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New Mexico Register

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

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New Mexico Register

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Notices of Rulemaking and Proposed Rules

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

Notice of Hearing to Consider Adoption of Proposed Amendments to 20.11.49 NMAC, Excess Emissions

On Wednesday, September 14, 2016, at 5:30 PM, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers located in the basement level of the Albuquerque-Bernalillo County Government Center, One Civic Plaza NW, Albuquerque, NM. The hearing will address a petition for regulatory change from the City of Albuquerque, Environmental Health Department (EHD), proposing to adopt amendments to 20.11.49 NMAC, *Excess Emissions* and request that the U.S. Environmental Protection Agency (EPA) withdraw that regulation in its entirety from the Albuquerque -Bernalillo County portion of the New Mexico State Implementation Plan (SIP) for air quality.

Following the hearing, the Air Board at its regular monthly meeting the same evening is expected to consider adopting the amendments. The agenda for the regular monthly meeting will be viewable at least 72 hours in advance of the meeting at <http://www.cabq.gov/airquality/air-quality-control-board/events/september-14-2016-air-quality-control-board-meeting>.

On May 22, 2015, the EPA finalized an action requiring 36 states to remove SIP provisions on affirmative defenses for excess emissions during startup, shutdown, and malfunction of a facility. EPA has determined that such affirmative defense provisions, including those now in effect in Albuquerque and Bernalillo County, are substantially inadequate to meet

the requirements of the federal Clean Air Act.

The City of Albuquerque Environmental Health Department, Air Quality Program, plans to comply with this federal requirement by proposing an amended version of 20.11.49 NMAC, *Excess Emissions*.

The Public Review Draft of the amended 20.11.49 NMAC may be reviewed during regular business hours at the Environmental Health Department, One Civic Plaza, NW, Suite 3023, Albuquerque, NM 87102. Copies of the Public Review Draft may be obtained by contacting Andrew Daffern, Air Quality Control Board Liaison, at (505) 768-2601 or adaffern@cabq.gov. The Public Review Draft and EHD's petition for regulatory change can also be found on the web site of EHD, Air Quality Program, at: <http://www.cabq.gov/airquality/air-quality-control-board/documents/ehds-petition-to-amend-20-11-49-nmac-excess-emissions-and-request-its-removal-from-the-state-implementation-plan.pdf>.

If the Air Board adopts the amendments, EHD asks that the Air Board authorize a request to EPA to remove the entire 20.11.49 NMAC from the SIP.

The hearing on the proposed regulatory change will be conducted in accordance with NMSA 1978 § 74-2-6; City of Albuquerque Joint Air Quality Control Board Ordinance, ROA § 9-5-1-6, *Adoption of Regulations, Notice and Hearing*; Bernalillo County Ordinance, Section 30-35, *Adoption of Regulations, Notice and Hearings*; and 20.11.82 NMAC, *Rulemaking Procedures-Air Quality Control Board*.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Interested

persons may present technical or non-technical testimony.

Persons wishing to present technical testimony must file with the hearing clerk a written notice of intent (NOI) to do so by 5:00 p.m. on Tuesday, August 30, 2016. The contact information for the hearing clerk is: Andrew Daffern, Air Quality Control Board Liaison, Environmental Health Department, One Civic Plaza, NW, Suite 3023, Albuquerque, New Mexico 87102.

As required by 20.11.82.20 NMAC, the NOI shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- (4) include the text of any recommended modifications to the proposed regulatory change;
- (5) list and attach an original and 15 copies of all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules; and
- (6) be served on the petitioner, if the document is an NOI filed by any person other than the petitioner.

An NOI must also follow the filing and service requirements of 20.11.82.16 NMAC.

As provided by 20.11.82.22 NMAC, any member of the general public may present non-technical testimony at the hearing. No prior notification is required to present non-technical testimony. Any member of the public may also offer exhibits in connection with non-technical testimony, as long as the exhibit is not unduly repetitious of the testimony. A member of the general public who wishes to submit

a non-technical written statement for the record in lieu of oral testimony shall file the written statement prior to the hearing, or submit it at the hearing. Written statements submitted prior to the hearing may be directed to the hearing clerk, Andrew Daffern, at the above contact information.

NOTICE FOR PERSON WITH DISABILITIES OR SPECIAL NEEDS: If you have a disability or require special assistance to participate, including translation/interpretation service, or review of any agendas, minutes, or other public meeting documents, please contact Andrew Daffern, hearing clerk, by 5:00 p.m. on Tuesday, August 30, 2016, at (505) 768-2601, or adaffern@cabq.gov. TTY users requiring special assistance may call the New Mexico Relay at 1-800-659-8331.

