

**TITLE 15        GAMBLING AND LIQUOR CONTROL**  
**CHAPTER 1      GAMES AND GAMING GENERAL PROVISIONS**  
**PART 2         CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION**

**15.1.2.1        ISSUING AGENCY:** New Mexico Gaming Control Board.  
[11/30/98; 15.1.2.1 NMAC - Rn, 15 NMAC 1.2.1, 1/31/02]

**15.1.2.2        SCOPE:** This rule applies to information provided to the Gaming Control Board under the New Mexico Gaming Control Act and to the State Gaming Representative pursuant to an approved Indian Gaming Compact with the State of New Mexico.  
[11/30/98; 15.1.2.2 NMAC - Rn & A, 15 NMAC 1.2.2, 1/31/02]

**15.1.2.3        STATUTORY AUTHORITY:** Section 60-2E-7(B)(3) of the Gaming Control Act authorizes the board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act. Sections 60-2E-8(C)(11) and 60-2E-41 specifically direct the board to adopt regulations restricting access to confidential information obtained pursuant to the provisions of the Gaming Control Act.  
[11/30/98; 15.1.2.3 NMAC - Rn, 15 NMAC 1.2.3, 1/31/02]

**15.1.2.4        DURATION:** Permanent.  
[11/30/98; 15.1.2.4 NMAC - Rn, 15 NMAC 1.2.4, 1/31/02]

**15.1.2.5        EFFECTIVE DATE:** November 30, 1998, unless a later date is cited at the end of a section.  
[11/30/98; 15.1.2.5 NMAC - Rn & A, 15 NMAC 1.2.5, 1/31/02]

**15.1.2.6        OBJECTIVE:** This rule establishes criteria for determining the confidentiality of information and data received by the Gaming Control Board and circumstances under which the Gaming Control Board may disclose confidential information in its possession.  
[11/30/98; 15.1.2.6 NMAC - Rn & A, 15 NMAC 1.2.6, 1/31/02]

**15.1.2.7        DEFINITIONS:** Unless otherwise defined below, terms used in this rule have the same meanings as set forth in the Gaming Control Act:

**A.        “compact”** means an approved gaming compact and revenue sharing agreement between a Tribe and the State.

**B.        “gaming enterprise”** means the tribal entity created and designated by the tribe as having authority to conduct Class III gaming pursuant to a valid gaming compact with the State of New Mexico.

**C.        “proprietary information”** means written processes, data, or other internal records or materials developed by and available exclusively to the owner, the disclosure of which would seriously impair the owner’s operations or its ability to operate or compete against similar operations.

**D.        “State”** means the State of New Mexico.

**E.        “State Gaming Representative”** means the person designated by the Gaming Control Board pursuant to the Gaming Control Act who is responsible for actions of the State set out in the compact.

**F.        “Tribe”** means any Indian tribe or pueblo located within the State that has entered into an approved gaming compact and revenue sharing agreement with the State.

[11/30/98; 15.1.2.7 NMAC - Rn & A, 15 NMAC 1.2.7, 1/31/02]

**15.1.2.8        CONFIDENTIAL INFORMATION:**

**A.        Confidential information** includes any information, document, or communication that is:

- (1)** required by law or rules promulgated by the board to be furnished in connection with an application submitted to the board or that may otherwise be obtained by the board in connection with the application;
- (2)** provided to the members or agents of the board by a licensee when such information is required to be submitted or disclosed under the law or rules promulgated by the board;
- (3)** provided to the members or agents of the board by a governmental agency or a confidential informant;
- (4)** compiled by the members or agents of the board from other confidential information, including lists of persons who have been approved for, or denied, work permits by the board;

(5) obtained by the board in connection with an application for self-exclusion; or  
(6) obtained or compiled by the board or its agents in the course of an investigation of an applicant or licensee; the information, document or communication remains confidential unless and until disclosure is permitted under the act.

**B.** Confidential information does not include:

- (1) names and business addresses of applicants or the fact that an applicant has filed an application with the board;
- (2) names and business addresses of any and all of an applicant's parent companies, affiliates, subsidiaries, partners, limited partners, major shareholders owning more than five percent of an applicant's stock, trustees, successor trustees, trust beneficiaries, or of any person that controls or is in a position to control or exercise other significant involvement in the operations of the applicant or licensee;
- (3) names and business addresses of all officers and key employees of the applicant;
- (4) names and business addresses of parties with whom the applicant or licensee contracts or expects to contract to support the operation of gaming establishments, including the names and addresses of landlords owning the premises where gaming will occur;
- (5) names and business addresses of manufacturers and distributors with whom the applicant or licensee contracts or expects to contract for the sale, lease, or use of gaming devices;
- (6) written order of final board approval or denial of an application and any other final action of the board taken on any other matter involving an applicant or licensee, including but not limited to, enforcement actions, investigations, rulings on motions and requests for legal determinations;
- (7) legal documents submitted by applicants or licensees, including but not limited to, motions, requests for legal determinations, comments, briefs, notices of appeal, etc.; *provided*, however, that information contained or attached to such documents that otherwise meets the confidentiality requirements of this section will be treated accordingly pursuant to Subsection A of 15.1.2.8 NMAC and all its subparts above;
- (8) documents or information that is available from another state agency, federal agency, or other public source;
- (9) an administrative complaint filed by the board; or pleadings filed by any party to such an administrative complaint; or
- (10) Any other information ruled by the board, in its discretion not to be confidential.

