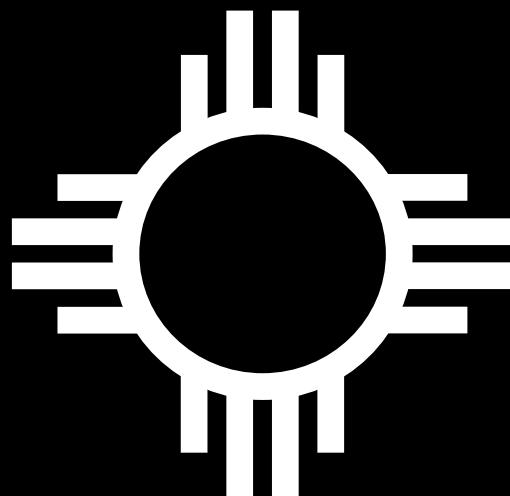


**NEW  
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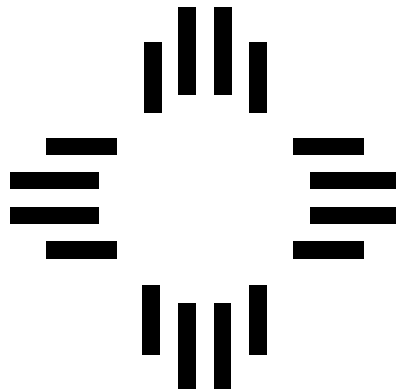


Volume XIV  
Issue Number 7  
April 15, 2003



# **New Mexico Register**

**Volume XIV, Issue Number 7**  
**April 15, 2003**



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

The Commission of Public Records  
Administrative Law Division  
Santa Fe, New Mexico  
2003

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# New Mexico Register

Volume XIV, Number 7

April 15, 2003

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### Adopted Rules and Regulations

#### Effective Date and Validity of Rule Filings

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

**A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered**

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Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail [rules@rain.state.nm.us](mailto:rules@rain.state.nm.us).

## Notices of Rulemaking and Proposed Rules

### NEW MEXICO GAME COMMISSION

#### NOTICE OF MEETING

The State Game Commission will meet at the Indian Pueblo Cultural Center, 2401-12th St. NW, Albuquerque, New Mexico, 87104 on April 3, 2003, from 9:00a.m. - 5:00p.m.

The proposed agenda may be found by accessing the web site of the New Mexico Department of Game and Fish at [www.gmfish.state.nm.us](http://www.gmfish.state.nm.us) or by contacting the office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico or by calling (505) 476-8008.

*\*Notations under each agenda items are for discussion only and commission action will not be limited to said notations.*

*Those who desire to address the Commission and who claim to represent an organization must provide the following information: The number of members in the organization, frequency of the organization's meeting and either a signed statement from that organization's president that states the organization has discussed the topic and approved the position that the representative is presenting, or proof that they are a registered lobbyist for the organization.*

#### OLD BUSINESS

AGENDA ITEM NO. 7. M a r q u e z  
Wildlife Area Access Update.

Presented by Lisa Kirkpatrick

AGENDA ITEM NO. 8. E x i s t i n g  
Commission Policies.

Presented by Larry Bell

AGENDA ITEM NO. 9. 1 9 . 3 0 . 8  
NMAC, The Guide and Outfitter  
Registration Rule.

Presented by Dan Brooks

AGENDA ITEM NO. 10. L e g i s l a t i v e  
Update

Presented by Larry Bell

#### NEW BUSINESS

AGENDA ITEM NO. 11. 1 9 . 3 1 . 8  
NMAC, The Big Game Rule.

Presented by Luis Rios

AGENDA ITEM NO. 12. 1 9 . 3 1 . 5  
NMAC, The Upland Game Rule.

Presented by Tim Mitchusson

AGENDA ITEM NO. 13. 1 9 . 3 1 . 6  
NMAC, The Waterfowl Rule.

Presented by Tim Mitchusson

AGENDA ITEM NO. 14. 1 9 . 3 1 . 8  
NMAC, The Big Game Rule.

