

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

**IN THE MATTER OF PROPOSED
RULEMAKING RULES FOR THE
COMMISSION, 20.1.6 NMAC**

No. WQCC 16-03 (R)

New Mexico Environment Department,

Petitioner.



DEPARTMENT'S NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY

The New Mexico Environment Department ("Department") files this Notice of Intent to Present Technical Testimony for the hearing in this matter currently scheduled for October 11, 2016.

1. **Entity for whom the witness will testify:** The New Mexico Environment Department.
2. **Identity of witness:** Jeffrey N. Holappa is the Administrative Law Judge for the Department. A description of his educational and work background may be found in his resume, which is attached as Exhibit 1. His written testimony is attached as Exhibit 2. The anticipated duration of his testimony is thirty (30) minutes.
3. **List of Exhibits:** A complete list of exhibits the Department intends to offer into evidence in this matter is attached to this Notice.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT

By: /s/ Andrew P. Knight
Andrew P. Knight
Assistant General Counsel
121 Tijeras Avenue NE, Suite 1000
Albuquerque, New Mexico 87102-3400
(505) 222-9540

WQCC Rulemaking Rule Exhibit List

- NMED Exhibit 1 Resume of Jeffrey N. Holappa
- NMED Exhibit 2 Testimony of Jeffrey N. Holappa
- NMED Exhibit 3 Comparison Document
- NMED Exhibit 4 Guidelines for WQCC Regulation Hearings (1993)
- NMED Exhibit 5 Public Notices

Jeffrey N. Holappa

2620 Yates Street, Denver, Colorado 80212

Day/Evening Phone: 720-839-4083

E-Mail: jnholappa@yahoo.com

EDUCATION/TRAINING

Colorado Free University – Denver, Colorado
40-Hour Mediation Training Course, April 2015

National Judicial College – Reno, Nevada
Administrative Law – Fair Hearing, August 2012

University of Denver College of Law – Denver, Colorado
Juris Doctor, May 1999
Licensed to Practice – State of Colorado (#32677)
United States District Court for the District of Colorado

Michigan Technological University – Houghton, Michigan
Bachelor of Science, Business Administration – Finance, May 1996
Certificate of International Business – Spanish, May 1996

LEGAL EXPERIENCE

08/15 - **New Mexico Environment Department**, Santa Fe, New Mexico
Pres *Administrative Law Judge – Supervisor*

Conduct fair and impartial permitting, rulemaking and adjudicatory hearings in accordance with the applicable rules of procedure on behalf of the Cabinet Secretary in a variety of programs, including air quality, solid waste, hazardous waste, liquid waste, ground water and construction programs. Rule on motions and procedural requests from the parties at pre-hearing conferences. Administer oaths, examine witnesses, rule on the admissibility of evidence, and facilitate public comment during hearings. Prepare written decisions resulting in final agency action. Supervise two staff members and coordinate all office operations.

10/14 - **Montana Department of Labor & Industry**, Helena, Montana
03/15 *Administrative Law Judge*

Adjudicated unemployment insurance appeals arising from determinations by the Unemployment Insurance Division. Controlled the course of formal hearings in order to provide each party with a full and fair opportunity to present their case. Questioned witnesses for the purposes of developing a complete record and assessing credibility. Resolved all legal issues raised by the parties while applying the applicable law. Composed succinct written decisions outlining the relevant facts and legal rationale for the decision.

- 02/12 - **Colorado Department of Revenue, Lakewood, Colorado**
02/14 *Hearing Officer II*
Presided over a variety of licensing cases initiated by administrative agency action to ensure a full, fair and impartial hearing. Considered the validity of subpoena requests, evaluated the relevancy of evidence and credibility of witnesses presented by the parties, and provided forthwith rulings on all motions and objections raised by counsel while applying the applicable rules of evidence and procedure. Determined findings of fact and conclusions of law, and then issued timely written or oral decisions that would withstand judicial review by a district court.
- 02/11 - **Holland & Hart LLP, Denver, Colorado**
02/12 *Staff Ethics & Conflicts Attorney*
Served as the primary ethics advisor to over 400 attorneys at one of the largest law firms in the Rocky Mountain region. Managed the daily operation of the firm's Adversary Department and directly supervised its five staff members. Advised numerous department directors and monitored the intake of approximately 7,000 new client matters from 15 regional offices to ensure compliance with the applicable rules of professional conduct and internal firm policy. Presented training to new associates and other employees on various ethics topics throughout the year.
- 07/05 - **Colorado Supreme Court, Presiding Disciplinary Judge, Denver, Colorado**
02/11 *Chief Staff Attorney*
Drafted and edited written opinions setting forth findings of fact and conclusions of law in attorney discipline and disability proceedings conducted under authority granted by the Colorado Supreme Court. Researched and analyzed complex factual and legal issues related to alleged violations of the Colorado Rules of Professional Conduct. Authored case summaries for publication to the legal community and general public. Assigned and supervised the work of two part-time staff attorneys and assisted in establishing office goals.
- 04/02 - **Rossi Vucinovic, P.C., Denver, Colorado**
01/05 *Litigation Attorney*
Represented railroad workers injured on the job. Prepared cases for settlement or trial, conducted investigations, took depositions, argued motions in court, and completed legal research for pleadings and briefs involving state and federal law for a firm specializing in Federal Employers' Liability Act litigation.

JUDICIAL CLERKSHIPS

Denver Juvenile Court – Denver, Colorado
Honorable Orrelle R. Weeks, October 1999 – July 2001

Denver District Court – Denver, Colorado
Honorable Paul A. Markson, June 1997 – May 1999

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New Mexico Environment Department,

Petitioner.

WRITTEN TESTIMONY OF JEFFREY N. HOLAPPA

I. Witness Qualifications

I serve as the Administrative Law Judge for the New Mexico Environment Department (“Department”). I have been employed by the Department since August 2015, and over that time I have conducted a variety of adjudicatory and rulemaking hearings for the Department and the Water Quality Control Commission (“Commission”). I previously served as an administrative law adjudicator for the Colorado Department of Revenue and the Montana Office of Administrative Hearings. I also previously served as the Chief Staff Attorney for the Colorado Supreme Court Office of the Presiding Disciplinary Judge, and as a litigation attorney in private practice. I hold a Juris Doctor degree from the University of Denver, Sturm College of Law and I am a graduate of the National Judicial College’s Administrative Law – Fair Hearing program. (NMED Exhibit 1, Resume of Jeffrey N. Holappa).

II. Background

The purpose of my testimony is to provide a brief overview of the proposed rulemaking rules for the Commission, and the reasons why I believe the Commission should adopt these proposed rules.

The Commission has already adopted adjudicatory rules at 20.1.3 NMAC, but has yet to adopt a set of formal rules for rulemaking hearings. Rulemakings have been conducted before the Commission using only the Guidelines for Water Quality Control Commission Regulation Hearings, which are more than 20 years old. The Environmental Improvement Board (“EIB”) adopted rulemaking rules in 2010.

NMED EXHIBIT 2

1 **III. Statutory Rulemaking Considerations**

2
3 The Water Quality Act, NMSA §74-6-4 states, in part,

4
5 The Commission:

6
7 E. shall adopt, promulgate and publish regulations to prevent or abate
8 water pollution in the state. . . .” “In making regulations, the Commission shall
9 give weight it deems appropriate to all relevant facts and circumstances,
10 including:

- 11 (1) character and degree of injury to or interference with health,
12 welfare, environment and property;
- 13 (2) the public interest, including the social and economic value of the
14 sources of water contaminants;
- 15 (3) technical practicability and economic reasonableness of reducing
16 or eliminating water contaminants from the sources involved and
17 previous experience with equipment and methods available to
18 control the water contaminants involved;
- 19 (4) successive uses, including but not limited to domestic,
20 commercial, industrial, pastoral, agricultural, wildlife and
21 recreational uses;
- 22 (5) feasibility of a user or a subsequent user treating the water before
23 a subsequent use;
- 24 (6) property rights and accustomed uses; and
- 25 (7) federal water quality requirements[.]

26
27 The proposed rule is consistent with the notice and hearing requirements contained in the Water
28 Quality Act.

29
30 **IV. Public Notice**

31
32 The public notices for this petition and hearing were published in both English and Spanish in
33 the Albuquerque Journal on August 25, 2016 and in the New Mexico Register on August 31,
34 2016, (*see* NMED Exhibit 5). The Bureau also posted notice of this petition and hearing on the
35 Bureau website at www.env.nm.gov/water-quality-control-commission/wqcc/.

36
37 **V. Summary of the Proposed Rule**

38
39 The proposed rule incorporates the Guidelines almost in their entirety, with some additions and
40 modifications, while adding several sections from both the Commission’s adjudicatory rules and
41 the EIB rulemaking rules. A summary of each section follows.

42
43 Section 7 – Definitions. The proposed rule adds several definitions to those found in the
44 Guidelines. As used in the rule, “act” is defined as the Water Quality Act, the word “document”
45 is defined to mean any paper, exhibit, pleading, motion, response, memorandum, decision, order
46 or other written or tangible item that is filed in a proceeding under this part, or brought to or
47 before the commission for its consideration. The term “governing law” is defined as the statute,

1 including any applicable case law, which authorizes and governs the decision on the proposed
2 regulatory change. The word “party” is defined to mean the petitioner, any person filing a notice
3 of intent to present technical testimony, and any person filing an entry of appearance. Finally,
4 “service” is defined to mean personally delivering a copy of the document, exhibit or pleading to
5 the person required by to be served, mailing it to that person, or, if that person has agreed,
6 sending it by electronic transmission. In addition, the proposed Section 7 changes the term
7 “administrative secretary” to “commission administrator”.
8

9 Section 8 – Liberal Construction. This section was taken almost verbatim from Section 601 of
10 the Guidelines, and simply says “This part shall be liberally construed to carry out its purpose.”
11

12 Section 9 – Severability. This was taken directly from Section 602 of the Guidelines, and states
13 that “If any provision or application of this part is held invalid, the remainder of this part, or its
14 application to other situations or persons, shall not be affected.”
15

16 Sections 10-99 are reserved.
17

18 Section 100 – Powers and Duties of the Commission and Hearing Officer. This section takes the
19 language of the identically titled Section 104 of the Guidelines and adds more specific language
20 concerning the powers and qualifications of the hearing officer.
21

22 Section 101 – General Provisions – Computation of Time. This language was taken directly
23 from Section 12 of the Commission’s adjudicatory rules. The same language also appears in
24 Section 110 of the EIB Rulemaking Rules.
25

26 Sections 102 and 103 – General Provisions – Recusal, Ex Parte Discussions. These sections were
27 taken directly from Sections 111 and 112 of the EIB Rulemaking Rules.
28

29 Section 104 – Document Requirements – Filing and Service of Documents. This language was
30 taken from Section 201 of the Guidelines, with some additions and modifications.
31

32 Section 105 – Examination of Documents Filed. This language was taken from Section 202 of
33 the Guidelines.
34

35 Sections 106-199 are reserved.
36

37 Section 200 – Prehearing Procedures – Petition for Regulatory Change. This language was taken
38 from Section 301 of the Guidelines, with some modifications and additions. It changes the
39 timeframe for the commission to consider a petition from “within 90 days” to “at least 15 but not
40 more than 60 days” after a petition has been filed.
41

42 Section 201 – Notice of Hearings. This language was taken from Section 302 of the Guidelines.
43 It requires publication in a newspaper of statewide circulation, rather than publication “in the
44 area affected by the proposed regulation.”
45

46 Section 202 – Technical Testimony. This language was taken from Section 303 of the
47 Guidelines. It requires that pre-filed written testimony always be filed in narrative form, rather

