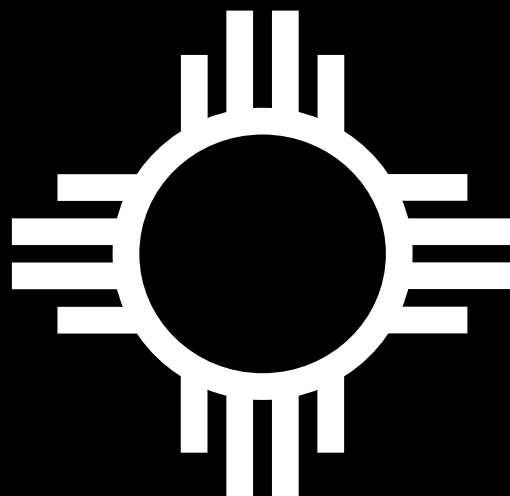


**NEW  
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REGISTER**



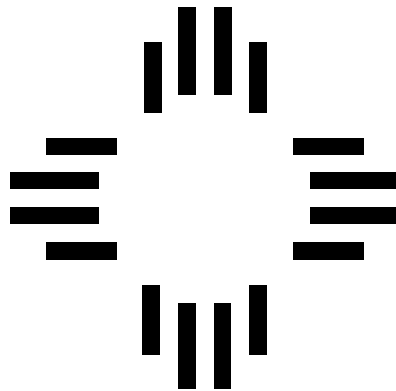
Volume XIV  
Issue Number 9  
May 15, 2003



# **New Mexico Register**

**Volume XIV, Issue Number 9**

**May 15, 2003**



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

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Administrative Law Division  
Santa Fe, New Mexico  
2003

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# New Mexico Register

Volume XIV, Number 9

May 15, 2003

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#### 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**A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered**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 DEPARTMENT OF FINANCE AND ADMINISTRATON

#### Notice of Rule Meeting

#### **New Mexico Department of Finance and Administration**

The Department of Finance and Administration (DFA) hereby gives notice that DFA will conduct a public hearing at 10 a.m. on June 16, 2003 in the Old Senate Chambers (the Red Room) on the second floor of the Bataan Memorial Building, Santa Fe, NM 87501 regarding the adoption of amendments to 2.42.2 NMAC, the Regulations Governing the Per Diem and Mileage Act. DFA proposes to increase the rates of reimbursement for mileage to be paid to public officers and employees of state agencies to comply with the statutory amendments to section 10-8-4 (D) NMSA 1978 of the Per Diem and Mileage Act that will become effective on July 1, 2003. No other changes to 2.42.2 NMAC are proposed. Interested individuals may testify at the public hearing or submit written comments no later than 5:00 p.m. June 13, 2003 to DFA, Bataan Memorial Building, Room 180, Santa Fe, New Mexico 87501. All written and oral testimony will be considered prior to the adoption of the amendments. Copies of the text of the proposed amendments are available from Sharon Rivera, Room 180, Bataan Memorial Building, Santa Fe, New Mexico 87501 or at 505/827-4985 or from the DFA internet website:<http://www.state.nm.us/clients/dfa/sbd>.

If you are an individual with a disability who needs auxiliary aid or service in order to attend or participate in the hearing, please contact Sharon Rivera, DFA at 505/827-4985 or in writing to the above address or through the New Mexico Relay Network, 1-800-659-1770. DFA requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

James C. Jimenez  
Cabinet Secretary

### NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATON STATE BOARD OF FINANCE

#### NOTICE OF BOARD OF FINANCE RULE CHANGE

The state Board of Finance is in the process of revising one of its rules: Real Property Acquisitions, Sales, Trades or Leases, 1.5.23 NMAC. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501. The Board will consider proposed changes at its June 25, 2003 meeting. Please mail or deliver written comments on the proposed changes to the same location by June 16, 2003 to Mark Valdes.

### NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATON STATE BOARD OF FINANCE

#### NOTICE OF BOARD OF FINANCE RULE CHANGE

The state Board of Finance is in the process of revising one of its rules: Financing Approvals, 2.61.5 NMAC. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501. The Board will consider proposed changes at its June 25, 2003 meeting. Please mail or deliver written comments on the proposed changes to the same location by June 16, 2003 to Mark Valdes.

### NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATON STATE BOARD OF FINANCE

#### NOTICE OF BOARD OF FINANCE RULE CHANGE

The state Board of Finance is in the process of revising one of its rules: Acceptance of Credit/Debit Cards and Use of Electronic Fund Transfers 2.60.8 NMAC. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501. The Board will consider proposed changes at its June 25, 2003 meeting. Please mail or deliver

written comments on the proposed changes to the same location by June 16, 2003 to Mark Valdes.

### NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

#### NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to consider adopting revised rules in the Food Stamp Program. The hearing will be held at 9:00 am on Monday, June 30, 2003. The hearing will be held in the conference room for the Income Support Division of the Human Services Department. The Conference room is located in room 120 on the lower level of the Pollon Plaza building, 2009 S. Pacheco St., Santa Fe, NM 87505.

The Department proposes to implement the option provided in Section 4115 of the Farm Bill to extend Transitional Food Stamp Benefits (TFS) for certain households receiving food stamp benefits that also receive TANF cash assistance and the TANF cash assistance payment is terminated. The termination of TANF cash assistance may be due to, but is not limited to, income, the 60-month term limit has been met, or the benefit group requests closure of the TANF cash assistance case.

The Department proposes to implement the provisions at 7 CFR 273.9(d)(6)(iii) that allow States to develop one or more mandatory Standard Utility Allowances (SUA) for households receiving food stamp benefits and eliminates the requirement that the Department consider actual expenses when determining allowable utility deductions. In addition, the Department proposes to implement the option provided in Section 4104 of the Farm Bill. This option eliminates the need to prorate the SUA among households sharing expenses for utilities, and allows the SUA to be used as a deduction for households living in public housing that have heating or cooling costs, have shared utility meters and are charged only for excess utility costs. This option may be implemented when a State develops one or more mandatory utility standards.

The Department proposes to implement the option provided in Section 4105 of the Farm Bill that allows a State to implement a homeless shelter standard deduction of \$143.00 for a household in which all members are defined as homeless and the household does not receive free shelter through-

out the month. The homeless shelter standard must be deducted from countable net income to determine eligibility and benefit amount. The homeless household may claim actual shelter expenses if the expense is more than \$143.00 and the household verifies the expense. Currently, the homeless shelter allowance is an actual expense up to \$143.00 if the household verifies its shelter expenses on a continuing basis.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Department toll free at 1-800-432-6217, TDD 1-800-609-4TDD (4833), or through the New Mexico Relay System toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals wishing to testify or who would like a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling toll free 1-800-432-6217.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 PM on the date of the hearing. Please send comments to:

Pamela S. Hyde, J.D., Secretary  
Human Services Department  
P.O. Box 2348 Pollon Plaza  
Santa Fe, NM 87504-2348

You may send comments electronically to:  
[Sharon.Regensberg@state.nm.us](mailto:Sharon.Regensberg@state.nm.us)

**NEW MEXICO PUBLIC  
REGULATION  
COMMISSION  
INSURANCE DIVISION**

**STATE OF NEW MEXICO  
PUBLIC REGULATION COMMISSION  
INSURANCE DIVISION**

**IN THE MATTER OF AMENDING  
13.10.8 NMAC, HEALTH INSURANCE  
FOR SENIORS;  
13.10.15 NMAC, LONG-TERM CARE  
INSURANCE; AND  
13.10.14 NMAC, MINIMUM RESERVE  
STANDARDS FOR  
INDIVIDUAL AND GROUP HEALTH  
INSURANCE CONTRACTS**

**DOCKET NO. 03-00143-IN**

**NOTICE OF HEARING ON PROPOSED RULEMAKING AND PROCEDURAL ORDER**

**I. SOLICITATION OF COMMENTS**

The Superintendent of Insurance is issuing this Notice to provide an opportunity for public comment and to create a record for a decision on proposed amendments to 13.10.8 NMAC, Health Insurance for Seniors; 13.10.15 NMAC, Long-Term Care Insurance, and 13.10.14 NMAC, Minimum Reserve Standards for Individual and Group Health Insurance Contracts. The Superintendent requests written and oral comments from all interested persons and entities on the proposed amendments.

