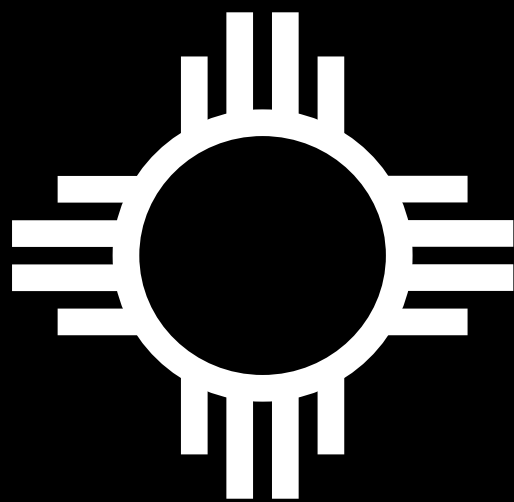


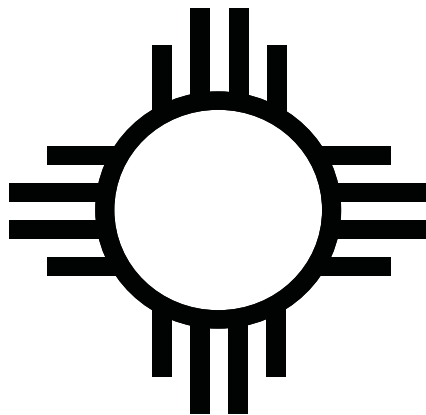
**NEW
MEXICO
REGISTER**



Volume XXIII
Issue Number 8
April 30, 2012

New Mexico Register

Volume XXIII, Issue Number 8
April 30, 2012



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

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Santa Fe, New Mexico
2012

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New Mexico Register

Volume XXIII, Number 8

April 30, 2012

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A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO ATHLETIC COMMISSION

NEW MEXICO Athletic Commission

PUBLIC RULE HEARING AND REGULAR BOARD MEETING NOTICE

Notice is hereby given that the New Mexico Athletic Commission will convene a public rule hearing at 1:00 p.m. on Wednesday, June 13, 2012. The hearing will be held at the RLD Conference Room, 5200 Oakland, NE in Albuquerque, New Mexico.

The purpose of the rule hearing is to consider, for adoption, proposed amendments to the following Commission Regulations in 16.23 NMAC:

- Part 1 General Provisions
- Part 2 Contracts
- Part 3 Tickets for Contests and Exhibitions
- Part 5 Requirements to Safeguard Health
- Part 6 The Ring Officials
- Part 7 The Premises Its Facilities and Equipment
- Part 8 Conduct of Boxing Contests
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- Part 16 Disciplinary Actions
- Part 17 Licensing Provisions
- Part 18 Safety Athletic Equipment Program
- Part 20 Amateur Mixed Martial Arts

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at 2550 Cerrillos Road, Santa Fe, New Mexico 87505; or call (505) 476-4622 or access them in the "News" link on the Commissions Website at www.rld.state.nm.us. A draft of the proposed changes will be available thirty days prior to the hearing. All written comments mailed to the Board office or e-mailed to joseph.chavez123@state.nm.us or must be submitted no later than Wednesday, May 23, 2012, in order for the Board members to receive the comments in their packets for review before the rule hearing. Persons wishing to present their comments at the hearing will need eight

(8) copies of any comments or proposed changes for distribution to the Commission and staff at the hearing.

A regular business meeting will follow the rule hearing during which action will be taken on the proposed rules. During the regular meeting, the Commission may enter into Executive Session to discuss licensing matters.

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

NEW MEXICO CHILDREN YOUTH AND FAMILIES DEPARTMENT

NOTICE OF PUBLIC HEARING 8.15.2 NMAC

The Children, Youth and Families Department (CYFD), Early Childhood Services (ECS), will hold a formal public hearing on Wednesday, May 30, at 11:00 a.m. in Apodaca Hall on the 2nd floor of the P.E.R.A. Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico, to receive public comments regarding changes to regulations 8.15.2 NMAC Requirements for Child Care Assistance Programs for Clients and Child Care Providers.

The proposed regulation changes may be obtained at www.newmexicokids.org or by calling 505-827-7499 or 1-800-832-1321. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on May 30, 2012. Written comments will be provided the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Mohammed Hussien, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax Number: 505-827-9978. For questions regarding the proposed regulation changes, please call 505-827-7499 or 1-800-832-1321.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please call 1-800-832-1321. ECS requests at least 10 days advance notice to provide requested alternative formats and special

accommodations.

NOTICIA DE AUDICION PÚBLICA 8.15.2 NMAC

El Departamento de Niños, Jóvenes y Familia, Servicios de Niñez Temprana, tendrá una audición formal para el público el día miércoles 30 de Mayo 2012, a las 11:00 de la mañana en el Apodaca Hall, en el segundo piso del edificio de P.E.R.A. localizado en 1120 Paseo de Peralta, Santa Fe, New Mexico, para recibir comentarios públicos con respecto a cambios propuestos a las regulaciones NMAC 8.15.2, Los Requisitos para Programas de Ayuda de Guardería para Clientes y Proveedores.

Los cambios propuestos de la regulación pueden ser obtenidos en www.newmexicokids.org o por llamar al 800-832-1321. Las personas interesadas pueden testificar en la audición o someter comentarios escritos hasta las 5:00 de la tarde el día 30 de Mayo de 2012. Los comentarios escritos serán proporcionados la misma consideración como testimonio oral en la audición. Los comentarios escritos deben ser dirigidos a: Mohammed Hussien, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax #: 505-827-9978. Preguntas con respecto a los cambios propuestos de regulación, llamar por favor al 505-827-7499 o 1-800-832-1321.

