


NEW MEXICO
Commission of Public Records
 at the State Records Center and Archives
 Your Access to Public Information

IN RE: THE MATTER CONCERNING)
A PUBLIC HEARING REGARDING)
PROPOSED CHANGES TO CERTAIN)
RULES BY THE STATE RECORDS)
ADMINISTRATOR AND THE)

NOVEMBER 14, 2017 RULE HEARING EXHIBIT LIST

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

Exhibit	Description	Accepted	Denied
A.	Notice of Hearing, published on September 26, 2017 in Volume XXVIII, Issue 18 of the NM REGISTER	X	
B.	Notice of Rule Hearing, as listed on http://www.nmcpr.state.nm.us/ website (screen shot paper copy)	X	
C.	Revised Agenda, as listed on http://www.nmcpr.state.nm.us/ website and as posted outside rule hearing room	X	
D.	Email to Legislative Council Services	X	
E.	Emails to DoIT for posting to Sunshine Portal	X	
F.	Email to agency heads, CROs, RLOs	X	
G.	1.24.20 Emergency Rule Repeal	X	
H.	1.13.30 Disposition of Public Records and Non-Records Repeal	X	
I.	1.13.30 Hearing Officer report, June 19, 2017	X	
J.	1.13.30 Comments on proposed rule from Aaron Rodriguez, Deputy General Counsel, NM Public Education Department	X	
K.	1.13.30 Comments on proposed rule from David Craig, Director of School Budget and Finance Analysis Bureau, PED	X	
L.	1.13.12 Designation of Records Management Personnel Repeal	X	
M.	1.13.30 Disposition of Public Records and Non-Records Replacement	X	
N.	1.13.12 Designation of Records Management Personnel Replacement	X	
O.	1.21.2 Retention and Disposition of Public Records Amend	X	
P.	1.13.5 New Mexico Historical Records Grant Program Guidelines Amend	X	
Q.	1.13.10 Records Storage and Access Amend	X	
R.	Sign in sheet	X	

1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Robert J. Tórréz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Tim Keller
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Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Edwynn Burckle
General Services Department

Lynne S. Rhys
State Law Librarian

New Mexico Register / Volume XXVIII, Issue 18 / September 26, 2017

NOTICE OF REGULAR MEETING

The New Mexico Commission of Public Records (CPR) has scheduled a regular meeting and rule hearing for Tuesday, November 14, 2017, 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 October 31, 2017, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.

NOTICE OF RULEMAKING

The Commission of Public Records and State Records Administrator may consider the following items of rulemaking at the meeting:

Repeal

1.24.20 NMAC

Emergency Rules (CPR Rule)

1.13.12 NMAC

Designation of Records Management Personnel (CPR Rule)

1.13.30 NMAC

Disposition of Public Records and Non-Records (Joint CPR & SRA Rule)

Replacement

1.13.12 NMAC

Designation of Records Management Personnel (CPR Rule)

1.13.30 NMAC

Disposition of Public Records and Non-Records (Joint CPR & SRA Rule)

Amend

1.21.2 NMAC

Retention and Disposition of Public Records (CPR Rule)

1.13.5 NMAC

New Mexico Historical Records Grant Program Guidelines (CPR Rule)

1.13.10 NMAC

Records Storage and Access (SRA Only)

SYNOPSIS:

The proposed repeal of 1.24.20 NMAC is to acknowledge that the rule for emergency rule filing has been supplanted by the statutory changes made to the State Rules Act due to passage of HB 58 in the 2017 regular legislative session.

The proposed repeal and replacement of 1.13.12 NMAC is to add designation language for records custodians, clarify the training requirements for designated personnel, and to renumber the part.

The proposed repeal and replacement of 1.13.30 NMAC consists of the following modifications: Section 2 is being amended to widen the scope of the rule; Section 10 is being amended to only transfer closed records to the state archives; Section 11 is being amended to add a designee of the state records administrator to inspect records for on-site records, add the requirement of a certificate of destruction, and add the qualification of a document destruction vendor; Section 12 is being amended to add a designee of the state records administrator to inspect records at the record centers; standardizing the dimensions of boxes brought in the destruction, and establish a fee for the services of document destruction for boxes delivered to the record centers; Section 13 is being amended to place the responsibility of monitoring legal holds on the custodial agencies and to assess a fee per box during the annual destruction; Section 14 is being amended to require a standardized form and to correct a NMAC reference; and Section 16 is being amended to remove a unnecessary statutory reference and grammatical corrections.

The proposed amendment of 1.21.2 NMAC consist of the follow modifications: Section 336, Case Files - Losas, and Section 337, Educational Financial Aid, are being amended to remove grant administration from the subcategory; grant files were moved to the Administration - general management category in November of 2016; and Section 644 is being added to allow for the classification of dismissed attorney legal case files to match the classification provided for the courts (section 616).

The proposed amendments to 1.13.5 NMAC consist of the following: Section 8 is being amended to clarify eligibility requirements for historical records grants; Section 9 is being amended to clarify the conditions for custody of historically significant records; and Section 10 is being amended to limit the types of projects that could be funded.

Exhibit A.

The proposed amendment of 1.13.10 NMAC is to add the rejection of storage boxes that are less than three quarters full, or that have glossy exteriors, from being accepted for storage at the record centers, and to add a reference to the fee schedule for the storage of microfilm.

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.

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rm@nmsr.state.nm.us. Written comments must be received no later than 5 p.m. on October 31, 2017. 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.

The Commission may vote on the proposed rules during the meeting on November 14, 2017. The State Records Administrator may take action on those rules at the close of the public rulemaking hearing. 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.nmsr.state.nm.us) or by contacting Melissa Salazar at Melissa.Salazar@state.nm.us, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7911.

A copy of the agenda for the combined meeting and rule hearing is also available on the Commission website and at the office of the State Records Administrator located in the Santa Fe State Records Center and Archives at 1205 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.

Exhibit A.



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New Mexico Commission of Public Records

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Notice of Regular Meeting and Rule Hearing

NOTICE OF REGULAR MEETING

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NOTICE OF RULEMAKING

The Commission of Public Records and State Records Administrator may consider the following items of rulemaking at the meeting:

Exhibit B.

Repeal

1.24.20 NMAC Emergency Rules (CPR Rule)

1.13.12 NMAC Designation of Records Management Personnel (CPR Rule)

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

Replacement

1.13.12 NMAC Designation of Records Management Personnel (CPR Rule)

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

Amend

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

1.13.5 NMAC New Mexico Historical Records Grant Program Guidelines (CPR Rule)

1.13.10 NMAC Records Storage and Access (SRA Only)

SYNOPSIS:

The proposed repeal of 1.24.20 NMAC is to acknowledge that the rule for emergency rule filing has been supplanted by the statutory changes made to the State Rules Act due to passage of HB 58 in the 2017 regular legislative session.

The proposed repeal and replacement of 1.13.12 NMAC is to add designation language for records custodians, clarify the training requirements for designated personnel, and to renumber the part.

The proposed repeal and replacement of 1.13.30 NMAC consists of the following modifications: Section 2 is being amended to widen the scope of the rule; Section 10 is being amended to only transfer closed records to the state archives; Section 11 is being amended to add a designee of the state records administrator to inspect records for on-site records, add the requirement of a certificate of destruction, and add the qualification of a document destruction vendor; Section 12 is being amended to add a designee of the state records administrator to inspect records at the record centers; standardizing the dimensions of boxes brought in the destruction, and establish a fee for the services of document destruction for boxes delivered to the record centers; Section 13 is being amended to place the responsibility of monitoring legal holds on the custodial agencies and to assess a fee per box during the annual destruction; Section 14 is being amended to require a standardized form and to correct a NMAC reference; and Section 16 is being amended to remove a unnecessary statutory reference and grammatical corrections.

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Exhibit B.

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.

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rmc.cpr@state.nm.us. Written comments must be received no later than 5 p.m. on October 31, 2017. 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.

The Commission may vote on the proposed rules during the meeting on November 14, 2017. The State Records Administrator may take action on those rules at the close of the public rulemaking hearing. 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 Melissa Salazar at Melissa.Salazar@state.nm.us, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7911.

A PDF copy of the agenda for the combined meeting and rule hearing is available by [clicking here](#) and also at the office of the State Records Administrator located in the Santa Fe State Records Center and Archives at 1205 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.

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Exhibit B.



Exhibit B.

**STATE COMMISSION OF PUBLIC RECORDS
REVISED AGENDA**

1205 Camino Carlos Rey, Santa Fe, NM
Tuesday, November 14, 2017 - 10:00 a.m.

- I. **OPENING ACTIVITIES:**
 - A. Call to Order
 - B. Approval of Agenda
 - C. Approval of Minutes of the August 29, 2017, Regular Commission Meeting
 - D. Introduction of new State Records Center and Archives staff
- II. **OLD BUSINESS**
 - A. Public Records Act Update
 - B. State Personnel Tenancy and SRCA Concerns Update
- III. **RULE HEARING:**
 - A. Repeal
 - 1.24.20 NMAC Emergency Rules [CPR RULE]
 - 1.13.30 NMAC Disposition of Public Records and Non-Records [Joint CPR & SRA RULE]
 - 1.13.12 NMAC Designation of Records Management Personnel [CPR RULE]
 - B. Replacement
 - 1.13.30 NMAC Disposition of Public Records and Non-Records [Joint CPR & SRA RULE]
 - 1.13.12 NMAC Designation of Records Management Personnel [CPR RULE]
 - C. Amend
 - 1.21.2 NMAC Retention and Disposition of Public Records [CPR RULE]
 - 1.13.5 NMAC New Mexico Historical Records Grant Program Guidelines [CPR RULE]
 - 1.13.10 NMAC Records Storage and Access [SRA RULE]
- IV. **ACTION ITEMS:**

Vote on Proposed Rules Presented at Rule Hearing
- V. **DIRECTOR'S REPORT**
- VI. **SCHEDULING OF NEXT MEETING: February 20, 2018**
- VII. **ADJOURNMENT OF REGULAR MEETING**

Exhibit C.

1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Robert J. Tórriz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Tim Keller
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Edwynn Durchle
General Services Department

Lynne S. Rhys
State Law Librarian

Chavez, Georgette, SRCA

From: Chavez, Georgette, SRCA
Sent: Tuesday, September 26, 2017 10:47 AM
To: 'lcs@nmlegis.gov'
Cc: Salazar, Melissa, SRCA
Subject: BU 36900_CPR_Rulemaking Information
Attachments: Sunshine Portal Posting NMCPR 11.14.17 Amended Version.pdf

Dear Legislative Council Service Representative:

The State Commission of Public Records and I have a rule hearing on Tuesday, November 14, 2017. 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 a link to our notice of rulemaking and the proposed amendments on our website: <http://www.nmcpr.state.nm.us/notice-of-regular-meeting-and-rule-hearing>

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

Here is a link to our notice of rulemaking which appears today in the *New Mexico Register*: <http://164.64.110.239/nmregister/xxviii/xxviii18/CPRnotice.htm>

Please let me know if there is anything else that you require to fulfill this requirement.

Sincerely,

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


NEW MEXICO 
Commission of Public Records
at the State Board of Education and Archives
Your Access to Public Information
1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Exhibit D.

Chavez, Georgette, SRCA

From: Chavez, Georgette, SRCA
Sent: Thursday, September 21, 2017 10:08 AM
To: Lujan, Estevan, DoIT
Cc: Salazar, Melissa, SRCA
Subject: SRCA PDF Documents for Sunshine Portal Link
Attachments: Sunshine Portal Posting_NMCPR 11.14.17.pdf


Mr. Lujan,

Attached is the pdf document for the Sunshine Portal link. I would greatly appreciate your assistance in ensuring that this is posted by 10/5/17.

Please feel free to contact me if you have any questions. Thank you for your assistance.

Sincerely,

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

NEW MEXICO 
Commission of Public Records

at the State Records Center and Archives

Your Access to Public Information

1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Exhibit E.

Chavez, Georgette, SRCA

From: Chavez, Georgette, SRCA
Sent: Tuesday, September 26, 2017 8:23 AM
To: Lujan, Estevan, DoIT
Cc: Salazar, Melissa, SRCA
Subject: Amended Sunshine Portal Posting
Attachments: Sunshine Portal Posting NMCPR 11.14.17 Amended Version.pdf

Mr. Lujan,


An error was found in the original version of the SRCA Sunshine Portal posting.

Could you please post the attached amended version by October 6, 2017?

I apologize for the confusion and thank you for all your help on this. Have a nice day!

Sincerely,

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

NEW MEXICO 
Commission of Public Records

at the State Records Center and Archives

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1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Exhibit E.

Montoya, Susan, SRCA

From: Lucero, Leo, SRCA
Sent: Tuesday, September 26, 2017 3:10 PM
To: CPR.Notifications@state.nm.us
Subject: Notice of Regular Meeting and Rulemaking
Attachments: 2017_11_14_Notice_of_Rulemaking_and_Regular_Meeting.pdf; 2017_11_14_CPR_Agenda.pdf

NOTICE OF REGULAR MEETING

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NOTICE OF RULEMAKING

The Commission of Public Records and State Records Administrator may consider the following items of rulemaking at the meeting:

Repeal

- 1.24.20 NMAC Emergency Rules (CPR Rule)
- 1.13.12 NMAC Designation of Records Management Personnel (CPR Rule)
- 1.13.30 NMAC Disposition of Public Records and Non-Records (Joint CPR & SRA Rule)

Replacement

- 1.13.12 NMAC Designation of Records Management Personnel (CPR Rule)
- 1.13.30 NMAC Disposition of Public Records and Non-Records (Joint CPR & SRA Rule)

Amend

- 1.21.2 NMAC Retention and Disposition of Public Records (CPR Rule)
- 1.13.5 NMAC New Mexico Historical Records Grant Program Guidelines (CPR Rule)
- 1.13.10 NMAC Records Storage and Access (SRA Only)

SYNOPSIS:

The proposed repeal of 1.24.20 NMAC is to acknowledge that the rule for emergency rule filing has been supplanted by the statutory changes made to the State Rules Act due to passage of HB 58 in the 2017 regular legislative session.

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The proposed amendment of 1.21.2 NMAC consist of the follow modifications: Section 336, Case Files - Loans, and Section 337, Educational Financial Aid, are being amended to remove grant administration from the subcategory: grant files were moved to the Administration - general management category in November of 2016; and Section 644 is being added to allow for the classification of dismissed attorney legal case files to match the classification provided for the courts (section 616).

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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.

Thank you.

Lee R. Luvie

Records Management Division Director

NEW MEXICO



Commission of Public Records

BY THE STATE RECORDS CENTER AND ARCHIVES

Your Access to Public Information

1205 Camino Carlos Rey
Santa Fe, NM 87507
(505) 476-7920



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Exhibit F.

NEW MEXICO
Commission of Public Records

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STATE COMMISSION OF PUBLIC RECORDS
MEETING AGENDA

1205 Camino Carlos Rey, Santa Fe, NM
Tuesday, November 14, 2017 - 10:00 a.m.

- I. **OPENING ACTIVITIES:**
 - A. Call to Order
 - B. Approval of Agenda
 - C. Approval of Minutes of the August 29, 2017, Regular Commission Meeting
- II. **NEW BUSINESS**

Presentation of FY17 Audit Report – Andrew Quintana, Kubiak Melton & Associates, LLC
- III. **RULE HEARING:**
 - A. Renewal
 - 1.24.20 NMAC Emergency Rules [CPR RULE]
 - 1.13.12 NMAC Designation of Records Management Personnel [CPR RULE]
 - 1.13.30 NMAC Disposition of Public Records and Non-Records [Joint CPR & SRA RULE]
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Vote on Proposed Rules Presented at Rule Hearing
- V. **DIRECTOR'S REPORT**
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- VII. **ADJOURNMENT OF REGULAR MEETING**

1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmscp.state.nm.us

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Historian/Chair

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General Services Department

Lynne S. Rhys
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NEW MEXICO
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Exhibit F.

is being added to allow for the classification of dismissed attorney legal case files to match the classification provided for the courts (section 616).

The proposed amendments to 1.13.5 NMAC consist of the following: Section 8 is being amended to clarify eligibility requirements for historical records grants; Section 9 is being amended to clarify the conditions for custody of historically significant records; and Section 10 is being amended to limit the types of projects that could be funded.

The proposed amendment of 1.13.10 NMAC is to add the rejection of storage boxes that are less than three quarters full, or that have glossy exteriors, from being accepted for storage at the record centers, and to add a reference to the fee schedule for the storage of microfilm.

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.

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at rmr.cpr@state.nm.us. Written comments must be received no later than 5 p.m. on October 31, 2017. 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.

The Commission may vote on the proposed rules during the meeting on November 14, 2017. The State Records Administrator may take action on those rules at the close of the public rulemaking hearing. 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.nmccpr.state.nm.us) or by contacting Melissa Salazar at Melissa.Salazar@state.nm.us, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7911.

A copy of the agenda for the combined meeting and rule hearing is also available on the Commission website and at the office of the State Records Administrator located in the Santa Fe State Records Center and Archives at 1205 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.

Exhibit F.

The State Commission of Public Records, approved and adopted, at its 11/14/2017 hearing, to repeal its rule 1.24.20 NMAC - Emergency Rules (filed 2/15/2000), effective 11/28/2017.

Exhibit F.

The State Commission of Public Records, approved at its xx/xx/2017 hearing, to repeal its rule 1.13.12 NMAC - Designation of Records Management Personnel (filed 11/17/2015) and replace it with 1.13.12 NMAC - Designation of Records Management Personnel, effective xx/xx/2017.

Exhibit F.

The State Commission of Public Records, approved at its xx/xx/2017 hearing, to repeal its rule 1.13.70 NMAC - Disposition of Public Records and Non Records (filed 11/17/2015) and replace it with 1.15.70 NMAC - Disposition of Public Records and Non-Records, effective xx/xx/2017.

Exhibit F.

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 13 PUBLIC RECORDS
PART 12 DESIGNATION OF RECORDS MANAGEMENT PERSONNEL

1.13.12.1 ISSUING AGENCY: State Commission of Public Records.
[1.13.12.1 NMAC - Rp, 1.13.12.1, xx/xx/2017]

1.13.12.2 SCOPE: All agencies that utilize the records center services and state archives
[1.13.12.2 NMAC - Rp, 1.13.12.2, xx/xx/2017]

1.13.12.3 STATUTORY AUTHORITY: Public Records Act, Section 14-3-4 NMSA 1978.
[1.13.12.3 NMAC - Rp, 1.13.12.3, xx/xx/2017]

1.13.12.4 DURATION: Permanent.
[1.13.12.4 NMAC - Rp, 1.13.12.4, xx/xx/2017]

1.13.12.5 EFFECTIVE DATE: XX/XX/2017, unless a later date is cited at the end of a section.
[1.13.12.5 NMAC - Rp, 1.13.12.5, xx/xx/2017]

1.13.12.6 OBJECTIVE: To establish requirements for the designation of personnel to interact with the commission of public records and the state records administrator for the access, storage and disposition of records stored at the state records center and archives.
[1.13.12.6 NMAC - Rp, 1.13.12.6, xx/xx/2017]

1.13.12.7 DEFINITIONS:

A. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

B. "Destruction" means the disposal of records of no further operational, legal, fiscal, or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

C. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

D. "Pending litigation" means threatened, pending or active proceedings in a court of law whose activity is in progress but not yet completed.

E. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee as defined in Section 14-3-2 NMSA, 1978.

F. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

[1.13.12.7 NMAC - Rp, 1.13.12.7, xx/xx/2017]

1.13.12.8 RECORDS MANAGEMENT PROGRAM PERSONNEL HIERARCHY:

A. The statutory records custodian for each agency may designate one individual to act as a designated records custodian on his or her behalf. The designee shall be appointed each fiscal year using a form approved by the administrator. For designated records custodian responsibilities please see 1.13.12.9 NMAC.

B. The records custodian for each agency may designate one chief records officer to oversee the agency's records management program. The chief records officer shall be appointed each fiscal year using a form approved by the administrator. For chief records officer responsibilities, refer to 1.13.12.10 NMAC.

C. The records custodian for each agency may designate one or more records liaison officer(s) responsible for authorizing the storage and destruction of agency records. The records liaison officer shall be appointed each fiscal year using a form approved by the administrator. For record liaison officer responsibilities, refer to 1.13.12.11 NMAC.

D. A records custodian, chief records officer or records liaison officer may designate personnel to pick-up agency records from the records center. Pick-up personnel shall be appointed each fiscal year using a form approved by the administrator. For pick-up personnel responsibilities, refer to 1.13.12.12 NMAC.

1.13.12 NMAC

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Exhibit F.

- E. If a records custodian does not designate a chief records officer or record liaison officer, the records custodian shall remain responsible for all of the duties of the personnel listed above.
- F. The records custodian shall notify the state commission of public records concerning any status changes regarding designated records management personnel.
[1.13.12.8 NMAC - Rp. 1.13.12.8, xx/xx/2017]

1.13.12.9 DESIGNATED RECORDS CUSTODIAN: If a statutory records custodian elects to designate an individual to serve on his or her behalf as a designated records custodian, the following requirements and responsibilities are assigned.

- A. The designated records custodian shall be the individual responsible for satisfying all statutory requirements of the records custodian as delineated in the Public Records Act (14-3-1 NMSA, 1978).
- B. All designated records custodians shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.
- C. Designated records custodians are required to attend the basic records management training once every three years.
[1.13.12.9 NMAC - Rp. 1.13.12.9, xx/xx/2017]

1.13.12.10 CHIEF RECORDS OFFICER: If a chief records officer is designated by the records custodian, the following responsibilities are assigned.

- A. The chief records officer shall be the individual with the authority to oversee the agency's records management program.
- B. The chief records officer shall perform the following duties:
 - (1) coordinate the response to the disposition authorization (destruction and transfer to state archives)
 - (2) establish and maintain a centralized tracking system for the agency's storage containers (including the containers' indices, metadata and locators) and the disposition of records;
 - (3) disseminate information on any pending litigation, a discovery order, subpoena, government investigation or audit;
 - (4) ensure staff is adequately trained on proper records management practices, and
 - (5) develop policies and procedures pertaining to records management issues (i.e., handling confidential materials, new hire orientation, e-mail management, disposition of records when an employee leaves the agency, metadata development, etc.)
- C. The chief records officer shall have the same authorities and responsibilities as a record liaison officer. The chief records officer shall have the authority to submit records for direct transfer to archives.
- D. All chief records officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.
- E. Chief records officers are required to attend the basic records management training once every three years.
[1.13.12.10 NMAC - Rp. 1.13.12.10, xx/xx/2017]

1.13.12.11 RECORDS LIAISON OFFICER: If a record liaison officer is designated by the records custodian, the following responsibilities are assigned.

- A. Records liaison officers shall be authorized to interact with the state commission of public records and the state records administrator for the purposes of storage, withdrawal, access or disposition of records.
- B. All records liaison officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.
- C. Records liaison officers are required to attend the basic records management training once every three years.
[1.13.12.11 NMAC - Rp. 1.13.12.11, xx/xx/2017]

1.13.12.12 PICK-UP ONLY PERSONNEL: Pick-up personnel are authorized to pick-up agency records from the records center.
[1.13.12.12 NMAC - Rp. 1.13.12.12, xx/xx/2017]

1.13.12.13 DIGITAL SIGNATURE ISSUANCE AND USAGE:

1.13.12 NMAC

A. A records custodian, chief records officer or records liaison officer may request a digital signature. This signature may be used exclusively for the purpose of submitting approved designation and destruction forms to the state commission of public records.

B. To request a digital signature, records management personnel shall submit a digital signature request each fiscal year using a form approved by the administrator. The original signed form must be:

(1) submitted in person to the agency analysis bureau by the records custodian, chief records officer or records liaison officer and accompanied by a government issued form of photo identification; or

(2) submitted to the agency analysis bureau by mail and include the notarized signature of the records custodian, chief records officer or records liaison officer.

C. The records custodian shall notify the state commission of public records concerning any status changes regarding the authority to utilize a digital signature by designated records management personnel.

D. The digital signature shall be the last function performed on an electronic form before saving and submitting the form. Forms modified after a digital signature has been affixed will be rejected.
[1.13.12.13 NMAC - Rp, 1.13.12.13, xx/xx/2017]

HISTORY OF 1.13.12 NMAC: [RESERVED]

History of Repealed Material:

1.13.12, NMAC, Designation Of Records Management Personnel, filed 11/17/2015 - Repealed effective xx/xx/2017.

NMAC History:

1.13.12, NMAC, Designation Of Records Management Personnel (filed 11/17/2015) was replaced by 1.13.12 NMAC, Designation Of Records Management Personnel, effective xx/xx/2017.

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 13 PUBLIC RECORDS
PART 30 DISPOSITION OF PUBLIC RECORDS AND NON-RECORDS

1.13.30.1 ISSUING AGENCY: State Commission of Public Records and the State Records Administrator.
[1.13.30.1 NMAC - Rp. 1.13.30.1 NMAC, xx/xx/2017]

1.13.30.2 SCOPE: All state agencies and any public entity that use the state records center services.
[1.13.30.2 NMAC - Rp. 1.13.30.2 NMAC, xx/xx/2017]

1.13.30.3 STATUTORY AUTHORITY: Public Records Act, Sections 14-3-4 and 14-3-6 NMSA 1978.
[1.13.30.3 NMAC - Rp. 1.13.30.3 NMAC, xx/xx/2017]

1.13.30.4 DURATION: Permanent.
[1.13.30.4 NMAC - Rp. 1.13.30.4 NMAC, xx/xx/2017]

1.13.30.5 EFFECTIVE DATE: xx/xx/2017, unless a later date is cited at the end of a section.
[1.13.30.5 NMAC - Rp. 1.13.30.5 NMAC, xx/xx/2017]

1.13.30.6 OBJECTIVE: To establish requirements for the proper and orderly destruction of public records.
[1.13.30.6 NMAC - Rp. 1.13.30.6 NMAC, xx/xx/2017]

1.13.30.7 DEFINITIONS:

A. "Chief records officer" means a person designated by an agency's records custodian to administer the agency's records management program, refer to 1.13.12.4 NMAC.

B. "Confidential" means information provided to, created by or maintained by a government agency and that is exempt from release under state or federal laws.

C. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

D. "Degaussing" means the process of removing magnetism from magnetically recorded tape thereby rendering the information unreadable.

E. "Destruction" means the disposal of records of no further operational, legal, fiscal, or historical value by shredding, burial, pulping, electronic overwrite or some other process resulting in the obliteration of information contained on the record.

F. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. "Functional records retention and disposition schedule" means a rule adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing the function of records, establishing a timetable for their life cycle and providing authorization for their disposition.

H. "Inactive record" means a record no longer needed to conduct current business but required to be maintained for operational, legal, fiscal or historical purposes until it meets its retention.

I. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of correspondence, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters and informational files.

J. "On-site destruction" means destruction of records approved by the state records administrator to be destroyed at a location other than the records center.

K. "Permanent records" means records considered unique or so valuable in documenting the history or business of an organization that they are preserved in an archives.

L. "Records" means information preserved by any technique in any medium now known or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology (1.13.70 NMAC).

M. "Records liaison officer" means a person designated by the records custodian to interact with the state commission of public records, refer to 1.13.12.10 NMAC.

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- N. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval to their ultimate disposition.
- O. "Recycling" means the process that recovers the raw materials of a medium allowing for the reuse of various media. Overwriting on magnetic media is a means of recycling.
- P. "Retention" means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.
- Q. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.
- R. "Transitory" means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.
- S. "Trigger event" means the closing event of a record which begins the retention period.

[1.13.30.7 NMAC - Rp. 1.13.30.7 NMAC, xx/xx/2017]

1.13.30.8 ASSIGNMENT OF RESPONSIBILITIES: Section 14-3-4 NMSA 1976 authorizes the commission of public records to appoint a state records administrator to carry out the purposes of the Public Records Act. The state records administrator is responsible for establishing records management programs within state government for the purpose of ensuring the efficient and economical management of public records throughout their lifecycle from their creation, utilization, maintenance, retention, preservation and final disposition.

A. The commission of public records hereby delegates the authority to order the routine destruction of public records, in accordance with adopted records retention and disposition schedules, to the state records administrator.

B. The state records administrator shall prescribe the appropriate method of destruction of public records.

C. The state records center and archives, in accordance with the rules established by the state records administrator and the commission of public records, is the authorized facility for the receipt, storage or disposition of all inactive and infrequently used records of present or former state agencies.

[1.13.30.8 NMAC - Rp. 1.13.30.8 NMAC, xx/xx/2017]

1.13.30.9 DISPOSITION OF RECORDS:

A. Agencies shall ensure the proper authorized disposition of their records regardless of format or medium.

B. Records may be destroyed with the written approval of the state records administrator and the written consent of the records custodian, designated chief records officer or records liaison officer of the custodial agency.

C. Records may be transferred to the state archives with the written approval of the state records administrator and the written consent of the records custodian or designated chief records officer of the custodial agency; once the transfer is authorized and the records are in the physical custody of the state archives, the legal custody of the records is vested in the state records administrator.

D. Agencies shall follow rules issued by the state records administrator governing the methods of destruction.

[1.13.30.9 NMAC - Rp. 1.13.30.9 NMAC, xx/xx/2017]

1.13.30.10 DIRECT TRANSFER OF RECORDS TO THE STATE ARCHIVES:

A. An agency may transfer records with a retention of permanent directly to the state archives. Records eligible for direct transfer to archives shall be submitted on a form approved by the state records administrator. No direct transfer of records shall occur without the review and approval of the state records administrator.

B. Records transferred directly to state archives shall be accompanied by an itemized records index on a form approved by the state records administrator. A copy of the index for each box shall be placed in the corresponding box. The complete index shall be attached to the request and an electronic copy shall be submitted to the state archives on a format approved by the state records administrator. The shipment box number (i.e., 1 of 10, 2 of 20, etc.) shall be affixed to the boxes prior to delivery to the state archives. All folders in the box shall be clearly labeled and identify the contents of the folder.

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C. Records involved in litigation, an audit or investigation are not eligible for transfer to the state archives.

D. Only closed records shall be accepted for transfer to the state archives.
[1.13.30.10 NMAC - Rp. 1.13.30.10 NMAC, xx/xx/2017]

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 order the transfer of records to the state archives for review and appraisal.

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 but not limited to the following information:

- (1) place and date of pick up;
- (2) printed name and signature of employee(s) performing service;
- (3) printed name and signature of witnesses;
- (4) number of pounds destroyed/shredded (vendor) or number of boxes (agency certified);
- (5) date of destruction shredding;
- (6) identification of company's authorizing agent by name and position;
- (7) printed name and signature of official certifying the destruction (vendor or records liaison officer).

(8) statement that shredded 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 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.

[1.13.30.11 NMAC - Rp. 1.13.30.11 NMAC, xx/xx/2017]

1.13.30.12 RECORDS DELIVERED TO THE RECORDS CENTER FOR DESTRUCTION: Agencies storing records at their location may deliver records that have met their retentions to the records center for destruction. For approval to deliver records to the records center for 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 the acceptance of the shipment for destruction.

C. The state records administrator may order the transfer of records to the state archives for review and appraisal.

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D. The approved request for destruction shall match items delivered to the records center for destruction. When a discrepancy is found between what is listed on the approved request and what is delivered to the records center, the shipment shall be rejected and the agency shall remove the shipment from the records center.

E. Agencies utilizing the records centers for destruction services shall use boxes equivalent to 15" x 10" x 12" in size.

F. Records destroyed through the records center shall be assessed a fee per box. Agencies shall have a purchase order in place prior to delivery of the shipment to the records center. For information on the fee schedule, refer to 1.13.2 NMAC.

[1.13.30.12 NMAC - Rp. 1.13.30.12 NMAC, xx/xx/2017]

1.13.30.13 DISPOSITION OF RECORDS STORED IN THE RECORDS CENTER:

A. Upon receiving a disposition authorization notice for records stored in the records center, only the custodial agency's records custodian or chief records officer shall review the report of records to be destroyed or transferred to archives and respond by the established deadline. Records liaison officers do not have authority to sign the disposition authorization notice for records stored at the records center.

B. Failure to return a completed disposition authorization notice by the established deadline shall result in a storage fee for records that are eligible for destruction. In addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule, refer to 1.13.2 NMAC.

C. Records destroyed through the annual destruction process shall be assessed a fee per box. For information on the fee schedule, refer to 1.13.2 NMAC.

[1.13.30.13 NMAC - Rp. 1.13.30.13 NMAC, xx/xx/2017]

1.13.30.14 **DESTRUCTION OF NON-RECORDS:** Destruction of non-records is the sole responsibility of the custodial agency and does not require the prior approval of the state records administrator. That responsibility includes identifying whether the information is a non-record or a public record. All state agencies and any public entity that use the state records center services shall submit a request on a form approved by the state records administrator. For the proper destruction of records with or without confidential or sensitive information, refer to 1.13.30.11 NMAC.

[1.13.30.14 NMAC - Rp. 1.13.30.14 NMAC, xx/xx/2017]

1.13.30.16 **MANAGEMENT RESPONSIBILITIES:** The development and implementation of a records management program is the responsibility of each agency records custodian, as defined by the Public Records Act. It is also management's responsibility to provide guidance to employees on the proper legal disposition of public records and non-records. Agency records management programs must clearly define the roles and responsibilities of users disposing public records and non-records.

[1.13.30.16 NMAC - Rp. 1.13.30.16 NMAC, xx/xx/2017]

HISTORY OF 1.13.30 NMAC:

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

SRC Rule No. 70-3, Records Management Division, Regulations Regarding Destruction of Records and Appointment of Liaison Officers, filed 9/9/1970.

SRC Rule No. 89-05, Regulations Regarding the Public Records Act, filed 5/22/1989.

History of Repealed Material:

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004 - Repealed effective 6/01/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006 - Repealed effective 11/30/2015.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 11/17/2015 - Repealed effective xx/xx/2017.

NMAC History:

1 NMAC 3.55, Destruction of Public Records, filed 12/1/1994

1 NMAC 3.2.50.1, Destruction of Public Records, filed 4/18/1997

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed (11/17/2015) was replaced by 1.13.30 NMAC, Destruction of Public Records and Non-Records effective xx/xx/2017.

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This is an amendment to 1.21.2 NMAC, amending Sections 336 and 337, and adding Section 644 effective xx/xx/xxxx.

1.21.2.336 CASE FILES - LOANS:

A. Category: Financial and accounting - (grant) financial aid and loan management
B. Description: Records related to loan programs including, but not limited to, loan documents and tracking.

C. Retention: destroy three years from close of fiscal year in which file closed
(1.21.2.336 NMAC - N, 10/01/2015, A, xx/xx/xxxx)

1.21.2.337 EDUCATIONAL FINANCIAL AID:

A. Category: Financial and accounting - (grant) financial aid and loan management
B. Description: Records related to scholarships, loans, grants and other aid.
C. Retention: destroy three years from the date file closed

(1.21.2.337 NMAC - N, 10/01/2015, A, xx/xx/xxxx)

1.21.2.644 LEGAL CASE FILES - DISMISSED:

A. Category: Legal and judiciary - legal matter management
B. Description: Dismissed case files.
C. Retention: destroy one year from date file closed

(1.21.2.644 NMAC - N, xx/xx/xxxx)

This is an amendment to 1.13.5 NMAC, Sections 8, 9, and 10, effective 8/1/2017.

1.13.5.8 ELIGIBILITY:

- A. To be eligible for an historical records grant, the applicant shall be one of the entities listed below.
- (1) A governmental organization including:
 - (a) state agencies as prescribed in the Public Records Act; except the commission;
 - (b) county offices;
 - (c) municipal offices;
 - (d) political subdivisions; or
 - (e) tribal government offices.
 - (2) A non-profit ~~and tax-exempt~~ organization (registered with the New Mexico secretary of state) verified as such by:
 - (a) a copy of its IRS issued letter establishing tax-exempt (or 501(c)(3), or equivalent) status; ~~and~~
 - (b) a copy of certification of its good standing status with the New Mexico secretary of state; ~~and,~~
 - (c) ~~evidence that it has made provisions for the transfer of its holdings to a like organization or an appropriate repository for public access upon dissolution.~~
- B. Previous grant recipients shall be in compliance with the stipulations of all previous awards in order to be eligible.
- C. To be eligible for an historical records grant, applicants shall not be disbarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs.
- ~~D. Board member organizations or their employers are not eligible to apply for NMHRAB funding. Funding shall not be used to process any collection held by the commission of public records.~~
- [1.13.5.8 NMAC - Rp. 1.13.5.8 NMAC, 8/1/2015; A. xx/xx/2017]

1.13.5.9 CONDITIONS FOR RECEIVING A HISTORICAL RECORDS GRANT:

- A. The applicant shall:
- (1) demonstrate legal custody of ~~[-or written permission from the organization that has legal custody of]~~ historically significant original records at the time of the grant application deadline;
 - (2) provide a copy of its collection policy or a statement from its governing body indicating its commitment to sound practices concerning the historical material included in the project;
 - (3) demonstrate the ability to carry out the objective of the proposal within the grant period;
 - (4) describe the records, their importance in documenting New Mexico's history and the proposed project that affects the records;
 - (5) include a mechanism for evaluating the impact of the project on its historical records' environment; and
 - (6) provide a letter from its governing body indicating support of the project and continuation of the project's purposes beyond the grant period.
- B. Upon approval, the applicant shall become a vendor pursuant to state law.
- C. Records treated in the proposed project shall be made available in New Mexico for public research to all qualified users on equal terms unless specific exemption is granted by the commission. Specific records in proposals submitted by tribal governments, for example, may be excluded from this criterion.
- D. The applicant shall not charge fees for public access to the materials in its holdings. However, reasonable fees may be charged for copying material or providing special services or facilities not provided to all researchers.
- E. A person qualified by credentials or training shall carry out the objectives of the proposed project.
- F. Proposals for digitization projects shall be acceptable only if they take into consideration the issue of migration to newer technologies. Digitization projects shall follow scanning guidelines specified by the commission for creating master and access copies.
- [1.13.5.9 NMAC - Rp. 1.13.5.9 NMAC, 8/1/2015; A. xx/xx/2017]

1.13.5.10 TYPES OF PROJECTS FUNDED: Following are examples of projects that could be funded.

- A. Preservation projects that mitigate unstable or deteriorating conditions of historical records through the identification, organization and description, conservation treatment or reformatting, of the records to

1.13.5 NMAC

Exhibit F.

another medium. National historical publications and records commission funding shall not be used for the following activities:

(1) to undertake an archival project centered on the papers of an appointed or elected public official who remains in major office, or is politically active, or the majority of whose papers have not yet been accessioned in a repository; and

(2) to undertake arrangement, description or preservation projects involving federal government records that are in the custody of the national archives and records administration, in the custody of some other federal agency or that have been deposited in a non-federal institution without an agreement authorized by the national archives and records administration.

