New Mexico Commission of Public Records
Record of Rulemaking

December 10, 2019

The Albuquerque sports Stadium, opened March 31, 1969.
RULE HEARING

A. Amend
   1.13.30 NMAC Disposition of Public Records and Non-Records (CPR and SRA Rule)
   1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule)
DECEMBER 10, 2019 RULE HEARING EXHIBIT LIST

COMES NOW, the Rule Hearing Officer and hereby identifies the following exhibits to be introduced and considered.

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
<th>Accepted</th>
<th>Denied</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Notice of Hearing, Published on September 24, 2019 in Volume 30, Issue 18 of the NM REGISTER</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>B.</td>
<td>Notice of Rule Hearing, as posted on <a href="http://www.nmcrp.state.nm.us/">http://www.nmcrp.state.nm.us/</a> website (screen shot paper copy)</td>
<td></td>
<td>x</td>
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<tr>
<td>C.</td>
<td>Agenda, as posted on <a href="http://www.nmcrp.state.nm.us/">http://www.nmcrp.state.nm.us/</a> website and as posted outside rule hearing room</td>
<td></td>
<td>x</td>
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<tr>
<td>D.</td>
<td>Email to Legislative Council Services with Notice of Regular Meeting and Rulemaking</td>
<td></td>
<td>x</td>
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<td>E.</td>
<td>Posting to Sunshine Portal with Notice of Regular Meeting and Rulemaking</td>
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<td>x</td>
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<tr>
<td>F.</td>
<td>Email to agency heads, CROs and RLOs, dated September 24, 2019</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>G.</td>
<td>Proposed Amendment to 1.13.30 NMAC Disposition of Public Records and Non-Records (CPR and SRA Rule)</td>
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</tr>
<tr>
<td>H.</td>
<td>Proposed amendment to 1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule)</td>
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<tr>
<td>I.</td>
<td>Sign In Sheet</td>
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</tbody>
</table>
NOTICE OF REGULAR MEETING AND OF RULEMAKING

The New Mexico Commission of Public Records (CPR) has scheduled a regular meeting and rule hearing for Tuesday, December 10, 2019, at 10:00 A.M. at the New Mexico State Records Center and Archives, which is an accessible facility, at 1209 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Georgette Chavez at 476-7926 by November 19, 2019, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.

The Commission of Public Records (“CPR”) and State Records Administrator (“SRA”) may consider the following items of rulemaking at the meeting:

Amend:
1.13.30 NMAC, Disposition of Public Records and Non-Records (CPR and SRA Rule).

Synopsis:
The proposed amendment of 1.31.30 NMAC consists of the following modifications:
Section 11 is being amended to remove the requirement of a destruction vendor having the national association for information destruction (NAID) AAA certificate.

1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule).

Synopsis:
The proposed amendment of 1.21.2 NMAC consists of the following modifications:
Section 519 is being amended to add response and denied to description and to change the retention to destroy 4 years from date request fulfilled or denied
Section 612 is being amended to add two retentions for judgment satisfied and judgment not satisfied records.
Section 708 is being added to create a classification for Veterinarian client/patient files.

A summary of the proposed revisions and copies of the full text of the proposed rules may be accessed at the Commission’s website (www.nmcpr.state.nm.us), or by contacting Rick Hendricks at Rick.Hendricks@state.nm.us, or via regular mail at 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7911.

At the hearing the CPR and Administrator will take oral and written comments related to the rulemaking actions listed below and during the meeting consider approving these rulemaking actions. The Commission may vote on the proposed rules during the meeting on December 10, 2019. The State Records Administrator may take action on those rules at the close of the public rulemaking hearing.

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rmd.cpr@state.nm.us. Written comments must be received no later than 5 p.m. on November 8, 2019. If submitting written comments by email, please indicate in the subject line the number of each rule(s) for which you are providing comments. Persons offering written comments at the hearing must have eight (8) copies for the Commission and Administrator to review. Oral comments will also be accepted at the rule hearing, subject to time limitations.

A copy of the agenda for the combined regular meeting and rule hearing is also available on the Commission website and at the office of the State Records Administrator located at the State Records Center and Archives at 1209 Camino Carlos Rey, Santa Fe, NM. The agenda is subject to change up to 72 hours prior to the meeting. Legal authority for this rulemaking can be found in the Public Records Act, Section 14-3-1, et seq. and in the State Rules Act, Section 14-4-1, et seq. NMSA 1978.
Commission of Public Records
Regular Meeting and Rule Hearing

Agenda
1209 Camino Carlos Rey, Santa Fe, NM
Tuesday, December 10, 2019—10:00AM

I. OPENING ACTIVITIES
   A. Call to Order
   B. Approval of Agenda
   C. Approval of Minutes of the August 27, 2019, regular commission meeting.

