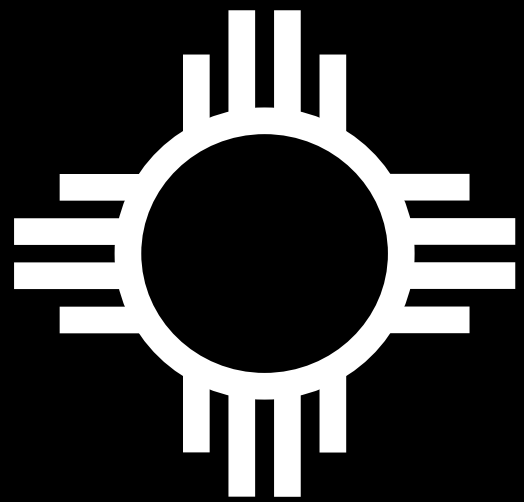


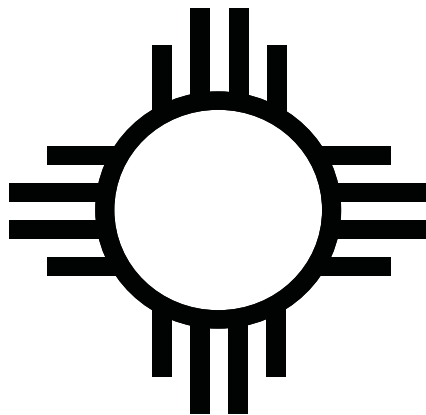
**NEW
MEXICO
REGISTER**



Volume XXIV
Issue Number 9
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New Mexico Register

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May 15, 2013**



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

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2013

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New Mexico Register

Volume XXIV, Number 9

May 15, 2013

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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.

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Notices of Rulemaking and Proposed Rules

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 Friday, June 14, 2013, at 11:00 a.m. in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico, to receive public comments regarding changes to regulation 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 June 14, 2013. Written comments will be provided the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Jeffrey Miles, 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 505-827-7499. 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 Children, Youth and Families, Servicios de Niñez Temprana, tendrá una audición formal para el público el viernes, 14 de junio de 2013, a las 11:00 de la mañana en el salón Apodaca, el segundo piso del edificio PERA 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

[newmexicokids.org](http://www.newmexicokids.org) o por llamar 800-832-1321. Las personas interesadas pueden testificar en la audición o someter comentarios escritos hasta las 5:00 de la tarde el día 14 de junio de 2013. Los comentarios escritos serán proporcionados la misma consideración como testimonio oral en la audición. Los comentarios escritos deben ser dirigidos a: Jeffrey Miles, 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, por favor llame 505-827-7499 o 1-800-832-1321.

Si usted es una persona con incapacidades y usted requiere esta información en un formato alternativo o requiere alojamientos especiales para tomar parte en la audición pública, comuníquese por favor con Early Childhood Services at 800-832-1321. CYFD requiere aviso de las peticiones por lo menos 10 días de preaviso para proporcionar formatos solicitados de alternativa y alojamientos especiales.

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing on June 14, 2013 from 10:00 to 11:00 am, to receive testimony on proposed amendments to the SNAP assistance programs to make technical changes to address the new functionality of the new Automated System Program and Eligibility Network (ASPEN). The proposals address the ability to submit applications and recertifications through the YES New Mexico web portal. The regulations further expand the definitions of notice and signature to allow for electronic submission.

Additionally, the Department is proposing clarifying language regarding Student Eligibility for SNAP based on federal definitions and clarifications.

The Human Services Register outlining the interim regulations is available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/registers/ISDRegisters.html>.

Individuals wishing to testify or requesting a copy of the emergency interim regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling 505-827-7250.

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 P.M. 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

You may send comments electronically to: vida.tapia-sanchez@state.nm.us

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

A public hearing to receive testimony on these proposed rules will be held at San Miguel Plaza June 17, 2013, at 9 a.m.

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing to amend 8.262.400 *NMAC Recipient Policies*, 8.262.500 *NMAC Income and Resource Standards*, and 8.262.600 *Benefit Description*. The Department specifically proposes to renumber, reformat, and amend 8.262.400 section 9, subsection B (1), (2), and (3) of rule and in its replace add specific language on how to determine which individuals are considered in the household assistance group for the State Coverage Insurance program; add language to 8.262.400 section 4 and section 12 to specifically refer to the two federal section 1115(a) demonstration waivers; add language to rule 8.262.500 section 9 identifying SSI income as unearned income; add child support and Social Security survivor benefits for children are considered exempt income, not unearned income; to renumber, reformat, and amend 8.262.500 section 9 subsection B (1) from rule and replace with specific language regarding which documents are needed to determine self-employed income for the State Coverage Insurance program; add language to 8.262.600 section 4 and section 11 to specifically refer to the two federal section 1115(a) demonstration waivers. The rule also proposes to explain how the State Coverage Insurance program determines the earned income work incentive deduction for applicants. This added language will simplify the rules process for determining financial eligibility for the State Coverage Insurance applicant.

