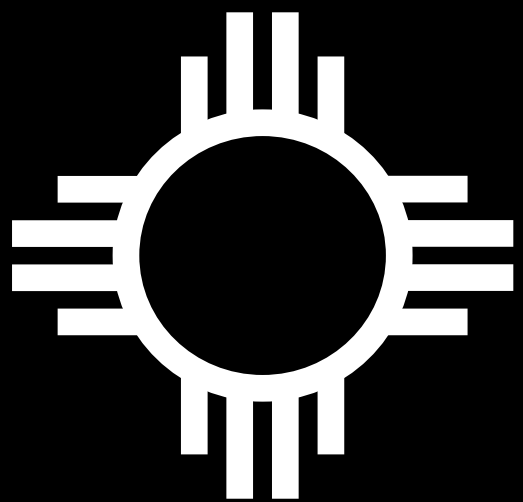


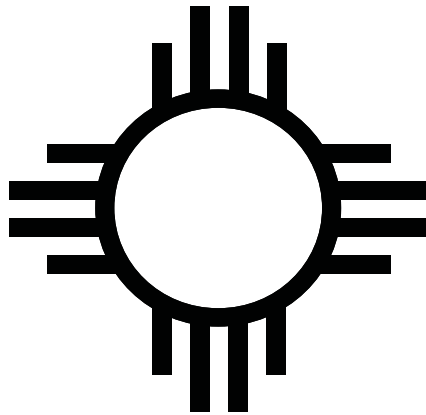
**NEW
MEXICO
REGISTER**



Volume XXIII
Issue Number 7
April 16, 2012

New Mexico Register

Volume XXIII, Issue Number 7
April 16, 2012



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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Administrative Law Division
Santa Fe, New Mexico
2012

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New Mexico Register

Volume XXIII, Number 7

April 16, 2012

Table of Contents

Notices of Rulemaking and Proposed Rules

| | |
|---|-----|
| Economic Development Department | |
| Notice of Proposed Rulemaking | 275 |
| Human Services Department | |
| Medical Assistance Division | |
| Notice of Public Hearing | 275 |
| Medical Board | |
| Notice of Regular Board Meeting and Public Rule Hearing | 275 |
| Optometry, Board of | |
| Legal Notice; Public Rule Hearing and Regular Board Meeting | 275 |
| Public Regulation Commission | |
| Notice of Proposed Rulemaking (Case No. 11-00385-UT) | 276 |
| Notice of Proposed Rulemaking (Case No. 12-00029-UT) | 278 |

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. “No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register.” Section 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

| | | | |
|--|---|--|-----|
| Animal Sheltering Board | | | |
| 16.24.1 NMAC | A | Animal Sheltering Providers: General Provisions | 281 |
| 16.24.2 NMAC | A | Licensure and Certification. | 281 |
| 16.24.3 NMAC | A | Duties of Licensees and Certificate Holders | 282 |
| Energy, Minerals and Natural Resources Department | | | |
| Oil Conservation Division | | | |
| 19.15.14 NMAC | A | Drilling Permits | 285 |
| Public Records, Commission of | | | |
| 1.18.670 NMAC | R | ERRDS, Veterans’ Service Commission | 286 |
| <i>Letter</i> | | <i>Synopsis Approval Letter</i> | 286 |
| 1.18.379 NMAC | N | ERRDS, Public Employee Labor Relations Board (<i>synopsis</i>) | 286 |
| 1.18.670 NMAC | N | ERRDS, Veterans’ Services Department (<i>synopsis</i>) | 286 |
| 1.15.8 NMAC | A | GRRDS, General Medical Records | 287 |
| 1.17.230 NMAC | A | JRRDS, New Mexico District Courts. | 289 |
| 1.18.308 NMAC | A | ERRDS, Office of the State Auditor (<i>synopsis</i>) | 292 |
| 1.18.333 NMAC | A | ERRDS, Taxation and Revenue Department (<i>synopsis</i>) | 292 |
| 1.18.430 NMAC | A | ERRDS, Public Regulation Commission (<i>synopsis</i>) | 293 |
| 1.19.4 NMAC | A | LGRRDS, Board of County Commissioners, County Managers | 293 |
| Workers’ Compensation Administration | | | |
| 11.4.2 NMAC | A | Data Reporting and Safety Requirements | 295 |

Other Material Related to Administrative Law

| | |
|--|-----|
| Architects, Board of Examiners for | |
| Notice of Regular Meeting | 299 |
| Workers’ Compensation Administration | |
| Director’s Second Response to Public Comment | 299 |

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Notices of Rulemaking and Proposed Rules

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

Notice of Proposed Rulemaking

The Economic Development Department (“EDD or Department”) hereby gives notice that the Department will conduct a public hearing as indicated to obtain input on amending the following rule:

5.5.50 NMAC (Industrial Development Training Program).

The proposed rulemaking actions specific to the Job Training Incentive Program may be accessed on April 16, 2012 on the Department’s website (www.gonm.biz) or obtained from Therese Varela at the contact below.

A public hearing regarding the rules will be held on Thursday, May 17, 2012 at the Joseph Montoya Building Bid Room, 1100 St. Francis Drive, Santa Fe, NM. The time for the hearing on the proposed rules is 9:00 AM MDT.

Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to the Job Training Incentive Program to Therese R. Varela, JTIP Program Manager, New Mexico Economic Development Department, Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico 87504, or therese.varela@state.nm.us (505) 827-0323, fax (505) 827-0407. Written comments must be received no later than 5:00 pm on May 10, 2012.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Therese Varela as soon as possible. The Department requests at least ten days advanced notice to provide requested special accommodations.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) is scheduling a public hearing on Friday, May 18, 2012, at 9:00 a.m. in the South Park Conference Room, Ste. 500-590 , 2055 S. Pacheco, Santa Fe, NM.

The subject of the hearing is Pregnant Women Who Meet AFDC Category 030. The Human Services Department, Medical Assistance Division, is proposing amendments to Pregnant Women Who Meet AFDC Category 030, to reflect revised language and ensure accuracy with existing rules.

The proposed changes will renumber, reformat and amend 8.230.600 NMAC to conform with NMAC requirements, eliminate “Ongoing Benefits” as periodic reviews do not need to be conducted for pregnant women, update “Changes in Eligibility” to reflect that Family Planning services are for 12 months instead of 24 months after the post partum period, and will simplify language regarding how to request retroactive Medicaid on the application.

Interested persons may submit written comments no later than 5:00 p.m., May 18, 2012, to Sidonie Squier, Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

Copies of the Human Services Register and their proposed rules are available for review on our Website at www.hsd.state.nm.us/mad/registers/2012 or by sending a self-addressed stamped envelope to Medical Assistance Division, Benefits Services Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

NEW MEXICO MEDICAL BOARD

NEW MEXICO MEDICAL BOARD

Notice

The New Mexico Medical Board will convene a regular Board Meeting on Thursday, May 17, 2012 at 8:30 a.m. and Friday, May 18, 2012 at 9:00 a.m. in the Conference Room, 2055 S. Pacheco, Building 400, Santa Fe, New Mexico. A Public Rule Hearing will be held on Friday, May 18, 2012 at 9:00 a.m. The Board will reconvene after the Hearing to take action on the proposed rule. The Board may enter into Executive Session during the meeting to discuss licensing or limited personnel issues.

The purpose of the Rule Hearing is to consider amending 16.10.10 NMAC (Report of Settlements, Judgments, Adverse Actions and Credentialing Discrepancies).

Copies of the proposed rule will be available no later than May 11, 2012 on request from the Board office at the address listed above, by phone (505) 476-7220, or on the Internet at www.nmmb@state.nm.us.

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m., May 11, 2012, to the board office, 2055 S. Pacheco, Building 400, Santa Fe, NM, 87505.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service in order to attend or participate in the hearing, please contact Lynnelle Tipton, Administrative Assistant at 2055 S. Pacheco, Building 400, Santa Fe, NM at least one week prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats.

NEW MEXICO BOARD OF OPTOMETRY

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Optometry will hold a Rule Hearing on Friday, May 18, 2012. Following the Rule Hearing the New Mexico Board of Optometry will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Optometry Rule Hearing will begin at 11:00 a.m. and the Regular Meeting will

convene following the rule hearing. The meetings will be held in the Hearing Room 1 at the Regulation and Licensing Department, Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.16.1 NMAC: General Provisions; 16.16.2 NMAC: Fees; 16.16.3 NMAC: Requirements for Licensure by Examination; 16.16.4 NMAC: Requirements for Licensure by Endorsement; 16.16.5 NMAC: Examination for Optometric Licensure; 16.16.16.6 NMAC: License Issuance to Practice Optometry; 16.16.7 NMAC: Pharmaceutical Certification; 16.16.8 NMAC: DEA Registration Requirements; 16.16.9 NMAC: Inactive Status; 16.16.10 NMAC: Renewal of New Mexico Optometry Licenses; 16.16.11 NMAC: License Expiration Due to Non-Renewal; Reactivation; 16.16.12 NMAC: Retirement and Reinstatement of Optometry License; 16.16.13 NMAC: Continuing Education; 16.16.14 NMAC: Duplicate and Replacement Licenses; 16.16.16 NMAC: Practice Location; Ownership; 16.16.17 NMAC: Advertising; 16.16.18 NMAC: In-Office Minor Surgical Procedures; 16.16.19 NMAC: Contact Lenses; 16.16.20 NMAC: Ophthalmic Lenses; 16.16.21 Unprofessional Conduct; 16.16.22 NMAC: Disciplinary Proceedings; 16.16.23 NMAC: Parental Responsibility Act Compliance; and 16.16.24 Disciplinary Guidelines for Impaired Practitioner.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4622 after April 18, 2012 or from the Board's website. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing no later than May 3, 2012. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4622 at least two weeks prior to the meeting or as soon as

possible.

Martha L. Gallegos, Administrator
2550 Cerrillos Road, Santa Fe, NM 87505

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

Case No. 11-00385-UT

IN THE MATTER OF THE ADOPTION OF AMENDMENTS TO SECTION 12 OF RULE 17.9.560 NMAC, SERVICE STANDARDS FOR ELECTRIC UTILITIES

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Public Regulation Commission (NMPRC or Commission) proposes to amend Rule 17.9.560.12 NMAC (Rule 560) to improve the framework for the back-billing of undercharges, refunding of overcharges, and deposits of electric utility customers. This matter comes before the Commission following the issuance of a Declaratory Order addressing these topics in Case No. 09-00165-UT. The Commission also proposes to amend Rule 17.10.650.11 NMAC (Rule 650), which addresses deposits charged to non-residential gas customers and Rule 17.5.410 NMAC (Rule 410), which addresses deposits charged to residential customers of gas, electric, and rural electric cooperative utilities.

THE COMMISSION FINDS AND CONCLUDES:

1. The Commission has the authority to promulgate the proposed rule amendments under the N.M. Const. art. XI, Section 2, and under NMSA 1978, Sections 8-8-4, 8-8-15, 62-6-4, 62-6-19 to -22, 62-8-5, and 62-8-6.

2. On September 28, 2011, the Commission filed a Declaratory Order in Case No. 09-00165-UT that concluded that it should issue a Notice of Proposed Rulemaking (NOPR) that would address back-billing and codify the other matters discussed in the Declaratory Order.

3. Many utility customers, both residential and non-residential, have complained to the Commission about being back-billed for thousands of dollars of undercharges based on errors made by utilities, particularly when utilities used an incorrect multiplier and did not discover the error for months or years.

4. Utility customers have also complained about the large deposits required by utilities.

5. In Case No. 09-00165-UT, the Commission issued an order that required Public Service Company of New Mexico (PNM), Southwest Public Service Company (SPS), El Paso Electric Company (EPE), and New Mexico-American Water Company (NMAW) to file briefs, which they did, and permitted other interested parties to also file briefs. Staff, DCP Midstream, LP, New Mexico Gas Company, the New Mexico Rural Electric Cooperative Association, Inc., and Farmers' Electric Cooperative, Inc. (FEC) of New Mexico also filed briefs.

6. The Commission concluded that the list of reasons for adjusting bills in Rule 17.9.560.12(E)(1) was non-exclusive and that back-billing because of an incorrect multiplier or because no bill was ever issued was appropriate.

