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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 20

October 31, 2016

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Notices of Rulemaking and Proposed Rules

GAME COMMISSION, STATE

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

On Thursday, November 17, 2016, beginning at 9:00 a.m., at the Martinez Hall, located at New Mexico State University, 1500 North 3rd Street, Grants, NM, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: State Wildlife Action Plan (SWAP); Revocations; Discussion Regarding Carcass Tagging Draft Rule presentation on portions of rule effecting: 19.30.9 NMAC, 19.30.10 NMAC, 19.31.10 NMAC, 19.31.12 NMAC, 19.31.13 NMAC, 19.31.14 NMAC, 19.31.15 NMAC, 19.31.16 NMAC, 19.31.17 NMAC, 19.31.21 NMAC; Final Rule Presentation on Changes to the Fisheries 19.31.4 NMAC and Manner and Method Rules 19.31.10 NMAC; Final Rule Presentation on Additional Bighorn Sheep Season in the San Andreas Mountains 19.31.17 NMAC; Presentation of the Draft Recovery Plan for White-Tailed Ptarmigan; Special Hunt Draw Deadline 2017-2018 License Year; Final Recommendation for Regional Citizen Advisory Committees for Sikes Act Projects; Update on Development of Shooting Ranges in New Mexico; Draft New Rule Presentation of the Commission's Appeal Process 19.30.16 NMAC; Selection of Title for Premium Hunt Opportunities; and Closed Executive Session.

Copies of proposed rule changes and the agenda can be obtain 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.

RACING COMMISSION

NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY

GIVEN that the New Mexico Racing Commission will hold a Special Meeting and Rule Hearing on November 21st, 2016. The hearing will be held during the Special Meeting with public session beginning at 8:30 a.m. The meeting will be held in the NMRC Boardroom at 4900 Alameda Blvd. NE, Albuquerque, NM 87113.

The purpose of the Rule Hearing is to consider adoption of the proposed amendments and additions to the following Rules Governing Horse Racing in New Mexico No. 15.2.6 NMAC, 15.2.1 NMAC, 15.2.2 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.7 NMAC, and 16.47.1 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

Copies of the proposed rules

may be obtained from the NMRC Executive Director, New Mexico Racing Commission, 4900 Alameda Blvd NE, Albuquerque, New Mexico 87113, (505) 222-0700. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the commission of such needs at least five days prior to the meeting.

Executive Director
Ismael Trejo

Dated: October 5, 2016

REGULATION AND LICENSING DEPARTMENT OSTEOPATHIC MEDICAL EXAMINERS, BOARD OF

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Osteopathic Medical Examiners will hold a Rule Hearing on Friday, December 9, 2016. Following the Rule Hearing the New Mexico Board of Osteopathic Medical Examiners will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Osteopathic Medical Examiners Rule Hearing will begin at 10:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held in the Rio Grande Room at the Regulation and Licensing Department, Toney Anaya Building located at the, 2550 Cerrillos Road in Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adopting amendments and additions to the Board Rules in 16.17 NMAC: amendments and additions to 16.17.5 NMAC: Prescribing and

Distribution of Controlled Substances and 16.17.3 NMAC: Examination, Endorsement and Temporary License Requirements.

The Board may go into executive session pursuant to 10-15-1.H of the Open Meetings Act to discuss pending complaints and licensure issues. A final agenda for the board meeting will be available at the Board Office at least 72 hours prior to the meeting and can be obtained on the website at www.rld.state.nm.us.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico, or call (505)476-4622 after November 9, 2016 or from the Board's website <http://www.rld.state.nm.us/boards/>. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing no later than November 28, 2016. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

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

Gabriella Romero, Administrator
PO Box 25101, Santa Fe, NM 87504

REGULATION AND LICENSING DEPARTMENT
SPEECH-LANGUAGE
PATHOLOGY, AUDIOLOGY AND
HEARING AID DISPENSING
PRACTICES BOARD

Public Rule Hearing and Regular Board Meeting

The New Mexico Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Board ("Board") will hold a public rule hearing to consider proposed rule amendments to the Board's Rules on Friday December 2, 2016, at the New Mexico Commission for Deaf and Hard of Hearing, 505 Marquette Ave. NW, Suite 1550 Albuquerque, New Mexico. The rule hearing will begin at 10:00 a.m. followed by the regular scheduled Board Meeting in which the Board will adopt the rules and discuss items on the agenda.

