



NEW MEXICO ADMINISTRATIVE HEARINGS OFFICE

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March 24, 2022

Secretary Stephanie Schardin Clarke
New Mexico Taxation and Revenue Department
VIA EMAIL ONLY: policy.office@state.nm.us

Dear Secretary Schardin Clarke,

The Administrative Hearings Office (AHO) writes this comment in full support of the Taxation and Revenue Department (Tax & Rev.) proposal to repeal certain relevant rules (listed in more detail below) regarding the conduct of Tax Administration Act hearings, Motor Vehicle Code hearings, and Implied Consent Act hearings. AHO has no comment and takes no position on Tax & Rev.'s rulemaking activity regarding electronic filing.

As you know, AHO became independent from Tax & Rev. in 2016 and was given the authority by the Legislature under NMSA 1978, Section 7-1B-5 (A) (2015) to promulgate hearing rules governing the hearings conducted by AHO. Consistent with that authority, AHO has adopted Rule 22.600.1 NMAC (general administrative hearing rules and procedures), Rule 22.600.2 NMAC (code of conduct for administrative hearings), Rule 22.600.3 NMAC (hearing rules under the Tax Administration Act), Rule 22.600.6 NMAC (Implied Consent Act license revocation hearings), and Rule 22.600.9 NMAC (Parental Responsibility Act hearings).

The adoption of these AHO rules make Tax & Rev. Rules 3.1.8.8 through 16 NMAC, Rules 18.19.4.32 through 42 NMAC, and Rules 18.19.9.8 through 19 NMAC, inoperative for AHO-conducted hearings, unnecessary, and potentially confusing to hearing participants and the legal community. AHO had seen hearing participants cite these inoperative rules both to AHO and to reviewing courts on appeal, leading to potential conflicts in regulations, legal analysis, and general confusion on the record. Repealing these rules eliminates any confusion for hearing participants and reviewing courts about which rules apply to AHO hearings. Thus, we fully support your proposed repeal of the rules identified in this paragraph and we thank you for taking this step.

Please don't hesitate to contact me with any questions or concerns.

Sincerely,

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