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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

Volume XXVII, Issue 15

August 15, 2016

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Notices of Rulemaking and Proposed Rules

DNA IDENTIFICATION SYSTEM OVERSIGHT COMMITTEE

NOTICE OF MEETING AND PUBLIC HEARING ON AMENDMENT OF RULES

The New Mexico DNA Identification System Oversight Committee & Administrative Center, hereby gives notice that the Committee & Administrative Center will conduct a public hearing on Tuesday August 30, 2016 at the Criminalistics Conference Room Metropolitan Forensic Science Center, 5350 2nd Street NW., Albuquerque, NM 87107 at 11:00 am.

To comment on, or for additional information including a copy of the agenda and proposed amendments to 10.14.200 NMAC, DNA Identification System contact Bill Watson, Chairperson at (505) 823-4630 or if you have a disability and you require special assistance to participate in this meeting contact Bill Watson, Chairperson at (505) 823-4630 by Wednesday August 24, 2016.

PUBLIC SAFETY, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Public Safety will hold a public hearing at the Law Enforcement Academy Auditorium, 4491 Cerrillos Road, Santa Fe, NM, 87507, on September 15, 2016 at 9:30 a.m.

The purpose of this public hearing is to receive public comment and input on the proposed repeal and replacement of Rule 10.8.2 NMAC *Carrying Concealed Handguns* that implements the Concealed Handgun Carry Act, and establishes requirements and procedures regarding licenses to carry concealed handguns and instructors and firearms training courses. All sections within

the rule contain changes as part of the repeal and replacement, and sections are added to or removed from the existing rule.

Changes to the existing rule include, and are not limited to, amendments and additions regarding: the objective of the rule and citations of statutory authority; definitions; procedures for filings, correspondence, and inquiries; filings considered incomplete; proof of residency requirements; proof of disposition of charges; application requirements for a license; documents required for a license; license application review and issuance; requirements for reciprocity, recognition, and transfer of license; documents required to be submitted; forms to be submitted to the Department and how obtained; electronic fingerprinting; firearms training requirements and exceptions; procedures for higher caliber handguns on license; procedures for renewal and replacement of licenses; when licensees may be disarmed and have license confiscated; terms and conditions of license; conditions for denial, suspension or revocation of a license; conditions for approval of instructors and firearms training; procedures for background investigations; conditions for suspension or revocation of an instructor permit; responsibilities of approved instructors; hearing procedures; appeals procedures; departmental immunity; refresher course requirements; training requirements for instructors; mounted patrol officers, retired law enforcement, and military persons qualifications for a license; payments and fees; and other clarifications and modifications as allowed by applicable law.

Interested persons may comment at the public hearing or submit written statements to the Department c/o Kathleen Romero, 4491 Cerrillos Road, P.O. Box 1628, Santa Fe, NM 87504, or by electronic mail to: Kathleen.Romero@state.nm.us. All

written statements must be received no later than September 15, 2016 at the public hearing. Early submission of written statements is encouraged.

Copies of the proposed rule may be obtained prior to the hearing by contacting Kathleen Romero by telephone at (505) 827-9269 during normal business hours, by email at Kathleen.Romero@state.nm.us, or at the following website: <http://www.dps.state.nm.us> in the link at the "DPS in the News" section on the home page.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Kathleen Romero. The Department of Public Safety requires at least ten calendar days advance notice to provide special accommodations.

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

NOTICE TO THE PUBLIC REGULAR BOARD MEETING – AUGUST 25TH & 26TH, 2016

The New Mexico Board of Pharmacy will convene on August 25th & 26th, 2016 at 9:00 a.m. and continue until finished in the [Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109](#) for the purpose of conducting a regular board meeting.