The purpose of the rule hearing is to consider adoption of proposed amendments to the following Board Rules and Regulations: 16.26.1 NMAC, General Provisions and 16.26.2 NMAC License Requirements.

The Board's proposed rules will be available by November 1, 2016, on the Board's website at: http://www.rld.state.nm.us/boards/Speech_Language_Pathology_Audiology_and_Hearing_Aid_Dispensing_Practices.aspx. Individuals requesting copies of the proposed rules may also contact the Board Office at the Toney Anaya Building, 2550 Cerrillos Road, P.O. Box 25101, Santa Fe, New Mexico 87504, or by calling (505) 476-4622. A copy of the agenda for the regular board meeting will be available at least seventy-two (72) hours prior to the meeting and will be posted on the board's website. The agenda may also be obtained by contacting the Board Office.

In order for the Board Members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rule amendments must present them to the Board Office in writing no later than November 22, 2016, by 5:00 P.M. Persons wishing to present their comments at the hearing will need to provide ten (10) copies of any comments or proposed

changes for distribution to the Board and staff.

If you have questions, or are an individual with a disability who needs 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 Board Office at (505) 476-4622 at least two (2) weeks prior to the meeting or as soon as possible.

RETIREE HEALTH CARE AUTHORITY

NOTICE OF PUBLIC HEARING

The New Mexico Retiree Health Care Authority (NMRHCA) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 2.81.6 NMAC - RETIREE SPOUSE, DOMESTIC PARTNER AND DEPENDENT BENEFIT COVERAGE ENROLLMENT. The purpose of the amendments to the rules are to (1) establish and open enrollment period; and (2) make certain technical updates and formatting corrections.

The hearing is scheduled on November 15, 2016, from 1:00 p.m. to 3:00 p.m. at the NMRHCA offices, Alfredo R. Santistevan Board Room, located at 4308 Carlisle Blvd. NE, Suite 207 Albuquerque, New Mexico 87107. Please contact David Archuleta, Deputy Director, New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE. Albuquerque, New Mexico 87107, Telephone (505) 222-6416, to request a copy of the rule. This Notice and the proposed rules, as amended, are also available on NMRHCA's website: <https://www.nmrhca.state.nm.us/Pages/Home.aspx>.

The hearing will be held before David Archuleta, Deputy Director, NMRHCA. Interested persons may also present their views by written statements submitted on

or before November 14, 2016, to New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd, NE, Suite 104 Albuquerque, New Mexico 87107. Written statements may also be accepted by email: david.archuleta@state.nm.us or by fax: (505) 884-8611.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact David Archuleta at (505) 222-6416 at least ten (10) days before the hearing.

TRANSPORTATION, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

The hearing is scheduled on December 8, 2016, from 1:00 p.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903 to request a copy of the rule. This Notice and the proposed rule, as amended, are also

available on NMDOT's website: <http://dot.state.nm.us/en/public-notices.html>

The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before December 1, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.

End Of Notices of Rulemaking and Proposed Rules

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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.

ARCHITECTS, BOARD OF EXAMINERS FOR

Explanatory paragraph: This is an amendment to 16.30.3 NMAC, Sections 9 and 10, effective 10/31/2016. In 16.30.3.9 NMAC, Subsections C thru F, and in 16.30.3.10 NMAC, Subsections A and C through J were not published as there were no changes.

16.30.3.9 REGISTRATION THROUGH EDUCATION, TRAINING AND EXAMINATION:

A. Registration standards shall be in accordance with those of the national council of architectural registration boards (NCARB) as described under “standards of eligibility for council certification” in the latest editions of the NCARB [~~handbook for interns and architects~~] certification guidelines and the NCARB education standard.

B. Training requirements shall satisfy the NCARB standards of training. The applicant shall provide a NCARB architectural experience program AXP record number showing enrollment in AXP. The education standard shall be in accord with the NCARB guidelines as set forth in the latest edition of the NCARB [~~handbook for interns and architects~~] certification guidelines, the NCARB education standard and AXP guidelines. Copies of the latest editions of the NCARB [~~handbook for interns and architects~~] certification guidelines, the NCARB education standard and the AXP guidelines are available from the board office or NCARB.