Presented by Luis Rios

AGENDA ITEM NO. 15. Q u a r t e r l y  
Depredation Report.

Presented by Brandon Griffith

AGENDA ITEM NO. 16. F i n a n c i a l a n d  
Budget Updates

Presented by Barbara Morin, Lisa Evans,  
and Pat Block

AGENDA ITEM NO. 17.

Commission/Department Discussion

AGENDA ITEM NO. 18. G e n e r a l  
Public Comments: (Comments limited to 3  
minutes.)

AGENDA ITEM NO. 19. C l o s e d  
Executive Session

**NOTE:** The meeting will be adjourned upon completion of the agenda or up to those items that time allows. Any items not discussed will be on the following meeting's agenda.

The Agenda is subject to change up to 24 hours prior to the scheduled meeting date and time as deemed necessary by the Chairman. To inquire about agenda changes, please contact the Office of the Director at (505) 476-8008.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working days before the set meeting date. Public documents, including the agenda and minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

### NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

#### NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 1:30 p.m., on May 15, 2003, at the State Capitol building, Room 315 (corner of Paseo de Peralta and Don Gaspar), Santa Fe, New Mexico. The subject of the hearing will be Health Insurance Portability and Accountability Act (HIPAA) policies.

The Health Insurance Portability and

Accountability Act (HIPAA) of 1996 requires that all Covered Entities, which includes the New Mexico Medicaid program, must change their policies and procedures as necessary and appropriate to comply with changes in the law. This includes the standards, requirements, and implementation specifications.

Interested persons may submit written comments no later than 5:00 p.m., May 15, 2003, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at [www.state.nm.us/hsd/mad.html](http://www.state.nm.us/hsd/mad.html) or by sending a self-addressed stamped envelope to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

### NEW MEXICO OIL CONSERVATION COMMISSION

#### NOTICE OF RULE MAKING

### STATE OF NEW MEXICO OIL CONSERVATION COMMISSION SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on May 15, 2003 in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico concerning the adoption of a new section of 19.15.1 NMAC relating to compulsory pooling of properties for oil and gas exploration. The proposed new rule will provide that the charge for risk to be included in compulsory pooling orders of the division, unless specific evidence in a particular case war-

rants a different amount, will be 200% of well costs for wells to be drilled as wildcats or to established pools other than the Basin-Fruitland Coal, 156% of well costs for wells to be drilled to the Basin-Fruitland Coal Gas Pool, and 100% for wells already drilled. The proposed new section will be codified as 19.15.1.35 NMAC. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 immediately. Copies of the text of the proposed rule are available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

**Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of March, 2003.**

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**

**Lori Wrotenbery, Director**

S E A L

**NEW MEXICO OIL  
CONSERVATION  
COMMISSION**

**NOTICE OF RULE MAKING**

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on May 15, 2003, in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning proposed repeal of 19.15.6.401 NMAC. The regulation proposed to be repealed presently requires all operators of gas wells in the State of New Mexico to conduct tests to determine the daily open flow potential volumes of all natural gas wells from which gas is being used or marketed, and prescribes the procedure for such tests. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at 505-476-3458 or through the

New Mexico Relay Network, 1-800-659-1779 immediately. Copies of the text of rule proposed for repeal are available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

**Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of March, 2003.**

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**

**Lori Wrotenbery, Director**

S E A L

**NEW MEXICO OIL  
CONSERVATION  
COMMISSION**

**NOTICE OF RULE MAKING**

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on May 15, 2003 in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico concerning the adoption of amendments to 19.15.9.705 NMAC. The proposed amendment will eliminate the requirement that no injection well may be temporarily abandoned for a period exceeding one year unless the injection interval has been isolated by the use of cement or a bridge plug, and will conform the requirements for temporary abandonment of injection wells to the requirements for temporary abandonment of production wells as provided in 19.15.4.203 NMAC. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 immediately. Copies of the text of the referenced rule and proposed amendments are available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

**Given under the Seal of the State of New**

**Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of March, 2003.**

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**

**Lori Wrotenbery, Director**

S E A L

**NEW MEXICO  
COMMISSION OF  
PUBLIC RECORDS**

**NOTICE OF REGULAR MEETING**

The New Mexico Commission of Public Records has scheduled a regular meeting for Tuesday, May 6, 2003, at 9:00 A.M. The meeting will be held at the New Mexico State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Elizabeth Bachicha at 476-7902 by April 29, 2003. Public documents including the agenda and minutes can be provided in various accessible formats. A final copy of the agenda will be available 24 hours before the hearing.