7. The Commission declared that all customers that had been overcharged for up to three years were entitled to refunds, while utilities could back-bill undercharged residential customers for up to six months and non-residential customers for up to three years. However, the Commission ordered that it could impose other time limits and apply equitable principles to achieve a reasonable, fair, and just result.

8. Rule 560 should be amended to establish standards for back-billing, refunding, and deposits consistent with Commission Rules and the Public Utility Act, NMSA 1978, Chapter 62, Articles 1 through 6 and 8 through 13. Likewise, Rule 410 and Rule 650 should be amended as to deposits made by gas utility customers and by residential customers of gas, electric, and rural electric cooperative utilities. Definitions, as needed, should be added to Rule 560 and Rule 650.

9. Because this rulemaking will amend Rules 410 and 650 as well as Rule 560, the caption of this case should be changed.

10. This NOPR should constitute due and lawful notice to all potentially interested persons.

11. Commission Rule 1.2.3.7(B) NMAC (Ex Parte Communications) draws a distinction applicable to rulemaking proceedings between communications occurring before the record has been closed and communications occurring after the record has been closed. It defines only the latter as “ex parte communications.” In order to ensure compliance with Rule 1.2.3.7(B) NMAC, the Commission should set a date on which it will consider the record to be closed. The Commission finds that date shall be the earlier of thirty-three (33) days following the **June 6, 2012, Public Hearing**, that is, **July 9, 2012**, or the date a Final Order is issued in this case. The setting of that record closure date will permit Commissioners and Commission Counsel to conduct follow-up discussions with parties who have submitted initial or response comments to the Commission’s proposed rule amendments or responses to any bench requests. However, this action should not be interpreted as extending the time during which parties may file comments or response comments, or as allowing the filing of other types of documents in this case.

12. The proposed rule amendments to be considered for promulgation are attached hereto as Rule 410, Rule 560, and Rule 650. Proposed deletions are struck through; proposed additions are underlined, with two exceptions: Rule 17.9.560.12 (B) and Rule 17.10.650.11 (B), both titled “Customer Deposits” have been changed so substantially that underlining and striking through would be confusing. Additional copies of the proposed rule amendments can be obtained from:

Mr. Nick Guillen
NMPRC Records Management Bureau
1120 Paseo de Peralta
Santa Fe, New Mexico 87501

or

Mr. Nick Guillen
NMPRC Records Management Bureau
P.O. Box 1269
Santa Fe, New Mexico 87504-1269

or by calling 505-827-4366.

IT IS THEREFORE ORDERED:

A. The rulemaking proceeding shall be, and hereby is, instituted in this Docket and shall concern whether and how this Commission’s Rules 17.5.410, 17.9.560, and 17.10.650 NMAC should be amended.

B. This *Notice of Proposed Rulemaking* constitutes due and lawful notice to all potentially interested persons.

C. Any person wishing to comment on the proposed amendments to Rules 17.5.410, 17.9.560, and 17.10.650 NMAC may do so by submitting written comments no later than **April 23, 2012**. Any person wishing to respond to comments may do so by submitting written response comments no later than **May 21, 2012**. Comments suggesting changes to the rule amendments as proposed shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the proposed rule amendments shall be provided in a form consistent with that of the existing rule.

D. The caption of this case shall be changed to read: “In the matter of the adoption of amendments to Rules 17.5.410, 17.9.560, and 17.10.650 NMAC, regarding customer deposits and bill adjustments.” All pleadings, including comments, shall bear this caption and case number 11-00385-UT and shall be filed with the Commission’s Records Division, at either of the addresses set out in paragraph 12 above.

E. A public hearing on the proposed rule amendments, to be presided over by the Commission or its designee, shall be held beginning at **8:30 a.m. on June 6, 2012**, at the offices of the Commission, at the following location:

PERA Building
4th Floor Hearing Room
1120 Paseo de Peralta
Santa Fe, New Mexico 87501
Tel. 505-827-4366

The hearing will be held in order to receive oral comments and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding.

F. All persons providing public comment and/or participating in the public hearing are encouraged to provide specific comments on the proposed rule amendments. Commenters are also encouraged to address any other topic that may be relevant to this

rulemaking.

G. Interested persons should contact the Commission to confirm the date, time, and place of any public hearing, because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

H. Pursuant to NMSA 1978, Section 8-8-15(B) (amended 2001), at least thirty days prior to the hearing date, this *Notice of Proposed Rulemaking*, including the attachments labeled Rule 410, Rule 560, and Rule 650, shall be mailed to all persons who have made a written request for advance notice and shall be published without Rule 410, Rule 560, and Rule 650 in at least two newspapers of general circulation in New Mexico and in the NEW MEXICO REGISTER. Affidavits attesting to the publication of this *Notice of Proposed Rulemaking* as described above shall be filed in this Docket.

I. Copies of this *Notice of Proposed Rulemaking*, including Rule 410, Rule 560, and Rule 650, shall be e-mailed to all persons listed on the attached Certificate of Service if their email addresses are known, and if not known, mailed to such persons via regular mail.

J. This *Notice of Proposed Rulemaking* shall be posted on the Commission’s official Website.

K. Copies of any forthcoming final order adopting rule amendments shall be mailed, along with copies of the amended rule, to all persons and entities appearing on the Certificate of Service as it exists at the time of issuance of the final order in this Docket, to all commenters in this case, and to all individuals requesting such copies.

L. This *Notice of Proposed Rulemaking* is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico this 22nd day of March, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION

PATRICK H. LYONS, CHAIRMAN
THERESA BECENTI-AGUILAR, VICE CHAIR

JASON A. MARKS, COMMISSIONER
DOUGLAS J. HOWE, COMMISSIONER
BEN L. HALL, COMMISSIONER

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

Case No. 12-00029-UT

IN THE MATTER OF THE ADOPTION OF A PROPOSED RULE GOVERNING PUBLIC UTILITY RATE APPLICATIONS BASED ON A FUTURE TEST PERIOD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Public Regulation Commission (NMPRC or the Commission) is commencing a rulemaking proceeding for the purpose of promulgating a new rule that would govern all public utility rate applications based on a future test year period that is not the twelve (12) consecutive months following the last day of the base period, thus implementing 2009 amendments to the Public Utility Act (PUA) at NMSA 1978, Sections 62-3-3(P) and 62-6-14(D) (2009). This matter comes before the Commission upon the filing of a "Joint Petition to Initiate Rulemaking" (Petition) on February 8, 2012, by the Commission's Utility Division Staff, Public Service Company of New Mexico, and Southwestern Public Service Company (collectively Petitioners). A copy of the Proposed Rule, Rule 17.1.3 NMAC is attached hereto as Attachment A.

THE COMMISSION FINDS AND CONCLUDES:

1. The Commission has the authority to promulgate the proposed rule amendments under the N.M. Const. art. XI, Section 2, and under NMSA 1978, Sections 8-8-4 (1998) and 8-8-15 (amended 2001).

2. In addition to the Petition, the Petitioners filed a proposed Notice of Proposed Rulemaking (NOPR).

3. The Proposed Rule defines and specifies the different or additional minimum data that is required to be filed in support of tendered rate schedules based on a future test year period that is not provided for in Rules 17.9.530, 17.10.630, 17.12.730 and 17.13.930 NMAC (Data Rules).

4. The Proposed Rule incorporates the minimum data standard requirements that are contained in the Data Rules, except where specified, and the Proposed Rule states that it shall be applied if there is a conflict between the Proposed Rule and the applicable Data Rules.

5. Interested persons may comment on any portion of the Proposed Rule, but the Commission would especially like to receive comments on the following provisions:

- Proposed Rule 17.1.3.7(B) NMAC, regarding the definition of "base period;"

- Proposed Rule 17.1.3.7(I)(2)-(5) NMAC, regarding the definition of "material change" or "material variance" for investor-owned utilities other than electric utilities;

- Proposed Rule 17.1.3.8 NMAC, regarding the specific exceptions to incorporation of Data Rules provisions into the Proposed Rule for investor-owned utilities other than electric utilities; and

- Proposed Rule 17.1.3.19 NMAC, regarding the required notice of changes to initial rate applications.

6. The Commission also seeks comments as to whether the Discounted Cash Flow (DCF) method for calculating the cost of capital should be utilized for rate applications that employ a future test year period, and if so, how the DCF method might be modified for such applications.

7. Additionally, the Commission would like to receive comments as to whether the periods for evaluating rate applications found in NMSA 1978, Section 62-8-7 (C) (amended 1998) should be expanded by the Legislature because such applications may now be based on future test year periods.

8. The Proposed Rule should be promulgated to establish detailed, standard data requirements that are consistent with the PUA and Commission rules and that inform

public utilities and others as to precisely what is necessary for a rate application that utilizes a future test year.

9. This NOPR should constitute due and lawful notice to all potentially interested persons.

10. Commission Rule 1.2.3.7(B) NMAC (Ex Parte Communications) draws a distinction applicable to rulemaking proceedings between communications occurring before the record has been closed and communications occurring after the record has been closed. It defines only the latter as "ex parte communications." In order to ensure compliance with Rule 1.2.3.7(B) NMAC, the Commission should set a date on which it will consider the record to be closed. The Commission finds that date shall be the earlier of thirty (30) days following the **June 13, 2012, Public Hearing**, that is, **July 13, 2012**, or the date a Final Order is issued in this case. The setting of that record closure date will permit Commissioners and Commission Counsel to conduct follow-up discussions with parties who have submitted initial or response comments to the Commission's Proposed Rule or responses to any bench requests. However, this action should not be interpreted as extending the time during which parties may file comments or response comments, or as allowing the filing of other types of documents in this case.

11. Additional copies of the Proposed Rule can be obtained from:

Mr. Nick Guillen
NMPRC Records Management
Bureau
PERA Building
1120 Paseo de Peralta
Santa Fe, New Mexico 87501

or

Mr. Nick Guillen
NMPRC Records Management
Bureau
P.O. Box 1269
Santa Fe, New Mexico 87504-1269

or by calling 505-827-4366

IT IS THEREFORE ORDERED:

A. The Petitioners' Petition for a rulemaking to promulgate a new rule, Rule 17.1.3 NMAC, is **GRANTED**.

B. The rulemaking proceeding shall be, and hereby is, instituted in this Docket and shall concern the promulgation of a rule pertaining to the filing requirements in public utilities' rate applications that are based on a future test

period, Rule 17.1.3 NMAC.

C. This *Notice of Proposed Rulemaking* constitutes due and lawful notice to all potentially interested persons.

D. Any person wishing to comment on the Proposed Rule, Rule 17.1.3 NMAC, may do so by submitting written comments no later than **April 30, 2012**. Any person wishing to respond to comments may do so by submitting written response comments no later than **May 25, 2012**. Comments suggesting changes to the Proposed Rule shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the Proposed Rule shall be provided in a form consistent with that of the Proposed Rule. Commenters' deletions shall be indicated by striking through the language to be deleted, and commenters' additions shall be underlined.

E. All pleadings, including comments, shall bear the above caption and case number 11-00385-UT and shall be filed with the Commission's Records Division, at either of the addresses set out in paragraph 11 above.

F. A public hearing on the Proposed Rule, to be presided over by the Commission or its designee, shall be held beginning at **8:30 a.m. on June 13, 2012**, at the offices of the Commission, at the following location:

**PERA Building
4th Floor Hearing Room
1120 Paseo de Peralta
Santa Fe, New Mexico 87501
Tel. 505-827-4366**

The hearing will be held in order to receive oral comments and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding.

G. All persons providing public comment and/or participating in the public hearing are encouraged to provide specific comments on the Proposed Rule. Commenters are also encouraged to address any other topic that may be relevant to this rulemaking.

H. Interested persons should contact the Commission to confirm the date, time, and place of any public hearing, because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

I. Pursuant to NMSA 1978, Section 8-8-15(B) (amended 2001), at

least thirty days prior to the hearing date, this *Notice of Proposed Rulemaking*, including Attachment A, shall be mailed to all persons who have made a written request for advance notice and shall be published without Attachment A in at least two newspapers of general circulation in New Mexico and in the NEW MEXICO REGISTER. Affidavits attesting to the publication of this *Notice of Proposed Rulemaking* as described above shall be filed in this Docket.

