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Subject: [EXTERNAL] WQCC 25-28(R) - Public Comment
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Subject: Public Comment Submission for WQCC 25-28(R)

Greetings,

At this time, the public comment portal is not open for submissions; however, the hearing record remains open. I respectfully submit the following comment for consideration in the matter of WQCC 25-28(R):

The public notice for this matter did not, as required by NMSA 1978 § 14-5-5.2(7), include "a citation to technical information, if any, that served as a basis for the proposed rule, and information on how the full text of the technical information may be obtained."

NTESS's expert witness, Mr. Kay, testified during the hearing during my questioning that all requirements of the State Rules Act were met in posting the public notice for rulemaking. However, he also testified that he was unaware of whether a citation to technical information was legally required to be included in the notice.

Shortly thereafter in the meeting, one of the Commissioners erroneously claimed, not under oath, that the notice was complete, citing a passage that, in fact, while not citing the technical information upon which the rulemaking is based, failed to acknowledge that the State Rules Act mandates both the inclusion of a citation to the technical information and instructions on how members of the public may obtain a copy. The required citation to technical information was not included in the notice, and no technical information was made available on the website until the Notice of Intent was filed by the petitioner and the department. This is inconsistent with the requirements of the State Rules Act.

Thank you for considering this comment.

Sincerely,
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