FINANCE AND ADMINISTRATION, DEPARTMENT OF

Notice of Proposed Rule Making

The New Mexico Community Development Council (Council) through the Department of Finance and Administration gives notice that the Council will conduct a public hearing at Room 317 of the New Mexico State Capitol, 411 State Capitol, Santa Fe, New Mexico on Wednesday, October 19, 2016, at 10:00 a.m. The purpose of the public hearing will be to obtain input to the proposed amendments to 2.110.2 NMAC Small Cities Community Development Block Grant.

Interested individuals are encouraged to submit comments during the Public Comment Period from August 1, 2016 through August 31, 2016. Interested individuals may submit written comments to Jolene Slown, Bureau Chief, Community Development Bureau, Local Government Division, Department of Finance and Administration, via email at JoleneM.Slowen@state.nm.us, fax

(505)827-4948, or directed to Ms. Slown at Department of Finance and Administration, Local Government Division, Bataan Memorial Building Room 202, Santa Fe, New Mexico 87501.

Copies of the proposed rules may be accessed on the Department's website <http://www.nmdfa.state.nm.us/>, or obtained from Ms. Slown by calling (505) 827-4974.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to submit comment are asked to contact Ms. Slown as soon as possible. The Department of Finance and Administration requires at least ten (10) days advance notice to provide requested special accommodations.

GENERAL SERVICES DEPARTMENT

Notice of Proposed Rulemaking

The New Mexico General Services Department, State Purchasing Division, ("GSD" or "Department") hereby gives notice that the Department will conduct a public hearing as indicated to obtain input on the repealing of the current rule and replacing it with the following rule:

1.4.1.94 NMAC "CHIEF PROCUREMENT OFFICER REGISTRATION AND CERTIFICATION"

The proposed rules have been published and are also posted for public view on the State Purchasing Division website: <http://www.generalservices.state.nm.us/statepurchasing/>. A public hearing regarding the rules will be held on Thursday, September 15, 2016 in the ground floor Bid Room, Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico 87505. The time for the hearing on the proposed rules is 3:30 P.M. MST.

Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to **1.4.1.94 NMAC "CHIEF PROCUREMENT OFFICER REGISTRATION AND CERTIFICATION"** to Mark Hayden, State Purchasing Division, Bureau Chief, New Mexico General Services Department, Room 2016, 1100 St. Francis Drive, Santa Fe, New Mexico 87505 or Mark.Hayden@state.nm.us, 505-827-2331, fax 505-827-2484. Written comments must be received no later than 5:00 PM on September 9, 2016.

The proposed rulemaking actions specific to the State Purchasing Division may be accessed on the Division's website <http://www.generalservices.state.nm.us/statepurchasing/> or obtained from Mark Hayden (contact information provided 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 Mark Hayden as soon as possible. The Department requests at least seven days advanced notice (by close of business on September 9, 2016) for requests regarding special accommodations.

PUBLIC REGULATION COMMISSION

Notice of Proposed Rulemaking

CASE NO. 16-00003-UT

The Public Regulation Commission ("PRC" or "Commission") gives notice of its initiation of a proposed rulemaking promulgating **revisions to Rule 17.11.23 NMAC concerning Retail Service Pricing Standards for Mid-Size Carriers.**

Copies of the Order Initiating Rulemaking containing additional information, a copy of the proposed rule (which includes alternative

proposals for some rule sections) and filing instructions may be downloaded from the Proposed Rulemaking section of the Commission's website at <http://www.nmprc.state.nm.us> under Case No. 16-00003-UT or by calling the Commission's Records Management Bureau at (505) 827-6968 (Melanie Sandoval) or (505) 827-6970 (Heather Cordova).

Written Initial Comments and written Response Comments shall be filed by the deadlines below with the NMPRC's Records Management Bureau by mail at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the NMPRC Records Management Bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501, as follows: Written Initial Comments not later than **August 22, 2016** and written Response Comments not later than **September 6, 2016**. Comments shall refer to Case No. 16-00003-UT.

A public comment hearing will be held on **September 21, 2016, beginning at 1:30 p.m.** at the offices of the Commission located in the 4th Floor Hearing Room of the old PERA Building, at 1120 Paseo de Peralta, in Santa Fe. The purpose of the hearing is to give interested individuals an opportunity to give oral comments. The Commission may limit the time for each comment to five minutes.