You may view and obtain copies of the agenda (tentative) starting August 19, 2016 through the board's website: www.rld.state.nm.us/boards/pharmacy.aspx.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to

the Executive Director, Ben Kesner, ben.kesner@state.nm.us no later than Monday, August 15, 2016, if in attendance must provide 12 copies of the documentation for distribution to board members. (*Board staff is not required to make copies.*)

The Board will address:

Rule Hearings:

- 16.19.3 NMAC RECIPROCITY
- 16.19.4 NMAC PHARMACISTS
- 16.19.20 NMAC CONTROLLED SUBSTANCES
- 16.19.29 NMAC PRESCRIPTION MONITORING PROGRAM

Disciplinary Hearings:

CASE NO. 2015-055
CHRISTOPHER TRUJILLO - RP7033

*Executive Director’s Report:

Any special needs accommodations for board meetings or hearings should contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or e-mail debra.wilhite@state.nm.us as soon as possible.

*The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

Published in the Albuquerque Journal July 22, 2016

SPACEPORT AUTHORITY

NOTICE OF PUBLIC RULE HEARING

Notice is hereby given that the New Mexico Spaceport Authority (the “NMSA”) will convene a public hearing on the proposed promulgation

of a rule, tentatively titled “Non-Aerospace Customer, Partner and Merchandise Selection,” which establishes criteria for the assessment and selection of non-aerospace customers, partners, merchandise providers and merchandising at Spaceport America.

The hearing on the Proposed Rule will take place at 10:30 a.m. MDT on September 16, 2016, at the Doña Ana County Government Center (1st Floor - Commission Chambers) located at 845 North Motel Boulevard, Las Cruces, NM 88007, for the purpose of collecting public comment on the proposed rule. The proposed rule, if subsequently adopted by the NMSA Board of Directors, will be codified as a new part of the New Mexico Administrative Code. The hearing will be held before the NMSA Board of Directors and any interested person is invited to submit data, views or arguments for or against the Proposed Rule, either orally or in writing.

Interested persons may secure copies of the Proposed Rule by request from the NMSA Office at 901 E. University Ave., Suite 965L, Las Cruces, NM 88001, (575) 267-8500 or by accessing the NMSA website ([www. http://spaceportamerica.com/](http://spaceportamerica.com/)). Interested persons who are not able to attend the hearing in person may submit written comments to the NMSA Executive Director (Attn: Public Comments) at the NMSA Office address indicated in this paragraph, by facsimile transmission to (575) 373-6120, or electronically to sandra.franco@spaceportamerica.com no later than 5:00 p.m. on the business day immediately preceding the date of the hearing.

Any individual with a disability 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 should contact Sandra Franco, Administrator, at (575) 267-8500. Public documents, including the agenda and minutes, can be provided upon request by contacting the NMSA

Office at (575) 267-8500.

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.

**CULTURAL AFFAIRS,
DEPARTMENT OF
MUSEUM OF NATURAL HISTORY
AND SCIENCE**

This is an amendment to Section 8 of 4.53.2 NMAC, effective 8/15/2016.

4.53.2.8 PUBLIC ADMISSIONS PRICES:

A. Public admissions prices for the New Mexico museum of natural history and science are as follows:

- (1) Adults [\$7] \$8
- (2) Seniors (60+) [\$6] \$7
- (3) Children (3-12) [\$4] \$5

B. Public admissions prices for the dynatheater located at the New Mexico museum of natural history and science are as follows:

- (1) Adults \$10
- (2) Seniors (60+) \$8
- (3) Children (3-12) \$6

C. Public admissions prices for the museum or off-site location for special traveling exhibits, also known as “blockbuster” exhibits. The prices indicated are “up to” dollar amounts and are as follows:

- (1) Adults up to \$5
- (2) Seniors (60+) up to \$4
- (3) Children (3-12) up to \$2

D. Public admissions prices for the planetarium located at the New Mexico museum of natural history and science are as follows:

- (1) Adults \$7
- (2) Seniors (60+) \$6

- (3) Children (3-12) \$4 [12-12-89, 9-10-96, 10-29-99; 4.53.2.8 NMAC - Rn & A, 4 NMAC 53.2.8, 7/14/2000; A, 8/1/2004; A, 11/18/2006; A, 5/31/2011; A, 8/15/2016]

**GAME AND FISH,
DEPARTMENT OF**

This is an amendment to 19.31.17 NMAC. A new section, Section 13, effective 8-15-16, has been added.

