
20 appropriate notice, complied with subpoenas or warrants
21 relating to paternity or child support proceedings;

22 E. "department" means the human services
23 department;

24 F. "judgment and order for support" means the
25 judgment entered against an obligor by the district court or

.184126.1

underscored material = new
[bracketed material] = delete

1 a tribal court in a case enforced by the department pursuant
2 to Title IV-D of the Social Security Act;

3 G. "license" means a liquor license or other
4 license, certificate, registration or permit issued by a
5 board that a person is required to have to engage in a
6 profession or occupation in New Mexico; "license" includes a
7 commercial driver's license, driver's license and
8 recreational licenses, including hunting, fishing or trapping
9 licenses;

10 H. "licensee" means an obligor to whom a license
11 has been issued; and

12 I. "obligor" means the person who has been ordered
13 to pay child or spousal support pursuant to a judgment and
14 order for support."

15 SECTION 153. Section 50-9-1 NMSA 1978 (being Laws 1972,
16 Chapter 63, Section 1, as amended) is amended to read:

17 "50-9-1. SHORT TITLE.--~~[Sections 50-9-1 through~~
18 ~~50-9-25]~~ Chapter 50, Article 9 NMSA 1978 may be cited as the
19 "Occupational Health and Safety Act"."

20 SECTION 154. Section 50-9-3 NMSA 1978 (being Laws 1972,
21 Chapter 63, Section 3, as amended) is amended to read:

22 "50-9-3. DEFINITIONS.--As used in the Occupational
23 Health and Safety Act:

24 A. "person" means any individual, partnership,
25 firm, public or private corporation, association, trust,

underscored material = new
[bracketed material] = delete

1 estate, political subdivision or agency or any other legal
2 entity or their legal representatives, agents or assigns;

3 B. "employee" means an individual who is employed
4 by an employer, but does not include a domestic employee or a
5 volunteer nonsalaried firefighter;

6 C. "employer" means any person who has one or more
7 employees, but does not include the United States;

8 D. "board" means the environmental improvement
9 board;

10 E. "department" means the [~~department of~~] natural
11 resources and environment department;

12 F. "place of employment" means any place, area or
13 environment in or about which an employee is required or
14 permitted to work;

15 G. "commission" means the [~~occupational health and~~
16 ~~safety review commission established under the Occupational~~
17 ~~Health and Safety Act~~] board;

18 H. "chemical" means any element, chemical compound
19 or mixture of elements or compounds;

20 I. "hazardous chemical" means any chemical or
21 combination of chemicals that has been labeled hazardous by
22 the chemical manufacturer, importer or distributor in
23 accordance with regulations promulgated by the federal
24 Occupational Safety and Health Act of 1970;

25 J. "label" means any written, printed or graphic

.184126.1

underscored material = new
[bracketed material] = delete

1 material displayed on or affixed to containers of chemicals
2 [~~which~~] that identifies the chemical as hazardous;

3 K. "material safety data sheet" means written or
4 printed material concerning a hazardous chemical that
5 contains information on the identity listed on the label, the
6 chemical and common names of the hazardous ingredients, the
7 physical and health hazards, the primary route of entry, the
8 exposure limits, any generally applicable control measures,
9 any emergency or first aid procedures, the date of
10 preparation and the name, address and telephone number of the
11 chemical manufacturer, importer, employer or other
12 responsible party preparing or distributing the material
13 safety data sheet;

14 L. "mobile work site" means any place of employment
15 in standard industrial classification codes 13, oil and gas
16 extraction, and 15 through 17, construction, where work is
17 performed in a different location than the principal office
18 in a fixed location used by the employer; and

19 M. "secretary" means the secretary of natural
20 resources and environment."

21 SECTION 155. Section 60-2C-10 NMSA 1978 (being Laws
22 1989, Chapter 346, Section 10) is amended to read:

23 "60-2C-10. PENALTY--CRIMINAL.--

24 A. [~~Any~~] An individual, firm, partnership or
25 corporation that violates [~~any~~] a provision of the Fireworks

.184126.1

underscored material = new
[bracketed material] = delete

1 Licensing and Safety Act is guilty of a misdemeanor and upon
2 conviction shall be punished by a fine of not more than one
3 thousand dollars (\$1,000) or imprisonment for not more than
4 one year, or both.

5 B. Nothing in the Fireworks Licensing and Safety
6 Act shall apply to or prohibit ~~[any]~~ employees of the game
7 and fish division of the natural resources and environment
8 department ~~[of game and fish]~~ or the United States fish and
9 wildlife service from possessing fireworks for control of
10 game birds and animals or to prohibit ~~[any]~~ a law enforcement
11 officer from possessing fireworks in the performance of ~~[his]~~
12 the officer's duties or to prohibit ~~[any]~~ a municipality or
13 civic organization ~~[therein]~~ from sponsoring and conducting
14 in connection with ~~[any]~~ a public celebration an officially
15 supervised and controlled fireworks display."

16 SECTION 156. Section 61-14E-4 NMSA 1978 (being Laws
17 1983, Chapter 317, Section 4, as amended) is amended to read:

18 "61-14E-4. DEFINITIONS.--As used in the Medical Imaging
19 and Radiation Therapy Health and Safety Act:

20 A. "advisory council" means the medical imaging and
21 radiation therapy advisory council;

22 B. "board" means the environmental improvement
23 board;

24 C. "certificate of limited practice" means a
25 certificate issued pursuant to the Medical Imaging and

.184126.1

underscored material = new
[bracketed material] = delete

1 Radiation Therapy Health and Safety Act to persons who
2 perform restricted diagnostic radiography under direct
3 supervision of a licensed practitioner limited to the
4 following specific procedures:

5 (1) the viscera of the thorax;

6 (2) extremities;

7 (3) radiation to humans for diagnostic
8 purposes in the practice of dentistry;

9 (4) axial/appendicular skeleton; or

10 (5) the foot, ankle or lower leg;

11 D. "certified nurse practitioner" means a person
12 licensed pursuant to Section 61-3-23.2 NMSA 1978;

13 E. "credential" or "certification" means the
14 recognition awarded to an individual who meets the
15 requirements of a credentialing or certification
16 organization;

17 F. "credentialing organization" or "certification
18 organization" means a nationally recognized organization
19 recognized by the board that issues credentials or
20 certification through testing or evaluations that determine
21 whether an individual meets defined standards for training
22 and competence in a medical imaging modality;

23 G. "department" means the [~~department of~~] natural
24 resources and environment department;

25 H. "diagnostic medical sonographer" means a person,

.184126.1

underscored material = new
[bracketed material] = delete

1 including a vascular technologist or echocardiographer, other
2 than a licensed practitioner, who provides patient care
3 services using ultrasound;

4 I. "division" means the environmental health
5 ~~[division]~~ bureau of the ~~[department of]~~ environmental
6 protection division of the natural resources and environment
7 department;

8 J. "ionizing radiation" means alpha particles, beta
9 particles, gamma rays, x-rays, neutrons, high-speed
10 electrons, high-speed protons and other particles capable of
11 producing ions; "ionizing radiation" does not include non-
12 ionizing radiation, such as sound waves, radio waves or
13 microwaves, or visible, infrared or ultraviolet light;

14 K. "license" means a document issued by the
15 department pursuant to the Medical Imaging and Radiation
16 Therapy Health and Safety Act to ~~[an individual]~~ a person who
17 has met the requirements of licensure;

18 L. "licensed practitioner" means a person licensed
19 to practice medicine, dentistry, podiatry, chiropractic or
20 osteopathy in this state;

21 M. "licensure" means a grant of authority through a
22 license or limited license to perform specific medical
23 imaging and radiation therapy services pursuant to the
24 Medical Imaging and Radiation Therapy Health and Safety Act;

25 N. "magnetic resonance technologist" means a person

.184126.1

1 other than a licensed practitioner who performs magnetic
2 resonance procedures under the supervision of a licensed
3 practitioner using magnetic fields and radio frequency
4 signals;

5 O. "medical imaging" means the use of substances or
6 equipment emitting ionizing or non-ionizing radiation on
7 humans for diagnostic or interventional purposes;

8 P. "medical imaging modality" means:

9 (1) diagnostic medical sonography and all of
10 its subspecialties;

11 (2) magnetic resonance imaging and all of its
12 subspecialties;

13 (3) nuclear medicine technology and all of its
14 subspecialties;

15 (4) radiation therapy and all of its
16 subspecialties; and

17 (5) radiography and all of its subspecialties;

18 Q. "medical imaging professional" means a person
19 who is a magnetic resonance technologist, radiographer,
20 nuclear medicine technologist or diagnostic medical
21 sonographer and who is licensed pursuant to the Medical
22 Imaging and Radiation Therapy Health and Safety Act;

23 R. "non-ionizing radiation" means the optical
24 radiations, including ultraviolet, visible, infrared and
25 lasers, static and time-varying electric and magnetic fields

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 and radio frequency, including microwave radiation and
2 ultrasound;

3 S. "nuclear medicine technologist" means a person
4 other than a licensed practitioner who applies
5 radiopharmaceutical agents to humans for diagnostic or
6 therapeutic purposes under the direction of a licensed
7 practitioner;

8 T. "physician assistant" means a person licensed
9 pursuant to Section 61-6-7 or 61-10A-4 NMSA 1978;

10 U. "radiation therapy" means the application of
11 ionizing radiation to humans for therapeutic purposes;

12 V. "radiation therapy technologist" means a person
13 other than a licensed practitioner whose application of
14 radiation to humans is for therapeutic purposes;

15 W. "radiographer" means a person other than a
16 licensed practitioner whose application of radiation to
17 humans is for diagnostic purposes;

18 X. "radiography" means the application of radiation
19 to humans for diagnostic purposes, including adjustment or
20 manipulation of x-ray systems and accessories, including
21 image receptors, positioning of patients, processing of films
22 and any other action that materially affects the radiation
23 dose to patients;

24 Y. "radiologist" means a licensed practitioner
25 certified by the American board of radiology, the British

.184126.1

underscored material = new
[bracketed material] = delete

1 royal college of [~~radiology~~] radiologists, the American
2 osteopathic board of radiology or the American chiropractic
3 board of radiology; and

4 Z. "radiologist assistant" means [~~an individual~~] a
5 person licensed as a radiographer as defined in the Medical
6 Imaging and Radiation Therapy Health and Safety Act who holds
7 additional certification as a registered radiologist
8 assistant by the American registry of radiologic
9 technologists and who works under the supervision of a
10 radiologist; provided that a radiologist assistant shall not
11 interpret images, render diagnoses or prescribe medications
12 or therapies."

13 SECTION 157. Section 61-33-2 NMSA 1978 (being Laws
14 1992, Chapter 44, Section 2, as amended) is amended to read:

15 "61-33-2. DEFINITIONS.--As used in the Utility
16 Operators Certification Act:

17 A. "certified operator" means a person who is
18 certified by the department as being qualified to operate one
19 of the classifications of public water supply systems or
20 public wastewater facilities;

21 B. "commission" means the water quality control
22 commission;

23 C. "department" means the [~~department of~~] natural
24 resources and environment department;

25 D. "domestic liquid waste" means human excreta and

underscoring material = new
~~[bracketed material] = delete~~

1 water-carried waste from typical residential plumbing
2 fixtures and activities, including waste from toilets, sinks,
3 bath fixtures, clothes or dishwashing machines and floor
4 drains;

5 E. "domestic liquid waste treatment unit" means any
6 system that is designed to discharge less than two thousand
7 gallons per day and that is subject to rules promulgated by
8 the environmental improvement board pursuant to Paragraph (3)
9 of Subsection A of Section 74-1-8 NMSA 1978 or a watertight
10 unit designed, constructed and installed to stabilize only
11 domestic liquid waste and to retain solids contained in such
12 domestic liquid waste, including septic tanks;

13 F. "operate" means performing any activity,
14 function, process control decision or system integrity
15 decision regarding water quality or water quantity that has
16 the potential to affect the proper functioning of a public
17 water supply system or public wastewater facility or to
18 affect human health, public welfare or the environment;

19 G. "person" means any agency, department or
20 instrumentality of the United States and any of its officers,
21 agents or employees, the state or any agency, institution or
22 political subdivision thereof, any public or private
23 corporation, individual, partnership, association or other
24 entity, and includes any officer or governing or managing
25 body of any political subdivision or public or private

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 corporation;

2 H. "public wastewater facility" means a system of
3 structures, equipment and processes designed to collect and
4 treat domestic and industrial waste and dispose of the
5 effluent, but does not include:

6 (1) any domestic liquid waste treatment unit;

7 or

8 (2) any industrial facility subject to an
9 industrial pretreatment program regulated by the United
10 States environmental protection agency under the requirements
11 of the federal Clean Water Act of 1977; and

12 I. "public water supply system" means:

13 (1) a system for the provision through pipes
14 or other constructed conveyances to the public of water for
15 human consumption or domestic purposes if the system:

16 (a) has at least fifteen service
17 connections; or

18 (b) regularly serves an average of at
19 least twenty-five individuals at least sixty days of the
20 year; and

21 (2) includes any water supply source and any
22 treatment, storage and distribution facilities under control
23 of the operator of the system."

24 SECTION 158. Section 66-3-1001.1 NMSA 1978 (being Laws
25 2005, Chapter 325, Section 1, as amended) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "66-3-1001.1. DEFINITIONS.--As used in the Off-Highway
2 Motor Vehicle Act:

3 A. "board" means the off-highway motor vehicle
4 advisory board;

5 B. "department" means the [~~department of~~] game and
6 fish division of the natural resources and environment
7 department;

8 C. "division" means the motor vehicle division of
9 the taxation and revenue department;

10 D. "fund" means the trail safety fund;

11 E. "off-highway motor vehicle" means a motor
12 vehicle designed by the manufacturer for operation
13 exclusively off the highway or road and includes:

14 (1) "all-terrain vehicle", which means a motor
15 vehicle fifty inches or less in width, having an unladen dry
16 weight of one thousand pounds or less, traveling on three or
17 more low-pressure tires and having a seat designed to be
18 straddled by the operator and handlebar-type steering
19 control;

20 (2) "off-highway motorcycle", which means a
21 motor vehicle traveling on not more than two tires and having
22 a seat designed to be straddled by the operator and that has
23 handlebar-type steering control;

24 (3) "snowmobile", which means a motor vehicle
25 designed for travel on snow or ice and steered and supported

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 in whole or in part by skis, belts, cleats, runners or low-
2 pressure tires;

3 (4) "recreational off-highway vehicle", which
4 means a motor vehicle designed for travel on four or more
5 non-highway tires, for recreational use by one or more
6 persons, and having:

7 (a) a steering wheel for steering control;

8 (b) non-straddle seating;

9 (c) maximum speed capability greater than
10 thirty-five miles per hour;

11 (d) gross vehicle weight rating no greater
12 than one thousand seven hundred fifty pounds;

13 (e) less than eighty inches in overall
14 width, exclusive of accessories;

15 (f) engine displacement of less than one
16 thousand cubic centimeters; and

17 (g) identification by means of a
18 seventeen-character vehicle identification number; or

19 (5) by rule of the department, any other
20 vehicles that may enter the market that fit the general
21 profile of vehicles operated off the highway for recreational
22 purposes;

23 F. "staging area" means a parking lot, trailhead or
24 other location to or from which an off-highway motor vehicle
25 is transported so that it may be placed into operation or

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 removed from operation; and

2 G. "unpaved public roadway" means a dirt graveled
3 street or road that is constructed, signed and maintained for
4 regular passenger-car use by the general public."

5 SECTION 159. Section 66-3-1017 NMSA 1978 (being Laws
6 2005, Chapter 325, Section 19, as amended) is amended to
7 read:

8 "66-3-1017. OFF-HIGHWAY MOTOR VEHICLE ADVISORY BOARD
9 CREATED--MEMBERS--COMPENSATION.--

10 A. The "off-highway motor vehicle advisory board"
11 is created to advise the department on matters related to
12 administration of the Off-Highway Motor Vehicle Act. The
13 board shall consist of the following seven members appointed
14 by the governor:

15 (1) one landowner living near a national
16 forest or bureau of land management property that is used
17 extensively for recreational off-highway vehicle activity;

18 (2) one producer or one grazing permittee on
19 public lands from the farming or livestock industry;

20 (3) one person from the off-highway motor
21 vehicle industry;

22 (4) one off-highway motor vehicle user;

23 (5) one hunter or angler;

24 (6) one quiet recreationalist, such as a
25 hiker, backpacker, birdwatcher, equestrian, mountain biker,

.184126.1

underscored material = new
[bracketed material] = delete

1 rock climber or archaeological enthusiast; and

2 (7) one member with expertise in injury
3 prevention or treatment.

4 B. The board shall select a chair and a vice chair.

5 C. The board shall meet at the call of the chair
6 but not less than twice annually.

7 D. Members shall be appointed to staggered terms of
8 two years each; provided that no more than four terms expire
9 in any one year. The board members shall select by lot four
10 members to serve initial terms of three years each. A
11 vacancy shall be filled by appointment of the governor for
12 the remainder of the unexpired term. Members of the board
13 shall not be ~~[entitled to reimbursement pursuant to the Per~~
14 ~~Diem and Mileage Act]~~ paid and shall not receive per diem."

15 SECTION 160. A new section of the Off-Highway Motor
16 Vehicle Act is enacted to read:

17 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
18 REPEAL.--The off-highway motor vehicle advisory board is
19 terminated on July 1, 2013 pursuant to the provisions of the
20 Sunset Act. The board shall continue to operate according to
21 the provisions of Section 66-3-1017 NMSA 1978 until July 1,
22 2014. Effective July 1, 2014, Section 66-3-1017 NMSA 1978 is
23 repealed."