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

Agendas for the weekly meetings of the Commission containing information regarding proposed discussion and/or action by the Commission are available for review on the Commission's website at <http://www.nmprc.state.nm.us>.

Constitutional and Statutory Authority: New Mexico Constitution, Article XI, Sec. 2; NMSA 1978, Sections 8-8-4(B)(10) (1998), 8-8-15 (1999, amended 2001), 63-9A-5.1 (2004), and 63-9A-8 (1985, amended 1987).

STATE GAME COMMISSION

State Game Commission Meeting and Rule Making Notice

On Thursday, August 25, 2016, beginning at 9:00 a.m., at the Hilton Garden Inn Sandia Ballroom, located at 1771 Rio Rancho Blvd. SE, Rio Rancho, NM, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: State Land Office 2017-2018 Hunting Fishing and Trapping Access Lease, Revocations, Discussion on the Use of Technology While Hunting, Draft Rule Presentation on the Use of Magnification/Clarification Devices on Archery Equipment, Update on Prospective Modifications to Electronic Tagging Requirements for Big Game and Turkey, Draft Rule Presentation on Changes to the Javelina Rule 19.31.21 NMAC, Availability of Director's Draft on the Biennial Review of WCA Species, Draft Rule Presentation Regarding Options for Providing Premium Hunt Opportunities, Final Draft Rule Presentation of the Commission's Appeal Process, Update on the Revision of the Statewide Wildlife Action Plan, Presentation for Approval on the Department's Fiscal Year 2018 Budget, Update on the Development of Shooting Ranges in New Mexico, Proposed Changes to the Fisheries 19.31.4 NMAC and Manner and Method Rule 19.31.10 NMAC, and Closed Executive Session.

Copies of proposed rule changes and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe,

New Mexico 87504, or from the Department's website. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

WORKERS' COMPENSATION ADMINISTRATION

Notice of Public Hearing

The New Mexico Workers' Compensation Administration will conduct a public hearing on the adoption of new WCA Rules on:

Thursday, August 11, 2016
1:30 p.m.

Workers' Compensation Administration
2410 Centre Avenue S.E.,
Albuquerque, NM 87106

Copies of the proposed rule amendments will be available on July 26, 2016. Written comments on the rule changes will be accepted until the close of business on August 25, 2016.

The WCA is contemplating amendments to the WCA Rules at: Part 2 – requirements for annual safety inspections and the electronic filing of employers' first report of injury or illness (Form E1) and notices of benefit payment (Form E6); Part 4 – pertaining to a page limit for

fax filing, a process for consolidating cases, attorney liens, the sealing of WCA claims files, and the admission of medical evidence;

Part 7 - concerning case management and peer review;

Part 11 - filing of exemption forms with the Director.

Copy of the proposed changes may be found at the WCA website at: <http://www.workerscomp.state.nm.us/>. For a copy by e-mail, contact the WCA General Counsel Office at 841-6083. For a copy by mail, please submit a self-addressed, stamped envelope with your request to WCA General Counsel Office, 2410 Centre Ave. SE, Albuquerque, NM 87106.

Comments should be sent to Rachel. bayless@state.nm.us or to Rachel A. Bayless, WCA General Counsel, PO Box 27198, Albuquerque, NM 87125-7198. Comments made in writing and at the public hearing will be taken into consideration.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aide or service to attend or participate in the hearing or meetings, please contact the General Counsel Office at (505) 841-6083. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331.

**WORKFORCE
SOLUTIONS,
DEPARTMENT OF**

Notice of Rulemaking Hearing

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 September 7, 2016 from 2:00 P.M. until 4:00 P.M. The purpose of the public hearing will be to obtain input on amendments to 11.1.2

NMAC the Public Works Minimum Wage Act Policy Manual.

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 Rudolph Arnold. Written comments must be received no later than 5 p.m. on September 7, 2016. However, the submission of written comments as soon as possible is encouraged.

Copies of the amended rules may be accessed at <http://www.dws.state.nm.us/> or obtained from Rudolph Arnold Tel.: (505) 841-8672 rudolph.arnold@state.nm.us. The amended rules 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 Mr. Rudolph Arnold as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**End of Notices of
Rulemaking and
Proposed Rules**

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.

EDUCATIONAL RETIREMENT BOARD

This is an amendment to 2.82.9 NMAC, Sections 2, 3 and 8, effective 07-29-2016.