J. Copies of this *Notice of Proposed Rulemaking*, including Attachment A, shall be e-mailed to all persons listed on the attached Certificate of Service if their e-mail addresses are known, and if not known, mailed to such persons via regular mail.

K. This *Notice of Proposed Rulemaking* shall be posted on the Commission's official Website.

L. Copies of any forthcoming final order adopting a new rule shall be mailed, along with copies of the new rule, to all persons and entities appearing on the Certificate of Service as it exists at the time of issuance of the final order in this Docket, to all commenters in this case, and to all individuals requesting such copies.

M. This *Notice of Proposed Rulemaking* is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico this 29th day of March, 2012.

**NEW MEXICO PUBLIC REGULATION
COMMISSION
PATRICK H. LYONS, CHAIRMAN
THERESA BECENTI-AGUILAR, VICE
CHAIR
JASON A. MARKS, COMMISSIONER
DOUGLAS J. HOWE, COMMISSIONER
BEN L. HALL, COMMISSIONER**

**End of Notices and Proposed
Rules Section**

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Adopted Rules

NEW MEXICO ANIMAL SHELTERING BOARD

This is an amendment to 16.24.1 NMAC, Section 7, effective 4/28/12.

16.24.1.7 DEFINITIONS:

A. "Act" means the Animal Sheltering Act, Sections 77-1B-1 through 77-1B-12 NMSA 1978.

B. "Animal" means any animal, except humans, not defined as "livestock" in Subsection T of this section.

C. "Animal shelter" means:

(1) a county or municipal facility that provides shelter to animals on a regular basis, including a dog pound; and

(2) a private humane society or a private animal shelter that temporarily houses stray, unwanted or injured animals through administrative or contractual arrangements with a local government agency; and

(3) does not include a municipal zoological park.

D. "Board" means the animal sheltering board.

E. "Companion animal" means any vertebrate commonly kept as domestic pets, excluding man, and those under the jurisdiction of the New Mexico department of game and fish and those under the jurisdiction of the New Mexico livestock board.

F. "Consulting pharmacist" means a pharmacist whose services are engaged on a routine basis by a euthanasia agency and who is responsible for the distribution, receipt and storage of drugs according to the state and federal regulations.

G. "Dangerous drug" means a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe, except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. 'Adequate directions for use' means directions under which the layperson can use a drug or device safely and for the purposes for which it is intended.

H. "DEA" means United States drug enforcement administration.

I. "Department" means the regulation and licensing department.

J. "Disposition" means the adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator

licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal.

K. "Emergency field euthanasia" means the process defined by rule of the board to cause the death of an animal in an emergency situation when the safe and humane transport of the animal is not possible.

L. "Euthanasia" means to produce the humane death of an animal by standards deemed acceptable to the board as set forth in its rules.

M. "Euthanasia agency" means a facility licensed by the board that provides shelter to animals on a regular basis, including a dog pound, a humane society or a public or private shelter facility that temporarily houses stray, unwanted or injured animals, and that performs euthanasia.

N. "Euthanasia drugs" means non-narcotic schedule II or schedule III substances and chemicals as set forth in the Controlled Substances Act, Section 30-31-1 et. seq. NMSA 1978, that are used for the purposes of euthanasia and pre-euthanasia of animals.

O. "Euthanasia instructor" means a euthanasia technician or a veterinarian certified by the board to instruct other individuals in euthanasia techniques.

P. "Euthanasia technician" means a person licensed by the board to euthanize animals for a euthanasia agency.

Q. "Exotic" means any vertebrate animal, excluding man, wild animals, livestock and companion animals.

R. "FDA" means United States food and drug administration.

S. "Humanely" means actions marked by compassion, sympathy or consideration, especially for the prevention of the suffering of the animal.

T. "Livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

U. "Non-livestock" means any animal not covered under the definition of livestock in Subsection L of Section 77-1B-2 NMSA 1978.

V. "Rescue organization" means an organization that rescues animals and is not involved in the breeding of animals.

W. "Sharps" means any discarded article that may cause punctures

or cuts. Such wastes may include, but are not limited to needles, scalpel blades, glass slides, glassware, suture needles and trocars.

X. "Supervising veterinarian" means a person who is a veterinarian, who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals at a euthanasia agency.

Y. "Veterinarian" means a person who is licensed as a doctor of veterinary medicine by the board of veterinary medicine pursuant to the Veterinary Practice Act, Section 61-14-1 et. seq. NMSA 1978.

Z. "Veterinary[facility] clinic" means [~~any building, mobile unit, vehicle or other location where services included within the practice of veterinary medicine are provided~~] a for profit business that provides diagnostic, preventative and other veterinary services to the public and does not temporarily house stray, unwanted or injured animals through administrative contract arrangements with a local government agency.

AA. "Wild animal" means any vertebrate animals under the jurisdiction of the New Mexico game and fish department.

[16.24.1.7 NMAC - N, 07/01/09; A, 4/28/12]

NEW MEXICO ANIMAL SHELTERING BOARD

This is an amendment to 16.24.2 NMAC, Section 8, 9 and 15, effective 4/28/12.

16.24.2.8 PRACTICING WITHOUT A LICENSE OR CERTIFICATE:

A. It is a violation of the act for a person, other than a veterinarian licensed to practice in New Mexico, to perform euthanasia for a euthanasia agency in this state unless the individual is licensed by the board pursuant to the act, Section 77-1B-6 NMSA 1978.

B. It is a violation of the act for an entity other than a veterinary [facility] clinic to perform euthanasia unless the agency is licensed by the board pursuant to the act, Section 77-1B-8 NMSA 1978.

[16.24.2.8 NMAC - N, 07/01/09; A, 4/28/12]

16.24.2.9 LICENSURE OR CERTIFICATION EXEMPTIONS:

A. The act does not apply to veterinarians licensed in New Mexico.

B. The act does not apply to wildlife rehabilitators working under the auspices of the department of game and fish.

C. A [for-profit] veterinary [facility] clinic serving as a euthanasia agency pursuant to a contract with a local government is exempt from the provisions of the act; provided that the veterinary [facility] clinic is subject to licensure and rules adopted pursuant to the Veterinary Practice Act, Section 61-14-1 et. seq. NMSA 1978.

D. A municipal facility that is a zoological park is exempt from the provisions of the act.

E. A commissioned law enforcement officer is exempt from the act when conducting emergency field euthanasia or in situations where the public's health or safety is at risk or the animal is irremediably suffering.

F. The board may exempt a euthanasia instructor from the required euthanasia technician testing based upon review of the applicant's credentials and practical experience in shelter euthanasia. The applicant shall be required to obtain a euthanasia instructor certificate and is subject to the required certified euthanasia instructor duties.

[16.24.2.9 NMAC - N, 07/01/09; A, 4/28/12]

16.24.2.15 APPLICATION FOR LICENSURE AS A EUTHANASIA AGENCY:

All agencies that will provide euthanasia services on or after January 1, 2010, shall be licensed by the board by January 1, 2010, or before performing euthanasia services if the agency does not begin performing euthanasia services until a later date. In order to obtain a license as a euthanasia agency, the applicant shall submit the following documentation and a completed application on a form provided by the board, which may be online, accompanied by the required fee:

A. unless euthanasia is performed by a licensed veterinarian, the agency shall have at least one licensed euthanasia technician on staff who shall at all times be assisted by a trained assistant as specified in Subsection I of 16.24.3.11 NMAC for each method of humane euthanasia;

B. the agency shall provide the names of their current licensed euthanasia technicians at the time of application or renewal for licensure and shall notify the board when there is a change in licensed euthanasia technicians at the agency within 30 days;

C. the agency shall have a written contingency plan for providing euthanasia in the event the agency is without a licensed euthanasia technician;

D. the agency shall notify the board in the event it no longer has a licensed euthanasia technician on staff within 72 hours of the technician's departure;

E. the agency shall keep accurate controlled substance and dangerous

drug logs, in compliance with applicable state controlled substances laws, which shall be inspected quarterly according to the guidelines of the New Mexico pharmacy board and shall be made available to the board approved euthanasia agency inspector;

F. the agency shall identify and describe any contracts with a supervising veterinarian, a consulting pharmacist and any holder of DEA licenses;

G. the agency shall comply with board requests for inspections;

H. the agency shall pay the license fee established by the board; and

I. the agency shall provide any other information or verifications the board may request.

[16.24.2.15 NMAC - N, 07/01/09; A, 4/28/12]

NEW MEXICO ANIMAL SHELTERING BOARD

This is an amendment to 16.24.3 NMAC, Sections 8, 9, 11, 12, 14 and 15, effective 4/28/12.

16.24.3.8 GENERAL REQUIREMENTS FOR LICENSED EUTHANASIA TECHNICIANS AND AGENCIES:

A. Euthanasia shall be performed by a licensed euthanasia technician employed or under contract with a licensed euthanasia agency, by a licensed veterinarian, or in the case of emergency field euthanasia, may be performed by a commissioned law enforcement officer by means of gunshot.

B. Euthanasia technicians shall scan all companion animals multiple times for a microchip and using a universal scanner. Technicians shall also look for a license or other identification tag directly prior to performing euthanasia. Every microchip, license or identification tag located shall be recorded. If a microchip, license or identification tag is found at the time of euthanasia, the licensed euthanasia technician shall verify that all reasonable attempts to contact the owner have been made and only after verification may the euthanasia proceed. If the verification is not possible, then the euthanasia shall be postponed until verification is completed, except in situations in which the animal is in severe, acute distress or is irremediably suffering. The identity of each animal to be euthanized must be determined with certainty beforehand and verification obtained that the animal is properly designated for the procedure. An assessment must be made of each animal's size, weight, health and temperament so the appropriate drug dose, needle and syringes size as well as restraint method can be used. The approved

methods for euthanasia of shelter animals are intravenous (IV) or intraperitoneal (IP) injection of a sodium pentobarbital solution.

C. Euthanasia technicians shall euthanize dogs and cats only by the use of an FDA approved sodium pentobarbital euthanasia solution, or any other board approved euthanasia solutions, with the exception of emergency field euthanasia as provided for in 16.24.3.15 NMAC.

D. Euthanasia agencies using controlled substances shall have under contract a consulting pharmacist as defined in the New Mexico Pharmacy Act.

E. Euthanasia agencies ~~shall~~ may be inspected ~~at least once annually~~ at the discretion of the board.

F. Euthanasia technicians shall euthanize all other non-livestock animals in accordance with Section 61-11-1 et. seq. NMSA 1978 and the applicable methods, recommendations and procedures set forth in 16.24.3.9 NMAC and 16.24.3.12 through 16.24.3.15 NMAC.

G. Euthanasia technicians and euthanasia agencies shall maintain storage, security, recordkeeping and disposal methods of controlled substances used for euthanasia as set forth in the board approved euthanasia technician training courses in accordance with the New Mexico pharmacy board and DEA regulations. Euthanasia technicians and euthanasia agencies shall adhere to all existing state and federal laws and protocols.

H. Euthanasia agencies shall display material safety data sheets for all drugs used in the euthanasia process in the euthanasia area or shall make such material available and accessible to all employees on the premises.

I. Euthanasia technicians may use pre-euthanasia drugs as set forth in the board approved euthanasia technician training courses. Pre-euthanasia drugs should be administered to animals who are aggressive, severely distressed or frightened.

J. Euthanasia technicians and their assistants shall handle animals humanely ~~as detailed in board approved euthanasia instruction~~ and to avoid undue stress and anxiety, the least amount of physical restraint necessary to perform the procedures safely must be used from the commencement of and throughout the euthanasia process. Remains shall be disposed of in a respectful manner.

K. A euthanasia agency shall handle, treat and dispose of infectious waste, including but not limited to remains, anatomical body parts, excretions, blood soiled articles and bedding, that are generated from an animal that the agency knows or has reason to suspect has a disease that is capable of being transmitted to humans as follows.

(1) All infectious waste will be sterilized or disinfected by heat, steam,

chemical disinfection, radiation, or desiccation.

(2) Infectious waste held for disposal shall be collected in sanitary leak resistant bags clearly labeled for biohazard disposal. The bag shall contain the gloves worn while collecting the waste and those used in treatment and post mortem examinations of suspect animals.