24 SECTION 161. Section 66-12-3 NMSA 1978 (being Laws
25 1959, Chapter 338, Section 3, as amended) is amended to read:

.184126.1

1 "66-12-3. DEFINITIONS.--As used in the Boat Act:

2 A. "vessel" means every description of watercraft,
3 other than a seaplane on the water, used or capable of being
4 used as a means of transportation on water;

5 B. "motorboat" means any vessel propelled by
6 machinery, whether or not machinery is the principal source
7 of propulsion, but does not include a vessel that has a valid
8 marine document issued by the ~~[bureau of]~~ United States
9 customs and border protection ~~[of the United States~~
10 ~~government]~~ or any federal agency successor thereto;

11 "motorboat" includes any vessel propelled or designed to be
12 propelled by sail and that does not have a valid document
13 issued by a federal agency, but does not include a sailboard
14 or windsurf board;

15 C. "owner" means a person, other than a lienholder,
16 having the property in or title to a motorboat; "owner"
17 includes a person entitled to the use or possession of a
18 motorboat subject to an interest in another person, reserved
19 or created by agreement and securing payment or performance
20 of an obligation, but excludes a lessee under a lease not
21 intended as security;

22 D. "waters of this state" means waters within the
23 territorial limits of this state;

24 E. "person" means an individual, partnership, firm,
25 corporation, association or other entity;

.184126.1

underscored material = new
[bracketed material] = delete

1 F. "operate" means to navigate or otherwise use a
2 motorboat or a vessel;

3 G. "state agency" means any department,
4 institution, board, bureau, commission, district or committee
5 of the government of this state and means every office or
6 officer of any state agency;

7 H. "subdivision of the state" means every county,
8 county institution, board, bureau or commission, incorporated
9 city, town or village, drainage, conservancy, irrigation or
10 other district and every office or officer of any subdivision
11 of this state;

12 I. "division" means the state parks division of the
13 [~~energy, minerals and~~] natural resources and environment
14 department;

15 J. "boat" means a motorboat that is ten feet in
16 length or longer;

17 K. "dealer" means any person who engages in whole
18 or in part in the business of buying, selling or exchanging
19 new and unused motorboats or used motorboats, or both, either
20 outright or on conditional sale, bailment, lease, chattel
21 mortgage or otherwise and who has an established place of
22 business for sale, trade and display of motorboats; "dealer"
23 includes a yacht broker;

24 L. "lien" means every chattel mortgage, conditional
25 sales contract, lease, purchase lease, sales lease, contract,

.184126.1

underscored material = new
[bracketed material] = delete

1 security interest under the Uniform Commercial Code or other
2 instrument in writing having the effect of a mortgage or lien
3 or encumbrance upon, or intended to hold the title to any
4 boat in the former owner, possessor or grantor;

5 M. "manufacturer" means any person engaged in the
6 business of manufacturing or importing new and unused
7 motorboats for the purpose of sale or trade;

8 N. "demonstration" means:

9 (1) the operation of a motorboat on the waters
10 of this state for the purpose of selling, transferring,
11 bartering, trading, negotiating or attempting to negotiate
12 the sale or exchange of an interest in a motor boat; or

13 (2) the operation of a motorboat by a
14 manufacturer for the purpose of testing the motorboat; and

15 O. "established place of business" means a
16 salesroom in an enclosed building or structure that the
17 dealer owns or leases, where the business of bartering,
18 trading and selling of motorboats is conducted and where the
19 books, records and files necessary to conduct the business
20 are maintained."

21 SECTION 162. Section 68-2-29 NMSA 1978 (being Laws
22 1990, Chapter 96, Section 1) is amended to read:

23 "68-2-29. SHORT TITLE.--Sections [~~1 through 5 of this~~
24 ~~act]~~ 68-2-29 through 68-2-33 NMSA 1978 may be cited as the
25 "New Mexico Forest Re-Leaf Act"."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 163. Section 68-2-31 NMSA 1978 (being Laws
2 1990, Chapter 96, Section 3, as amended) is amended to read:

3 "68-2-31. DEFINITION.--As used in the New Mexico Forest
4 Re-Leaf Act:

5 A. "division" means the forestry division of the
6 [~~energy, minerals and~~] natural resources and environment
7 department; and

8 B. "tree" means any living single-stemmed or multi-
9 stemmed woody material."

10 SECTION 164. A new section of the New Mexico Forest
11 Re-Leaf Act is enacted to read:

12 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
13 REPEAL.--The tree planting advisory committee is terminated
14 on July 1, 2015 pursuant to the provisions of the Sunset Act.
15 The committee shall continue to operate according to the
16 provisions of Section 68-2-33 NMSA 1978 until July 1, 2016.
17 Effective July 1, 2016, Section 68-2-33 NMSA 1978 is
18 repealed."

19 SECTION 165. A new section of the Mining Safety Act is
20 enacted to read:

21 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
22 REPEAL.--The mining safety board is terminated on July 1,
23 2017 pursuant to the provisions of the Sunset Act. The board
24 shall continue to operate according to the provisions of
25 Sections 69-8-3 through 69-8-4.1 NMSA 1978 until July 1,

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 2018. Effective July 1, 2018, Sections 69-8-3 through
2 69-8-4.1 NMSA 1978 are repealed."

3 SECTION 166. Section 69-25A-3 NMSA 1978 (being Laws
4 1979, Chapter 291, Section 3, as amended) is amended to read:

5 "69-25A-3. DEFINITIONS.--As used in the Surface Mining
6 Act:

7 A. "commission" means the [~~coal surface~~] mining
8 commission;

9 B. "director", when used without further
10 qualification, means the director of the mining and minerals
11 division of the [~~energy, minerals and~~] natural resources and
12 environment department or [~~his~~] the director's designee;

13 C. "alluvial valley floors" means the
14 unconsolidated stream-laid deposits holding streams where
15 water availability is sufficient for subirrigation or flood
16 irrigation agricultural activities but does not include
17 upland areas [~~which~~] that are generally overlain by a thin
18 veneer of colluvial deposits composed chiefly of debris from
19 sheet erosion, deposits by unconcentrated runoff or slope
20 wash, together with talus, other mass movement accumulation
21 and windblown deposits;

22 D. "approximate original contour" means that
23 surface configuration achieved by backfilling and grading of
24 the mined area so that the reclaimed area, including any
25 terracing or access roads, closely resembles the general

.184126.1

underscored material = new
[bracketed material] = delete

1 surface configuration of the land prior to mining and blends
2 into and complements the drainage pattern of the surrounding
3 terrain with all highwalls and spoil piles eliminated; water
4 impoundments may be permitted where the director determines
5 that they are in compliance with Paragraph (8) of Subsection
6 B of Section 69-25A-19 NMSA 1978;

7 E. "imminent danger to the health and safety of the
8 public" means the existence of any condition or practice, or
9 any violation of a permit or other requirement of the Surface
10 Mining Act, in a surface coal mining and reclamation
11 operation, which condition, practice or violation could
12 reasonably be expected to cause substantial physical harm to
13 persons outside the permit area before the condition,
14 practice or violation can be abated. A reasonable
15 expectation of death or serious injury before abatement
16 exists if a rational person, subjected to the same conditions
17 or practices giving rise to the peril, would not [~~expose~~
18 ~~himself~~] agree to be exposed to the danger during the time
19 necessary for abatement;

20 F. "operator" means any person engaged in coal
21 mining who removes or intends to remove more than two hundred
22 fifty tons of coal from the earth by coal mining within
23 twelve consecutive calendar months in any one location;

24 G. "other minerals" means clay, stone, sand,
25 gravel, metalliferous and nonmetalliferous ores and any other

.184126.1

underscored material = new
[bracketed material] = delete

1 solid material or substances of commercial value excavated in
2 solid form from natural deposits on or in the earth,
3 exclusive of coal, and those minerals [~~which~~] that occur
4 naturally in liquid or gaseous form;

5 H. "permit" means a permit to conduct surface coal
6 mining and reclamation operations issued by the director
7 pursuant to the Surface Mining Act;

8 I. "permit applicant" or "applicant" means a person
9 applying for a permit;

10 J. "permit area" means the area of land indicated
11 on the approved map submitted by the operator with [~~his~~] the
12 operator's application, which area of land is to be covered
13 by the operator's bond as required by Section 69-25A-13 NMSA
14 1978 and shall be readily identifiable by appropriate markers
15 on the site;

16 K. "permittee" means a person holding a permit;

17 L. "person" means an individual, partnership,
18 association, society, joint stock company, firm, company,
19 corporation or other business organization;

20 M. [~~the term~~] "prime farmland" is to be defined by
21 [~~regulation~~] rule of the commission after considering such
22 factors as moisture availability, temperature regime,
23 chemical balance, permeability, surface layer composition,
24 susceptibility to flooding, erosion characteristics, history
25 of use for intensive agricultural purposes and regulations

.184126.1

underscored material = new
[bracketed material] = delete

1 issued by the United States secretary of agriculture;

2 N. "reclamation plan" means a plan submitted by an
3 applicant for a permit ~~[which]~~ that sets forth a plan for
4 reclamation of the proposed surface coal mining operations
5 pursuant to Section 69-25A-12 NMSA 1978;

6 O. "surface coal mining and reclamation operations"
7 means surface coal mining operations and all activities
8 necessary and incident to the reclamation of those operations
9 after the date of enactment of the Surface Mining Act;

10 P. "surface coal mining operations" means:

11 (1) activities conducted on the surface of
12 lands in connection with a surface coal mine or activities
13 subject to the requirements of Section 69-25A-20 NMSA 1978
14 relating to surface operations and surface impacts incident
15 to an underground coal mine. The activities include
16 excavation for the purpose of obtaining coal, including such
17 common methods as contour, strip, auger, mountaintop removal,
18 box cut, open pit and area mining. These activities also
19 include uses of explosives and blasting and in situ
20 distillation or retorting, leaching or other chemical or
21 physical processing and the cleaning, concentrating or other
22 processing or preparation, including loading of coal at or
23 near the mine site. ~~[Provided]~~ However, ~~[that]~~ such
24 activities do not include the extraction of coal incidental
25 to the extraction of other minerals where coal does not

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 exceed sixteen and two-thirds percent of the tonnage of
2 minerals removed for purposes of commercial use or sale or
3 coal exploration subject to Section 69-25A-16 NMSA 1978; and

4 (2) the areas upon which these activities
5 occur or where the activities disturb the natural land
6 surface. These areas also include any adjacent land, the use
7 of which is incidental to any of the activities, all lands
8 affected by the construction of new roads or the improvement
9 or use of existing roads to gain access to the site of these
10 activities and for haulage and excavations, workings,
11 impoundments, dams, ventilation shafts, entryways, refuse
12 banks, dumps, stockpiles, overburden piles, spoil banks, culm
13 banks, tailings, holes or depressions, repair areas, storage
14 areas, processing areas, shipping areas and other areas upon
15 which are sited structures, facilities or other property or
16 materials on the surface, resulting from or incident to these
17 activities;

18 Q. "unwarranted failure to comply" means the
19 failure of a permittee to prevent the occurrence of any
20 violation of ~~[his]~~ the permittee's permit or any requirement
21 of the Surface Mining Act due to indifference, lack of
22 diligence or lack of reasonable care, or the failure to abate
23 any violation of the permit or the Surface Mining Act due to
24 indifference, lack of diligence or lack of reasonable care;
25 and

.184126.1

underscored material = new
[bracketed material] = delete

1 R. "lignite coal" means consolidated lignitic coal
2 [~~having~~] that has less than eight thousand three hundred BTUs
3 per pound and that is moisture- and mineral-matter-free."

4 SECTION 167. A new section of the Surface Mining Act is
5 enacted to read:

6 "[NEW MATERIAL] DUTIES OF COAL SURFACE MINING COMMISSION
7 TO MINING COMMISSION.--Beginning July 1, 2011, the mining
8 commission shall assume the duties of the coal surface mining
9 commission. All rules of the coal surface mining commission
10 shall remain in force unless the mining commission repeals or
11 amends them."

12 SECTION 168. Section 69-25B-3 NMSA 1978 (being Laws
13 1980, Chapter 87, Section 3, as amended) is amended to read:

14 "69-25B-3. DEFINITIONS.--As used in the Abandoned Mine
15 Reclamation Act:

16 A. "director" means the director of the mining and
17 minerals division of the [~~energy, minerals and~~] natural
18 resources and environment department;

19 B. "eligible lands and water" means land or water
20 that was mined or that was affected by mining, wastebanks,
21 processing or other mining processes and abandoned or left in
22 an inadequate reclamation status and for which there is no
23 continuing reclamation responsibility under state or federal
24 laws;

25 C. "emergency" means a sudden danger or impairment

.184126.1

underscored material = new
[bracketed material] = delete

1 that presents a high probability of substantial physical harm
2 to health, safety or general welfare of people before the
3 danger can be abated under normal program procedures; and

4 D. "fund" means the abandoned mine reclamation
5 fund."

6 SECTION 169. Section 69-36-1 NMSA 1978 (being Laws
7 1993, Chapter 315, Section 1) is amended to read:

8 "69-36-1. SHORT TITLE.--~~[This act]~~ Chapter 69, Article
9 36 NMSA 1978 may be cited as the "New Mexico Mining Act"."

10 SECTION 170. Section 69-36-3 NMSA 1978 (being Laws
11 1993, Chapter 315, Section 3) is amended to read:

12 "69-36-3. DEFINITIONS.--As used in the New Mexico
13 Mining Act:

14 A. "affected area" means the area outside of the
15 permit area where the land surface, surface water, ground
16 water and air resources are ~~[impacted]~~ affected by mining
17 operations within the permit area;

18 B. "commission" means the mining commission
19 ~~[established in the New Mexico Mining Act];~~

20 C. "director" means the director of the division or
21 ~~[his]~~ the director's designee;

22 D. "division" means the mining and minerals
23 division of the ~~[energy, minerals and]~~ natural resources and
24 environment department;

25 E. "existing mining operation" means an extraction

.184126.1

underscored material = new
[bracketed material] = delete

1 operation that produced marketable minerals for a total of at
2 least two years between January 1, 1970 and [~~the effective~~
3 ~~date of the New Mexico Mining Act~~] June 18, 1993;

4 F. "exploration" means the act of searching for or
5 investigating a mineral deposit, including sinking shafts,
6 tunneling, drilling core and bore holes, digging pits, making
7 cuts and other works for the purpose of extracting samples
8 prior to commencement of development or extraction operations
9 and the building of roads, access ways and other facilities
10 related to such work; however, activities that cause no or
11 very little surface disturbance, such as airborne surveys and
12 photographs, use of instruments or devices that are hand
13 carried or otherwise transported over the surface to perform
14 magnetic, radioactive or other tests and measurements,
15 boundary or claim surveying, location work or other work that
16 causes no greater disturbance than is caused by ordinary
17 lawful use of the area by persons not engaged in exploration,
18 are excluded from the meaning of "exploration";

19 G. "mineral" means a nonliving commodity that is
20 extracted from the earth for use or conversion into a
21 [~~saleable~~] salable or usable product, but does not include
22 clays, adobe, flagstone, potash, sand, gravel, caliche,
23 borrow dirt, quarry rock used as aggregate for construction,
24 coal, surface water or subsurface water, geothermal
25 resources, oil and natural gas together with other chemicals

.184126.1

underscored material = new
[bracketed material] = delete

1 recovered with them, commodities, byproduct materials and
2 wastes that are regulated by the nuclear regulatory
3 commission or waste regulated under Subtitle C of the federal
4 Resource Conservation and Recovery Act of 1976;

5 H. "mining" means the process of obtaining useful
6 minerals from the earth's crust or from previously disposed
7 or abandoned mining wastes, including exploration, open-cut
8 mining and surface operation, the disposal of refuse from
9 underground and in situ mining, mineral transportation,
10 concentrating, milling, evaporation, leaching and other
11 processing. "Mining" does not mean the exploration and
12 extraction of potash, sand, gravel, caliche, borrow dirt
13 [~~and~~] or quarry rock used as aggregate in construction; the
14 exploration and extraction of natural petroleum in a liquid
15 or gaseous state by means of wells or pipes; the development
16 or extraction of coal; the extraction of geothermal
17 resources; smelting, refining, cleaning, preparation,
18 transportation or other off-site operations not conducted on
19 permit areas; or the extraction, processing or disposal of
20 commodities, byproduct materials or wastes or other
21 activities regulated by the federal nuclear regulatory
22 commission;

23 I. "new mining operation" means a mining operation
24 that engages in a development or extraction operation after
25 [~~the effective date of the New Mexico Mining Act~~] June 18,

.184126.1

underscored material = new
[bracketed material] = delete

1 1993 and that is not an existing mining operation;

2 J. "permit area" means the geographical area
3 defined in the permit for a new mining operation or for an
4 existing mining operation on which mining operations are
5 conducted or cause disturbance; and

6 K. "reclamation" means the employment during and
7 after a mining operation of measures designed to mitigate the
8 disturbance of affected areas and permit areas and, to the
9 extent practicable, provide for the stabilization of a permit
10 area following closure that will minimize future impact to
11 the environment from the mining operation and protect air and
12 water resources."