[16.30.3.9 NMAC - Rp, 16 NMAC 30.3.9, 9/6/2001; A, 9/16/2004; A, 9/22/2007; A, 9/15/2016; A,

10/14/2016; A, 10/31/2016]

16.30.3.10 REGISTRATION THROUGH RECIPROCIITY:

B. [~~A person currently registered as an architect in another jurisdiction who is not certified by NCARB may apply for a New Mexico architectural license upon receiving an NCARB broadly experienced architect certificate or an NCARB broadly experienced foreign architect certificate~~]. An individual who does not hold an NCARB certificate and is seeking registration through reciprocity as a broadly experienced architect must hold a current and valid registration issued by the licensing authority of another jurisdiction and have held such registration with no disciplinary action for at least five years. The broadly experienced category applicant shall return to the board a completed application, on a form prescribed by the board, along with other pertinent documents and the application fee. The board shall have the right to institute procedures for the broadly experienced architect process as it deems necessary. Each broadly experienced category applicant shall provide the board evidence of academic training and work experience directly related to architecture and demonstrating minimum competencies as described in 16.30.6 NMAC including, but not limited to, evidence of training or experience in the following areas:

- (1) design and construction documents;
- (2) construction administration;
- (3) management; and
- (4) related activities. This provision, Subsection

B of 16.30.3.10 NMAC will expire on January 1, 2018.

[16.30.3.10 NMAC - Rp, 16 NMAC 30.3.10, 9/6/2001; A, 9/15/2003; A, 9/16/2004; A, 9/9/2005; A, 12/23/2005; A, 6/1/2009; A, 9/15/2016; A, 10/31/2016]

LAND OFFICE, STATE

This is an amendment to 19.2.100 NMAC, Section 71, effective October 31, 2016.

19.2.100.71 [RESERVED] TEMPORARY SHUT-IN OF OIL WELLS DUE TO SEVERE REDUCTION IN THE PRICE OF OIL:

A. Basis for allowing shut in of oil wells: After notice and a public hearing pursuant to Section 19-10-6 NMSA 1978, the commissioner has determined that, because of a severe reduction in the price of oil, the beneficiaries of state trust lands will be better served if oil wells are allowed to be temporarily shut in rather than produced at a low price.

B. Effective date:
(1) Unless extended by the commissioner after a subsequent notice and public hearing or terminated sooner by a subsequent regulation of the commissioner after finding that the price of oil is no longer severely reduced, 19.2.100.71 NMAC shall remain in effect for a period of two years from its effective date.

(2) Any termination of 19.2.100.71 NMAC before the expiration of two years from its effective date shall not be effective until 30 days after the commissioner has by certified

mail sent notice of the prospective termination to each lessee whose lease is being extended by the operation of this section.

C. Any oil and gas lease issued by the commissioner of public lands and maintained in good standing according to the terms and conditions thereof and all applicable statutes and regulations shall not expire if:

(1) there is a well capable of producing oil located upon some part of the lands included in the lease and such well is shut in because of the severe reduction in the price of oil;

(2) the lessee timely notifies the commissioner in writing within 30 days of the date the well is first shut in, on a form made available by the commissioner for that purpose, accompanied by a form C-103 filed with the oil conservation division or other written oil conservation division approval of the shut-in; and

(3) the lessee timely pays an annual shut-in royalty within 90 days from the date the well was first shut in and thereafter before each anniversary of the date the well was first shut in. The amount of the shut-in royalty shall be twice the annual rental due by the lessee under the terms of the lease but not less than three hundred twenty dollars (\$320) per well per year. If the other requirements of this subsection are satisfied, the timely payment of the shut-in royalty shall be considered for all purposes the same as if oil were being produced in paying quantities until the next anniversary of the date the well was first shut in; provided, that 19.2.100.71 NMAC continues to be in effect.

(a)
In order for a lessee to rely on the payment of shut-in royalty to maintain a lease in effect after all wells on the lease capable of producing oil have been shut in, the lessee must have provided timely notice of the shut-in and payment of the shut-in royalty to the commissioner in accordance with Subsection C of 19.2.100.71 NMAC for each well shut in as it was shut in,

regardless of whether at the time the well was shut in there continued to be a well producing on the lease after the well was shut in. For example, if the lease area has four wells capable of producing oil, and the wells were shut in at different times rather than all at once, the lessee must have provided timely notice of the shut-in and payment of the shut-in royalty as to each of the four wells as each well was shut-in and may not rely on notification and payment of the shut-in royalty only after the last of the four wells is shut in.