1 than allowing a summary. It also requires that exhibits be included in the filing, rather than just
2 being “described.”
3

4 Section 203 – Entry of Appearance. This language was taken from Section 303 of the EIB
5 Rulemaking Rules. There is no equivalent section in the Guidelines.
6

7 Section 204 – Participation by General Public. This language was taken from Section 304 of the
8 Guidelines.
9

10 Section 205 – Location of Hearing. This language was taken from Section 305 of the Guidelines.
11

12 Section 206 – Participation By Conference Telephone or Other Similar Device. This language
13 was taken from Section 306 of the EIB Rulemaking Rules. Similar language from the hearing
14 procedures section of the Guidelines was incorporated here.
15

16 Section 207 – Motions. This language was taken from Section 307 of the EIB Rulemaking
17 Rules. The Guidelines do not contain a section covering motion practice.
18

19 Sections 208-299 are reserved.
20

21 Section 300 – Hearing Procedures. This language was taken from Section 401 of the Guidelines.
22

23 Section 301 – Testimony and Cross Examination. This language was taken from Section 402 of
24 the Guidelines.
25

26 Section 302 – Exhibits. This language was taken from Section 403 of the Guidelines.
27

28 Section 303 – Transcript of Proceedings. This language was taken from Section 404 of the
29 Guidelines.
30

31 Section 304 – Post-Hearing Submissions. This language was taken from Section 405 of the
32 Guidelines.
33

34 Section 305 – Hearing Officer’s Report. This language was taken from Section 406 of the
35 Guidelines.
36

37 Section 306 – Deliberation and Decision. This language was taken from Section 407 of the
38 Guidelines.
39

40 Section 307 – Notice of Commission Action. This language was taken from Section 408 of the
41 Guidelines.
42

43 Sections 308-399 are reserved.
44

45 Section 400 – Appeal of Regulations. This language was taken from Section 501 of the
46 Guidelines.
47

1 Section 401 – Stay of Commission Regulations. This language was taken from Section 502 of
2 the Guidelines, with the addition of a sentence at the beginning (new paragraph “A”) describing
3 who may file a motion for stay, and the requirements for such a motion. This language was
4 taken from Section 501 of the EIB rulemaking rules.
5

6 Appendix A – Preferred Format. This was adapted from Appendix A in the Commission’s
7 Adjudicatory rules, and shows the preferred format for the caption of documents and the
8 certificate of service for documents filed with the commission in connection with a rulemaking.
9

10 **VI. Conclusion**
11

12 The proposed rule codifies the guidelines, while adding additional language in some sections.
13 While the guidelines have proven adequate for simpler rulemakings, the proposed rule will
14 provide improved guidance for more complex cases, and, if challenged, is more likely to be held
15 by a court to be enforceable. I respectfully request that the Commission adopt the proposed rule
16 in its entirety. Thank you.

WQCC RULEMAKING RULES COMPARISON DOCUMENT

Guidelines Section 101 – Rule Section 2

SCOPE. ~~These guidelines~~This part governs the procedures to be followed by the Commission, and by participants before the Commission, in connection with all rulemaking hearings; before the commission, except to the extent this part may be inconsistent with specific procedures in governing law. In cases where this part is inconsistent with any rulemaking procedures specified in governing law, the procedures in governing law apply, rather than the procedures in this part.

Guidelines Section 102 – Rule Section 6

~~PURPOSE. OBJECTIVE:~~ The purposes of these guidelinesthis part are:

A. to standardize the procedures used in rulemaking proceedings before the commission;

AB. to encourage participation in the hearings conducted by the commission for the promulgation of regulations;

BC. to make possible the effective presentation of the evidence and points of view of parties and members of the general public;

CD. to allow all interested persons a reasonable opportunity to submit data, views or arguments orally or in writing; and

DE. to assure that commission hearings are conducted in a fair and equitable manner.

Guidelines Section 103 – Rule Section 7

Definitions: As used in ~~these guidelines~~this part:

A. “act” means the Water Quality Act, NMSA 1978, Sections 74-6-1 through 74-6-17.

AB. “~~Administrative Secretary~~” “commission administrator” means the department employee designated by the secretary of environment to provide staff support to the commission;

BC. “commission” means the water quality control commission;

CD. “constituent agency” means any or all agencies of the state defined as such under the act;

DE. “department” means the New Mexico environment department;

F. “document” means any paper, exhibit, pleading, motion, response, memorandum, decision, order or other written or tangible item that is filed in a proceeding under this part, or brought to or before the commission for its consideration, but does not include a cover letter accompanying a document transmitted for filing;

EG. “exhibit” means any document or tangible item submitted for inclusion in the hearing record;

FH. “general public” includes any person attending a hearing who has not submitted a notice of intent to present technical testimony;

I. “governing law” means the statute, including any applicable case law, which authorizes and governs the decision on the proposed regulatory change;

GJ. “hearing officer” means the person designated by the commission to conduct a hearing under this part;

HK. “hearing record” means:

- (1) the transcript of proceedings; and
- (2) the record proper;

HL. “participant” means any person who participates in a rulemaking proceeding before the commission;

M. “party” means the petitioner; any person filing a notice of intent to present technical testimony, and any person filing an entry of appearance;

JN. “person” means an individual or any entity, including federal, state and local governmental entities, however organized;

KO. “petitioner” means the person who petitioned the commission for the regulatory change that is the subject of the hearing;

LP. “record proper” means all documents related to the hearing and received or generated by the commission prior to the beginning, or after the conclusion, of the hearing, including, but not limited to:

- (1) the petition for hearing and any response thereto;
- (2) the minutes (or an appropriate extract of the minutes) of the meeting at which the petition for hearing was considered, and of any subsequent meeting at which the proposed regulatory change was discussed;
- (3) the notice of hearing;

- (4) affidavits of publication;
- (5) notices of intent to present technical testimony;
- (6) statements for the public record;
- (7) the hearing officer's report, if any;
- (8) post-hearing submissions, if allowed;
- (9) the audio recordings (or an appropriate extract of the ~~tapes~~ recordings) of the meeting(s) at which the commission deliberated on the adoption of the proposed regulatory change; and
- (10) the commission's decision and the reasons therefore;

MQ. "regulation" means any rule, regulation or standard promulgated by the commission and affecting one or more persons, besides the commission and the department, except for any order or decision issued in connection with the disposition of any case involving a particular matter as applied to a specific set of facts;

NR. "regulatory change" means the adoption, amendment or repeal of a regulation;

S. "service" means personally delivering a copy of the document, exhibit or pleading to the person required by this part to be served; mailing it to that person; or, if that person has agreed, sending it by electronic transmission; if a person is represented by an attorney, service of the document shall be made on the attorney; service by mail is complete upon mailing the document; service by electronic transmission is complete upon transmission of the document;

ΘI. "technical testimony" means scientific, engineering, economic or other specialized testimony, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing; and

PU. "transcript of proceedings" means the verbatim record (audio recording or stenographic) of the proceedings, testimony and argument in the matter, together with all exhibits proffered at the hearing, whether or not admitted into evidence, including the record of any motion hearings or prehearing conferences.

Guidelines Section 104 – Rule Section 100

POWERS AND DUTIES OF THE COMMISSION AND HEARING OFFICER:

A. Commission: The commission shall exercise all powers and duties prescribed under the act and this part and not otherwise delegated to the hearing officer or the ~~Administrative Secretary~~ commission administrator.

(1) The commission may issue procedural orders that either impose additional procedural requirements or simplify the procedures provided in this part. In no event may the commission eliminate any procedural requirements of the act.

(2) The appointment of a hearing officer does not preclude the commissioners from attending or participating in the proceeding.

B. Hearing officer: The commission shall designate a hearing officer for each hearing who shall exercise all powers and duties prescribed or delegated under ~~these guidelines this part. The Hearing Officer may be a member of the Commission.~~ The hearing officer shall conduct a fair and impartial proceeding, assure that the facts are fully elicited and avoid delay. The hearing officer shall have authority to take all measures necessary for the maintenance of order and for the efficient, fair and impartial consideration of issues arising in proceedings governed by ~~these guidelines this part~~, including, but not limited to:

(1) ~~conducting hearings under these guidelines this part;~~

(2) ~~taking, admitting or excluding evidence, examining witnesses and allowing post-hearing submissions ruling on motions and procedural requests that do not seek final resolution of the proceeding and issuing all necessary orders;~~

(3) administering oaths and affirmations, admitting or excluding evidence, examining witnesses and allowing post-hearing submissions;

(34) making such orders as may be necessary to preserve decorum and to protect the orderly hearing process;

(5) if requested by the commission, preparing and filing a report of the hearing, with recommendations for commission action;

(6) requesting parties to file original documents with the commission administrator; and

(7) requesting a party to submit a proposed statement of reasons in support of the commission's decision.

C. Qualifications: The hearing officer may be an independent contractor or a commissioner, shall be knowledgeable of the laws of the state and of administrative hearing procedures, and shall not be:

(1) an employee of the department, except for the commissioners themselves or their designees, or unless employed by the department as a hearing officer;

(2) a person who has a personal bias or prejudice concerning a party or a party's lawyer or consultant, or has personal knowledge of disputed facts concerning the

proceeding, or is related to a party within the third degree of relationship, or has a financial interest in the proceeding.

D. Notice of hearing officer assignment: If a hearing officer other than a commissioner is assigned, the commission administrator shall notify the parties of the name and address of the hearing officer. The commission administrator shall also, at that time, forward to the hearing officer copies of all documents filed to date.

Guidelines Section 201 – Rule Section 104

DOCUMENT REQUIREMENTS - FILING AND SERVICE OF DOCUMENTS:

A. The filing of any document as required by ~~these guidelines~~ this part shall be accomplished by delivering the document to the ~~Administrative Secretary~~ commission administrator.

B. Any person filing any document shall:

(1) provide the ~~Administrative Secretary~~ commission administrator with the original and ~~ten~~ 15 copies of the document;

(2) ~~if the document is a notice of intent to present technical testimony filed by any person other than the petitioner, serve a copy thereof on the petitioner.~~ serve a copy of the document on each other party. If a party is represented by an attorney, service of the document shall be made on the attorney.

(3) include a certificate of service, as shown in appendix A.

C. Whenever ~~these guidelines~~ this part requires service of a document, service shall be made by delivering a copy to the person to be served ~~or by mailing it to that person, or, if that person has agreed, by sending it by electronic transmission to that person.~~ Agreement to be served by electronic transmission may be evidenced by placing the person's email address on a document filed pursuant to this part. Service by mail is complete upon mailing the document. Service by electronic transmission is complete upon transmission of the document.

D. Form of documents: Unless otherwise ordered by the hearing officer, all documents, except exhibits, shall be prepared on 8 ½ x 11-inch white paper, printed single-sided, and where appropriate, the first page of every document shall contain a heading and caption as shown in appendix A.

E. Documents issued by commission or hearing officer: All documents issued by the commission or hearing officer shall be filed with the commission administrator, who shall promptly serve copies of the documents upon all parties.

Guidelines Section 202 – Rule Section 105

EXAMINATION OF DOCUMENTS FILED:

A. Examination allowed: Subject to the provisions of law restricting the public disclosure of confidential information, any person may, during normal business hours, inspect and copy any document filed in any rulemaking proceeding before the commission. Such documents shall be made available by the ~~Administrative Secretary~~ commission administrator, as appropriate.

B. Cost of duplication: The cost of duplicating documents shall be borne by the person seeking copies of such documents.

Guidelines Section 301 – Rule Section 200

PREHEARING PROCEDURES - PETITION FOR REGULATORY CHANGE:

A. Any person may file a petition with the commission to adopt, amend or repeal any regulation within the jurisdiction of the commission.