Si es una persona con una incapacidad y usted requiere esta información en un formato alternativo o requiere alojamientos especiales a tomar parte en la audición pública, comunicase por favor con Servicios de Niñez Temprana a 1-800-832-1321. CYFD requiere aviso de las peticiones por lo menos 10 previo días para proporcionar formatos solicitados de alternativa y alojamientos especiales.

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

Notice of Proposed Rulemaking

The Economic Development Department ("EDD or Department") hereby gives notice that the Department will conduct a public hearing as indicated to obtain input amending the following rules:

TITLE 5 POST-SECONDARY EDUCATION CHAPTER 5 POST-SECONDARY EDUCATIONAL PROGRAMS

**PART 52 DEVELOPMENT
PRE-EMPLOYMENT TRAINING
FOR FILM AND MULTIMEDIA
PRODUCTION COMPANIES**

A public hearing regarding the rules will be held on May 30, 2012, at the Joseph Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico, in the Bid Room on the first floor. The time for the hearing on the proposed rules is 9:00 AM MDT to 11:00 AM MDT.

Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to the Job Training Incentive Program for Film & Multimedia to Rochelle Bussey, Workforce Development, New Mexico Film Office, Economic Development Department, 1100 St. Francis Dr., Suite 1213, Santa Fe 87505, or email rochelle@nmfilm.com or fax 505.476.5601. Written comments must be received no later Friday, May 25, 2012 at 5:00pm. The proposed rulemaking actions specific to the Job Training Incentive Program for Film & Multimedia may be accessed on the Department's websites, www.gonm.biz or www.nmfilm.com, or obtained from Rochelle Bussey at the contact above.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Rochelle Bussey as soon as possible. The Department requests at least ten days advanced notice to provide requested special accommodations.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
INCOME SUPPORT DIVISION**

Notice of Public Hearing

The Human Services Department will hold a public hearing on May 29, 2012 at 12:00 pm, to receive testimony on a proposed change to the Extra Help Supplemental Nutrition Assistance Program (SNAP) benefit amount based on the most current cost neutrality calculation as established by the Food and Nutrition Services, United States Department of Agriculture. This amount is subject to review and adjustment in January of each year.

Additionally, language is being modified to clarify the method for calculating the amounts for each benefit level.

The proposed regulation is available on the Human Services Department website at <http://www.hsd.state.nm/isd/ISDRegisters>.

html. Individuals wishing to testify or requesting a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, New Mexico, 87505-2348, or by calling 505-827-7250.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the New Mexico Human Services Department toll free at 1-800-432-6217, in Santa Fe at 827-9454, 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 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:

Sidonie Squier, Secretary
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to: Vida.Tapia-Sanchez@state.nm.us

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

NOTICE

The New Mexico Human Services Department (HSD) is scheduling a public hearing on Wednesday, June 6, 2012 at 9:00 a.m. in the ASD conference room, Plaza San Miguel, 729 St. Michael's Drive, Santa Fe. The subject of the hearing is: Money Follows the Person. The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing amendments to rules 8.307.1 NMAC, *General Provisions*; 8.307.7 NMAC, *Benefit Package*; 8.307.18 NMAC, *CoLTS 1915 (C) Home and Community-Based Services Waiver*; 8.312.2 NMAC, *Nursing Facilities*; and 8.314.6 NMAC, *Mi Via Home and Community-Based Services Waiver* to implement the Centers for Medicare and Medicaid's (CMS's) Money Follows the Person (MFP) demonstration grant awarded to the State. Other changes in the rules are to update language, incorporate standardized rule language, and to provide additional clarification for providers and recipients in sections of the rules.

Money follows the person (MFP) is a demonstration grant administered by CMS. During the grant period, grantee states use available grant funding to facilitate transitions from qualified institutions to qualified community settings. MFP transition goods and services are covered under CoLTS when New Mexico has been authorized by CMS as a grantee state. MFP participants must meet specific CMS criteria referenced in the CMS grant terms and conditions and the CMS approved state MFP operational protocol. The definition for qualified eligible individuals, institutions and community settings are detailed in the operational protocol.

The proposed rule for MFP is covered in 8.307.18.13 NMAC, *Covered Waiver Services*. Money follows the person (MFP) federal demonstration grant transition goods and services: Grant funded demonstration services covered under medicaid and supplemental services that are not covered by medicaid are available to medicaid eligible recipients who are transitioning from institutions to community settings and meet specific criteria referenced in the long-term care services utilization review instructions for nursing facility level of care. MCOs may authorize the use of MFP grant demonstration, supplemental or MCO value added transition goods and services when eligible, in coordination with the CoLTS 1915 (c) HCBS transition goods and services benefit.

Interested persons may submit written comments no later than 5:00 p.m., June 6, 2012, to Sidonie Squier, 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 all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

Copies of the Human Services Register and their proposed rules are available for

review on our Website at <http://www.hsd.state.nm.us/mad/registers/2012.html> or by sending a self-addressed stamped envelope to Medical Assistance Division, Benefits Services Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

NEW MEXICO BOARD OF NURSING

Public Rules Hearing

The New Mexico Board of Nursing will hold a Rules Hearing on Friday, June 15, 2012. The Rules Hearing will begin at 9:00 a.m. The rules hearing will be held at the New Mexico Board of Nursing, 6301 Indian School RD NE, Suite 710, Albuquerque NM 87110.