**NOTICE OF RULEMAKING**

The following record retention and disposition schedules will be presented to the Commission for consideration and adoption:

**Amend**

1.18.760 NMAC	E R R D S
Adult Parole Board	
1.18.765 NMAC	E R R D S
Juvenile Parole Board	

**NEW MEXICO RACING  
COMMISSION**

**NEW MEXICO RACING  
COMMISSION  
NOTICE OF RULEMAKING AND  
PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that a rulemaking and public hearing will be held in the Commission Conference Room, 300 San Mateo N.E., Albuquerque, New Mexico, commencing in executive session



at 8:00 o'clock a.m. on Wednesday, April 23, 2003. The public session will begin at 10:00 o'clock a.m. on Wednesday, April 23, 2003. The Commission will consider adoption of proposed new/amended rules for incorporation into the Rules Governing Horse Racing in New Mexico Nos. 15.2.7.12 NMAC (regarding Pick (n) Pools), 15.2.5.8 NMAC (regarding Coupled Entries), 15.2.5.8 NMAC (regarding Quarter Horse Trail Races), 15.2.1.9 NMAC (regarding Proceedings Before the Stewards), 16.47.1.13 NMAC (regarding Jockey Agents) and other matters of general business.

Copies of these proposed rules may be obtained from India Hatch, Agency Director, New Mexico Racing Commission, 300 San Mateo N.E., Suite 110, Albuquerque, New Mexico 87108, (505) 841-6400. Interested persons may submit their views on the proposed rules to the Commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

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

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Julian Luna  
Deputy Agency Director

Dated: March 28, 2003

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**End of Notices and  
Proposed Rules Section**

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## Adopted Rules and Regulations

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

**Explanatory Paragraph:** This is an amendment to 19.15.9.711 NMAC, Section 711. The amendment to Section 711 permits, with prior approval of the Division, other non-hazardous, non-oilfield waste to be accepted into a permitted surface waste management facility if the waste is similar in physical and chemical composition to the oilfield wastes authorized for disposal at that facility and is either exempt from the "hazardous waste" provisions of Subtitle C of the federal Resource Conservation and Recovery Act or has tested non-hazardous and is not listed as hazardous.

**19.15.9.711 APPLICABLE TO  
SURFACE WASTE MANAGEMENT  
FACILITIES ONLY**

**C. Operational  
Requirements**

(4) The permittee shall require the following documentation for accepting wastes, other than wastes returned from the wellbore in the normal course of well operations such as produced water and spent treating fluids, at commercial waste management facilities:

(c) Non-oilfield Wastes: Non-hazardous, [N]non-oilfield wastes may be accepted in an emergency if ordered by the Department of Public Safety. Prior to acceptance, a "Request To Accept Solid Waste", OCD Form C-138 accompanied by the Department of Public Safety order will be submitted to the appropriate District office and the Division's Santa Fe office. With prior approval from the Division, other non-hazardous, non-oilfield waste may be accepted into a permitted surface waste management facility if the waste is similar in physical and chemical composition to the oilfield wastes authorized for disposal at that facility and is either: (1) exempt from the "hazardous waste" provisions of Subtitle C of the federal Resource Conservation and Recovery Act; or (2) has tested non-hazardous and is not listed as hazardous. Prior to acceptance, a "Request For Approval to Accept Solid Waste," OCD Form C-138, accompanied by acceptable documentation to characterize the waste, shall be submitted to and approved by the Division's Santa Fe office.  
[6-6-88...2-1-96; 19.15.9.711 NMAC - Rn,

