

NOTICE OF PROPOSED RULEMAKING

Public Notice: The New Mexico State Personnel Board will hold a public hearing on Friday, October 13, 2023, at 9:00 a.m. The meeting will be held in person in the Willie Ortiz Auditorium, 2600 Cerrillos Road, Santa Fe, NM 87505. The meeting will additionally be broadcast live via Zoom, log-in details for the Zoom meeting will be available on the State Personnel Office website, www.spo.state.nm.us beginning Tuesday, October 10, 2023.

Purpose of Rule Hearing: The purpose of the public hearing is to receive public input on the proposed repeal and replacement of 1.7.8 NMAC – Drug and Alcohol Abuse.

Statutory Authority: Personnel Act, Sections 10-9-10 and 10-9-12 NMSA 1978.

Purpose of Amendment: The purpose of these changes is to clarify the circumstances under which state agencies may test employees for drug and alcohol use, and take related adverse employment action based on provisions of the recently enacted Lynn and Erin Compassionate Use Act, Section 26-2B-9 NMSA 1978 and the Cannabis Regulation Act, Section 26-2C-34 NMSA 1978.

Summary of Proposed Changes to 1.7.8 NMAC Drug and Alcohol Abuse: Because of the state-required formatting changes (1.24.11.9 NMAC), this rule will be repealed and replaced. The only sections being substantively amended are: *Section 1.7.8.7*, editing definitions for clarity and defining key terms such as “cannabis,” “federally funded agency,” and “marijuana metabolites”; *Section 1.7.8.8*, citing the federal regulations governing testing of transportation industry employees; *Section 1.7.8.10*, describing agency policy requirements and clarifying the role of the agency Substance Abuse Coordinator; *Section 1.7.8.11*, clarifying the circumstances under which state agencies are authorized to test employees and applicants for drug and alcohol use; *Section 1.7.8.12*, describing the methods and requirements for the collection of specimens for drug and alcohol testing; *Section 1.7.8.13*, listing drug cutoff concentrations for urine and oral fluid drug tests; *Section 1.7.8.16*, describing the medical review process for positive drug and alcohol test results; *Section 1.7.8.19*, describing the rehabilitation process and possible sanctions for employees or applicants testing positive for drug or alcohol use.

How to Comment on the Proposed Rules: Public comment addressing the proposed rule changes can be made in person using the Public Comment sign-in sheet, by mail to Denise Forlizzi, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico 87505 or by emailing your comment to DeniseM.Forlizzi@spo.nm.gov by 5:00 p.m. Thursday, October 12, 2023. Email comments must include the subject line, “Rule Changes to 1.7.8 NMAC”, the commenter’s name and contact information.

Copies of Proposed Rules: Copies of the proposed rules are available for download on the State Personnel Office’s website at www.spo.state.nm.us . A copy of the proposed rules may also be requested by contacting Denise Forlizzi by phone at (505) 365-3691 or by email DeniseM.Forlizzi@spo.nm.gov .

Special Needs: Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Denise Forlizzi at (505) 365-3691 as soon as possible to allow adequate time to provide the requested accommodations.