13 **SECTION 171.** Section 69-36-6 NMSA 1978 (being Laws
14 1993, Chapter 315, Section 6, as amended) is amended to read:

15 "69-36-6. MINING COMMISSION--CREATED--MEMBERS.--

16 A. The "mining commission" is created. The
17 commission shall consist of seven voting members, including:

18 (1) the director of the bureau of geology and
19 mineral resources of the New Mexico institute of mining and
20 technology or [~~his~~] the director's designee;

21 (2) the secretary of natural resources and
22 environment or [~~his~~] the secretary's designee;

23 (3) the state engineer or [~~his~~] the state
24 engineer's designee;

25 (4) the commissioner of public lands or [~~his~~]

.184126.1

underscored material = new
[bracketed material] = delete

1 the commissioner's designee;

2 (5) the director of the [~~department of~~] game
3 and fish division of the natural resources and environment
4 department or [~~his~~] the director's designee; and

5 (6) two members of the public and an alternate
6 for each, all to be appointed by the governor with the advice
7 and consent of the senate. The public members shall be
8 chosen to represent and to balance environmental and mining
9 interests while minimizing conflicts of interest. No more
10 than one of the public members and one of the alternates
11 appointed may belong to the same political party. When the
12 initial appointments are made, one of the public members and
13 [~~his~~] the public member's alternate will be designated to
14 serve for two-year terms, after which all public members
15 shall serve for four years. An alternate member may vote
16 only in the absence of the public member for whom [~~he~~] the
17 member is the alternate.

18 B. The [~~chairman~~] chair of the soil and water
19 conservation commission, [~~and~~] the director of the
20 agricultural experiment station of New Mexico state
21 university and the inspector or their designees shall be
22 nonvoting members of the commission.

23 C. The commission shall elect a [~~chairman~~] chair
24 and other necessary officers and keep records of its
25 proceedings.

underscored material = new
[bracketed material] = delete

1 D. The commission shall convene upon the call of
2 the [~~chairman~~] chair or a majority of its members.

3 E. A majority of the voting members of the
4 commission shall be a quorum for the transaction of business.
5 However, no action of the commission shall be valid unless
6 concurred upon by at least four of the members present.

7 F. No member of the commission, with the exception
8 of one of the public members and [~~his~~] the public member's
9 alternate, shall receive, or shall have received during the
10 previous two years, more than ten percent of [~~his~~] that
11 member's income directly or indirectly from permit holders or
12 applicants for permits. Each member of the commission shall,
13 upon acceptance of [~~his~~] appointment and prior to the
14 performance of any [~~of his~~] duties, file a statement of
15 disclosure with the secretary of state stating:

16 (1) the amount of money or other valuable
17 consideration received, whether provided directly or
18 indirectly, from persons subject to or who appear before the
19 commission;

20 (2) the identity of the source of money or
21 other valuable consideration; and

22 (3) whether the money or other valuable
23 consideration was in excess of ten percent of [~~his~~] the
24 member's gross personal income in either of the preceding two
25 years.

.184126.1

underscored material = new
[bracketed material] = delete

1 G. No commissioner with any financial interest
2 affected or potentially affected by a permit action may
3 participate in proceedings related to that permit action.

4 H. No member, designee or alternate member of the
5 commission shall have a direct or indirect financial interest
6 in any underground or surface coal mining operation."

7 SECTION 172. Section 69-36-14 NMSA 1978 (being Laws
8 1993, Chapter 315, Section 14, as amended) is amended to
9 read:

10 "69-36-14. CITIZENS SUITS.--

11 A. A person having an interest that is or may be
12 adversely affected may commence a civil action on ~~[his]~~ the
13 person's own behalf to compel compliance with the New Mexico
14 Mining Act. Such action may be brought against:

15 (1) the ~~[department of environment, the~~
16 ~~energy, minerals and]~~ natural resources and environment
17 department or the commission alleging a violation of the New
18 Mexico Mining Act or of a rule, regulation, order or permit
19 issued pursuant to that act;

20 (2) a person who is alleged to be in violation
21 of a rule, regulation, order or permit issued pursuant to the
22 New Mexico Mining Act; or

23 (3) the ~~[department of environment, the~~
24 ~~energy, minerals and]~~ natural resources and environment
25 department or the commission alleging a failure to perform

.184126.1

underscored material = new
[bracketed material] = delete

1 any nondiscretionary act or duty required by the New Mexico
2 Mining Act; provided, however, that no action pursuant to
3 this section shall be commenced if the [~~department of~~
4 ~~environment, the energy, minerals and~~] natural resources and
5 environment department or the commission has commenced and is
6 diligently prosecuting a civil action in a court of this
7 state or an administrative enforcement proceeding to require
8 compliance with that act. In an administrative or court
9 action commenced by the [~~department of environment, the~~
10 ~~energy, minerals and~~] natural resources and environment
11 department or the commission, a person whose interest may be
12 adversely affected and who has provided notice pursuant to
13 Subsection B of this section prior to the initiation of the
14 action may intervene as a matter of right.

15 B. No action shall be commenced pursuant to this
16 section prior to sixty days after the plaintiff has given
17 written notice to the [~~department of environment, the energy,~~
18 ~~minerals and~~] natural resources and environment department,
19 the commission, the attorney general and the alleged violator
20 of the New Mexico Mining Act; provided, however, when the
21 violation or order complained of constitutes an immediate
22 threat to the health or safety of the plaintiff or would
23 immediately and irreversibly impair a legal interest of the
24 plaintiff, an action pursuant to this section may be brought
25 immediately after notification of the proper parties.

.184126.1

underscored material = new
[bracketed material] = delete

1 C. ~~[Except as otherwise provided herein]~~ Suits
2 against the ~~[department of environment, the energy, minerals~~
3 ~~and]~~ natural resources and environment department or the
4 commission shall be brought in the district court of Santa Fe
5 county. Suits ~~[only against]~~ in which only one or more
6 owners or operators of one or more mining operations are
7 named as defendants shall be brought in the district court
8 where one of the mining operations is located. If an action
9 is brought against the ~~[department of environment, the~~
10 ~~energy, minerals and]~~ natural resources and environment
11 department or the commission and ~~[the]~~ an owner or operator
12 of a mining operation, ~~[such]~~ the owner or operator may apply
13 for a change of venue to the judicial district in which the
14 mining operation is located. If not already a party, an
15 owner or operator may intervene, upon a showing that the
16 action relates primarily to a dispute regarding ~~[the]~~ a
17 single mining operation and apply for ~~[such]~~ a change of
18 venue. The district court shall grant a change of venue upon
19 a showing that the action relates primarily to a dispute
20 regarding the ~~[subject]~~ single mining operation and a showing
21 that a forum non conveniens analysis suggests that the
22 location of the mining operation is a superior venue.

23 D. In an action brought pursuant to this section,
24 the ~~[department of environment, the energy, minerals and]~~
25 natural resources and environment department or the

.184126.1

underscored material = new
[bracketed material] = delete

1 commission, if not a party, may intervene.

2 E. The court, in issuing a final order in an action
3 brought pursuant to this section, may award costs of
4 litigation, including attorney and expert witness fees, to a
5 party whenever the court determines such award is
6 appropriate. The court may, if a temporary injunction or
7 preliminary injunction is sought, require the filing of a
8 bond or equivalent security in accordance with the rules of
9 civil procedure."

10 SECTION 173. Section 69-36-19 NMSA 1978 (being Laws
11 1993, Chapter 315, Section 19) is amended to read:

12 "69-36-19. FUNDS CREATED.--

13 A. There is created within the state treasury the
14 "mining act fund". All money received by the state from
15 permit applicants, permit holders, the federal government,
16 other state agencies or legislative appropriations shall be
17 delivered to the state treasurer and deposited in the fund.
18 Disbursements from the fund shall be made upon warrants drawn
19 by the secretary of finance and administration pursuant to
20 vouchers signed by the secretary of [~~energy, minerals and~~
21 natural resources and environment]. Money in the fund is
22 appropriated to the [~~energy, minerals and~~
23 and environment] department to carry out the purposes of the
24 New Mexico Mining Act. Any unexpended or unencumbered
25 balance remaining in the mining act fund at the end of a

.184126.1

underscored material = new
[bracketed material] = delete

1 fiscal year shall not revert to the general fund but shall
2 remain and accrue to the benefit of the mining act fund.

3 B. There is created within the state treasury the
4 "inactive or abandoned non-coal mine reclamation fund". All
5 money received from administrative or court-imposed penalties
6 shall be delivered to the state treasurer and deposited in
7 the general fund to the credit of the current school fund.

8 Disbursements from the fund shall be made upon warrants drawn
9 by the secretary of finance and administration pursuant to
10 vouchers signed by the secretary of [~~energy, minerals and~~
11 natural resources and environment. Money in the fund is
12 appropriated to the [~~energy, minerals and~~ natural resources
13 and environment department to conduct reclamation activities
14 on abandoned or inactive non-coal mining areas. Any
15 unexpended or unencumbered balance remaining in the inactive
16 or abandoned non-coal mine reclamation fund at the end of a
17 fiscal year shall not revert to the general fund but shall
18 remain and accrue to the benefit of the inactive or abandoned
19 non-coal mine reclamation fund."

20 SECTION 174. A new section of the New Mexico Mining Act
21 is enacted to read:

22 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
23 REPEAL.--The mining commission is terminated on July 1, 2017
24 pursuant to the provisions of the Sunset Act. The commission
25 shall continue to operate according to the provisions of

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 Sections 69-36-6 through 69-36-9 NMSA 1978 until July 1,
2 2018. Effective July 1, 2018, Sections 69-36-6 through
3 69-36-9 NMSA 1978 are repealed."

4 SECTION 175. A new section of the Oil and Gas Act is
5 enacted to read:

6 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
7 REPEAL.--The oil conservation commission is terminated on
8 July 1, 2015 pursuant to the provisions of the Sunset Act.
9 The commission shall continue to operate according to the
10 provisions of Sections 70-2-4 through 70-2-6 NMSA 1978 until
11 July 1, 2016. Effective July 1, 2016, Sections 70-2-4
12 through 70-2-6 NMSA 1978 are repealed."

13 SECTION 176. Section 70-6-2 NMSA 1978 (being Laws 1963,
14 Chapter 139, Section 2, as amended) is amended to read:

15 "70-6-2. DEFINITIONS.--As used in Chapter 70, Article 6
16 NMSA 1978:

17 A. "underground storage" means storage of natural
18 gas in a subsurface stratum or formation of the earth;

19 B. "natural gas" means natural gas either while in
20 its original state after withdrawal from the earth or after
21 it has been processed by removal of component parts not
22 essential to its use for light and fuel;

23 C. "native gas" means gas that has not been
24 previously withdrawn from the earth;

25 D. "division" means the oil conservation division

.184126.1

underscored material = new
[bracketed material] = delete

1 of the [~~energy, minerals and~~] natural resources and
2 environment department;

3 E. "commission" means the oil conservation
4 commission;

5 F. "natural gas company" means any person, firm or
6 corporation engaged in the distribution, sale or furnishing
7 of natural gas to or for the public and subject to regulation
8 by the [~~New Mexico~~] public [~~utility~~] regulation commission
9 under the Public Utility Act or any person, firm or
10 corporation engaged in the business of transporting natural
11 gas and subject to regulation by the federal energy
12 regulatory commission under the federal Natural Gas Act; and

13 G. "public body" means the state or any department,
14 board, commission, bureau, institution, public agency, county
15 or political subdivision thereof, including bodies corporate,
16 bodies politic, municipal corporations, school districts,
17 conservancy districts and quasi-municipal corporations of all
18 kinds."

19 **SECTION 177.** Section 70-7-3 NMSA 1978 (being Laws 1975,
20 Chapter 293, Section 3, as amended) is amended to read:

21 "70-7-3. ADDITIONAL POWERS AND DUTIES OF THE OIL
22 CONSERVATION DIVISION.--

23 A. As used in the Statutory Unitization Act,
24 "division" means the oil conservation division of the natural
25 resources and environment department.

.184126.1

underscored material = new
[bracketed material] = delete

1 B. Subject to the limitations of the Statutory
2 Unitization Act, the [~~oil conservation~~] division [~~of the~~
3 ~~energy, minerals and natural resources department,~~
4 ~~hereinafter referred to as the "division"~~] is vested with
5 jurisdiction, power and authority and it shall be its duty to
6 make and enforce such orders and do such things as may be
7 necessary or proper to carry out and effectuate the purposes
8 of the Statutory Unitization Act."

9 **SECTION 178.** Section 70-11-2 NMSA 1978 (being Laws
10 1989, Chapter 189, Section 2) is amended to read:

11 "70-11-2. OFFICE CREATED--DUTIES.--~~[There is created]~~
12 The "office of interstate natural gas markets" [~~to be~~
13 ~~located~~] is created in the [~~energy, minerals and~~] natural
14 resources and environment department. The office shall:

15 A. conduct economic and legal studies of the
16 interstate natural gas markets and of the trade policies and
17 practices of the federal energy regulatory commission and
18 regulatory agencies and local distributing companies lying
19 outside New Mexico;

20 B. determine the impact of those practices on the
21 economic well-being of New Mexico, especially as it relates
22 to severance tax, royalty and general fund income of the
23 state;

24 C. develop and implement marketing strategies and,
25 if applicable, prepare legislation to promote the use of

underscored material = new
[bracketed material] = delete

1 natural gas produced in New Mexico by markets in other
2 states;

3 D. employ legal counsel and initiate or enter
4 lawsuits as appropriate for the purpose of protecting and
5 promoting the public interest in matters involving interstate
6 natural gas markets;

7 E. initiate or intervene in cases before the
8 federal energy regulatory commission, the California public
9 utility commission and other regulatory agencies lying
10 outside New Mexico to protect and promote the public interest
11 of the state;

12 F. present two progress reports to the legislative
13 finance committee each year; and

14 G. contract with state agencies and other
15 appropriate entities and persons as may be required to carry
16 out the purposes of [~~this act~~] Chapter 70, Article 11 NMSA
17 1978 and those purposes outlined in Laws 1988, Chapter 27,
18 Section 3."

19 SECTION 179. Section 71-5-3 NMSA 1978 (being Laws 1975,
20 Chapter 272, Section 3, as amended) is amended to read:

21 "71-5-3. DEFINITIONS.--As used in the Geothermal
22 Resources Conservation Act:

23 A. "geothermal resources" means the natural heat of
24 the earth or the energy, in whatever form, below the surface
25 of the earth present in, resulting from, created by or

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~[which]~~ that may be extracted from this natural heat and all
2 minerals in solution or other products obtained from
3 naturally heated fluids, brines, associated gases and steam,
4 in whatever form, found below the surface of the earth, but
5 excluding oil, hydrocarbon gas and other hydrocarbon
6 substances;

7 B. "commission" means the oil conservation
8 commission;

9 C. "correlative rights" means the opportunity
10 afforded, insofar as is practicable to do so, to the owner of
11 each property in a geothermal reservoir to produce ~~[his]~~ the
12 owner's just and equitable share of the geothermal resources
13 within ~~[such]~~ the reservoir, being an amount, so far as can
14 be practicably determined and so far as can be practicably
15 obtained without waste, substantially in the proportion that
16 the recoverable geothermal resources under ~~[such]~~ the
17 property bear to the total recoverable geothermal resources
18 in the reservoir and, for such purpose, to use ~~[his]~~ the
19 owner's just and equitable share of the natural heat or
20 energy in the reservoir;

21 D. "division" means the oil conservation division
22 of the ~~[energy, minerals and]~~ natural resources and
23 environment department;

24 E. "geothermal reservoir" means an underground
25 reservoir containing geothermal resources, whether the fluids

.184126.1

underscored material = new
[bracketed material] = delete

1 in the reservoir are native to the reservoir or flow into or
2 are injected into the reservoir;

3 F. "geothermal field" means the general area
4 [~~which~~] that is underlaid or reasonably appears to be
5 underlaid by at least one geothermal reservoir;

6 G. "low-temperature thermal reservoir" means a
7 geothermal reservoir containing low-temperature thermal
8 water, which is defined as naturally heated water, the
9 temperature of which is less than boiling at the altitude of
10 occurrence, which has additional value by virtue of the heat
11 contained therein and is found below the surface of the earth
12 or in warm springs at the surface;

13 H. "person" means:

14 (1) any individual, estate, trust, receiver,
15 cooperative association, club, corporation, company, firm,
16 partnership, joint venture, syndicate or other entity; or

17 (2) the United States or any agency or
18 instrumentality [~~thereof~~] of the United States or the state
19 of New Mexico or any political subdivision [~~thereof~~] of the
20 state;

21 I. "well" means any well dug or drilled for the
22 discovery or development of geothermal resources or incident
23 to the discovery or development of geothermal resources or
24 for the purpose of injecting or reinjecting geothermal
25 resources or the residue [~~thereof~~] of geothermal resources or

.184126.1

underscoring material = new
[bracketed material] = delete

1 other fluids into a geothermal reservoir or any well dug or
2 drilled for any other purpose and reactivated or converted to
3 any of the aforesaid uses; and

4 J. "potash" means the naturally occurring bedded
5 deposits of the salts of the element potassium."

6 SECTION 180. Section 71-6-6 NMSA 1978 (being Laws 1981,
7 Chapter 379, Section 16, as amended) is amended to read:

8 "71-6-6. DEFINITIONS.--As used in the Solar Collector
9 Standards Act:

10 A. "department" means the [~~energy, minerals and~~
11 natural resources and environment department; and

12 B. "solar collector" means a component that
13 provides for the collection and transfer of incident solar
14 energy, such transfer to be effected through a liquid or air
15 medium primarily by mechanical means for use in water
16 heating, space heating or cooling or other applications that
17 normally require or would require a conventional source of
18 energy such as petroleum products, natural gas or
19 electricity; but "solar collector" does not include a passive
20 system that uses structural elements of a building to provide
21 for the collection, storage and distribution of solar energy
22 for heating or cooling without the use of a motor-driven fan
23 or pump."