B. The petition shall be in writing and shall include a statement of the reasons for the regulatory change. The petition shall cite the relevant statutes that authorize the commission to adopt the proposed rules and shall estimate the time that will be needed to conduct the hearing. A copy of the entire rule, including the proposed regulatory change, indicating any language proposed to be added or deleted, shall be included in attached to the petition. The entire rule and its proposed changes shall be submitted to the commission in redline fashion, and shall include line numbers. Any document that does not include all the items required to be in a petition shall be returned to the petitioner along with a copy of these rules and a check-off list of required items, and the petitioner will be asked to resubmit their petition in the form required by these rules.

C. The commission shall determine, at a public meeting occurring ~~no later than 90~~ at least 15 days and no later than 60 days after receipt of the petition, whether or not to hold a public hearing on the proposal. Any person may respond to the petition either in writing prior to the public meeting or in person at the public meeting. ~~The denial of a petition shall not be subject to judicial review.~~

D. If the commission determines to hold a public hearing on the petition, it may issue such orders specifying procedures for conduct of the hearing, in addition to those provided by ~~these guidelines~~ this part, as may be necessary and appropriate to fully inform the commission of the matters at issue in the hearing or control the conduct of the hearing. Such orders may include requirements for giving additional public notice, holding pre-hearing conferences, filing direct testimony in writing prior to the hearing, or limiting testimony or cross-examination.

Guidelines Section 302 – Rule Section 201

NOTICE OF HEARINGS:

A. Unless otherwise allowed by governing law and specified by the commission, the commission shall give public notice of the hearing at least ~~30~~60 days prior to the hearing. Public notice shall include publication in at least one newspaper of general circulation in the ~~area affected by the regulation~~state, publication in the New Mexico Register, and such other means of providing notice as the commission may direct or are required by law.

B. The commission shall make reasonable efforts to give notice to persons who have made a written request to the commission for advance notice of regulatory change hearings ~~and who have provided the commission with a mailing address~~. Requests for such notice shall be addressed to the ~~administrative secretary~~commission administrator, and shall designate those areas of commission activity which are of interest.

C. Public notice of the hearing shall state:

- (1) the subject, including a description of the proposed regulatory change, time and place of the hearing;
- (2) the statutes, regulations and procedural rules governing the conduct of the hearing;
- (3) the manner in which persons may present their views or evidence to the commission;
- (4) the location where persons may secure copies of the proposed regulatory change; and
- (5) if applicable, that the commission may make a decision on the proposed regulatory change at the conclusion of the hearing.

Guidelines Section 303 – Rule Section 202

TECHNICAL TESTIMONY:

A. Any person, including the petitioner, who intends to present technical testimony at the hearing shall, no later than 20 days prior to the hearing, file a notice of intent to present technical testimony. The notice shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;

(3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present;

(4) ~~summarize, or~~ include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;

(5) include the text of any recommended modifications to the proposed regulatory change; and

(6) list and ~~describe or~~ attach all exhibits anticipated to be offered by that person at the hearing.

B. The hearing officer may enforce the provisions of this section through such action as the hearing officer deems appropriate, including, but not limited to, exclusion of the technical testimony of any witness for whom a notice of intent was not timely filed. If such testimony is admitted, the hearing officer may keep the record open after the hearing to allow responses to such testimony. The hearing officer may also require that written rebuttal testimony be submitted prior to hearing.

Rule Section 203

ENTRY OF APPEARANCE: Any person may file an entry of appearance as a party. The entry of appearance shall be filed no later than 20 days before the date of the hearing on the petition. In the event of multiple entries of appearance by those affiliated with one interest group, the hearing officer may consolidate the entries, or divide the service list to avoid waste of resources.

Guidelines Section 304 – Rule Section 204

PARTICIPATION BY GENERAL PUBLIC:

A. Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

B. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing. Written comment must be mailed or delivered to the commission administrator.

Guidelines Section 305 – Rule Section 205

LOCATION OF HEARING: Unless otherwise provided by governing law, the commission shall hold hearings on proposed regulatory changes of statewide application in Santa Fe, and at other places the commission may proscribe. The commission may hold hearings on proposed regulatory changes of local that are not of statewide application may be held within the area substantially affected by the proposal.

Rule Section 206

PARTICIPATION BY CONFERENCE TELEPHONE OR OTHER SIMILAR DEVICE:

A. A member of the commission may participate in a meeting or hearing of the commission by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting or hearing in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting or hearing are able to hear any member of the commission who speaks at the meeting or hearing. A commission member's participation by such means shall constitute presence in person at the meeting or hearing. A commission member who needs to participate in this manner must notify the commission administrator sufficiently in advance so as to permit the commission administrator to arrange for the appropriate communications equipment.

B. A witness may participate in a hearing of the commission by means of a conference telephone or other similar communications equipment when an emergency or circumstances make it impossible for the witness to attend the hearing in person. A witness who needs to participate in this manner must receive permission from the hearing officer sufficiently in advance of the hearing so as to permit the commission administrator to arrange for the appropriate communications equipment. Each witness participating in this manner must be identified when speaking, all participants must be able to hear each other at the same time and members of the public attending the hearing must be able to hear any witness who speaks during the hearing.

Rule Section 207

MOTIONS:

A. General: All motions, except those made orally during a hearing, shall be in writing, specify the grounds for the motion and state the relief sought. Each motion shall be accompanied by an affidavit, certificate or other evidence relied upon and shall be served as provided by 20.1.6.104 NMAC.

B. Unopposed motions: An unopposed motion shall state that the concurrence of all other parties was obtained. The moving party shall submit a proposed order approved by all parties for the hearing officer's review.

C. Opposed motions: Any opposed motion shall state either that concurrence was sought and denied, or why concurrence was not sought. A memorandum brief in support of such motion may be filed with the motion.

D. Response to motions: Any party upon whom an opposed motion is served shall have 15 days after service of the motion to file a response. A non-moving party failing to file a timely response shall be deemed to have waived any objection to the granting of the motion.

E. Reply to response: The moving party may, but is not required to, submit a reply to any response within 10 days after service of the response.

F. Decision: Non-dispositive motions may be decided by the hearing officer without a hearing. The hearing officer shall refer any motion that would effectively dispose of the matter to the commission for a decision, and may refer any other motion to the commission. A procedural motion may be ruled upon prior to the expiration of the time for response; any response received thereafter shall be treated as a request for reconsideration of the ruling. The hearing officer shall file all original documents with the commission administrator.

Guidelines Section 401 – Rule Section 300

HEARING PROCEDURES - CONDUCT OF HEARINGS:

A. The rules of civil procedure and the rules of evidence shall not apply.

B. The hearing officer shall conduct the hearing so as to provide a reasonable opportunity for all persons to be heard without making the hearing unreasonably lengthy or cumbersome, or burdening the record with unnecessary repetition. The hearing shall proceed as follows.

(1) The hearing shall begin with an opening statement from the hearing officer. The statement shall identify the nature and subject matter of the hearing and explain the procedures to be followed.

(2) The hearing officer may allow a brief opening statement by any party who wishes to make one.

(3) Unless otherwise ordered, the petitioner shall present its case first.

(4) The hearing officer shall establish an order for the testimony of other participants. The order may be based upon notices of intent to present technical testimony, sign-in sheets and the availability of witnesses who cannot be present for the entire hearing.

(5) If the hearing continues for more than one day, the hearing officer shall provide an opportunity each day for testimony from members of the general public. Members of the general public who wish to present testimony should indicate their intent on a sign-in sheet.

(6) The hearing officer may allow a brief closing argument by any person who wishes to make one.

(7) At the close of the hearing, the hearing officer shall determine whether to keep the record open for written submittals in accordance with ~~Section 40520.1.6.304~~ NMAC. If the record is kept open, the hearing officer shall determine and announce the subject(s) on which submittals will be allowed and the deadline for filing the submittals.

C. If the hearing is conducted at multiple locations, the hearing officer may require the petitioner's witnesses to summarize their testimony or be available for cross-examination at each location. Other participants are not required to testify at more than one location, and the hearing officer may prohibit a witness from testifying at more than one location.

Guidelines Section 402 – Rule Section 301

TESTIMONY AND CROSS-EXAMINATION:

A. All testimony will be taken under oath or affirmation which may be accomplished in mass or individually.

B. The hearing officer shall admit any relevant evidence, unless the hearing officer determines that the evidence is incompetent or unduly repetitious. The hearing officer shall require all oral testimony be limited to the position of the witness in favor of or against the proposed rule.

C. Any person who testifies at the hearing is subject to cross-examination on the subject matter of his or her direct testimony and matters affecting his or her credibility. Any person attending the hearing is entitled to conduct such cross-examination as may be required for a full and true disclosure of matters at issue in the hearing. The hearing officer may limit cross-examination to avoid harassment, intimidation, needless expenditure of time or undue repetition.

Guidelines Section 403 – Rule Section 302

EXHIBITS:

A. Any person offering an exhibit at hearing shall provide at least an original and 15 copies for the commission, and a sufficient number of copies for every other party.

B. All exhibits offered at the hearing shall be marked with a designation identifying the person offering the exhibit and shall be numbered sequentially. If a person offers multiple exhibits, he shall identify each exhibit with an index tab or by other appropriate means.

C. Large charts and diagrams, models and other bulky exhibits are discouraged. If visual aids are used, legible copies shall be submitted for inclusion in the record.

Guidelines Section 404 – Rule Section 303

TRANSCRIPT OF PROCEEDINGS:

A. ~~Unless specified by the commission,~~A verbatim transcript shall be made of the hearing, including any deliberations. The cost of the original transcript of the proceeding and of providing a copy for each commission member shall be borne by the petitioner.

B. Any person may obtain a copy of the transcript of a proceeding. It shall be obtained directly from the court reporter, ~~or if no court reporter was employed, the Administrative Secretary~~and the cost of the transcript shall be paid directly to the source.

Guidelines Section 405 – Rule Section 304

POST-HEARING SUBMISSIONS: The hearing officer may allow the record to remain open for a reasonable period of time following the conclusion of the hearing for written submission of additional evidence, comments and arguments, and proposed statements of reasons. The hearing officer's determination regarding post-hearing submissions shall be announced at the conclusion of the hearing. In considering whether the record will remain open, the hearing officer shall consider the reasons why the material was not presented during the hearing, the significance of the material to be submitted and the necessity for a prompt decision.

Guidelines Section 406 – Rule Section 305

HEARING OFFICER'S REPORT: If the commission directs, the hearing officer shall file a report of the hearing. The report shall identify the issues addressed at the hearing, ~~explain the testimony and make a recommendation for commission action~~identify the parties' final proposals and the evidence supporting those proposals, including discussion or recommendations as requested by the commission, and shall be filed with the ~~Administrative Secretary~~commission administrator within the time specified by the commission. The ~~Administrative Secretary~~commission administrator shall promptly notify each party that the hearing officer's report has been filed and shall provide a copy of the report to each party along with a notice of any deadline set for comments on that report.

Guidelines Section 407 – Rule Section 306

DELIBERATION AND DECISION:

A. If a quorum of the commission attended the hearing, and if the hearing notice indicated that a decision might be made at the conclusion of the hearing, the commission may immediately deliberate and make a decision on the proposed regulatory change.

B. If the commission does not reach a decision at the conclusion of the hearing, the commission administrator, following receipt of the transcript, will promptly furnish a copy of the transcript to each commission member that did not attend the hearing and, if necessary, to other commission members, commission counsel and the hearing officer. Exhibits provided to those persons at the time of the hearing need not be supplied again.