All relevant and timely comments, including data, views, or arguments, will be considered by the Superintendent. In reaching his decision, the Superintendent may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of the Superintendent's reliance on such information is noted in the Order the Superintendent ultimately issues.

**II. ORDER**

IT IS THEREFORE ORDERED that this Notice of Hearing on Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that an informal public hearing be held on June 9, 2003, at 9:30 a.m. in the Fourth Floor Hearing Room of the P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico for the purpose of receiving oral public comments including data, views, or arguments on the proposed rule. All interested persons wishing to present testimony may do so at the hearing. Interested persons should contact the Insurance Division ahead of time to confirm the hearing date, time, and place since hearings are occasionally rescheduled.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposed rule on or before June 9, 2003. All relevant and timely comments, including data, views, or arguments will be considered by the Superintendent before final action is taken in this proceeding. An original and two copies of written comments must be filed prior to the hearing with the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269. The docket number must appear on each submittal. If possible,

please also submit a diskette copy of written comments to the Docketing Office or e-mail a copy of written comments to [elizabeth.bustos@state.nm.us](mailto:elizabeth.bustos@state.nm.us). Comments will be available for public inspection during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

IT IS FURTHER ORDERED that the Superintendent may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that staff of the Superintendent of Insurance's Office shall cause a copy of this Notice to be published once in the *New Mexico Register* and once in the *Albuquerque Journal*. To obtain a copy of the proposed rule: (1) send the docket number, rule name, and rule number to the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269 along with a self-addressed envelope and a check for \$5.00 made payable to the Public Regulation Commission to cover the cost of copying and postage; (2) call the Docketing Office at 505-827-4526 with the docket number, rule name, and rule number (you will be billed \$5.00 to cover the cost of copying and postage); or e-mail Elizabeth Bustos at [elizabeth.bustos@state.nm.us](mailto:elizabeth.bustos@state.nm.us) with the docket number, rule name, and rule number (you will receive a copy of the rule in Microsoft WORD format by return e-mail at no charge). The proposed rule is also available for inspection and copying during regular business hours in the Public Regulation Commission's Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

**III. ADVISEMENTS**

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, NMSA 1978, §§2-11-1 *et seq.*, regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person is a lobbyist and must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for vio-



lations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

PLEASE BE ADVISED THAT individuals with a disability who are 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, may contact Ms. Ann Echols, on or before June 2, 2003, at (505) 827-4559. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms should also be addressed to Ms. Echols.

DONE, this 24th day of April 2003.

NEW MEXICO PUBLIC REGULATION  
COMMISSION

INSURANCE DIVISION

ERIC P. SERNA,  
Superintendent of Insurance

**NEW MEXICO PUBLIC  
REGULATION  
COMMISSION  
INSURANCE DIVISION**

STATE OF NEW MEXICO  
PUBLIC REGULATION COMMISSION  
INSURANCE DIVISION

**IN THE MATTER OF AMENDING  
13.9.5 NMAC, LIFE INSURANCE  
DISCLOSURE; 13.9.6 NMAC,  
REPLACEMENT OF LIFE INSURANCE  
AND ANNUITIES; 13.2.6 NMAC,  
ACTUARIAL OPINIONS AND  
MEMORANDA; AND ADOPTING  
13.9.16 NMAC, USE OF 2001  
COMMISSIONERS  
STANDARD ORDINARY  
MORTALITY TABLE**

**DOCKET NO. 03-00145-IN**

**NOTICE OF HEARING ON  
PROPOSED RULEMAKING AND  
PROCEDURAL ORDER**

**I. SOLICITATION OF COMMENTS**

The Superintendent of Insurance is issuing this Notice to provide an opportunity for public comment and to create a record for a decision on proposed amendments to 13.9.5 NMAC, Life Insurance Disclosure; 13.9.6 Nmac, Replacement of Life Insurance and Annuities; 13.2.6 NMAC, Actuarial Opinions and Memoranda; and adopting 13.9.16 Nmac, Use of 2001 Commissioners Standard Ordinary Mortality Table. The Superintendent requests written and oral comments from all interested persons and entities on the proposed amendments and on the proposed new rule.