24 SECTION 181. Section 71-7-4 NMSA 1978 (being Laws 2004,
25 Chapter 55, Section 4) is amended to read:

.184126.1

underscored material = new
[bracketed material] = delete

1 "71-7-4. DEFINITIONS.--As used in the Advanced Energy
2 Technologies Economic Development Act:

3 A. "alternative fuel" means natural gas, liquefied
4 petroleum gas, electricity, hydrogen, a fuel mixture
5 containing not less than eighty-five percent ethanol or
6 methanol, a fuel mixture containing not less than twenty
7 percent vegetable oil or a water-phased hydrocarbon fuel
8 emulsion consisting of a hydrocarbon base and water in an
9 amount not less than twenty percent by volume of the total
10 water-phased fuel emulsion;

11 B. "clean energy" means alternative fuels, energy
12 efficiency, renewable energy and fuel cells;

13 C. "department" means the [~~energy, minerals and~~]
14 natural resources and environment department;

15 D. "energy efficiency" means the application of
16 technology resulting in the reduced or improved use of
17 energy;

18 E. "fuel cell" means equipment using an
19 electrochemical process to generate electricity and heat;

20 F. "fund" means the clean energy grants fund;

21 G. "renewable energy" means thermal or electrical
22 energy generated by means of a low- or zero-emissions
23 generation technology that has substantial long-term
24 production potential, including solar, wind, geothermal,
25 landfill gas or biomass, but does not include fossil fuel or

underscored material = new
[bracketed material] = delete

1 nuclear power; and

2 H. "secretary" means the secretary of [~~energy,~~
3 ~~minerals and~~] natural resources and environment."

4 SECTION 182. Section 72-4A-1 NMSA 1978 (being Laws
5 2001, Chapter 164, Section 1) is amended to read:

6 "72-4A-1. SHORT TITLE.--[~~This act~~] Chapter 72, Article
7 4A NMSA 1978 may be cited as the "Water Project Finance
8 Act"."

9 SECTION 183. Section 72-4A-4 NMSA 1978 (being Laws
10 2001, Chapter 164, Section 4, as amended) is amended to read:

11 "72-4A-4. WATER TRUST BOARD CREATED.--

12 A. The "water trust board" is created. The board
13 is composed of the following [~~sixteen~~] fifteen members:

14 (1) the state engineer or the state engineer's
15 designee;

16 (2) the secretary of finance and
17 administration or the secretary's designee;

18 (3) the executive director of the New Mexico
19 finance authority or the executive director's designee;

20 (4) the secretary of natural resources and
21 environment or the secretary's designee;

22 [~~(5) the secretary of energy, minerals and~~
23 ~~natural resources or the secretary's designee;~~

24 ~~(6)] (5) the director of the [~~department of~~]
25 game and fish division of the natural resources and~~

.184126.1

underscored material = new
[bracketed material] = delete

1 environment department or the director's designee;

2 [~~(7)~~] (6) the director of the New Mexico
3 department of agriculture or the director's designee;

4 [~~(8)~~] (7) the executive director of the New
5 Mexico municipal league or the executive director's designee;

6 [~~(9)~~] (8) the executive director of the New
7 Mexico association of counties or the executive director's
8 designee;

9 [~~(10)~~] (9) five public members appointed by
10 the governor and confirmed by the senate and who represent:

11 (a) the environmental community;

12 (b) an irrigation or conservancy district
13 that uses surface water;

14 (c) an irrigation or conservancy district
15 that uses ground water;

16 (d) acequia water users; and

17 (e) soil and water conservation districts;

18 [~~(11)~~] (10) one public member appointed by the
19 Indian affairs commission; and

20 [~~(12)~~] (11) the president of the Navajo Nation
21 or the president's designee.

22 B. The chair of the board shall be elected by a
23 quorum of the board members. The board shall meet at the
24 call of the chair or whenever three members submit a request
25 in writing to the chair, but not less often than once each

.184126.1

underscored material = new
[bracketed material] = delete

1 calendar year. A majority of members constitutes a quorum
2 for the transaction of business. The affirmative vote of at
3 least a majority of a quorum present shall be necessary for
4 an action to be taken by the board.

5 C. Each public member of the board appointed by the
6 governor shall be appointed to a four-year term. To provide
7 for staggered terms, two of the initially governor-appointed
8 public members shall be appointed for terms of two years and
9 three members for terms of four years. Thereafter, all
10 governor-appointed members shall be appointed for four-year
11 terms. Vacancies shall be filled by appointment by the
12 governor for the remainder of the unexpired term.

13 D. Public members of the board shall be reimbursed
14 for attending meetings of the board as provided for
15 nonsalaried public officers in the Per Diem and Mileage Act
16 and shall receive no other compensation, perquisite or
17 allowance.

18 E. Public members of the board are appointed public
19 officials of the state while carrying out their duties and
20 activities under the Water Project Finance Act."

21 SECTION 184. Section 74-1-3 NMSA 1978 (being Laws 1971,
22 Chapter 277, Section 3, as amended) is amended to read:

23 "74-1-3. DEFINITIONS.--As used in the Environmental
24 Improvement Act:

25 A. "board" means the environmental improvement

.184126.1

underscored material = new
[bracketed material] = delete

1 board;

2 B. "department" or "environmental improvement
3 department" means the [~~department of~~] natural resources and
4 environment department;

5 C. "on-site liquid waste system" means a liquid
6 waste system, or part thereof, serving a dwelling,
7 establishment or group, and using a liquid waste treatment
8 unit designed to receive liquid waste followed by either a
9 soil treatment or other type of disposal system. "On-site
10 liquid waste system" includes holding tanks and privies but
11 does not include systems or facilities designed to receive or
12 treat mine or mill tailings or wastes;

13 D. "person" means the state or any agency,
14 institution or political subdivision thereof, any public or
15 private corporation, individual, partnership, association or
16 other entity and includes any officer or governing or
17 managing body of any political subdivision or public or
18 private corporation;

19 E. "residential on-site liquid waste system" means
20 an on-site liquid waste system serving up to four dwelling
21 units; and

22 F. "secretary" means the secretary of natural
23 resources and environment."

24 SECTION 185. Section 74-1-7 NMSA 1978 (being Laws 1971,
25 Chapter 277, Section 10, as amended by Laws 2000, Chapter 86,

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 Section 1 and also by Laws 2000, Chapter 96, Section 1) is
2 amended to read:

3 "74-1-7. DEPARTMENT--DUTIES.--

4 A. The department is responsible for environmental
5 management and consumer protection programs. In that
6 respect, the department shall maintain, develop and enforce
7 rules and standards in the following areas:

8 (1) food protection;

9 (2) water supply, including implementing a
10 capacity development program to assist water systems in
11 acquiring and maintaining technical, managerial and financial
12 capacity in accordance with Section 1420 of the federal Safe
13 Drinking Water Act and establishing administrative penalties
14 for enforcement;

15 (3) liquid waste, including exclusive
16 authority to collect on-site liquid waste system fees that
17 are no more than the average charged by the contiguous states
18 to New Mexico for similar permits and services and to
19 implement and administer an inspection and permitting program
20 for on-site liquid waste systems;

21 (4) air quality management as provided in the
22 Air Quality Control Act;

23 (5) radiation control and collection of
24 license, registration and other related fees as provided in
25 the Radiation Protection Act;

.184126.1

underscored material = new
[bracketed material] = delete

- 1 (6) noise control;
2 (7) nuisance abatement;
3 (8) vector control;
4 (9) occupational health and safety as provided
5 in the Occupational Health and Safety Act;
6 (10) sanitation of public swimming pools and
7 public baths;
8 (11) plumbing, drainage, ventilation and
9 sanitation of public buildings in the interest of public
10 health;
11 (12) medical radiation, health and safety
12 certification and standards for [~~radiologic technologists~~]
13 medical imaging professionals and radiation therapists as
14 provided in the Medical Imaging and Radiation Therapy Health
15 and Safety Act;
16 (13) hazardous wastes and underground storage
17 tanks as provided in the Hazardous Waste Act; [~~and~~]
18 (14) solid waste as provided in the Solid
19 Waste Act; and
20 (15) any other area assigned by law.

21 B. Nothing in Subsection A of this section imposes
22 requirements for the approval of subdivision plats in
23 addition to those required elsewhere by law. Nothing in
24 Subsection A of this section preempts the authority of any
25 political subdivision to approve subdivision plats."

.184126.1

underscored material = new
[bracketed material] = delete

1 SECTION 186. Section 74-1-8 NMSA 1978 (being Laws 1971,
2 Chapter 277, Section 11, as amended by Laws 2000, Chapter 86,
3 Section 2 and also by Laws 2000, Chapter 96, Section 2) is
4 amended to read:

5 "74-1-8. BOARD--DUTIES.--

6 A. The board is responsible for environmental
7 management and consumer protection. In that respect, the
8 board shall promulgate rules and standards in the following
9 areas:

10 (1) food protection;

11 (2) water supply, including a capacity
12 development program to assist water systems in acquiring and
13 maintaining technical, managerial and financial capacity in
14 accordance with Section 1420 of the federal Safe Drinking
15 Water Act and rules authorizing imposition of administrative
16 penalties for enforcement;

17 (3) liquid waste, including exclusive
18 authority to establish on-site liquid waste system fees that
19 are no more than the average charged by the contiguous states
20 to New Mexico for similar permits and services and to
21 implement and administer an inspection and permitting program
22 for on-site liquid waste systems;

23 (4) air quality management as provided in the
24 Air Quality Control Act;

25 (5) radiation control and establishment of

.184126.1

underscored material = new
[bracketed material] = delete

1 license and registration and other related fees not to exceed
2 fees charged by the United States nuclear regulatory
3 commission for similar licenses as provided in the Radiation
4 Protection Act;

5 (6) noise control;
6 (7) nuisance abatement;
7 (8) vector control;
8 (9) occupational health and safety as provided
9 in the Occupational Health and Safety Act;

10 (10) sanitation of public swimming pools and
11 public baths;

12 (11) plumbing, drainage, ventilation and
13 sanitation of public buildings in the interest of public
14 health;

15 (12) medical radiation, health and safety
16 certification and standards for [~~radiologic technologists~~]
17 medical imaging professionals and radiation therapists as
18 provided in the Medical Imaging and Radiation Therapy Health
19 and Safety Act;

20 (13) hazardous wastes and underground storage
21 tanks as provided in the Hazardous Waste Act; [~~and~~]

22 (14) solid waste as provided in the Solid
23 Waste Act; and

24 (15) any other area assigned by law.

25 B. Nothing in Subsection A of this section imposes

underscored material = new
[bracketed material] = delete

1 requirements for the approval of subdivision plats in
2 addition to those required elsewhere by law. Nothing in
3 Subsection A of this section preempts the authority of any
4 political subdivision to approve subdivision plats.

5 C. Administrative penalties collected pursuant to
6 Paragraph (2) of Subsection A of this section shall be
7 deposited in the ~~[water conservation]~~ general fund to the
8 credit of the current school fund.

9 D. On-site liquid waste system fees shall be
10 deposited in the liquid waste fund.

11 ~~[D.]~~ E. Radiation license and registration and
12 other related fees shall be deposited in the radiation
13 protection fund."

14 SECTION 187. Section 74-1-10 NMSA 1978 (being Laws
15 1973, Chapter 340, Section 8, as amended) is amended to read:

16 "74-1-10. PENALTY.--

17 A. A person who violates any ~~[regulation]~~ rule of
18 the board is guilty of a petty misdemeanor. This section
19 does not apply to any ~~[regulation]~~ rule for which a criminal
20 penalty is otherwise provided by law.

21 B. Whenever, on the basis of any information, the
22 secretary determines that a person has violated, is violating
23 or threatens to violate any provision of Paragraph (2) or (3)
24 of Subsection A of Section 74-1-8 NMSA 1978 or any rule
25 ~~[regulation]~~ or permit condition adopted and promulgated

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 thereunder, the secretary may:

2 (1) issue a compliance order stating with
3 reasonable specificity the nature of the violation or
4 threatened violation, requiring compliance immediately or
5 within a specified time period and assessing a civil penalty
6 for any past or current violation, or both; or

7 (2) commence a civil action in district court
8 for appropriate relief, including a temporary or permanent
9 injunction.

10 C. An order issued pursuant to Subsection B of this
11 section may include suspension or revocation of any permit
12 issued by the department. Any penalty assessed in the order,
13 except for residential on-site liquid waste systems, shall
14 not exceed one thousand dollars (\$1,000) for each violation.
15 Any penalty assessed in the order for a residential on-site
16 liquid waste system shall not exceed one hundred dollars
17 (\$100) for each violation. A penalty imposed for violation
18 of drinking water regulations 20 NMAC 7.1 or permit
19 conditions shall not exceed one thousand dollars (\$1,000) per
20 violation per day. In assessing the penalty, the secretary
21 shall take into account the seriousness of the violation and
22 any good-faith efforts to comply with the applicable
23 requirements.

24 D. If a violator fails to take corrective actions
25 within the time specified in the compliance order, the

.184126.1

underscoring material = new
[bracketed material] = delete

1 secretary shall:

2 (1) assess civil penalties of not more than
3 one thousand dollars (\$1,000) for each noncompliance with the
4 order; and

5 (2) suspend or revoke any permit issued to the
6 violator pursuant to Paragraph (3) of Subsection A of Section
7 74-1-8 NMSA 1978.

8 E. An order issued pursuant to this section shall
9 become final unless, no later than thirty days after the
10 order is served, the person named in the order submits a
11 written request to the secretary for a hearing. Upon such a
12 request, the secretary shall conduct a hearing. The
13 secretary shall appoint an independent hearing officer to
14 preside over the hearing. The hearing officer shall make and
15 preserve a complete record of the proceedings and forward
16 [~~his~~] the hearing officer's recommendation based on the
17 record to the secretary, who shall make the final decision.

18 F. In connection with any proceeding pursuant to
19 this section, the secretary may issue subpoenas for the
20 attendance and testimony of witnesses and the production of
21 relevant papers, books and documents and may adopt and
22 promulgate rules for discovery procedures.

23 G. Penalties collected pursuant to violations of
24 rules, regulations or permit conditions adopted pursuant to
25 Paragraph (3) of Subsection A of Section 74-1-8 NMSA 1978

.184126.1

underscored material = new
[bracketed material] = delete

1 shall be deposited in the state treasury to be credited to
2 the general fund.

3 H. Penalties collected pursuant to violations of
4 drinking water regulations 20 NMAC 7.1 or permit conditions
5 pursuant to Paragraph (2) of Subsection A of Section 74-1-8
6 NMSA 1978 shall be deposited in the [~~state treasury to the~~
7 ~~credit of the water conservation~~] general fund for credit to
8 the current school fund."

9 SECTION 188. Section 74-2-2 NMSA 1978 (being Laws 1967,
10 Chapter 277, Section 2, as amended) is amended to read:

11 "74-2-2. DEFINITIONS.--As used in the Air Quality
12 Control Act:

13 A. "air contaminant" means a substance, including
14 any particulate matter, fly ash, dust, fumes, gas, mist,
15 smoke, vapor, micro-organisms, radioactive material, any
16 combination thereof or any decay or reaction product thereof;

17 B. "air pollution" means the emission, except
18 emission that occurs in nature, into the outdoor atmosphere
19 of one or more air contaminants in quantities and of a
20 duration that may with reasonable probability injure human
21 health or animal or plant life or as may unreasonably
22 interfere with the public welfare, visibility or the
23 reasonable use of property;

24 C. "department" means the [~~department of~~] natural
25 resources and environment department;

underscored material = new
~~[bracketed material] = delete~~

1 D. "director" means the administrative head of a
2 local agency;

3 E. "emission limitation" or "emission standard"
4 means a requirement established by the environmental
5 improvement board or the local board, the department, the
6 local authority or the local agency or pursuant to the
7 federal act that limits the quantity, rate or concentration,
8 or combination thereof, of emissions of air contaminants on a
9 continuous basis, including any requirements relating to the
10 operation or maintenance of a source to assure continuous
11 reduction;

12 F. "federal act" means the federal Clean Air Act,
13 its subsequent amendments and successor provisions;

14 G. "federal standard of performance" means a
15 standard of performance, emission limitation or emission
16 standard adopted pursuant to 42 U.S.C. Section 7411 or 7412;

17 H. "hazardous air pollutant" means an air
18 contaminant that has been listed as a hazardous air pollutant
19 pursuant to the federal act;

20 I. "local agency" means the administrative agency
21 established by a local authority pursuant to Paragraph (2) of
22 Subsection A of Section 74-2-4 NMSA 1978;

23 J. "local authority" means any of the following
24 political subdivisions of the state that have, by following
25 the procedure set forth in Subsection A of Section 74-2-4

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 NMSA 1978, assumed jurisdiction for local administration and
2 enforcement of the Air Quality Control Act:

3 (1) a county that was a class A county as of
4 January 1, 1980; or

5 (2) a municipality with a population greater
6 than one hundred thousand located within a county that was a
7 class A county as of January 1, 1980;

8 K. "local board" means a municipal, county or joint
9 air quality control board created by a local authority;

10 L. "mandatory class I area" means any of the
11 following areas in this state that were in existence on
12 August 7, 1977:

13 (1) national wilderness areas that exceed five
14 thousand acres in size; and

15 (2) national parks that exceed six thousand
16 acres in size;

17 M. "modification" means a physical change in, or
18 change in the method of operation of, a source that results
19 in an increase in the potential emission rate of a regulated
20 air contaminant emitted by the source or that results in the
21 emission of a regulated air contaminant not previously
22 emitted, but does not include:

23 (1) a change in ownership of the source;

24 (2) routine maintenance, repair or
25 replacement;

.184126.1

underscored material = new
[bracketed material] = delete

1 (3) installation of air pollution control
2 equipment, and all related process equipment and materials
3 necessary for its operation, undertaken for the purpose of
4 complying with regulations adopted by the environmental
5 improvement board or the local board or pursuant to the
6 federal act; or

7 (4) unless previously limited by enforceable
8 permit conditions:

9 (a) an increase in the production rate, if
10 such increase does not exceed the operating design capacity
11 of the source;

12 (b) an increase in the hours of operation;
13 or

14 (c) use of an alternative fuel or raw
15 material if, prior to January 6, 1975, the source was capable
16 of accommodating such fuel or raw material or if use of an
17 alternate fuel or raw material is caused by a natural gas
18 curtailment or emergency allocation or [~~an other~~] another
19 lack of supply of natural gas;

20 N. "nonattainment area" means for an air
21 contaminant an area that is designated "nonattainment" with
22 respect to that contaminant within the meaning of Section
23 107(d) of the federal act;

24 O. "person" includes an individual, partnership,
25 corporation, association, the state or political subdivision

.184126.1

underscored material = new
[bracketed material] = delete

1 of the state and any agency, department or instrumentality of
2 the United States and any of their officers, agents or
3 employees;

4 P. "potential emission rate" means the emission
5 rate of a source at its maximum capacity to emit a regulated
6 air contaminant under its physical and operational design,
7 provided any physical or operational limitation on the
8 capacity of the source to emit a regulated air contaminant,
9 including air pollution control equipment and restrictions on
10 hours of operation or on the type or amount of material
11 combusted, stored or processed, shall be treated as part of
12 its physical and operational design only if the limitation or
13 the effect it would have on emissions is enforceable by the
14 department or the local agency pursuant to the Air Quality
15 Control Act or the federal act;

16 Q. "regulated air contaminant" means an air
17 contaminant, the emission or ambient concentration of which
18 is regulated pursuant to the Air Quality Control Act or the
19 federal act;

20 R. "secretary" means the secretary of natural
21 resources and environment;

22 S. "significant deterioration" means an increase in
23 the ambient concentrations of an air contaminant above the
24 levels allowed by the federal act or federal regulations for
25 that air contaminant in the area within which the increase

.184126.1

underscored material = new
[bracketed material] = delete

1 occurs;

2 T. "source" means a structure, building, equipment,
3 facility, installation or operation that emits or may emit an
4 air contaminant;

5 U. "standard of performance" means a requirement of
6 continuous emission reduction, including any requirement
7 relating to operation or maintenance of a source to assure
8 continuous emission reduction;

9 V. "state implementation plan" means a plan
10 submitted by New Mexico to the federal environmental
11 protection agency pursuant to 42 U.S.C. Section 7410; and

12 W. "toxic air pollutant" means an air contaminant,
13 except a hazardous air pollutant, classified by the
14 environmental improvement board or the local board as a toxic
15 air pollutant."