(3) All sharps shall be disposed of in labeled sharps containers. Such containers shall be rigid-sided, solidly sealed containers that are highly resistant to puncture. These containers shall be incinerated or disposed of in an environmentally safe manner by a duly licensed disposer or an approved medical sharps incineration facility or shall be disposed of in such a way as to render the sharps harmless. This disposal shall not apply to infectious waste sharps, which, contained in a puncture resistant container, should be disposed of as described in infectious waste disposal. Due to the small volume of sharps generated in a euthanasia agency, transportation of the filled, sealed containers shall not be mandated by nor limited to commercial haulers.

L. A euthanasia agency shall dispose of drugs as follows.

(1) The removal and disposal of outdated or unwanted dangerous drugs shall be pursuant to the rules of the board of pharmacy and be the responsibility of the consultant pharmacist.

(2) Outdated or unwanted controlled substances shall be disposed of through a DEA-registered reverse distributor or pursuant to the requirements of Title 21, Code of Federal Regulations, Part 1307.

(3) The transfer of any dangerous drug inventory to another registrant shall be pursuant to the rules of the board of pharmacy and be the responsibility of the consultant pharmacist in compliance with state and federal laws and regulations for the transfer of such drugs.

M. A euthanasia agency shall handle waste materials that are generated from an animal that does not have a disease transmissible to humans and is not suspected of being contaminated with an agent capable of infecting humans as provided under this section.

(1) Animal remains.

(a) A euthanasia technician shall dispose of an animal's remains promptly by: release to a veterinary clinic, release to owner, burial, cremation, incineration, commercial rendering or, if permitted by local ordinance, placement in a public landfill where wildlife does not have access to the carcass.

(b) If prompt disposal of an animal's remains is not possible, the euthanasia technician shall contain the animal's remains in a freezer or store them in a sanitary, non-offensive manner until such

time as they can be disposed of as provided above.

(2) A euthanasia technician shall dispose of tissues, specimens, bedding, animal waste and extraneous materials, not suspected of harboring pathogens infectious to humans, by approved municipality or county disposal methods.

N. In the event of the occurrence of a suspect foreign animal disease or disease of potential concern to state or national security, the euthanasia agency will immediately contact the state department of agriculture, the U. S. department of agriculture, and other applicable departments. The euthanasia technician and euthanasia agency shall handle all tissues, laboratory samples, and biomedical waste associated with such cases in accordance with the recommendations made by the department of agriculture, and other departments and agencies, which are deemed necessary and appropriate in such cases.

O. It shall be a violation of the act for euthanasia technicians and euthanasia agencies to end an animal's life using the following methods:

- (1) decompression;
- (2) nitrous oxide;
- (3) drowning;
- (4) decapitation;
- (5) cervical dislocation;
- (6) pithing;
- (7) exsanguination;
- (8) electrocution;
- (9) gunshot, excluding properly performed field euthanasia in an emergency situation as defined in 16.24.3.13 NMAC below;
- (10) air embolism;
- (11) nitrogen flushing;
- (12) strychnine;
- (13) acetone or any other industrial solvent;
- (14) any other chemical agent;
- (15) intrahepatic injection (IH);

and

(16) any method not specifically approved by the board.

[16.24.3.8 NMAC - N, 07/01/09; A, 4/28/12]

16.24.3.9 DUTIES OF A LICENSED EUTHANASIA TECHNICIAN: The duties of a euthanasia technician shall include but are not limited to:

A. performing euthanasia on a sufficient number and variety of animals under the direct supervision of a veterinarian or an experienced, licensed euthanasia technician to demonstrate proficiency in the performance of humane euthanasia before performing euthanasia without supervision, and, verifying in writing to the board (for example, by a letter written by the supervising veterinarian or euthanasia

technician) within 60 days that the technician has demonstrated proficiency and maintains that documentation at the euthanasia agency, provided that this requirement does not apply to euthanasia technicians who have performed euthanasia for a period of at least six months;

B. preparing animals for euthanasia, including scanning multiple times for the presence of a microchip in companion animals;

C. carefully and accurately recording the dosage and drug waste for every euthanasia performed pursuant to the rules of the New Mexico board of pharmacy;

D. maintaining the security of all controlled substances and dangerous drugs, including records relating to controlled substances and dangerous drugs, at the euthanasia agency in accordance with applicable state and federal laws;

E. reporting to the board, the regulation and licensing department or the department of health any infraction of the act or rules adopted pursuant to the act, or any misuse of drugs;

F. humanely capturing, restraining, and euthanizing animals as taught in board approved euthanasia technician training courses;

G. disposing of remains in accordance with law;

H. maintaining one's license in an active status;

I. reporting any change of address, telephone or other contact information to the board within 30 days;

J. providing to the board or authorized board representative a reply to a request for information allowed under the act or these rules within ten working days;

K. a euthanasia technician shall prepare a report of any euthanasia performed that deviates from board approved rules, and the euthanasia agency shall keep these records on file for three years.

[16.24.3.9 NMAC - N, 07/01/09; A, 4/28/12]

16.24.3.11 DUTIES OF A LICENSED EUTHANASIA AGENCY:

The duties of a licensed euthanasia agency shall include, but are not limited to:

A. keeping records for a period of 3 years showing:

(1) those individuals who are authorized in writing, in accordance with these rules, by the euthanasia agency to administer an FDA approved sodium pentobarbital euthanasia solution or other board approved euthanasia solution;

(2) logs with respect to controlled substances used to carry out humane euthanasia in accordance with the New Mexico pharmacy board rules;

B. having at least one licensed euthanasia technician or veterinarian on staff or having a contract

with a veterinary [facility] clinic for the purposes of performing euthanasia; in the event the agency falls below this minimum requirement, the agency shall immediately apply to the board to license additional individual(s) or forfeit its license;

C. accurately reporting quarterly on board provided forms, which may be online, regarding the impound, disposition and reason for euthanasia of all animals;

D. expediting the euthanasia procedure for any animal accepted by a euthanasia agency that is critically ill or severely injured and that in the determination of the euthanasia agency requires euthanasia; in these cases, the euthanasia agency shall place the animal in a quiet environment and give the animal treatment to reduce pain and suffering until a euthanasia technician or veterinarian is able to euthanize the animal;

E. having a current euthanasia policy and procedures manual; the manual shall include but is not limited to the following:

(1) a copy of the act, Section 77-1B-1 et. seq. NMSA 1978, and the animal sheltering rules, Title 16 Chapter 24 Parts 1 - 5 NMAC;

(2) a copy of the euthanasia training manuals provided by the board approved euthanasia technician training courses attended by the euthanasia technicians working at the euthanasia agency;

(3) a list of methods of euthanasia allowed at the euthanasia agency and the policy and procedures for each method;

(4) a list of licensed euthanasia technicians, the methods they have been trained in, the date of training and the date of expiration of their license;

(5) the name, address and contact information for the veterinarian or euthanasia technician responsible for the euthanasia agency facility license;

(6) the name, address and contact information for the veterinarian responsible for veterinary medical care of the animals; the contact information shall include telephone numbers for working hours, weekends, nights and holidays;

(7) a protocol for euthanasia procedures to use in emergencies, after hours, holidays and weekends;

(8) procedures to follow if no licensed euthanasia technician is present and euthanasia of an animal is necessary;

(9) a list of methods of verifying death of an animal after a euthanasia process is performed;

(10) the name and contact information of the manufacturer and supplier of all materials used in euthanasia procedures at the euthanasia agency, including such materials as:

(a) bottled gas (if applicable);

(b) the chamber used to euthanize animals by inhalant gas (if applicable);

(c) injectable FDA approved sodium pentobarbital euthanasia solution or other board approved euthanasia solution; and,

(d) tranquilizer or anesthetic solution;

(11) a copy of the original DEA certification permitting the use of controlled substances;

(12) a material safety data sheet for any chemical or gas used for euthanasia in that agency;

(13) a material safety data sheet for any anesthetic or tranquilizer used in that agency;

(14) notice of the signs and symptoms associated with human exposure to the agents used for euthanasia at that agency;

F. providing for the observation or inspection of the euthanasia process and euthanasia agency as requested by the board; observations or inspections may be done by any means including through a board approved instructor, inspector, or appointed designee;

G. a euthanasia technician shall prepare a report of any euthanasia performed that deviates from board approved rules, and the euthanasia agency shall keep these records on file for three years;

H. the agency shall ensure that any assistants to the euthanasia technician have received, at a minimum, documented in-service training as to the proper handling and restraint of animals for the purposes of euthanasia; this training can be provided by the agency's own licensed euthanasia technician;

I. the agency manager shall read the guidelines for standards of care in animal shelters and:

(1) address those issues within the shelter that do not meet the recommended standards with their superiors and their staff;

(2) assess what steps can be taken to implement the recommended standards; and,

(3) report to the animal sheltering board what standards cannot be met and why.

[16.24.3.11 NMAC - N, 07/01/09; A, 4/28/12]

16.24.3.12 EUTHANASIA BY INJECTION OF FDA APPROVED SODIUM PENTOBARBITAL EUTHANASIA SOLUTION OR BOARD APPROVED EUTHANASIA SOLUTIONS:

A. The approved routes of injections of an FDA approved sodium pentobarbital euthanasia solution or board approved euthanasia solutions, listed in order of preference, are:

(1) intravenous injection as taught in board approved euthanasia technician training courses;

(2) intraperitoneal injection, but only if used as taught in a board approved euthanasia technician training course and as set forth below; or

(3) intracardiac injection, but only if used in accordance with Section 30-18-15 NMSA 1978 and as set forth below; it is unlawful for a euthanasia technician to use intracardiac injections to administer euthanasia on a conscious animal if the animal could first be rendered unconscious in a humane manner.

B. Intracardiac injection shall be acceptable only when performed on anesthetized or comatose animals. If a euthanasia technician uses intracardiac injection, the euthanasia technician shall administer the appropriate pre-euthanasia drugs as set forth in the board approved euthanasia technician training courses and shall ascertain that the animal is not conscious before administering the intracardiac injection.

C. Euthanasia technicians shall place animals who received an intraperitoneal injection in [~~small cages in a quiet area~~] a quiet, dark and confined area to minimize excitement and trauma except that newborns and infants may be held and monitored.

D. Only veterinarians or euthanasia technicians shall administer the injections set forth in the board approved euthanasia technician training.

E. The euthanasia agency shall properly equip the designated area used for injection to ensure [~~accuracy in the~~] a smooth, dignified, safe and accurate procedure and safety for the euthanasia technician, which should include but is not limited to [~~sufficient lighting~~] a good light source, a table that can be readily disinfected, a universal scanner, hair clippers, stethoscope, a variety of needles and syringes, tourniquets, muzzles, useable animal restraint devices, and an eye wash station.

F. Euthanasia technicians shall administer injectable euthanasia agents to animals with at least the minimum dosage, as set forth in the board approved euthanasia technician training courses.

G. Euthanasia technicians shall place animals given an FDA approved sodium pentobarbital euthanasia solution or board approved euthanasia solutions by intraperitoneal injection in a quiet, dark and confined area, separated from physical contact with other animals during the dying process except that newborns and infants may be held.

H. Euthanasia technicians shall monitor the animals from the time euthanasia is performed until verification of

the death of each animal.

I. Euthanasia technicians shall verify death by a combination of ascertaining the absence of ocular reflexes as well as the cessation of heartbeat or by observing the onset of rigor mortis, or other methods established by the board approved euthanasia technician training courses prior to remains storage and disposal.

[16.24.3.12 NMAC - N, 07/01/09; A, 4/28/12]

16.24.3.14 EUTHANASIA BY CARBON DIOXIDE GAS:

A. Euthanasia by carbon dioxide gas is illegal for use on dogs and cats.

B. Carbon dioxide may be used for the euthanasia of animals, excluding dogs and cats, that may present a zoonotic hazard.

C. Operations and equipment shall be in compliance with any applicable state and federal regulations and may be inspected annually [~~or as required~~ as authorized by the board. [~~Inspections must be performed by board trained inspectors.~~]

D. Acceptable gas is limited to commercially compressed carbon dioxide gas.

E. If the chamber is manufactured to euthanize only one animal at a time, no more than one animal at a time may be euthanized in that chamber.

