

This is an amendment to 15.2.1 NMAC Sections 7 and 9, effective 04/08/2025.

Explanatory paragraph: This is a short-form amendment to 15.2.1 NMAC, Sections 7 and 9, effective April 8, 2025. For Section 7 of 15.2.1 NMAC, Subsections A through C, F through H, J through L, N through Q, and T through Z were not published as there were no changes. For Section 9 of 15.2.1 NMAC, Subsection A, Paragraphs 3-7 and 9-10. Subsection B, Paragraphs 2-4, 6-10, and 12-21 were not published as there were no changes.

15.2.1.7 DEFINITIONS:

D. Definitions beginning with the letter “d”:

- (1) **“Day”** is a 24-hour period ending at midnight.
 - (a) Dark day - a day during a live ~~[or a simulcast]~~ race ~~[meeting]~~ meet when ~~[no pari-mutuel wagering is conducted]~~ there is no live racing being conducted on the premises of the association.
 - (b) Race day - a day during a race ~~[meeting]~~ meet when pari-mutuel wagering is conducted on live racing.
 - (c) Simulcast race day - a day ~~[during a race meeting]~~ when pari-mutuel wagering is conducted on simulcast racing on the grounds of an association.
- (2) **“Dead heat”** is the finish of a race in which the noses of two or more horses reach the finish line at the same time.
- (3) **“Declaration”** is the act of withdrawing an entered horse from a race prior to the closing of entries.
- (4) **“Designated race”** shall mean any stakes race or associated trial as designated by the stewards.
- (5) **“Draw”** is the process of assigning postpositions and the process of selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

E. Definitions beginning with the letter “e”:

- (1) **“Entry”** is a horse eligible for and entered in a race; two or more horses entered in the same race, which have common ties of ownership, lease or training ~~[(see “coupled entry”)]~~.
- (2) **“Equipment”** as applied to a horse, means riding crop, blinkers, tongue strap, muzzle, hood, nose band, bit, shadow roll, martingale, breast plate, bandage, boot, plates, flipping halter and all other paraphernalia common or otherwise which might be used on or attached to a horse while racing.
- (3) **“Exhibition race”** is a race for which a purse is offered but no wagering is permitted.
- (4) **“Exotic wagering”** means all wagering other than on win, place or show, through pari-mutuel wagering;
- (5) **“Expired ticket”** is an outstanding ticket, which was not presented for redemption within the required time period for which it was issued.
- (6) **“Export”** means to send a live audiovisual broadcast of a horse race in the process of being run at a horse racetrack from the originating horse racetrack to another location.

I. Definitions beginning with the letter “i”:

- (1) **“Import”** means to receive a live audiovisual broadcast of a horse race.
- (2) **“Industry representative”** is one or more individuals, none of whom shall be attorneys, selected by a licensee to appear with them at a proceeding before the stewards or proceedings before the commission. They shall not act as an attorney in any proceeding pursuant to Section 36-2-27 NMSA 1978.
- (3) **“Inquiry”** is an investigation by the stewards of potential interference in a contest prior to declaring the result of said contest official.
 - ~~[(3)]~~ (4) **“Interstate common pool”** means a pari-mutuel pool that combines comparable pari-mutuel pools from one or more locations that accept wagers on a horse race run at a sending track for purposes of establishing payoff prices at the pool members' locations, including pools in which pool members from more than one state simultaneously combine pari-mutuel pools to form an interstate common pool.
 - ~~[(4)]~~ (5) **“Invitational handicap”** is a handicap for which the racing secretary or handicapper has selected the contestants and assigned the weights.

M. Definitions beginning with the letter “m”:

(1) **“Maiden”** is a horse, which shows in the *Equibase* and *RTO Incompass* system as never having won a race at a recognized meeting. A maiden, which has been disqualified after finishing first in a race, is still a maiden.

(2) **“Maiden race”** is a race restricted to maidens.

(3) **“Match race”** is a race between two horses under conditions agreed to by their owners.

(4) ~~“Meeting” is the specified period and dates each year during which an association is authorized to conduct racing by approval of the commission. For purposes of this rule, the meeting begins on the first date prior to actual racing that entries are accepted by the racing secretary. Entries shall be accepted no sooner than seven days before racing commences.]~~

~~(5)~~ **“Minus pool”** occurs when the payout is in excess of the net pool.