This register and the proposed rule are available on the Medical Assistance Division web site at www.hsd.state.nm.us/mad. If

you do not have Internet access, a copy of the rules may be requested by contacting the Medical Assistance Division at 505-827-3171. Interested persons may submit written comments no later than 5:00 p.m., June 17, 2013 to Sidonie Squier, Secretary, Human Services Department, PO 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 the public hearing, please contact the Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3171. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the 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.

NEW MEXICO BOARD OF NURSING

Public Rules Hearing

The New Mexico Board of Nursing will hold a Rules Hearing on Friday, June 14, 2013. 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 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 May 30, 2013. 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 BOARD OF PHARMACY

NEW MEXICO BOARD OF PHARMACY

REGULAR BOARD MEETING

NOTICE TO THE PUBLIC

The New Mexico Board of Pharmacy will convene on **June 20th & 21st, 2013 at 8:00 a.m.** and continue until finished in the **Board of Pharmacy Conference Room located at 5200 Oakland Ave., NE, Albuquerque, NM** for the purpose of conducting a regular Board meeting.

Interested persons wishing to comment and/or present proposed language regarding rule hearings must submit documentation via fax (505)222-9845, mail or email to Larry Loring, Larry.Loring@state.nm.us or Debra Wilhite, debra.wilhite@state.nm.us no later than Friday, June 14, 2013, if in attendance please provide 12 copies for distribution to board members. To receive copies of the agenda and any proposed rule, you may access the links on the agenda for printing via our website listed below or contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or fax (505) 222-9845, e-mail debra.wilhite@state.nm.us

Anyone who needs special accommodations for the meeting should contact the board office at (505) 222-9830 as soon as possible.

The agenda (tentative) will be available starting June 10, 2013 through the board's website: www.rld.state.nm.us/boards/pharmacy

The board may go into executive session at any time to discuss licensee and/or personnel matters.

The Board will address:

Rule Hearings:

16.19.4 NMAC Pharmacists

16.19.5 NMAC Internship Training Program

16.19.20 NMAC Controlled Substances

Hearings, Board Orders and Surrenders:

Approval of Applications:

Other Board Matters:

Committee Reports:

Public Requests:

Petitioners must be present or available telephonically to present their request. Petitioners, if in attendance must provide 12 copies of the documentation regarding the request and/or any proposed language for distribution to board members no later than Friday, June 14, 2013 for presentation. (Board staff is not required to make copies.)

*Executive Director's Report:
Case presentations*

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT NOTICE OF PROPOSED RULEMAKING

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786, on Friday, June 14, 2013 from 1:00 P.M. to 2:00 P.M. The purpose of the public hearing will be to obtain input on the proposed amendments to 6.31.2 NMAC (Children with Disabilities/ Gifted Children).

Interested individuals may testify either at the public hearing or submit written comments to Kaylock Sellers, Business Operations Specialist, Special Education Bureau, Public Education Department, 120 South Federal Place, Room 206, Santa Fe, New Mexico 87501, via email at (spedfeedback@state.nm.us), or fax (505) 954-0001. Copies of the proposed amendments and the rationale for the changes may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Mr. Sellers. Written comments must be received no later than 5:00 P.M. on the date of the hearing. However, the submission of written

comments as soon as possible is encouraged.

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 Mr. Sellers as soon as possible at (505) 827-1459. The Department requires 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 PUBLIC REGULATION COMMISSION

Repealer: The New Mexico Public Regulation Commission repeals its rule NMPSC Rule 440, entitled "Extensions, Improvements, Additions, and Cooperative Agreements Between or Among Utilities", filed 6/30/88, and replaces it with the new rule 17.5.440 NMAC, "Extensions, Improvements, Additions, and Cooperative Agreements Between or Among Utilities", effective 5/15/2013.

