

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 1 AGRICULTURE AND RANCHING GENERAL PROVISIONS
PART 3 PARENTAL RESPONSIBILITY ACT COMPLIANCE

21.1.3.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[21.1.3.1 NMAC - N, 8/16/2010]
[MSC 3189, P. O. Box 30005, Las Cruces, New Mexico 88003-8005, Telephone: (575) 646-3007]

21.1.3.2 SCOPE: This part applies to disciplinary proceedings by the issuing agency pursuant to the Parental Responsibility Act against a license, certificate, registration or permit required to engage in a profession or occupation.
[21.1.3.2 NMAC - N, 8/16/2010]

21.1.3.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Parental Responsibility Act, NMSA 1978, Sections 40-5A-1 to 40-5A-13, and the following licensing statutes under the authority of the department of agriculture:

- A.** Egg Grading Act, NMSA 1978, Section 25-6-12;
- B.** Dairy Establishment Sanitation Act, NMSA 1978, Sections 25-7B-4 and 25-7B-6;
- C.** Standards of Weights and Measures Act, NMSA 1978, Sections 57-17-1 to 57-17-19;
- D.** Weightmaster Act, NMSA 1978, Section 57-18-5;
- E.** Petroleum Products Standards Act; NMSA 1978, Sections 57-18-3 and 57-19-28;
- F.** New Mexico Pesticide Control Act, NMSA 1978, Section 76-4-17;
- G.** Plant Protection Act, NMSA 1978, Sections 76-5-14, 76-5-16, 76-5-21, and 76-5-23;
- H.** Bee Act, NMSA 1978, Sections 76-9-6, 76-9-10 and 76-9-11; and
- I.** Produce Marketing Act, NMSA 1978, Section 76-15-14.

[21.1.3.3 NMAC - N, 8/16/2010]

21.1.3.4 DURATION: Permanent
[21.1.3.4 NMAC - N, 8/16/2010]

21.1.3.5 EFFECTIVE DATE: August 16, 2010, unless a later date is cited at the end of a section.
[21.1.3.5 NMAC - N, 8/16/2010]

21.1.3.6 OBJECTIVE: This part is intended to implement the requirements of the Parental Responsibility Act as they apply to the issuance, renewal, suspension or revocation of any license, certificate, registration or permit required to engage in a profession or occupation by the issuing agency.
[21.1.3.6 NMAC - N, 8/16/2010]

21.1.3.7 DEFINITIONS: All terms defined in the Parental Responsibility Act shall have the same meaning in this part unless defined below:

- A.** “agency” means the New Mexico department of agriculture;
- B.** “HSD” means the New Mexico human services department;
- C.** “license” means a license, certificate, registration or permit issued by agency that a person is required to have to engage in a profession or occupation in New Mexico;
- D.** “statement of compliance” means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support; and
- E.** “statement of non-compliance” means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment or order for support.

[21.1.3.7 NMAC - N, 8/16/2010]

21.1.3.8 GENERAL PROVISIONS:

- A.** Disciplinary action: If an applicant or licensee is not in compliance with a judgment and order for support, the agency:
 - (1) shall deny an application for a license;
 - (2) shall deny the renewal of a license; and
 - (3) has grounds for suspension or revocation of a license.

B. Certified list: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the agency shall match the certified list against the current list of agency applicants and licensees. Upon later receipt of an application for licensure or renewal, the agency shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the agency shall report to HSD the names of agency applicants and licensees who are on the certified list and the action the agency has taken in connection with such applicants and licensees.

C. Initial action: Upon determination that an applicant or licensee appears on the certified list, the agency shall:

(1) commence a formal proceeding under Subsection D of 21.1.3.8 NMAC to take appropriate action under Subsection A of 21.1.3.8 NMAC; or

(2) for current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the agency with a subsequent statement of compliance by the earlier of the application for license renewal or a specified date not to exceed six (6) months; if the licensee fails to provide the statement of compliance, the agency shall commence a formal proceeding under Subsection D of 21.1.3.8 NMAC.

D. Notice of contemplated action: Prior to taking any action specified in Subsection A of 21.1.3.8 NMAC, the agency shall serve upon the applicant or licensee a written notice stating that:

(1) the agency has grounds to take such action, and the agency shall take such action unless the applicant or licensee:

(a) mails a letter (certified mail return receipt requested) within twenty (20) days after service of the notice requesting a hearing; or

(b) provides the agency, within thirty (30) days of the date of the notice, a statement of compliance; and

(2) if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact HSD child support enforcement division.

E. Evidence of proof: In any hearing under this part, relevant evidence is limited to the following:

(1) a statement of non-compliance is conclusive evidence that requires the agency to take the appropriate action under Subsection A of 21.1.3.8 NMAC unless:

(2) the applicant or licensee can provide the agency with a subsequent statement of compliance which shall preclude the agency from taking any action based solely on the prior statement of non-compliance.

F. Order: When an action is taken under this part solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The agency may also include any other conditions necessary to comply with agency requirements for reapplications or reinstatement of lapsed licenses.

G. Procedures: Proceedings under this part shall be governed by the agency's statutory authority, and any adjudicatory procedures adopted by the agency.

[21.1.3.8 NMAC - N, 8/16/2010]

HISTORY OF 21.1.3 NMAC: [RESERVED]