

This is an amendment to 15.2.1 NMAC, Sections 8 & 9, effective 5/24/2022.

**Explanatory paragraph: This is a short-form amendment to 15.2.1 NMAC, Section 8, effective May 24, 2022. For Section 8 of 15.2.1 NMAC, Subsections A thru G and Subsections I thru J were not published, as there were no changes. For Section 9 of 15.2.1 NMAC, Subsections A & B and Paragraphs (1) thru (14) and Paragraphs (16) thru (22) of Subsection C were not published, as there were no changes.**

**15.2.1.8 COMMISSION:**

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**H. Organization's financial requirements:**

(1) The New Mexico horse breeders' association shall establish interest-bearing accounts, designated as gaming funds for purses.

(2) The New Mexico horse breeders' association shall ensure all accounting of funds deposited with and paid out or distributed by the New Mexico horse breeders' association pursuant to the Horse Racing Act is in accordance with or exceeds generally accepted accounting principles.

(3) The New Mexico horse breeders' association shall provide at a minimum the following insurance policies:

- (a) \$1,000,000 cyber liability
- (b) \$1,000,000 directors, officers, and employment practices
- (c) \$1,000,000 employee theft

(4) The New Mexico horse breeders' association will provide the New Mexico racing commission with a copy of their yearly independent audits, and proof of insurance.

(5) The ~~[New Mexico horsemen's association and the]~~ associations and the New Mexico horse breeders' association with regard to gaming monies shall keep accurate, complete, and legible records with reports to the commission to include:

- (a) monthly reconciliation of amounts collected to account statements;
- (b) copy of account authorizing signatures;
- (c) any changes in authorizing signatures; and
- (d) detail of disbursements from the accounts.

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[15.2.1.8 NMAC - Rp, 15 NMAC 2.1.8, 3/15/2001; A, 8/30/2001; A, 1/31/2008; A, 4/30/2012; A, 6/1/2016; A, 2/25/2020; A, 5/24/2022]

**15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:**

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**C. Proceedings by the commission:**

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(15) Proposal for decision.

(a) Where a hearing officer conducts a hearing, the hearing officer shall complete a report containing his or her findings of fact, conclusions of law and recommendations for commission action.

(b) Any commissioner who did not hear the case may not participate in a decision in which the commission rejects, modifies, adds to, or makes substitutions for the findings of fact in a hearing officer's report unless the commission has reviewed all portions of the record that pertain to such findings of fact.

(c) Where the commission itself is the hearing body, the commission shall complete a report containing findings of fact and conclusions of law. No commissioner may participate who has not either heard the case or reviewed the entire record.

(d) The person preparing a proposal for decision under this section shall initiate service of a copy of the hearing officer's report or commission's report on each party of record no later than 31 calendar days after the close of the hearing.

(e) A party of record may, not later than 10 business days after the date of service of a hearing officer's report or commission's report, file exceptions to the report. A reply to an exception filed under

this subsection must be filed no later than five business days after the last day for filing the exceptions. A copy of each exception and reply must be served on all parties of record.

**(f)** After the expiration of time for filing exceptions and replies, the commission shall consider the proposal for decision in open ~~meeting~~ or closed session. The commission may: adopt the proposal for decision, in whole or in part; decline to adopt the proposal for decision, in whole or in part; modify the recommendations or the hearing officer's report, in whole or in part, based on aggravating or mitigating factors or inaccuracies; remand the proceeding for further examination by the same or a different presiding officer; or direct the presiding officer to give further consideration to the proceeding with or without reopening the hearing.

**(g)** If on remand additional evidence is received which results in a substantial revision of the proposal for decision, a new proposal for decision shall be prepared, unless a majority of the commission, on remand, has heard the case or read the record. A new proposal for decision must be clearly labeled as such and all parties of record are entitled to file exceptions, replies and briefs.

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[15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 3/15/2001; A, 3/31/2003; A, 5/30/2003; A, 6/15/2004; A, 6/30/2009; A, 9/15/2009; A, 12/1/2010; A, 5/1/2013; A, 1/1/2014; A, 3/16/2015; A, 5/1/2015; A, 9/16/2015; A, 3/15/2016; A/E, 6/28/2016; A, 9/16/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 4/9/2019; A, 5/24/2022]