All relevant and timely comments, including data, views, or arguments, will be considered by the Superintendent. In reaching his decision, the Superintendent may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of the Superintendent's reliance on such information is noted in the Order the Superintendent ultimately issues.

**II. ORDER**

IT IS THEREFORE ORDERED that this Notice of Hearing on Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that an informal public hearing be held on June 11, 2003, at 9:30 a.m. in the Fourth Floor Hearing Room of the P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico for the purpose of receiving oral public comments including data, views, or arguments on the proposed rule. All interested persons wishing to present testimony may do so at the hearing. Interested persons should contact the Insurance Division ahead of time to confirm the hearing date, time, and place since hearings are occasionally rescheduled.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposed rule on or before June 11, 2003. All relevant and timely comments, including data, views, or arguments will be considered by the Superintendent before final action is taken in this proceeding. An original and two copies of written comments must be filed prior to the hearing with the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269. The docket number must appear on each submittal. If possible, please also submit a diskette copy of written comments to the Docketing Office or e-mail a copy of written comments to elizabeth.bustos@state.nm.us. Comments

will be available for public inspection during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

IT IS FURTHER ORDERED that the Superintendent may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that staff of the Superintendent of Insurance's Office shall cause a copy of this Notice to be published once in the New Mexico Register and once in the Albuquerque Journal. To obtain a copy of the proposed rule: (1) send the docket number, rule name, and rule number to the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269 along with a self-addressed envelope and a check for \$5.00 made payable to the Public Regulation Commission to cover the cost of copying and postage; (2) call the Docketing Office at 505-827-4526 with the docket number, rule name, and rule number (you will be billed \$5.00 to cover the cost of copying and postage); or e-mail Elizabeth Bustos at elizabeth.bustos@state.nm.us with the docket number, rule name, and rule number (you will receive a copy of the rule in Microsoft Word format by return e-mail at no charge). The proposed rule is also available for inspection and copying during regular business hours in the Public Regulation Commission's Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

**III. ADVISEMENTS**

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, NMSA 1978, §§2-11-1 et seq., regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person is a lobbyist and must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503,

(505) 827-3600.

PLEASE BE ADVISED THAT individuals with a disability who are 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, may contact Ms. Ann Echols, on or before June 4, 2003, at (505) 827-4559. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms should also be addressed to Ms. Echols.

DONE, this 24th day of April 2003.

NEW MEXICO PUBLIC REGULATION  
COMMISSION

INSURANCE DIVISION

ERIC P. SERNA,  
Superintendent of Insurance

**NEW MEXICO PUBLIC  
REGULATION  
COMMISSION  
INSURANCE DIVISION**

STATE OF NEW MEXICO  
PUBLIC REGULATION COMMIS-  
SION  
INSURANCE DIVISION

**IN THE MATTER OF AMENDING  
13.14.17 NMAC, UNDERWRITER'S  
EXPERIENCE REPORT, AND 13.14.18  
NMAC, FORMS**

**DOCKET NO. 03-00152-IN**

**NOTICE OF HEARING ON  
PROPOSED RULEMAKING AND  
PROCEDURAL ORDER**

The purpose of this hearing is to obtain input on proposed amendments to 13.14.17 NMAC, Underwriter's Experience Report, and 13.14.18, Forms.

**I. SOLICITATION OF COMMENTS**

The Superintendent of Insurance is issuing this notice to provide an opportunity for public comment and to create a record for a decision on proposed amendments to 13.14.17 NMAC, Underwriter's Experience Report, and 13.14.18 NMAC, Forms. The amendments concern minor changes to transaction codes and new provi-

sions regarding arbitrations clauses in title insurance policy forms to reflect a recent New Mexico Supreme Court decision. The Superintendent requests written and oral comments from all interested persons and entities on the proposed amendments.