19.31.17.13 BIGHORN SHEEP POPULATION MANAGEMENT HUNTS:

A. The director, with verbal concurrence of the chairman or their designee, may authorize population management hunts for bighorn sheep when justified in writing by department personnel and must be based on biological information or a potential to compromise population viability.

B. The director shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses. No qualifying license holder shall take more than one bighorn sheep per license year.

C. Applications must be submitted by the deadline date set by the department.

D. Applications for licenses may be rejected, and fees returned to an applicant, if such applications are not on the proper form or do not supply adequate information.

E. In the event that an applicant is not able to hunt on the dates specified, the applicant’s name shall be moved to the bottom of the

list and another applicant may be contacted for the hunt.

F. In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunter’s names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department. [19.31.17.13 NMAC - N, 08-15-16]

PUBLIC REGULATION COMMISSION

The Public Regulation Commission approved, at its 7/20/2016 hearing, to repeal its rule 18.7.1 NMAC, Transportation Network Companies - General Provisions (filed 5/18/2016) and replace it with 18.7.1 NMAC, Transportation Network Companies - General Provisions, effective August 15, 2016.

PUBLIC REGULATION COMMISSION

**TITLE 18
TRANSPORTATION AND HIGHWAYS
CHAPTER 7
TRANSPORTATION NETWORK COMPANIES
PART 1 GENERAL PROVISIONS**

18.7.1.1 ISSUING AGENCY: New Mexico Public Regulation Commission. [18.7.1.1 NMAC - Rp, 18.7.1.1 NMAC, 8-15-2016]

18.7.1.2 SCOPE: This rule applies to all transportation network companies subject to the jurisdiction of the commission.
[18.7.1.2 NMAC - Rp, 18.7.1.2 NMAC, 8-15-2016]

18.7.1.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the Transportation Network Company Services Act; and Section 8-8-4 NMSA 1978.
[18.7.1.3 NMAC - Rp, 18.7.1.3 NMAC, 8-15-2016]

18.7.1.4 DURATION: Permanent.
[18.7.1.4 NMAC - Rp, 18.7.1.4 NMAC, 8-15-2016]

18.7.1.5 EFFECTIVE DATE: August 15, 2016, unless a later date is cited at the end of a section.
[18.7.1.5 NMAC - Rp, 18.7.1.5 NMAC, 8-15-2016]

18.7.1.6 OBJECTIVE: The purpose of this rule is to set forth rules governing permit application processes, vehicle inspections, and proof of financial responsibility for transportation network companies in New Mexico. This rule relates directly to the safety of vehicles to be used in providing transportation services under the Transportation Network Company Services Act (TNCSA) and is adopted on an emergency basis pursuant to Section 8-8-4 NMSA 1978 to preserve the public peace, health, safety or general welfare.
[18.7.1.6 NMAC - Rp, 18.7.1.6 NMAC, 8-15-2016]

18.7.1.7 DEFINITIONS: In addition to the definitions contained in Section 65-7-2 NMSA 1978, as used in this rule:

A. "Act" means the Transportation Network Company Services Act, Sections 65-7-1 to 65-7-22 NMSA 1978.

B. "Commission" means the New Mexico Public Regulation Commission.

[18.7.1.7 NMAC - Rp, 18.7.1.7 NMAC, 8-15-2016]

18.7.1.8 TRANSPORTATION NETWORK COMPANY VEHICLE INSPECTIONS:

A. A transportation network company shall cause to be inspected, by a mechanic certified by the national institute for automotive service excellence (ASE) or qualified pursuant to the requirements of 49 CFR 396.19 of the code of federal regulations, every motor vehicle used by a driver to provide prearranged rides before allowing the driver to use the motor vehicle to provide prearranged rides and not less than once each year thereafter, as set forth in Subsection C of Section 65-7-13 NMSA 1978.