The purpose of the rules hearing is to hear public testimony and comments regarding the proposed amendments to the Board's rules and regulations: 16.12 NMAC: Part 6 Nurse Licensure Compact.

Persons desiring to present their views on the proposed amendments to the rules may write to request draft copies of the rules from the Board office at 6301 Indian School Rd NE, Suite 710, Albuquerque, NM, 87110, call (505) 841-8340 or download them from www.bon.state.nm.us.

In order for the Board members to review the comments prior to the hearing, persons wishing to submit written comments regarding the proposed rules should submit them to the Board office in writing no later than June 1, 2012. Persons wishing to present written comments at the hearing are asked to provide (10) copies of any comments or proposed changes for distribution to the Board and staff. In addition, persons may present their comments orally at the hearing.

Notice: Any person presenting testimony, who is representing a client, employer or group, must be registered as a lobbyist through the Secretary of State's Office (9505) 827-3600 or do so within 10 days of the Public Hearing.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, please call the Board office at (505) 841-8340 at least two weeks prior to the hearing or as soon as possible.

NEW MEXICO OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO ENERGY, MINERAL AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission (Commission), hereby gives notice that the Commission will conduct a public hearing beginning at 9 a.m. on May 14, 2012 through May 18, 2012, in Porter Hall at 1220 South Saint Francis Drive, Santa Fe, New Mexico. 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 Ms. Florene Davidson at (505) 476-3458 or through the New Mexico Relay Network at 1-800-659-1779 by April 27, 2012. Public documents can be provided in various forms. Please contact Ms. Davidson if a summary or other type of form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final Agenda will be available no later than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division's website at www.emnrd.state.nm.us/ocd/.

STATE OF NEW MEXICO TO: All named parties and persons having any right, title, interest or claim in the following cases and notice to the public.

Case No.14784: APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE. The New Mexico Oil and Gas Association requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are

to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits"; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division's notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing transfer of a permit; and (xv) otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

Copies of the text of the proposed amendments are available from the Oil Conservation Division's Administrator, Florene Davidson at (505) 476-3458 or from the Division's website at <http://www.emnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must

submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division's Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

Case No.14785: APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.

The Independent Petroleum Association of New Mexico requests an order amending Commission Rules concerning pits, closed-loop systems, below grade tanks, sumps and other alternative methods related to the foregoing proposed amendments, codified as Part 17 of the Rules of the Oil Conservation Division [19.15.17 NMAC]. The proposed amendments are to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for "low chloride" drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for "multi-well fluid management pits"; (vii) revise the rules governing the testing and removal of below

grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division's notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing the transfer of a permit; and (xv) otherwise change the Commission's requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

Copies of the text of the proposed amendments are available from the Oil Conservation Division's Administrator, Florene Davidson at (505) 476-3458 or from the Division's website at <http://www.emnrd.state.nm.us/ocd/Rules.htm>. Modifications to the proposed amendments (six copies) conforming to the requirements of 19.15.3.11 NMAC must be received by the Division no later than 5:00 p.m. on April 27, 2012. Persons intending to provide written comments on the proposed rule change must submit their written comments no later than 5:00 p.m. on May 4, 2012 to the Division's Administrator. Persons intending to offer technical testimony or cross-examine witnesses at the hearing must file a Pre-hearing statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than 5:00 p.m. on May 4, 2012. Modifications, written comments and Pre-hearing statements may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or may be faxed to Ms. Davidson at (505) 476-3462.

Given under the seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 30th day of March, 2012.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Jami Bailey
Oil Conservation Commission Chair

**NEW MEXICO PUBLIC
EMPLOYEES RETIREMENT
ASSOCIATION**

NOTICE OF P.E.R.A. RULEMAKING

The Public Employees Retirement Association ("PERA") will consider changes to its rules promulgated under the Public Employees Retirement Act. Changes are proposed for the following Rules:

2.80.600 NMAC Service Credit and Purchase of Service Credit

2.80.2100 NMAC Member Contributions

Copies of the draft rules are available for inspection in PERA's Office of General Counsel. Hard copies of the draft rules may be purchased for \$3.00. Written comments, inquiries or requests for copies should be directed to PERA's Office of General Counsel, P.O. Box 2123, Santa Fe, New Mexico, 87504-2123, (505) 476-9353 or 1-800-342-3422. Written comments or requests for copies may be submitted electronically to: judy.olson@state.nm.us. To be considered, written comments, arguments, views or relevant data should be submitted by 5:00 p.m. June 1, 2012. The PERA Board will review and consider all written comments addressing the proposed rule changes.

A formal rulemaking hearing will be held on June 12, 2012 at 9:00 a.m. in the Fabian Chavez Board Room of the PERA Building, 33 Plaza La Prensa, Santa Fe, New Mexico. Oral comments will be taken at the public hearing. Final action on the rules will occur at the monthly meeting of the PERA Board on June 22, 2012, which will begin at 9:00 a.m. at the Sgt. Willie Estrada Memorial Civic Center, 800 First East Street, Alamogordo, New Mexico. All interested parties are requested to attend. Lobbyists must comply with the Lobbyist Regulation Act, NMSA 1978, Section 2-11-1 et. seq. (1997), which applies to rulemaking proceedings.

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 Jane Clifford at (505) 476-9305 or toll free at 1-800-342-3422 seven days prior to the hearing or as soon as possible.