B. Access projects that promote the availability of historical records by developing finding aids, indexing significant collections, creating electronic catalog records, distributing collection guides, providing online access to finding aids, digitizing historical records and placing copies in other repositories that have agreed to accept them.

C. Regional or statewide training programs that focus on developing best practices that can be used to train staff in more than one repository or in a repository experiencing high turnover.

D. ~~(Research projects that provide original scholarly exposition or interpretation of documentary evidence of New Mexico history based on original records or oral history and documentary edition projects that publish original records for general usage. National historical publications and records commission funding shall not be used for the following activities:~~

~~(1) to undertake oral history projects unrelated to Native Americans; and~~

~~(2) to undertake a documentary editing project to publish the papers of someone who has been deceased for fewer than 10 years.~~

~~E.] Program development projects that establish or elevate standards of archival or records management practice in the applicant's repository.~~

~~F. Promotional programs such as exhibits, conferences, papers and documentaries that promote New Mexico history through the use of historical records.]~~

[1.13.5.10 NMAC - Rp. 1.13.5.11 NMAC, 8/1/2015; A, xx/xx/2017]

This is an amendment to 1.13.10 NMAC, Sections 9, and 14, effective xx/xx/xxxx.

1.13.10.9 BOX REQUIREMENTS:

A. Agencies utilizing the records center shall use storage boxes 15" x 12" x 10" in size. Records with a retention of permanent must be submitted in acid-free boxes. Agencies submitting boxes for storage containing paper records shall:

- (1) place only one type of record classification with disposition dates within a three year range in each box;
- (2) place the records in the box vertically, in the same order in which the records were maintained and shall coincide with the records index;
- (3) place letter-sized folders across the 12-inch side, facing the front of the box;
- (4) place legal-sized folders across the 15-inch side, starting from left to right;
- (5) leave at least one-inch of space for ease of access;
- (6) place the lid on the box;
- (7) place all documents (with the exception of oversize materials) in accurately labeled standard file folders; and

- (8) do not place hanging file folders in the boxes.

B. The records management division has the final authority with regard to the rejection of any box shipment or portion thereof. Reasons for rejection include, but are not limited to, the following.

(1) Any box shipment that does not agree with its corresponding storage or disposition forms shall be rejected upon delivery. The custodial agency shall be required to remove the boxes from the records center immediately.

(2) Any shipment submitted for storage that is damaged or overfilled shall be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center immediately.

(3) Any box shipment submitted for storage or disposition that is deemed hazardous by the administrator shall be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center immediately. For any box rejected for contamination, the custodial agency will be required to request permission from the administrator for onsite destruction.

~~(4) Any box submitted for storage that is less than three quarters full (12 inches) shall be returned to the agency, including any boxes withdrawn for viewing.~~

~~(5) Any box shipment containing glossy exterior boxes.~~

C. Blueprints and maps submitted for storage shall be placed in boxes designed for that purpose. [1.13.10.9 NMAC - Rp. 1.13.10.10 NMAC, 11/30/2015; A, xx/xx/xxxx]

1.13.10.14 STORAGE OF MICROFILM:

A. For storage requirements, refer to 1.13.10.11 and 1.13.10.12 NMAC.

B. All state agencies and any public entity shall have an approved microphotography plan on file with the records management division before master microfilm can be stored. For microfilm plan requirements, refer to 1.14.2 NMAC. For information on the fee schedule, refer to 1.13.2 NMAC.

C. Microfilm shall pass inspection before it is approved for storage. [1.13.10.14 NMAC - Rp. 1.13.10.16 NMAC, 11/30/2015; A, xx/xx/xxxx]

CPR Notice of Rulemaking Contact List

Tuesday, September 26, 2017

4:25:56 PM

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REPEAL

**1.24.20 NMAC
Emergency Rules**

Current Rule

Exhibit G.

The State Commission of Public Records, approved and adopted, at its 11/14/2017 hearing, to repeal its rule 1.24.20 NMAC - Emergency Rules (filed 2/15/2000), effective 11/28/2017.

Exhibit G.

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 24 RULES
PART 20 EMERGENCY RULES

1.24.20.1 ISSUING AGENCY: New Mexico Commission of Public Records - State Records Center and Archives.
[1.24.20.1 NMAC - Rp 1 NMAC 3.3.20.1, 2/29/2000]

1.24.20.2 SCOPE: All state agencies. General provisions, including applicable definitions, are found in 1.24.1 NMAC. There are additional requirements on submitting a rule filing (see 1.24.10 NMAC) and for publication in the New Mexico register (see 1.24.15 NMAC).
[1.24.20.2 NMAC - Rp 1 NMAC 3.3.20.2, 2/29/2000]

1.24.20.3 STATUTORY AUTHORITY: Subsection B of Section 14-4-7, 1 NMSA 1978 states that the New Mexico register shall be the official publication for all notices of rule making and filings of adopted rules, including emergency rules, by agencies and directs the state records administrator to adopt and promulgate rules necessary for the implementation and administration of that section. Section 14-4-5 NMSA 1978 directs that emergency regulations may go into effect immediately upon filing with the records center, but shall be effective no more than thirty days unless they are published in the New Mexico register.
[1.24.20.3 NMAC - Rp 1 NMAC 3.3.20.3, 2/29/2000]

1.24.20.4 DURATION: Permanent
[1.24.20.4 NMAC - Rp 1 NMAC 3.3.20.4, 2/29/2000]

1.24.20.5 EFFECTIVE DATE: February 29, 2000 unless a later date is cited in the history note at the end of a section.
[1.24.20.5 NMAC - Rp 1 NMAC 3.3.20.5, 2/29/2000]

1.24.20.6 OBJECTIVE: The objective is to establish standards and procedures for uniform emergency rule filings in an easily understood and common format. These standards and procedures are designed to ensure that emergency rules filed with the records center are readily identifiable and available for public inspection.
[1.24.20.6 NMAC - Rp 1 NMAC 3.3.20.6, 2/29/2000]

1.24.20.7 DEFINITIONS: [RESERVED]
[1.24.20.7 NMAC - Rp 1 NMAC 3.3.20.7, 2/29/2000]
[See 1.24.1.7 NMAC]

1.24.20.8 EMERGENCY RULES - FILING:
A. All emergency rules shall be filed with the records center and may be published in the New Mexico register.
B. Filings shall conform to the style and format requirements of 1.24.10 NMAC.
C. Emergency rules shall become effective upon filing with the records center unless a later date is cited in Section 5 of the part.
[1.24.20.8 NMAC - Rp 1 NMAC 3.3.20.8, 2/29/2000]

1.24.20.9 PUBLICATION IN THE NEW MEXICO REGISTER:
A. Emergency rules shall be effective for no more than 30 days unless published in the New Mexico Register.
B. Upon publication in the New Mexico register emergency rules are converted to regular rules, with such duration as is stated in the published rule.
C. If an emergency rule is to be effective for no more than 30 days, the agency may publish a synopsis of the rule in the New Mexico register in lieu of full publication of the full text of the rule. Instructions for filing a synopsis are found in 1.24.15 NMAC.
D. Notice that an agency has promulgated an emergency rule may be published in the New Mexico register.

1.24.10 NMAC

Exhibit G.

[1.24.20.9 NMAC - Rp 1 NMAC 3.3.20.1, 2/29/2000]

HISTORY of 1.24.20 NMAC
History of Repealed Material:
1 NMAC 3.3.20 Emergency Rules – Repealed, 2/29/2000

1.24.20 NMAC

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Exhibit G.

REPEAL

1.13.30 NMAC

Disposition of Public Records and Non-Records

Current Rule

Exhibit H.

The State Commission of Public Records, approved at its xx/xx/2017 hearing, to repeal its rule 1.13.30 NMAC - Disposition of Public Records and Non-Records (filed 11/17/2015) and replace it with 1.13.30 NMAC - Disposition of Public Records and Non-Records, effective xx/xx/2017.

Exhibit H.

TITLE I GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 13 PUBLIC RECORDS
PART 30 DISPOSITION OF PUBLIC RECORDS AND NON-RECORDS

1.13.30.1 ISSUING AGENCY: State Commission of Public Records and the State Records Administrator.
[1.13.30.1 NMAC - Rp, 1.13.30.1 NMAC, 11/30/2015]

1.13.30.2 SCOPE: All agencies that utilize the records center services.
[1.13.30.2 NMAC - Rp, 1.13.30.2 NMAC, 11/30/2015]

1.13.30.3 STATUTORY AUTHORITY: Public Records Act, Sections 14-3-4 and 14-3-6 NMSA 1978.
[1.13.30.3 NMAC - Rp, 1.13.30.3 NMAC, 11/30/2015]

1.13.30.4 DURATION: Permanent.
[1.13.30.4 NMAC - Rp, 1.13.30.4 NMAC, 11/30/2015]

1.13.30.5 EFFECTIVE DATE: November 30, 2015, unless a later date is cited at the end of a section.
[1.13.30.5 NMAC - Rp, 1.13.30.5 NMAC, 11/30/2015]

1.13.30.6 OBJECTIVE: To establish requirements for the proper and orderly destruction of public records.
[1.13.30.6 NMAC - Rp, 1.13.30.6 NMAC, 11/30/2015]

1.13.30.7 DEFINITIONS:

A. "Chief records officer" means a person designated by an agency's records custodian to administer the agency's records management program, refer to 1.13.12.9 NMAC.

B. "Confidential" means information provided to, created by or maintained by a government agency and that is exempt from release under state or federal laws.

C. "Custodial agency" means the agency responsible for the creation, maintenance, safeguarding and preservation of public records, regardless of physical location.

D. "Degaussing" means the process of removing magnetism from magnetically recorded tape thereby rendering the information unreadable.

E. "Destruction" means the disposal of records of no further operational, legal, fiscal or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

F. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. "Functional records retention and disposition schedule" means a rule adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing the function of records, establishing a timetable for their life cycle and providing authorization for their disposition.

H. "Inactive record" means a record where the retention trigger event has occurred and the record is closed.

I. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of correspondence, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters and informational files.

J. "On-site destruction" means destruction of records approved by the state records administrator to be destroyed at a location other than the records center.

K. "Permanent records" means records considered unique or so valuable in documenting the history or business of an organization that they are preserved in an archives.

L. "Records" means information preserved by any technique in any medium now known or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology (1.13.70 NMAC).

M. "Records liaison officer" means a person designated by the records custodian to interact with the state commission of public records, refer to 1.13.12.10 NMAC.

1.13.30 NMAC

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Exhibit H.

- N. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.
- O. "Recycling" means the process that recovers the raw materials of a medium allowing for the reuse of various media. Overwriting on magnetic media is a means of recycling.
- P. "Retention" means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.
- Q. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.
- R. "Transitory" means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.
- S. "Trigger event" means the closing event of a record which begins the retention period.

[1.13.30.7 NMAC - Rp. 1.13.30.7 NMAC, 11/30/2015]

1.13.30.8 ASSIGNMENT OF RESPONSIBILITIES: Section 14-3-4 NMSA 1978 authorizes the commission of public records to appoint a state records administrator to carry out the purposes of the Public Records Act. The state records administrator is responsible for establishing records management programs within state government for the purpose of ensuring the efficient and economical management of public records throughout their lifecycle from their creation, utilization, maintenance, retention, preservation and final disposition.

A. The commission of public records hereby delegates the authority to order the routine destruction of public records, in accordance with adopted records retention and disposition schedules, to the state records administrator.

B. The state records administrator shall prescribe the appropriate method of destruction of public records.

C. The state records center and archives, in accordance with the rules established by the state records administrator and the commission of public records, is the authorized facility for the receipt, storage or disposition of all inactive and infrequently used records of present or former state agencies.

[1.13.30.8 NMAC - Rp. 1.13.30.8 NMAC, 11/30/2015]

1.13.30.9 DISPOSITION OF RECORDS:

A. Agencies shall ensure the proper authorized disposition of their records regardless of format or medium.

B. Records may be destroyed with the written approval of the state records administrator and the written consent of the records custodian, designated chief records officer or records liaison officer of the custodial agency.

C. Records may be transferred to the state archives with the written approval of the state records administrator and the written consent of the records custodian or designated chief records officer of the custodial agency; once the transfer is authorized and the records are in the physical custody of the state archives, the legal custody of the records is vested in the state records administrator.

D. Agencies shall follow rules issued by the state records administrator governing the methods of destruction.

[1.13.30.9 NMAC - Rp. 1.13.30.10 NMAC, 11/30/2015]

1.13.30.10 DIRECT TRANSFER OF RECORDS TO THE STATE ARCHIVES:

A. An agency may transfer records with a retention of permanent directly to the state archives. Records eligible for direct transfer to archives shall be submitted on a form approved by the state records administrator. No direct transfer of records shall occur without the review and approval of the state records administrator.

B. Records transferred directly to state archives shall be accompanied by an itemized records index on a form approved by the state records administrator. A copy of the index for each box shall be placed in the corresponding box. The complete index shall be attached to the request and an electronic copy shall be submitted to the state archives on a format approved by the state records administrator. The shipment box number (i.e., 1 of 10, 2 of 20, etc.) shall be affixed to the boxes prior to delivery to the state archives. All file folders in the box shall be clearly labeled and identify the contents of the folder.

1.13.30 NMAC

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Exhibit H.

C. Records involved in litigation, an audit or investigation are not eligible for transfer to the state archives.

D. Only inactive records shall be accepted for transfer to the state archives.
[1.13.30.10 NMAC - Rp, 1.13.10.18 NMAC, 11/30/2015]

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 may order an audit prior to approval of on-site destruction.

C. The state records administrator may order the transfer of records to the state archives for review and appraisal.

D. For legal and audit purposes, the agency shall retain proof of the records destroyed.

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 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) 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) erasers 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.

[1.13.30.11 NMAC - Rp, 1.13.30.11 NMAC, 11/30/2015]

1.13.30.12 RECORDS DELIVERED TO THE RECORDS CENTER FOR DESTRUCTION: Agencies storing records at their location may deliver records that have met their retention to the records center for destruction. For approval to deliver records to the records center for 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 may order an audit prior to approval of records center destruction.

C. The state records administrator may order the transfer of records to the state archives for review and appraisal.

D. The approved request for destruction shall match items delivered to the records center for destruction. When a discrepancy is found between what is listed on the approved request and what is delivered to the records center, the shipment shall be rejected and the agency shall remove the shipment from the records center.
[1.13.30.12 NMAC - Rp, 1.13.30.12 NMAC, 11/30/2015]

1.13.30.13 DISPOSITION OF RECORDS STORED IN THE RECORDS CENTER:

A. Upon receiving a disposition authorization notice for records stored in the records center, only the custodial agency's records custodian or chief records officer shall review the report of records to be destroyed or transferred to archives and respond by the established deadline. Records liaison officers do not have authority to sign the disposition authorization notice for records stored at the records center.

B. The custodial agency may request an exception to remove records from the disposition authorization notice if the records identified in the notice are involved in litigation, audit or an investigation. The

custodial agency shall submit the exception request in writing to the administrator and cite the exception by the established deadline.

C. Failure to return a completed disposition authorization notice by the established deadline shall result in a storage fee charge for records that are eligible for destruction. In addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule, refer to 1.13.2 NMAC. [1.13.30.13 NMAC - Rp, 1.13.10.17 NMAC, 11/30/2015]

1.13.30.14 **DESTRUCTION OF NON-RECORDS:** Destruction of non-records is the sole responsibility of the custodial agency and does not require the prior approval of the state records administrator. That responsibility includes identifying whether the information is a non-record or a public record. For the proper destruction of records with or without confidential or sensitive information, refer to 1.13.30.10 NMAC. [1.13.30.14 NMAC - Rp, 1.13.30.14 NMAC, 11/30/2015]

1.13.30.15 **DESTRUCTION OF RECORDS HELD BY CONTRACTORS:** All records or data created or managed by a contractor or non-government entity for a governmental agency shall be disposed of in accordance with the procedures established in 1.13.30 NMAC. [1.13.30.15 NMAC - Rp, 1.13.30.15 NMAC, 11/30/2015]

1.13.30.16 **MANAGEMENT RESPONSIBILITIES:** The development and implementation of an records management program is the responsibility of each agency records custodian, as defined by the Public Records Act, Section 14-3-2 (B) and (I) NMSA 1978. It is also management's responsibility to provide guidance to employees on the proper legal disposition of public records and non-records. Agency records management programs must clearly define the roles and responsibilities of users disposing public records of non-records. [1.13.30.16 NMAC - N, 11/30/2015]

HISTORY OF 1.13.30 NMAC:

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

SRC Rule No. 70-3, Records Management Division, Regulations Regarding Destruction of Records and Appointment of Liaison Officers, filed 9/9/1970.

SRC Rule No. 89-05, Regulations Regarding the Public Records Act, filed 5/22/1989.

History of Repealed Material:

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004 - Repealed effective 6/01/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006 - Repealed effective 11/30/2015.

NMAC History:

1 NMAC 3.55, Destruction of Public Records, filed 12/1/1994.

1 NMAC 3.2.50.1, Destruction of Public Records, filed 4/18/1997.

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006.

1.13.30 NMAC
Disposition of Public Records and Non-Records

HEARING OFFICER REPORT

**PUBLIC HEARING HELD BY
STATE RECORDS ADMINISTRATOR
ON JUNE 19, 2017**

Exhibit I.

NEW MEXICO
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

IN RE: THE MATTER CONCERNING)
A PUBLIC HEARING REGARDING)
PROPOSED CHANGES TO CERTAIN)
RULES BY THE STATE RECORDS)
ADMINISTRATOR)

HEARING OFFICER REPORT

1.13.4 NMAC -- Records Management Requirements for Electronic Messaging
1.13.30 NMAC -- Destruction of Public Records and Non-Records

COMES NOW the undersigned, and upon designation by the State Records Administrator of the New Mexico Commission of Public Records, and hereby submits his Report of a public hearing on Monday, June 19, 2017, at 10:00 a.m. and after a very brief recess was concluded on the same day at approximately 10:51 a.m. to take public comment regarding proposed changes to the following rules:

For reasons set forth in the Recommendations section, both rules have been, and should be, considered together.