NEW MEXICO PUBLIC REGULATION COMMISSION

**TITLE 17 PUBLIC UTILITIES
AND UTILITY SERVICES
CHAPTER 5 UTILITY
INTERCONNECTIVITY AND
COOPERATIVE AGREEMENTS
PART 440 EXTENSIONS,
IMPROVEMENTS, ADDITIONS,
AND COOPERATIVE AGREEMENTS
BETWEEN OR AMONG UTILITIES**

17.5.440.1 ISSUING AGENCY:
New Mexico Public Regulation Commission
[17.5.440.1 NMAC - N, 5/15/2013]

17.5.440.2 SCOPE: This rule applies to electric, gas, water and sewer utilities subject to the jurisdiction of the New Mexico public regulation commission
[17.5.440.2 NMAC - N, 5/15/2013]

17.5.440.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4(B)(10) and 8-8-15.
[17.5.440.3 NMAC - N, 05/15/2013]

17.5.440.4 DURATION: Permanent.
[17.5.440.4 NMAC - N, 5/15/2013]

17.5.440.5 EFFECTIVE DATE: May 15, 2013, unless a later date is cited at the end of a section.
[17.5.440.5 NMAC - N, 5/15/2013]

17.5.440.6 OBJECTIVE: This rule is intended to provide reporting requirements for utilities.
[17.5.440.6 NMAC - N, 5/15/2013]

17.5.440.7 DEFINITIONS:
[RESERVED]

17.5.440.8 TABLE OF

CONTENTS:

A. Electric utilities:
(1) report requirements for extensions, improvements, and additions;
(2) purpose of report;
(3) matters relating to feasibility;
(4) report forms;
(5) service of copy on other utility.
B. Gas and water utilities:
(1) report requirements for extensions, improvements, and additions;
(2) purpose of report;
(3) matters relating to feasibility;
(4) report forms;
(5) service of copy on other utility.
[17.5.440.8 NMAC - Rp, NMPSC Rule 440, 5/15/2013]

17.5.440.9 ELECTRIC UTILITIES:

A. Report requirements for extensions, improvements, and additions: Each public utility shall, prior to making any of the following described extensions, system improvements, or additions as set forth in (1) through (5) below, file a written report with the commission setting forth the character of the undertaking, the purpose sought thereby to be accomplished, the means by which that purpose is intended to be realized, the estimated costs involved in the employment of those means, the data upon which the engineering and economic feasibility of the undertaking is based, and, if (1) below is applicable, the name or names of the utilities toward which the proposed extension is to be made.

(1) Any extension, of any electric facility outside the limits of a municipality to a point within one-half mile of the facilities of any other utility rendering electric service.

(2) Any extension, improvement, or addition to any transmission or distribution line, plant, facility, or system exclusive of generating facilities which will have an original cost to the utility under the uniform system of accounts of \$500,000 or more and for which the utility intends to seek rate base treatment under the Public Utility Act.

(3) Any addition to or replacement of any electric generating facility which will have an original cost to the utility under the uniform system of accounts of \$1,000,000 or more and for which the utility intends to seek rate base treatment under the Public Utility Act.

(4) Substantial system characteristic improvements involving a change in operating voltage of electric lines. Substantial system characteristic improvements involving reconductoring, rephasing (addition or deletion of phases) of electric lines resulting in a length of two miles or more. System improvements of

an overall or systemwide nature shall be submitted to the commission as an overall plan.

(5) Any agreements of sale, power pooling, interchange, capacity sharing, or similar transactions designed to achieve joint economies of generation or transmission. Notice, which can be copies of filings under the federal energy regulatory commission, shall timely be given to the commission.

B. Purpose of report: The report required to be filed under Subsection A of 17.5.440.9 NMAC is for informational purposes and shall not constitute nor be deemed to constitute an application by the utility for authority to engage in the reported undertaking, but the filing of a report under Subsection A of 17.5.440.9 NMAC shall not preclude the commission from taking any action which it deems appropriate with respect to the reported matter. Reports filed under Paragraphs (1) and (4) of Subsection A of 17.5.440.9 NMAC above shall include sufficient information to enable the commission to appropriately relate the proposed construction to maps of existing facilities currently on file with the commission. Neither shall the filing of a report preclude the commission from requiring the filing of further information by the reporting utility with respect to its proposed undertaking.

C. Matters relating to feasibility: With respect to matters relating to feasibility, no more extensive information shall be required to be filed initially than that upon which the utility proposed to act. If the economic feasibility of the undertaking cannot be established, a statement to that effect shall be made.

D. Report forms: Reports filed under Subsection A of 17.5.440.9 NMAC shall be filed on forms to be furnished by the commission and shall be numbered serially by each reporting utility.

E. Service of copy on other utility: Where a utility is required to file a report with the commission under Paragraph (1) of Subsection A of 17.5.440.9 NMAC, the utility shall, at the time of filing its report with the commission, serve a copy of the filed report on the utility toward whose facilities the extension is proposed to be made. Proof of service of such copy shall be made and filed with the commission under the certificate of the person making the service. If the service is made by mail it shall be made by certified mail with return receipt requested, and the return receipt shall be filed with the commission with the proof of service. Thereafter, no complaint by a utility in opposition to the proposed extension will be entertained by the commission unless filed with the commission by the opposing

utility within 20 days of its receipt of the served copy of the report. The provisions of this section will be waived whenever the commission is furnished proof in writing that the utility toward whose facilities the extension is proposed to be made has no complaints.