19 NMAC 15.1.711, 11-30-00; A, 4-15-03]

**NEW MEXICO HIGHWAY  
AND TRANSPORTATION  
DEPARTMENT**

**TITLE 18 TRANSPORTATION  
AND HIGHWAYS  
CHAPTER 1 TRANSPORTATION  
GENERAL PROVISIONS  
PART 5 STATE TRANS-  
PORTATION COMMISSION MEET-  
INGS**

**18.1.5.1 ISSUING AGENCY:** New Mexico State Highway and Transportation Department.  
[18.1.5.1 NMAC - N, 04-15-2003]

**18.1.5.2 SCOPE:** New Mexico State Transportation Commission members and anyone affected by or interested in the business of the New Mexico State Transportation Commission.  
[18.1.5.2 NMAC - N, 04-15-2003]

**18.1.5.3 STATUTORY  
AUTHORITY:** NMSA 1978, Sections 67-3-10, 67-3-11, and 10-15-1 through 10-15-4.  
[18.1.5.3 NMAC - N, 04-15-2003]

**18.1.5.4 DURATION :** Permanent.  
[18.1.5.4 NMAC - N, 04-15-2003]

**18.1.5.5 EFFECTIVE DATE:** April 15, 2003, unless a later date is cited at the end of a section, in which case the later date is the effective date.  
[18.1.5.5 NMAC - N, 04-15-2003]

**18.1.5.6 OBJECTIVE:** To set forth provisions for State Transportation Commission open meetings notices and commission member participation in meetings by telephone.  
[18.1.5.6 NMAC - N, 04-15-2003]

**18.1.5.7 DEFINITIONS :** [RESERVED]  
[18.1.5.7 NMAC - N, 04-15-2003]

**18.1.5.8 OPEN MEETINGS  
NOTICES:** State Transportation Commission meetings shall be legally noticed in compliance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4, and in accordance with the State Transportation Commission's legal notice of public meetings policy, which the commission shall determine annually.

[18.1.5.8 NMAC - N, 04-15-2003]

**18.1.5.9 TELEPHONE CON-  
FERENCES:** As authorized by the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4, a commission member may participate in a commission meeting by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the commission who speaks during the meeting.  
[18.1.5.9 NMAC - N, 04-15-2003]

**HISTORY OF 18.1.5 NMAC:**  
[RESERVED]

**NEW MEXICO  
DEPARTMENT OF LABOR  
JOB TRAINING DIVISION**

**NOTICE OF RULE RENUMBERING  
AND ATTACHMENT REPLACEMENT**

The New Mexico Department of Labor Job Training Division (NMDOL JTD) State Administrative Entity (SAE) hereby gives notice of replacement of the attachment titled "FMB Financial Management Guide for Welfare to Work" to Exhibit 13.7 to Rule No. 11 NMAC 2.A.12-99, subpart title "Welfare-to-Work Program Policies."

The current version of the "FMB Financial Management Guide for Welfare to Work" has been replaced, effective April 15, 2003, to create a record to match the 1999 Welfare to Work Amendments for compliance with federal findings. Revisions include the incorporation of the '1999 Welfare to Work Amendments'; eligibility determination guidance for formula grants; revised instructions for reporting Welfare to Work formula and competitive grants financial data; revised Cumulative Quarterly Formula Grant Financial Reports reflecting the June 2000 data report restructuring by USDOL; and a number of minor revisions throughout the chapters and appendices. Pages iii and iv, the 'January through August 2002 Revisions', list the locations and types of all of the revisions.

Also, Rule Subpart "Welfare-to-Work Program Policies" 11 NMAC 2.A.12-99 has

been reformatted and renumbered to 11.2.97 NMAC, to comply with current NMAC requirements.

Inquiries or requests for copies of the replacement referred to above may be addressed to the Job Training Division by calling Carol Szpakowski at (505) 827-1636 in Santa Fe.

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**End of Adopted Rules Section**

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**SUBMITTAL DEADLINES AND PUBLICATION DATES**

**2003**

<b>Volume XIV</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 3	February 14
Issue Number 4	February 17	February 28
Issue Number 5	March 3	March 14
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 30
Issue Number 11	June 2	June 13
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 18	August 29
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.