All relevant and timely comments, including data, views, or arguments, will be considered by the Superintendent. In reaching his decision, the Superintendent may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of the Superintendent's reliance on such information is noted in the Order the Superintendent ultimately issues.

**II. ORDER**

IT IS THEREFORE ORDERED that this Notice of Hearing on Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that an informal public hearing be held on June 16, 2003, at 9:30 a.m. in the Fourth Floor Hearing Room of the P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico for the purpose of receiving oral public comments including data, views, or arguments on the proposed rule. All interested persons wishing to present testimony may do so at the hearing. Interested persons should contact the Insurance Division ahead of time to confirm the hearing date, time, and place since hearings are occasionally rescheduled.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposed rule on or before June 9, 2003. All relevant and timely comments, including data, views, or arguments will be considered by the Superintendent before final action is taken in this proceeding. An original and two copies of written comments must be filed prior to the hearing with the Docketing Office, Public Regulation Commission, P.O. Box 1269, Santa Fe, NM 87504-1269. The docket number must appear on each submittal. If possible, please also submit a diskette copy of written comments to the Docketing Office or e-mail a copy of written comments to [martina.herrera@state.nm.us](mailto:martina.herrera@state.nm.us). Comments will be available for public inspection during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

IT IS FURTHER ORDERED that the Superintendent may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller

record and a more efficient proceeding.

IT IS FURTHER ORDERED that staff of the Superintendent of Insurance's Office shall cause a copy of this Notice to be published once in the *New Mexico Register* and once in the *Albuquerque Journal*, both on or before May 15, 2003. To obtain a copy of the proposed rule: (1) send the docket number, rule name, and rule number to the Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269 along with a self-addressed envelope and a check for \$5.00 made payable to the Public Regulation Commission to cover the cost of copying and postage; (2) call the Docketing Office at 505-827-4526 with the docket number, rule name, and rule number (you will be billed \$5.00 to cover the cost of copying and postage); or e-mail Martina Herrera at [martina.herrera@state.nm.us](mailto:martina.herrera@state.nm.us) with the docket number, rule name, and rule number (you will receive a copy of the rule in Microsoft WORD format by return e-mail at no charge). The proposed rule is also available for inspection and copying during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

**III. ADVISEMENTS**

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, NMSA 1978, Section 2-11-1 *et seq.*, regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person is a lobbyist and must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for him or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

PLEASE BE ADVISED THAT individuals with a disability who are 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, may contact Ms. Ann Echols, on or before June 9, 2003, at (505) 827-4559. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms should also be addressed

to Ms. Echols.

DONE, this 30th day of April, 2003.

NEW MEXICO PUBLIC REGULATION COMMISSION  
INSURANCE DIVISION

ERIC P. SERNA,  
Superintendent of Insurance

**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, May 21, 2003. The public session will begin at 10:00 o'clock a.m. on Wednesday, May 21, 2003. The Commission will consider adoption of proposed amended rule for incorporation into the Rules Governing Horse Racing in New Mexico No. 15.2.5.8 NMAC (regarding procedures) 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.

India Hatch

Agency Director

Dated: April 24, 2003

**NEW MEXICO REGULATION AND LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES DIVISION**

**LEGAL NOTICE**

**PUBLIC HEARING NOTICE**

The Construction Industries Division of the Regulation and Licensing Department of the State of New Mexico announces public hearings on proposed changes to sections 14.5.5 E thru G NMAC (New Mexico Administrative Code, 14.9.4.26 NMAC (New Mexico Boiler Rules and Regulations, 19.15.40.14 NMAC (New Mexico L.P. Gas Standards).

The hearings will be held at two locations according to the following schedule:

Albuquerque: June 18, 2003, from 1:00 a.m. to 3:00 a.m. at the Real Estate Commission Board Room, 4th floor, 1650 University Blvd. N.E., Albuquerque, New Mexico.