II. RULE HEARING
   A. Amend
      1.13.30 NMAC, Disposition of Public Records and Non-Records (CPR and SRA Rule)
      1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule)

III. ACTION ITEMS
   A. Vote on Proposed Commission Rules
      1. 1.13.30 NMAC, Disposition of Public Records and Non-Records (CPR and SRA Rule)
      2. 1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule)
   B. Acceptance of Deed of Gift
      1. John P. Wilson Collection

IV. NEW BUSINESS
   A. How we do what we do: A brief introduction to the SRCA
   B. Possibilities for meeting archive/record center expansion needs

V. DIRECTOR’S REPORT

VI. SCHEDULING OF NEXT MEETING

VII. ADJOURNMENT
Dear Legislative Council Service Representative:

The State Commission of Public Records and the state records administrator have a rule hearing on Tuesday, December 10, 2019. Here is our rulemaking information as required under the newly amended State Rules Act under section 2.E.7.

E. "provide to the public" means for an agency to distribute rulemaking information by:
   (7) providing it to the New Mexico legislative council for distribution to appropriate interim and standing legislative committees;

Here is the link to our notice, agenda and proposed amendments which appears on our agency website: [www.nmcorp.state.nm.us](http://www.nmcorp.state.nm.us)

Also attached is a PDF of the notice, agenda and proposed amendments.

Here is a link to our notice of rulemaking which appears today in the New Mexico Register: [http://164.64.110.134/nmrc/xxx18](http://164.64.110.134/nmrc/xxx18)

Please let me know if there is anything else that you require. Thank you.

Sincerely,

Georgette L. Chávez
Deputy State Records Administrator
505-476-7926

State Records Center and Archives
Your Access to Public Information

1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Find us on Facebook
Rule Hearing Search

Hearing Date: [All] [ ]
Comments: [ ]
Deadline Date: [All] [ ]
Agency: State Records Center and Archives [ ]

Search

Return to Search Results

Proposed Rule Name:
CPR_SRCA_NOTICE_OF_REGULAR_MEETING_AND_RULE_HEARING
Agency:
State Records Center and Archives
Purpose:
At the hearing the CPR and Administrator will take oral and written comments related to the rulemaking actions listed below and during the meeting consider approving these rulemaking actions.
Summary:
Synopsis:
The proposed amendment of 1.31.30 NMAC consists of the following modifications:
Section 11 is being amended to remove the requirement of a destruction vendor having the national association for information destruction (NAID) AAA certificate.
Synopsis:
The proposed amendment of 1.21.12 NMAC consists of the following modifications:
Section 519 is being amended to remove reference to destruction vendors and remove the requirement to destroy 4 years from data request fulfilled or denied.
Section 612 is being amended to add two extensions for judgment satisfied and judgment not satisfied records.
Section 708 is being added to create a classification for Veterinarian Client Patient file
Rule Complete Copy:
A summary of the proposed revisions and copies of the full text of the proposed rules may be accessed at the Commission's website (www.suncpr.state.nm.us) or by contacting Rick Hendricks at Rick.Hendricks@sta.nm.us or via regular mail at 1208 Camino Carlos Rey, Santa Fe, NM 87505 or 475-7855.
Corrections:
Not available
Rule Explanatory Statement:
Not available
Related New Mexico Register Publications:
Click Here to access Related New Mexico Publications
How to submit Comments:
Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rmd.cprr@sta.nm.us or mail to RMD.CPRR@sta.nm.us. Written comments must be received no later than 5 p.m. on November 8, 2018. If submitting written comments by email, please indicate in the subject line the number of each rule(s) for which you are providing comments.
When are comments due:
11/08/2018 5:00 PM
Hearing Date:
12/10/2018 1:00 PM
Public Hearing Location:
NM State Records Center and Archives
1208 Camino Carlos Rey
Santa Fe, NM 87507
12/10/2019 (1:30 PM -)
How to participate:
Mesa State Records Center and Archives, which is an accessible facility, at 1208 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, sign language interpreter or any form of auxiliary aid or service to attend or participate in the meeting, please contact Georgella Chavez at 476-7328 by November 19, 2018, or as soon as possible.
NOTICE OF REGULAR MEETING AND OF RULEMAKING

The New Mexico Commission of Public Records (CPR) has scheduled a regular meeting and rule hearing for Tuesday, December 10, 2019, at 10:00 A.M. at the New Mexico State Records Center and Archives, which is an accessible facility, at 1209 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Georgette Chavez at 476-7926 by November 19, 2019, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.

