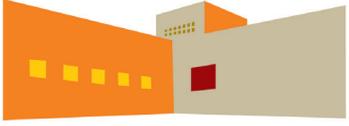


NEW MEXICO 
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXIX - Issue 3 - February 13, 2018

COPYRIGHT © 2018
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

New Mexico Register

Volume XXIX, Issue 3

February 13, 2018

Table of Contents

Notices of Rulemaking and Proposed Rules

Health, Department of

Notice of Termination of Public Hearing.....92

Notice of Public Hearing.....92

Regulation and Licensing Department

Construction Industries Division

Notice of Public Hearing.....92

Secretary of State

Notice of Rulemaking.....93

Superintendent of Insurance

Notice of Proposed Rulemaking.....94

Adopted Rules

A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

Game and Fish, Department of

19.31.4 NMAC A Fisheries.....96

Transportation, Department of

18.31.4 NMAC R Litter Control And Beautification Grant Requirements.....97

Water Quality Control Commission

20.6.4 NMAC A Standards for Interstate and Intrastate Surface Waters.....97

Other Material Related to Administrative Law

Medical Board

Notice of Minor, Non-Substantive Corrections.....99

The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205

Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7942; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

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

Notices of Rulemaking and Proposed Rules

HEALTH, DEPARTMENT OF

NOTICE OF TERMINATION OF PUBLIC HEARING

The New Mexico Department of Health (DOH) is providing notice to terminate the public rule hearing scheduled on Wednesday February 21, 2018 at 9:00 a.m., in accordance with Subsection C of Section 14-4-5 NMSA 1978. The proposed new rule, 7.30.9 NMAC, "Crisis Triage Centers" is being terminated due to a purposed statutory change to the Crisis Triage definition this legislative session.

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed repeal of 7.20.2 NMAC - "Comprehensive Behavioral Health Standards" at 9:00 a.m. on March 29, 2018 in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

Changes in the standards for the delivery of behavioral health services in New Mexico have been codified in 7.21.2 NMAC - "Standards of Delivery for Behavioral Health Services," which has superseded 7.20.2 NMAC.

The legal authority authorizing the proposed rule repeal and the adoption of the rule repeal by the New Mexico Department of Health is at Subsection E of Section 9-7-6 NMSA 1978.

A free copy of the rule is available at <http://164.64.110.239/nmac/parts/title07/07.020.0002.htm>. Free copies of the full text of the proposed rule repeal may be obtained online from the New Mexico Department of Health's website at <https://nmhealth.org/publication/regulation>

[org/publication/regulation](https://nmhealth.org/publication/regulation) or from Benito M. Gomez using the contact information below.

The public hearing will be conducted to receive public comment on the proposed repeal of 7.20.2 NMAC. Any interested member of the public may attend the hearing and offer public comment on the proposed rule repeal during the hearing. Written public comment may also be submitted prior to the date of the hearing. Please submit any written comments regarding the proposed repeal of 7.20.2 NMAC to the attention of:

Benito M. Gomez at P.O. Box 26110, Santa Fe, New Mexico 87502 or Benito.Gomez@state.nm.us.

All written comments must be received by 5pm MST March 28, 2018.

If you are an individual with a disability who is need of special assistance or accommodations to attend or participate in the hearing, please contact Benito Gomez by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice for special accommodation requests.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

NOTICE OF PUBLIC HEARING

The Manufactured Housing Committee (MHC) of the Regulation and Licensing Department will convene a public hearing on the following proposed changes to repeal its rule 14.12.3 NMAC - NEW MEXICO MODULAR BUILDING STRUCTURES.

At the conclusion of that hearing, the Construction Industries Commission (CIC) of the Regulation and

Licensing Department, will convene a public hearing on the following proposed changes, to repeal its rule 14.6.7 NMAC - CONSUMER PROTECTION and replace it with 14.6.7 NMAC - MODULAR BUILDING STRUCTURES.

The MHC proposes to repeal 14.12.3 NMAC - NEW MEXICO MODULAR BUILDING STRUCTURES as the function of that rule is proper to be served by the proposed new 14.6.7 NMAC and not applicable to MHC.