~~(6)~~ (5) **“Month”** is a calendar month.

~~(7)~~ (6) **“Mutuel field”** refers to two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

R. Definitions beginning with the letter “r”:

(1) **“Race”** is a contest between contestants at a licensed meeting.

(2) **“Race Meet”** means a period of time within dates specified and authorized by the commission in which an association is authorized to conduct live racing and may include “dark days,” “race days,” and “simulcast days.”

~~(2)~~ (3) **“Restricted area”** is an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access.

~~(3)~~ (4) **“Result”** is that part of the official order of finish to determine the pari-mutuel payout of pools for each individual contest.

S. Definitions beginning with the letter “s”:

(1) **“Scratch”** is the act of withdrawing an entered horse from a contest after the closing of entries.

(2) **“Scratch time”** is the deadline set by the association for withdrawal of entries from a scheduled performance.

(3) **“Simulcast”** refers to the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

(4) **“Single price pool”** is an equal distribution of profit to winning betting interests or winning betting combinations through a single payout price.

(5) **“Sponsor added money”** is added to a race in return for name and/or advertising recognition and is not added money.

(6) **“Stable name”** is a name used other than the actual legal name of an owner or lessee and registered with the commission.

(7) **“Stakes race”** is a contest in which nomination, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stakes race.

(8) **“Starter”** refers to a horse, which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

(9) **“Starter allowance”** is a race in which a horse establishes eligibility by starting for a claimed price pursuant to the conditions of the race.

(10) **“Steeplechase race”** is a contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.

(11) **“Steward”** is a duly appointed racing official with powers and duties specified by the act and these rules.

(12) **“Substitute Steward”** is a licensed or certified racing official pursuant to 60-1A-12, duly approved by the commission and appointed by the executive director or the presiding steward, with the powers and duties specified by the act and these rules.

(13) **“Substitute Trainer”** is a licensed trainer or assistant trainer approved by the stewards to act on behalf of the licensed trainer, as listed on the official program on a race day.

[15.2.1.7 NMAC - Rp, 15 NMAC 2.1.7, 3/15/2001; A, 2/14/2002; A, 8/30/2007; A, 12/1/2010; A, 1/1/2013; A, 5/1/2013; A, 8/15/2014; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 12/19/2019; A, 4/9/2024; A, 4/8/2025]

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

A. Proceedings before the stewards:

(1) Rights of the licensee. ~~[A person who is the subject of the disciplinary hearing conducted by the stewards is entitled to: proper notice of all charges; confront the evidence presented including: the right to counsel at the person's expense; the right to examine all evidence to be presented against them; the right to present a defense; the right to call witnesses; the right to cross-examine witnesses; and waive any of the above rights.]~~ A person who is subject of a disciplinary hearing conducted by the stewards is entitled to proper notice of all charges; the right to confront and examine all the evidence presented against them; the right to present a defense; the right to call witnesses; the right to cross-examine witnesses; the right to counsel, at the persons's expense; and the right to waive any of the above-listed rights.

(a) All attorneys representing a licensee must be licensed to practice law in New Mexico and shall submit an entry of appearance no later than five days prior to the scheduled hearing.

(b) Any attorney not licensed to practice law in New Mexico, shall request permission from the commission, show proof they are associated with an attorney licensed to practice law in New Mexico and adhere to the State of New Mexico's pro hac vice process prior to representing a licensee.

(2) ~~[Complaints-]~~ Initiation of Disciplinary Action

(a) On their own ~~[motion or on]~~ initiative or upon receipt of a complaint from a racing commission state investigator or an association official or ~~[other person]~~ another licensee regarding the alleged actions of ~~[a]~~ another licensee, the stewards may conduct an inquiry and disciplinary hearing regarding the licensee's alleged actions.

~~[(b) — A complaint made by someone other than a racing official must be in writing and filed with the stewards not later than 72 hours after the action that is the subject of the complaint.~~

~~[(c) — In case of a notice from the state of New Mexico human services department that a licensee is in non-compliance with the Parental Responsibility Act, the licensee shall be notified by the board of stewards. Thereafter the licensee shall have 30 days to provide documentation of compliance to the board of stewards and failure to do so will result in the suspension of the licensee's license.]~~

(8) Effect of rulings.

(a) Rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee.