F. If the chamber is designed to euthanize more than one animal at a time there shall be independent sections or cages to separate individual animals. If separation partitions are not used under specific circumstances approved by the board, the specific circumstances shall be noted on the animal's disposition card. Only animals of the same species shall be placed in the chamber simultaneously with no more than the maximum recommended by the manufacturer.

G. Carbon dioxide should enter the chamber at a rate that displaces 20% of the oxygen each minute.

H. The optimal carbon dioxide flow for the chamber must be calculated.

I. No live animal shall be placed in the chamber with a dead animal.

J. Euthanasia of this type shall be performed in a commercially manufactured carbon dioxide chamber or one manufactured to commercial standards and the manufacturer's operating and services instructions shall be strictly followed.

K. The chamber shall be located outdoors or in a well-ventilated room to minimize exposure to the carbon dioxide.

L. The chamber must not be airtight. Air must be able to escape to leave room for the carbon dioxide. A vent hole near the top of the chamber or a

loosely-fitted lid will let out the air but not the carbon dioxide. The vent hole will also prevent pressure buildup.

M. The carbon dioxide chamber shall have a view-port to allow visual surveillance of the animals within the chamber.

N. All chamber equipment shall be in proper working order and used according to the manufacturer's specifications during the operation of the chamber.

O. The chamber shall be thoroughly cleaned and aired out between uses. Chamber surfaces shall be constructed and maintained so they are impervious to moisture and can be readily sanitized.

P. The euthanasia agency shall prominently display the operation, maintenance, and safety instructions for the carbon dioxide chamber in the area containing the chamber.

Q. Euthanasia technicians shall verify death by a combination of ascertaining the absence of ocular reflexes as well as the cessation of heartbeat or by observing the onset of rigor mortis or other methods established by the board approved euthanasia technician training courses, prior to remains storage and disposal.

[16.24.3.14 NMAC - N, 07/01/09; A, 4/28/12]

16.24.3.15 E M E R G E N C Y FIELD EUTHANASIA:

A. From time to time, there will be cases when emergency field euthanasia will be required. Cases shall be limited to:

(1) situations in which the animal is in severe, acute distress or is irremediably suffering in which delay or movement of the animal will cause severe pain and suffering;

(2) situations in which movement of the animal poses immediate and significant risk to the animal, human, or public health or safety.

B. If possible or practical, euthanasia by injection is the preferred method of field euthanasia. If practical, pre-euthanasia drugs shall be given to the animal prior to the euthanasia drugs.

C. If gunshot is used, it shall be performed by a euthanasia technician only if the euthanasia technician is properly certified in the use of firearms permitted by the employing agency of the euthanasia technician, or by a commissioned law enforcement officer. The gunshot shall be placed according to species as taught in board approved euthanasia technician training courses, whenever possible.

D. All instances of emergency field euthanasia shall be documented and shall include the following:

(1) a description of the incident that resulted in the need to conduct emergency

field euthanasia;

(2) the date of the incident;

(3) the time of the incident;

(4) a description of the animal including species, gender, estimated age;

(5) the name and contact information of the euthanasia technician or law enforcement officer;

(6) the technique used; and,

(7) the reason why the animal could not be transported to a shelter, veterinary clinic or euthanasia agency.

E. Emergency field euthanasia incidents shall be reported to the board within 30 days. All documentation and records relating to the incident shall be kept on file by the euthanasia agency for three years and be available for review by the board.

F. The euthanasia technician or commissioned law enforcement officer shall verify death by pupil dilation and cessation of respiration or other methods established by the board approved euthanasia technician training courses prior to remains storage and disposal.

[16.24.3.15 NMAC - N, 07/01/09; A, 4/28/12]

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION

This is an amendment to 19.15.14 NMAC, Section 8, effective 4/16/2012.

19.15.14.8 PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. Permit required. An operator [~~shall obtain an approved application for permit to drill from~~] is required to obtain a permit approved by the division prior to commencing drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool, or completing or re-completing a well in an additional pool.

B. Mineral owner or lessee consent required. An operator shall not file an application for permit to drill nor commence drilling operations until the operator has either:

(1) received the consent of at least one lessee or owner of an unleased mineral interest at the proposed bottom hole location; or

(2) obtained a compulsory pooling order from the division. In addition, an operator filing an application for permit to drill for a horizontal or directional well shall comply with Subsection A of 19.15.16.15 NMAC.

[19.15.14.8 NMAC - Rp, 19.15.3.102 NMAC, 12/1/08; A, 2/15/12; A, 4/16/12]

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

Notice of Repeal

1.18.670 NMAC, Executive Records Retention and Disposition Schedule for the Veterans' Service Commission, is being repealed and replaced with the new 1.18.670 NMAC, Executive Records Retention and Disposition Schedule for the Veterans' Services Department, effective April 30, 2012. The New Mexico Commission of Public Records at their March 27, 2012 meeting repealed the current rule and approved the new rule.

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

March 29, 2012

Leo R. Lucero, Agency Analysis Bureau Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87507

Mr. Lucero:

You recently requested to publish a synopsis in lieu of publishing the full content of the following rules:

- * 1.18.308 NMAC ERRDS, Office of the State Auditor,
- * 1.18.333 NMAC ERRDS, Taxation and Revenue Department,
- * 1.18.379 NMAC ERRDS, Public Employee Labor Relations Board,
- * 1.18.430 NMAC ERRDS, Public Regulation Commission; and
- * 1.18.670 NMAC ERRDS, Veterans' Services Department.

A review of the rules shows that their impact is limited to the individual agency to which it pertain, and it is "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for it is approved.

Sincerely,

John Hyrum Martinez
State Records Administrator

JHM/LrL

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

SYNOPSIS

**1.18.379 NMAC ERRDS, Public
Employee Labor Relations Board**

1. Subject matter: 1.18.379 NMAC, Executive Records Retention and Disposition Schedule for the Public Employee Labor Relations Board. This is a new records retention and disposition schedule for 1.18.379 NMAC, ERRDS, Public Employee Labor Relations Board. This records retention and disposition schedule is a timetable for the management of specific records series of the Public Employee Labor Relations Board. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Public Employee Labor Relations Board.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Public Employee Labor Relations Board. Persons and entities normally subject to the rules and regulations of the Public Employee Labor Relations Board may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Public Employee Labor Relations Board.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Public Employee Labor Relations Board. Any person or entity outside the covered geographical area that conducts business with or through the Public Employee Labor Relations Board may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes

Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 30, 2012.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.379 NMAC, ERRDS, Public Employee Labor Relations Board.

Tania Maestas Date
Assistant Attorney General

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

SYNOPSIS

**1.18.670 NMAC ERRDS, Veterans
Services Department**

1. Subject matter: 1.18.670 NMAC, Executive Records Retention and Disposition Schedule for the Veterans Services Department. This is a repeal and replacement of the records retention and disposition schedule for 1.18.670 NMAC, ERRDS, Veterans Services Department. This records retention and disposition schedule is a timetable for the management of specific records series of the Veterans Services Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Veterans Services Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Veterans Services Department. Persons and entities normally subject to the rules and regulations of the Veterans Services Department may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Veterans Services Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Veterans Services Department. Any person or entity outside the covered geographical area that conducts business with or through the Veterans Services Department may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 30, 2012.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.670 NMAC, ERRDS, Veterans Services Department.

Tania Maestas Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to the 1.15.8 NMAC, GRRDS, General Medical Records, amending Sections 3, 6, 7, 8, 9, 101 and adding Section 9, and 102 effective 04/30/2012.

1.15.8.3 STATUTORY AUTHORITY: [Section 14-3-6 NMSA 1978. Administrator: duties. The administrator shall establish a record

management program for the application of efficient and economical management methods of the creation, utilization, maintenance, retention, preservation and disposal of official records. The administrator shall establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the public records act. Records disposal schedules shall be filed with the librarian of the supreme court library, and shall not become effective until thirty days after the filing date.] Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records. [8/8/96; 1.15.8.3 NMAC - Rn, 1 NMAC 3.2.90.3, 10/01/2000; A, 04/30/2012]

1.15.8.6 OBJECTIVE:

A. To establish a records management program for the application of and efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records (14-3-6 NMSA 1978):

B. To establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the public records act (14-3-6 NMSA 1978). To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.

[8/8/96; 1.15.8.6 NMAC - Rn, 1 NMAC 3.2.90.6, 10/01/2000; A, 04/30/2012]

1.15.8.7 DEFINITIONS:

A. Administrator: "Administrator" means the state records administrator. (Section 14-3-2, NMSA 1978)

B. Agency: "Agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico. (Section 14-3-2, NMSA 1978)

C. Audit: A periodic examination of an organization to determine whether appropriate procedures and practices are followed.

D. Commission: "Commission" means the state commission of public records. (Section 14-3-2, NMSA 1978)

E. Pending litigation: A

proceeding in a court of law whose activity is in progress but not yet completed.

F. Record destruction: The process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

G. Records management: The systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

H. Records retention period: The period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

I. Records retention schedule: A document prepared as part of a records retention program that lists the period of time for retaining records.

J. Public records: "Public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein. (Section 14-4-2, NMSA 1978)

K. Non-records: Library or museum material of the state library, state institutions and state museums, extra copies of documents reserved only for convenience of reference and stocks of publications and processed documents are non-records. (Section 14-3-2 C, NMSA 1978). The following specific types of materials are non-records: extra copies of correspondence; documents preserved only for convenience of reference; blank forms/books which are outdated; materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer/agency; preliminary and non-final drafts of letters, reports and memoranda which may contain or reflect the working or deliberative process by which a final decision or position of the agency, board, department or subdivision thereof is reached; shorthand notes, steno tapes, mechanical recordings which have been transcribed, except where noted on agency retention schedules; routing and other interdepartmental forms which are not significant evidence of the activity concerned and do not otherwise have value as described above; stocks of publications already sent to archives and processed documents preserved for supply purposes

only; form and guide letters, sample letters, form paragraphs; subject files, including copies of correspondence, memoranda, publications, reports and other information received by agency and filed by subject (also referred to as reading files or information files).]

A. "Administrator" means the state records administrator (Section 14-3-2 NMSA 1978).

B. "Agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).

C. "Archives" means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. The term also refers to the organizational unit of the SRCA storing these records.

D. "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

E. "Commission" means the state commission of public records (Section 14-3-2 NMSA 1978).

F. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. "Microphotography" means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

H. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.

I. "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.

J. "Public record" means

all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).

K. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee.

L. "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

M. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

N. "Records retention and disposition schedule" means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

O. "Retention" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

[8/8/96; 5/19/97; 1.15.8.7 NMAC - Rn, 1 NMAC 3.2.90.7, 10/01/2000; A, 04/30/2012]

1.15.8.8 [INSTRUCTIONS:

A. For records of an administrative nature, refer to the Records Retention and Disposition Schedule for General Administrative Records, 1.15.2. NMAC.

B. For records of a financial nature, refer to the Records Retention and Disposition Schedule for General Financial Records, 1.15.4. NMAC.

C. For records of a personnel nature, refer to the Records Retention and Disposition Schedule for General Personnel Records, 1.15.6. NMAC.

D. For records of a medical nature, refer to the Records Retention and Disposition Schedule for General Medical Records, 1.15.8. NMAC

E. Retention periods shall be extended until six months after all current or pending litigation, current claims, audit exceptions or court orders involving a record have been resolved or concluded.

F. The descriptions of files

are intended to be evocative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

G. Confidentiality is denoted as "C". Not all materials in a file may be confidential. Refer to NOTE. Where portions of file may be confidential, refer to legal counsel for agency.

H. Access to confidential documents and/or confidential files shall be only by authorization of agency or attorney general and/or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

I. All records, papers or documents may be photographed, microfilmed, microphotographed or reproduced on film. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. (Section 14-1-5, 14-1-6 NMSA 1978)

J. Data processing and other machine readable records. Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention & disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said record shall be electronically over-written on machine readable media on which it is stored (or media destroyed). (See also 1.13.70 NMAC: Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems);] **ABBREVIATIONS AND ACRONYMS:**

A. "CFR" stands for code of federal regulations.

B. "EDRRDS" stands for education records retention and disposition schedules.

C. "ERRDS" stands for executive records retention and disposition schedules.

D. "GRDS" stands for general records retention and disposition schedules.

E. "JRRDS" stands for judicial records retention and disposition schedules.

F. "LRRDS" stands for legislative records retention and disposition

schedules.