Amendment

1.13.4 NMAC Records Management Requirements for Electronic Messaging
1.13.30 NMAC Destruction of Public Records and Non-Records

The hearing was convened at approximately 10:01 a.m. at the State Records Center and Archives in the Executive Board conference room on the second floor, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. All hearing participants were asked to sign the attendance sheet. A copy of the attendance sheet is attached to this Report and the original attendance sheet has been placed in the Rule Hearing file. The proceedings were recorded by the Hearing Officer. A digital copy of the recording was used in the preparation of this Report. A digital copy of the recordings has been placed in the Rule Hearing file.

Summary of Proceedings

The following exhibits were introduced and entered into the record:

Exhibit	Description
A.	Notice of Hearing, published on May 16, 2017 in vol. XXVIII, issue 9 of the NM REGISTER
B.	Notice of Rule Hearing, as listed on http://www.nmcpr.state.nm.us/ website and posted at all public entrances to State Records Center
C.	Agenda, as listed on http://www.nmcpr.state.nm.us/ website and as posted outside rule hearing room
D	1.13.2 NMAC Fees
E	1.13.4 NMAC Records Management Requirements for Electronic Messaging

1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Robert J. Torres
Hearing Officer

Hon. Hector Balderras
Attorney General

Hon. Tim Keller
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Labor Affairs

Edwyna Burckle
General Services Department

Lynne S. Rhys
State Law Librarian

Exhibit I.

- F. 1.13.10 NMAC Records Custody, Access, Storage and Disposition
- G. 1.13.30 NMAC Destruction of Public Records and Non-Records
- H. 1.24.10 NMAC New Mexico Administrative Code
- I. 1.24.15 NMAC New Mexico Register
- J. Draft Transmittal Form
- K. June 13, 2017 email, with attachment, from Gloria Regensberg NMDOT comments on proposed amendments
- L. Chaptered bill – House Bill 58

At the hearing, the following additional exhibits were introduced and entered into the record:

- M. Records Management Division ("RMD") staff proposed additional language to subsection E of 1.13.30.11 NMAC

All of the above exhibits are identified by a June 19, 2017 Rule Hearing Exhibit List and the same and all exhibits are hereby appended to this Report with the same designation.

With respect to this Report and the subject rules, 1.13.4 NMAC - Records Management Requirements for Electronic Messaging and 1.13.30 NMAC - Destruction of Public Records and Non-Records, the following exhibits were considered:

<u>Exhibit</u>	<u>Description</u>
A.	Notice of Hearing, published on May 16, 2017 in vol. XXVIII, issue 9 of the NM REGISTER
B.	Notice of Rule Hearing, as listed on http://www.nmcpr.state.nm.us/ website and posted at all public entrances to State Records Center
C.	Agenda, as listed on http://www.nmcpr.state.nm.us/ website and as posted outside rule hearing room
E	1.13.4 NMAC Records Management Requirements for Electronic Messaging
G.	1.13.30 NMAC Destruction of Public Records and Non-Records
M.	RMD staff proposed additional language to subsection E of 1.13.30.11 NMAC

Exhibit A was published in volume XXVIII, issue 9 of the *New Mexico Register* on May 16, 2017. No comments or questions were made with respect to Exhibits A, B, C or G.

Exhibit E was announced for a hearing. Records Center Bureau Chief Emmanuel Rodriguez provided comments and background in support of the amendments to 1.13.4 NMAC. The amendment conforms with the statutory requirements of the Public Records Act, Section 14-3-1 et seq. NMSA 1978 (Act) which authorizes the state records administrator and the commission of public records to adopt rules pertaining to the orderly management, retention, disposition and preservation of records necessary for carrying out the Act.

After announcing the floor open for comments or questions from agency staff and from the audience, there was one person who provided comments: David Corriz, from the N.M. Department of Transportation, made the following comment: why is the agency eliminating definition of transitory emails? No other member of the public gave comment.

After the public comment period ended, a short recess was taken at the request of RMD staff. After re-convening, Leo Lucero Records Management division director provided the following answer to Mr. Corriz's question: (1) this rule is issued by dual authorities; (2) this rule is going to be heard by the

Exhibit I.

Commission of Public Records at its regular August meeting; and (3) "transitory" is a measurement of time and not a classification of document.

Exhibit G was announced for a hearing. Records Center Bureau Chief Emmanuel Rodriguez provided comments and background in support of the amendments to 1.13.30 NMAC. The amendment conforms with the statutory requirements of the Public Records Act, Section 14-3-1 et seq. NMSA 1978 (Act) which authorizes the state records administrator and the commission of public records to adopt rules pertaining to the orderly management, retention, disposition and preservation of records necessary for carrying out the Act.

After announcing the floor open for comments or questions from agency staff and from the audience, no one provided any comments. Agency staff then introduced Exhibit M as additional language to be considered for 1.13.30.11 NMAC. Agency staff explained that the additional language would ensure that if an agency used an outside vendor for destruction of records that the outside vendor would have to conform to industry standards.

No further comments or questions made with respect to either rule. A last request for comments or questions was made with respect to any of the rules. Hearing no other comments or questions, the hearing was adjourned at approximately 10:51 a.m. and the record was closed.

BE IT HEREBY RECOMMENDED that the State Records Administrator make the following determinations:

1. That the hearing conducted and concluded on June 19, 2017 conformed with all applicable notice and procedural requirements;
2. That the State Records Administrator, consistent with Public Records Act, Section 14-3-1 et seq. NMSA 1978, has the authority to adopt rule amendments concerning the orderly management, retention, disposition and preservation of records;
3. That because both rules are issued by both the Commission of Public Records and by the State Records Administrator, the State Records Administrator POSTPONE consideration of the following amendments and consider any additional information received when both rules are considered by the Commission of Public Records when it hears these rules at its August meeting:

Amendment

1.13.4 NMAC Records Management Requirements for Electronic Messaging
1.13.30 NMAC Destruction of Public Records and Non-Records

Dated: June 20, 2017

Respectfully submitted,

STATE RECORDS CENTER & ARCHIVES
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505
(505) 476-7941

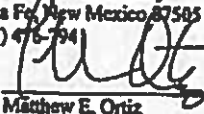
By: 
Matthew E. Ortiz
Administrative Law Division Director, designee for
State Records Administrator Melissa Salazar

Exhibit I.

APPROVED, AS RECOMMENDED:

By: Melissa Salazar
Melissa Salazar
State Records Administrator

6/27/2017
Date

APPROVED, WITH FOLLOWING MODIFICATIONS:

By: _____
Melissa Salazar
State Records Administrator

Date

REJECTED, FOR THE FOLLOWING REASONS:

By: _____
Melissa Salazar
State Records Administrator

Date

Exhibit I.

1.13.30 NMAC
Disposition of Public Records and Non-Records

Comments Received

Exhibit J.

**Written Comment on Proposed Rulemaking Proposed Rule 1.13.30,
Related Rules**

Rodriguez, Aaron, PED

Tue 10/31/2017 4:29 PM

To: CPR, RMD, SRCA <RMD.CPR@state.nm.us>

1 attachment

Written Comment on Proposed Rulemaking Proposed Rule 1.13.30 Related Rules.pdf

Good Afternoon.

Please see the attached document titled *Written Comment on Proposed Rulemaking Proposed Rule 1.13.30, Related Rules*. Please accept the attached document as a written comment on the proposed rulemaking for November 14, 2017.

Aaron A. Rodriguez
Deputy General Counsel
Office of General Counsel
New Mexico Public Education Department
300 Don Gaspar
Santa Fe, NM 87501
(505)827-6394
aaron.rodriguez2@state.nm.us



Exhibit J.



STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
300 DON GASPAR
SANTA FE, NEW MEXICO 87501-2786
Telephone (505) 827-5800
www.ped.state.nm.us

CHRISTOPHER N. RUSCHOWERS
SECRETARY-DESIGNATE, PUBLIC EDUCATION

SUSANA MARTINEZ
GOVERNOR

October 31, 2017

Delivered via email to:

rmd.cpr@state.nm.us

Re: Written Comment on Proposed Rulemaking/Proposed Rule 1.13.30 , Related Rules

To whom it may concern:

Please let this letter serve as written comment on the proposed rulemaking regarding the repeal and replacement of Rule 1.13.30 NMAC. After initial review, the proposed rule appears to provide that only closed records shall be transferred to the state archives, that a certificate of destruction is required, that the custodial agency has the responsibility for legal holds, and it allows certain fees to be assessed. The School Budget and Finance Analysis Bureau would like to comment with the following questions and concerns:

- How will a failure to sign a certificate of destruction be treated if there is a dispute between State Records Center and Archives and the custodial agency?
- What is a closed record? Is State Records Center and Archives referencing the seal on the records container or that the record has finished being maintained?
- Are all inactive records closed records, and if not, then what makes the record a closed record?
- Are agencies responsible for determining if a record is under a legal hold, or more specifically responsible for monitoring the record under a legal hold?

Sincerely,

David Craig
Director of School Budget and Finance Analysis Bureau
New Mexico Public Education Department

Exhibit K.

REPEAL

1.13.12 NMAC

Designation of Records Management Personnel

Current Rule

Exhibit L.

The State Commission of Public Records, approved at its xx/xx/2017 hearing, to repeal its rule 1.13.12 NMAC - Designation of Records Management Personnel (filed 11/17/2015) and replace it with 1.13.12 NMAC - Designation of Records Management Personnel, effective xx/xx/2017.

Exhibit L.

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 13 PUBLIC RECORDS
PART 12 DESIGNATION OF RECORDS MANAGEMENT PERSONNEL

1.13.12.1 ISSUING AGENCY: State Commission of Public Records.
[1.13.12.1 NMAC - N, 11/30/2015]

1.13.12.2 SCOPE: All agencies that utilize the records center services and state archives.
[1.13.12.2 NMAC - N, 11/30/2015]

1.13.12.3 STATUTORY AUTHORITY: Public Records Act, Section 14-3-4 NMSA 1978.
[1.13.12.3 NMAC - N, 11/30/2015]

1.13.12.4 DURATION: Permanent.
[1.13.12.4 NMAC - N, 11/30/2015]

1.13.12.5 EFFECTIVE DATE: November 30, 2015, unless a later date is cited at the end of a section.
[1.13.12.5 NMAC - N, 11/30/2015]

1.13.12.6 OBJECTIVE: To establish requirements for the designation of personnel to interact with the commission of public records and the state records administrator for the access, storage and disposition of records stored at the state records center and archives.
[1.13.12.6 NMAC - N, 11/30/2015]

1.13.12.7 DEFINITIONS:

A. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

B. "Destruction" means the disposal of records of no further operational, legal, fiscal, or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

C. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

D. "Pending litigation" means threatened, pending or active proceedings in a court of law whose activity is in progress but not yet completed.

E. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

[1.13.12.7 NMAC - N, 11/30/2015]

1.13.12.8 RECORDS MANAGEMENT PROGRAM PERSONNEL HIERARCHY:

A. The records custodian for each agency may designate one chief records officer to oversee the agency's records management program. The chief records officer shall be appointed each fiscal year using a form approved by the administrator. For chief records officer responsibilities, refer to 1.13.12.9 NMAC.

B. The records custodian for each agency may designate one or more records liaison officer(s) responsible for authorizing the storage and destruction of agency records. The records liaison officer shall be appointed each fiscal year using a form approved by the administrator. For record liaison officer responsibilities, refer to 1.13.12.10 NMAC.

C. A records custodian, chief records officer or records liaison officer may designate personnel to pick-up agency records from the records center. Pick-up personnel shall be appointed each fiscal year using a form approved by the administrator. For pick-up personnel responsibilities, refer to 1.13.12.11 NMAC.

D. If a records custodian does not designate a chief records officer or record liaison officer, the records custodian shall remain responsible for all of the duties of the personnel listed above.

E. The records custodian or designee shall notify the state commission of public records concerning any status changes regarding designated records management personnel.

[1.13.12.8 NMAC - N, 11/30/2015]

1.13.12 NMAC

1

Exhibit L.

1.13.12.9 CHIEF RECORDS OFFICER: If a chief records officer is designated by the records custodian, the following responsibilities are assigned.

A. The chief records officer shall be the individual with the authority to oversee the agency's records management program.

B. The chief records officer shall perform the following duties:

(1) coordinate the response to the disposition authorization (destruction and transfer to state archives);

(2) establish and maintain a centralized tracking system for the agency's storage containers (including the containers' indices, metadata and locators) and the disposition of records;

(3) disseminate information on any pending litigation, a discovery order, subpoena, government investigation or audit;

(4) ensure staff is adequately trained on proper records management practices; and

(5) develop policies and procedures pertaining to records management issues (i.e., handling confidential materials, new hire orientation, e-mail management, disposition of records when an employee leaves the agency, metadata development, etc.).

C. The chief records officer shall have the same authorities and responsibilities as a record liaison officer. The chief records officer shall have the authority to submit records for direct transfer to archives.

D. All chief records officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

E. Chief records officers are required to attend additional training when notified by the state commission of public records of changes to records management policies, procedures or rules.

[1.13.12.9 NMAC - N, 11/30/2015]

1.13.12.10 RECORDS LIAISON OFFICER: If a record liaison officer is designated by the records custodian, the following responsibilities are assigned.

A. Records liaison officers shall be authorized to interact with the state commission of public records and the state records administrator for the purposes of storage, withdrawal, access or disposition of records.

B. All records liaison officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

C. Records liaison officers are required to attend additional training when notified by the state commission of public records of changes to records management policies, procedures or rules.

[1.13.12.10 NMAC - N, 11/30/2015]

1.13.12.11 PICK-UP ONLY PERSONNEL: Pick-up personnel are authorized to pick-up agency records from the records center.

[1.13.12.11 NMAC - N, 11/30/2015]

1.13.12.12 DIGITAL SIGNATURE ISSUANCE AND USAGE:

A. A records custodian, designated chief records officer or designated records liaison officer may request a digital signature. This signature may be used exclusively for the purpose of submitting approved designation and destruction forms to the state commission of public records.

B. To request a digital signature, records management personnel shall submit a digital signature request each fiscal year using a form approved by the administrator. The original signed form must be:

(1) submitted in person to the agency analysis bureau by the records custodian, chief records officer or records liaison officer and accompanied by a government issued form of photo identification; or

(2) submitted to the agency analysis bureau by mail and include the notarized signature of the records custodian, chief records officer or records liaison officer.

C. The records custodian or designee shall notify the state commission of public records concerning any status changes regarding the authority to utilize a digital signature by designated records management personnel.

D. The digital signature shall be the last function performed on an electronic form before saving and submitting the form. Forms modified after a digital signature has been affixed will be rejected.

[1.13.12.12 NMAC - N, 11/30/2015]

HISTORY OF 1.13.12 NMAC: [RESERVED]

1.13.12 NMAC

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Exhibit L.

1.13.30 NMAC
Disposition of Public Records and Non-Records

Proposed Rule

Exhibit M

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 13 PUBLIC RECORDS
PART 30 DISPOSITION OF PUBLIC RECORDS AND NON-RECORDS

1.13.30.1 ISSUING AGENCY: State Commission of Public Records and the State Records Administrator.
[1.13.30.1 NMAC - Rp, 1.13.30.1 NMAC, xx/xx/2017]

1.13.30.2 SCOPE: All state agencies and any public entity that use the state records center services.
[1.13.30.2 NMAC - Rp, 1.13.30.2 NMAC, xx/xx/2017]

1.13.30.3 STATUTORY AUTHORITY: Public Records Act, Sections 14-3-4 and 14-3-6 NMSA 1978.
[1.13.30.3 NMAC - Rp, 1.13.30.3 NMAC, xx/xx/2017]

1.13.30.4 DURATION: Permanent.
[1.13.30.4 NMAC - Rp, 1.13.30.4 NMAC, xx/xx/2017]

1.13.30.5 EFFECTIVE DATE: xx/xx/2017, unless a later date is cited at the end of a section.
[1.13.30.5 NMAC - Rp, 1.13.30.5 NMAC, xx/xx/2017]

1.13.30.6 OBJECTIVE: To establish requirements for the proper and orderly destruction of public records.
[1.13.30.6 NMAC - Rp, 1.13.30.6 NMAC, xx/xx/2017]

1.13.30.7 DEFINITIONS:

A. "Chief records officer" means a person designated by an agency's records custodian to administer the agency's records management program, refer to 1.13.12.9 NMAC.

B. "Confidential" means information provided to, created by or maintained by a government agency and that is exempt from release under state or federal laws.

C. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

D. "Degaussing" means the process of removing magnetism from magnetically recorded tape thereby rendering the information unreadable.

E. "Destruction" means the disposal of records of no further operational, legal, fiscal or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

F. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. "Functional records retention and disposition schedule" means a rule adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing the function of records, establishing a timetable for their life cycle and providing authorization for their disposition.

H. "Inactive record" means a record no longer needed to conduct current business but required to be maintained for operational, legal, fiscal or historical purposes until it meets its retention.

I. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of correspondence, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters and informational files.

J. "On-site destruction" means destruction of records approved by the state records administrator to be destroyed at a location other than the records center.

K. "Permanent records" means records considered unique or so valuable in documenting the history or business of an organization that they are preserved in an archives.

L. "Records" means information preserved by any technique in any medium now known or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology (1.13.70 NMAC).

M. "Records liaison officer" means a person designated by the records custodian to interact with the state commission of public records, refer to 1.13.12.10 NMAC.

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- N. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.
- O. "Recycling" means the process that recovers the raw materials of a medium allowing for the reuse of various media. Overwriting on magnetic media is a means of recycling.
- P. "Retention" means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.
- Q. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.
- R. "Transitory" means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.
- S. "Trigger event" means the closing event of a record which begins the retention period.
[1.13.30.7 NMAC - Rp, 1.13.30.7 NMAC, xx/xx/2017]

1.13.30.8 ASSIGNMENT OF RESPONSIBILITIES: Section 14-3-4 NMSA 1978 authorizes the commission of public records to appoint a state records administrator to carry out the purposes of the Public Records Act. The state records administrator is responsible for establishing records management programs within state government for the purpose of ensuring the efficient and economical management of public records throughout their lifecycle from their creation, utilization, maintenance, retention, preservation and final disposition.

A. The commission of public records hereby delegates the authority to order the routine destruction of public records, in accordance with adopted records retention and disposition schedules, to the state records administrator.

B. The state records administrator shall prescribe the appropriate method of destruction of public records.

C. The state records center and archives, in accordance with the rules established by the state records administrator and the commission of public records, is the authorized facility for the receipt, storage or disposition of all inactive and infrequently used records of present or former state agencies.