The Commission of Public Records ("CPR") and State Records Administrator ("SRA") may consider the following items of rulemaking at the meeting:

Amend:

1.13.30 NMAC, Disposition of Public Records and Non-Records (CPR and SRA Rule). Synopsis:
The proposed amendment of 1.13.30 NMAC consists of the following modifications:
Section 11 is being amended to remove the requirement of a destruction vendor having the national association for information destruction (NAID) AAA certificate.

1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule). Synopsis:
The proposed amendment of 1.21.2 NMAC consists of the following modifications:
Section 519 is being amended to add response and denied to description and to change the retention to destroy 4 years from date request fulfilled or denied
Section 612 is being amended to add two retentions for judgment satisfied and judgment not satisfied records.
Section 708 is being added to create a classification for Veterinarian client/patient files.

A summary of the proposed revisions and copies of the full text of the proposed rules may be accessed at the Commission's website (www.nmcor.state.nm.us), or by contacting Rick Hendricks at Rick.Hendricks@state.nm.us, or via regular mail at 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7911.

At the hearing the CPR and Administrator will take oral and written comments related to the rulemaking actions listed below and during the meeting consider approving these rulemaking actions. The Commission may vote on the proposed rules during the meeting on December 10, 2019. The State Records Administrator may take action on those rules at the close of the public rulemaking hearing.

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rmd.cpr@state.nm.us. Written comments must be received no later than 5 p.m. on November 8, 2019. If submitting written comments by email, please indicate in the subject line the number of each rule(s) for which you are providing comments. Persons offering written comments at the hearing must have eight (8) copies for the Commission and Administrator to review. Oral comments will also be accepted at the rule hearing, subject to time limitations.

A copy of the agenda for the combined regular meeting and rule hearing is also available on the Commission website and at the office of the State Records Administrator located at the State Records Center and Archives at 1209 Camino Carlos Rey, Santa Fe, NM. The agenda is subject to change up to 72 hours prior to the meeting. Legal authority for this rulemaking can be found in the Public Records Act, Section 14-3-1, et seq. and in the State Rules Act, Section 14-4-1, et seq. NMSA 1978.
1.13.30 NMAC
Disposition of Public Records and Non-Records
(CPR and SRA Rule)

Proposed Amendment
This is an amendment to 1.13.30 NMAC, Section 11, effective 12/31/2019.

1.13.30.11 ON-SITE DESTRUCTION OF RECORDS: On-site destruction of records may occur at the custodial agency's location. For approval of on-site destruction, the records custodian, chief records officer or records liaison officer shall submit a request on a form approved by the state records administrator.

A. The form may be submitted electronically with a valid digital signature issued by the state records administrator.

B. The state records administrator or designee may inspect records prior to approval of on-site destruction.

C. The state records administrator may suspend destruction of records determined to have historical value and, upon approval of the Commission, transfer the records to the state archives.

D. For legal and audit purposes, the agency shall retain a certificate of destruction as proof of the records destroyed. The certificate of destruction shall include, at a minimum, the following information:

   (1) For paper records:
      (a) place and date of pick up;
      (b) printed name and signature of employee(s) performing service;
      (c) printed name and signature of witnesses;
      (d) number of pounds destroyed/shredded (vendor) or number of boxes (agency certified);
      (e) date of destruction/shredding;
      (f) identification of company's authorizing agent by name and position;
      (g) printed name and signature of official certifying the destruction (vendor or designated records management personnel); and
      (h) statement that shredded records cannot be read, interpreted, or reconstructed.

   (2) For electronic records:
      (a) records classification;
      (b) printed name and signature of employee(s) performing destruction;
      (c) printed name and signature of record owner;
      (d) number of e-records destroyed;
      (e) date of destruction;
      (f) printed name and signature of official certifying the destruction (designated records management personnel); and
      (g) statement that destroyed records cannot be read, interpreted, or reconstructed.

E. Approved methods for on-site destruction of records are as follows:

   (1) Records that contain confidential or sensitive information shall be destroyed through a bonded [insured, and national association for information destruction (NAID-AAA) and insured document recycling vendor by shredding in such a manner that the information cannot be read, interpreted or reconstructed.

   (2) Records that do not contain confidential or sensitive information shall be destroyed by:
      (a) recycling by a bonded document recycling vendor;
      (b) shredding; or
      (c) dumpsite burial.

   (3) Records which have been contaminated may be destroyed by:
      (a) any of the approved methods described above; or
      (b) incineration.