G. "LGRRDS" stands for local government records retention and disposition schedules.

H. "SRCA" stands for state records center and archives.

I. "USC" stands for United States code.

[8/8/96; 5/19/97; 1.15.8.8 NMAC - Rn, 1 NMAC 3.2.90.8, 10/01/2000; 1.15.8.8 NMAC - N, 04/30/2012]

1.15.8.9 INSTRUCTIONS:

A. Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below.

(1) Program - describes the function of the records

(2) Maintenance system - describes how an agency files (organizes) records

(3) Description - describes the purpose and content of a record

(4) Retention - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

B. For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.2 NMAC.

C. For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

D. For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

E. For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

F. Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.

G. The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

H. Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain

confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

I. Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

J. Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

K. Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

L. Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted. [1.15.8.9 NMAC - N, 04/30/2012]

1.15.8.101 M E D I C A L RECORDS:

A. Program: [all—state agencies, local government entities, college, universities, and public schools] all public entities

B. Maintenance system:

chronological by year, then alphabetical by client surname

C. Description: records which document the illness, treatment, care and diagnostic studies of individual

D. Retention:
(1) adult medical records: inactive records shall be kept 10 years

(2) minor medical records: inactive records shall be kept 10 years, or one year after the person reaches [the age of majority] the age of 21; whichever period of time is greater

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (1996) (i.e., health information).

[2/12/79; 1.15.8.101 NMAC - Rn, 1 NMAC 3.2.90.40.M101, 10/01/2000; A, 04/30/2012]

1.15.8.102 N O T I C E OF PRIVACY PRACTICES ACKNOWLEDGMENT FORM:

A. Program: all public entities

B. Maintenance system: chronological by year, then alphabetical by client surname

C. Description: form signed by clients acknowledging receipt of the health care provider's privacy policies regarding the individual's medical information. Form may show the organization's current privacy policy, date, client signature, etc.

D. Retention: six years from date in which client signed form [1.15.8.102 NMAC - N, 04/30/2012]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to the 1.17.230 NMAC, JRRDS, New Mexico District Courts, Amending Sections 3, 6, 7, 8 and 9 and adding Sections 252 and 253 effective 04/30/2012

1.17.230.3 S T A T U T O R Y AUTHORITY:

[Section 14-3-1 NMSA 1978. The state records administrator shall establish records disposal schedules for the orderly retirement of records in compliance with the Public Records Act.] Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and

disposal of public records.

[1.17.230.3 NMAC - Rp 1.17.230.3 NMAC, 2/18/2003; A, 4/30/2012]

1.17.230.6 OBJECTIVE: [To establish records disposal schedules for the orderly retirement of records necessary for carrying out the Public Records Act, per Section 14-3-6 NMSA 1978.] To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.

[1.17.230.6 NMAC - Rp 1.17.230.6 NMAC, 2/18/2003; A, 4/30/2012]

1.17.230.7 DEFINITIONS:

A. "Administrator" means the state records administrator (Section 14-3-2 NMSA 1978).

B. "Agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).

C. "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

D. "Commission" means the state commission of public records (Section 14-3-2 NMSA 1978).

E. "Drug court" means alternative sentencing program for adult and juvenile offenders who have drug-related offenses.

F. "Nota bene" stands for information important for the administration of the retention period.

G. "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.

H. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

I. "Records retention period" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

J. "Records retention schedule" means a document prepared as part of a records retention program that lists the period of time for retaining records.]

A. "Administrator" means the state records administrator (Section 14-3-2 NMSA 1978).

B. "Agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial

government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).

C. "Archives" means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. The term also refers to the organizational unit of the SRCA storing these records.

D. "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

E. "Commission" means the state commission of public records (Section 14-3-2 NMSA 1978).

F. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. "Drug court" means alternative sentencing program for adult and juvenile offenders who have drug-related offenses.

H. "Microphotography" means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

I. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.

J. "Nota bene" means information important for the administration of the retention period.

K. "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.

L. "Public record" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency

or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).

M. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee.

N. "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

O. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

P. "Records retention and disposition schedule" means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

Q. "Retention" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

[1.17.230.7 NMAC - Rp 1.17.230.7 NMAC, 2/18/2003; A, 9/27/2010; A, 4/30/2012]

1.17.230.8 [INSTRUCTIONS:

A. For records of an administrative nature, refer to the Records Retention and Disposition Schedule for General Administrative Records, 1.15.2 NMAC.

B. For records of a financial nature, refer to the Records Retention and Disposition Schedule for General Financial Records, 1.15.4 NMAC.

C. For records of a personnel nature, refer to the Records Retention and Disposition Schedule for General Personnel Records (interpretive), 1.15.7 NMAC.

D. For records of a medical nature, refer to the Records Retention and Disposition Schedule for General Medical Records, 1.15.8 NMAC.

E. Retention periods shall be extended until six months after all current or pending litigation, current claims, audit exceptions or court orders involving a record have been resolved or concluded.

F. The descriptions of files are intended to be illustrative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

G. Confidentiality is denoted for files likely to contain confidential materials, but files without a confidentiality note nonetheless may contain confidential or privileged materials and failure to include an express confidentiality note in the description of a file does not waive the confidential or privileged nature of those materials. Refer questions concerning the confidentiality of a file or portions of a file to legal counsel for the agency.

H. Access to confidential documents or confidential files shall be only by authorization of agency or attorney general or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

I. All records, papers or documents may be photographed, microfilmed, microphotographed or reproduced on film. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. (Sections 14-1-5, 14-1-6 NMSA 1978)

J. Electronic records: Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention and disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said record shall be electronically over-written on machine readable media on which it is stored (or media destroyed). (See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.)] **ABBREVIATIONS AND ACRONYMS:**

A. "CFR" stands for code of federal regulations.

B. "EDRRDS" stands for education records retention and disposition schedules.

C. "ERRDS" stands for executive records retention and disposition schedules.

D. "DUP" stands for driving under the influence.

E. "DV" stands for domestic violence.

F. "GRRDS" stands for general records retention and disposition schedules.

G. "JRRDS" stands for judicial records retention and disposition

schedules.

H. "LRRDS" stands for legislative records retention and disposition schedules.

I. "LGRRDS" stands for local government records retention and disposition schedules.

J. "SRCA" stands for state records center and archives.

K. "USC" stands for United States code.

[1.17.230.8 NMAC - Rp, 1.17.230.9 NMAC, 2/18/2003; A, 9/27/2010; 1.17.230.8 NMAC - N, 04/30/2012]

1.17.230.9 [ACRONYMS:

A. "DUP" stands for driving under the influence.

B. "DV" stands for domestic violence.] **INSTRUCTIONS:**

A. Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below.

(1) Program - describes the function of the records

(2) Maintenance system - describes how an agency files (organizes) records

(3) Description - describes the purpose and content of a record

(4) Retention - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

B. For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.2 NMAC.

C. For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

D. For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

E. For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

F. Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.

G. The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are

not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

H. Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

I. Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

J. Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

K. Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

L. Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.

[1.17.230.9 NMAC - N, 2/18/2003; 1.17.230.9 - N, 4/30/2012]

1.17.230.252 PROBLEM SOLVING COURT FILES:

A. Program: civil and criminal matters

B. Maintenance system: numerical by case number

C. Description: record of civil and criminal problem solving court proceedings and recommendations to the court for sentencing and conditions of release. Portions of this record are input to the *drug court database*, 1.17.230.252 NMAC. File may include referral; intake information; chronological history if involved with CYFD; background investigation records; judicial supervision program records; current probation agreement, jail diversion records, national criminal information check report, drug screening results, mental health evaluations, psychological screening; medication form; photo id of individual enrolled in program; treatment progress, etc.

D. Retention:

(1) Dismissed cases: upon dismissal of case or one year after the age of majority for juvenile

(2) Mental health court records:

(a) Adult cases: 10 years after the close of the calendar year in which case closed

(b) Juvenile cases: one year after the age of majority

(3) All other cases:

(a) Adult cases: six federal fiscal years from date of discharge, termination or graduation from program

(b) Juvenile cases: five years from date juvenile reaches the age of majority

E. Confidentiality:

Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number) and Section 59A-46-27 NMSA 1978, confidentiality of medical information. [1.17.230.252 NMAC - N, 4/30/2012]

1.17.230.253 DRUG COURT DATABASE:

A. Program: civil and criminal matters

B. Maintenance system: numerical by primary key

C. Description: database maintains chronological treatment history and progress of individuals enrolled in the judicial district drug court program. Data may include criminal history, substance abuse history, counseling history, drug testing results, community service reports, assessment results, etc.

D. Retention:

(1) Dismissed case data: upon dismissal of case or one year after the age of majority for juvenile

(2) Mental health court records**data:**

(a) Adult case data: 10 years after the close of the calendar year in which case closed

(b) Juvenile case data: one year after the age of majority

(3) All other case data:

(a) Adult case data: six federal fiscal years from date of discharge, termination or graduation from program

(b) Juvenile case data: five years from date juvenile reaches the age of majority

E. Input: All input for the drug court database are submitted from the *problem solving court files* 1.17.230.252 NMAC.

F. Output: Because the drug court database is a data-based system, regularly scheduled and ad hoc reports may be generated upon request or demand. When produced, these reports are forwarded to the requesting entity.

G. Confidentiality:

Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number). [1.17.230.253 NMAC - N, 4/30/2012]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS**1.18.308 NMAC ERRDS, Office of the State Auditor**

1. Subject matter: 1.18.308 NMAC, Executive Records Retention and Disposition Schedule for the Office of the State Auditor. This is an amendment to 1.18.308 NMAC ERRDS, Office of the State Auditor amending Sections 3, 6, 7, 8, 9, and 103, also adding Sections 106 and 107. This records retention and disposition schedule is a timetable for the management of specific records series of the Office of the State Auditor. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico

Commission of Public Records and the Office of the State Auditor.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Office of the State Auditor. Persons and entities normally subject to the rules and regulations of the Office of the State Auditor may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Office of the State Auditor.

4. Geographical applicability:

Geographical applicability is limited to areas within the State of New Mexico covered by the Office of the State Auditor. Any person or entity outside the covered geographical area that conducts business with or through the Office of the State Auditor may also be affected by this rule.

5. Commercially published materials incorporated:

The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency:

New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 30, 2012.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.308 NMAC, ERRDS, Office of the State Auditor.

Tania Maestas Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS**1.18.333 NMAC ERRDS, Taxation and Revenue Department**

1. Subject matter: 1.18.333 NMAC, Executive Records Retention and Disposition Schedule for the Taxation and Revenue Department. This is an amendment to 1.18.333 NMAC, ERRDS, Taxation and Revenue Department, amending Sections 3, 6, 7, 9, 200 and 205, also adding Section

94. The records retention and disposition schedule is a timetable for the management of specific records series of the Taxation and Revenue Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Taxation and Revenue Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Taxation and Revenue Department. Persons and entities normally subject to the rules and regulations of the Taxation and Revenue Department may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Taxation and Revenue Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Taxation and Revenue Department. Any person or entity outside the covered geographical area that conducts business with or through the Taxation and Revenue Department may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 30, 2012.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of

1.18.333 NMAC ERRDS, Taxation and Revenue Department.

Tania Maestas Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.430 NMAC ERRDS, Public Regulation Commission

1. Subject matter: 1.18.430 NMAC, Executive Records Retention and Disposition Schedule for the Public Regulation Commission. This is an amendment to 1.18.430 NMAC, ERRDS, Public Regulation Commission amending Sections 3, 6, 7, 8, 9 and 21, also adding Section 77. The records retention and disposition schedule is a timetable for the management of specific records series of the Public Regulation Commission. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Public Regulation Commission.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Public Regulation Commission. Persons and entities normally subject to the rules and regulations of the Public Regulation Commission may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Public Regulation Commission.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Public Regulation Commission. Any person or entity outside the covered geographical area that conducts business with or through the Public Regulation

Commission may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 is used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 30, 2012.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.430 NMAC ERRDS, Public Regulation Commission.

Tania Maestas Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.19.4 NMAC, LGRRDS, Board of County Commissioners, County Managers, amending Sections 3 and 6, also adding Sections 7, 8, 9, 209, 210 and 300, effective 4/30/2012.