C. The commission shall reach its decision on the proposed regulatory change within 60 days following the close of the record or the date the hearing officer's report is filed, whichever is later.

D. If, during the course of its deliberations, the commission determines that additional testimony or documentary evidence is necessary for a proper decision on the proposed regulatory change, the commission may, consistent with the requirements of due process, reopen the hearing for such additional evidence only.

E. The commission shall issue its decision on the proposed regulatory change in a suitable format, which shall include its reasons for the action taken.

F. The commission's written decision is the official version of the commission's action, and the reasons for that action. Other written or oral statements by commission members are not recognized as part of the commission's official decision or reasons.

Guidelines Section 408 – Rule Section 307

NOTICE OF COMMISSION ACTION: The ~~Administrative—Secretary~~commission administrator shall provide notice of the commission's action to each of the parties, to any person heard or represented at the hearing, and to all other persons who have made a written request to the commission for notification of the action taken.

Guidelines Section 501 – Rule Section 400

APPEAL OF REGULATIONS:

A. Appeal of any regulatory change by the commission shall be taken ~~to the Court of Appeals within thirty (30) days after the regulation is filed in accordance with the State Rules Act in accordance with governing law.~~

B. The appellant shall serve a copy of the notice of appeal on the commission and on each ~~participant~~party.

C. The appellant shall be responsible for preparation of a sufficient number of copies of the hearing record at the expense of appellant.

D. Unless otherwise provided by governing law, the filing of an appeal shall not act as a stay of the regulatory change being appealed.

Guidelines Section 502 – Rule Section 401

STAY OF COMMISSION REGULATIONS:

~~A. The Commission may grant a stay pending appeal of any regulatory change promulgated by the Commission. The Commission may only grant a stay if a motion is filed, a hearing is held and good cause is shown.~~

~~B. In determining whether good cause is present for the granting of a stay, the Commission shall consider~~

~~(1) the likelihood that the movant will prevail on the merits of the appeal;~~

~~(2) whether the moving party will suffer irreparable harm if a stay is not granted;~~

~~(3) whether substantial harm will result to other interested persons; and~~

~~(4) whether harm will ensue to the public interest.~~

~~C. If no action is taken within ninety (90) days after filing of the motion, the Commission shall be deemed to have denied the motion for stay.~~

A. Any person who is or may be affected by a rule adopted by the commission may file a motion with the commission seeking a stay of that rule or regulatory change. The motion shall include the reason for, and the legal authority supporting, the granting of a stay. The movant shall file and serve the motion in accordance with the requirements of Section 104 of this part at least 30 days before the meeting at which the commission will consider the motion. The commission chair will decide at which meeting the motion will be heard.

B. Unless otherwise provided by governing law, the commission may grant a stay pending appeal of any regulatory change promulgated by the commission. The commission may only grant a stay if good cause is shown after a motion is filed and a hearing is held.

Guidelines Section 601 – Rule Section 8

LIBERAL CONSTRUCTION: ~~These guidelines~~This part shall be liberally construed to carry out ~~their~~its purpose.

Guidelines Section 602 – Rule Section 9

SEVERABILITY: If any provision or application of ~~these guidelines~~this part is held invalid, the remainder of ~~these guidelines~~this part, or ~~their~~its application to other situations or persons~~or situations~~, shall not be affected.

Guidelines Section 603

SAVINGS CLAUSE. ~~These guidelines do not:~~

A. ~~apply to any rulemaking hearing for which notice has been given prior to the effective date of these guidelines; nor~~

B. ~~affect any regulation promulgated prior to the effective date of these guidelines, except for any amendment, supersession, or repeal thereof requested after the effective date of these guidelines.~~

Rule Section 500

APPENDIX A:
[Preferred Format]

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION

IN THE MATTER OF PROPOSED
AMENDMENTS TO NMAC

[Name of Petitioner],
Petitioner.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing [name of document] was served by [hand-delivery] [first class mail] [email] to all parties on [date].

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 ST. FRANCIS DRIVE
POST OFFICE BOX 26110
SANTA FE, NEW MEXICO 87502

*GUIDELINES FOR
WATER QUALITY CONTROL COMMISSION REGULATION HEARINGS
(Approved November 10, 1992; Amended June 8, 1993)*

PART I
GENERAL PROVISIONS

101. SCOPE. - - These guidelines govern the procedures to be followed by the Commission, and by participants before the Commission, in connection with all rulemaking hearings.

102. PURPOSE. - - The purposes of these guidelines, are:

A. to encourage participation in the hearings conducted by the, Commission for the promulgation of regulations;

B. to make possible the effective presentation of the evidence and points of view of parties and members of the general public;

C. to allow all interested participants a reasonable opportunity to submit data, views, arguments orally or in writing; and

D. to assure that Commission hearings are conducted in a fair and equitable manner.

103. DEFINITIONS. - - As used in these guidelines:

A. "Administrative Secretary" means the Department employee designated by the Secretary of Environment to provide staff support to the Commission;

B. "Commission" means the Water Quality Control Commission;

C. "constituent agency" means any or all agencies of the state defined as such under the Water Quality Act, Sections 74-6-1 et. Seq., NMSA 1978;

D. "Department" means the New Mexico Environment Department;

E. "exhibit" means any document or tangible item submitted for inclusion in the Hearing Record;

F. "general public" includes any person attending a hearing who has not submitted a notice of intent to present technical testimony;

G. "Hearing Officer" means the person designated by the Commission to conduct a hearing under these guidelines;

H. "Hearing Record" means:

1. the Transcript of Proceedings; and
2. the Record Proper;

I. "participant" means any person who participates in a rulemaking proceeding before the Commission;

J. "person" means an individual or any entity, including federal, state, and local government entities, however organized;

K. "petitioner" means the person who petitioned the Commission for the regulatory change that is the subject of the hearing;

L. "Record Proper" means all documents related to the hearing and received or generated by the Commission prior to the beginning, or after the conclusion, of the hearing, including but not limited to:

1. the petition for hearing and any response thereto;
2. the minutes (or an appropriate extract of the minutes) of the meeting at which the petition for hearing was considered, and of any subsequent meeting at which the proposed regulatory change was discussed;
3. the notice of hearing;
4. affidavits of publication;
5. notices of intent to present technical testimony;
6. statements for the public record;
7. the Hearing Officer's report, if any;
8. post-hearing submissions, if allowed;
9. the audio tapes (or an appropriate extract of the tapes) of the meeting(s) at which the Commission deliberated on the adoption of the proposed regulatory change; and
10. the Commission's decision and the reasons therefor;

M. "regulation" means any rule, regulation, or standard promulgated by the Commission and affecting one or more persons besides the Commission or the constituent agencies, except for any order or decision issued in connection with the disposition of any case involving a particular matter as applied to a specific set of facts;

N. "regulatory change" means the adoption, amendment or repeal of a regulation;

O. "technical testimony" means scientific, engineering, economic or other specialized testimony but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing; and

P. "Transcript of Proceedings" means the verbatim record (audio tape or stenographic) of the proceedings, testimony, and argument in the regulatory matter together with all exhibits proffered at the hearing, whether or not admitted into evidence, including the record of any motion hearings or prehearing conferences.

104. POWERS AND DUTIES OF COMMISSION AND HEARING OFFICER. - -

A. COMMISSION. The Commission shall exercise all powers and duties prescribed under these guidelines and not otherwise delegated to the Hearing Officer or the Administrative Secretary.

B. HEARING OFFICER. The Commission shall designate a Hearing Officer for each hearing who shall exercise all powers and duties prescribed or delegated under these guidelines. The Hearing Officer may be a member of the Commission. The Hearing Officer shall conduct a fair and impartial proceeding, assure that the facts are fully elicited, and avoid delay. The Hearing Officer shall have authority to take all measures necessary for the maintenance of order and for the efficient, fair and impartial consideration of issues arising in proceedings governed by these guidelines including, but not limited to:

1. conducting hearings under these guidelines;
2. taking, admitting or excluding evidence, examining witnesses and allowing post hearing submissions;
3. making such orders as may be necessary to preserve decorum and to protect the orderly hearing process; and
4. if requested by the Commission, preparing and filing a report of the hearing, with recommendations for action.

PART II
DOCUMENT REQUIREMENTS

201. FILING AND SERVICE OF DOCUMENTS. - -

A. The filing of any document as required by these guidelines shall be accomplished by delivering the document to the Administrative Secretary.

B. Any person filing any document shall:

1. provide the Administrative Secretary with the original and ten copies of the document; and

2. if the document is a notice of intent to present technical testimony filed by any person other than the petitioner, serve a copy thereof on the petitioner.

C. Whenever these guidelines require service of a document, service shall be made by delivering a copy of the document the person to be served or by mailing it to that person. If a person is represented by an attorney, service of the document shall be made on the attorney. Service by mail is complete upon mailing the document.

202. EXAMINATION OF DOCUMENTS FILED. - -

A. EXAMINATION ALLOWED. Subject to the provisions of law restricting the public disclosure of confidential information, any person may, during normal business hours, inspect and copy any document filed in any rulemaking proceeding before the Commission. Such documents shall be made available by the Administrative Secretary, as appropriate.

B. COST OF DUPLICATION. The cost of duplicating documents shall be borne by the person seeking copies of such documents.

PART III
PREHEARING PROCEDURES

301. PETITION FOR REGULATORY CHANGE. - -

A. Any person may file a petition with the Commission to adopt, amend or repeal any regulation within the jurisdiction of the Commission.

B. The petition shall be in writing and shall include a statement of the reasons for the regulatory change. A copy of the proposed regulatory change, indicating any language proposed to be added or deleted, shall be included in the petition.

C. The Commission shall determine, at a public meeting occurring no later than ninety (90) days after receipt of the petition, whether or not to hold a public hearing on the proposal. Any person may respond to the petition either in writing prior to the public meeting or in person at the public meeting. The denial of a petition shall not be subject to judicial review.

D. If the Commission determines to hold a public hearing on the petition, it may issue such orders specifying procedures for the conduct of the hearing, in addition to those provided by these guidelines, as may be necessary and appropriate to fully inform the Commission of the matters at issue in the hearing or control the conduct of the hearing. Such orders may include requirements for giving additional public notice, holding prehearing conferences, filing direct testimony in writing prior to the hearing, or limiting testimony and cross-examination.

302. NOTICE OF HEARINGS. - -

A. The Commission shall give public notice of the hearing at least thirty (30) days prior to the hearing. Public notice shall include publication in at least one newspaper of general circulation in the area affected by the regulation publication in the New Mexico Register, and such other means of providing notice as the Commission may direct or are required by law.

B. The Commission shall mail the notice to persons who have made a written request to the Commission for advance notice of regulatory change hearings and who have provided the commission with a mailing address. Requests for such notice shall be addressed to the Administrative Secretary, and shall designate those areas of Commission activity which are of interest.

C. Public notice of the hearing shall state:

1. the subject, including a description of the proposed regulatory change, time, and place of the hearing;
2. the statutes, regulations, and procedural guidelines governing the conduct of the hearing;
3. the manner in which persons may present their views or evidence to the Commission;
4. the location where persons may secure copies of the proposed regulatory change; and
5. if applicable, that the Commission may make a decision on the proposed regulatory change at the conclusion of the hearing.

303. TECHNICAL TESTIMONY. - -

A. Any person including the petitioner, who intends to present technical testimony at the hearing shall, no later than ten (10) working days prior to the hearing, file a notice of intent to present technical testimony. The notice shall:

1. identify the person for whom the witness(es) will testify;

2. identify each technical witness the person intends to present and state the qualifications of that witness including a description of their educational and work background;

3. if the hearing will be conducted at multiple locations, indicate the location or locations at which the witness(es) will be present;

4. summarize, or include a copy of, the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;

5. include the text of any recommended modifications to the proposed regulatory change; and

6. list and describe, or attach, all exhibits anticipated to be offered by the person at the hearing.