The CIC proposes to repeal 14.6.7 NMAC - CONSUMER PROTECTION and replace it with 14.6.7 NMAC - MODULAR BUILDING STRUCTURES as the function of 14.6.7 NMAC - CONSUMER PROTECTION is no longer applicable to CIC. Replacing it with MODULAR BUILDING STRUCTURES will place this rule properly within CIC jurisdiction and update procedures.

Subsections L and M of Section 60-13-2, Subsections F and K of Section 60-13-9, Section 60-13-10, Subsection H of Section 60-13-41, Subsection E of Section 60-13-42 and Subsections H and I of Section 60-13-44 of the Construction Industries Licensing Act, NMSA 1978 authorize the commission and the Construction Industries Division (CID) to adopt rules to carry out the provisions for modular building structures.

The hearings are scheduled as follows:

MHC hearing - 9:00 a.m., March 16th, 2018 at the New Mexico Regulation and Licensing Department (Toney Anaya Building - Hearing Room 2 on the 2nd Floor), located at 2550 Cerrillos Rd., Santa Fe, NM 87504. **The CIC hearing - 9:30 a.m. on the same date at the same location.**

Please Note: All persons wishing to participate in the public hearing

remotely may do so telephonically dialing into:

Dial-in Number: (515) 739-1015

Meeting ID: 788-223-117

Interested persons may secure copies of the proposed changes by accessing the Construction Industries Division/Manufactured Housing Division website (www.rld.state.nm.us/construction) or by requesting from the Santa Fe CID Office - Toney Anaya Building, 2550 Cerrillos Rd. Santa Fe, NM 87504. You may send written comments to: Construction Industries Division/Manufactured Housing Division P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 476-4702. All comments must be received no later than 5:00 p.m., on March 9th, 2018. All public comments and documentation will be entered into the record during the public rules hearing. If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs notifying us as soon as possible to ensure adequate accommodations. Telephone: (505) 476-4674. Email: Melissa.Shelley@state.nm.us; Fax No. (505) 476-4702.

SECRETARY OF STATE

NOTICE OF RULEMAKING

Public Notice: The New Mexico Secretary of State's Office gives notice that it will conduct a public hearing in Santa Fe at the State Capitol Building, 491 Old Santa Fe Trail, Room 321, Santa Fe, New Mexico 87501, on March 19, 2018, from 9:00 a.m. to 11:00 a.m. (MDT). The purpose of the public hearing is to receive public input on the proposed repeal and replace of 1.10.12 NMAC - Absentee Voting.

Purpose: The New Mexico Legislature, in 2017 adopted provisions requiring the Secretary of

State to provide a process to make voting more accessible for blind and visually impaired voters. The proposed rule provides procedures for county clerks to electronically issue ballots which will enable blind and visually impaired voters to independently mark an absentee ballot at home using their own non-visual or low-vision technology. In addition to this enhancement, election law has evolved greatly in other areas, necessitating corresponding guidelines for election officials to use while carrying out their responsibilities of conducting fair and accurate elections. The proposed rule provides greater detail on how voters can request an absentee ballot or vote early and the various ways a ballot can be returned for counting. Consistent procedures for poll workers, who are responsible for issuing absentee by mail ballots and staffing alternate locations for early voting before Election Day are also included in the revised rule. Lastly, instructions on how to report, tally and canvass absentee and early ballots are made available to the county clerk and county canvassing board.

Summary of full text: The proposed changes relate to absentee voting in elections conducted under the NM Election Code. The changes define terms related to absentee voting, and provide guidance on a wide range of topics including: the application process, absentee ballot issuance, paper ballot specifications, alternate and mobile voting locations for early voting; voting tabulators used to record and count absentee ballots, vote tabulation; and procedures of absentee precinct board and canvassing board members on the handling of absentee ballots.