   (4) Agencies shall select from the following methods of destruction for electronic records:
      (a) erasure from electronic media and all back up media;
      (b) overwriting of reusable magnetic media multiple times as recommended by the United States (U.S.) department of defense;
      (c) degaussing of the magnetic media; or
      (d) physical destruction of the media as recommended by the U.S. department of defense.

1.13.30 NMAC
Disposition of Public Records and Non-Records
(CPR and SRA Rule)

No Comments Received
1.13.30 NMAC
Disposition of Public Records and Non-Records
(CPR and SRA Rule)

Comments Received
1.21.2 NMAC
Retention and Disposition of Public Records
(CPR Rule)

Proposed Amendment
This is an amendment to 1.21.2 NMAC, Section 519, 612 and 708, effective 12/31/2019

1.21.2.519 PUBLIC RECORDS REQUESTS:
A. Category: Governance and compliance - records management
B. Description: Records related to requests for information under the Inspection of Public Records Act including, but not limited to, tracking (and responses), responses and denied.
C. Retention: [destroy one year from date request fulfilled or denied]
[1.21.2.519 NMAC - N, 10/1/2015, A, 12/31/2019]
[For denied requests, refer to 1.21.2.107 NMAC]

1.21.2.612 CASE FILES - LOWER COURTS (CIVIL):
A. Category: Legal and judiciary - court administration
B. Description: Court case files, including, but not limited to, dockets; does not include DUI or domestic violence cases, district, appellate, supreme court or probate case files.
C. Retention: [destroy 14 years from date file closed]
   (1) Judgement satisfied: destroy one year from date of satisfaction
   (2) Judgement not satisfied: destroy 14 years from date of judgement
[1.21.2.612 NMAC - N, 10/1/2015; A, 12/31/2019]

1.21.2.708 VETERINARIAN CLIENT/PATIENT FILES:
A. Category: Natural resource management – animal and livestock
B. Description: Veterinarian client/patient records.
C. Retention: destroy four years from date file closed
[1.21.2.708 NMAC – N, 12/31/2019]
1.21.2 NMAC
Retention and Disposition of Public Records
(CPR Rule)

No Comments Received
1.21.2 NMAC

Retention and Disposition of Public Records

(CPR Rule)

Comments Received
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<tr>
<th>Name/Print</th>
<th>Signature</th>
<th>Representing</th>
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<tbody>
<tr>
<td>Cassandra Baca</td>
<td>Cassandra B.</td>
<td>RMD-SQCA</td>
</tr>
<tr>
<td>Leo R. Lucero</td>
<td>Leo R. Lucero</td>
<td>RMD-SQCA</td>
</tr>
<tr>
<td>James K. Byrne</td>
<td>J K Byrne</td>
<td>STM</td>
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<tr>
<td>Rick Herrick</td>
<td>Rick Herrick</td>
<td>SrcA</td>
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<tr>
<td>Jonathan Ramos</td>
<td>J Ramos</td>
<td>SRCA</td>
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<td>Abe Martinez</td>
<td>Abe Martinez</td>
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<tr>
<td>Rob Marquez</td>
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<td>SRCA - OSH</td>
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<td>Thomas Shumaker</td>
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<tr>
<td>Amanda Broz</td>
<td>Amanda Broz</td>
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<tr>
<td>George H. Chavez</td>
<td>George H. Chavez</td>
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<tr>
<td>Justin Harris</td>
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<td>SFGA</td>
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<td>John Kreienkamp</td>
<td>John Kreienkamp</td>
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<td>Jim A. Marino</td>
<td>Jim A. Marino</td>
<td>DOH-PHD-ME-K</td>
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<td>Reuben Ball</td>
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<tr>
<td>Mary Ann Reybel</td>
<td>Mary Ann Reybel</td>
<td>MRD-PHNE</td>
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<tr>
<td>Maria Sando</td>
<td>Maria Sando</td>
<td>ALD</td>
</tr>
<tr>
<td>Sophia Fochilla</td>
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1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcp.state.nm.us
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<th>Statutory Member</th>
<th>Signature</th>
<th>Print Name</th>
<th>Designee (X)</th>
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<tbody>
<tr>
<td>CPR Secretary</td>
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<tr>
<td>Chairman/State Auditor</td>
<td></td>
<td>Tania Mauts</td>
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<tr>
<td>Attorney General</td>
<td></td>
<td>Paul Kipper</td>
<td>X</td>
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<tr>
<td>General Services Department, Secretary</td>
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<td>Paul Kipper</td>
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<tr>
<td>Secretary of State</td>
<td></td>
<td>Dylan Lange</td>
<td>X</td>
</tr>
<tr>
<td>State Law Librarian</td>
<td></td>
<td>Dan Cordova</td>
<td></td>
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<tr>
<td>Department of Cultural Affairs, Secretary</td>
<td></td>
<td>Anita Tellez</td>
<td>X</td>
</tr>
<tr>
<td>Attorney General Counsel</td>
<td></td>
<td>John Kreieckamp</td>
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NMRC
Transmittal Form