NEW MEXICO PUBLIC REGULATION COMMISSION

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

Case No. 12-00089-UT

IN THE MATTER OF THE ADOPTION OF PROPOSED AMENDMENTS TO RULES 17.7.3 NMAC, 17.7.4 NMAC, 17.9.560 NMAC, 17.10.650 NMAC & 17.10.660 NMAC TO IMPLEMENT RECOMMENDATIONS CONTAINED IN STAFF'S REPORT OF SEVERE WEATHER EVENT OF FEBRUARY, 2011 AND ITS CASCADING IMPACT ON NEW MEXICO UTILITY SERVICE**NOTICE OF PROPOSED RULEMAKING**

1. **NOTICE IS HEREBY GIVEN** that the New Mexico Public Regulation Commission ("NMPRC" or the "Commission") is commencing a rulemaking proceeding for the purpose of amending rules 17.7.3 NMAC, 17.7.4 NMAC, 17.9.560 NMAC, 17.10.650 NMAC and 17.10.660 NMAC governing gas and electric public utilities to implement rule amendment recommendations contained in the Commission Staff's Report on *Severe Weather Event of February, 2011 and its Cascading Impact on NM Utility Service* ("*Severe Weather Report*") dated December 21, 2011 and prepared by the Staff of the New Mexico Public Regulation Commission Informal Task Force Investigation. The proposed rule amendments would be promulgated under authority granted to the Commission by the New Mexico Constitution, Article XI, Section 2 (1996), and by the Legislature pursuant to NMSA 1978, Section 8-8-4(B)(10) (1998) and the Public Utility Act, NMSA 1978, Sections 62-3-1 *et. seq.*, ("PUA"). A copy of the Commission's Proposed Rule Amendments is attached hereto as Attachment A.

2. On March 30, 2012, the Commission's Utility Division Staff filed a Petition to Initiate Rulemaking. Staff requested that the Commission commence a rulemaking proceeding to amend Rules 17.7.3 NMAC, 17.7.4 NMAC, 17.9.560 NMAC, 17.10.650 NMAC and 17.10.660 NMAC governing gas and electric public utility integrated resources plans and service standards to implement rule amendment recommendations contained in the *Severe Weather Report*. Staff's Proposed Rule Amendments would require regulated electric and natural gas utilities to: (1) explicitly consider fuel diversity, alternative or redundant fuel delivery systems, and back-up fuel capability in their planning processes; (2) recognize natural gas-dependent generating facilities that directly or indirectly serve retail load as critical load; (3) recognize electricity-dependent natural gas storage and transportation or distribution facilities that directly or indirectly serve retail load as critical load; (4) modify and standardize reporting of electric system and gas systems outages to the Commission; and (5) implement emergency plans which: (a) identify "escalating" levels of emergency response that may be needed; (b) establish a method to contemporaneously document the occurrences and the action contemplated for each level, and (c) contain a plan for contemporaneous communication at each emergency level of the potential impacts or actions with potentially affected customers, government agencies and emergency response entities, and the public.

3. Staff's Proposed Rule Amendments are well taken for purposes of this Notice. With certain modifications, Staff's Proposed Rule Amendments should be adopted by the Commission as the Commission's Proposed Rule Amendments. Attachment A to this Notice consists of the Commission's Proposed Rule Amendments and incorporates Staff's Proposed Rule Amendments as modified by the Commission.

4. Any person wishing to comment on the Commission's Proposed Rule Amendments may do so by submitting written comments no later than May 21, 2012. Any person wishing to respond to comments may do so by submitting written response comments no later than June 22, 2012. Comments suggesting changes to the Commission's Proposed Rule Amendments shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the draft rule shall be provided in legislative format.

5. A public hearing will begin immediately after the conclusion of the Commission's regular open meeting, at approximately 11:00 a.m. on **Tuesday, July 10, 2012** at the offices of the Commission, at the following location:

4th Floor Hearing Room

1120 Paseo de Peralta
Santa Fe, NM 87501
Tel. 505-827-4366.

6. The hearing will be held to receive oral comment and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing, as this is a rulemaking proceeding.

7. Unless the Commission or presiding officer rules otherwise, the record in this rulemaking shall close thirty (30) days after the conclusion of the public hearing.

8. All persons providing public comment and/or participating in the public hearing are encouraged to provide specific comments on the Commission's Proposed Rule Amendments. Commenters are also encouraged to address any other topic that may be relevant to this rulemaking.

9. Interested persons should contact the Commission to confirm the date, time, and place of any public hearing, because hearings are occasionally rescheduled.

10. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

11. Pursuant to NMSA 1978, Section 8-8-15(B) (amended 2001), at least thirty days prior to the hearing date, this *Notice of Proposed Rulemaking*, including Attachment A, shall be mailed to all persons who have made a written request for advance notice and shall be published without Attachment A in at least two newspapers of general circulation in New Mexico and in the NEW MEXICO REGISTER. Affidavits attesting to the publication of this *Notice of Proposed Rulemaking* as described above shall be filed in this Docket.

12. Copies of this *Notice of Proposed Rulemaking*, including Attachment A, shall be e-mailed to all persons listed on the attached Certificate of Service if their email addresses are known, and otherwise shall be served via regular mail.

13. This *Notice of Proposed Rulemaking* shall be posted on the Commission's official Website.

14. Copies of any forthcoming final order in this rulemaking proceeding shall be mailed, along with copies of any resulting final rule, to all persons and entities appearing on the Certificate of Service as it exists at the time of issuance of the final order in this Docket, to all commenters in this case, and to all individuals requesting such copies.