Authority: Election Code, Section, 1-2-2 NMSA, 1978 - The Secretary of State shall: prepare instructions for the conduct of elections and registration matters in accordance with the laws of the state; Election Code, Section 1-6-5.4 NMSA 1978 - The Secretary of State shall adopt rules for protecting the integrity,

security and secrecy of the absentee ballot; Election Code, Section 1-6-5.6 NMSA 1978 - The Secretary of State shall adopt rules for mobile alternate voting locations in rural areas of the state; Election Code, Section 1-6-16.1 NMSA 1978 - The Secretary of State shall adopt rules deemed for the preservation and secrecy of the replacement absentee paper ballots; Election Code, Section 1-9-7.1 NMSA 1978 - The Secretary of State shall establish procedures for the use of nonvisual access or low vision access technology to mark a paper ballot via absentee ballot or voting at a polling place.

Public Comment. Interested parties may provide comment on the proposed repeal and replacement of this state rule at the public hearing or may submit written comments, or both, to Rebecca Martinez, Elections Administrator, New Mexico Secretary of State, 325 Don Gaspar Avenue, Santa Fe, New Mexico 87501, Suite 300, by electronic mail at sos.rules@state.nm.us, or fax to (505) 827-8081. All written comments must be received no later than 5:00 p.m. (MDT) Monday, March 16, 2018. The Secretary of State encourages the early submission of written comments. Persons may also submit written comments at the public hearing.

Copies of the proposed rule may be accessed through the New Mexico Secretary of State website at <http://www.sos.state.nm.us/>, at the Secretary of State's Office located at 325 Don Gaspar, Suite 300, Santa Fe NM 87501 or by contacting the Bureau of Elections at (505) 827-3600 during regular business hours.

Individuals with disabilities who require the above information in an alternative format or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Rebecca Martinez at (505) 827-3600 as soon as possible before the date set for the public hearing. The Secretary of State requires at least ten (10) calendar days

advance notice to provide any special accommodations requested.

SUPERINTENDENT OF INSURANCE

NOTICE OF PROPOSED RULEMAKING

NOTICE is hereby given that the Superintendent of Insurance (Superintendent), New Mexico Office of Superintendent of Insurance (OSI), pursuant to the statutory mandate of Subsection A of Section 59A-30-8 NMSA 1978 (2009), will hold a public comment hearing on March 19, 2018. The hearing will begin at 10 a.m. and will be held in at the Old PERA Building, 4th Floor Hearing Room, 1220 Paseo de Peralta, Santa Fe, New Mexico 87501. The purpose of the hearing is to take public comment regarding supplemental proposed amendments to the Title Insurance Regulations codified at Title 13, Chapter 14 NMAC.

The purpose of the supplemental proposed rule amendments is to incorporate further changes to the proposed rules that were previously noticed for comment through the notice of proposed rulemaking issued in this docket that was published on September 26, 2017. The further changes were developed, both through communication among the Designated Parties, and as a result of the public hearing that was held in this docket on November 6, 2017. The supplemental proposed rule amendments were submitted by the New Mexico Land Title Association.

The rule citations below are to the New Mexico Administrative Code (NMAC). If amended as proposed, the supplemental proposed rule amendments would include new prices and charges for certain services and would include various cleanup provisions.

The Superintendent may consider alternative proposals for amending the Title Insurance Rules. The

supplemental proposed rule amendments shall be posted on the OSI website at <http://www.osi.state.nm.us/>, under the "Legal" tab and also in the "Communications" section, under "Statutes and Rulemaking." Copies may also be obtained by contacting the OSI Records Management Bureau at the address below.

OSI staff, all title insurers, and title insurance agents conducting business in New Mexico, and members of the public are encouraged to provide oral comments and to file written proposals, pursuant to the following schedule. Oral comments will be accepted at the public hearing from any interested person. Comments of Designated Parties on the proposed rules are due no later than February 23, 2018. Responsive proposals or comments of Designated Parties are due no later than March 5, 2018. Comments of persons who are not Designated Parties or their respective employees or members are due by March 9, 2018. A telephonic pre-hearing conference will be held on March 13, 2018 at 10 a.m. MST to narrow the issues to be addressed at the public comment hearing and to hear any pending motions filed in the case. The Superintendent or his designated hearing examiner will file a notice in this docket giving the call-in information required to attend the pre-hearing conference.