16 SECTION 189. Section 74-3-4 NMSA 1978 (being Laws 1971,
17 Chapter 284, Section 4, as amended) is amended to read:

18 "74-3-4. DEFINITIONS.--As used in the Radiation
19 Protection Act:

20 A. "board" means the environmental improvement
21 board;

22 B. "agency" or "division" means the environmental
23 protection division of the [~~department of~~] natural resources
24 and environment department;

25 C. "council" means the radiation technical advisory

.184126.1

underscored material = new
[bracketed material] = delete

1 council;

2 D. "radiation" includes particulate and
3 electromagnetic radiation and ultrasound, but does not
4 include audible sound;

5 E. "radioactive material" includes any materials or
6 sources, regardless of chemical or physical state, that emit
7 radiation;

8 F. "radiation equipment" means any device that is
9 capable of producing radiation;

10 G. "agreement state" means any state with which the
11 nuclear regulatory commission has entered into an agreement
12 under Section 274(b) of the federal Atomic Energy Act of
13 1954, as amended;

14 H. "person" means any individual, partnership,
15 firm, public or private corporation, association, trust,
16 estate, political subdivision or agency, or any other legal
17 entity or its legal representatives, agents or assigns;

18 I. "continued care fund" means the radiation
19 protection continued care fund;

20 J. "director" means the director of the division;

21 K. "nuclear regulatory commission" means the United
22 States nuclear regulatory commission; and

23 L. "secretary" means the secretary of natural
24 resources and environment."

25 SECTION 190. Section 74-4-3 NMSA 1978 (being Laws 1977,

.184126.1

underscored material = new
[bracketed material] = delete

1 Chapter 313, Section 3, as amended) is amended to read:

2 "74-4-3. DEFINITIONS.--As used in the Hazardous Waste
3 Act:

4 A. "above ground storage tank" means a single tank
5 or combination of tanks, including underground pipes
6 connected thereto, that are used to contain petroleum,
7 including crude oil or any fraction thereof that is liquid at
8 standard conditions of temperature and pressure of sixty
9 degrees Fahrenheit and fourteen and seven-tenths pounds per
10 square inch absolute, and the volume of which is more than
11 ninety percent above the surface of the ground. "Above
12 ground storage tank" does not include any:

13 (1) farm, ranch or residential tank used for
14 storing motor fuel for noncommercial purposes;

15 (2) pipeline facility, including gathering
16 lines, regulated under the federal Natural Gas Pipeline
17 Safety Act of 1968 or the federal Hazardous Liquid Pipeline
18 Safety Act of 1979 or that is an intrastate pipeline facility
19 regulated under state laws comparable to either act;

20 (3) surface impoundment, pit, pond or lagoon;

21 (4) storm water or wastewater collection
22 system;

23 (5) flow-through process tank;

24 (6) liquid trap, tank or associated gathering
25 lines or other storage methods or devices related to oil, gas

.184126.1

underscored material = new
[bracketed material] = delete

1 or mining exploration, production, transportation, refining,
2 processing or storage, or to oil field service industry
3 operations;

4 (7) tank used for storing heating oil for
5 consumptive use on the premises where stored;

6 (8) pipes connected to any tank that is
7 described in Paragraphs (1) through (7) of this subsection;
8 or

9 (9) tanks or related pipelines and facilities
10 owned or used by a refinery, natural gas processing plant or
11 pipeline company in the regular course of [~~their~~] its
12 refining, processing or pipeline business;

13 B. "board" means the environmental improvement
14 board;

15 C. "corrective action" means an action taken in
16 accordance with rules of the board to investigate, minimize,
17 eliminate or clean up a release to protect the public health,
18 safety and welfare or the environment;

19 D. "director" or "secretary" means the secretary of
20 natural resources and environment;

21 E. "disposal" means the discharge, deposit,
22 injection, dumping, spilling, leaking or placing of any solid
23 waste or hazardous waste into or on any land or water so that
24 such solid waste or hazardous waste or constituent thereof
25 may enter the environment or be emitted into the air or

.184126.1

underscored material = new
[bracketed material] = delete

1 discharged into any waters, including ground waters;

2 F. "division" or "department" means the [~~department~~
3 ~~of~~] natural resources and environment department;

4 G. "federal agency" means any department, agency or
5 other instrumentality of the federal government and any
6 independent agency or establishment of that government,
7 including any government corporation and the government
8 printing office;

9 H. "generator" means any person producing hazardous
10 waste;

11 I. "hazardous agricultural waste" means hazardous
12 waste generated as part of the licensed activity by any
13 person licensed pursuant to the Pesticide Control Act or
14 hazardous waste designated as hazardous agricultural waste by
15 the board, but does not include animal excrement in
16 connection with farm, ranch or feedlot operations;

17 J. "hazardous substance incident" means any
18 emergency incident involving a chemical or chemicals,
19 including but not limited to transportation wrecks,
20 accidental spills or leaks, fires or explosions, which
21 incident creates the reasonable probability of injury to
22 human health or property;

23 K. "hazardous waste" means any solid waste or
24 combination of solid wastes that because of their quantity,
25 concentration or physical, chemical or infectious

.184126.1

1 characteristics may:

2 (1) cause or significantly contribute to an
3 increase in mortality or an increase in serious irreversible
4 or incapacitating reversible illness; or

5 (2) pose a substantial present or potential
6 hazard to human health or the environment when improperly
7 treated, stored, transported, disposed of or otherwise
8 managed. "Hazardous waste" does not include any of the
9 following, until the board determines that they are subject
10 to Subtitle C of the federal Resource Conservation and
11 Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.:

12 (a) drilling fluids, produced waters and
13 other wastes associated with the exploration, development or
14 production of crude oil or natural gas or geothermal energy;

15 (b) fly ash waste;

16 (c) bottom ash waste;

17 (d) slag waste;

18 (e) flue gas emission control waste
19 generated primarily from the combustion of coal or other
20 fossil fuels;

21 (f) solid waste from the extraction,
22 beneficiation or processing of ores and minerals, including
23 phosphate rock and overburden from the mining of uranium ore;
24 or

25 (g) cement kiln dust waste;

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 L. "manifest" means the form used for identifying
2 the quantity, composition, origin, routing and destination of
3 hazardous waste during transportation from point of
4 generation to point of disposal, treatment or storage;

5 M. "person" means an individual, trust, firm, joint
6 stock company, federal agency, corporation, including a
7 government corporation, partnership, association, state,
8 municipality, commission, political subdivision of a state or
9 any interstate body;

10 N. "regulated substance" means:

11 (1) a substance defined in Section 101(14) of
12 the federal Comprehensive Environmental Response,
13 Compensation, and Liability Act of 1980, but not including a
14 substance regulated as a hazardous waste under Subtitle C of
15 the federal Resource Conservation and Recovery Act of 1976,
16 as amended; and

17 (2) petroleum, including crude oil or any
18 fraction thereof that is liquid at standard conditions of
19 temperature and pressure of sixty degrees Fahrenheit and
20 fourteen and seven-tenths pounds per square inch absolute;

21 O. "solid waste" means any garbage, refuse, sludge
22 from a waste treatment plant, water supply treatment plant or
23 air pollution control facility and other discarded material,
24 including solid, liquid, semisolid or contained gaseous
25 material resulting from industrial, commercial, mining and

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 agricultural operations, and from community activities, but
2 does not include solid or dissolved materials in domestic
3 sewage or solid or dissolved materials in irrigation return
4 flows or industrial discharges that are point sources subject
5 to permits under Section 402 of the Federal Water Pollution
6 Control Act, as amended, 86 Stat. 880, or source, special
7 nuclear or byproduct material as defined by the federal
8 Atomic Energy Act of 1954, as amended, 68 Stat. 923;

9 P. "storage" means the containment of hazardous
10 waste, either on a temporary basis or for a period of years,
11 in such a manner as not to constitute disposal of such
12 hazardous waste;

13 Q. "storage tank" means an above ground storage
14 tank or an underground storage tank;

15 R. "tank installer" means any individual who
16 installs or repairs a storage tank;

17 S. "transporter" means a person engaged in the
18 movement of hazardous waste, not including movement at the
19 site of generation, disposal, treatment or storage;

20 T. "treatment" means any method, technique or
21 process, including neutralization, designed to change the
22 physical, chemical or biological character or composition of
23 a hazardous waste so as to neutralize the waste or so as to
24 render the waste nonhazardous, safer for transport, amenable
25 to recovery, amenable to storage or reduced in volume.

.184126.1

underscored material = new
[bracketed material] = delete

1 "Treatment" includes any activity or processing designed to
2 change the physical form or chemical composition of hazardous
3 waste so as to render it nonhazardous;

4 U. "underground storage tank" means a single tank
5 or combination of tanks, including underground pipes
6 connected thereto, that ~~are~~ is used to contain an
7 accumulation of regulated substances and the volume of which,
8 including the volume of the underground pipes connected
9 thereto, is ten percent or more beneath the surface of the
10 ground. "Underground storage tank" does not include any:

11 (1) farm, ranch or residential tank of one
12 thousand one hundred gallons or less capacity used for
13 storing motor fuel for noncommercial purposes;

14 (2) septic tank;

15 (3) pipeline facility, including gathering
16 lines, that is regulated under the federal Natural Gas
17 Pipeline Safety Act of 1968 or the federal Hazardous Liquid
18 Pipeline Safety Act of 1979 or that is an intrastate pipeline
19 facility regulated under state laws comparable to either act;

20 (4) surface impoundment, pit, pond or lagoon;

21 (5) storm water or wastewater collection
22 system;

23 (6) flow-through process tank;

24 (7) liquid trap, tank or associated gathering
25 lines directly related to oil or gas production and gathering

.184126.1

underscored material = new
[bracketed material] = delete

1 operations;

2 (8) storage tank situated in an underground
3 area, such as a basement, cellar, mineworking drift, shaft or
4 tunnel, if the storage tank is situated upon or above the
5 surface of the undesignated floor;

6 (9) tank used for storing heating oil for
7 consumptive use on the premises where stored;

8 (10) tank exempted by rule of the board after
9 finding that the type of tank is adequately regulated under
10 another federal or state law; or

11 (11) pipes connected to any tank that is
12 described in Paragraphs (1) through (10) of this subsection;
13 and

14 V. "used oil" means any oil that has been refined
15 from crude oil, or any synthetic oil, that has been used and
16 as a result of such use is contaminated by physical or
17 chemical impurities."

18 SECTION 191. Section 74-4C-3 NMSA 1978 (being Laws 1985
19 (1st S.S.), Chapter 4, Section 3) is amended to read:

20 "74-4C-3. DEFINITIONS.--As used in the Hazardous Waste
21 Feasibility Study Act:

22 A. "committee" means the radioactive and hazardous
23 materials committee;

24 B. "division" means the environmental [~~improvement~~]
25 protection division of the [~~health~~] natural resources and

.184126.1

underscored material = new
[bracketed material] = delete

1 environment department;

2 C. "hazardous waste" means garbage, refuse, sludge
3 from a waste treatment plant, water supply treatment plant or
4 air pollution control facility or other discarded material,
5 including solid, liquid or semisolid material or containing
6 gaseous material resulting from industrial, commercial,
7 mining or agricultural operations, other than waste
8 pesticides disposed of by a farmer pursuant to Section
9 74-4-3.1 NMSA 1978, or from community activities [~~which~~]
10 that, because of its quantity, concentration or physical,
11 chemical or infectious characteristics, may cause or
12 significantly contribute to an increase in mortality or an
13 increase in serious irreversible or incapacitating reversible
14 illness, or pose a substantial present or potential hazard to
15 human health or the environment when improperly treated,
16 stored, transported, disposed of or otherwise managed. [~~The~~
17 ~~term~~] "Hazardous waste" does not include solid or dissolved
18 material in domestic sewage, or animal excrement in
19 connection with farm, ranch or feedlot operations, or solid
20 or dissolved materials in irrigation return flows or
21 industrial discharges [~~which~~] that are point sources subject
22 to permits under Section 402 of the Federal Water Pollution
23 Control Act, as amended, as the provisions exist on January
24 1, 1981; or source, special or byproduct material as defined
25 in the Atomic Energy Act of 1954, as amended, as these

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 definitions exist on January 1, 1981; or any of the
2 following, until the environmental improvement board
3 determines that they are subject to Subtitle C of the
4 Resource Conservation and Recovery Act of 1976, as amended
5 (42 U.S.C. 6921 et seq.): drilling fluids, produced waters
6 and other wastes associated with the exploration, development
7 or production of crude oil or natural gas or geothermal
8 energy; any fly ash waste, bottom ash waste, slag waste or
9 flue gas emission control waste generated primarily from the
10 combustion of coal or other fossil fuels; solid waste from
11 the extraction, beneficiation or processing of ores and
12 minerals, including phosphate rock and overburden from the
13 mining of uranium ore; cement kiln dust waste; or pesticide
14 waste disposed of by any farmer from ~~[his]~~ the farmer's own
15 use, provided that ~~[he]~~ the farmer triple rinses each emptied
16 pesticide container and disposes of the pesticide residues on
17 ~~[his]~~ the farmer's own farm in a manner consistent with the
18 disposal instructions on the pesticide label; and

19 D. "hazardous waste activity" means the generation,
20 treatment, storage, transportation or disposal of hazardous
21 waste."

22 SECTION 192. Section 74-4G-3 NMSA 1978 (being Laws
23 1997, Chapter 38, Section 3) is amended to read:

24 "74-4G-3. DEFINITIONS.--As used in the Voluntary
25 Remediation Act:

.184126.1

underscored material = new
[bracketed material] = delete

1 A. "applicable standards" means federal, state or
2 local standards, requirements, criteria or limitations that
3 are legally applicable to the facility;

4 B. "applicant" means a person that elects to submit
5 an application to participate and enter into an agreement
6 under the Voluntary Remediation Act;

7 C. "contaminant" means the following substances
8 within the jurisdiction of the department:

9 (1) solid waste;

10 (2) hazardous waste as defined in 20 NMAC
11 4.1.200;

12 (3) an RCRA hazardous waste constituent listed
13 in Appendices VIII and IX in 20 NMAC 4.1.200;

14 (4) any substance that could alter, if
15 discharged or spilled, the physical, chemical, biological or
16 radiological qualities of water; or

17 (5) a hazardous substance, as defined by
18 Section 101(14) of the federal Comprehensive Environmental
19 Response, Compensation and Liability Act of 1980 and 40
20 C.F.R. Part 302, Table 302.4;

21 D. "department" means the [~~department of~~] natural
22 resources and environment department;

23 E. "enforcement action" means:

24 (1) a written notice from the department or
25 other state agency that requires abatement of contamination

.184126.1

underscoring material = new
~~[bracketed material]~~ = delete

1 under 20 NMAC 6.2;

2 (2) a written order from the department or
3 other state agency that requires or involves the removal or
4 remediation of contaminants;

5 (3) a judicial action by the department or
6 other state agency seeking the abatement of contamination or
7 the remediation of contaminants; or

8 (4) a notice, order or judicial action similar
9 to those enumerated in Paragraphs (1) through (3) of this
10 subsection, but initiated by the federal government;

11 F. "fraud" means the knowingly false
12 representation, whether by words or conduct and whether by
13 inaccurate or misleading allegations or by concealment of
14 that which should have been disclosed, that is intended to
15 deceive or circumvent the intent of this statute;

16 G. "participant" means an applicant that has been
17 approved by the department as eligible for and that signs and
18 performs an agreement pursuant to the provisions of the
19 Voluntary Remediation Act;

20 H. "person" means an individual or any other
21 entity, including partnerships, corporations, associations,
22 responsible business or association agents or officers, the
23 state or a political subdivision of the state or any agency,
24 department or instrumentality of the United States and any of
25 its officers, agents or employees;

.184126.1

underscored material = new
[bracketed material] = delete

1 I. "release" means any spilling, leaking, pumping,
2 pouring, emitting, emptying, discharging, injecting,
3 escaping, leaching, dumping or disposing into the
4 environment, including abandonment or discarding of any
5 contaminant;

6 J. "remediation" means:

7 (1) actions necessary to investigate, prevent,
8 minimize or mitigate damages to the public health or to the
9 environment that may otherwise result from a release or
10 threat of release; and

11 (2) the cleanup or removal of released
12 contaminants to conform with applicable standards;

13 K. "site" means a parcel of real property for which
14 an application has been submitted pursuant to the provisions
15 of Section [~~5 of the Voluntary Remediation Act~~] 74-4G-5 NMSA
16 1978; and

17 L. "voluntary remediation" means remediation taken
18 [~~under and~~] in compliance with the Voluntary Remediation
19 Act."