15. This *Notice of Proposed Rulemaking* is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 5th day of April, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION
PATRICK H. LYONS, CHAIRMAN
THERESA BECENTI-AGUILAR, VICE CHAIR
JASON A. MARKS, COMMISSIONER
DOUGLAS J. HOWE, COMMISSIONER
BEN L. HALL, COMMISSIONER

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

Case No. 11-00354-TRP

IN THE MATTER OF THE ADOPTION OF AMENDMENTS TO MOTOR TRANSPORTATION RULES FOR FUEL SURCHARGE UNDER 18.3.15 NMAC

NOTICE OF PROPOSED RULEMAKING

NOTICE is hereby given that the New Mexico Public Regulation Commission (“NMPRC” or the “Commission”) is commencing a rulemaking proceeding to formalize fuel escalator procedures for certificated motor carriers of persons or household goods and to amend the current fuel escalator rules for towing companies providing non-consensual tows. These changes are proposed as revisions and additions to 18.3.15 NMAC. This matter comes before the Commission upon the filing of a Joint Petition to Initiate Rulemaking (“Petition”) on September 20, 2011, by the Commission’s Transportation Division Staff, Capital City Cab/Village Taxi, Inc. (“CCC”), and Living Cross Ambulance Service, Inc. (“LCAS”) (collectively, “Petitioners”). A copy of the proposed rule, Rule 18.3.15 NMAC, is attached hereto as Attachment A (the “Proposed Rule”). The Proposed Rule is intended to replace existing Rule 18.3.15 NMAC.

THE COMMISSION FINDS AND CONCLUDES:

1. The Commission has the authority to promulgate the Proposed Rule under the N.M. Const. Art. XI, Section 2, and under NMSA 1978, Sections 8-8-4(B)(10) (1998) and 8-8-15 (amended 2001).
2. The Proposed Rule should be promulgated to establish a procedure providing fair, reasonable and enforceable voluntary fuel surcharges for certificated motor carriers of persons or household goods and for towing services providing non-consensual tows.
3. Interested persons may comment on any portion of the Proposed Rule, but the Commission would especially like to receive comments on the following provisions:
 - Proposed Rule 18.3.15.10(B) NMAC, regarding the waiting period for participation in the fuel surcharge program an whether implementation should be phased in; and
 - Proposed Rule 18.3.15.11(A)(2) NMAC, regarding the maximum percentage by which the allowable program rate or rate components may be increased.
4. This *Notice of Proposed Rulemaking* should constitute due and lawful notice to all potentially interested persons.
5. Commission Rule 1.2.3.7(B) NMAC (Ex Parte Communications) draws a distinction applicable to rulemaking proceedings between communications occurring before the record has been closed and communications occurring after the record has been closed. It defines only the latter as “ex parte communications.” In order to ensure compliance with Rule 1.2.3.7(B) NMAC, the Commission should set a date on which it will consider the record to be closed. The Commission finds that date shall be the earlier of thirty (30) days following the **June 27, 2012, Public Hearing**, that is, **July 27, 2012**, or the date a Final Order is issued in this case. The setting of that record closure date will permit Commissioners and Commission Counsel to conduct follow-up discussions with parties who have submitted initial or response comments to the Commission’s Proposed Rule or responses to any bench requests. However, this action should not be interpreted as extending the time during which parties may file comments or response comments, or as allowing the filing of other types of documents in this case.
6. Additional copies of the Proposed Rule can be obtained from:

Mr. Nick Guillen
NMPRC Records Management
Bureau
1120 Paseo de Peralta
Santa Fe, New Mexico 87501

or

Mr. Nick Guillen
NMPRC Records Management
Bureau
P.O. Box 1269
Santa Fe, New Mexico 87504-1269

or by calling 505-827-4366.

IT IS THEREFORE ORDERED:

A. The Petitioners’ Petition for a rulemaking to promulgate an amended rule, Rule 18.3.15 NMAC, is GRANTED.

B. The rulemaking proceeding shall be, and hereby is, instituted in this Docket and shall establish a procedure providing fair, reasonable, and enforceable voluntary fuel surcharges for certificated motor carriers of persons or household goods and for towing services providing non-consensual tows.

C. This *Notice of Proposed Rulemaking* constitutes due and lawful notice to all potentially interested persons.

D. Any person wishing to comment on the Proposed Rule may do so by submitting written comments no later than **May 16, 2012**. Any person wishing to respond to comments may do so by submitting written response comments no later than **June 13, 2012**. Comments suggesting changes to the Proposed Rule shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the Proposed Rule shall be provided in a form consistent with that of the Proposed Rule. Commenters’ deletions shall be indicated by striking through the language to be deleted, and commenters’ additions shall be underlined.

E. All pleadings, including comments, shall bear the above caption and case number 11-00354-TRP and shall be filed with the Commission’s Records Division, at either of the addresses set out in paragraph 6 above.

F. A public hearing on the Proposed Rule, to be presided over by the Commission or its designee, shall be held beginning at **8:30 a.m. on June 27, 2012**, at the offices of the Commission, at the following location:

4th Floor Hearing Room
Paseo de Peralta

Santa Fe, New Mexico 87501
Tel. 505-827-4366

The hearing will be held in order to receive oral comments and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding.

G. All persons providing public comment and/or participating in the public hearing are encouraged to provide specific comments on the Proposed Rule. Commenters are also encouraged to address any other topic that may be relevant to this rulemaking.