In accordance with Subsection E of Section 59A-30-8 NMSA 1978 (2009), after the collection of all evidence relevant to the hearing, the Superintendent will file in this docket a notice of closure of the administrative record and will issue a decision within sixty days of that notice of closure of the administrative record.

All documents shall be filed by hand delivery, mail, or electronic mail to:

Mr. Mariano Romero
OSI Records Management Bureau
1120 Paseo de Peralta, Room 331
P. O. Box 1689

Santa Fe, NM 87504-1689
Mariano.Romero@state.nm.us
ATTN: Docket No. 17-00025-RULE-PC

Any person with a disability requiring special assistance in order to participate in the hearing should contact Melissa Martinez, at 505-476-0333 no later than March 14, 2018.

End of Notices of Rulemaking and Proposed Rules

This Page Intentionally Left Blank

Adopted Rules

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 in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.4 NMAC, Section 11, effective April 1, 2018. In 19.31.4.11 NMAC, Subsections B and C were not published as there were no changes. In Subsection A, only Item (ii) of Subparagraph (a) of Paragraph 4 is being amended.

19.31.4.11 DAILY BAG, POSSESSION LIMITS AND REQUIREMENTS OR CONDITIONS:

(ii) The daily bag limit shall be two trout and no more than two trout shall be in possession while fishing in the portions of the following waters. Anglers must stop fishing in those waters when the daily bag limit is reached.

Water name	Portion	County	Exception
Gilita creek and tributaries	From its confluence with Snow creek upstream to its headwaters including Willow and Little Turkey creek	Catron	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Mineral creek	From its confluence with San Francisco river to its headwaters	Catron	
Whitewater creek	From Catwalk National Recreation Trail parking area upstream to headwaters including all tributaries	Catron	
Shuree lakes	Within the Valle Vidal (Vermejo tract-Carson national forest	Colfax	
Vermejo river and its tributaries	From the Vermejo Park ranch boundary upstream to its headwaters	Colfax	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Ruidoso	From Fridenbloom drive upstream to the boundary between the Mescalero Apache reservation and the city of Ruidoso	Lincoln	
All waters within or adjacent to the Edward Sargent wildlife area	Including the Rio Chamita, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake	Rio Arriba	
Rio Chama	Within the boundaries of the Rio Chama wildlife and fishing area from Heron reservoir outlet 2.9 miles upstream to Cottonwood Flats	Rio Arriba	
Rio Chama	From the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam	Rio Arriba	
<u>Rio de Los Pinos</u>	<u>From FS road 284 and 87A, 2.5 miles upstream to the private property boundary</u>	<u>Rio Arriba</u>	

Pecos river	From approximately 0.5 mile upstream of its confluence with the Mora river (Mora-Pecos) upstream to approximately 0.2 miles downstream of the bridge crossing at Cowles	San Miguel	
All waters of the Valles Caldera national preserve		Sandoval	
Rio Guadalupe	From its confluence with Deer creek upstream 6.0 miles to Stable canyon	Sandoval	
Rio San Antonio	From the San Antonio hot springs pedestrian bridge upstream approximately 2.0 miles to the Valles Caldera National Preserve boundary	Sandoval	
Red River	From its confluence with Goose creek 1.1 miles upstream to the Carson national forest boundary	Taos	
Red River	From its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery	Taos	
Rio Grande	From the New Mexico/Colorado state line downstream to the Taos junction bridge at NM highway 567	Taos	

[19.31.4.11 NMAC - Rp, 19.31.4.11 NMAC, 12-12-2017; A, 4-1-2018]

**TRANSPORTATION,
DEPARTMENT OF**

The State Transportation Commission approved, at its 12/4/2017 hearing, to repeal its rule 18 NMAC 31.4 - Litter Control And Beautification Grant Requirements (filed 11/12/1998) effective 2/13/2018.

**WATER QUALITY
CONTROL COMMISSION**

This is an amendment to 20.6.4 NMAC, amending Sections 215 and 801, and adding Sections 230 and 810, effective February 13, 2018.