B. The Hearing Officer may enforce the provisions of this rule through such action as he deems appropriate, including but not limited to exclusion of the technical testimony of any witness for whom a notice of intent was not timely filed. If such testimony is admitted, the Hearing Officer may keep the record open after the hearing to allow responses to such testimony.

304. PARTICIPATION BY GENERAL PUBLIC. - -

A. Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with his testimony, so long as the exhibit is not unduly repetitious of the testimony.

B. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

305. LOCATION OF THE HEARING. - - The Commission shall hold hearings on proposed regulatory changes of statewide application in Santa Fe, and at other places the Commission may prescribe. The Commission may hold hearings on proposed regulatory changes of

local application within the area substantially affected by the proposal.

PART IV
HEARING PROCEDURES

401. CONDUCT OF HEARINGS.- -

A. The rules of civil procedure and the rules of evidence shall not apply.

B. The Hearing officer shall conduct the hearing so as to provide a reasonable opportunity for all persons to be heard without making the hearing unreasonably lengthy or cumbersome or burdening the record with unnecessary repetition. The hearing shall proceed as follows:

1. the hearing shall begin with an opening statement from the Hearing Officer. The statement shall identify the nature and subject matter of hearing and explain the procedures to be followed;

2. the Hearing Officer may allow a brief opening statement by any person who wishes to make one;

3. unless otherwise ordered, the petitioner shall present its case first;

4. the Hearing Officer shall establish an order for the testimony of other participants. The order may be based upon notices of intent to present technical testimony, sign-in sheets and the availability of witnesses who cannot be present for the entire hearing;

5. if the hearing continues for more than one day, the Hearing Officer shall provide an opportunity each day for testimony from members of the general public. Members of the general public who wish to present testimony should indicate their intent on a sign-in sheet;

6. the Hearing Officer may allow a brief closing argument by any person who wishes to make one; and

7. at the close of the hearing, the Hearing Officer shall determine whether to keep the record open for written submittals in accordance with Section 405. If the record is kept open, the Hearing Officer shall determine and announce the subject(s) on which such submittals will be allowed and the deadline for filing the submittals.

C. If the hearing is conducted at multiple locations, the

Hearing Officer may require the petitioner's witnesses to summarize their testimony or be available for cross-examination at each location. Other participants are not required to testify at more than one location, and the Hearing Officer may prohibit a witness from testifying at more than one location.

402. TESTIMONY AND CROSS EXAMINATION. - -

A. All testimony will be taken under oath or affirmation which may be accomplished in mass or individually.

B. The Hearing Officer shall admit any relevant evidence, unless the Hearing Officer determines that the evidence is incompetent or unduly repetitious.

C. Any person who testifies at the hearing is subject to cross-examination on the subject matter of his or her direct testimony and matters affecting his or her credibility. Any person attending the hearing is entitled to conduct such cross-examination as may be required for a full and true disclosure of matters at issue in the hearing. The Hearing Officer may limit cross-examination to avoid harassment, intimidation, needless expenditure of time or undue repetition.

403. EXHIBITS. - -

A. Any person offering an exhibit shall provide at least an original and ten copies, plus a reasonable number of additional copies for persons attending the hearing.

B. All exhibits offered at the hearing shall be marked with a designation identifying the person offering the exhibit and shall be numbered sequentially.

C. Large charts and diagrams, models and other bulky exhibits are discouraged. If visual aids are used, legible copies shall be submitted for inclusion in the record.

404. TRANSCRIPT OF PROCEEDING. - -

A. Unless specified by the Commission, a verbatim transcript shall be made of the hearing. The cost of the original Transcript of Proceeding and of providing a copy for each Commission member and the Commission counsel shall be borne by the petitioner.

B. Any person may obtain a copy of the Transcript of Proceeding. It shall be obtained directly from the court reporter or, if no reporter was employed, the Administrative Secretary. The cost of the Transcript shall be paid directly to the source.

405. POST HEARING SUBMISSIONS. - - The Hearing Officer may allow the record to remain open for a reasonable period of time following the conclusion of the hearing for written submission of additional evidence, comments, arguments, and proposed statements of reasons. The Hearing Officer's determination shall be announced at the conclusion of the hearing. In considering whether the record will remain open the Hearing Officer shall consider the reasons why the material was not presented during the hearing, the significance of the material to be submitted, and the necessity for a prompt decision.

406. HEARING OFFICER'S REPORT. - - If the Commission directs, the Hearing Officer shall file a report of the hearing. The report shall identify the issues addressed at the hearing, explain the testimony and make a recommendation for Commission action and shall be filed with the Administrative Secretary within the time specified by the Commission. The Administrative Secretary shall promptly notify each participant that the Hearing Officer's report has been filed and shall provide a copy of the report upon request.

407. DELIBERATION AND DECISION. - -

A. If a quorum of the Commission attended the hearing, and if the hearing notice indicated that a decision might be made at the conclusion of the hearing, the Commission may immediately deliberate and make a decision on the proposed regulatory change.

B. If the Commission does not reach a decision at the conclusion of the hearing, the Administrative Secretary, following receipt of the Transcript, will promptly furnish a copy of the Transcript to each Commission member that did not attend the hearing, and if necessary, to other Commission members, Commission Counsel and the Hearing Officer. Exhibits provided to those persons at the time of the hearing need not be supplied again.

C. If, during the course of its deliberations, the Commission determines that additional testimony or documentary evidence is necessary for a proper decision on the proposed regulatory change, the Commission may, consistent with the requirements of due process, reopen the hearing for such additional evidence only.

D. The Commission shall issue its decision on the proposed regulatory change in a suitable format, which shall include its reasons for the action taken.

E. The Commission's written decision is the official version of the Commission action, and the reasons for that action. Other written or oral statements by Commission members are not recognized as part of the Commission's official decision or reasons.

408. NOTICE OF COMMISSION ACTION. - - The Administrative Secretary shall provide notice of the Commission's action to each of the participants, and to all other persons who have made a written request to the Commission for notification of the action taken.

PART V
APPEALS AND STAYS

501. APPEAL OF REGULATIONS. - -

A. Appeal of any regulatory change of the Commission shall be taken to the Court of Appeals within thirty (30) days after the regulation is filed in accordance with the State Rules Act.

B. The appellant shall serve a copy of the Notice of Appeal on the Commission and on each participant.

C. The appellant shall be responsible for preparation of a sufficient number of copies of the Hearing Record at the expense of appellant.

D. The filing of an appeal shall not act as a stay of the regulatory change being appealed.

502. STAY OF COMMISSION REGULATIONS. - -

A. The Commission may grant a stay pending appeal of any regulatory change promulgated by the Commission. The Commission may only grant a stay if a motion is filed, a hearing is held and good cause is shown.

B. In determining whether good cause is present for the granting of a stay, the Commission shall consider:

(1) the likelihood that the movant will prevail on the merits of the appeal;

(2) whether the moving party will suffer irreparable harm if a stay is not granted;

(3) whether substantial harm will result to other interested persons; and

(4) whether harm will ensue to the public interest.

C. If no action is taken within ninety (90) days after filing of the motion, the Commission shall be deemed to have denied the motion for stay.

PART VI
MISCELLANEOUS PROVISIONS

601. LIBERAL CONSTRUCTION. - - These guidelines shall be liberally construed to carry out their purpose.

602. SEVERABILITY. - - If any part or application of these guidelines is held invalid, the remainder of these guidelines, or their application to other persons or situations, shall not be affected.

603. SAVINGS CLAUSE. - - These guidelines do not:

A. apply to any rulemaking hearing for which notice has been given prior to the effective date of these guidelines; nor

B. affect any regulation promulgated prior to the effective date of these guidelines, except for any amendment, supersession, or repeal thereof requested after the effective date of these guidelines.

**NOTICE OF PUBLIC HEARING TO CONSIDER RULEMAKING RULES FOR THE COMMISSION -
20.1.6 NMAC**

The New Mexico Water Quality Control Commission (Commission) will hold a public hearing beginning at 9:00 a.m. on Tuesday, October 11, 2016, and continuing thereafter as necessary at the New Mexico State Capitol Building, Room 307, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The hearing location may change prior to the hearing date, and those interested in attending should check the Commission website: <http://www.env.nm.gov/wqcc> prior to the hearing. The purpose of the hearing is to consider proposed Rulemaking Rules for the Commission, to be designated as 20.1.6 NMAC (Rules). The New Mexico Environment Department (NMED) is the proponent of the proposed Rules.

The Rules would codify the current WQCC Rulemaking Guidelines, with a number of additions, modifications, and formatting changes. Please note that formatting and minor technical changes in the regulations other than those proposed by NMED may be proposed at the hearing. In addition, the Commission may make other changes as necessary in response to public comments and evidence presented at the hearing.

The proposed amendments may be reviewed during regular business hours at the NMED Hearing Office located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505.

The hearing will be conducted in accordance with the WQCC Rulemaking Guidelines, the Water Quality Act, NMSA 1978, Section 74-6-6, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to the WQCC Rulemaking Guidelines, persons wishing to present technical testimony must file with the Board a written notice of intent to do so on or before 5:00 p.m. on September 21, 2016. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- include a copy of the direct testimony of each technical witness in narrative form;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of the rule language being proposed.

Notices of intent for the hearing must be received in the Hearing Office no later than 5:00 p.m. on September 21, 2016 and should reference the name of the regulation, the date of the hearing, and docket number WQCC 16-03(R). Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Administrator of Boards and Commissions
Office of the Water Quality Control Commission
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Any person who wishes to do so may offer non-technical public comment at the hearing, or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Ms. Pam Castaneda, Administrator of Boards and Commissions, at the above address, and should reference docket number WQCC 16-03(R).

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pam Castaneda, WQCC Administrator by August 31, 2016, at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email pam.castaneda@state.nm.us. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The Commission may make a decision on the proposed regulatory change at the conclusion of the hearing, or may convene a meeting after the hearing to consider action on the proposal.

Gov't Legals



NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD MEETING

September 6, 2016 12:00 noon until concluded Business Items

September 7, 2016 08:30 am until concluded Disciplinary Items

PLACE: MCM Elegante Lodge Meeting Room in Ruidoso, New Mexico

The Board Meeting Agenda will be finalized at least 72 hours prior to the meeting and may be obtained by accessing our website at http://nmlea.dps.state.nm.us/index.php/lea-board/ or by visiting the Law Enforcement Academy at 4491 Cernillos Road, Santa Fe, NM 87507, or calling (505) 827-9290.

If you 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 least ten days prior to the meeting or as soon as possible at (505) 827-9290 or monica.medrano@state.nm.us. Public documents can be provided in various accessible formats. Please contact the Board office if an accessible format is needed. Journal: August 25, 2016

Gov't Legals



NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC HEARING TO CONSIDER RULEMAKING RULES FOR THE COMMISSION-20.1.6 NMAC

The New Mexico Water Quality Control Commission (Commission) will hold a public hearing beginning at 9:00 a.m. on Tuesday, October 11, 2016, and continuing thereafter as necessary at the New Mexico State Capitol Building, Room 307, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The hearing location may change prior to the hearing date, and those interested in attending should check the Commission website: http://www.env.nm.gov/wqcc prior to the hearing. The purpose of the hearing is to consider proposed Rulemaking Rules for the Commission to be designated as 20.1.6 NMAC (Rules). The New Mexico Environment Department (NMED) is the proponent of the proposed Rules.