B. The inspection required by Subsection A of 18.7.1.8 NMAC must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, taillights, turn indicator lights, braking lights, front seat adjustment mechanisms, doors, horn, speedometer, bumpers, muffler, exhaust, tires, rear view mirrors and safety belts of the vehicle which ensures the proper functioning of each component or an inspection complying with the requirements of 49 CFR 396.17 or 49 CFR 396.23, as well a brake inspection performed by an inspector qualified pursuant to the requirements of 49 CFR 396.25 of the code of federal regulations.

C. Records of all inspections performed pursuant to section shall be maintained in accordance with the requirements of Title 49, Section 396.21 of the code of federal regulations and the act.

[18.7.1.8 NMAC - Rp, 18.7.1.8 NMAC, 8-15-2016]

18.7.1.9 TRANSPORTATION NETWORK COMPANY PERMIT APPLICATION PROCESS:

A. A transportation network company shall apply for a transportation network company permit from the commission in

writing on the form prescribed by the director of the commission's transportation division in accordance with 18.3.1.12 NMAC.

B. An application for a transportation network company permit shall contain the following information and documents:

- (1) the applicant's name;
- (2) if the applicant is a sole proprietorship or a partnership, the applicants' social security number(s) for purposes of verifying parental responsibility act compliance;
- (3) the applicant's d/b/a name, if applicable;
- (4) the applicant's principal place of business and mailing address;
- (5) the applicant's electronic mail address;
- (6) if the applicant is a corporation;
 - (a) the names and addresses of two principal officers;
 - (b) evidence that the applicant is authorized by the office of the secretary of state to do business in New Mexico and is in good corporate standing.
- (7) if the applicant is other than a corporation, a description of the form of ownership and the names and addresses of all principal owners and managers;
- (8) appointment of an agent for service of process;
- (9) a statement and general description of the type of services to be performed by the applicant;
- (10) an annual permit fee of \$10,000 as set forth in Subsection C of Section 65-7-4 NMSA 1978;
- (11) a copy of the insurance policy that meets the requirements set forth in Section 65-7-8 NMSA 1978;
- (12) a copy of the insurance coverage disclosures that meets the requirements set forth

in Section 65-7-9 NMSA 1978;

(13) the applicant's combined reporting system (CRS) number obtained from the New Mexico taxation and revenue department;

(14) a certification that the applicant complies or, once permitted in the state, will comply with the requirements of the Transportation Network Company Services Act.

C. Upon receipt of a completed application and upon a determination by the director that an applicant meets the requirements for the issuance of a permit, the director will issue a permit to the applicant within 15 calendar days after receipt of the application.

D. A permit issued to a transportation network company by the commission shall be effective for one year.

[18.7.1.9 NMAC - Rp, 18.7.1.9 NMAC, 8-15-2016]

18.7.1.10 PROOF OF FINANCIAL RESPONSIBILITY:

A. Each transportation network company must file proof of financial responsibility with the commission in the exact legal and d/b/a names as the name in which the permit is issued demonstrating compliance with Transportation Network Company Services Act, Section 65-7-8 NMSA 1978.

B. The commission will accept as proof of the required financial responsibility a completed form t, uniform bodily injury and property damage liability certificate of insurance for use by transportation network companies, showing the issuance of an insurance policy with the required uniform endorsement by a company authorized to do business in the state of New Mexico or with a surplus lines insurer eligible pursuant to the New Mexico insurance code, on uniform filing form t, uniform bodily injury and property damage liability certificate of insurance for use by transportation network companies, available from the office of the commission.

C. Cancellation of

the insurance policy required under the act may be effected only by giving 30 days' notice in writing to the commission, with such 30 days' notice to commence from the date notice is actually received in the office of the commission.

[18.7.1.10 NMAC - Rp, 18.7.1.10 NMAC, 8-15-2016]

**HISTORY OF 18.7.1 NMAC:
[RESERVED]**

Pre-NMAC History: None.

History of Repealed Material:

18.7.1 NMAC, Transportation Network Companies - General Provisions filed 5-18-2016 - Repealed effective 8-15-2016.

**END OF ADOPTED
RULES**

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Submittal Deadlines and Publication Dates

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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

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.

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