Las Cruces: June 19, 2003, from 1:00 a.m. to 3:00 a.m. at the Las Cruces Public Schools, Administration Building Conference Room, 505 South, Main Suite 249, Las Cruces, New Mexico.

Copies of the proposed changes may be obtained at the Construction Industries Division, 725 St. Michael's Drive, Santa Fe, New Mexico 87504 or P. O. Box 25101. Phone: (505) 827-7030 or Fax: (505) 827-7045. Comments may be mailed to the above address, ATTN: Lisa Martinez, Director, or may be presented at the Hearing.

Pursuant to the Americans with Disabilities Act, participants with special needs should contact the Construction Industries Division at 1 (505) 827-7045, prior to the meeting but no later than June 4, 2003.

Lisa Martinez, Director  
Construction Industries Division  
PO Box 25101- Santa Fe, New Mexico 87504

**NEW MEXICO REGULATION AND LICENSING DEPARTMENT  
MANUFACTURED HOUSING DIVISION**

**LEGAL NOTICE**

**PUBLIC HEARING NOTICE**

The Manufactured Housing Division of the Regulation and Licensing Department of the State of New Mexico announces public hearings on proposed changes to sections 14.12.2.25 C (4), 14.12.2.25 D, 14.12.2.25 E, 14.12.2.25 I, 14.12.2.25 L and 14.12.2.25 Q of the New Mexico Administrative Code. These changes will increase the following fees:

- The licensee fee for installers would be raised from \$100.00 to \$200.00.
- The inspection or re-inspection fee would be raised from \$45.00 to \$65.00.
- The permit fee for installations would be raised from \$45.00 to \$65.00.
- The contractors and journeyman annual registration fee would be raised from \$25.00 to \$200.00.
- The consumer complaint inspection fee would be raised from \$45.00 to \$65.00.
- The requested inspection fee would be raised from \$45.00 to \$65.00.

The hearings will be held at two locations according to the following schedule:

Albuquerque: June 18, 2003, from 9:00 a.m. to 11:30 a.m. at the Real Estate Commission Board Room, 4th floor, 1650 University Blvd. N.E., Albuquerque, New Mexico.

Las Cruces: June 19, 2003, from 9:00 a.m. to 11:30 a.m. at the Las Cruces Public Schools, Administration Building Conference Room, 505 South, Main Suite 249, Las Cruces, New Mexico.

Copies of the proposed changes may be obtained at the Manufactured Housing Division, 725 St. Michael's Drive, Santa Fe, New Mexico 87505 or PO Box 25101. Phone: (505) 827-7070 or Fax: (505) 827-7074. Comments may be mailed to the above address, ATTN: John Alejandro Sr., Division Director, or may be presented at the Hearing.

Pursuant to the Americans with Disabilities Act, participants with special needs should contact the Manufactured Housing Division at 1 (505) 827-7070, prior to the meeting but no later than June 4, 2003.

John Alejandro Sr., Director  
Manufactured Housing Division  
PO Box 25101- Santa Fe, New Mexico 87504

**NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that on Thursday,

May 22, 2003, commencing at 1:30 p.m., the New Mexico Workers' Compensation Administration will conduct a public hearing on the proposed HIPAA compliant medical authorization and the rule change adopting a method to resolve disputes over the release of medical information pursuant to HIPAA regulations. The hearing will be conducted at the Workers' Compensation Administration, 2410 Centre Avenue S.E., Albuquerque, NM. Videoconferencing will also be available in the WCA Field Offices. Please contact Renee Blechner at (505) 841-6083 by May 16, 2003, to reserve videoconferencing.

The effective date of the rule will be June 6, 2003. Comments made in writing and at the public hearing will be taken into consideration.

Written comments pertaining to these proposals will be accepted until the close of business on Friday, May 30, 2003.

For further information call (505) 841-6000. Please inquire at the WCA Clerk's Office, 2410 Centre Avenue S.E., Albuquerque, NM, 87106, (505) 841-6000, for copies of the proposed medical authorization and proposed rule. Copies will be available on April 29, 2003. If you intend to request a copy by mail, please inquire at the WCA Clerk's Office about the postage cost and envelope size needed to accommodate your request. Plan on including a post-paid, self-addressed envelope with your request.