The Rules would codify the current WQCC Rulemaking Guidelines, with a number of additions, modifications, and formatting changes. Please note that formatting and minor technical changes in the regulations other than those proposed by NMED may be proposed at the hearing. In addition, the Commission may make other changes as necessary in response to public comments and evidence presented at the hearing.

Gov't Legals

The proposed amendments may be reviewed during regular business hours at the NMED Hearing Office located in the Harold Runnels Building, 51190 South St. Francis Drive, Room S-2102, Santa Fe, NM, 87505.

The hearing will be conducted in accordance with the WQCC Rulemaking Guidelines, the Water Quality Act, NMSA 1978, Section 74-6-6, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to the WQCC Rulemaking Guidelines, persons wishing to present technical testimony must file with the Board a written notice of intent to do so on or before 5:00 p.m. on September 21, 2016. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- include a copy of the direct testimony of each technical witness in narrative form;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and attach all exhibits anticipated to be offered by that person.

Gov't Legals

at the hearing, including any proposed statement of reasons for adoption of the rule language being proposed.

Notices of intent for the hearing must be received in the Hearing Office no later than 5:00 p.m. on September 21, 2016 and should reference the name of the regulation, the date of the hearing, and docket number WQCC 16-03(R). Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Administrator of Boards and Commissions Office of the Water Quality Control Commission Harold Runnels Building P.O. Box 5469 Santa Fe, NM 87502

Any person who wishes to do so may offer non-technical public comment at the hearing, or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Ms. Pam Castaneda, Administrator of Boards and Commissions at the above address, and should reference docket number WQCC 16-03(R).

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pam Castaneda, WQCC Administrator, by August 31, 2016, at P.O. Box 5469, 190, St. Francis Drive, Santa Fe, New Mexico, 87502; telephone (505) 827-2425 or email pam.castaneda@state.nm.us. TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331.

The Commission may make a decision on the proposed regulatory change at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal. Journal: August 25, 2016

Gov't Legals

accepted as a valid protest as the hard copy is hand-carried or mailed and postmarked 24-hours of the facsimile postmark will be used in the 24-hour period. Protests be faxed to the Office of the State Engineer, (505) 383-4000. The State Engineer will accept the application in accordance with the provisions of Chapter NMSA 1978.

Journal: August 18, 25, 2016



NOTICE OF INTENT REQUEST THE RELEASE FUNDS

August 19, 2016 Bernalillo County Housing Department 1900 Bridge Blvd. SW Albuquerque, NM 87105 (505) 314-0200

This notice shall satisfy requirements for activities undertaken by the Agency

REQUEST FOR THE RELEASE OF FUNDS

On or about September 2016, the Bernalillo County Housing Department will submit a request to the Mortgage Financing Authority (MFA) for the release of funds under Title II Cranston-Gonzales National Affordable Housing Act (NAHA) 1990, as amended, for the Investment Partnership (24 CFR Part 92) in the amount of \$130,000 to undertake a program known as the House by Reservation Rehabilitation program for the purpose of relating single family homes and occupied by low income families. Approximately 2 homes be rehabbed house(s) will be rehabilitated in the following Bernalillo County and S County

The activities proposed are hereby excluded under the provisions of 24 CFR Part 92 National Environmental Policy Act requirements. The activities proposed satisfy HUD's 24 CFR 58 regulations and the Environmental Policy Act. Environmental review process has been performed. A Tiered is a two-step environmental process. Target areas have been identified and the following and authorities have been identified with pertaining to: Wetlands, Sole Source Aquifers, and Scenic, Historic, and Cultural Resources, and Coastal Zone. Compliance with the laws and authorities will take during the second step and activities within the target areas have been identified: Floodplains, Properties, Airport, Explosive and Hazardous Materials, and Lead Based Paint.

An Environmental Review (ERR) that documents the environmental additional project information is contained in the Bernalillo County...

Professional-NonDegreed

Professional-NonDegreed

Professional-NonDegreed

Albuquerque Journal
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INSURANCE PACKAGE INCLUDES HEALTH, LIFE, DENTAL, VISION MATCHING 401(K) 7 PAID HOLIDAYS GENEROUS VACATION DAYS

NOTICE IS HEREBY GIVEN that a public hearing shall be conducted on September 20, 2016, at 10:00 a.m. at the Compliance Office, located at 415 Tijeras NW, 1st Floor, Albuquerque, New Mexico 87102, for the purpose of considering the application of Flix Brewhouse NM, LLC d/b/a Flix Brewhouse, for Liquor License Application #1007629 at proposed location 3200 La Orilla Road NW, Albuquerque, New Mexico 87120. Hearing Officer, Robert Kidd will conduct the hearing.
Name and Address of Applicant
Flix Brewhouse NM, LLC
D/B/A Flix Brewhouse
2000 S. IH-35
Round Rock, TX 78681
Name and Location of Licensee's Premises
Flix Brewhouse NM, LLC
D/B/A Flix Brewhouse
3200 La Orilla Road NW
Albuquerque, NM 87120
Actions Requested:
New Restaurant License
License Application #1007629
For further information please call (505) 468-1382
Journal: August 18 & 25, 2016

SECURITY

SECURITY OFFICER

DESCRIPTION

Immediate opening for a flexible and reliable security official

SCHEDULE

Full Time, 8am - 5pm
Days vary

SALARY

\$9.25 / hour

REQUIREMENTS & SKILLS

Ability to obtain CPR, First Aid, and Automatic External Defibrillation (AED) certifications.
Valid NM driver's license required.
Must pass physical/physical ability testing, drug and alcohol screening and background check.

PRODUCTION

PT INSERTER

DESCRIPTION

Preparing material for mailroom equipment to include stacking down pre-print material, inserting advertisements, etc.

REQUIREMENTS & SKILLS

Must be reliable. Ability to stand for long periods of time.

SCHEDULE

Up to 25 hours per week

SALARY

\$10.10 / hour

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Write email subject with the job title listed in this ad.

AlbuquerqueJournal

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7777 JEFFERSON ST. NE ALBUQUERQUE, NM 87109

abqjournal.com

EQUAL OPPORTUNITY EMPLOYER

Water Utility Authority

Notice is hereby given that on August 4, 2016, the Albuquerque Bernalillo County Water Utility Authority (ABCWUA), c/o water rights manager, PO Box 568, Albuquerque, New Mexico 87103, and the Estate of Louisa Martinez, PO Box 35, Los Lunas, NM 87031, as co-applicants filed Application No. SD-09474 into RG-960 et al. with the STATE ENGINEER for Permit to Change Point of Diversion and Place and Purpose of Use from Surface to Ground Water within the Rio Grande Underground Water Basin.

The applicants propose to discontinue the diversion of 33.33 acre-feet of surface water per annum, inclusive of a consumptive irrigation requirement of 23.331 acre-feet per annum (afa), from the Sabinal Lateral #1 with a point of diversion on the Rio Grande at the Isleta Diversion Works of the MRGCD (SP-1690-3), located on land owned by Middle Rio Grande Conservancy District (MRGCD) in the NE1/4 NE1/4 SW1/4 of projected Section 24, Township 8 North, Range 2 East, NMPM, also described as where Easting=346,037 meters and Northing=3,863,880 meters, NMCS, UTM Zone 13N, NAD 83, Isleta Pueblo Grant, Valencia County, for the irrigation of 11.11 acres of land owned by the Estate of Louisa Martinez, further described as Tract 58A1, on MRGCD Map 117.

The move-from 11.11 acres are generally located approximately 0.2 mile north east of the Mile Post 941 of the ATS&F railway, Valencia County, New Mexico.

The applicants further propose to transfer said 23.331 afa of consumptive use water right to vested and permitted wells under RG-960, et al., consisting of 92 system production wells in 25 well fields and 8 non-system wells serving city and county facilities, all located in the City Metropolitan area within Bernalillo County for municipal purposes within the service area of ABCWUA, on land owned by ABCWUA or various other owners. ABCWUA has vested water rights, other acquired rights placed in RG-960 et al., and San Juan-Chama Project water to which ABCWUA is entitled to use to offset its wells' pumping effects on the Rio Grande. No increase in diversion allowed under permit RG-960 et al. is requested by this application.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (objection must be legible, signed, and include the writer's complete name, phone number and mailing address). The objection to the approval of the application must be based on: (1) Impairment; if impairment, you must specifically identify your water rights; and/or (2) Public Welfare/Conservation of Water; if public welfare or conservation of water within the state of New Mexico, you must show how you will be substantially and specifically affected. The written protest must be filed, in triplicate, with the State Engineer, 5550 San Antonio Drive NE, Albuquerque, NM 87109-4127, within ten (10) days after the date of the last publication of this Notice. Facsimiles (faxes) will be

Wednesdays 8:00 A.M. to 5:00 P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments to the EIR to MFA. All comments received by September 15th 2016 will be considered by the MFA for or to authorizing submission of request for release of funds.

RELEASE OF FUNDS

The Bernalillo County Housing Department certifies that Be Valdez in her capacity as the Certifying Environmental Official consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibility in relation to the environmental review process and that these responsibilities have been satisfied by HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the Bernalillo County Housing Department to use Program funds.

OBJECTIONS TO THE RELEASE OF FUNDS

HUD will accept objections to release of funds and Bernalillo County Housing Department certification for a period of fifteen days following the anticipated submission date or its actual receipt, the request (whichever is later), only if it is on one of the following bases: (a) the certification was not executed by the Certifying Official of Bernalillo County Housing Department; (b) Bernalillo County Housing Department has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) grant recipient or other participant in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and should be addressed to CPD Environmental Review Officer, 500 G Avenue SW, 7th Floor, Suite 73 PO Box 906, Albuquerque, NM 87103-0906. Potential objectors should contact HUD at (505) 373-4515 to verify the actual last date of the objection period.
Journal: August 24- September 2016

Notice of Meeting
The Board of Directors for Southwest Aeronautics, Mathematics and Science Academy will meet in the library at 4100 Aerospace Pkwy, NW, Albuquerque, NM 87120 for their monthly board meetings on the 3rd Thursday of each month at 7:30am. Parent students and interested community members are invited to attend.
Journal: August 25, 2016



NUEVO MÉXICO COMISIÓN DE CONTROL DE CALIDAD DE AGUA
AVISO DE AUDIENCIA PÚBLICA PARA CONSIDERAR REGLEMENTACION NORMA DE LA COMISIÓN - 201.6 NM

Gov't Legals

La Comisión de Control de Calidad del Agua de Nuevo México (Comisión) llevará a cabo una audiencia pública que comienza a las 9:00 am el Martes 11 de Octubre de 2016, y de ahí en adelante como sea necesario en el edificio del capitolio del estado de Nuevo México, de habitaciones 307 y 490 Old Santa Fe Trail, Santa Fe, Nuevo México. La ubicación de la audiencia puede cambiar antes de la fecha de la audiencia, y los interesados en asistir deben consultar la página web de la Comisión: <http://www.env.nm.gov/wqcc> antes de la audiencia. El propósito de la audiencia es considerar Reglas de Reglamentación y propuestas por la Comisión para ser designado como 20.116 NMAC (Reglas). El Departamento de Medio Ambiente de Nuevo México (NMED) es el autor de las normas propuestas.

Las reglas serían codificar las actuales directrices de Reglamentación de WQCC, con una serie de adiciones, modificaciones y cambios de formato. Tenga en cuenta que el formato y los cambios técnicos menores en los reglamentos distintos de los propuestos por NMED pueden ser propuestas en la audiencia. Además, la Comisión podrá hacer otros cambios que sean necesarios en respuesta a los comentarios del público y las pruebas presentadas en la audiencia.

Las modificaciones propuestas pueden ser revisados durante el horario regular en la Oficina de Audiencias del NMED situado en el Harold Punnett Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505.