[1.13.30.8 NMAC - Rp, 1.13.30.8 NMAC, xx/xx/2017]

1.13.30.9 DISPOSITION OF RECORDS:

A. Agencies shall ensure the proper authorized disposition of their records regardless of format or medium.

B. Records may be destroyed with the written approval of the state records administrator and the written consent of the records custodian, designated chief records officer or records liaison officer of the custodial agency.

C. Records may be transferred to the state archives with the written approval of the state records administrator and the written consent of the records custodian or designated chief records officer of the custodial agency; once the transfer is authorized and the records are in the physical custody of the state archives, the legal custody of the records is vested in the state records administrator.

D. Agencies shall follow rules issued by the state records administrator governing the methods of destruction.

[1.13.30.9 NMAC - Rp, 1.13.30.9 NMAC, xx/xx/2017]

1.13.30.10 DIRECT TRANSFER OF RECORDS TO THE STATE ARCHIVES:

A. An agency may transfer records with a retention of permanent directly to the state archives. Records eligible for direct transfer to archives shall be submitted on a form approved by the state records administrator. No direct transfer of records shall occur without the review and approval of the state records administrator.

B. Records transferred directly to state archives shall be accompanied by an itemized records index on a form approved by the state records administrator. A copy of the index for each box shall be placed in the corresponding box. The complete index shall be attached to the request and an electronic copy shall be submitted to the state archives on a format approved by the state records administrator. The shipment box number (i.e., 1 of 10, 2 of 20, etc.) shall be affixed to the boxes prior to delivery to the state archives. All folders in the box shall be clearly labeled and identify the contents of the folder.

C. Records involved in litigation, an audit or investigation are not eligible for transfer to the state archives.

D. Only closed records shall be accepted for transfer to the state archives.
[1.13.30.10 NMAC - Rp, 1.13.30.10 NMAC, xx/xx/2017]

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 order the transfer of records to the state archives for review and appraisal.

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 but not limited to the following information:

- (1) place and date of pick up;
- (2) printed name and signature of employee(s) performing service;
- (3) printed name and signature of witnesses;
- (4) number of pounds destroyed/shredded (vendor) or number of boxes (agency certified);
- (5) date of destruction/shredding;
- (6) identification of company's authorizing agent by name and position;
- (7) printed name and signature of official certifying the destruction (vendor or records liaison officer); and

(8) statement that shredded 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 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) 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.

[1.13.30.11 NMAC - Rp, 1.13.30.11 NMAC, xx/xx/2017]

1.13.30.12 RECORDS DELIVERED TO THE RECORDS CENTER FOR DESTRUCTION: Agencies storing records at their location may deliver records that have met their retention to the records center for destruction. For approval to deliver records to the records center for 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 the acceptance of the shipment for destruction.

C. The state records administrator may order the transfer of records to the state archives for review and appraisal.

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D. The approved request for destruction shall match items delivered to the records center for destruction. When a discrepancy is found between what is listed on the approved request and what is delivered to the records center, the shipment shall be rejected and the agency shall remove the shipment from the records center.

E. Agencies utilizing the records centers for destruction services shall use boxes equivalent to 15" x 10" x 12" in size.

F. Records destroyed through the records center shall be assessed a fee per box. Agencies shall have a purchase order in place prior to delivery of the shipment to the records center. For information on the fee schedule, refer to 1.13.2 NMAC.

[1.13.30.12 NMAC - Rp, 1.13.30.12 NMAC, xx/xx/2017]

1.13.30.13 DISPOSITION OF RECORDS STORED IN THE RECORDS CENTER:

A. Upon receiving a disposition authorization notice for records stored in the records center, only the custodial agency's records custodian or chief records officer shall review the report of records to be destroyed or transferred to archives and respond by the established deadline. Records liaison officers do not have authority to sign the disposition authorization notice for records stored at the records center.

B. Failure to return a completed disposition authorization notice by the established deadline shall result in a storage fee for records that are eligible for destruction. In addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule, refer to 1.13.2 NMAC.

C. Records destroyed through the annual destruction process shall be assessed a fee per box. For information on the fee schedule, refer to 1.13.2 NMAC.

[1.13.30.13 NMAC - Rp, 1.13.30.13 NMAC, xx/xx/2017]

1.13.30.14 DESTRUCTION OF NON-RECORDS: Destruction of non-records is the sole responsibility of the custodial agency and does not require the prior approval of the state records administrator. That responsibility includes identifying whether the information is a non-record or a public record. All state agencies and any public entity that use the state records center services shall submit a request on a form approved by the state records administrator. For the proper destruction of records with or without confidential or sensitive information, refer to 1.13.30.11 NMAC.

[1.13.30.14 NMAC - Rp, 1.13.30.14 NMAC, xx/xx/2017]

1.13.30.16 MANAGEMENT RESPONSIBILITIES: The development and implementation of a records management program is the responsibility of each agency records custodian, as defined by the Public Records Act. It is also management's responsibility to provide guidance to employees on the proper legal disposition of public records and non-records. Agency records management programs must clearly define the roles and responsibilities of users disposing public records and non-records.

[1.13.30.16 NMAC - Rp, 1.13.30.16 NMAC, xx/xx/2017]

HISTORY OF 1.13.30 NMAC:

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

SRC Rule No. 70-3, Records Management Division, Regulations Regarding Destruction of Records and

Appointment of Liaison Officers, filed 9/9/1970.

SRC Rule No. 89-05, Regulations Regarding the Public Records Act, filed 5/22/1989.

History of Repealed Material:

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004 - Repealed effective 6/01/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006 - Repealed effective 11/30/2015.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 11/17/2015 - Repealed effective xx/xx/2017.

NMAC History:

1 NMAC 3.55, Destruction of Public Records, filed 12/1/1994.

1 NMAC 3.2.50.1, Destruction of Public Records, filed 4/18/1997.

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed (11/17/2015) was replaced by 1.13.30 NMAC, Destruction of Public Records and Non-Records effective xx/xx/2017.

1.13.30 NMAC

Exhibit⁴ M

1.13.12 NMAC
Designation of Records Management Personnel

Proposed Rule

Exhibit N.

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 13 PUBLIC RECORDS
PART 12 DESIGNATION OF RECORDS MANAGEMENT PERSONNEL

1.13.12.1 ISSUING AGENCY: State Commission of Public Records.
[1.13.12.1 NMAC - Rp, 1.13.12.1, xx/xx/2017]

1.13.12.2 SCOPE: All agencies that utilize the records center services and state archives.
[1.13.12.2 NMAC - Rp, 1.13.12.2, xx/xx/2017]

1.13.12.3 STATUTORY AUTHORITY: Public Records Act, Section 14-3-4 NMSA 1978.
[1.13.12.3 NMAC - Rp, 1.13.12.3, xx/xx/2017]

1.13.12.4 DURATION: Permanent.
[1.13.12.4 NMAC - Rp, 1.13.12.4, xx/xx/2017]

1.13.12.5 EFFECTIVE DATE: xx/xx/2017, unless a later date is cited at the end of a section.
[1.13.12.5 NMAC - Rp, 1.13.12.5, xx/xx/2017]

1.13.12.6 OBJECTIVE: To establish requirements for the designation of personnel to interact with the commission of public records and the state records administrator for the access, storage and disposition of records stored at the state records center and archives.
[1.13.12.6 NMAC - Rp, 1.13.12.6, xx/xx/2017]

1.13.12.7 DEFINITIONS:

A. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

B. "Destruction" means the disposal of records of no further operational, legal, fiscal, or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

C. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

D. "Pending litigation" means threatened, pending or active proceedings in a court of law whose activity is in progress but not yet completed.

E. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee as defined in Section 14-3-2 NMSA, 1978.

F. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

[1.13.12.7 NMAC - Rp, 1.13.12.7, xx/xx/2017]

1.13.12.8 RECORDS MANAGEMENT PROGRAM PERSONNEL HIERARCHY:

A. The statutory records custodian for each agency may designate one individual to act as a designated records custodian on his or her behalf. The designee shall be appointed each fiscal year using a form approved by the administrator. For designated records custodian responsibilities please see 1.13.12.9 NMAC.

B. The records custodian for each agency may designate one chief records officer to oversee the agency's records management program. The chief records officer shall be appointed each fiscal year using a form approved by the administrator. For chief records officer responsibilities, refer to 1.13.12.10 NMAC.

C. The records custodian for each agency may designate one or more records liaison officer(s) responsible for authorizing the storage and destruction of agency records. The records liaison officer shall be appointed each fiscal year using a form approved by the administrator. For record liaison officer responsibilities, refer to 1.13.12.11 NMAC.

D. A records custodian, chief records officer or records liaison officer may designate personnel to pick-up agency records from the records center. Pick-up personnel shall be appointed each fiscal year using a form approved by the administrator. For pick-up personnel responsibilities, refer to 1.13.12.12 NMAC.

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E. If a records custodian does not designate a chief records officer or record liaison officer, the records custodian shall remain responsible for all of the duties of the personnel listed above.

F. The records custodian shall notify the state commission of public records concerning any status changes regarding designated records management personnel.
[1.13.12.8 NMAC - Rp, 1.13.12.8, xx/xx/2017]

1.13.12.9 DESIGNATED RECORDS CUSTODIAN: If a statutory records custodian elects to designate an individual to serve on his or her behalf as a designated records custodian, the following requirements and responsibilities are assigned.

A. The designated records custodian shall be the individual responsible for satisfying all statutory requirements of the records custodian as delineated in the Public Records Act (14-3-1 NMSA, 1978).

B. All designated records custodians shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

C. Designated records custodians are required to attend the basic records management training once every three years.
[1.13.12.9 NMAC - Rp, 1.13.12.9, xx/xx/2017]

1.13.12.10 CHIEF RECORDS OFFICER: If a chief records officer is designated by the records custodian, the following responsibilities are assigned.

A. The chief records officer shall be the individual with the authority to oversee the agency's records management program.

B. The chief records officer shall perform the following duties:

(1) coordinate the response to the disposition authorization (destruction and transfer to state archives);

(2) establish and maintain a centralized tracking system for the agency's storage containers (including the containers' indices, metadata and locators) and the disposition of records;

(3) disseminate information on any pending litigation, a discovery order, subpoena, government investigation or audit;

(4) ensure staff is adequately trained on proper records management practices; and

(5) develop policies and procedures pertaining to records management issues (i.e., handling confidential materials, new hire orientation, e-mail management, disposition of records when an employee leaves the agency, metadata development, etc.).

C. The chief records officer shall have the same authorities and responsibilities as a record liaison officer. The chief records officer shall have the authority to submit records for direct transfer to archives.

D. All chief records officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

E. Chief records officers are required to attend the basic records management training once every three years.

[1.13.12.10 NMAC - Rp, 1.13.12.10, xx/xx/2017]

1.13.12.11 RECORDS LIAISON OFFICER: If a record liaison officer is designated by the records custodian, the following responsibilities are assigned.

A. Records liaison officers shall be authorized to interact with the state commission of public records and the state records administrator for the purposes of storage, withdrawal, access or disposition of records.

B. All records liaison officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

C. Records liaison officers are required to attend the basic records management training once every three years.

[1.13.12.11 NMAC - Rp, 1.13.12.11, xx/xx/2017]

1.13.12.12 PICK-UP ONLY PERSONNEL: Pick-up personnel are authorized to pick-up agency records from the records center.

[1.13.12.12 NMAC - Rp, 1.13.12.12, xx/xx/2017]

1.13.12.13 DIGITAL SIGNATURE ISSUANCE AND USAGE:

1.13.12 NMAC

A. A records custodian, chief records officer or records liaison officer may request a digital signature. This signature may be used exclusively for the purpose of submitting approved designation and destruction forms to the state commission of public records.

B. To request a digital signature, records management personnel shall submit a digital signature request each fiscal year using a form approved by the administrator. The original signed form must be:

- (1) submitted in person to the agency analysis bureau by the records custodian, chief records officer or records liaison officer and accompanied by a government issued form of photo identification; or
- (2) submitted to the agency analysis bureau by mail and include the notarized signature of the records custodian, chief records officer or records liaison officer.

C. The records custodian shall notify the state commission of public records concerning any status changes regarding the authority to utilize a digital signature by designated records management personnel.

D. The digital signature shall be the last function performed on an electronic form before saving and submitting the form. Forms modified after a digital signature has been affixed will be rejected.
[1.13.12.13 NMAC - Rp, 1.13.12.13, xx/xx/2017]

HISTORY OF 1.13.12 NMAC: [RESERVED]

History of Repealed Material:

1.13.12. NMAC, Designation Of Records Management Personnel, filed 11/17/2015 - Repealed effective xx/xx/2017.

NMAC History:

1.13.12. NMAC, Designation Of Records Management Personnel (filed 11/17/2015) was replaced by 1.13.12.

NMAC, Designation Of Records Management Personnel, effective xx/xx/2017.

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1.13.12 NMAC

Designation of Records Management Personnel

No Comments Received

Exhibit N.

1.21.2 NMAC
Retention and Disposition of Public Records

Amended Rule

Exhibit O.

This is an amendment to 1.21.2 NMAC, amending Sections 336 and 337, and adding Section 644 effective xx/xx/xxxx.

1.21.2.336 CASE FILES - LOANS:

- A. Category: Financial and accounting - (grant) financial aid and loan management
 - B. Description: Records related to loan programs including, but not limited to, loan documents and tracking.
 - C. Retention: destroy three years from close of fiscal year in which file closed
- [1.21.2.336 NMAC - N, 10/01/2015; A, xx/xx/xxxx]

1.21.2.337 EDUCATIONAL FINANCIAL AID:

- A. Category: Financial and accounting - (grant) financial aid and loan management
 - B. Description: Records related to scholarships, loans, grants and other aid.
 - C. Retention: destroy three years from the date file closed
- [1.21.2.337 NMAC - N, 10/01/2015; A, xx/xx/xxxx]

1.21.2.644 LEGAL CASE FILES - DISMISSED:

- A. Category: Legal and judiciary - legal matter management
 - B. Description: Dismissed case files.
 - C. Retention: destroy one year from date file closed
- [1.21.2.644 NMAC - N, xx/xx/xxxx]

1.21.2 NMAC

Exhibit O.

1.21.2 NMAC
Retention and Disposition of Public Records

No Comments Received

Exhibit O.

1.13.5 NMAC
New Mexico Historical Records
Grant Program Guidelines

Amended Rule

Exhibit P.

This is an amendment to 1.13.5 NMAC, Sections 8, 9, and 10, effective xx/xx/2017.

1.13.5.8 ELIGIBILITY:

A. To be eligible for an historical records grant, the applicant shall be one of the entities listed below.

(1) A governmental organization including:

- (a) state agencies as prescribed in the Public Records Act; except the commission;
- (b) county offices;
- (c) municipal offices;
- (d) political subdivisions; or
- (e) tribal government offices.

(2) A non-profit ~~and tax-exempt~~ organization (registered with the New Mexico secretary of state,) verified as such by:

- (a) a copy of its ~~IRS issued letter establishing tax-exempt (or 501(c)(3), or equivalent,~~ status; and
- (b) a copy of certification of its good standing status with the New Mexico secretary of state[; and],

~~((c) evidence that it has made provisions for the transfer of its holdings to a file organization or an appropriate repository for public access upon dissolution.)~~

B. Previous grant recipients shall be in compliance with the stipulations of all previous awards in order to be eligible.

C. To be eligible for an historical records grant, applicants shall not be disbarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs.

~~D. Board member organizations or their employees are not eligible to apply for NMHRAB funding.~~

~~E. Funding shall not be used to process any collection held by the commission of public records.~~
[1.13.5.8 NMAC - Rp, 1.13.5.8 NMAC, 8/1/2015; A, xx/xx/2017]

1.13.5.9 CONDITIONS FOR RECEIVING A HISTORICAL RECORDS GRANT:

A. The applicant shall:

(1) demonstrate legal custody of ~~[-or written permission from the organization that has legal custody of]~~ historically significant original records at the time of the grant application deadline;

(2) provide a copy of its collection policy or a statement from its governing body indicating its commitment to sound practices concerning the historical material included in the project;

(3) demonstrate the ability to carry out the objective of the proposal within the grant period;

(4) describe the records, their importance in documenting New Mexico's history and the proposed project that affects the records;

(5) include a mechanism for evaluating the impact of the project on its historical records' environment; and

(6) provide a letter from its governing body indicating support of the project and continuation of the project's purposes beyond the grant period.

B. Upon approval, the applicant shall become a vendor pursuant to state law.

C. Records treated in the proposed project shall be made available in New Mexico for public research to all qualified users on equal terms unless specific exemption is granted by the commission. Specific records in proposals submitted by tribal governments, for example, may be excluded from this criterion.

D. The applicant shall not charge fees for public access to the materials in its holdings. However, reasonable fees may be charged for copying material or providing special services or facilities not provided to all researchers.

E. A person qualified by credentials or training shall carry out the objectives of the proposed project.

F. Proposals for digitization projects shall be acceptable only if they take into consideration the issue of migration to newer technologies. Digitization projects shall follow scanning guidelines specified by the commission for creating master and access copies.

[1.13.5.9 NMAC - Rp, 1.13.5.9 NMAC, 8/1/2015; A, xx/xx/2017]

1.13.5.10 TYPES OF PROJECTS FUNDED: Following are examples of projects that could be funded.

A. Preservation projects that mitigate unstable or deteriorating conditions of historical records through the identification, organization and description, conservation treatment or reformatting of the records to

1.13.5 NMAC

Exhibit P.

another medium. National historical publications and records commission funding shall not be used for the following activities:

(1) to undertake an archival project centered on the papers of an appointed or elected public official who remains in major office, or is politically active, or the majority of whose papers have not yet been accessioned in a repository; and

(2) to undertake arrangement, description or preservation projects involving federal government records that are in the custody of the national archives and records administration, in the custody of some other federal agency or that have been deposited in a non-federal institution without an agreement authorized by the national archives and records administration.

B. Access projects that promote the availability of historical records by developing finding aids, indexing significant collections, creating electronic catalog records, distributing collection guides, providing online access to finding aids, digitizing historical records and placing copies in other repositories that have agreed to accept them.

C. Regional or statewide training programs that focus on developing best practices that can be used to train staff in more than one repository or in a repository experiencing high turnover.

D. ~~[Research projects that provide original scholarly exposition or interpretation of documentary evidence of New Mexico history based on original records or oral history and documentary edition projects that publish original records for general usage. National historical publications and records commission funding shall not be used for the following activities:~~

~~(1) to undertake oral history projects unrelated to Native Americans; and~~

~~(2) to undertake a documentary editing project to publish the papers of someone who has been deceased for fewer than 10 years.~~

~~E. Program development projects that establish or elevate standards of archival or records management practice in the applicant's repository.~~

~~[F. Promotional programs such as exhibits, conferences, papers and documentaries that promote New Mexico history through the use of historical records.]~~

~~[1.13.5.10 NMAC - Rp, 1.13.5.11 NMAC, 8/1/2015; A, xx/xx/2017]~~

1.13.5 NMAC
New Mexico Historical Records
Grant Program Guidelines

No Comments Received

Exhibit P.