(b) The transfer of a horse to a different owner or trainer to avoid application of a commission or other recognized regulatory organization's rule or ruling is prohibited unless permitted by the stewards.

(c) The stewards shall honor the rulings issued by other pari-mutuel racing commissions or other recognized regulatory organizations.

B. Proceedings by the commission:

(1) Party designations.

(a) A person who is the subject of a disciplinary hearing, who filed an appeal from a stewards' ruling or who otherwise seeks relief from the commission is a party to that proceeding.

(b) A party to a proceeding has the right to present a direct case, cross-examine each witness, submit legal arguments and otherwise participate fully in the proceeding.

(c) A party summoned to appear at a hearing ~~[must]~~ shall appear unless the party is excused by the commission presiding officer. Parties may appear with counsel or ~~[other representatives]~~ an industry representative of their choice. ~~[Counsel must be an attorney licensed to practice law in this state or with the permission of the commission is associated with an attorney licensed to practice law in this state and must submit an entry of appearance no later than 10 days prior to the hearing date.]~~

(d) All attorneys representing a licensee must be licensed to practice law in New Mexico and shall submit an entry of appearance no later than 10 days prior to the scheduled hearing.

(e) Any attorney not licensed to practice law in New Mexico, shall request permission from the commission, show proof they are associated with an attorney licensed to practice law in New Mexico and adhere to the State of New Mexico's pro hac vice process prior to representing a licensee.

(f) A non-party to a proceeding who wishes to appear in a contested case pending before the commission must prove that they have an effected interest sufficient to create standing in the case. The burden of proof is on the party asserting standing in such a contested case.

(5) Filing pleadings.

(a) Except as otherwise provided by this section, an original of each pleading must be filed with the commission. An original of each pleading relating to discovery must be filed with the commission. A pleading is considered filed only when actually received by the commission. Each pleading must include a certification that a copy has been mailed or delivered on each party of record, stating the name of each party served and the date and manner of service.

(b) If a pleading is sent to the commission by first-class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail one day or more before the last day for filing the pleading, the pleading is considered received and filed in time if the pleading is actually received not more than 10 days after the deadline. A legible postmark affixed by the United States postal service is prima facie evidence of the date of mailing. For purposes of responsive pleadings for which the deadline for filing is set by the filing of another pleading, the pleading to be filed first is considered filed when actually received by the commission.

(c) Unless otherwise provided by statute, the presiding officer for a proceeding may extend the time for filing a pleading on a motion made by a party before the filing deadline if the presiding officer determines that there is good cause for the extension and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion. A copy of a motion made under this section must be served on all parties of record contemporaneously with the filing of the motion.

~~**(d)** A pleading may be filed by facsimile, provided an original and the required number of copies are received in the commission's office not later than 5:00 p.m. of the third day after the date the document was filed by facsimile. The inability to transmit a document due to equipment malfunction or any other cause does not relieve the person attempting to file the document of the filing deadline.~~

~~**(e)**~~ **(d)** If the deadline for filing a pleading falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

~~**(f)**~~ **(e)** The failure to file a pleading in accordance with this section may result in the pleading being struck.

(11) Behavior.

(a) Each party, witness, attorney, or other representative shall behave in all commission proceedings with dignity, courtesy and respect for the commission, the presiding officer and all other parties and participants. Attorneys ~~[shall observe and practice the standards of ethical behavior prescribed for the profession by the code of professional responsibility]~~ appearing in this jurisdiction must comply with the rules of professional conduct as established by the New Mexico Supreme Court. If the attorney does not abide by the rules of professional conduct as established by the New Mexico Supreme Court, the attorney may be suspended or banned from practicing in front of the commission or may be reported to that practicing attorney's State Bar.

(b) ~~[An]~~ Any individual who violates this section may be excluded from a hearing by the presiding officer for a period and on conditions that are just, or may be subject to other just, reasonable and lawful disciplinary action prescribed by the presiding officer.

(22) [Rulings in other jurisdictions] (Reciprocity).

(a) ~~[Reciprocity.]~~ The stewards shall honor rulings from recognized regulatory organizations or other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of horses.

~~**(b)** Appeals of reciprocal rulings. Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the commission to show cause why such ruling should not be enforced in this jurisdiction. Any request for such hearing must clearly set forth in writing the reasons for the appeal.]~~

[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; A, 4/9/2024; A, 4/8/2025]