La audiencia se llevará a cabo de conformidad con las Directrices de WQCC reglamentación, la Ley de Calidad del Agua, NMSA 1978, Sección 74-6-6, y otros procedimientos aplicables.

Todas las personas interesadas se les dará oportunidad razonable en la audiencia para presentar pruebas pertinentes, datos, opiniones y argumentos, oralmente o por escrito. Se presentarán pruebas, y para interrogar a los testigos. Cualquier persona que desee presentar una declaración escrita de carácter no técnico para el registro en lugar de testimonio oral debe presentar dicha declaración antes del cierre de la audiencia.

De conformidad con las Directrices de Reglamentación de WQCC, las personas que deseen presentar testimonio técnico deberá presentar a la Junta una notificación por escrito de la intención de hacerlo antes de las 5:00 p.m. 21 de Septiembre de 2016. La notificación de intención deberá:

- Identificar a la persona o entidad a quien el testigo (s) dará testimonio;
- Identificar cada testigo técnico que la persona tiene la intención de presentar y exponer las capacidades del testigo, incluyendo una descripción de su educación y el trabajo de fondo;
- Incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- Incluir el texto de las modificaciones recomendadas para el cambio regulatorio propuesto; y
- Lista y conectar todas las expo-

Gov't Legals

www.nnooc.org LINK/
PURCHASING SECTION/
RFP'S/ADVERTISEMENTS
Journal: August 25-28, 2016

REQUEST FOR PROPOSAL
BID NO. 16-081558LE

FOR: PREVENTATIVE MAINTENANCE AND REPAIR SERVICES:
ON NAVAJO DIVISION OF TRANSPORTATION'S HEAVY EQUIPMENT: TRUCK, TRAILERS

TO OBTAIN PROPOSAL DOCUMENTS, GO TO THIS WEBSITE:
www.nnooc.org LINK/
PURCHASING SECTION/
RFP'S/ADVERTISEMENTS
Journal: August 22-25, 2016



Request for Proposal Number:
RFP # 17-630-4000-1001

TITLE: HEALTH AND HUMAN SERVICES 2020 - MEDICAID ENTERPRISE MANAGEMENT INFORMATION SYSTEM INTEGRATION PLATFORM

PURPOSE: The State of New Mexico (NM) Human Services Department (HSD) is undertaking replacement of its existing Medicaid Management Information System (MMIS) through the MMIS Replacement (MMISR) project. The MMISR solution will comprise multiple modules procured via multiple contracts and providers, and encompassing both technology-based components and business process outsourcing (BPO).

The purpose of this Request for Proposals (RFP) is to solicit proposals for a contractor to design, implement, maintain and operate the Integration Platform (IP) module of the NM MMISR solution. In addition, the IP Contractor will provide services to: (1) manage work under the contract resulting from this request for proposals (RFP), (2) work with the CMS-approved Independent Verification and Validation (IV & V) vendor, and the State-led project management office (PMO), (3) perform planning and provide leadership related to implementation and integration of the subsequent MMISR modules and contractors, and (4) support attainment of Centers for Medicare and Medicaid Services (CMS) Certification for the IP module and for the MMISR solution as a whole. The State is seeking an IP Contractor with the depth and range of experience needed to successfully deliver this complex project, and whose approach reflects the creativity and insight born of that experience.

RFP Procurement Manager:
Eric Candelaria,
Procurement Manager
New Mexico Human Services
Department
Information Technology Division
1201 Siler Road, Building B&C
Santa Fe, NM 87505
Phone: (505) 476-4007
Fax: (505) 476-3950
Email: eric.candelaria@state.nm.us

ISSUANCE: Thursday, August 25, 2016. Firms interested in obtaining

Gov't Legals

University Blvd SE, Albuquerque, NM 87106

Being selected by AHA for submission to HUD is no guarantee that HUD will award some or all of the vouchers requested. The anticipated date of HUD's award decision is November, 2016. The initial term of the proposed contract is 5 years. AHA will administer the PB VASH in compliance with Code of Federal Regulations, Title 24, Part 983. Please refer to these regulations for a complete version of all program regulations and requirements.

AHA reserves the right, at its sole discretion, to reject any and all proposals, to waive any irregularities and to reject nonconforming, non-responsive, or conditional proposals. All applications submitted to VHA for PB VASH vouchers are due by 12:00 noon September 2, 2016. Late proposals and postmarks will not be accepted.

Applicants must submit 1 original and 4 hard copies to:

Andrew Estocin, Deputy Director
Albuquerque Housing Authority
1840 University Blvd SE
Albuquerque NM, 87106

The Albuquerque Housing Authority provides its programs and services in a nondiscriminatory manner and is an Equal Opportunity/Affirmative Action Employer. The hearing impaired may call 711 for more information.
Journal: August 16-29, 2016

Non-Gov't Legals

NOTICE OF FORECLOSURE SALE: THE STATE OF NEW MEXICO COUNTY OF SANDOVAL THIRTEENTH JUDICIAL DISTRICT BOKE, N.A. NATIONAL BANKING ASSOCIATION D/B/A BANK OF OKLAHOMA AS SUCCESSOR IN INTEREST BY MERGER TO BANK OF ALBUQUERQUE, N.A. Plaintiff, vs. No. D:1329-CV-2015-01229 GAIL EDWARD MCCAIN, IF LIVING; IF DECEASED, THE UNKNOWN HEIRS OF GAIL EDWARD MCCAIN; DECEASED; MICHELLE RAKOS AS PERSONAL REPRESENTATIVE OF THE ESTATE OF PATRICIA MCCAIN, DECEASED; OCCUPANTS OF THE PROPERTY, Defendants. PLEASE TAKE NOTICE that the above entitled Court, having appointed me or my designee as Special Master in this matter with the power to sell, has ordered me to sell the real property (the "Property") situated in Sandoval County, New Mexico, commonly known as 1534 Angel Road, Corrales, NM 87048, and more particularly described as follows: LOT NUMBERED FORTY NINE (49) OF THE PLAT OF LOMA DE VERANO, A SUBDIVISION IN SANDOVAL COUNTY, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT OF SAID SUBDIVISION, FILED IN THE OFFICE OF THE COUNTY CLERK OF SANDOVAL COUNTY, NEW MEXICO ON MAY 24, 1989 IN MAP BOOK 3, FOLIO 780-A. The sale is to begin at 9:00am on September 27, 2016, on the front steps of the Sandoval County Judicial Complex, City of Bernalillo, County of Sandoval, State of New Mexico, at which time I will sell to the highest and best bidder for cash in lawful currency of the United States of America the Property to pay expenses of sale, and to satisfy the Judgment granted BOOK N.A. NATIONAL BANK

Non-Gov't Legals

on the front steps of the Sandoval County Judicial Complex, City of Bernalillo, County of Sandoval, State of New Mexico, at which time I will sell to the highest and best bidder for cash in lawful currency of the United States of America, the Property to pay expenses of sale, and to satisfy the Judgment granted WELLS FARGO BANK, NA which was subsequently assigned to Bayview Loan Servicing, LLC. Bayview Loan Servicing, LLC's judgment is in the total amount of \$189,135.87 with interest at the rate of 3.75% per annum from May 19, 2015 through the date of the sale. Said interest is in the amount of \$38,569.41. NOTICE IS FURTHER GIVEN that the real property and improvements concerned with herein will be sold subject to any and all patent reservations, easements, all recorded and unrecorded liens not foreclosed herein, and all recorded and unrecorded special assessments and taxes that may be due. Bayview Loan Servicing, LLC, its attorneys, and the undersigned Special Master, disclaim all responsibility for, and the purchaser at the sale takes the property "as is" in its present condition, subject to the valuation of the property by the County Assessor as real or personal property, affixture of any mobile or manufactured home to the land, deactivation of title to a mobile or manufactured home on the property, if any, environmental contamination on the property, if any, and zoning violations concerning the property, if any. NOTICE IS FURTHER GIVEN that the purchaser at such sale shall take title to the above described real property subject to a one (1) month right of redemption. PROSPECTIVE PURCHASERS AT SALE ARE ADVISED TO MAKE THEIR OWN EXAMINATION OF THE TITLE AND THE CONDITION OF THE PROPERTY AND TO CONSULT THEIR OWN ATTORNEY BEFORE BIDDING. By: Robert A. Doyle, Special Master of Legal Process Network P. O. Box 51526 Albuquerque, NM 87181 505-217-4113 11 NM 14-161737-JUD:DS:Pub #013271 8/18/2016 8/25/2016 9/1/2016 9/8/2016
Journal: August 18, 25, September 1, 8, 2016

NOTICE OF FORECLOSURE SALE: THE STATE OF NEW MEXICO COUNTY OF SAN JUAN ELEVENTH JUDICIAL DISTRICT BANK OF AMERICA, N.A., Plaintiff, vs. No. D:1116-CV-2015-00601 CLIFFORD A. TICKELL, DALEE SANCHEZ-TICKELL, HUSBAND AND WIFE; OCCUPANTS OF THE PROPERTY, Defendants. PLEASE TAKE NOTICE that the above entitled Court, having appointed me or my designee as Special Master in this matter with the power to sell, has ordered me to sell the real property (the "Property") situated in San Juan County, New Mexico, commonly known as 911 Mountain View Drive, Aztec, NM 87410, and more particularly described as follows: LOT 22 OF THE MOUNTAIN VIEW SUBDIVISION, IN THE CITY OF AZTEC, SAN JUAN COUNTY, NEW MEXICO, AS SHOWN ON THE PLAT OF SAID SUBDIVISION FILED FOR RECORD JULY 10, 1979. The sale is to begin at 10:30 AM on July 8, 2016, on the front steps of the Eleventh Judicial District Court-house, City of Aztec, County of San Juan, State of New Mexico, at which time I will sell to the highest and best bidder for cash in lawful currency of the United States of America, the Property to pay expenses of sale, and to satisfy the

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de la adopción del lenguaje de reglas.

Las notificaciones de intención para la audiencia deben ser recibidas en la Oficina de Audiencias no más tarde de las 5:00 pm el 21 de septiembre de 2016, y deben hacer referencia al nombre de la regulación, la fecha de la audiencia, y el número de expediente WQCC 16-03 (R). Las notificaciones de intención de presentar testimonio técnico deben enviarse a:

Pam Castañeda, Administrator of Boards and Commissions
Office of the Water Quality Control Commission
Harold Furness Building
P.O. Box 5469
Santa Fe, NM 87502

Cualquier persona que desee hacerlo puede ofrecer comentarios del público no técnico en la audiencia, o enviar una declaración no técnica por escrito en lugar de testimonio oral en o antes de la audiencia. Los comentarios por escrito en relación con las revisiones propuestas pueden dirigirse a la Sra Pam Castañeda, Administrador de Juntas y Comisiones, a la dirección anterior, y deben hacer referencia al número de expediente WQCC 16-03 (R). Las personas que necesiten asistencia, un intérprete o ayuda auxiliar para participar en este proceso, por favor, póngase en contacto con Pam Castañeda, administrador WQCC el 31 de Agosto de 2016, en el apartado de correos Box 5469, 1190 St. Francis Drive, Santa Fe, Nuevo México, 87502, teléfono (505) 827-2425 o pam.castaneda@state.nm.us de correo electrónico. (Los usuarios de TDD o TTY deben tener acceso al número mediante la Red de Relevado de Nuevo México, 1-800-659-1779 (voz); los usuarios de TTY: 1-800-659-8331).