H. Interested persons should contact the Commission to confirm the date, time, and place of any public hearing, because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

I. Pursuant to NMSA 1978, Section 8-8-15(B) (amended 2001), at least thirty days prior to the hearing date, this *Notice of Proposed Rulemaking*, including Attachment A, shall be mailed to all persons who have made a written request for advance notice and shall be published without Attachment A in at least two newspapers of general circulation in New Mexico and in the NEW MEXICO REGISTER. Affidavits attesting to the publication of this *Notice of Proposed Rulemaking* as described above shall be filed in this Docket.

J. Copies of this *Notice of Proposed Rulemaking*, including Attachment A, shall be e-mailed to all persons listed on the attached Certificate of Service if their e-mail addresses are known, and if not known, mailed to such persons via regular mail.

K. This *Notice of Proposed Rulemaking* shall be posted on the Commission's official Website.

L. Copies of any forthcoming final order adopting a new rule shall be mailed, along with copies of the new rule, to all persons and entities appearing on the Certificate of Service as it exists at the time of issuance of the final order in this Docket, to all commenters in this case, and to all individuals requesting such copies.

M. This *Notice of Proposed Rulemaking* is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico this 10th day of April, 2012.

**NEW MEXICO PUBLIC REGULATION
COMMISSION**

PATRICK H. LYONS, CHAIRMAN
**THERESA BECENTI-AGUILAR, VICE
CHAIR**
JASON A. MARKS, COMMISSIONER
DOUGLAS J. HOWE, COMMISSIONER
BEN L. HALL, COMMISSIONER

**NEW MEXICO
DEPARTMENT OF
WORKFORCE SOLUTIONS**

**NEW MEXICO DEPARTMENT OF
WORKFORCE SOLUTIONS**

The New Mexico Department of Workforce Solutions ("Department") hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on **Tuesday**, June 5, 2012 from 1:00 P.M. until 3:00 P.M. The purpose of the public hearing will be to obtain input on the repeal of the following rules: 11.2.4 NMAC through 11.2.30 NMAC and the adoption of the following proposed rules: 11.2.4 NMAC through 11.2.21 NMAC.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, Attention Dolores Haley. Written comments must be received no later than 5 p.m. on June 4, 2012. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules for repeal and the proposed rules for adoption may be accessed on the Department's website <http://www.dws.state.nm.us> or obtained from Dolores Haley Tel.: (505) 841-8429 dolores.haley@state.nm.us. The proposed rules for repeal and the proposed rules for adoption will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Dolores Haley as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**End of Notices and Proposed
Rules Section**

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Adopted Rules

**NEW MEXICO OFFICE OF
THE ATTORNEY GENERAL
CONSUMER PROTECTION
DIVISION**

**T I T L E 1 2 T R A D E ,
C O M M E R C E A N D B A N K I N G
C H A P T E R 2 C O N S U M E R
P R O T E C T I O N
P A R T 1 3 R E Q U I R E M E N T S
F O R S P O T D E L I V E R Y O F M O T O R
V E H I C L E S**

12.2.13.1 ISSUING AGENCY: Office of the New Mexico Attorney General. [12.2.13.1 NMAC - N, 6/1/2012]

12.2.13.2 SCOPE: Motor vehicle dealers. [12.2.13.2 NMAC - N, 6/1/2012]

12.2.13.3 S T A T U T O R Y AUTHORITY: New Mexico Unfair Practices Act, Section 57-12-1 NMSA 1978 et seq. [12.2.13.3 NMAC - N, 6/1/2012]

12.2.13.4 D U R A T I O N : Permanent. [12.2.13.4 NMAC - N, 6/1/2012]

12.2.13.5 E F F E C T I V E D A T E: June 1, 2012, unless a later date is cited at the end of a section. [12.2.13.5 NMAC - N, 6/1/2012]

12.2.13.6 O B J E C T I V E:
A. The purpose of this rule is to accomplish two principal objectives:

(1) deter unfair business practices in the sale of motor vehicles that result in economic harm, and

(2) provide clear legal standards for the sale of motor vehicles where the sale of the vehicle is contingent upon approval of financing of the vehicle.

B. The attorney general's office has received numerous complaints from consumers where the motor vehicle dealer asserts that the transaction is contingent upon financing of the vehicle or approval of financing, but where adequate disclosure of this contingency is not made in a timely manner, where the dealer asserts the right to cancel the contract based on a failure of this contingency or right to unilaterally renegotiate the terms of the sale, or where the dealer sells the consumer's trade-in vehicle prior to confirmation of financing and finalization of the transaction thus converting the use and possession of the consumer's trade-in vehicle.

[12.2.13.6 NMAC - N, 6/1/2012]

12.2.13.7 D E F I N I T I O N S: The following terms have the meanings set forth herein.

A. "Motor vehicle dealer" means:

(1) any person who sells or solicits or advertises the sale of new, demonstration or used motor vehicles and who is licensed pursuant to the motor vehicle code; or

(2) any person who sells four or more motor vehicles in a calendar year whether licensed or not.

B. "Motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries. This includes but is not limited to automobiles, trucks of all varieties, motor cycles, recreational vehicles, reconstructed motor vehicles, specialty constructed motor vehicles, road tractors, all of which may be for personal, household, or commercial use.

C. "Purchase price" means the actual price before the deduction of the value of any trade-in and shall not include such charges as taxes, registration fees, extended warranties, service contracts, credit disability insurance, or any other charges incidental to the purchase.

D. "Revocation" means the cancellation, voiding or annulment of the contract or withdrawing of acceptance to purchase the motor vehicle.