1.13.10 NMAC
Storage and Records Access

Amended Rule

Exhibit Q.

This is an amendment to 1.13.10 NMAC, Sections 9, and 14, effective 11/28/2017.

1.13.10.9 BOX REQUIREMENTS:

A. Agencies utilizing the records center shall use storage boxes 15" x 12" x 10" in size. Records with a retention of permanent must be submitted in acid-free boxes. Agencies submitting boxes for storage containing paper records shall:

- (1) place only one type of record classification with disposition dates within a three year range in each box;
- (2) place the records in the box vertically, in the same order in which the records were maintained and shall coincide with the records index;
- (3) place letter-sized folders across the 12-inch side, facing the front of the box;
- (4) place legal-sized folders across the 15-inch side, starting from left to right;
- (5) leave at least one-inch of space for ease of access;
- (6) place the lid on the box;
- (7) place all documents (with the exception of oversize materials) in accurately labeled standard file folders; and

- (8) do not place hanging file folders in the boxes.

B. The records management division has the final authority with regard to the rejection of any box shipment or portion thereof. Reasons for rejection include, but are not limited to, the following:

(1) Any box shipment that does not agree with its corresponding storage or disposition forms shall be rejected upon delivery. The custodial agency shall be required to remove the boxes from the records center immediately.

(2) Any shipment submitted for storage that is damaged or overfilled shall be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center immediately.

(3) Any box shipment submitted for storage or disposition that is deemed hazardous by the administrator shall be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center immediately. For any box rejected for contamination, the custodial agency will be required to request permission from the administrator for onsite destruction.

(4) Any box submitted for storage that is less than three quarters full (12 inches) shall be returned to the agency, including any boxes withdrawn for viewing.

(5) Any box shipment containing glossy exterior boxes.

C. Blueprints and maps submitted for storage shall be placed in boxes designed for that purpose. [1.13.10.9 NMAC - Rp, 1.13.10.10 NMAC, 11/30/2015; A, 11/28/2017]

1.13.10.14 STORAGE OF MICROFILM:

A. For storage requirements, refer to 1.13.10.11 and 1.13.10.12 NMAC.

B. All state agencies and any public entity shall have an approved microphotography plan on file with the records management division before master microfilm can be stored. For microfilm plan requirements, refer to 1.14.2 NMAC. For information on the fee schedule, refer to 1.13.2 NMAC.

C. Microfilm shall pass inspection before it is approved for storage.

[1.13.10.14 NMAC - Rp, 1.13.10.16 NMAC, 11/30/2015; A, 6/28/2017; A, 11/28/2017]

1.13.10 NMAC

Exhibit Q.

1.13.10 NMAC
Storage and Records Access

No Comments Received

Exhibit Q.

NEW MEXICO
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

State Commission of Public Records
Regular Meeting & Rule Hearing Sign-In
November 14, 2017

Statutory Member or Designee	Signature
Robert J. Tórez, Historian	<i>Robert J. Tórez</i>
State Auditor	<i>SM</i>
Attorney General	
General Services Department, Secretary	<i>Rebecca A. Albo</i>
Secretary of State	<i>Charles E. Egan</i>
State Law Librarian	<i>L. L. L.</i>
Department of Cultural Affairs, Secretary	
Attorney General Counsel	<i>Debra Long</i>

Exhibit R.


NEW MEXICO
Commission of Public Records
at the State Records Center and Archives
 Your Access to Public Information

State Commission of Public Records
Regular Meeting & Rule Hearing Sign-In
November 14, 2017

Name/Print	Signature	Representing
Tanya Vigil	Tanya Vigil	RMD
Emmanuel Rodriguez	[Signature]	TRM
JAMES KIRBY	[Signature]	ITD
Sherry Larch	[Signature]	DPS
Lynne Newton	[Signature]	AHS
Gail Poekard	Gail Poekard	AHS
Justin Herrera	[Signature]	SRCA
Melissa T. Salazar	[Signature]	SRCA
FEUCIALOVAN	[Signature]	NMCPZ
Gergette L. Chavez	[Signature]	NMCPZ
Christine Espinoza	[Signature]	SOS
Kate O'Brien	Kate O'Brien	LCS
Rick Henricks	Rick Henricks	SRCA
Thomas Shumaker	Thomas Shumaker	SRCA
Susan Montoya	[Signature]	SRCA
LEO LULERO	Leo Lulero	SRCA
Jonathan Raybal	[Signature]	SRCA
Marcus Flores	[Signature]	SRCA
Julie Filatoff	Julie Filatoff	STO
MATT O'KIE	[Signature]	ALD
Kathleen Hurdly	[Signature]	CHFD

Exhibit R. Exhibit R

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[20.11.41.32 NMAC - N, 1/1/14; A, 12/13/17]

COMMISSION OF PUBLIC RECORDS

The State Commission of Public Records, approved at its 11/14/2017 hearing, to repeal its rule 1.13.12 NMAC - Designation of Records Management Personnel (filed 11/17/2015) and replace it with 1.13.12 NMAC - Designation of Records Management Personnel, adopted on 11/14/2017 and effective 11/28/2017.

The State Commission of Public Records, approved at its 11/14/2017 hearing, to repeal its rule 1.13.30 NMAC - Disposition of Public Records and Non-Records (filed 11/17/2015) and replace it with 1.13.30 NMAC - Disposition of Public Records and Non-Records, adopted on 11/14/2017 and effective 11/28/2017.

The State Commission of Public Records, approved and adopted, at its 11/14/2017 hearing, to repeal its rule 1.24.20 NMAC - Emergency Rules (filed 2/15/2000), effective 11/28/2017.

COMMISSION OF PUBLIC RECORDS

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION

CHAPTER 13 PUBLIC RECORDS

PART 12 DESIGNATION OF RECORDS MANAGEMENT PERSONNEL

1.13.12.1 ISSUING AGENCY: State Commission of Public Records.

[1.13.12.1 NMAC - Rp, 1.13.12.1, 11/28/2017]

1.13.12.2 SCOPE: All agencies that utilize the records center services and state archives.

[1.13.12.2 NMAC - Rp, 1.13.12.2, 11/28/2017]

1.13.12.3 STATUTORY AUTHORITY: Public Records Act, Section 14-3-4 NMSA 1978.

[1.13.12.3 NMAC - Rp, 1.13.12.3, 11/28/2017]

1.13.12.4 DURATION: Permanent.

[1.13.12.4 NMAC - Rp, 1.13.12.4, 11/28/2017]

1.13.12.5 EFFECTIVE DATE: November 28, 2017, unless a later date is cited at the end of a section.

[1.13.12.5 NMAC - Rp, 1.13.12.5, 11/28/2017]

1.13.12.6 OBJECTIVE: To establish requirements for the designation of personnel to interact with the commission of public records and the state records administrator for the access, storage and disposition of records stored at the state records center and archives.

[1.13.12.6 NMAC - Rp, 1.13.12.6, 11/28/2017]

1.13.12.7 DEFINITIONS:

A. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

B. "Destruction" means the disposal of records of no further operational, legal, fiscal, or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

C. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

D. "Pending litigation" means threatened, pending or active proceedings in a court of law whose activity is in progress but not yet completed.

E. "Records

custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee as defined in Section 14-3-2 NMSA, 1978.

F. "State archives" means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

[1.13.12.7 NMAC - Rp, 1.13.12.7, 11/28/2017]

1.13.12.8 RECORDS MANAGEMENT PROGRAM PERSONNEL HIERARCHY:

A. The statutory records custodian for each agency may designate one individual to act as a designated records custodian on his or her behalf. The designee shall be appointed each fiscal year using a form approved by the administrator. For designated records custodian responsibilities please see 1.13.12.9 NMAC.

B. The records custodian for each agency may designate one chief records officer to oversee the agency's records management program. The chief records officer shall be appointed each fiscal year using a form approved by the administrator. For chief records officer responsibilities, refer to 1.13.12.10 NMAC.

C. The records custodian for each agency may designate one or more records liaison officer(s) responsible for authorizing the storage and destruction of agency records. The records liaison officer shall be appointed each fiscal year using a form approved by the administrator. For record liaison officer responsibilities, refer to 1.13.12.11 NMAC.

D. A records custodian, chief records officer or records liaison officer may designate personnel to pick-up agency records from the records center. Pick-up personnel shall be appointed each fiscal year using a form approved by the administrator. For pick-up personnel responsibilities, refer to 1.13.12.12

NMAC.

E. If a records custodian does not designate a chief records officer or record liaison officer, the records custodian shall remain responsible for all of the duties of the personnel listed above.

F. The records custodian shall notify the state commission of public records concerning any status changes regarding designated records management personnel.
[1.13.12.8 NMAC - Rp, 1.13.12.8, 11/28/2017]

1.13.12.9 DESIGNATED RECORDS CUSTODIAN: If a statutory records custodian elects to designate an individual to serve on his or her behalf as a designated records custodian, the following requirements and responsibilities are assigned.

A. The designated records custodian shall be the individual responsible for satisfying all statutory requirements of the records custodian as delineated in the Public Records Act (14-3-1 NMSA, 1978).

B. All designated records custodians shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

C. Designated records custodians are required to attend the basic records management training once every three years.
[1.13.12.9 NMAC - N, 11/28/2017]

1.13.12.10 CHIEF RECORDS OFFICER: If a chief records officer is designated by the records custodian, the following responsibilities are assigned.

A. The chief records officer shall be the individual with the authority to oversee the agency's records management program.

B. The chief records officer shall perform the following duties:

(1) coordinate the response to the disposition authorization (destruction and transfer

to state archives);

(2) establish and maintain a centralized tracking system for the agency's storage containers (including the containers' indices, metadata and locators) and the disposition of records;

(3) disseminate information on any pending litigation, a discovery order, subpoena, government investigation or audit;

(4) ensure staff is adequately trained on proper records management practices; and

(5) develop policies and procedures pertaining to records management issues (i.e., handling confidential materials, new hire orientation, e-mail management, disposition of records when an employee leaves the agency, metadata development, etc.).

C. The chief records officer shall have the same authorities and responsibilities as a record liaison officer. The chief records officer shall have the authority to submit records for direct transfer to archives.

D. All chief records officers shall attend the required basic records management training offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

E. Chief records officers are required to attend the basic records management training once every three years.
[1.13.12.10 NMAC - Rp, 1.13.12.9, 11/28/2017]

1.13.12.11 RECORDS LIAISON OFFICER: If a record liaison officer is designated by the records custodian, the following responsibilities are assigned.

A. Records liaison officers shall be authorized to interact with the state commission of public records and the state records administrator for the purposes of storage, withdrawal, access or disposition of records.

B. All records liaison officers shall attend the required basic records management training

offered by the state commission of public records before they can store, withdraw, access or request the disposition of records.

C. Records liaison officers are required to attend the basic records management training once every three years.
[1.13.12.11 NMAC - Rp, 1.13.12.10, 11/28/2017]

1.13.12.12 PICK-UP ONLY PERSONNEL: Pick-up personnel are authorized to pick-up agency records from the records center.
[1.13.12.12 NMAC - Rp, 1.13.12.11, 11/28/2017]

1.13.12.13 DIGITAL SIGNATURE ISSUANCE AND USAGE:

A. A records custodian, chief records officer or records liaison officer may request a digital signature. This signature may be used exclusively for the purpose of submitting approved designation and destruction forms to the state commission of public records.

B. To request a digital signature, records management personnel shall submit a digital signature request each fiscal year using a form approved by the administrator. The original signed form must be:

(1) submitted in person to the agency analysis bureau by the records custodian, chief records officer or records liaison officer and accompanied by a government issued form of photo identification; or

(2) submitted to the agency analysis bureau by mail and include the notarized signature of the records custodian, chief records officer or records liaison officer.

C. The records custodian shall notify the state commission of public records concerning any status changes regarding the authority to utilize a digital signature by designated records management personnel.

D. The digital signature shall be the last function performed on an electronic form

before saving and submitting the form. Forms modified after a digital signature has been affixed will be rejected.

[1.13.12.13 NMAC - Rp, 1.13.12.12, 11/28/2017]

HISTORY OF 1.13.12 NMAC: [RESERVED]

History of Repealed Material:

1.13.12. NMAC, Designation Of Records Management Personnel, filed 11/17/2015 - Repealed effective 11/28/2017.

NMAC History:

1.13.12. NMAC, Designation Of Records Management Personnel (filed 11/17/2015) was replaced by 1.13.12. NMAC, Designation Of Records Management Personnel, effective 11/28/2017.

COMMISSION OF PUBLIC RECORDS

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION CHAPTER 13 PUBLIC RECORDS

PART 30 DISPOSITION OF PUBLIC RECORDS AND NON- RECORDS

1.13.30.1 ISSUING

AGENCY: State Commission of Public Records and the State Records Administrator.

[1.13.30.1 NMAC - Rp, 1.13.30.1 NMAC, 11/28/2017]

1.13.30.2 SCOPE: All state agencies and any public entity that use the state records center services.
[1.13.30.2 NMAC - Rp, 1.13.30.2 NMAC, 11/28/2017]

**1.13.30.3 STATUTORY
AUTHORITY:** Public Records Act, Sections 14-3-4 and 14-3-6 NMSA 1978.
[1.13.30.3 NMAC - Rp, 1.13.30.3 NMAC, 11/28/2017]

1.13.30.4 DURATION:

Permanent.

[1.13.30.4 NMAC - Rp, 1.13.30.4 NMAC, 11/28/2017]

**1.13.30.5 EFFECTIVE
DATE:** November 28, 2017, unless a later date is cited at the end of a section.

[1.13.30.5 NMAC - Rp, 1.13.30.5 NMAC, 11/28/2017]

1.13.30.6 OBJECTIVE: To establish requirements for the proper and orderly destruction of public records.

[1.13.30.6 NMAC - Rp, 1.13.30.6 NMAC, 11/28/2017]

1.13.30.7 DEFINITIONS:

A. "Chief records officer" means a person designated by an agency's records custodian to administrate the agency's records management program, refer to 1.13.12.9 NMAC.

B. "Confidential" means information provided to, created by or maintained by a government agency and that is exempt from release under state or federal laws.

C. "Custodial agency" means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

D. "Degaussing" means the process of removing magnetism from magnetically recorded tape thereby rendering the information unreadable.

E. "Destruction" means the disposal of records of no further operational, legal, fiscal or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

F. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

G. "Functional records retention and disposition schedule" means a rule adopted by

the commission pursuant to Section 14-3-6 NMSA 1978 describing the function of records, establishing a timetable for their life cycle and providing authorization for their disposition.

H. "Inactive record" means a record no longer needed to conduct current business but required to be maintained for operational, legal, fiscal or historical purposes until it meets its retention.

I. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of correspondence, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters and informational files.

J. "On-site destruction" means destruction of records approved by the state records administrator to be destroyed at a location other than the records center.

K. "Permanent records" means records considered unique or so valuable in documenting the history or business of an organization that they are preserved in an archives.

L. "Records" means information preserved by any technique in any medium now known or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology (1.13.70 NMAC).

M. "Records liaison officer" means a person designated by the records custodian to interact with the state commission of public records, refer to 1.13.12.10 NMAC.

N. "Records management" means the systematic

control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

O. "Recycling"

means the process that recovers the raw materials of a medium allowing for the reuse of various media. Overwriting on magnetic media is a means of recycling.

P. "Retention"

means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

Q. "State archives"

means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

R. "Transitory"

means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.

S. "Trigger event"

means the closing event of a record which begins the retention period. [1.13.30.7 NMAC - Rp, 1.13.30.7 NMAC, 11/28/2017]

1.13.30.8 ASSIGNMENT OF RESPONSIBILITIES: Section 14-3-4 NMSA 1978 authorizes the commission of public records to appoint a state records administrator to carry out the purposes of the Public Records Act. The state records administrator is responsible for establishing records management programs within state government for the purpose of ensuring the efficient and economical management of public records throughout their lifecycle from their creation, utilization, maintenance, retention, preservation and final disposition.

A. The commission

of public records hereby delegates the authority to order the routine destruction of public records, in accordance with adopted records retention and disposition schedules, to the state records administrator.

B. The state records administrator shall prescribe the appropriate method of destruction of public records.

C. The state records center and archives, in accordance with the rules established by the state records administrator and the commission of public records, is the authorized facility for the receipt, storage or disposition of all inactive and infrequently used records of present or former state agencies. [1.13.30.8 NMAC - Rp, 1.13.30.8 NMAC, 11/28/2017]

1.13.30.9 DISPOSITION OF RECORDS:

A. Agencies shall ensure the proper authorized disposition of their records regardless of format or medium.

B. Records may be destroyed with the written approval of the state records administrator and the written consent of the records custodian, designated chief records officer or records liaison officer of the custodial agency.

C. Records may be transferred to the state archives with the written approval of the state records administrator and the written consent of the records custodian or designated chief records officer of the custodial agency; once the transfer is authorized and the records are in the physical custody of the state archives, the legal custody of the records is vested in the state records administrator.

D. Agencies shall follow rules issued by the state records administrator governing the methods of destruction. [1.13.30.9 NMAC - Rp, 1.13.30.9 NMAC, 11/28/2017]

1.13.30.10 DIRECT TRANSFER OF RECORDS TO THE STATE ARCHIVES:

A. An agency may

transfer records with a retention of permanent directly to the state archives. Records eligible for direct transfer to archives shall be submitted on a form approved by the state records administrator. No direct transfer of records shall occur without the review and approval of the state records administrator.

B. Records transferred directly to state archives shall be accompanied by an itemized records index on a form approved by the state records administrator. A copy of the index for each box shall be placed in the corresponding box. The complete index shall be attached to the request and an electronic copy shall be submitted to the state archives on a format approved by the state records administrator. The shipment box number (i.e., 1 of 10, 2 of 20, etc.) shall be affixed to the boxes prior to delivery to the state archives. All folders in the box shall be clearly labeled and identify the contents of the folder.

C. Records involved in litigation, an audit or investigation are not eligible for transfer to the state archives.

D. Only closed records shall be accepted for transfer to the state archives. [1.13.30.10 NMAC - Rp, 1.13.30.10 NMAC, 11/28/2017]

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 order the transfer of records to the state archives for

review and appraisal.

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 but not limited to the following information:

- (1) place and date of pick up;
- (2) printed name and signature of employee(s) performing service;
- (3) printed name and signature of witnesses;
- (4) number of pounds destroyed/shredded (vendor) or number of boxes (agency certified);
- (5) date of destruction/shredding;
- (6) identification of company's authorizing agent by name and position;

(7) printed name and signature of official certifying the destruction (vendor or records liaison officer); and

(8) statement that shredded 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 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.

[1.13.30.11 NMAC - Rp, 1.13.30.11 NMAC, 11/28/2017]

1.13.30.12 RECORDS DELIVERED TO THE RECORDS CENTER FOR DESTRUCTION:

Agencies storing records at their location may deliver records that have met their retentions to the records center for destruction. For approval to deliver records to the records center for 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 the acceptance of the shipment for destruction.