La Comisión podrá tomar una decisión sobre el cambio regulador propuesto en la conclusión de la audiencia, o puede convocar una reunión después de la audiencia para considerar la acción sobre la propuesta.
Journal: August 25, 2016

REQUEST FOR PROPOSAL
RE-BID NO: 16-07-1536JJ
FOR: PROFESSIONAL JANITORIAL SERVICES PROJECT
TO OBTAIN REQUEST FOR PROPOSAL, GO TO THIS WEBSITE
www.nnooc.org LINK/
PURCHASING SECTION/
RFPs/ADVERTISEMENTS
Journal: August 25, 26, 27, 2016

REQUEST FOR PROPOSAL
BID NO. 16-08-1556LE
FOR: JANITORIAL SERVICES FOR NAVAJO HEAD START
TO OBTAIN PROPOSAL DOCUMENTS, GO TO THIS WEBSITE
www.nnooc.org LINK/
PURCHASING SECTION/
RFPs/ADVERTISEMENTS
Journal: August 22-25, 2016

REQUEST FOR PROPOSAL
BID NO. 16-08-1557LE
FOR: SINGLE AND GOVERNMENT WIDE AUDIT OF FINANCIAL STATEMENT OF NAVAJO NATION.
PRE-PROPOSAL CONFERENCE: AUGUST 31, 2016 AT 9:00 IN PHOENIX, ARIZONA
TO OBTAIN PROPOSAL DOCUMENTS, GO TO THIS WEBSITE.

Looking for information/open-rfps.aspx.


PRE-PROPOSAL CONFERENCE
Wednesday, September 7, 2016 at HSD's ASD Large Conference Room, 1474 Rodeo Rd., Santa Fe, NM 87505, 2:00-5:00 pm MST. (Attendance is not Mandatory)

PROPOSAL DUE DATE AND TIME: Proposals must be received by the Procurement Manager (Eric Candelaria) no later than 3:00 pm MST, on Friday, October 14, 2016. Proposals received after this deadline will not be accepted.
Journal: August 25, 2016

REQUEST FOR PROPOSAL
RE-BID#16-07-1538JJ
FOR: FITNESS EQUIPMENT REPAIR-MAINTENANCE PROJECT TO OBTAIN REQUEST FOR PROPOSAL, GO TO THIS WEBSITE
www.nnooc.org LINK/
PURCHASING SECTION/
RFPs/ADVERTISEMENTS
Journal: August 25, 26, 27, 2016

REQUEST FOR PROPOSAL
RE-BID NO: 16-07-1535JJ
FOR: HVAC PREVENTATIVE MAINTENANCE AND REPAIR SERVICES PROJECT
TO OBTAIN REQUEST FOR PROPOSAL, GO TO THIS WEBSITE
www.nnooc.org LINK/
PURCHASING SECTION/
RFPs/ADVERTISEMENTS
Journal: August 25, 26, 27, 2016

REQUEST FOR PROPOSAL
RE-BID NO: 16-07-1537JJ
FOR: PEST CONTROL SERVICES PROJECT
TO OBTAIN REQUEST FOR PROPOSAL, GO TO THIS WEBSITE
www.nnooc.org LINK/
PURCHASING SECTION/
RFPs/ADVERTISEMENTS
Journal: August 25, 26, 27, 2016


The Albuquerque Housing Authority is currently accepting proposals for RFP# 1504, Project Based Housing and Urban Development Veterans Affairs Supportive Housing Vouchers

Proposal closure date is Friday, September 2, 2016 at 12:00 noon.

The Albuquerque Housing Authority (AHA) is seeking proposals from property owners and developers to receive an allocation of Project Based Department of Housing and Urban Development (HUD) Veterans Affairs Supportive Housing (PB VASH) vouchers per HUD PIH 2016-11 that was released on July 1, 2016. The purpose of this allocation is to enable homeless veterans to access affordable housing with an array of supportive services. Eligible veterans and their families who are referred by VHA and the Department of Veterans Affairs (VA) will gain the benefit of quality affordable housing combined with VA sponsored supportive services. PB VASH assistance provides rental subsidies paid on behalf of eligible families who live in units that are contracted under the program.

AHA may select one or more proposal to submit to HUD requesting up to 50 PB VASH vouchers. All proposals will be evaluated on threshold and scoring criteria developed by the AHA. The application, including the threshold and scoring criteria and other information regarding the application process, is available at www.abqha.org or by contacting Deputy Director, Andrew Estocin at 505-764-3991 or aestocin@abqha.org, or 1840

TO BANK OF ALBUQUERQUE, N.A. BOKF, N.A., A NATIONAL BANKING ASSOCIATION D/B/A BANK OF OKLAHOMA, AS SUCCESSOR IN INTEREST BY MERGER TO BANK OF ALBUQUERQUE, N.A. was awarded a Judgment on July 18, 2016, in the total amount of \$73,918.50, with interest at the rate of 7.030% per annum from November 15, 2015 through the date of the sale. Said interest is in the amount of \$4,513.10. NOTICE IS FURTHER GIVEN that the real property and improvements concerned with herein will be sold subject to any and all patent reservations, easements, all recorded and unrecorded liens not foreclosed herein, and all recorded and unrecorded special assessments and taxes that may be due. BOKF, N.A., A NATIONAL BANKING ASSOCIATION D/B/A BANK OF OKLAHOMA, AS SUCCESSOR IN INTEREST BY MERGER TO BANK OF ALBUQUERQUE, N.A., its attorneys, and the undersigned Special Master, disclaim all responsibility for, and the purchaser at the sale takes the property "as is," in its present condition, subject to the valuation of the property by the County Assessor as real or personal property, affixture of any mobile or manufactured home to the land, deactivation of title to a mobile or manufactured home on the property, if any, environmental contamination on the property, if any, and zoning violations concerning the property, if any. NOTICE IS FURTHER GIVEN that the purchaser at such sale shall take title to the above described real property subject to a one (1) month right of redemption. PROSPECTIVE PURCHASERS AT SALE ARE ADVISED TO MAKE THEIR OWN EXAMINATION OF THE TITLE AND THE CONDITION OF THE PROPERTY AND TO CONSULT THEIR OWN ATTORNEY BEFORE BIDDING. By: Robert A. Doyle, Special Master c/o Legal Process Network P.O. Box 51526 Albuquerque, NM 87181 505-417-4113 1 NM-15-667825-JUD IDSPub #0113269 8/18/2016 8/25/2016 9/1/2016 9/8/2016
Journal: August 18, 25, September 1, 8, 2016

NOTICE OF FORECLOSURE
SALE THE STATE OF NEW MEXICO COUNTY OF SANDOVAL THIRTEENTH JUDICIAL DISTRICT WELLS FARGO BANK, NA, Plaintiff, vs. No. D-1329-CV-2014-00517 MARCUS S. EPPERSON, IF LIVING; IF DECEASED, THE UNKNOWN HEIRS OF MARCUS S. EPPERSON, DECEASED, ABC CORPORATIONS I-X, XYZ PARTNERSHIPS I-X, JOHN DOES I-X AND JANE DOES I-X, THE UNKNOWN HEIRS AND DEVICES OF ANY OF THE ABOVE, IF DECEASED; OCCUPANTS OF THE PROPERTY, Defendants. PLEASE TAKE NOTICE that the above-entitled Court, having appointed me or my designee as Special Master in this matter with the power to sell, has ordered me to sell the real property (the "Property") situated in Bernalillo County, New Mexico, commonly known as 11001 Morris Court NE, Albuquerque, NM 87112, and more particularly described as follows: LOT NUMBERED TWENTY-SEVEN (27) IN BLOCK NUMBERED SIXTY-SIX (66) OF THE PLAT OF BLOCKS 66 AND 67 OF DALE J. BELLAMAH'S PRINCESS JEANNE PARK AN ADDITION TO THE CITY OF ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT OF SAID ADDITION, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON MAY 1, 1958, IN PLAT BOOK C3, FOLIO 147. The sale is to begin at 10:15 AM on September 27, 2016 on the front steps of the Second Judicial District Courthouse, City of Albuquerque, County of Bernalillo, State of New Mexico, at which time I will sell to the highest and best bidder for cash in lawful currency of the United States of America, the Property to pay expenses of sale, and to satisfy the Judgment granted MTGLQ INVESTORS, LP, was awarded a Judgment on June 20, 2016, in the total amount of \$107,844.71, with interest at the rate of 6.5000% per annum from December 31, 2015 through the date of the sale. Said interest is in the amount of \$5,206.55. NOTICE IS FURTHER GIV-

Judgment on April 8, 2016, in the total amount of \$214,064.27, with interest at the rate of 15.000% per annum from October 30, 2015 through the date of the sale. Said interest is in the amount of \$7,389.62. NOTICE IS FURTHER GIVEN that the real property and improvements concerned with herein will be sold subject to any and all patent reservations, easements, all recorded and unrecorded liens not foreclosed herein, and all recorded and unrecorded special assessments and taxes that may be due. BANK OF AMERICA, N.A., its attorneys, and the undersigned Special Master, disclaim all responsibility for, and the purchaser at the sale takes the property "as is," in its present condition, subject to the valuation of the property by the County Assessor as real or personal property, affixture of any mobile or manufactured home to the land, deactivation of title to a mobile or manufactured home on the property, if any, environmental contamination on the property, if any, and zoning violations concerning the property, if any. NOTICE IS FURTHER GIVEN that the purchaser at such sale shall take title to the above described real property subject to a one (1) month right of redemption. PROSPECTIVE PURCHASERS AT SALE ARE ADVISED TO MAKE THEIR OWN EXAMINATION OF THE TITLE AND THE CONDITION OF THE PROPERTY AND TO CONSULT THEIR OWN ATTORNEY BEFORE BIDDING. By: Robert A. Doyle, Special Master c/o Legal Process Network P.O. Box 51526 Albuquerque, NM 87181 505-417-4113 1 NM-15-660103-JUD IDSPub #0113273 8/18/2016 8/25/2016 9/1/2016 9/8/2016
Journal: August 18, 25, September 1, 8, 2016

NOTICE OF FORECLOSURE
SALE THE STATE OF NEW MEXICO COUNTY OF BERNALILLO SECOND JUDICIAL DISTRICT MTGLQ INVESTORS, LP, Plaintiff, vs. No. D-202-CV-2015-05335 ERIC GAUNA, HUSBAND AND WIFE; VENIT GAUNA; AND JOHN DOE GAUNA; OCCUPANTS OF THE PROPERTY, Defendants. PLEASE TAKE NOTICE that the above-entitled Court, having appointed me or my designee as Special Master in this matter with the power to sell, has ordered me to sell the real property (the "Property") situated in Bernalillo County, New Mexico, commonly known as 11001 Morris Court NE, Albuquerque, NM 87112, and more particularly described as follows: LOT NUMBERED TWENTY-SEVEN (27) IN BLOCK NUMBERED SIXTY-SIX (66) OF THE PLAT OF BLOCKS 66 AND 67 OF DALE J. BELLAMAH'S PRINCESS JEANNE PARK AN ADDITION TO THE CITY OF ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT OF SAID ADDITION, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON MAY 1, 1958, IN PLAT BOOK C3, FOLIO 147. The sale is to begin at 10:15 AM on September 27, 2016 on the front steps of the Second Judicial District Courthouse, City of Albuquerque, County of Bernalillo, State of New Mexico, at which time I will sell to the highest and best bidder for cash in lawful currency of the United States of America, the Property to pay expenses of sale, and to satisfy the Judgment granted MTGLQ INVESTORS, LP, was awarded a Judgment on June 20, 2016, in the total amount of \$107,844.71, with interest at the rate of 6.5000% per annum from December 31, 2015 through the date of the sale. Said interest is in the amount of \$5,206.55. NOTICE IS FURTHER GIV-

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