1.19.4.3 STATUTORY AUTHORITY: [~~Section 14-3-18 NMSA 1978~~] Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records. [1.19.4.3 NMAC - N, 1-6-02; A, 4-30-12]

1.19.4.6 OBJECTIVE: [~~To establish a model records retention and disposition schedule~~] To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978. [1.19.4.6 NMAC - N, 1-6-02; A, 4-30-12]

1.19.4.7 DEFINITIONS:

A. “Administrator” means the state records administrator (Section 14-3-2 NMSA 1978).

B. “Agency” means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).

C. “Archives” means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. The term also refers to the organizational unit of the SRCA storing these records.

D. “Audit” means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.

E. “Commission” means the state commission of public records (Section 14-3-2 NMSA 1978).

F. “Disposition” means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. “Microphotography” means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

H. “Non-record” means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.

I. “Pending litigation” means a proceeding in a court of law whose activity is in progress but not yet completed.

J. “Public record” means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency

or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).

K. “Records custodian” means the statutory head of the agency using or maintaining the records or the custodian’s designee.

L. “Record destruction” means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

M. “Records management” means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

N. “Records retention and disposition schedule” means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

O. “Retention” means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

[1.19.4.7 NMAC - N, 4-30-12]

1.19.4.8 ABBREVIATIONS AND ACRONYMS:

A. “ACA” stands for American correctional association.

B. “CFR” stands for code of federal regulations.

C. “EDRRDS” stands for education records retention and disposition schedules.

D. “ERRDS” stands for executive records retention and disposition schedules.

E. “GRRDS” stands for general records retention and disposition schedules.

F. “JRRDS” stands for judicial records retention and disposition schedules.

G. “LRRDS” stands for legislative records retention and disposition schedules.

H. “LGRRDS” stands for local government records retention and disposition schedules.

I. “SRCA” stands for state records center and archives.

J. “USC” stands for United States code.

[1.19.4.8 NMAC - N, 4-30-12]

1.19.4.9 INSTRUCTIONS:

A. Records retention and

disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below.

(1) Program - describes the function of the records

(2) Maintenance system - describes how an agency files (organizes) records

(3) Description - describes the purpose and content of a record

(4) Retention - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

B. For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.3 NMAC.

C. For records of a financial nature, refer to the GRRDS, General Financial, 1.15.5 NMAC.

D. For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.7 NMAC.

E. For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

F. Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.

G. The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

H. Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

I. Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government

agencies, shall only be upon specific statutory authorization or court order.

J. Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

K. Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

L. Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted. [1.19.4.9 NMAC - N, 4-30-12]

1.19.4.209 ACA ACCREDITATION FILES:

A. Program: county juvenile detention home

B. Maintenance system: chronological by calendar year

C. Description: records documenting the accreditation of a juvenile correctional institution by the American correctional association. Files may include copies of personnel documents, financial documentation, maintenance documentation, security documentation, training documentation, educational documentation, medical documentation, recreation documentation, copy of audit results, annual certification statements, correspondence, etc.

D. Retention: five years from the close of the calendar year in which compliant ACA audit report signed and

released

E. Confidentiality: Portions of record may be confidential pursuant, but not limited to Section 32A-2-32 NMSA 1978 (i.e., diagnostic evaluations, psychiatric reports, medical reports, social studies reports, pre-parole reports and supervision histories, etc.).

[1.19.4.209 NMAC - N, 4-30-12]

1.19.4.210 J U V E N I L E FACILITY UNIT FILES:

A. Program: county juvenile detention home

B. Maintenance system: chronological by calendar year, then alphabetical by unit

C. Description: records documenting all activities (i.e., staff shift changes, lockdowns, population count, service provider visits, etc.) that have transpired within a unit on a daily basis. Files may include daily staff shift log, daily room inspection forms, copy of daily population count sheet, copies of incident reports, copies of staff alert forms, daily equipment inventory counts, correspondence, etc.

D. Retention: three years from the close of the calendar year in which ACA audit is signed and released

E. Confidentiality: Portions of this record may contain confidential pursuant, but not limited to Section 32A-2-32 NMSA 1978 (i.e., diagnostic evaluations, psychiatric reports, medical reports, social studies reports, pre-parole reports and supervision histories, etc.).

[1.19.4.210 NMAC - N, 4-30-12]

1.19.4.300 AFTER SCHOOL AND SUMMER YOUTH PROGRAM REGISTRATION FILES:

A. Program: parks and recreation

B. Maintenance system: chronological by fiscal year

C. Description: records documenting the registration of a youth to attend the after school and summer youth program. Files may include registration form, free and reduced application form, correspondence, etc.

D. Retention: two years from the close of the fiscal year in which county audit is signed and released

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., health information) and 45 CFR 205.50 safeguarding information for the financial assistance programs.

[1.19.4.300 NMAC - N, 4-30-12]

NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION

This is an amendment to 11.4.2 NMAC, Sections 7 and 9, effective 4-16-12.

11.4.2.7 DEFINITIONS:

A. "ASCII" means a code that follows the proposed standard for defining codes for information exchange between equipment produced by different manufacturers. [A(MERICAN) S(TANDARD) C(ODE) FOR) I(NFORMATION) I(NTERCHANGE)].

B. "Ivanlink/Advantis" means the insurance value added network used by the insurance industry to communicate electronically. The IVANLINK/ADVANTIS system allows users to maintain an electronic mail box to receive or send electronic transmissions.

C. "Claims administrator" means the insurance carrier, third party administrator, self-insured employer, or any claims coordinator designated by the employer or another claims payor to provide claims processing services on workers' compensation claims. These services include receiving and sending workers' compensation claims information to the WCA, employer, insurance carrier, and injured worker by use of the paper copy first report of injury or illness and notice of benefit payment, or the electronic transmission of these documents.

D. "Loss run" means a computer generated report, listing or file that provides uniquely identifying and financial data of each individual claim for a group of claims occurring during a particular period for an insured or employer.

E. "Severity index" means a calculated value assigned to an injury by summing the ratings associated with type of benefit payable, medical costs and indemnity costs:

F. "Average severity index" means the sum of all severity indexes for an employer during the time period examined divided by the number of separate injuries reported during that time period for that employer as shown by the WCA E-1.2 and E-6 databases:

G. "Average severity index by industry" means the sum of the severity indexes within an industry divided by the number of separate employers within the industry, during the time period examined, based upon the data in the possession of the WCA on the date of the calculation:

H. "Average sum severity index" means the sum of all severity indexes for an employer during the time period examined:

I. "Average sum severity index by industry" means the sum of the sum

severity indexes for each employer in the industry divided by the number of employers in the industry, during the time period examined, based upon the data in the possession of the WCA on the date of the calculation:]

[F:] E. “Industry” means a business, or all businesses, as the context requires, that have identical 2 digit NAICS codes as determined by the WCA.

[K:] E. “NAICS code” means a designator of the principal business of an employer assigned by the WCA pursuant to the current version of the North American industry classification system, a publication of the executive office of the president, office of management and budget, United States.

G. “Experience modifier” is a calculation that compares the losses of an individual risk (employer) to average losses for all other risks in that industry classification and state. The experience modifier is used to adjust the insurance premiums of an individual risk according to the risk’s loss experience.

[6/1/96; 4/30/98; 11.4.2.7 NMAC - Rn & A, 11 NMAC 4.2.7, 11/30/04; A, 4/16/12]

11.4.2.9 SAFETY:

A. Annual inspections:

(1) All employers, [members of a group self-insurer or members of a governmental pool paying an annual workers’ compensation insurance premium in excess of \$5,000.00 and all employers certified as individual self-insurers] as identified in NMSA 1978, Section 52-1-6.2, are required to have a safety inspection at least once per year. All other employers are encouraged to do so.

(2) Standards for annual inspections: The minimum standards for the annual safety inspection are contained in the WCA [booklet] publication, annual safety inspections. This publication may be obtained from the WCA’s website at: <http://www.workerscomp.state.nm.us/pdf/booklets/D1.pdf>.

[(3) All employers, individual self-insurers, members of a group self-insurer or members of a governmental pool shall submit proof of a safety inspection to the WCA within thirty (30) days of the completion of the inspection:]

(3) Who may conduct the inspection and reporting:

(a) A senior manager or dedicated safety professional employed by the business.

(b) A third party safety organization.

(c) A safety professional from the insurance company.

(d) Safety consultants from the WCA may be contacted to provide training to an employer’s management staff on how to conduct a proper safety inspection.

(e) Businesses shall submit proof of a safety inspection to the WCA within thirty (30) days of the completion of inspection. The agency’s publication on inspections, mentioned above, also contains an affidavit that shall be completed and submitted to the WCA’s safety program manager. The business may attach a list with the address of all facilities that were included on the inspection.

(f) Though the responsibility for reporting is with the business, the insurance carrier may report completed inspections, provided the insurance carrier conducted the inspection.

(4) Failure to comply with the annual safety inspection requirement may subject an employer to penalties under Section 52-1-6.2 NMSA 1978.

B. Extra-hazardous employers:

[(1) An “extra-hazardous employer is:

(a) an employer whose average severity index for the twelve months preceding the designation is at least two standard deviations above the mean of the average severity indexes in the industry in which the employer is classified; or

(b) an employer whose average sum of severity indexes is at least two standard deviations above the mean of the average sum of severity indexes in the industry in which the employer is classified.

(2) The official reports to the WCA of notices of accident (Form E-1.2) and payment of benefits (Form E-6) shall definitively constitute the database from which the severity index for an employer is calculated. Additional or updated data not present in the E-1.2 or E-6 databases shall not be considered in the calculation of the severity index, the imposition of requirements or sanctions under this rule, nor for any other purpose. For purposes of administrative and judicial review, a copy of the WCA computer generated report showing the E-1.2 and E-6 report data used to calculate the employer’s average severity index, together with an attestation from the database manager that the report is correct and accurate, shall be considered competent evidence of the correct data on which the severity index and average severity index should be calculated.

—————(3) The severity index for a particular injury shall be a number between 1 and 15, calculated by using the following table for assignment of values:

| Type of benefit payable: | Medical-only | TPD | TPD | PPD | PTD | Death |
|--------------------------|--------------|----------|--------------|---------------|-----------------|---------------------|
| Rating: | 0 | 1 | 2 | 3 | 4 | 5 |
| Medical costs | | \$0-1000 | \$1001-5,000 | \$5001-10,000 | \$10,001-30,000 | \$30,001 or greater |
| Rating: | 0 | 1 | 2 | 3 | 4 | 5 |
| Indemnity costs: | | \$0-1000 | \$1001-5,000 | \$5001-10,000 | \$10,001-30,000 | \$30,001 or greater |
| Rating: | 0 | 1 | 2 | 3 | 4 | 5 |

(4) The WCA shall utilize the E-1.2 and E-6 databases to calculate the severity index for each reported accident for an employer for which expenditures for benefits were made during the twelve (12) months preceding the calculation, utilizing the table set forth in Paragraph (3) of Subsection B of this Section.

—————(5) The WCA shall calculate an average severity index and average sum severity index for the employer for all injuries reported to the WCA’s E-1.2 and E-6 databases for the twelve (12) months immediately preceding the calculation. The calculations shall occur every six

(6) months on a schedule to be determined by the director.

