

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 16 AGRICULTURAL WEIGHTS AND MEASURES
PART 9 WEIGHMASTER BONDING REQUIREMENTS

21.16.9.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/97; 21.16.9.1 NMAC - Rn & A, 21 NMAC 16.9.1, 05/29/09]
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21.16.9.2 SCOPE: All individuals engaged in public weighing or charging a fee for any weight
determination.
[7/1/97; 21.16.9.2 NMAC - Rn, 21 NMAC 16.9.2, 05/29/09]

21.16.9.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university
under the Weighmaster Act, Chapter 57, Article 18, Sections 1 through 26, New Mexico Statutes Annotated, 1978
Compilation.
[7/1/97; 21.16.9.3 NMAC - Rn, 21 NMAC 16.9.3, 05/29/09]

21.16.9.4 DURATION: Permanent
[7/1/97; 21.16.9.4 NMAC - Rn, 21 NMAC 16.9.4, 05/29/09]

21.16.9.5 EFFECTIVE DATE: July 1, 1997
[7/1/97; 21.16.9.5 NMAC - Rn, 21 NMAC 16.9.5, 05/29/09]

21.16.9.6 OBJECTIVE: This part specifies the means by which a weighmaster shall meet the bonding
requirements of the New Mexico Weighmaster Act.
[7/1/97; 21.16.9.6 NMAC - Rn, 21 NMAC 16.9.6, 05/29/09]

21.16.9.7 DEFINITIONS:

- A. "Department" means the New Mexico department of agriculture.
- B. "Director" means the director of the New Mexico department of agriculture.
- C. "Public weighing" means the determination of any weight upon which a sale is based, or upon
which a basic charge or payment for services rendered is based, when the person making the weight determination
is not a party to, or an agent of the party to, the transaction upon which the weight is based.
- D. "Weighmaster" means any person who performs public weighing as defined in Subsection C of
21.16.9.7 NMAC.

[7/1/97; 21.16.9.7 NMAC - Rn, 21 NMAC 16.9.7, 05/29/09]

21.16.9.8 [RESERVED]

21.16.9.9 BONDING REQUIREMENTS: It is the responsibility of the director to determine, in his sole
discretion, whether each applicant for a weighmaster license has met the bonding requirements, as well as the other
licensing requirements, set forth in the Weighmaster Act. The director may provide applicants the opportunity to
meet the bonding requirements by one of the following alternatives.

- A. Corporate surety bond: The applicant shall execute and deliver to the director a surety bond in the
sum of one thousand dollars (\$1,000). The bond shall be executed by the applicant as principal and by a corporate
surety company qualified and authorized to do business in New Mexico as a surety. The bond shall be on a form
furnished by the department. The bond may be for a term of one (1) or more years. Each renewal will be by means
of a continuation certificate or a new bond.
- B. Personal bond: The applicant may, if approved by the department, act as his own surety, or may
have such other persons, partnership, joint ventures and corporations as may be approved by the department act as
surety. Prior to any review of the personal bond by the department, the surety must furnish the department, at the
time of the application for registration or renewal of registration, a current financial statement in form satisfactory to
the department showing that the surety has liquid assets of at least five thousand dollars (\$5,000), with which to
meet the bond application. What constitutes "liquid assets" shall be subject to the sole discretion of the department.

The financial statement must be audited and certified by a certified public accountant licensed to do business in the state of New Mexico, or in the state in which the surety has his principal place of business.

C. Certificate of deposit: Applicant may deposit one thousand dollars (\$1,000) in a savings and loan association, bank, or trust company located within the state of New Mexico. The savings and loan, bank or trust company must be insured by an agency of the federal government and must be approved by the department. The certificate of deposit must be on a form approved from time to time by the department at its sole discretion. The certificate shall specifically include a provision that the deposit may not be withdrawn, pledged or assigned by the applicant to others during the applicant's registration term, and for a period of one year after the expiration of the term of registration. However, the certificate may contain a provision that all interest may be paid directly to the applicant as the interest accrues. During the term of the certificate, the certificate shall be under subconditions that the state of New Mexico or the department may order the deposit to be paid to the state or the department. In the event that all or part of the deposit is executed upon by a court of competent jurisdiction, or applied to the department during the term of the applicant's registration, the applicant shall forthwith deposit an additional sum sufficient to maintain the one thousand dollars (\$1,000) minimum under the same conditions for the remainder of the applicant's term of registration and for the period of one year thereafter. The certificate of deposit shall be held by the department and the institution issuing the certificate shall be so advised.

D. Irrevocable letter of credit: The applicant may submit an irrevocable letter of credit in the sum of one thousand dollars (\$1,000) established in favor of the state or the department at a bank located within the state of New Mexico. The bank must be insured by an agency of the federal government and must be approved by the department. The irrevocable letter of credit shall be available to be drawn on by the state or the department during the applicant's registration term and for a period of one year after the expiration of the term of registration. Should the state or department exercise their rights to collect upon the irrevocable letter of credit, these monies shall be immediately delivered to the state or department.

E. Cash/certified check: For interim bonding the applicant may deposit with the department one thousand dollars (\$1,000) in the form of cash or certified check. A certified check shall be drawn on a bank located within the state of New Mexico and made payable to the department. The bank must be insured by an agency of the federal government and must be approved by the department. The certified check must on its face indicate it is valid, and cannot be canceled for a period of eighteen (18) months after the date of issue. The cash or certified check will be held by the department during the interim period until the bonding requirements set by this rule are met.

[7/1/97; 21.16.9.9 NMAC - Rn, 21 NMAC 16.9.9, 05/29/09]

21.16.9.10 [RESERVED]

HISTORY OF 21.16.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule No. DOA 77-4, Regulatory Order No. 2, Bonding Requirements, filed 9/19/77.

NMDA Rule No. 86-3, Weighmaster Bonding Requirements, filed 9/17/86.

History of Repealed Material: [RESERVED]