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 aide or service to attend or participate in the hearing or meetings, please contact Renee Blechner at (505) 841-6085. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331. Public documents pertaining to this rule making can be provided in various accessible forms. Please contact Renee Blechner if a summary or any other type of accessible form is needed.

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**End of Notices and  
Proposed Rules Section**

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## Adopted Rules and Regulations

### NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to Paragraph 3 of Subsection B of 15.2.1.9 NMAC adding new Subparagraph (d) which allows a horse to run in a final even if he has a positive test until the split sample is tested and reported to the commission and will be effective 05/30/2003.

#### 15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

##### B. PROCEEDINGS BEFORE THE STEWARDS:

###### (3) Summary Suspension

(d) If a positive test arises in a trial race, the horse is eligible for entry during the period the split is tested and reported to the Commission. If the report confirms a positive test, the horse is disqualified from both the trial and the race for which the trial was conducted.

### NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to Subsection C of 15.2.5.8 NMAC adding a new Paragraph (2) which couples entries in the same trial race owned or leased by the same owner or trainer and changing the numbering of Paragraph (2) to Paragraph (3). This is an amendment to delete Subsection K of 15.2.5.8 NMAC and addresses the number of horses starting in each time trial, qualifications in time trials for finals, reasons for disqualifications, equipment malfunctions (timers, gates, stall doors), positive tests, and scratches for time trials for quarter horses and will be effective 05/30/2003.

#### 15.2.5.8 ENTRIES AND NOMINATIONS:

##### C. COUPLED ENTRIES:

(1) Two or more horses which are entered in a race shall be joined as a mutual entry and single betting interest if they are owned or leased in whole or in part by the same owner or are trained by a trainer who owns or leases any interest in any of the other horses in the race

(2) For trial races, entries will be split by owners, trainers and leased horses consecutively. If a leased horse draws into the same trial race of a horse that is owned or leased in whole or in part by the same owner, or trainer who owns or leases any other horse in the race, it will be coupled.

(3) No more than two horses having common ties through ownership or training may be entered in any overnight race. When making a coupled or uncoupled entry in an overnight race, the horse with the better date will be preferred. If both horses have the same date, the trainer must make a first and second choice. Under no circumstances may both horses of a coupled, or uncoupled, entry start to the exclusion of a single preferred entry unless the race conditions specifically state otherwise. No two preferred horses entered by the same trainer or owned by the same owner shall start to the exclusion of a single preferred entry in overnight races.

##### [ K. QUARTER HORSE TRIAL RACES:

~~(1) The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the 10 fastest times shall qualify to participate in the finals. If the time trials are conducted on two days, the horses with the five fastest times on the first day and the horses with the five fastest times on the second day shall qualify to participate in the finals. When time trials are conducted on two days, the racing office should make every attempt to split owners with more than one entry into separate days; so that the owner's horses shall have a chance at all ten qualifying positions. Entries will be split by owners, trainers and leased horses consecutively. If a leased horse draws into the same trial race of a horse that is owned or leased in whole or in part by the same owner, or trainer who owns or leases any other horse in the race, it will be coupled.~~

~~(2) If the association's starting gate has less than 10 stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions.~~

~~(3) In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. The only exception is when two or more horses have the same time in the same trial heat. Then the order of finish shall also determine the preference in qualifying for the finals. Should two or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot shall be conducted as directed by the stewards. Under no circumstances should stewards or placing judges attempt to determine horses' qualifying times in separate trials beyond the limit of the timer by comparing and/or enlarging photo finish pictures.~~

tures.