[17.5.440.9 NMAC - Rp, NMPSC Rule 440.1-5, 5/15/2013]

17.5.440.10 GAS, WATER, AND SEWER UTILITIES:

A. Report requirements for extensions, improvements, and additions: Each public utility shall, prior to making any of the following described extensions, system improvements, or additions as set forth in (1) through (5) below, file a written report with the commission setting forth the character of the undertaking, the purpose sought thereby to be accomplished, the means by which that purpose is intended to be realized, the estimated costs involved in the employment of those means, the data upon which the engineering and economic feasibility of the undertaking is based, and, if Paragraph (1) of Subsection A of 17.5.440.10 NMAC is applicable, the name or names of the utilities toward which the proposed extension is to be made.

(1) Any extension of or any change in the routing of any distribution or transmission line which will extend to within one-half mile of the facilities of any other utility rendering the same kind of service.

(2) Any extension, improvement, or addition to any transmission or distribution line, plant, facility, or system which will have an original cost under the uniform system of accounts of \$100,000 or more and for which the utility intends to seek rate base treatment under the Public Utility Act.

(3) Any extension or system improvement one-half mile or more in length of any transmission or distribution line outside of any municipality which involves any changes in routing, pipe size, pipe material, or design pressure for gas or water lines.

(4) Any agreements of interchange, capacity sharing, or similar transactions designed to achieve joint economies of transmission.

(5) Any extension of one-half mile or more in length within the limits of a municipality where the pressure is in excess of 400 p.s.i.

B. Purpose of report: The report required to be filed under Subsection A of 17.5.440.10 NMAC is for informational purposes and shall not constitute an application by the utility for authority to engage in the reported undertaking, but the filing of a report under Subsection A of 17.5.440.10 NMAC shall not preclude the commission from taking

any action which it deems appropriate with respect to the reported matter. Reports filed under Paragraphs (1) and (3) of Subsection A of 17.5.440.10 NMAC above shall include sufficient information to enable the commission to appropriately relate the proposed construction to maps of existing facilities currently on file with the commission. Neither shall the filing of a report preclude the commission from requiring the filing of further information by the reporting utility with respect to its proposed undertaking.

C. Matters relating to feasibility: With respect to matters relating to feasibility, no more extensive information shall be required to be filed initially than that upon which the utility proposes to act. If the economic feasibility of the undertaking cannot be established, a statement to that effect shall be made.

D. Report forms: Reports filed under Subsection A of 17.5.440.10 NMAC shall be filed on forms to be furnished by the commission and shall be numbered serially by each reporting utility.

E. Service of copy and complaints: Where a utility is required to file a report with the commission under Paragraph (1) of Subsection A of 17.5.440.10 NMAC, the utility shall at the time of filing its report with the commission serve a copy of the filed report on the utility toward whose facilities the extension is proposed to be made. Proof of service of such copy shall be made and filed with the commission under the certificate of the person making the service. If the service is made by mail, it shall be made by certified mail with return receipt requested, and the return receipt shall be filed with the commission with the proof of service. Thereafter, no complaint by a utility in opposition to the proposed extension will be entertained by the commission unless filed with the commission by the opposing utility within 20 days of its receipt of the served copy of the report. The provisions of this section will be waived whenever the commission is furnished proof in writing that the utility toward whose facilities the extension is proposed to be made has no complaints.

[17.5.440.10 NMAC - Rp, NMPSC Rule 440.6-10, 5/15/2013]

HISTORY: Codified by NMPSC Case No. 2086, order dated June 30, 1988; Amended by NMPSC Case No. 2232, order dated December 19, 1988; Amended by NMPSC Case No. 2277, order dated December 29, 1989. Formerly NMPSC Second Revised General Order No. 10, superseded for purposes of rule reorganization and codification.

Pre-NMAC History: The material in this part was derived from that previously filed

with the State Records Center and Archives. PSC 68-1, Statutes, General Orders, filed 1/16/68.

PSC 70-1, Statutes and General Orders, filed 7/9/70.

NMPSC Rule 440, Extensions, Improvements, Additions, and Cooperative Agreements Between or Among Utilities, filed 6/30/88.

History of Repealed Material:

NMPSC Rule 440, Extensions, Improvements, Additions, and Cooperative Agreements Between or Among Utilities, filed 6/30/88 - Repealed effective 5/15/2013.

End of Adopted Rules Section

Submittal Deadlines and Publication Dates 2013

Volume XXIV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 18	March 29
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 31
Issue Number 11	June 3	June 14
Issue Number 12	June 17	June 28
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Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

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.

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For further information, call (505) 476-7907.