(b)
A shut-in well located on a state land office lease within the boundaries of an area covered by a unit agreement, communitization agreement or commingling order or constituting a pooled unit or cooperative area will be considered to be a shut-in well located upon each state lease within the area.

(c)
If the date when a shut-in royalty payment is due falls on a Saturday, Sunday or legal state or federal holiday, the shut-in royalty may be timely paid if received on the next calendar day which is not a Saturday, Sunday or holiday.

(d)
Under the standard business practice of the state land office, the date that the state land office stamps or otherwise marks the shut-in royalty payment or check establishes the date of actual receipt by the state land office.

D. If the lessee fails to timely comply with the requirements of Subsection C of 19.2.100.71 NMAC, no action by the commissioner, the state land office or any other representative of the commissioner may ratify, re-grant or revive the expired lease or estop the commissioner from asserting that the lease has expired, unless such relief is granted expressly in writing signed by the commissioner.

E. Under no circumstances will the commissioner refund any portion of the shut-in royalty paid for a shut-in well up to the amount required by Subsection C

of 19.2.100.71 NMAC.

F. Upon the termination of 19.2.100.71 NMAC, automatically or by action of the commissioner, a lease maintained in effect by payment of shut-in royalty shall expire unless there is actual production in paying quantities within 90 days thereafter, unless the time is further extended, in writing, on an individual lease basis, upon request, at the discretion of the commissioner. [19.2.100.71 NMAC, Rn, SLO Rule 1, Section 1.072, 12/13/2002; Repealed, 06/30/2016; 19.2.100.71 NMAC - N, 10/31/2016]

PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.29.5 NMAC, Sections 11 and 12, effective 10/31/2016.

6.29.5.11 IDENTIFICATION OF ENGLISH LANGUAGE

~~[LEARNER]~~ **LEARNERS:** [A-home language] The department-approved New Mexico language usage survey shall be completed for all new students initially enrolling in a public school.

[A. Initial identification of student's home/heritage language (s) or language influence and parent notification must occur not later than 30 days after the beginning of the school year.

B. The home language survey shall be kept in each student's cumulative file.

C. Students for whom the home language survey indicates a language other than English shall be screened with the department-approved English language proficiency screening assessment.

D. Students receiving scores below the composite score established by the department to be used to determine English language proficiency will be classified as English language learners and are eligible to receive English language development services.

E. Students classified as English language learners must

be assessed annually with the department-approved language development assessment.] A.

Students for whom the department-approved New Mexico language usage survey indicates a language other than English shall be screened with the department-approved English language proficiency screening assessment.

B. Students receiving scores below the composite score established by the department to be used to determine English language proficiency will be classified as English language learners and are eligible to receive English language development services.

C. The department-approved New Mexico language usage survey and the English language proficiency screening assessment results shall be kept in each student's cumulative file.

D. Initial identification of a student as an English language learner and parent notification must occur not later than 30 days after the beginning of the school year, or within two weeks of initial enrollment if not enrolled at the beginning of the school year.

E. Students classified as English language learners must be assessed annually with the department-approved English language proficiency assessment and the results shall be kept in each student's cumulative file.

[6.29.5.11 NMAC - N, 08-29-2014; A, 10/31/2016]

6.29.5.12 EXIT CRITERIA FOR ENGLISH LANGUAGE LEARNER STATUS:

A. English language learners attaining a composite score as determined by the department on the department-approved English language proficiency assessment will ~~deemed~~ exit English language learner status and shall be reclassified as fluent English ~~language~~ proficient.

B. Students attaining the composite score identified in Subsection A must be monitored for academic progress for two subsequent

school years by the school district.
[6.29.5.12 NMAC - N, 08-20-2014; A, 10/31/2016]

End Of Adopted Rules

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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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Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	April 27	May 16
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Issue 20	October 19	October 31
Issue 21	November 2	November 14
Issue 22	November 16	November 28
Issue 23	November 30	December 12
Issue 24	December 14	December 26

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