**C.** The board members or agents will receive, process, store and maintain all confidential information in a manner and location sufficient to ensure that the confidential information is secure and that access is strictly limited to authorized persons. Only members of the board or its agents, including persons designated by the board or authorized by law to conduct investigations of applicants and licensees, may have access to the confidential information, except that designated employees of gaming operator licensees shall have access to the names of persons self-excluded from gaming venues, as necessary to implement the state's self-exclusion program and as provided by rules promulgated by the board.

**D.** Confidential information shall be disclosed upon issuance of a lawful order by a court of competent jurisdiction ordering the board to release such information. Absent such an order, confidential information will be disclosed only with the prior written consent of the subject applicant or licensee, except as required to implement the state's self-exclusion program and as provided by rules promulgated by the board. [11/30/98; 15.1.2.8 NMAC - Rn & A, 15 NMAC 1.2.8, 1/31/02; A, 1/29/16]

#### **15.1.2.9 REQUESTS FOR DISCLOSURE OF CONFIDENTIAL INFORMATION:**

**A.** Nothing in this rule may be construed as requiring the board to create any document or compilation of any confidential information for the purpose of responding to a request for disclosure.

**B.** Any person seeking access to confidential information in the board's possession may file a request for disclosure by the board. The request must be in writing, must state the purpose of the request and the proposed use of the information, and must be sufficient to adequately identify and limit the documents or information sought. A separate request must be filed for each applicant or licensee about whom information is sought. The procedure for requesting confidential information described herein does not apply to information subject to disclosure pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq NMSA.

**C.** Within ten (10) working days of receipt of the request, the board will make a preliminary assessment whether the request satisfies the requirements of Subsection 15.1.2 9(B). If the request fails to satisfy the requirements of Subsection 15.1.2 9 (B), the board will deny the request on the basis of the deficiencies and will return the request to the person seeking the information with an explanation of the deficiencies. No further action will be required of the board.

**D.** Within fifteen (15) working days of receipt of the request, if the request meets the requirements of Subsection 15.1.2 9(B), the board will send a consent form and a copy of the request to the relevant applicant or licensee. The applicant or licensee must return the consent form to the board indicating the applicant's or licensee's consent or refusal to consent to disclosure of all or part of the requested information. Failure of the licensee or applicant to return the consent form within ten (10) working days of the date mailed by the board to the applicant or licensee will be deemed refusal of consent to the disclosure of the requested information.

**E.** The applicant's or licensee's refusal to consent to disclosure of the requested information is final and precludes the board from disclosing the requested information, except upon court order as set forth in Section 60-2E-42 of the act.

**F.** If the disclosure request is approved by the applicant or licensee, the board will permit inspection of the requested material as soon as practicable but in no event later than three days after the date approval of the disclosure was received. Before permitting inspection, the board will redact any information that reveals financial institution account numbers, social security numbers, and any other information protected from disclosure by state or federal law. The board may charge a reasonable fee for copying any of the documents subject to the request.

**G.** Any person may, at any time, seek a court order for release of the requested information pursuant to Section 60-2E-42 of the act.

**H.** The board, upon its own motion, may seek the release of confidential information by following the procedures outlined in this section and all its subparts.

**I.** That information described as non-confidential in Subsection 15.1.2.8(B) and in Section 15.1.2.10 is not subject to the disclosure procedures described in this rule.

[11/30/98; 15.1.2.9 NMAC - Rn, 15 NMAC 1.2.9, 1/31/02; A, 5/14/04]

**15.1.2.10 INFORMATION PROVIDED UNDER GAMING COMPACTS:** Trade secrets, information relating to security and surveillance systems, cash handling and accounting procedures, building layout, gaming machine payouts, investigations into alleged violations of laws or regulations, personnel records, and proprietary information regarding the gaming enterprise of the tribe, Class III gaming conducted by the Tribe, or the operation of Class III gaming, are considered confidential information. Such information may not be released without prior written approval of a duly authorized representative of the Tribe.

[11/30/98; 15.1.2.10 NMAC - Rn & A, 15 NMAC 1.2.10, 1/31/02]

**HISTORY OF 15.1.2 NMAC:**

**Pre NMAC History: None.**

**History of Repealed Material:** [Reserved]

**Other History:**

15 NMAC 1.2, Confidential Treatment of Certain Information, effective 11/30/98.

15 NMAC 1.2, Confidential Treatment of Certain Information (filed 11/13/98) reformatted, renumbered, amended and replaced by 15.1.2 NMAC, Confidential Treatment of Certain Information, effective, 01/31/2002.