2.82.9.2 SCOPE: This rule applies to local administrative units and state agencies required to file reports on contributions to the Educational Retirement Act (ERA) fund.
[6-30-99; 2.82.9.2 NMAC - Rn, 2 NMAC 82.9.2, 10-31-2002; A, 07-29-2016]

2.82.9.3 STATUTORY AUTHORITY: The Educational Retirement Act, Sections 22-11-1 to ~~[22-11-53]~~ 22-11-55 NMSA 1978.
[6-30-99; 2.82.9.3 NMAC - Rn, 2 NMAC 82.9.3, 10-31-2002; A, 07-29-2016]

2.82.9.8 EMPLOYER REPORTS:

A. Instructions for the preparation and handling of employer reports and monthly remittances by the local administrative units shall be outlined in detail once each year and ~~[mailed]~~ electronically transmitted to each local administrative unit by the director.

B. ~~[Forms shall be prepared for all regular reports and made available to the administrative units by the director.]~~ Employer reports shall encompass all local administrative unit employees including those employees whom the local administrative unit has identified as excluded from coverage except that an employer may omit student employees and resident physicians.

C. Monthly contributions from employees and local administrative units shall

be ~~[postmarked]~~ electronically transmitted no later than the ~~[fifteenth]~~ 15th day of the month following the month for which contributions are withheld.

(1) Employer reports and contributions shall be electronically transmitted or postmarked no later than the ~~[fifteenth]~~ 15th of the following month. The director may enter into an agreement with a local administrative unit for an extension of this deadline for the employer report. No such extension is available for submission of the contributions.

(2) When the ~~[fifteenth]~~ 15th of the month ~~[is on a Saturday, reports and contributions are due the previous work day. If the fifteenth (15th) of the month]~~ falls on a ~~[Sunday]~~ weekend or holiday, the report and contributions are due on the next workday.

(3) Local administrative units shall be assessed late charges for not submitting reports or contributions in accordance with the above schedule. A charge of fifty dollars (\$50) per day shall be assessed for untimely reports. Upon a written ~~[statement of hardship]~~ showing of good cause, the director may waive charges to the local administrative unit for untimely reports. No such waiver of charges is available for late contributions. The charges ~~[if applicable]~~ for late contributions will be calculated at a rate equal to the state treasurer's overnight investment program rate plus one ~~[+]~~ percent. The rate will be applied daily and cumulatively for the period of time from the ~~[fifteenth]~~ 15th to the date of postmark. The late charge shall be the greater amount calculated by applying the foregoing rate or ten dollars (\$10). The director shall report any and all such assessments and waivers to the board.

D. The director shall prepare forms for all regular reports, or make available other means for such regular reports from the local administrative units as may be required in the administration of the Educational Retirement Act.
[6-30-99; 2.82.9.8 NMAC - Rn & A, 2 NMAC 82.9.8, 10-31-2002; A, 07-29-2016]

PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.10.7 NMAC, amending Section 11, effective July 29, 2016.

6.10.7.11 STAFF RESPONSIBILITY:

A. All school district staff, including administrators, teachers, volunteers and office personnel who come in contact with standardized tests, shall familiarize themselves with basic principles of standardized test security. Any specific questions should be directed, first to their school or district test coordinator, then to the assessment and evaluation unit of the PED.

B. Test examiners shall:

(1) administer the standardized test according to the directions and specifications in the standardized test examiner's manual and during the designated test administration window;

(2) return the standardized tests to the school or district test coordinator after testing each day during the test administration window for secure overnight storage;

(3) use test monitors in the hall to gather additional materials or deal with

medical situations; and

(4) review the standardized test examiner's manual so that administration procedures are understood.

C. It shall be a ~~prohibitive~~ prohibited practice for anyone to:

(1) photocopy or reproduce in any other fashion including paraphrasing, any portion of a standardized test including a student's answer;

(2) teach from, possess or in any way disseminate a photocopy or other reproduced or paraphrased standardized test or portion of a standardized test;

(3) copy copyrighted test preparation materials for the purpose of distribution;

(4) provide students with a review of specific standardized test questions or answers before, during or after a standardized test;

(5) permit secure standardized test material to remain unattended in an unlocked room;

(6) coach or otherwise inappropriately assist with the selection or writing of student answers;

(7) take standardized test material off campus unless specifically authorized by the district test coordinator or the assessment and evaluation unit of the PED ~~and~~

~~(8) disparage or diminish the significance, importance or use of the standardized tests].~~

[6.10.7.11 NMAC - N, 09-28-01; A, 11-13-09; A, 7-29-16]

**END OF ADOPTED
RULES**

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Submittal Deadlines and Publication Dates

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

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