~~(6) The WCA shall compare the average severity index for the employer with the average severity index and average sum severity index of other employers in the same 2 digit NAICS code classification determined by the WCA to be appropriate for the employer, for the same time period, utilizing standard statistical techniques.]~~

~~(1) The extra-hazardous employer program is hereinafter referred to as the risk reduction program ("RRP").~~

~~(2) The WCA has developed a program to identify employers that meet the criteria, specified below, for classification into the risk reduction program.~~

~~(3) An employer who receives this classification is an employer whose experience modifier is identified as among the highest in the state and such other employers as may be identified by the WCA director.~~

~~(4) The WCA shall notify the employer and its insurance carrier that the employer meets the criteria, under the above guidelines, to be enrolled RRP.~~

~~[(7)] (a) [The WCA shall give written notice to any] Notice shall be given to the employer, and the insurer or self-insurance entity, if any, [that it determines to fall into the definition of "extra-hazardous"] by personal service upon any person of suitable age and discretion at the business location or by certified mail addressed to the owner, proprietor, managing partner, president, majority stockholder, chief operational officer or manager of the business.~~

~~[(8)] (b) Employers who have received a notice of classification shall have five (5) working days to file a written request for reconsideration with the director. No requirement under these rules shall be stayed during the pendency of a request for reconsideration. The director may hold hearings upon a request for reconsideration and make a determination as appropriate. Appeal of a ruling by the director shall be by writ of certiorari to the district court, pursuant to S.C.R.A. Rule 1-075.~~

~~[(9)] (5) [Within fifteen (15) days of service of a notice of classification, an extra-hazardous employer shall have a safety consultation performed at every location where it does business in New Mexico unless a more limited safety consultation is authorized in writing by the director, for good cause shown. The consultation must be performed by field office safety personnel, the employer's insurer or a safety consultant approved by the director. Field office safety personnel may assist employers in interpreting the requirement for a safety consultation and in conducting the consultation.] Within thirty (30) days of service of a notice of classification, an~~

~~employer who is classified and enrolled in the RRP shall obtain a safety consultation. The consultation must be performed by a WCA safety consultant, the employer's insurer or a professional independent safety consultant approved by the director. A WCA safety consultant may assist employers in interpreting the requirement for a safety consultation and in conducting the consultation.~~

~~[(10)] (6) [Within five (5) working days of the safety consultation called for in Paragraph (8) of Subsection B of 11.4.2.9 NMAC the person performing the safety inspection shall submit a written report detailing any identified hazardous conditions and practices.] The safety consultant performing the safety consultation shall submit within ten (10) days a written report to WCA and the employer detailing any identified hazardous conditions or practices identified through the safety consultation. The written report must be in a form acceptable to the director.~~

~~[(11)] (7) Within [ten (10)] thirty (30) working days of the submission of the written report concerning the safety consultation, the [extra-hazardous] employer participating in the RRP shall submit a specific accident prevention plan to resolve the hazards and practices identified in the written report. [The plan must propose acceptable access to work sites and workers for field office safety personnel for the purpose of determining compliance with the plan. The director must approve the specific accident prevention plan. Any plan not approved by the director must be corrected and resubmitted for approval within ten (10) days of the notice of disapproval by the director.]~~

~~(8) The WCA may investigate accidents occurring at the work site(s) of an employer for whom a plan has been formulated under Paragraph (7) of Subsection B of this section and the WCA may otherwise monitor the implementation of the accident prevention plan as it finds necessary.~~

~~(9) Six (6) months after the formulation of an accident prevention plan prescribed by Paragraph (7) of Subsection B of this section, the WCA shall conduct a follow-up inspection of the employer's premises. The WCA may require the participation of the safety consultant who performed the initial consultation and formulated the safety plan.~~

~~(a) If the WCA determines that the employer has complied with the terms of the accident prevention plan or has implemented other acceptable corrective measures, the WCA shall so certify.~~

~~(b) If, at the time of the inspection required under Paragraph (9) of Subsection B of this section, the employer continues to exceed the injury frequencies that may~~

~~reasonably be expected in that employer's business or industry, the WCA shall continue to monitor the safety conditions at the work site(s) and may formulate additional safety plans reasonably calculated to abate hazards. The employer shall comply with the plans and may be subject to additional penalties for failure to implement the plan or plans.~~

~~[(12)] (10) For good cause shown, the director may extend any time limit required by this part for up to thirty (30) additional days.~~

~~(a) All applications for extension shall be submitted in writing and shall state with specificity the reasons for requested additional time.~~

~~(b) The director may hold hearings to determine the appropriateness of extensions of time for submission of specific accident prevention plans.~~

~~(c) The director's determination on a request for an extension is final.~~

~~(d) In the case of an [extra-hazardous] RRP employer whose employees are assigned to furnish services to other employers, the responsibility for the development and submission of an accident prevention plan as required by these rules shall be with the employer who controls and provides direct on-site supervision of the workers who are exposed to the hazards and practices identified in the written report of the safety consultant.~~

~~[(13)] (11) Any employer who fails to develop, submit, cause to be submitted, implement or comply with a specific accident prevention plan as provided for in these rules shall be subject to imposition of a penalty of up to \$5,000.00 [per failure]. Each incident of failure to formulate, submit, cause to be submitted, implement or comply with a specific accident prevention plan persisting for a period of fifteen (15) working days shall constitute a separate violation and subject the employer to additional penalties. The enforcement procedures established in Part Five (5) of these rules shall be utilized in all proceedings under this subsection.~~

~~[(14)] (12) An employer shall no longer be designated [as "extra-hazardous"] to participate in the RRP when the provisions of Paragraphs [(8) through (11)] (5) through (8) of Subsection B of 11.4.2.9 NMAC, inclusive, have been satisfied [and when the average severity index for the employer and average sum of severity indexes for the employer both are less than two standard deviations from the industry mean as determined by a regularly scheduled calculation].~~

~~C. The employer, its insurer and all agents of the employer or insurer have the duty of compliance with reasonable requests for information from workers' compensation administration personnel. WCA personnel shall collect data regarding all work-place fatalities in New Mexico.~~

[2/24/92, 10/30/92, 6/1/96, 4/30/98; 11.4.2.9
NMAC - Rn & A, 11 NMAC 4.2.9, 11/30/04;
A, 4/16/12]

End of Adopted Rules Section

Other Material Related to Administrative Law

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

New Mexico Board of Examiners for Architects

PO Box 509
Santa Fe, NM
505-982-2869

Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, May 11, 2012. The meeting will be held in the Conference Room of the Board office, #5 Calle Medico, Ste. C in Santa Fe beginning at 9:00 a.m. Disciplinary matters may also be discussed.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 982-2869 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION

Director's Second Response to Public Comment

The proposed changes to Part 2 of the WCA Rules were released for public inspection on October 1, 2011. Public comment opened on October 13, 2011 and was accepted through November 14, 2011. The public hearing to accept comment was held on October 27, 2011. Public comment to consider additional amendments to 11.4.7.12 was extended until November 23, 2011.

Part 2 - Safety Rules

The WCA received comment concerning the proposed changes to the WCA safety rules at Part 2 amending the annual inspection and extra-hazardous employer sections.

One written objection was received stating that the deadline of 7 days to identify employers with qualifying premium because it is redundant and too restrictive. Insurers

are required to file all policies within 30 days. The commentator also objected to method of identifying extra hazardous employers by the exclusion of the word "substantially" in the statutory phrase, "whose injury frequencies substantially exceed those that may reasonably be expected in that employer's business or industry." The concern is that it would result in all employers getting swept into the qualifying threshold for inclusion in the RRP. Another area of concern was the use of experience modifiers in identifying small employers or employers who have adverse injury experience in one year. The experience follows them for the required three years even though in subsequent years they have a clean safety record. The commentator also requested at least 10 working days for the safety professional to submit their report.

Another comment was received supporting the strategy of less stringent reporting requirements. The provisions of this rule could impact relations between an insurer and employer by imposing mandatory annual inspections. The commentator suggested an extension of time provisions by the WCA of two or three year periods between required inspections if an employer has a strong safety/loss record. Requiring all employers to submit to an annual inspection because of a few organizations who cannot or will not implement and maintain on-point internal safety programs isn't fair and impacts the insurer and employer relationship. Inspections could become another business hurdle for employers. Another comment suggested that the deadline to secure a safety inspection be extended from 30 days to 45 or 90 days.

Another recommendation was received requiring that the employer maintain record of the safety inspection instead of requiring the employer to report the inspection to the WCA, comparable to OSHA's process. This would eliminate the administrative burden for both the employer and the WCA to furnish a report instead of focusing on a meaningful inspection and, further, it would help overcome any negative perception of governmental regulation. It was suggested that the WCA should maintain a cooperative relationship with the state OSHA bureau and be mutually supportive of each other's missions. Exception was taken to the notary requirement on the affidavit form, which was perceived to place the focus on the paperwork rather than the inspection. Most \$5K employers will not know that this requirement exists. The rule that requires insurance companies to notify the WCA when a policy is issued in excess of

\$5,000 is too vague and could include self-insurers, groups and pools. The reference to the statute could eliminate members of groups and pools and it was suggested that the wording containing the \$5,000 language would be clearer. It was also recommended that an annual or semiannual report listing all the \$5K policies would be better than notification in each individual instance. It was suggested that compliance on this rule is from NM based carriers only and non-local insurers will not be aware of it unless the WCA contacts each insurer. A recommendation was also received requiring the carrier to notify \$5K employers of the safety inspection requirement. The list of items in the report under (b) of this section is not necessary. The WCA receives that information already through its POC data base.

One commentator expressed confusion as to whether the rule imposes a new carrier reporting requirement or if it references reporting that is already being done in New Mexico under §52-1-4. The 7 day requirement conflicts with the 30 day requirement contained in 11.4.11.8(A)(1) for filing insurance coverage. This commentator opposes any new reporting requirements and the shortening of the deadline for required reporting. The impact of proposed changes amending the criteria for classification in the risk reduction program is unclear. In a bad economy, governmental regulations place additional burdens on employers, adversely affecting their profitability and the hiring of new employees.

Another commentator stated the WCA already receives POC information on all insured entities from NCCI. The regulation would require reporting from multiple carriers in lieu of a single source. Reports are already provided to the WCA containing the required information. Reports of safety visits are provided which contains almost all the required information except addresses of specific locations. These reports contain the amount of premium charged and the WCA still contacts those employers requiring a safety visit. The commentator expressed that it would be impossible to file a report within 7 days of a policy's inception and this requirement is restrictive and should be extended to 30 days. Further, an experience modifier above industry average is not a fair tool for determination qualification into the RRP. A safety consultation within 30 days of that classification may not be productive if a small business in a rural area has no work at the time and no employees. The paperwork requirement is an additional burden on business and is difficult to enforce.

Utilization of a quarterly report from the carrier listing employer safety inspections completed within the past 12 months is recommended. If a business is not in compliance with that requirement, the WCA could then contact the businesses that are non-compliant. The rule places unnecessary burdens on NM businesses and carriers/self-insured groups. The WCA should task force the issue to craft a rule and safety program that makes good sense and brings necessary safety to the workplace. Membership in the task force should include WCA safety staff, one OSHA representative and safety personnel from carriers, self-insurers and self-insurance groups.

A discussion group was formed to discuss the comments received and amendments were made to the proposed rule in response to public comment. Part 2 of the WCA rules will be promulgated as amended. Please consult the WCA website at <http://www.workerscomp.state.nm.us/> for a copy of the new rule.

The public record of this rulemaking shall incorporate this Response to Public Comment and the formal record of the rulemaking proceedings shall close upon execution of this document.

Ned S. Fuller, Director
N.M. Workers' Compensation
Administration
April 2, 2012

**End of Other Related Material
Section**

Submittal Deadlines and Publication Dates 2012

| Volume XXIII | Submittal Deadline | Publication Date |
|-----------------|--------------------|------------------|
| Issue Number 1 | January 3 | January 17 |
| Issue Number 2 | January 18 | January 31 |
| Issue Number 3 | February 1 | February 15 |
| Issue Number 4 | February 16 | February 29 |
| Issue Number 5 | March 1 | March 15 |
| Issue Number 6 | March 16 | March 30 |
| Issue Number 7 | April 2 | April 16 |
| Issue Number 8 | April 17 | April 30 |
| Issue Number 9 | May 1 | May 15 |
| Issue Number 10 | May 16 | May 31 |
| Issue Number 11 | June 1 | June 14 |
| Issue Number 12 | June 15 | June 29 |
| Issue Number 13 | July 2 | July 16 |
| Issue Number 14 | July 17 | July 31 |
| Issue Number 15 | August 1 | August 15 |
| Issue Number 16 | August 16 | August 30 |
| Issue Number 17 | August 31 | September 14 |
| Issue Number 18 | September 17 | September 28 |
| Issue Number 19 | October 1 | October 15 |
| Issue Number 20 | October 16 | October 30 |
| Issue Number 21 | November 1 | November 15 |
| Issue Number 22 | November 16 | November 30 |
| Issue Number 23 | December 3 | December 14 |
| Issue Number 24 | December 17 | December 31 |

The *New Mexico Register* is the official publication for all notices of rule making, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at <http://www.nmcpr.state.nm.us/nmregister>.

For further information, call 505-476-7907.