**CONCISE EXPLANATORY STATEMENT FOR NMAC 1.8.1**

(NMSA 1978, § 14-4-5.5 & 1.24.25.14.F NMAC)

**Reasons for not accepting substantive arguments made through written pre-filed public comment**

Submitted to New Mexico State Records Center and Archives: December 5, 2019

**Section 1.8.1.1 through 1.8.1.7**

No comments were received.

**Section 1.8.1.8**

1.8.1.8(D) & (J): Mr. Kenneth Resnick argued that the Director’s authority to “enter into contracts on behalf of the commission” and “prepare annual budgets and appropriation requests for commission approval” should be clarified so that the Director may only “enter into contracts on behalf of the Commission to those that fall within the scope of the budget or appropriation that the Commission has already expressly approved.” Mr. Resnick also argued that the Director’s authority to enter into contracts in extraordinary matters should be limited so that such contracts may not exceed a given amount.

Rationale: This comment is declined for several reasons. First, the proposal arguably conflicts with the Legislature’s statutory grant of authority to the Executive Director and, therefore, exceeds the Commission’s rulemaking power. Second, and practically, requiring the Director to seek approval from the Commission for every contract arguably falling outside the scope of a previously-approved budget or appropriation would increase the Commission’s administrative burden. It also does not effectively check the Director’s authority, as there would still be arguments over whether a given contract falls within or outside the scope of a previously-approved budget. The Director always remains accountable to the Commission, which has the authority to remove the Director from office.[[1]](#footnote-1)

**Section 1.8.1.9 through 1.8.1.14**

No comments were received.

1. *See* NMSA 1978, § 10-16G-6(A) (2019). [↑](#footnote-ref-1)