20 SECTION 193. Section 74-6-2 NMSA 1978 (being Laws 1967,
21 Chapter 190, Section 2, as amended) is amended to read:

22 "74-6-2. DEFINITIONS.--As used in the Water Quality
23 Act:

24 A. "gray water" means untreated household
25 wastewater that has not come in contact with toilet waste and

.184126.1

1 includes wastewater from bathtubs, showers, washbasins,
2 clothes washing machines and laundry tubs, but does not
3 include wastewater from kitchen sinks or dishwashers or
4 laundry water from the washing of material soiled with human
5 excreta, such as diapers;

6 B. "water contaminant" means any substance that
7 could alter, if discharged or spilled, the physical,
8 chemical, biological or radiological qualities of water.
9 "Water contaminant" does not mean source, special nuclear or
10 by-product material as defined by the federal Atomic Energy
11 Act of 1954;

12 C. "water pollution" means introducing or
13 permitting the introduction into water, either directly or
14 indirectly, of one or more water contaminants in such
15 quantity and of such duration as may with reasonable
16 probability injure human health, animal or plant life or
17 property, or to unreasonably interfere with the public
18 welfare or the use of property;

19 D. "wastes" means sewage, industrial wastes or any
20 other liquid, gaseous or solid substance that may pollute any
21 waters of the state;

22 E. "sewer system" means pipelines, conduits,
23 pumping stations, force mains or any other structures,
24 devices, appurtenances or facilities used for collecting or
25 conducting wastes to an ultimate point for treatment or

underscored material = new
[bracketed material] = delete

1 disposal;

2 F. "treatment works" means any plant or other works
3 used for the purpose of treating, stabilizing or holding
4 wastes;

5 G. "sewerage system" means a system for disposing
6 of wastes, either by surface or underground methods, and
7 includes sewer systems, treatment works, disposal wells and
8 other systems;

9 H. "water" means all water, including water
10 situated wholly or partly within or bordering upon the state,
11 whether surface or subsurface, public or private, except
12 private waters that do not combine with other surface or
13 subsurface water;

14 I. "person" means an individual or any other
15 entity, including partnerships, corporations, associations,
16 responsible business or association agents or officers, the
17 state or a political subdivision of the state or any agency,
18 department or instrumentality of the United States and any of
19 its officers, agents or employees;

20 J. "commission" means the water quality control
21 commission;

22 K. "constituent agency" means, as the context may
23 require, any or all of the following agencies of the state:

24 (1) the ~~[department of]~~ natural resources and
25 environment department;

.184126.1

underscored material = new
[bracketed material] = delete

1 (2) the state engineer and the interstate
2 stream commission;

3 (3) the [~~department of~~] game and fish division
4 of the natural resources and environment department;

5 (4) the oil conservation commission;

6 (5) the state parks division of the [~~energy,~~
7 ~~minerals and~~] natural resources and environment department;

8 (6) the New Mexico department of agriculture;

9 (7) the soil and water conservation
10 commission; and

11 (8) the bureau of geology and mineral
12 resources at the New Mexico institute of mining and
13 technology;

14 L. "new source" means:

15 (1) any source, the construction of which is
16 commenced after the publication of proposed regulations
17 prescribing a standard of performance applicable to the
18 source; or

19 (2) any existing source when modified to treat
20 substantial additional volumes or when there is a substantial
21 change in the character of water contaminants treated;

22 M. "source" means a building, structure, facility
23 or installation from which there is or may be a discharge of
24 water contaminants directly or indirectly into water;

25 N. "septage" means the residual wastes and water

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 periodically pumped from a liquid waste treatment unit or
2 from a holding tank for maintenance or disposal purposes;

3 O. "sludge" means solid, semi-solid or liquid waste
4 generated from a municipal, commercial or industrial
5 wastewater treatment plant, water supply treatment plant or
6 air pollution control facility that is associated with the
7 treatment of these wastes. "Sludge" does not mean treated
8 effluent from a wastewater treatment plant;

9 P. "substantial adverse environmental impact" means
10 that an act or omission of the violator causes harm or
11 damage:

12 (1) to human beings; or

13 (2) that amounts to more than ten thousand
14 dollars (\$10,000) damage or mitigation costs to flora,
15 including agriculture crops; fish or other aquatic life;
16 waterfowl or other birds; livestock or wildlife or damage to
17 their habitats; ground water or surface water; or the lands
18 of the state;

19 Q. "federal act" means the Federal Water Pollution
20 Control Act, its subsequent amendment and successor
21 provisions; and

22 R. "standards of performance" means any standard,
23 effluent limitation or effluent standard adopted pursuant to
24 the federal act or the Water Quality Act."

25 SECTION 194. Section 74-6-3 NMSA 1978 (being Laws 1967,

.184126.1

underscored material = new
[bracketed material] = delete

1 Chapter 190, Section 3, as amended) is amended to read:

2 "74-6-3. WATER QUALITY CONTROL COMMISSION CREATED.--

3 A. ~~[There is created]~~ The "water quality control
4 commission" is created, consisting of:

5 (1) the secretary of natural resources and
6 environment or a member of the secretary's staff designated
7 by the secretary;

8 (2) the secretary of health or a member of the
9 secretary's staff designated by the secretary;

10 (3) the director of the ~~[department of]~~ game
11 and fish division of the natural resources and environment
12 department or a member of the director's staff designated by
13 the director;

14 (4) the state engineer or a member of the
15 state engineer's staff designated by the state engineer;

16 (5) the chair of the oil conservation
17 commission or a member of the chair's staff designated by the
18 chair;

19 (6) the director of the state parks division
20 of the ~~[energy, minerals and]~~ natural resources and
21 environment department or a member of the director's staff
22 designated by the director;

23 (7) the director of the New Mexico department
24 of agriculture or a member of the director's staff designated
25 by the director;

.184126.1

underscored material = new
[bracketed material] = delete

1 (8) the chair of the soil and water
2 conservation commission or a soil and water conservation
3 district supervisor designated by the chair;

4 (9) the director of the bureau of geology and
5 mineral resources at the New Mexico institute of mining and
6 technology or a member of the director's staff designated by
7 the director;

8 (10) a municipal or county government
9 representative; and

10 (11) four representatives of the public to be
11 appointed by the governor for terms of four years and who
12 shall be compensated from the budgeted funds of the natural
13 resources and environment department [~~of environment~~] in
14 accordance with the provisions of the Per Diem and Mileage
15 Act. At least one member appointed by the governor shall be
16 a member of a New Mexico Indian tribe or pueblo.

17 B. A member of the commission shall not receive, or
18 shall not have received during the previous two years, a
19 significant portion of the member's income directly or
20 indirectly from permit holders or applicants for a permit. A
21 member of the commission shall, upon the acceptance of the
22 member's appointment and prior to the performance of any of
23 the member's duties, file a statement of disclosure with the
24 secretary of state disclosing any amount of money or other
25 valuable consideration, and its source, the value of which is

.184126.1

underscored material = new
[bracketed material] = delete

1 in excess of ten percent of the member's gross personal
2 income in each of the preceding two years, that the member
3 received directly or indirectly from permit holders or
4 applicants for permits required under the Water Quality Act.

5 A member of the commission shall not participate in the
6 consideration of an appeal if the subject of the appeal is an
7 application filed or a permit held by an entity that either
8 employs the commission member or from which the commission
9 member received more than ten percent of the member's gross
10 personal income in either of the preceding two years.

11 C. The commission shall elect a chair and other
12 necessary officers and shall keep a record of its
13 proceedings.

14 D. A majority of the commission constitutes a
15 quorum for the transaction of business, but no action of the
16 commission is valid unless concurred in by six or more
17 members present at a meeting.

18 E. The commission is the state water pollution
19 control agency for this state for all purposes of the federal
20 act and the wellhead protection and sole source aquifer
21 programs of the federal Safe Drinking Water Act of 1974 and
22 may take all action necessary and appropriate to secure to
23 this state, its political subdivisions or interstate agencies
24 the benefits of that act and those programs.

25 F. The commission is administratively attached, as

.184126.1

underscored material = new
[bracketed material] = delete

1 defined in the Executive Reorganization Act, to the
2 [~~department of~~] natural resources and environment
3 department."

4 SECTION 195. Section 74-6A-3 NMSA 1978 (being Laws
5 1986, Chapter 72, Section 3, as amended) is amended to read:

6 "74-6A-3. DEFINITIONS.--As used in the Wastewater
7 Facility Construction Loan Act:

8 A. "administrative fee" means a fee assessed and
9 collected by the department from a local authority on each
10 loan and expressed as a percentage per year on the
11 outstanding principal amount of the loan, payable by the
12 borrower on the same date that principal and interest on the
13 loan are due, for deposit in the clean water administrative
14 fund;

15 B. "commission" means the water quality control
16 commission;

17 C. "division" or "department" means the [~~department~~
18 ~~of~~] natural resources and environment department;

19 D. "financial assistance" means loans, the purchase
20 or refinancing of existing local political subdivision
21 obligations, loan guarantees, credit enhancement techniques
22 to reduce interest on loans and bonds, bond insurance and
23 bond guarantees or any combination of these purposes;

24 E. "fund" means the wastewater facility
25 construction loan fund;

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 F. "local authority" means any municipality,
2 county, incorporated county, sanitation district, water and
3 sanitation district or any similar district, recognized
4 Indian tribe or other issuing agency created pursuant to a
5 joint powers agreement acting on behalf of any entity listed
6 in this subsection;

7 G. "operate and maintain" means to perform all
8 necessary activities, including replacement of equipment or
9 appurtenances, to ensure the dependable and economical
10 function of a wastewater facility in accordance with its
11 intended purpose;

12 H. "wastewater facility" means a publicly owned
13 system for treating or disposing of sewage or wastes either
14 by surface or underground methods, including any equipment,
15 plant, treatment works, structure, machinery, apparatus or
16 land, in any combination, that is acquired, used, constructed
17 or operated for the storage, collection, reduction,
18 recycling, reclamation, disposal, separation or treatment of
19 water or wastes or for the final disposal of residues
20 resulting from the treatment of water or wastes, such as
21 pumping and ventilating stations, facilities, plants and
22 works, outfall sewers, interceptor sewers and collector
23 sewers and other real or personal property and appurtenances
24 incident to their use or operation. "Wastewater facility"
25 also includes a nonpoint source water pollution control

.184126.1

underscored material = new
~~[bracketed material] = delete~~

1 project as eligible under the Clean Water Act;

2 I. "account" means the wastewater suspense account;

3 J. "board" means the state board of finance;

4 K. "bonds" means wastewater bonds or other
5 obligations authorized by the commission to be issued by the
6 board pursuant to the Wastewater Facility Construction Loan
7 Act;

8 L. "Clean Water Act" means the federal Clean Water
9 Act of 1977 and its subsequent amendments or successor
10 provisions;

11 M. "federal securities" means direct obligations of
12 the United States, or obligations the principal and interest
13 of which are unconditionally guaranteed by the United States,
14 or an ownership interest in either of the foregoing;

15 N. "force account construction" means construction
16 performed by the employees of a local authority rather than
17 through a contractor;

18 O. "holders" means persons who are owners of bonds,
19 whether registered or not, issued pursuant to the Wastewater
20 Facility Construction Loan Act;

21 P. "issuing resolution" means a formal statement
22 adopted by the board to issue bonds pursuant to the
23 Wastewater Facility Construction Loan Act, including any
24 trust agreement, trust indenture or similar instrument
25 providing terms and conditions for the bonds to be issued;

.184126.1

underscored material = new
[bracketed material] = delete

1 and

2 Q. "recommending resolution" means a formal
3 statement adopted by the commission recommending to the board
4 that bonds be issued pursuant to the Wastewater Facility
5 Construction Loan Act, including any trust agreement, trust
6 indenture or similar instrument providing the terms and
7 conditions for the bonds that are issued."

8 SECTION 196. Section 74-6B-3 NMSA 1978 (being Laws
9 1990, Chapter 124, Section 3, as amended) is amended to read:

10 "74-6B-3. DEFINITIONS.--As used in the Ground Water
11 Protection Act:

12 A. "above ground storage tank" means a single tank
13 or a combination of tanks, including underground pipes
14 connected thereto, that ~~are~~ is used to contain petroleum,
15 including crude oil or any fraction thereof that is liquid at
16 standard conditions of temperature and pressure of sixty
17 degrees Fahrenheit and fourteen and seven-tenths pounds per
18 square inch absolute, and the volume of which is more than
19 ninety percent above the surface of the ground. The term
20 does not include any:

21 (1) farm, ranch or residential tank used for
22 storing motor fuel for noncommercial purposes;

23 (2) pipeline facility, including gathering
24 lines, that ~~are~~ is regulated under the federal Natural Gas
25 Pipeline Safety Act of 1968 or the federal Hazardous Liquid

.184126.1

underscored material = new
[bracketed material] = delete

1 Pipeline Safety Act of 1979 or that is an intrastate pipeline
2 facility regulated under state laws comparable to either act;

3 (3) surface impoundment, pit, pond or lagoon;

4 (4) storm water or wastewater collection

5 system;

6 (5) flow-through process tank;

7 (6) liquid trap, tank or associated gathering

8 lines or other storage methods or devices related to oil, gas
9 or mining exploration, production, transportation, refining,
10 processing or storage, or oil field service industry

11 operations;

12 (7) tank used for storing heating oil for

13 consumptive use on the premises where stored;

14 (8) ~~[pipes]~~ pipe connected to any tank that is
15 described in Paragraphs (1) through (7) of this subsection;

16 or

17 (9) ~~[tanks]~~ tank or related ~~[pipelines]~~
18 pipeline and ~~[facilities]~~ facility owned or used by a
19 refinery, natural gas processing plant or pipeline company in
20 the regular course of ~~[their]~~ its refining, processing or
21 pipeline business;

22 B. "board" means the environmental improvement
23 board;

24 C. "corrective action" means an action taken in
25 accordance with rules of the board to investigate, minimize,

.184126.1

underscored material = new
[bracketed material] = delete

1 eliminate or clean up a release to protect the public health,
2 safety and welfare or the environment;

3 D. "department" means the [~~department of~~] natural
4 resources and environment department;

5 E. "operator" means any person in control of or
6 having responsibility for the daily operation of a storage
7 tank;

8 F. "owner":

9 (1) means:

10 (a) in the case of a storage tank in use
11 or brought into use on or after November 8, 1984, a person
12 who owns a storage tank used for storage, use or dispensing
13 of regulated substances; and

14 (b) in the case of a storage tank in use
15 before November 8, 1984 but no longer in use after that date,
16 a person who owned the tank immediately before the
17 discontinuation of its use; and

18 (2) excludes, for purposes of tank
19 registration requirements only, a person who:

20 (a) had an underground storage tank taken
21 out of operation on or before January 1, 1974;

22 (b) had an underground storage tank taken
23 out of operation after January 1, 1974 and removed from the
24 ground prior to November 8, 1984; or

25 (c) had an above ground storage tank taken

underscored material = new
[bracketed material] = delete

1 out of operation on or before July 1, 2001;

2 G. "person" means an individual or any legal
3 entity, including all governmental entities;

4 H. "regulated substance" means:

5 (1) a substance defined in Section 101(14) of
6 the federal Comprehensive Environmental Response,
7 Compensation and Liability Act of 1980, but not including a
8 substance regulated as a hazardous waste under Subtitle C of
9 the federal Resource Conservation and Recovery Act of 1976;
10 and

11 (2) petroleum, including crude oil or a
12 fraction thereof, that is liquid at standard conditions of
13 temperature and pressure of sixty degrees Fahrenheit and
14 fourteen and seven-tenths pounds per square inch absolute;

15 I. "release" means a spilling, leaking, emitting,
16 discharging, escaping, leaching or disposing from a storage
17 tank into ground water, surface water or subsurface soils in
18 amounts exceeding twenty-five gallons;

19 J. "secretary" means the secretary of natural
20 resources and environment;

21 K. "site" means a place where there is or was at a
22 previous time one or more storage tanks and may include areas
23 contiguous to the actual location or previous location of the
24 tanks;

25 L. "storage tank" means an above ground storage

underscored material = new
[bracketed material] = delete

1 tank or an underground storage tank; and

2 M. "underground storage tank" means a single tank
3 or combination of tanks, including underground pipes
4 connected thereto, that ~~are~~ is used to contain an
5 accumulation of regulated substances and the volume of which,
6 including the volume of the underground pipes connected
7 thereto, is ten percent or more beneath the surface of the
8 ground. The term does not include any:

9 (1) farm, ranch or residential tank of one
10 thousand one hundred gallons or less capacity used for
11 storing motor fuel for noncommercial purposes;

12 (2) septic tank;

13 (3) pipeline facility, including gathering
14 lines, that is regulated under the federal Natural Gas
15 Pipeline Safety Act of 1968 or the federal Hazardous Liquid
16 Pipeline Safety Act of 1979 or that is an intrastate pipeline
17 facility regulated under state laws comparable to either act;

18 (4) surface impoundment, pit, pond or lagoon;

19 (5) storm water or wastewater collection
20 system;

21 (6) flow-through process tank;

22 (7) liquid trap, tank or associated gathering
23 lines directly related to oil or gas production and gathering
24 operations;

25 (8) storage tank situated in an underground

underscored material = new
[bracketed material] = delete

1 area, such as a basement, cellar, mineworking drift, shaft or
2 tunnel, if the storage tank is situated upon or above the
3 surface of the undesignated floor;

4 (9) tank used for storing heating oil for
5 consumptive use on the premises where stored;

6 (10) tank exempted by rule of the board after
7 finding that the type of tank is adequately regulated under
8 another federal or state law; or

9 (11) ~~[pipes]~~ pipe connected to any tank that
10 is described in Paragraphs (1) through (10) of this
11 subsection."