C. The state records administrator may order the transfer of records to the state archives for review and appraisal.

D. The approved request for destruction shall match items delivered to the records center for destruction. When a discrepancy is found between what is listed on the approved request and what is delivered to the records center, the shipment shall be rejected and the agency shall remove the shipment

from the records center.

E. Agencies utilizing the records centers for destruction services shall use boxes equivalent to 15" x 10" x 12" in size.

F. Records destroyed through the records center shall be assessed a fee per box. Agencies shall have a purchase order in place prior to delivery of the shipment to the records center. For information on the fee schedule, refer to 1.13.2 NMAC. [1.13.30.12 NMAC - Rp, 1.13.30.12 NMAC, 11/28/2017]

1.13.30.13 DISPOSITION OF RECORDS STORED IN THE RECORDS CENTER:

A. Upon receiving a disposition authorization notice for records stored in the records center, only the custodial agency's records custodian or chief records officer shall review the report of records to be destroyed or transferred to archives and respond by the established deadline. Records liaison officers do not have authority to sign the disposition authorization notice for records stored at the records center.

B. Failure to return a completed disposition authorization notice by the established deadline shall result in a storage fee for records that are eligible for destruction. In addition, the return of withdrawn boxes, storage and disposition services will be suspended. For information on the fee schedule, refer to 1.13.2 NMAC.

C. Records destroyed through the annual destruction process shall be assessed a fee per box. For information on the fee schedule, refer to 1.13.2 NMAC.

[1.13.30.13 NMAC - Rp, 1.13.30.13 NMAC, 11/28/2017]

1.13.30.14 DESTRUCTION OF NON-RECORDS:

Destruction of non-records is the sole responsibility of the custodial agency and does not require the prior approval of the state records administrator. That responsibility includes identifying whether the information is a non-record or a public record. All state agencies and

any public entity that use the state records center services shall submit a request on a form approved by the state records administrator. For the proper destruction of records with or without confidential or sensitive information, refer to 1.13.30.11 NMAC.

[1.13.30.14 NMAC - Rp, 1.13.30.14 NMAC, 11/28/2017]

1.13.30.15 DESTRUCTION OF RECORDS HELD BY CONTRACTORS:

All records or data created or managed by a contractor or non-government entity for a governmental agency shall be disposed of in accordance with the procedures established in 1.13.30 NMAC.

[1.13.30.15 NMAC - Rp, 1.13.30.15 NMAC, 11/28/2017]

1.13.30.16 MANAGEMENT RESPONSIBILITIES:

The development and implementation of a records management program is the responsibility of each agency records custodian, as defined by the Public Records Act. It is also management's responsibility to provide guidance to employees on the proper legal disposition of public records and non-records. Agency records management programs must clearly define the roles and responsibilities of users disposing public records and non-records.

[1.13.30.16 NMAC - Rp, 1.13.30.16 NMAC, 11/28/2017]

HISTORY OF 1.13.30 NMAC:

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

SRC Rule No. 70-3, Records Management Division, Regulations Regarding Destruction of Records and Appointment of Liaison Officers, filed 9/9/1970.

SRC Rule No. 89-05, Regulations Regarding the Public Records Act, filed 5/22/1989.

History of Repealed Material:

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004 - Repealed effective 6/01/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006 - Repealed effective 11/30/2015.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 11/17/2015 - Repealed effective 11/28/2017.

NMAC History:

1 NMAC 3.55, Destruction of Public Records, filed 12/1/1994.

1 NMAC 3.2.50.1, Destruction of Public Records, filed 4/18/1997.

1.13.30 NMAC, Destruction of Public Records, filed 6/16/2004.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed 5/10/2006.

1.13.30 NMAC, Destruction of Public Records and Non-Records, filed (11/17/2015) was replaced by 1.13.30 NMAC, Destruction of Public Records and Non-Records effective 11/28/2017.

COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.13.5 NMAC, Sections 8, 9, and 10, effective 11/28/2017.

1.13.5.8 ELIGIBILITY:

A. To be eligible for an historical records grant, the applicant shall be one of the entities listed below.

(1) A governmental organization including:

(a) state agencies as prescribed in the Public Records Act; except the commission;

(b) county offices;

(c) municipal offices;

(d) political subdivisions; or

(e) tribal government offices.

(2) A non-profit and tax-exempt organization [registered with the New Mexico secretary of state,] verified as such by:

(a)

a copy of its IRS issued letter establishing tax-exempt [or 501(c)(3), or equivalent,] status; and

(b)

a copy of certification of its good standing status with the New Mexico secretary of state[and].

~~(c)~~

~~evidence that it has made provisions for the transfer of its holdings to a like organization or an appropriate repository for public access upon dissolution.]~~

B. Previous grant recipients shall be in compliance with the stipulations of all previous awards in order to be eligible.

C. To be eligible for an historical records grant, applicants shall not be disbarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs.

D. Board member organizations or their employers are not eligible to apply for NMHRAB funding.

E. Funding shall not be used to process any collection held by the commission of public records.

[1.13.5.8 NMAC - Rp, 1.13.5.8 NMAC, 8/1/2015; A, 11/28/2017]

1.13.5.9 CONDITIONS FOR RECEIVING A HISTORICAL RECORDS GRANT:

A. The applicant shall:

(1) demonstrate legal custody of [or written permission from the organization that has legal custody of] historically significant original records at the time of the grant application deadline;

(2) provide a copy of its collection policy or a statement from its governing body indicating its commitment to sound practices concerning the historical material included in the project;

(3) demonstrate the ability to carry out the objective of the proposal within the grant period;

(4) describe the records, their importance in

documenting New Mexico's history and the proposed project that affects the records;

(5) include a mechanism for evaluating the impact of the project on its historical records' environment; and

(6) provide a letter from its governing body indicating support of the project and continuation of the project's purposes beyond the grant period.

B. Upon approval, the applicant shall become a vendor pursuant to state law.

C. Records treated in the proposed project shall be made available in New Mexico for public research to all qualified users on equal terms unless specific exemption is granted by the commission. Specific records in proposals submitted by tribal governments, for example, may be excluded from this criterion.

D. The applicant shall not charge fees for public access to the materials in its holdings. However, reasonable fees may be charged for copying material or providing special services or facilities not provided to all researchers.

E. A person qualified by credentials or training shall carry out the objectives of the proposed project.

F. Proposals for digitization projects shall be acceptable only if they take into consideration the issue of migration to newer technologies. Digitization projects shall follow scanning guidelines specified by the commission for creating master and access copies.

[1.13.5.9 NMAC - Rp, 1.13.5.9 NMAC, 8/1/2015; A, 11/28/2017]

1.13.5.10 TYPES OF PROJECTS FUNDED: Following are examples of projects that could be funded.

A. Preservation projects that mitigate unstable or deteriorating conditions of historical records through the identification, organization and description, conservation treatment or reformatting of the records to

another medium. National historical publications and records commission funding shall not be used for the following activities:

(1) to undertake an archival project centered on the papers of an appointed or elected public official who remains in major office, or is politically active, or the majority of whose papers have not yet been accessioned in a repository; and

(2) to undertake arrangement, description or preservation projects involving federal government records that are in the custody of the national archives and records administration, in the custody of some other federal agency or that have been deposited in a non-federal institution without an agreement authorized by the national archives and records administration.

B. Access projects that promote the availability of historical records by developing finding aids, indexing significant collections, creating electronic catalog records, distributing collection guides, providing online access to finding aids, digitizing historical records and placing copies in other repositories that have agreed to accept them.

C. Regional or statewide training programs that focus on developing best practices that can be used to train staff in more than one repository or in a repository experiencing high turnover.

D. [Research] projects that provide original scholarly exposition or interpretation of documentary evidence of New Mexico history based on original records or oral history and documentary edition projects that publish original records for general usage. National historical publications and records commission funding shall not be used for the following activities:

(1) to undertake oral history projects unrelated to Native Americans; and

(2) to undertake a documentary editing project to publish the papers of someone who has been deceased for

fewer than 10 years.

E.] Program development projects that establish or elevate standards of archival or records management practice in the applicant's repository.

[F. Promotional programs such as exhibits, conferences, papers and documentaries that promote New Mexico history through the use of historical records.]

[1.13.5.10 NMAC - Rp, 1.13.5.11 NMAC, 8/1/2015; A, 11/28/2017]

COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.13.10 NMAC, Sections 9, and 14, effective 11/28/2017.

1.13.10.9 BOX REQUIREMENTS:

A. Agencies utilizing the records center shall use storage boxes 15" x 12" x 10" in size. Records with a retention of permanent must be submitted in acid-free boxes. Agencies submitting boxes for storage containing paper records shall:

(1) place only one type of record classification with disposition dates within a three year range in each box;

(2) place the records in the box vertically, in the same order in which the records were maintained and shall coincide with the records index;

(3) place letter-sized folders across the 12-inch side, facing the front of the box;

(4) place legal-sized folders across the 15-inch side, starting from left to right;

(5) leave at least one-inch of space for ease of access;

(6) place the lid on the box;

(7) place all documents (with the exception of oversize materials) in accurately labeled standard file folders; and

(8) do not place hanging file folders in the

boxes.

B. The records management division has the final authority with regard to the rejection of any box shipment or portion thereof. Reasons for rejection include, but are not limited to, the following:

(1) Any box shipment that does not agree with its corresponding storage or disposition forms shall be rejected upon delivery. The custodial agency shall be required to remove the boxes from the records center immediately.

(2) Any shipment submitted for storage that is damaged or overfilled shall be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center immediately.

(3) Any box shipment submitted for storage or disposition that is deemed hazardous by the administrator shall be rejected upon delivery. The custodial agency shall be required to remove the shipment from the records center immediately. For any box rejected for contamination, the custodial agency will be required to request permission from the administrator for onsite destruction.

(4) Any box submitted for storage that is less than three quarters full (12 inches) shall be returned to the agency, including any boxes withdrawn for viewing.

(5) Any box shipment containing glossy exterior boxes.

C. Blueprints and maps submitted for storage shall be placed in boxes designed for that purpose. [1.13.10.9 NMAC - Rp, 1.13.10.10 NMAC, 11/30/2015; A, 11/28/2017]

1.13.10.14 STORAGE OF MICROFILM:

A. For storage requirements, refer to 1.13.10.11 and 1.13.10.12 NMAC.

B. All state agencies and any public entity shall have an approved microphotography plan on file with the records management division before master microfilm

can be stored. For microfilm plan requirements, refer to 1.14.2 NMAC. For information on the fee schedule, refer to 1.13.2 NMAC.

C. Microfilm shall pass inspection before it is approved for storage.

[1.13.10.14 NMAC - Rp, 1.13.10.16 NMAC, 11/30/2015; A, 6/28/2017; A, 11/28/2017]

COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.21.2 NMAC, Sections 336 and 337 effective 11/28/2017.

1.21.2.336 CASE FILES - LOANS:

A. Category: Financial and accounting - [grant,] financial aid and loan management.

B. Description: Records related to loan programs including, but not limited to, loan documents and tracking.

C. Retention: destroy three years from close of fiscal year in which file closed. [1.21.2.336 NMAC - N, 10/01/2015; A, 11/28/2017]

1.21.2.337 EDUCATIONAL FINANCIAL AID:

A. Category: Financial and accounting - [grant,] financial aid and loan management.

B. Description: Records related to scholarships, loans, grants and other aid.

C. Retention: destroy three years from the date file closed. [1.21.2.337 NMAC - N, 10/01/2015; A, 11/28/2017]

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

On 11/13/2017, the Pharmacy Board repealed its rule 16.19.8 NMAC, Wholesale Prescription Drug Distribution, filed 11-03-2009, and replaced it with 16.19.8 NMAC,

Wholesale Distributors; Third-Party Logistics Providers; Repackagers; Drug Supply Chain Security, effective 11-28-2017.

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 19 PHARMACISTS PART 8 WHOLESALE DISTRIBUTORS; THIRD-PARTY LOGISTICS PROVIDERS; REPACKAGERS; DRUG SUPPLY CHAIN SECURITY

16.19.8.1 ISSUING

AGENCY: Regulation and Licensing Department - Board of Pharmacy. [16.19.8.1 NMAC - Rp, 16.19.8.1 NMAC, 11-28-2017]

16.19.8.2 SCOPE: All individuals and entities engaged in the wholesale distribution of prescription drugs, including, own-label distributors, private-label distributors, jobbers, brokers, manufacturer's warehouses, distributor's warehouses, chain drug warehouses, wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distribution; third-party logistics providers; manufacturers and repackagers.

[16.19.8.2 NMAC - Rp, 16.19.8.2 NMAC, 11-28-2017]

16.19.8.3 STATUTORY

AUTHORITY: Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978 directs the board of pharmacy to provide for the licensing of drug manufacturers, repackagers and wholesale drug distributors and for the inspection of their facilities and activities. Paragraph (7) of Subsection A of Section 61-11-6 NMSA 1978 authorizes the board to enforce the provisions of all state laws pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs, cosmetics or

ACTION ITEM RULE HEARING VOTE

Concise Explanatory Statement: 1.24.20 NMAC

The proposed repeal of 1.24.20 NMAC is to acknowledge that the rule for emergency rule filing has been supplanted by the statutory changes made to the State Rules Act due to passage of HB 58 in the 2017 regular legislative session.

NMAC

Transmittal Form

NEW MEXICO
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

Volume: Issue: Publication Date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New ☐ Amendment ☐ Repeal ☒ Repeal/Replace ☐ Renumber ☐ Emergency ☐ (ALD Use Only) Most Recent Filing Date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment Description (If filing an Amendment): Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Yes ☐ No ☒ Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes ☐ No ☐ Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s): Hearing date(s): Rule Adoption date: Rule Effective date:

Specific statutory or other authority authorizing rulemaking:

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

- 1) The Commission of Public Records is not the entity charged with the promulgation of rules pursuant to the State Rules Act.
- 2) Statutory changes contained within Section 14-4-5.6 NMSA 1978, effective July 1, 2017, conflict with the provisions of this rule.
- 3) The provisions contained within Section 14-5-5.7 NMSA 1978 specifically resolve conflict between the provisions of this rule and statutory provisions of 14-4-5.6 NMSA 1978 in favor of the statute.
- 4) Thus, this rule is rendered moot, by operation of law.

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

Name: Check if authority has been delegated ☐

Title:

Signature: (BLACK ink only) Date signed:

7/13/2017

Concise Explanatory Statement: 1.13.30 NMAC

The proposed repeal and replacement of 1.13.30 NMAC consists of the following modifications: Section 2 is being amended to widen the scope of the rule; Section 10 is being amended to only transfer closed records to the state archives; Section 11 is being amended to add a designee of the state records administrator to inspect records for on-site records, add the requirement of a certificate of destruction, and add the qualification of a document destruction vendor; Section 12 is being amended to add a designee of the state records administrator to inspect records at the record centers; standardizing the dimensions of boxes brought in the destruction, and establish a fee for the services of document destruction for boxes delivered to the record centers; Section 13 is being amended to place the responsibility of monitoring legal holds on the custodial agencies and to assess a fee per box during the annual destruction; Section 14 is being amended to require a standardized form and to correct a NMAC reference; and Section 16 is being amended to remove a unnecessary statutory reference and grammatical corrections.

NMAC

Transmittal Form



Volume: Issue: Publication Date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New ☐ Amendment ☐ Repeal ☒ Repeal/Replace ☐ Renumber ☐ Emergency ☐ (ALD Use Only) Most Recent Filing Date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment Description (If filing an Amendment): Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Yes ☐ No ☒ Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes ☐ No ☐ Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s): Hearing date(s): Rule Adoption date: Rule Effective date:

Specific statutory or other authority authorizing rulemaking:

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

Issuing authority (If delegated, authority letter must be on file with ALD):
Name: Check if authority has been delegated ☐

Title:

Signature: (BLACK ink only) Date signed:

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purposes 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.

The proposed repeal and replacement of 1.13.30 NMAC consist of the following:

1. Section 2 is being amended to widen the scope of the rule;
2. Section 10 is being amended to only transfer closed records to the state archives;
3. Section 11 is being amended to add a designee of the state records administrator to inspect records for on-site records, add the requirement of a certificate of destruction, and add the qualification of a document destruction vendor;
4. Section 12 is being amended to add a designee of the state records administrator to inspect records at the record centers; standardizing the dimensions of boxes brought in the destruction, and establish a fee for the services of document destruction for boxes delivered to the record centers;
5. Section 13 is being amended to establish a fee for the services of document destruction for boxes stored in the record centers that have met their retention;
6. Section 14 is being amended to require a standardized form and to correct a NMAC reference; and
7. Section 16 is being amended to remove a unnecessary statutory reference and grammatical corrections.

The repeal and replace were made to include public comments received at the public hearing held on Tuesday, November 14, 2017.

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

Check if authority has been delegated

Robert J. Tórrez and Melissa T. Salazar

☐

Title:

Chair, State Commission of Public Records and State Records Administrator

Signature: (BLACK ink only)

Date signed:

NMAC

Transmittal Form



Volume: Issue: Publication Date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New ☐ Amendment ☐ Repeal ☐ Repeal/Replace ☒ Renumber ☐ Emergency ☐ (ALD Use Only) Most Recent Filing Date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment Description (If filing an Amendment): Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Yes ☐ No ☒ Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes ☐ No ☐ Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s): Hearing date(s): Rule Adoption date: Rule Effective date:

Specific statutory or other authority authorizing rulemaking:

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

Issuing authority (If delegated, authority letter must be on file with ALD):
Name: Check if authority has been delegated ☐

Title:

Signature: (BLACK ink only) Date signed:

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purposes 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.

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2. Section 10 is being amended to only transfer closed records to the state archives;
3. Section 11 is being amended to add a designee of the state records administrator to inspect records for on-site records, add the requirement of a certificate of destruction, and add the qualification of a document destruction vendor;
4. Section 12 is being amended to add a designee of the state records administrator to inspect records at the record centers; standardizing the dimensions of boxes brought in the destruction, and establish a fee for the services of document destruction for boxes delivered to the record centers;
5. Section 13 is being amended to establish a fee for the services of document destruction for boxes stored in the record centers that have met their retention;
6. Section 14 is being amended to require a standardized form and to correct a NMAC reference; and
7. Section 16 is being amended to remove a unnecessary statutory reference and grammatical corrections.

The repeal and replace were made to include public comments received at the public hearing held on Tuesday, November 14, 2017.