E. "Spot delivery" means a contingent motor vehicle sale transaction by which the buyer is allowed to take possession of the motor vehicle pending the finalization of financing.

[12.2.13.7 NMAC - N, 6/1/2012]

12.2.13.8 S P O T D E L I V E R Y G E N E R A L L Y: In a sale conditioned on financing, it is an unfair trade practice for a motor vehicle dealer who delivers a new, demonstration or used motor vehicle to a buyer to.

A. Orally or in writing represent to the buyer at the time of signing the purchase order agreement or sales transaction document that the sale is final and complete if the financing contingency is unmet.

B. Refuse to void and nullify the contract if financing is not finalized within 20 calendar days from the date of delivery of the motor vehicle.

C. Fail to return to the buyer, within a reasonable time, all sums of money paid or collateral including a trade-in provided by the buyer and held by the motor vehicle dealer.

D. Accept a trade-in and then sell or remove the trade-in from the lot where the transaction occurred before the

financing of the purchased motor vehicle has been finalized and the sale completed.

E. Fail to pay the retail value of the trade-in vehicle or the assigned value of the trade-in itself, as well as all other monies or things due the buyer should the motor vehicle dealer sell or remove the trade-in from the lot before the financing has been finalized. The risk of loss during the period shall be assessed against the motor vehicle dealer.

F. Fail to timely pay the lender the monthly scheduled payment, should a payment become due before the sale is final. The buyer will reimburse the dealer for such a payment if the contract is rightfully revoked in accordance with this rule.

G. Charge the buyer for any costs associated with the refurbishing, repair or maintenance of the trade-in or for any sums paid by the motor vehicle dealer to pay off the outstanding debt owed on the trade-in. However, should the buyer rightfully revoke the contract, buyer will reimburse the motor vehicle dealer for payments made on the outstanding balance of the trade in.

H. Fail to include the following statement in no less than bold 12 point type, conspicuously placed on the purchase order agreement or sales transaction document and signed ONLY by the buyer subject to the financing contingency: **SPOT DELIVERY:** Buyer has the right to void this purchase if financing is not approved within 20 calendar days after delivery of vehicle. Buyer has the right to the return of any trade-in and all money paid by buyer, if buyer voids this contract under this paragraph. To exercise this right, buyer must return the vehicle to the dealer in the same condition as received (normal wear and tear excepted), within 48 hours of receipt of notice that financing was not approved. Dealer shall not charge any fees as long as the vehicle is returned as provided in this paragraph.

I. Charge any usage fee or any other type of surcharge to the buyer in association with the rightful revocation of the purchase order agreement or sales transaction document as provided by this rule.

J. Fail to maintain for a period of three years in the dealer file jacket the following documents regardless of whether the sales transaction is finalized:

(1) copies of all credit applications, transmittals sent to or received from any lender, or any documents related to the approval or denial of financing, offers or counteroffers of financing, or requests for additional information related to a request for financing;

(2) copies of every signed purchase agreement or sales transaction document; and

(3) a log recording the date the dealership notified the buyer of the changes to the contract, with a detailed description of the changes to the terms and conditions of the sale of the vehicle, and the date upon which the purchaser agreed to each of the changes.

K. Fail to provide a copy of every signed purchase order agreement or sales transaction document to the buyer at the time of signing.

L. Make any statement or representation to the buyer, orally or in writing, either before or after the purchase order agreement or sales transaction document is signed, that misleads the buyer as to his rights of revocation under this rule, including but not limited to, misrepresenting to the buyer his right to revoke acceptance of the contract and "walk away" without incurring any legal obligation should the motor vehicle dealer fail to meet the contingency financing agreement. [12.2.13.8 NMAC - N, 6/1/2012]

12.2.13.9 SEVERABILITY: If any portion of this rule is held invalid, the remainder of the rule and application thereof shall remain unaffected. [12.2.13.9 NMAC - N, 6/1/2012]

HISTORY OF 12.2.13 NMAC:
[RESERVED]

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.139.503 NMAC, Sections 9, 11, 12 & 13, effective May 1, 2012.

8.139.503.9 BASIS FOR DEFINING GROUP (HOUSEHOLD COMPOSITION)

A. Household: An applicant can opt to receive NMCAP benefits if the applicant:

(1) receives federal SSI benefits; and

~~(2) is not institutionalized; and~~
~~(3) does not received benefits through the food distribution program on Indian reservations (FDIPR); and~~

~~(2) (4)~~ is twenty-two years of age or older; and

~~(3) (5)~~ is eligible for separate household status; or

~~(4) (6)~~ lives with a spouse as defined in Paragraph (31) of Subsection B of 8.139.100.7 NMAC, who also receives SSI benefits; or

~~(5) (7)~~ is living with others but buys and cooks food separately from others;

and

~~(6) (8)~~ at the time application or recertification for NMCAP the household has no earned income.

B. Verification of information: All information received by the department from the SSA data interface will be deemed as true and accurate for purposes of initial verification. [8.139.503.9 NMAC - N, 06/01/2009; A, 05/01/2012]

8.139.503.11 C A S E MANAGEMENT

A. Interviews: NMCAP applicants are not required to see an ISD caseworker or be otherwise subjected to an interview, although additional information or verification may be requested.

B. Certification periods: Eligible households shall be assigned to a 36-month certification period, and with no interim contact.

C. Reporting requirements: All information received by the department from the SSA data interface will be deemed as true and accurate for reported changes.