12 SECTION 197. Section 74-7-3 NMSA 1978 (being Laws 1983,
13 Chapter 29, Section 3) is amended to read:

14 "74-7-3. DEFINITIONS.--As used in the Environmental
15 Compliance Act:

16 A. "board" means the environmental improvement
17 board;

18 B. "director" means the director of the division;

19 C. "division" means the environmental ~~[improvement]~~
20 protection division of the ~~[health]~~ natural resources and
21 environment department;

22 D. "environmental audit" means a systematic
23 assessment, analysis and evaluation by a regulated entity of
24 its compliance with environmental laws and ~~[regulations]~~
25 rules administered by the board and the division, applicable

.184126.1

underscored material = new
[bracketed material] = delete

1 to its operation; and

2 E. "regulated entity" means any person,
3 partnership, corporation, firm, association, governmental or
4 other entity organized and engaging in any business or
5 activity in the state [~~which~~] that deals with or has an
6 impact on the environment of this state or [~~which~~] that must
7 by law comply with federal or state environmental protection
8 [~~regulations~~] rules."

9 SECTION 198. Section 74-9-3 NMSA 1978 (being Laws 1990,
10 Chapter 99, Section 3) is amended to read:

11 "74-9-3. DEFINITIONS.--As used in the Solid Waste Act:

12 A. "agricultural" means all methods of production
13 and management of livestock, crops, vegetation and soil.
14 This includes, but is not limited to, raising, harvesting and
15 marketing. It also includes, but is not limited to, the
16 activities of feeding, housing and maintaining animals such
17 as cattle, dairy cows, sheep, goats, hogs, horses and
18 poultry;

19 B. "board" means the environmental improvement
20 board;

21 C. "commercial hauler" means any person
22 transporting solid waste for hire by whatever means for the
23 purpose of disposing of the solid waste in a solid waste
24 facility, except that [~~the term~~] "commercial hauler" does not
25 include an individual transporting solid waste generated on

.184126.1

underscored material = new
[bracketed material] = delete

1 or from ~~[his]~~ the person's residential premises for the
2 purpose of disposing of it in a solid waste facility;

3 D. "construction and demolition debris" means
4 materials generally considered to be not water soluble and
5 nonhazardous in nature, including, but not limited to, steel,
6 glass, brick, concrete, asphalt roofing materials, pipe,
7 gypsum wallboard and lumber from the construction or
8 destruction of a structure as part of a construction or
9 demolition project, and includes rocks, soil, tree remains,
10 trees and other vegetative matter that normally results from
11 land clearing or land development operations for a
12 construction project, but if construction and demolition
13 debris is mixed with any other types of solid waste, whether
14 or not originating from the construction project, it loses
15 its classification as construction and demolition debris;

16 E. "densified-refuse-derived fuel" means a product
17 resulting from the processing of mixed municipal solid waste
18 in a manner that produces a fuel suitable for combustion in
19 existing or new solid-fuel-fired boilers;

20 F. "director" means the director of the
21 ~~[environmental improvement]~~ division ~~[of the health and~~
22 ~~environment department]~~;

23 G. "division" means the environmental ~~[improvement]~~
24 protection division of the ~~[health]~~ natural resources and
25 environment department;

.184126.1

underscored material = new
[bracketed material] = delete

1 H. "municipality" means any incorporated city, town
2 or village, whether incorporated under general act, special
3 act or special charter, incorporated counties and H class
4 counties;

5 I. "person" means an individual or any entity,
6 including federal, state and local governmental entities,
7 however organized;

8 J. "plan" or "state plan" means the solid waste
9 management plan required to be developed under Section [~~4 of~~
10 ~~the Solid Waste Act~~] 74-9-4 NMSA 1978;

11 K. "program" or "state program" means the
12 comprehensive state solid waste management program described
13 in Section [~~12 of the Solid Waste Act~~] 74-9-12 NMSA 1978;

14 L. "recyclable materials" means materials that
15 would otherwise become solid waste if not recycled and that
16 can be collected, separated or processed and placed in use in
17 the form of raw materials, products or densified-refuse-
18 derived fuels;

19 M. "recycling" means any process by which
20 recyclable materials are collected, separated or processed
21 and reused or returned to use in the form of raw materials or
22 products;

23 N. "solid waste" means any garbage, refuse, sludge
24 from a waste treatment plant, water supply treatment plant or
25 air pollution control facility and other discarded material,

.184126.1

1 including solid, liquid, semisolid or contained gaseous
2 material resulting from industrial, commercial, mining and
3 agricultural operations and from community activities.

4 "Solid waste" does not include:

5 (1) drilling fluids, produced waters and other
6 nondomestic wastes associated with the exploration,
7 development or production, transportation, storage, treatment
8 or refinement of crude oil, natural gas, carbon dioxide gas
9 or geothermal energy;

10 (2) fly ash waste, bottom ash waste, slag
11 waste and flue gas emission control waste generated primarily
12 from the combustion of coal or other fossil fuels and wastes
13 produced in conjunction with the combustion of fossil fuels
14 that are necessarily associated with the production of energy
15 and that traditionally have been and actually are mixed with
16 and are disposed of or treated at the same time with fly ash,
17 bottom ash, boiler slag or flue gas emission control wastes
18 from coal combustion;

19 (3) waste from the extraction, beneficiation
20 and processing of ores and minerals, including phosphate rock
21 and overburden from the mining of uranium ore, coal, copper,
22 molybdenum and other ores and minerals;

23 (4) agricultural waste, including, but not
24 limited to, manures and crop residues returned to the soil as
25 fertilizer or soil conditioner;

.184126.1

underscored material = new
[bracketed material] = delete

1 (5) cement kiln dust waste;
2 (6) sand and gravel;
3 (7) solid or dissolved material in domestic
4 sewage or solid or dissolved materials in irrigation return
5 flows or industrial discharges that are point sources subject
6 to permits under Section 402 of the Federal Water Pollution
7 Control Act, 33 U.S.C. Section 1342 or source, special
8 nuclear or by-product material as defined by the Atomic
9 Energy Act of 1954, 42 U.S.C. Section 2011 et seq.;

10 (8) densified-refuse-derived fuel; or

11 (9) any material regulated by Subtitle C of
12 the federal Resource Conservation and Recovery Act of 1976,
13 substances regulated by the federal Toxic Substances Control
14 Act or low-level radioactive waste;

15 O. "solid waste district" means a geographical area
16 designated by the board as a solid waste district under
17 Section [~~11 of the Solid Waste Act~~] 74-9-11 NMSA 1978;

18 P. "solid waste facility" means any public or
19 private system, facility, location, improvements on the land,
20 structures or other appurtenances or methods used for
21 processing, transformation, recycling or disposal of solid
22 waste, including landfill disposal facilities, transfer
23 stations, resource recovery facilities, incinerators and
24 other similar facilities not specified, but does not include
25 equipment specifically approved by order of the director to

.184126.1

underscored material = new
[bracketed material] = delete

1 render medical waste noninfectious or a facility [~~which~~] that
2 is permitted pursuant to the provisions of the Hazardous
3 Waste Act and does not apply to a facility fueled by a
4 densified-refuse-derived fuel that accepts no other solid
5 waste;

6 Q. "source reduction" means any action that causes
7 a net reduction in the generation, volume or toxicity of
8 solid waste;

9 R. "special waste" means solid waste that has
10 unique handling, transportation or disposal requirements to
11 assure protection of the environment and the public health
12 and safety;

13 S. "transformation" means incineration, pyrolysis,
14 distillation, gasification or biological conversion other
15 than composting; and

16 T. "yard refuse" means vegetative matter resulting
17 from landscaping, land maintenance and land clearing
18 operations."

19 **SECTION 199.** Section 74-13-3 NMSA 1978 (being Laws
20 2005, Chapter 171, Section 3) is amended to read:

21 "74-13-3. DEFINITIONS.--As used in the Recycling and
22 Illegal Dumping Act:

23 A. "abatement" means to reduce in amount, degree or
24 intensity or to eliminate;

25 B. "agricultural use" means the beneficial use of

.184126.1

underscored material = new
[bracketed material] = delete

1 scrap tires in conjunction with the operations of a farm or
2 ranch that includes construction projects and aids in the
3 storage of feed;

4 C. "alliance" means the recycling and illegal
5 dumping alliance;

6 D. "board" means the environmental improvement
7 board;

8 E. "civil engineering application" means the use of
9 scrap tires or other recycled material in conjunction with
10 other aggregate materials in engineering applications;

11 F. "composting" means the process by which
12 biological decomposition of organic material is carried out
13 under controlled conditions and the process stabilizes the
14 organic fraction into a material that can be easily and
15 safely stored, handled and used in an environmentally
16 acceptable manner;

17 G. "cooperative association" means a refuse
18 disposal district created pursuant to the Refuse Disposal
19 Act, a sanitation district created pursuant to the Water and
20 Sanitation District Act, a special district created pursuant
21 to the Special District Procedures Act or other associations
22 created pursuant to the Joint Powers Agreements Act or the
23 Solid Waste Authority Act;

24 H. "department" means the natural resources and
25 environment department [~~of environment~~];

.184126.1

underscored material = new
[bracketed material] = delete

1 I. "dispose" means to deposit scrap tires or solid
2 waste into or on any land or water;

3 J. "household" means any single and multiple
4 residence, hotel or motel, bunkhouse, ranger station, crew
5 quarters, campground, picnic ground or day-use recreation
6 area;

7 K. "illegal dumping" means disposal of trash, scrap
8 tires or any solid waste in a manner that violates the Solid
9 Waste Act or the Recycling and Illegal Dumping Act;

10 L. "illegal dumpsite" means a place where illegal
11 dumping has occurred except as stated in Subsection A of
12 Section [~~4 of the Recycling and Illegal Dumping Act~~] 74-13-4
13 NMSA 1978;

14 M. "market development" means activities to expand
15 or create markets for recyclable and reusable materials;

16 N. "motor vehicle" means a vehicle or device that
17 is propelled by an internal combustion engine or electric
18 motor power that is used or may be used on the public
19 highways for the purpose of transporting persons or property
20 and includes any connected trailer or semitrailer;

21 O. "processing" means techniques to change
22 physical, chemical or biological character or composition of
23 solid waste but does not include composting, transformation
24 or open burning;

25 P. "recycling" means any process by which

.184126.1

1 recyclable materials are collected, separated or processed
2 and reused or returned to use in the form of raw materials or
3 products;

4 Q. "reuse" means the return of a commodity into the
5 economic stream without a change to its original form;

6 R. "scrap tire" means a tire that is no longer
7 suitable for its originally intended purpose because of wear,
8 damage or defect;

9 S. "scrap tire baling" means the process by which
10 scrap tires are mechanically compressed and bound into block
11 form;

12 T. "scrap tire generator" means a person who
13 generates scrap tires, including retail tire dealers,
14 retreaders, scrap tire processors, automobile dealers,
15 automobile salvage yards, private company vehicle maintenance
16 shops, garages, service stations and city, county and state
17 government, but does not include persons who generate scrap
18 tires in a household or in agricultural operations;

19 U. "scrap tire hauler" means a person who
20 transports scrap tires for hire for the purpose of recycling,
21 disposal, transformation or use in a civil engineering
22 application;

23 V. "secretary" means the secretary of natural
24 resources and environment;

25 W. "tire" means a continuous solid or pneumatic

1 rubber covering that encircles the wheel of a motor
2 vehicle;

3 X. "tire-derived fuel" means whole or chipped tires
4 that produce a low sulfur, high-heating-value fuel;

5 Y. "tire-derived product" means a usable product
6 produced from the processing of a scrap tire but does not
7 include baled tires;

8 Z. "tire recycling" means a process in which scrap
9 tires are collected, stored, separated or reprocessed for
10 reuse as a different product or shredded into a form suitable
11 for use in rubberized asphalt or as raw material for the
12 manufacture of other products; and

13 AA. "tire recycling facility" means a place
14 operated or maintained for tire recycling but does not
15 include:

16 (1) retail business premises where tires are
17 sold, if no more than five hundred loose scrap tires or two
18 thousand scrap tires, if left in a closed conveyance or
19 enclosure, are kept on the premises at one time;

20 (2) the premises of a tire retreading
21 business, if no more than three thousand scrap tires are kept
22 on the premises at one time;

23 (3) premises where tires are removed from
24 motor vehicles in the ordinary course of business, if no more
25 than five hundred scrap tires are kept on the premises at one

.184126.1

underscored material = new
[bracketed material] = delete

1 time;

2 (4) a solid waste facility having a valid
3 permit or registration issued pursuant to the provisions of
4 the Solid Waste Act or regulations adopted pursuant to that
5 act or registration issued pursuant to the Environmental
6 Improvement Act; or

7 (5) a site where tires are stored or used for
8 agricultural uses."

9 SECTION 200. Section 75-1-2 NMSA 1978 (being Laws 1973,
10 Chapter 333, Section 2, as amended) is amended to read:

11 "75-1-2. DEFINITIONS.--As used in the Rural
12 Infrastructure Act:

13 A. "department" means the natural resources and
14 environment department [~~of environment~~];

15 B. "fund" means the rural infrastructure revolving
16 loan fund;

17 C. "local authority" means a mutual domestic
18 association or water and sanitation district that supplies
19 water, wastewater or solid waste services to, or a
20 municipality that has, a population of less than twenty
21 thousand or a county with a population of less than two
22 hundred thousand;

23 D. "operate and maintain" means all necessary
24 activities, including replacement of equipment or
25 appurtenances to assure the dependable and economical

.184126.1

underscored material = new
[bracketed material] = delete

1 function of a facility in accordance with its intended
2 purpose;

3 E. "secretary" means the secretary of natural
4 resources and environment;

5 F. "solid waste facility" includes transfer and
6 convenience facilities, landfills or other equipment or
7 systems used for the processing, transformation, recycling or
8 disposal of solid waste;

9 G. "wastewater facility" includes collection lines,
10 pumping equipment, treatment works and disposal piping or
11 process units; and

12 H. "water supply facility" includes the source of
13 supply of water, pumping equipment, storage facilities,
14 transmission lines, treatment works and distribution
15 systems."

16 SECTION 201. Section 75-5-1 NMSA 1978 (being Laws 1987,
17 Chapter 192, Section 1, as amended) is amended to read:

18 "75-5-1. SHORT TITLE.--~~[Sections 1 through 6 of this~~
19 ~~act]~~ Chapter 75, Article 5 NMSA 1978 may be cited as the
20 "Natural Lands Protection Act"."

21 SECTION 202. Section 75-5-3 NMSA 1978 (being Laws 1987,
22 Chapter 192, Section 3, as amended) is amended to read:

23 "75-5-3. DEFINITIONS.--As used in the Natural Lands
24 Protection Act:

25 A. [~~"committee" means the natural lands protection~~

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~committee]~~ "department" means the natural resources and
2 environment department;

3 B. "unique and ecologically significant lands" are
4 lands ~~[which]~~ that:

5 (1) afford habitat for species listed as rare,
6 threatened or endangered by the state or federal government;
7 and

8 (2) are identified by the ~~[natural resources]~~
9 department as constituting the best remaining examples of
10 native ecological communities that are otherwise unprotected;
11 and

12 C. "corporation" means a New Mexico not-for-profit
13 corporation whose primary purpose is the preservation and
14 conservation of lands."

15 SECTION 203. Section 75-5-4 NMSA 1978 (being Laws 1987,
16 Chapter 192, Section 4, as amended) is amended to read:

17 "75-5-4. ADMINISTRATION OF THE ACT.--

18 A. The Natural Lands Protection Act shall be
19 administered by the secretary of natural resources and
20 environment in consultation with ~~[a committee consisting of~~
21 ~~the secretary of natural resources, who shall serve as~~
22 ~~chairman of the committee]~~ the director of the ~~[department~~
23 ~~of]~~ game and fish division of the department, the
24 commissioner of public lands and the director of the New
25 Mexico department of agriculture ~~[and three public members~~

underscored material = new
[bracketed material] = delete

1 ~~appointed by the governor, one of whom shall represent the~~
2 ~~ranching or farming industry].~~

3 B. The secretary of natural resources and environment
4 shall ~~[present a list of projects to the committee based on~~
5 ~~priorities generated by the natural resources department.~~

6 ~~C. The committee shall]~~ recommend lands to be
7 acquired under the provisions of the Natural Lands Protection
8 Act and, subject to appropriation for such purpose by the
9 legislature, pay the state's share of acquisitions. No land
10 shall be acquired unless a corporation jointly acquires the
11 land with the state. A corporation ~~[must]~~ shall participate in
12 acquiring a minimum of at least ten percent undivided interest
13 in the land or the state cannot participate in the acquisition.
14 Title to lands acquired shall be held as cotenants having
15 undivided interests in proportion to the state's and the
16 corporation's share of the acquisition and shall be held in the
17 name of the state ~~[of New Mexico]~~ and the corporation.