20.6.4.215 PECOS RIVER BASIN: - [~~Perennial reaches of the Gallinas river and all its tributaries above the diversion for the Las Vegas municipal reservoir and perennial reaches of Tecolote creek and its perennial tributaries.~~]

Perennial reaches of the Gallinas river and all its tributaries upstream of the diversion for the Las Vegas municipal reservoir, perennial reaches of Tecolote creek upstream of Blue creek, and all perennial tributaries of Tecolote creek.

A. Designated uses: domestic water supply, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat, industrial water supply and primary contact; and public water supply on the Gallinas river.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criteria apply: specific conductance 300 µS/cm or less (450 µS/cm or less in Wright Canyon creek); the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[20.6.4.215 NMAC - Rp 20 NMAC

6.1.2212, 10-12-00; A, 05-23-05; A, 12-01-10; A, 02-13-2018]

[NOTE: This segment was divided effective 02-13-2018. The standards for Tecolote creek from I-25 to Blue creek are under 20.6.4.230 NMAC.]

20.6.4.230 PECOS RIVER BASIN: - Perennial reaches of Tecolote creek from I-25 to Blue creek.

A. Designated uses: domestic water supply, coolwater aquatic life, irrigation, livestock watering, wildlife habitat, and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[20.6.4.230 NMAC - N, 02-13-2018]

20.6.4.801 **CLOSED**
BASINS: - [~~Rio Tularosa east of the old U.S. highway 70 bridge crossing east of Tularosa and all perennial tributaries to the Tularosa basin except Three Rivers and excluding waters on the Mescalero tribal lands.~~] Rio Tularosa upstream of the old U.S. highway 70 bridge crossing east of Tularosa and all perennial tributaries to the Tularosa basin except Three Rivers and Dog Canyon creek, and excluding waters on the Mescalero tribal lands.

A. Designated uses:
 coldwater aquatic life, irrigation, livestock watering, wildlife habitat, public water supply and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[20.6.4.801 NMAC - Rp 20 NMAC 6.1.2801, 10-12-00; A, 05-23-05; A, 12-01-10; A, 02-13-2018]

[NOTE: This segment was divided effective 02-13-2018. The standards for Dog Canyon creek are under 20.6.4.810 NMAC.]

20.6.4.810 **CLOSED**
BASINS: Perennial reaches of Dog Canyon creek.

A. Designated uses:
coolwater aquatic life, irrigation, livestock watering, wildlife habitat, public water supply, and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[20.6.4.810 NMAC - N, 02-13-2018]

End of Adopted Rules

Other Material Related to Administrative Law**MEDICAL BOARD****NOTICE OF MINOR, NON-SUBSTANTIVE CORRECTIONS**

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-5 NMSA, please note the following minor, non-substantive corrections to the formatting of 16.10.15 NMAC, “Physician Assistants: Licensure and Practice Requirements” filed on January 4, 2018, published and effective on January 16, 2018:

16.10.15.13 - “Licensure Process for Collaborative Physician Assistant.” - Re-numbered Subsections E through J as Subsections D through I.

A copy of this *Notification* will be filed with the official version of the above rule.

**End of Other Material
Related to Administrative
Law**

2018 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXIV, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 16
Issue 2	January 18	January 30
Issue 3	February 1	February 13
Issue 4	February 15	February 27
Issue 5	March 1	March 13
Issue 6	March 15	March 27
Issue 7	March 29	April 10
Issue 8	April 12	April 24
Issue 9	April 26	May 15
Issue 10	May 17	May 29
Issue 11	May 31	June 12
Issue 12	June 14	June 26
Issue 13	June 28	July 10
Issue 14	July 12	July 24
Issue 15	July 26	August 14
Issue 16	August 16	August 28
Issue 17	August 30	September 11
Issue 18	September 13	September 25
Issue 19	September 27	October 16
Issue 20	October 18	October 30
Issue 21	November 1	November 13
Issue 22	November 15	November 27
Issue 23	November 29	December 11
Issue 24	December 13	December 27

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, 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 505-476-7942.