~~(4) Except in the case of disqualification, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.~~

~~(5) Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one hundredth of a second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for head wind, tail wind, off track, etc. In the case where a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse shall be given no time.~~

~~(6) Should a malfunction occur with the electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three officials approved by the stewards. The average of the three hand times will be utilized for the winning time, unless one of the hand times is clearly incorrect. In such cases, the average of the two accurate hand times will be utilized for the winning time. The other horses in that race will be given times according to the order and margins of finish with the aid of the photo finish strip, if available.~~

~~(7) When there is a malfunction of the timer during the time trials, but the timer operates correctly in other time trials, under no circumstances should the accurate electronic times be discarded and the average of the hand times used for all time trials.~~

~~(8) In the case where the accuracy of the electronic timer and/or the average of the hand times are questioned, the original video of a time trial shall be used to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. This method is accurate to approximately .03 seconds. Should the case arise where the timer malfunctions and there are no hand times, the stewards should have the option to select qualifiers based on the original video time. Should the stewards choose to use video time, all times will be determined by the video method.~~

~~(9) If a positive test arises in a trial race, the horse is eligible for entry during the period the split is tested and reported to the Commission. If the report confirms a positive test, the horse is disqualified from both the trial and the race for which the trial was conducted.~~

~~(10) If a horse should be scratched from the time trials, the horse's~~

~~owner will not be eligible for a refund of the fees paid and that horse will not be allowed to enter the final under any circumstances. If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test report or a rule violation, the horse shall be deemed to have earned and the owner will receive, last place purse money. If more than one horse should be scratched from the final, for any reason other than a positive drug test report or a rule violation, then those purse monies shall be added together and divided equally among those owners.]~~

**NEW MEXICO RACING COMMISSION**

This is an amendment to Subsection B of 16.47.1.13 NMAC limiting the number of jockeys a jockey agent may represent and requiring the jockey agents to register their jockeys and/or any changes with the stewards and will be effective 05/30/2003.

**16.47.1.13 JOCKEY AGENTS**

**A. ELIGIBILITY:**

(1) An applicant for a license as a jockey agent must demonstrate to the stewards that he/she has a contract for agency with at least one jockey who has been licensed by the Commission; and be qualified, as determined by the stewards or other Commission designee, by reason of experience, background and knowledge; a jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications; evidence of qualifications may require passing one or more of the following: a written examination; an interview or oral examination.

(2) Applicants not previously licensed as a jockey agent shall be required to pass a written and oral examination.

**B. LIMITS ON CONTRACTS:** A jockey agent ~~[must notify the stewards in writing the name of the jockey(s) he/she represents.]~~ may serve as agent for no more than three jockeys and shall secure a license as a jockey agent. A jockey agent must register his/her riders with the stewards upon his/her arrival at each individual meet and must report any changes during the meet.

**C. RESPONSIBILITY:**

All persons permitted to make riding engagements shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

**D. PROHIBITED AREAS:**

A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock or saddling enclosure

during the hours of racing, unless permitted by the stewards.

**E. AGENT WITHDRAWAL:**

(1) When any jockey agent withdraws from representation of a jockey, the jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

(2) A jockey agent shall not be permitted to withdraw from the representation of any jockey unless written notice to the stewards has been provided.

[16.47.1.13 NMAC - Rp, 16 NMAC 47.1.13, 03/15/2001; A, 05/30/2003]

**End of Adopted Rules Section**

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## Other Material Related to Administrative Law

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### NEW MEXICO GAME COMMISSION

NEW MEXICO STATE GAME  
COMMISSION

#### NOTICE OF MEETING

The State Game Commission will meet at the Manor House Convention Center, 415 East Highway 70, Safford, Arizona 85546 on May 16, 2003

*Note:* Although the Arizona Commission meeting starts at 9:00 a.m. it is not expected that the joint meeting with the New Mexico Commission will commence before 1:00 p.m.

The proposed agenda may be found by accessing the web site of the New Mexico Department of Game and Fish at [www.gmfsh.state.nm.us](http://www.gmfsh.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.*

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

AGENDA ITEM NO. 1. Meeting Called to Order

AGENDA ITEM NO. 2. Roll Call

AGENDA ITEM NO. 3. Approval of Minutes (April 3, 2003)

AGENDA ITEM NO. 4. Discussion with Arizona Game Commission regarding Mexican Wolf Recovery and Reintroduction.

**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.

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**End of Other Related  
Material 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.