18 ~~[D.]~~ C. Priority among projects qualified under the
19 Natural Lands Protection Act shall be determined in descending
20 order as follows:

21 (1) the degree to which the lands in question
22 are subject to the threat of immediate alteration or
23 destruction;

24 (2) the degree to which ecosystems in question
25 are unduplicated elsewhere; and

.184126.1

underscored material = new
[bracketed material] = delete

1 (3) usefulness for teaching and research."

2 SECTION 204. Section 75-5-5 NMSA 1978 (being Laws 1987,
3 Chapter 192, Section 5) is amended to read:

4 "75-5-5. MANAGEMENT.--

5 A. The purposes of management shall be for education,
6 research and preservation, provided that no use of the lands
7 acquired under the Natural Lands Protection Act shall
8 compromise or endanger the natural attributes for which they
9 were acquired.

10 B. The secretary of natural resources and environment
11 may assign responsibility for management of lands acquired
12 under the Natural Lands Protection Act to the corporation
13 [~~which~~] that jointly owns the land.

14 C. The corporation shall be required to develop and
15 submit to the secretary of natural resources and environment
16 for review a plan for the management of lands for which [~~they~~
17 ~~are~~] it is responsible. The secretary [~~of natural resources,~~
18 ~~in consultation with the committee, will~~] shall review these
19 plans to insure compliance with the purposes of the Natural
20 Lands Protection Act.

21 D. Lands adjacent to the land acquired under the
22 Natural Lands Protection Act shall not be subjected to any
23 regulation or restriction as a result of such [~~acquisition~~]
24 acquisition.

25 E. Access to the land by the general public may be

underscored material = new
~~[bracketed material] = delete~~

1 restricted to visits conducted under the direct supervision of
2 an employee or designated representative of the managing
3 corporation.

4 F. The corporation shall annually pay to the state
5 and its political subdivisions a sum equal to an amount which
6 would have been paid in taxes, levies and assessments. This
7 payment shall be in lieu of such taxes, levies and
8 assessments."

9 SECTION 205. Section 75-7-2 NMSA 1978 (being Laws 1993,
10 Chapter 292, Section 2, as amended) is amended to read:

11 "75-7-2. NATURAL RESOURCES TRUSTEE--OFFICE OF NATURAL
12 RESOURCES TRUSTEE.--~~[A.]~~ The "natural resources trustee" is
13 created. The ~~[trustee is appointed by and serves at the~~
14 ~~pleasure of the governor]~~ secretary of natural resources and
15 environment shall serve as the natural resources trustee
16 pursuant to the provisions of the federal Comprehensive
17 Environmental Response, Compensation, and Liability Act of
18 1980, as amended by the federal Superfund Amendments and
19 Reauthorization Act of 1986, the Federal Water Pollution
20 Control Act and any other applicable federal law. The natural
21 resources trustee shall act on behalf of the public as trustee
22 of natural resources within the state or belonging to, managed
23 by, controlled by or appertaining to the state, including
24 protecting and representing the state's interest under
25 applicable federal laws regarding injury to, destruction of or

.184126.1

underscored material = new
[bracketed material] = delete

1 loss of natural resources in the state.

2 ~~[B. The "office of natural resources trustee" is~~
3 ~~created. The office shall be administratively attached to the~~
4 ~~department of environment. The administrative head of the~~
5 ~~office of natural resources trustee is the natural resources~~
6 ~~trustee. For purposes of this subsection, the term~~
7 ~~"administratively attached" means the same as specified in~~
8 ~~Section 9-1-7 NMSA 1978.]"~~

9 SECTION 206. Section 75-7-3 NMSA 1978 (being Laws 1993,
10 Chapter 292, Section 3, as amended) is amended to read:

11 "75-7-3. NATURAL RESOURCES TRUSTEE POWERS AND DUTIES.--

12 A. The natural resources trustee shall take all
13 actions necessary to carry out the responsibilities of the
14 natural resources trustee as provided in the federal
15 Comprehensive Environmental Response, Compensation, and
16 Liability Act of 1980, as amended by the federal Superfund
17 Amendments and Reauthorization Act of 1986, the Federal Water
18 Pollution Control Act and any other applicable federal law,
19 including the responsibility to:

20 (1) act on behalf of the public to protect New
21 Mexico's natural resources by recovering damages for injury to,
22 destruction of or loss of those resources;

23 (2) investigate injury to, destruction of or
24 loss of natural resources;

25 (3) determine the amount and cause of injury to,

underscored material = new
[bracketed material] = delete

1 destruction of or loss of natural resources;

2 (4) determine the liability of any person for
3 injury to, destruction of or loss of natural resources;

4 (5) assess and collect damages for injury to,
5 destruction of or loss of natural resources, including bringing
6 legal actions and collecting the costs of assessing and
7 collecting the damages; and

8 (6) expend money for the purposes set forth in
9 the Natural Resources Trustee Act.

10 B. The natural resources trustee may:

11 (1) hire staff, in accordance with the Personnel
12 Act, to carry out the provisions of the Natural Resources
13 Trustee Act;

14 (2) contract with economists, consultants and
15 other experts; and

16 (3) accept gifts and grants to carry out the
17 provisions of the Natural Resources Trustee Act. Gifts and
18 grants accepted by the natural resources trustee shall be
19 deposited in the natural resources trustee fund.

20 C. The attorney general shall provide legal counsel
21 and representation to the natural resources trustee [~~and the~~
22 ~~office of the natural resources trustee~~]."

23 SECTION 207. Section 75-7-5 NMSA 1978 (being Laws 1993,
24 Chapter 292, Section 5, as amended) is amended to read:

25 "75-7-5. NATURAL RESOURCES TRUSTEE FUND.--

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 A. The "natural resources trustee fund" is created in
2 the state treasury. Money appropriated to the fund or accruing
3 to it through gifts, grants, fees, penalties, bequests or any
4 other source shall be delivered to the state treasurer and
5 deposited in the fund. Money recovered for the state by or on
6 behalf of the natural resources trustee shall be deposited in
7 the natural resources trustee fund. The fund shall be
8 administered by the natural resources trustee as a separate
9 account and may consist of subaccounts that the natural
10 resources trustee deems necessary to carry out the purposes of
11 the fund. Disbursements from the fund shall be made upon
12 warrants drawn by the secretary of finance and administration
13 pursuant to vouchers signed by the natural resources trustee or
14 the trustee's designated representative. Money in the fund
15 shall not revert to the general fund at the end of a fiscal
16 year.

17 B. Pursuant to the following criteria, money in the
18 natural resources trustee fund shall be used to carry out the
19 provisions of the Natural Resources Trustee Act by restoring,
20 replacing or acquiring natural resources in an area where
21 natural resources have been injured, destroyed or lost,
22 provided that money deposited in the fund because of injury to,
23 destruction of or loss of natural resources in an area shall be
24 disbursed to restore, replace or acquire natural resources in
25 that same area:

.184126.1

underscored material = new
[bracketed material] = delete

1 (1) if an expenditure from the fund is necessary
2 to comply with a court order or court-approved settlement or to
3 match federal funds, then, pursuant to Sections 6-3-23 through
4 6-3-25 NMSA 1978, the natural resources trustee may request a
5 budget increase and, if approved, the amount of the expenditure
6 is appropriated;

7 (2) if money is received for reimbursement of
8 assessment costs, then the natural resources trustee may expend
9 money for injury assessment, and money is appropriated in that
10 amount for that purpose; and

11 (3) any other expenditures from the fund shall
12 be made only pursuant to appropriation by the legislature.

13 C. In addition to expenditures made pursuant to
14 Subsection B of this section, money shall be appropriated
15 annually by the legislature from the general fund for the
16 purpose of providing for necessary personnel and other costs of
17 the natural resources trustee and the attorney general [~~and the~~
18 ~~office of natural resources trustee~~] in carrying out the
19 provisions of the Natural Resources Trustee Act, including the
20 cost of investigation, assessment, collection or enforcement.

21 D. For purposes of this section, "assessment
22 costs" means the costs of restoration and the costs of
23 collecting, compiling and analyzing information, statistics or
24 data to determine damages for injuries to natural resources
25 pursuant to the Natural Resources Trustee Act.

.184126.1

underscored material = new
[bracketed material] = delete

1 E. Money in the natural resources trustee fund
2 shall be invested as other state funds are invested, and
3 interest and earnings from the fund shall not revert to the
4 general fund but shall be credited to the natural resources
5 trustee fund."

6 SECTION 208. Section 75-10-1 NMSA 1978 (being Laws 2010,
7 Chapter 83, Section 1) is amended to read:

8 "75-10-1. SHORT TITLE.--~~[This act]~~ Chapter 75, Article 10
9 NMSA 1978 may be cited as the "Natural Heritage Conservation
10 Act"."

11 SECTION 209. Section 75-10-3 NMSA 1978 (being Laws 2010,
12 Chapter 83, Section 3) is amended to read:

13 "75-10-3. DEFINITIONS.--As used in the Natural Heritage
14 Conservation Act:

15 ~~[A. "committee" means the natural lands protection~~
16 ~~committee;~~

17 ~~B.]~~ A. "conservation entity" means a private
18 nonprofit charitable corporation or trust authorized to do
19 business in New Mexico that has tax-exempt status as a public
20 charity pursuant to the federal Internal Revenue Code of 1986
21 and that has the power to acquire, hold or maintain land or
22 interests in land;

23 ~~[C.]~~ B. "conservation project" means the acquisition
24 of conservation or agricultural easements from a willing seller
25 or a land restoration project;

.184126.1

underscored material = new
[bracketed material] = delete

1 ~~[D.]~~ C. "department" means the ~~[energy, minerals and]~~
2 natural resources and environment department;

3 ~~[E.]~~ D. "fund" means the natural heritage
4 conservation fund; and

5 ~~[F.]~~ E. "qualified entity" means a state agency, a
6 state educational institution named in Article 12, Section 11
7 of the constitution of New Mexico, a political subdivision of
8 the state or, for conservation projects wholly within New
9 Mexico, an Indian tribe or pueblo."

10 **SECTION 210.** Section 75-10-6 NMSA 1978 (being Laws 2010,
11 Chapter 83, Section 6) is amended to read:

12 "75-10-6. CONSERVATION PROJECTS--PROCEDURES.--

13 A. All conservation projects shall be maintained to
14 protect the public health and welfare and shall be for:

15 (1) preserving and conserving water quality and
16 quantity;

17 (2) protecting agricultural production on
18 working farms, ranches and other agricultural lands;

19 (3) protecting and restoring New Mexico's
20 forests and watersheds;

21 (4) conserving wildlife habitat;

22 (5) maintaining natural areas;

23 (6) providing outdoor recreation opportunities,
24 including hunting and fishing; or

25 (7) preserving cultural and historic sites with

underscored material = new
[bracketed material] = delete

1 natural resource heritage value.

2 B. The department, working with ~~[the committee]~~
3 landowners, conservationists and other interested persons,
4 shall establish criteria for evaluating possible conservation
5 projects. Criteria shall include:

6 (1) the degree to which the conservation project
7 serves the purposes of the Natural Heritage Conservation Act;

8 (2) the amount of matching financial support for
9 the conservation project from sources other than the state;

10 (3) the technical qualifications of the
11 applicant and its ability to complete and maintain the proposed
12 conservation project;

13 (4) the degree to which the conservation project
14 fosters and integrates with existing conservation plans,
15 strategies and initiatives;

16 (5) the potential for benefits at landscape and
17 ecosystem scale;

18 (6) the potential for improved public access for
19 outdoor recreation opportunities, including hunting and
20 fishing;

21 (7) the potential for economic benefits of the
22 completed conservation project; and

23 (8) other measurements and requirements required
24 by the department ~~[and the committee].~~

25 ~~G. The committee shall receive applications for~~

.184126.1

underscoring material = new
[bracketed material] = delete

1 ~~conservation projects and shall evaluate them against the~~
2 ~~department's criteria. The committee may reject any incomplete~~
3 ~~applications or applications that do not meet the established~~
4 ~~criteria. After review, the committee shall make its~~
5 ~~recommendations on all evaluated conservation projects to the~~
6 ~~department]."~~

7 SECTION 211. Section 75-10-9 NMSA 1978 (being Laws 2010,
8 Chapter 83, Section 9) is amended to read:

9 "75-10-9. ANNUAL REPORT TO THE GOVERNOR AND THE
10 LEGISLATURE.--The department [~~and the committee~~] shall report
11 annually to the governor and the legislature on the status of
12 applications and funded conservation projects."

13 SECTION 212. TEMPORARY PROVISION--TRANSFERS--CONTRACTUAL
14 OBLIGATIONS--STATUTORY REFERENCES.--

15 A. On the effective date of this act, all functions,
16 personnel, appropriations, money, records, furniture, equipment
17 and other property of the following agencies shall be
18 transferred to the natural resources and environment
19 department:

- 20 (1) the energy, minerals and natural resources
21 department;
22 (2) the department of environment; and
23 (3) the natural resources trustee.

24 B. On the effective date of this act, all functions,
25 personnel, appropriations, money, records, furniture, equipment

underscoring material = new
~~[bracketed material] = delete~~

1 and other property of the:

2 (1) occupational health and safety review
3 commission shall be transferred to the environmental
4 improvement board; and

5 (2) coal surface mining commission shall be
6 transferred to the mining commission.

7 C. On the effective date of this act, all functions,
8 personnel, appropriations, money, records, furniture, equipment
9 and other property, including interests in land, minerals and
10 water rights, of the department of game and fish and the state
11 game commission shall be transferred to the game and fish
12 division of the natural resources and environment department.

13 D. On the effective date of this act, all functions,
14 appropriations, money, records, furniture, equipment and other
15 property of the natural lands protection committee shall be
16 transferred to the natural resources and environment
17 department.

18 E. On the effective date of this act, all contractual
19 obligations of the:

20 (1) energy, minerals and natural resources
21 department, the department of environment and the natural
22 resources trustee shall be binding on the natural resources and
23 environment department;

24 (2) occupational health and safety review
25 commission shall be binding on the environmental improvement

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 board;

2 (3) coal surface mining commission shall be
3 binding on the mining commission;

4 (4) department of game and fish and the state
5 game commission shall be binding on the natural resources and
6 environment department; and

7 (5) natural lands protection committee shall be
8 binding on the natural resources and environment department.

9 F. On the effective date of this act, all references
10 in law to the:

11 (1) energy, minerals and natural resources
12 department and the department of environment shall be deemed to
13 be references to the natural resources and environment
14 department;

15 (2) natural resources trustee shall be deemed to
16 be references to the secretary of natural resources and
17 environment;

18 (3) department of game and fish shall be deemed
19 to be references in law to the game and fish division of the
20 natural resources and environment department, and all
21 references in law to the director of the department of game and
22 fish shall be deemed to be references to the director of the
23 game and fish division of the natural resources and environment
24 department;

25 (4) state game commission shall be deemed to be

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 references in law to the game and fish division of the natural
2 resources and environment department;

3 (5) occupational health and safety review
4 commission shall be deemed to be references to the
5 environmental improvement board; and

6 (6) coal surface mining commission shall be
7 deemed to be references to the mining commission.

8 G. The rules of any transferred agency shall remain
9 in effect until repealed or amended by the natural resources
10 and environment department.

11 **SECTION 213. REPEAL.--**

12 A. Sections 9-5A-1 through 9-5A-10 NMSA 1978 (being
13 Laws 1987, Chapter 234, Sections 1 through 6, Laws 1997,
14 Chapter 149, Section 3, Laws 1987, Chapter 234, Section 7, Laws
15 1992, Chapter 58, Section 8, Laws 2003, Chapter 129, Section 1
16 and Laws 2003, Chapter 133, Section 1, as amended) are
17 repealed.

18 B. Sections 9-7A-1 through 9-7A-15 NMSA 1978 (being
19 Laws 1991, Chapter 25, Sections 1 through 12, Laws 1977,
20 Chapter 253, Sections 77 and 78 and Laws 2003, Chapter 99,
21 Section 1, as amended) are repealed.

22 C. Sections 17-1-2 through 17-1-4, 17-1-6, 17-1-15,
23 17-2-5, 17-3-25, 69-25A-36 and 70-11-5 NMSA 1978 (being Laws
24 1921, Chapter 35, Sections 2 through 4, Laws 1955, Chapter 59,
25 Section 2, Laws 1931, Chapter 117, Sections 6 and 4, Laws 1967,

.184126.1

underscoring material = new
~~[bracketed material] = delete~~

1 Chapter 26, Section 1, Laws 1987, Chapter 333, Section 14 and
2 Laws 1989, Chapter 189, Section 5, as amended) are repealed.

3 D. Section 50-9-9 NMSA 1978 (being Laws 1975, Chapter
4 290, Section 6) is repealed.

5 E. Section 69-25A-4 NMSA 1978 (being Laws 1979,
6 Chapter 291, Section 4, as amended) is repealed.

7 SECTION 214. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2011.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25