Volume: XXX Issue: 24 Publication date: 12/31/2019 Number of pages: 1 (AED Use Only) Sequence No. 49:15

Issuing agency name and address:
State Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, NM 87507

Contact person's name: Albert Martinez Phone number: 505-476-7935 E-mail address: albertj.martinez@state.nm.us

Type of rule action: [ ] New [ ] Amendment [ ] Repeal [ ] Emergency [ ] Renumber

Title number: 1 Title name: General Government Administration

Chapter number: 13 Chapter name: Public Records

Part number: 30 Part name: Disposition of Public Records and Non-Records

Amendment description (If filing an amendment):

Amending (1) Section

Amendment's NMRC citation (If filing an amendment):

Section 11 of 1.13.30 NMRC

Are there any materials incorporated by reference? Yes [ ] No [X] Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes [ ] No [X] Public domain [ ]

Specific statutory or other authority authorizing rulemaking:

Public Records Act, Section 14-3-1 et. seq. NMSA 1978

Notice date(s): 9/24/2019 Hearing date(s): 12/10/2019 Rule adoption date: 12/10/2019 Rule effective date: 12/31/2019
Findings required for rulemaking adoption: continued

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purpose of the Public Records Act. Section 14-3-6 NMSA 1978 authorizes the state records administrator to establish a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records.

Section 11 is being amended to remove the requirement of a destruction vendor having the national association for information destruction (NAID) AAA certificate.

These rule amendments were made to include public comments received at the public hearing held on Tuesday, December 10, 2019.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:
Brian S. Colón

Title:
Chair, State Commission of Public Records

Signature: (BLACK ink only)  

Date signed: 12/19/19

7/1/2018
This is an amendment to 1.13.30 NMAC, Section 11, effective 12/31/2019.

1.13.30.11 ON-SITE DESTRUCTION OF RECORDS: On-site destruction of records may occur at the custodial agency's location. For approval of on-site destruction, the records custodian, chief records officer or records liaison officer shall submit a request on a form approved by the state records administrator.

A. The form may be submitted electronically with a valid digital signature issued by the state records administrator.

B. The state records administrator or designee may inspect records prior to approval of on-site destruction.

C. The state records administrator may suspend destruction of records determined to have historical value and, upon approval of the Commission, transfer the records to the state archives.

D. For legal and audit purposes, the agency shall retain a certificate of destruction as proof of the records destroyed. The certificate of destruction shall include, at a minimum, the following information:

(1) For paper records:
   (a) place and date of pick up;
   (b) printed name and signature of employee(s) performing service;
   (c) printed name and signature of witnesses;
   (d) number of pounds destroyed/shredded (vendor) or number of boxes (agency certified);
   (e) date of destruction/shredding;
   (f) identification of company's authorizing agent by name and position;
   (g) printed name and signature of official certifying the destruction (vendor or designated records management personnel); and
   (h) statement that shredded records cannot be read, interpreted, or reconstructed.

(2) For electronic records:
   (a) records classification;
   (b) printed name and signature of employee(s) performing destruction;
   (c) printed name and signature of record owner;
   (d) number of e-records destroyed;
   (e) date of destruction;
   (f) printed name and signature of official certifying the destruction (designated records management personnel); and
   (g) statement that destroyed records cannot be read, interpreted, or reconstructed.

E. Approved methods for on-site destruction of records are as follows:

(1) Records that contain confidential or sensitive information shall be destroyed through a bonded [insured, and national association for information destruction (NAID) AAA] and insured, recycling vendor by shredding in such a manner that the information cannot be read, interpreted or reconstructed.

   (a) recycling by a bonded document recycling vendor;
   (b) shredding; or
   (c) dumpster burial.

(3) Records which have been contaminated may be destroyed by:
   (a) any of the approved methods described above; or
   (b) incineration.

(4) Agencies shall select from the following methods of destruction for electronic records:
   (a) erasure from electronic media and all back up media;
   (b) overwriting of reusable magnetic media multiple times as recommended by the United States (U.S.) department of defense;
   (c) degaussing of the magnetic media; or
   (d) physical destruction of the media as recommended by the U.S. department of defense.