D. Actions on reported changes: NMCAP recipients are subject only to the reporting standards of SSA and all data sent to the department monthly. Within ten days of receipt the department shall act on the following changes:

- (1) death of a household member;
- (2) loss of SSI eligibility;
- (3) changes in state residency; [or]
- (4) a member of the household's institutional status has changed; or

~~(5) change in shelter cost.~~

E. Recertification: NMCAP recipients shall not be subject to an interview to review eligibility at the end of the 36-month certification period. Recipients shall receive notice of expiration and recertification prior to closure. Continued eligibility will be evaluated based on the submission of a completed application and information received from SSA. Participants that do not reapply by the end of certification period will be subject to case closure. [8.139.503.11 NMAC - N, 06/01/2009; A, 05/01/2012]

8.139.503.12 BENEFIT DELIVERY

A. Effective date: Benefits for the initial month of certification shall be prorated from the date of application according to the standard food stamp program tables at 8.139.500 NMAC.

B. Benefit issuance: NMCAP are issued through a direct deposit into a household's electronic benefit transfer (EBT) food stamp account. EBT cards are issued and EBT accounts maintained as defined at 8.139.610 NMAC. A participating household has a definite issuance date so that

food stamp benefits are received on or about the same time each month. The issuance date is based on the last two digits of the social security number of the individual to whom the food stamps are issued.

C. Benefit calculation: Benefits are issued based on [allowable and out-of-pocket medical deductions] ~~the household's total monthly shelter costs as defined at Subsection F of 8.139.520.11 NMAC.~~ Benefit amounts shall be subject to review and adjustment in coordination with the regular food stamp program and cost neutrality and may be adjusted each January. Monthly NMCAP benefit amounts are based on the following for:

(1) monthly shelter costs equal to or less than \$315.00, the maximum benefit amount is [~~\$70.00~~] \$50.00; and

(2) monthly shelter costs greater than \$315.00, the maximum benefit amount is [~~\$93.00~~] \$85.00.

~~**D. Benefit correction:** Benefit corrections shall be determined and adjusted as defined at 8.139.640 NMAC.~~ [8.139.503.12 NMAC - N, 06/01/2009; A, 05/01/2012]

8.139.503.13 OVERPAYMENT AND RECOUPMENT

A. Overpayment: A household that has received NMCAP benefits and has been determined ineligible or does not qualify for some or all of the NMCAP benefit shall have a claim established against the household for the NMCAP benefit amount in accordance with 8.139.640 NMAC.

B. Recoupment:
(1) The household shall be required to repay any amount of the NMCAP benefit due to an established claim or overpayment of the NMCAP benefit.

(2) The household shall remain subject to claim establishment and recoupment for the NMCAP benefit in accordance with 8.139.640 NMAC. [8.139.503.13 NMAC - N, 05/01/2012]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.1 NMAC, Section 8, effective April 30, 2012. In 15.2.1.8 NMAC, Subsections B through I were not published as there were no changes.

15.2.1.8 COMMISSION

A. PURPOSE:

(1) The New Mexico racing commission created by the act, Section ~~[60-1-3-B-;]~~ 60-1A-4, New Mexico Statutes, 1978, Annotated, is charged with implementing, administering and enforcing the act. It is the intent of the commission that the rules of the commission be interpreted in the best

interests of the public and the jurisdiction.

(2) Through these rules, the commission intends to encourage agriculture, the horse breeding industry, the horse training industry, tourism and employment opportunities in this jurisdiction related to horse racing and to control and regulate pari-mutuel wagering in connection with that horse racing.

[15.2.1.8 NMAC - Rp, 15 NMAC 2.1.8, 03/15/2001; A, 08/30/2001; A, 01/31/2008; A, 04/30/2012]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Section 9, effective 04/30/12. In 15.2.6 NMAC, Section 9, Subsections A through K were not published as there were no changes.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:

The “*uniform classification guidelines for foreign substances and recommended penalties and model rule*”, revised [August 2011, version 2.01;] December 2011, version 3.00 as issued by the association of racing commissioners international, is incorporated by reference. Upon a finding of a violation of these medication and prohibited substances rules, which includes the possession of contraband as listed in Subsection I of 15.2.6.9 NMAC, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures as determined by the New Mexico racing commission. The commission only adopts the recommended overages for permitted non-steroidal anti-inflammatory drugs (NSAIDs) and furosemide (in either serum or plasma) listed in this reference material should a violation occur in a graded thoroughbred stakes race. The guidelines and recommended overages for NSAIDs and furosemide are attached to this section and incorporated by reference. Provided, however, that in the event a majority of the stewards determine that mitigating circumstances require imposition of a lesser penalty they may impose the lesser penalty.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 04/13/2001; A, 08/30/2001; A, 07/15/2002; A, 08/15/2002; A, 09/29/2006; A, 10/31/2006; A, 08/30/2007; A, 01/31/2008;

A, 03/01/2009; A, 06/15/2009; A, 06/30/2009; A, 09/15/2009; A, 12/15/2009; A, 03/16/2010; A, 07/05/2010; A, 09/01/2010; A, 12/01/2010; A, 11/01/2011; A, 02/15/2012; A, 04/30/2012]

End of Adopted Rules Section

Submittal Deadlines and Publication Dates 2012

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

The *New Mexico Register* is the official publication for all notices of rule making, proposed rules, adopted rules, emergency rules, and other material related to administrative law. 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.

The New Mexico Register is available free online at <http://www.nmcpr.state.nm.us/nmregister>.

For further information, call 505-476-7907.