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

Robert J. Tórrez and Melissa T. Salazar

Check if authority has been delegated

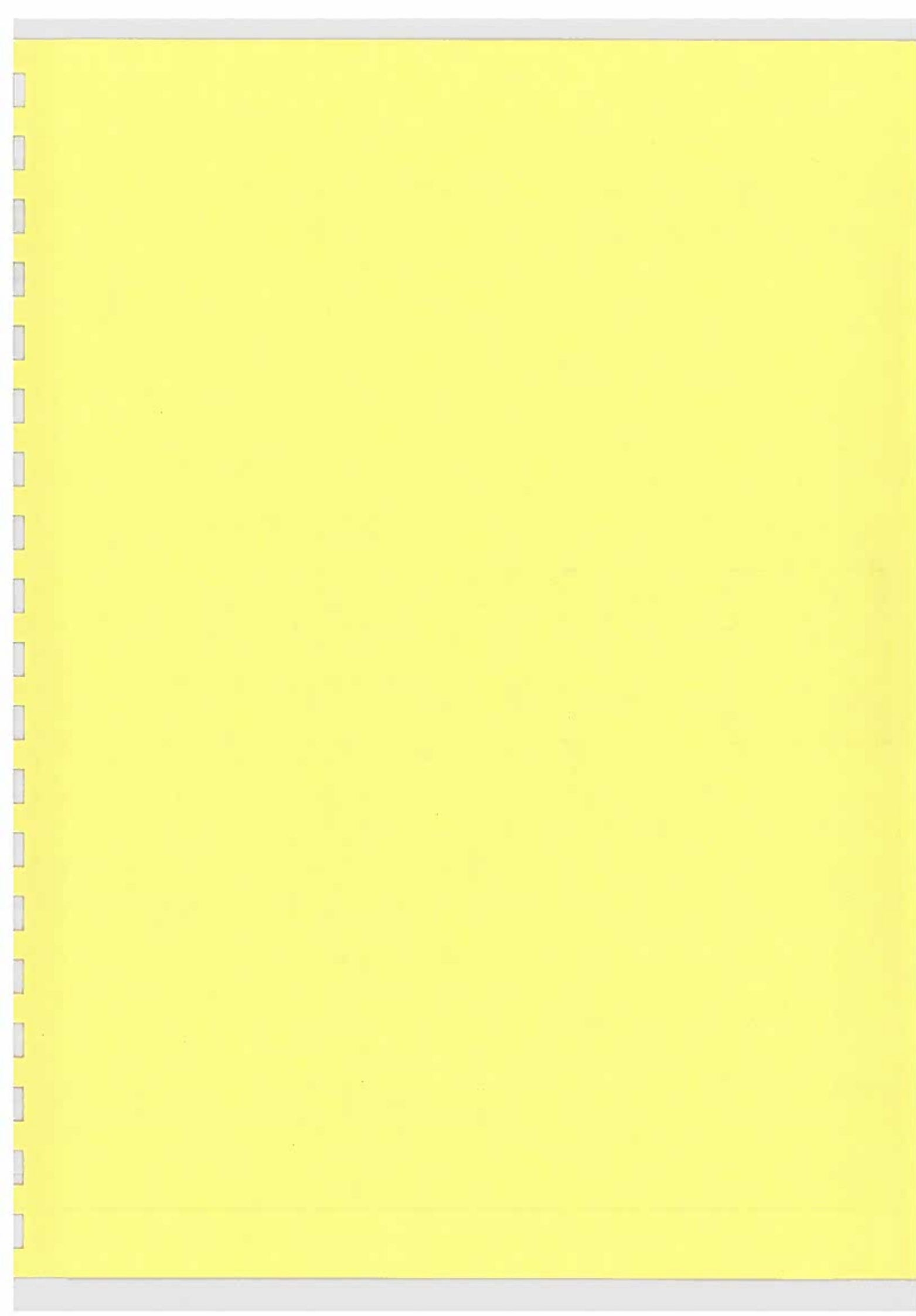
☐

Title:

Chair, State Commission of Public Records and State Records Administrator

Signature: (BLACK ink only)

Date signed:



Concise Explanatory Statement: 1.13.12 NMAC

The repeal and replacement of 1.13.12 NMAC is to add designation language for records custodians, clarify the training requirements for designated personnel, and to renumber the part.

NMAC**Transmittal Form**

Volume: **XXVIII** Issue: **22** Publication Date: **11/28/2017** Number of pages: **1** (ALD Use Only) Sequence No. **307.2**

Issuing agency name and address:

State Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Agency DFA code:

36900

Contact person's name:

Leo Lucero

Phone number:

505-476-7920

E-mail address:

Leo.Lucero@state.nm.us

Type of rule action:

New ☐ Amendment ☐ Repeal ☒ Repeal/Replace ☐ Renumber ☐ Emergency ☐

(ALD Use Only)
Most Recent Filing Date:

11/17/2015

Title number:

1

Title name:

General Government Administration

Chapter number:

13

Chapter name:

Public Records

Part number:

12

Part name:

Designation of Records Management Personnel

Amendment Description (If filing an Amendment):

Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference?

Yes ☐ No ☒

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received?

Yes ☐No ☐Public domain ☐**Concise Explanatory Statement for rulemaking adoption:**

Notice date(s):

09/26/2017

Hearing date(s):

11/14/2017

Rule Adoption date:

11/14/2017

Rule Effective date:

11/28/2017

Specific statutory or other authority authorizing rulemaking:

Public Records Act, Section 14-3-4 NMSA 1978

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

See page 2 for findings.

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

Name:

Robert J. Tórez

Check if authority has been delegated

Title:

Chair, State Commission of Public Records

Signature: (BLACK Ink only)

Date signed:

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purposes of the Public Records Act
Section 14-3-4(G) NMSA 1978 authorizes the commission to request any agency to designate a records liaison officer to cooperate with, assist and advise the administrator in the performance of his duties and to provide such other assistance and data as will enable the commission and administrator properly to carry out the purposes of the Public Records Act

1.13.12 NMAC is being repealed and replaced to add designation language for records custodians, clarify the training requirements for designated personnel, and to renumber the part.

The repeal and replace were made to include public comments received at the public hearing held on Tuesday, November 14, 2017.

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

Robert J. Tórréz

Check if authority has been delegated

☐

Title:

Chair, State Commission of Public Records

Signature: (BLACK ink only)

Date signed:

NMAC

Transmittal Form



Volume: **XXVIII** Issue: **22** Publication Date: **11/28/2017** Number of pages: **3** (ALD Use Only) Sequence No. **307.3**

Issuing agency name and address:

State Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Agency DFA code:

36900

Contact person's name:

Leo Lucero

Phone number:

505-476-7920

E-mail address:

Leo.Lucero@state.nm.us

Type of rule action:

New ☐ Amendment ☐ Repeal ☐ Repeal/Replace ☒ Renumber ☐ Emergency ☐

(ALD Use Only)
Most Recent Filing Date:

11/17/2015

Title number:

1

Title name:

General Government Administration

Chapter number:

13

Chapter name:

Public Records

Part number:

12

Part name:

Designation of Records Management Personnel

Amendment Description (If filing an Amendment):

Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference?

Yes ☐ No ☒

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received?

Yes ☐

No ☐

Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s):

9/26/2017

Hearing date(s):

11/14/2017

Rule Adoption date:

11/14/2017

Rule Effective date:

11/28/2017

Specific statutory or other authority authorizing rulemaking:

Public Records Act, Section 14-3-4 NMSA 1978

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

See page 2 for findings.

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

Name:

Robert J. Tórez

Check if authority has been delegated

Title:

Chair, State Commission of Public Records

Signature: (BLACK ink only)

Date signed:

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purposes of the Public Records Act
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Issuing authority (If delegated, authority letter must be on file with
ALD): Name:

Robert J. Tórréz

Check if authority has been delegated

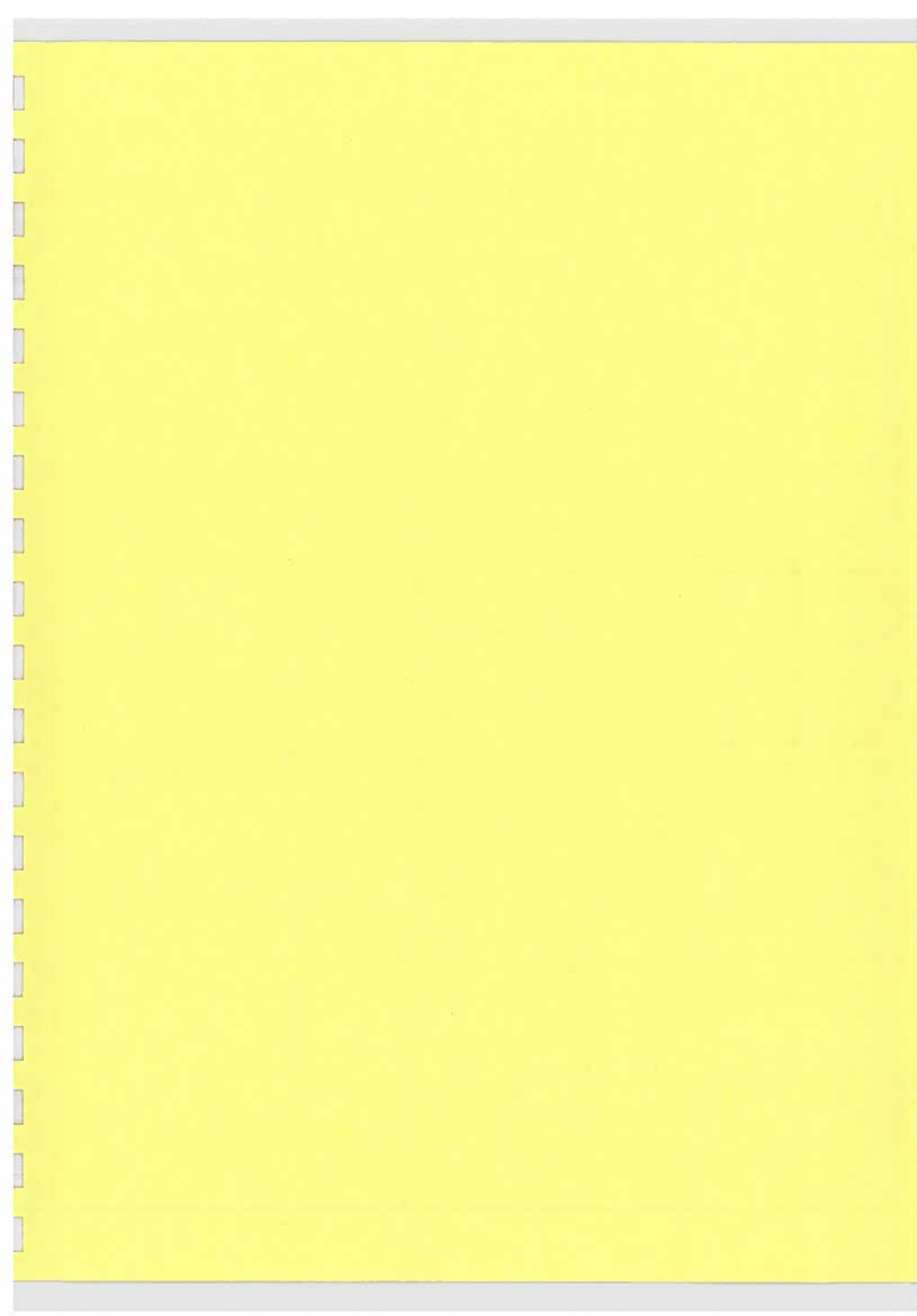
☐

Title:

Chair, State Commission of Public Records

Signature: (BLACK ink only)

Date signed:



Concise Explanatory Statement: 1.21.2 NMAC

The proposed amendment of 1.21.2 NMAC consist of the follow modifications: Section 336, Case Files - Loans, and Section 337, Educational Financial Aid, are being amended to remove grant administration from the subcategory; grant files were moved to the Administration - general management category in November of 2016; and Section 644 is being added to allow for the classification of dismissed attorney legal case files to match the classification provided for the courts (section 616).

NMAC

Transmittal Form



Volume: Issue: Publication Date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New ☐ Amendment ☒ Repeal ☐ Repeal/Replace ☐ Renumber ☐ Emergency ☐ (ALD Use Only) Most Recent Filing Date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment Description (If filing an Amendment): Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Yes ☐ No ☒ Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes ☐ No ☐ Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s): Hearing date(s): Rule Adoption date: Rule Effective date:

Specific statutory or other authority authorizing rulemaking:

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

Issuing authority (If delegated, authority letter must be on file with ALD):
Name: Check if authority has been delegated ☐

Title:

Signature: (BLACK ink only) Date signed:

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purposes 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.

1. Sections 336 (Case Files – Loans) and 337 (Educational Financial Aid) are being amended to remove grant administration from the subcategory; grant files were moved to the Administration - general management category in November of 2016; and

These rule amendments were made to include public comments received at the public hearing held on Tuesday, November 14, 2017.

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

Robert J. Tórréz

Check if authority has been delegated

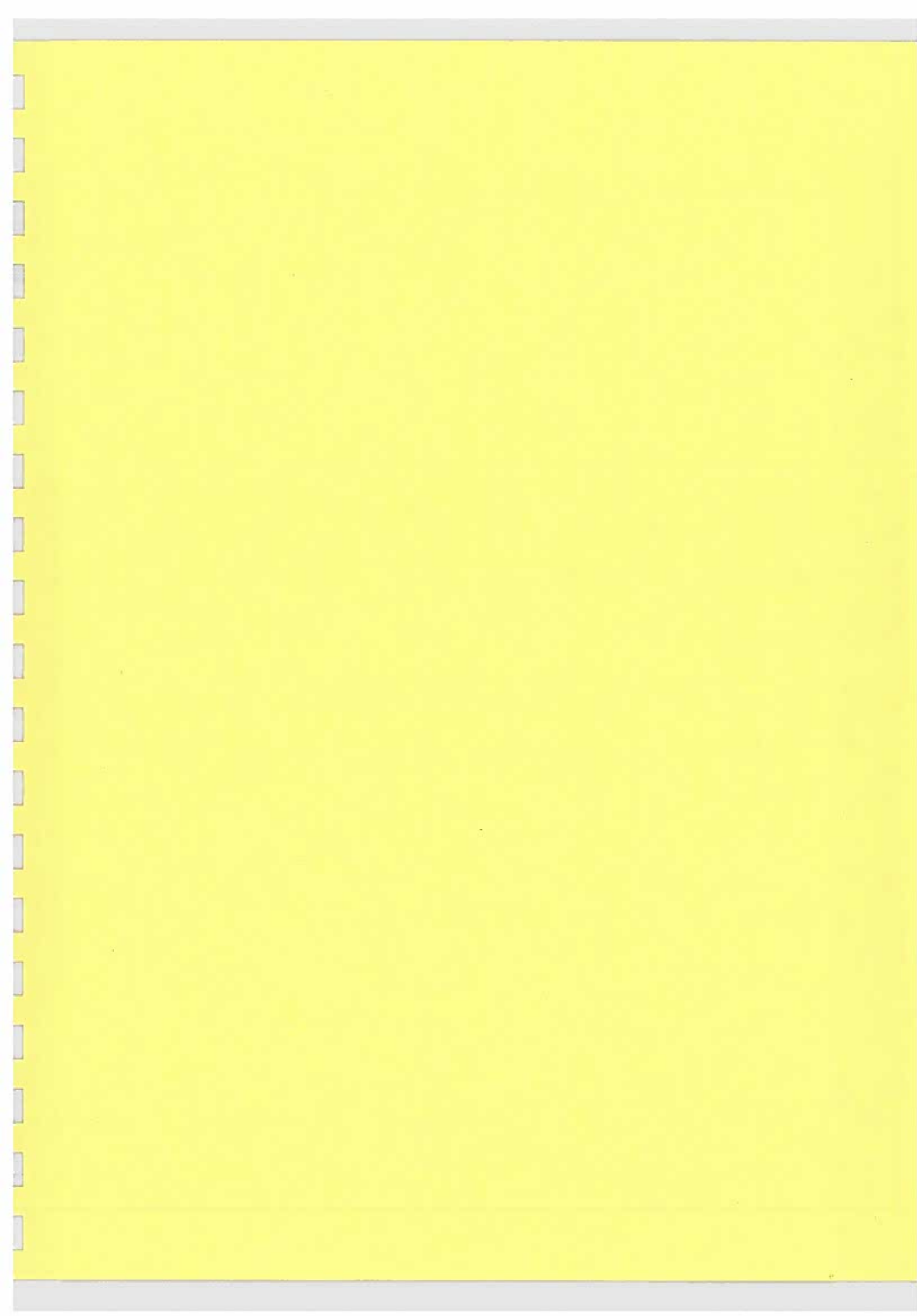
☐

Title:

Chair, State Commission of Public Records

Signature: (BLACK ink only)

Date signed:



Concise Explanatory Statement: 1.13.5 NMAC

The proposed amendments to 1.13.5 NMAC consist of the following: Section 8 is being amended to clarify eligibility requirements for historical records grants; Section 9 is being amended to clarify the conditions for custody of historically significant records; and Section 10 is being amended to limit the types of projects that could be funded.

NMAC

Transmittal Form

NEW MEXICO
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

Volume: **XXVIII** Issue: **22** Publication Date: **11/28/2017** Number of pages: **2** (ALD Use Only) Sequence No. **284.13**

Issuing agency name and address:

State Commission of Public Records, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507

Agency DFA code:

36900

Contact person's name:

Melissa T. Salazar

Phone number:

505-476-7911

E-mail address:

Melissa.Salazar@state.nm.us

Type of rule action:

New ☐ Amendment ☒ Repeal ☐ Repeal/Replace ☐ Renumber ☐ Emergency ☐

(ALD Use Only)
Most Recent Filing Date:

6/30/2015

Title number:

1

Title name:

General Government Administration

Chapter number:

13

Chapter name:

Public Records

Part number:

5

Part name:

New Mexico Historical Records Grant Program Guidelines

Amendment Description (If filing an Amendment):

Amending (3) sections

Amendment's NMAC Citation (If filing an Amendment):

1.13.5 NMAC, Sections 8, 9, and 10.

Are there any materials incorporated by reference?

Yes ☐ No ☒

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received?

Yes ☐

No ☐

Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s):

9/26/2017

Hearing date(s):

11/14/2017

Rule Adoption date:

11/14/2017

Rule Effective date:

11/28/2017

Specific statutory or other authority authorizing rulemaking:

Section 14-3-4(F) NMSA; 14-3-14 NMSA 1978; and 36 CFR Part 1206

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

See page 2 for findings.

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

Name:

Robert J. Tórez

Check if authority has been delegated

Title:

Chair, State Commission of Public Records

Signature: (BLACK Ink only)

Date signed:

7/13/2017

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

Section 14-3-4(F) NMSA 1978 authorizes the commission to adopt regulations to carry out the purposes of the Public Records Act; Section 14-3-14 NMSA 1978 authorizes the commission, upon recommendation of the state records administrator, to appoint advisory groups to more effectively obtain the best professional thinking regarding any particular group or type of records. 36 CFR Part 1206 authorizes the commission to receive national historical publications and records commission grants to make subgrants to eligible organizations within the state in support of historical records activities.

1. Section 8 is being amended to clarify eligibility requirements for historical records grants;
2. Section 9 is being amended to clarify the conditions for custody of historically significant records; and
3. Section 10 is being amended to limit the types of projects that could be funded.

These rule amendments were made to include public comments received at the public hearing held on Tuesday, November 14, 2017.

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

ALD): Name:

Robert J. Tórréz

Check if authority has been delegated

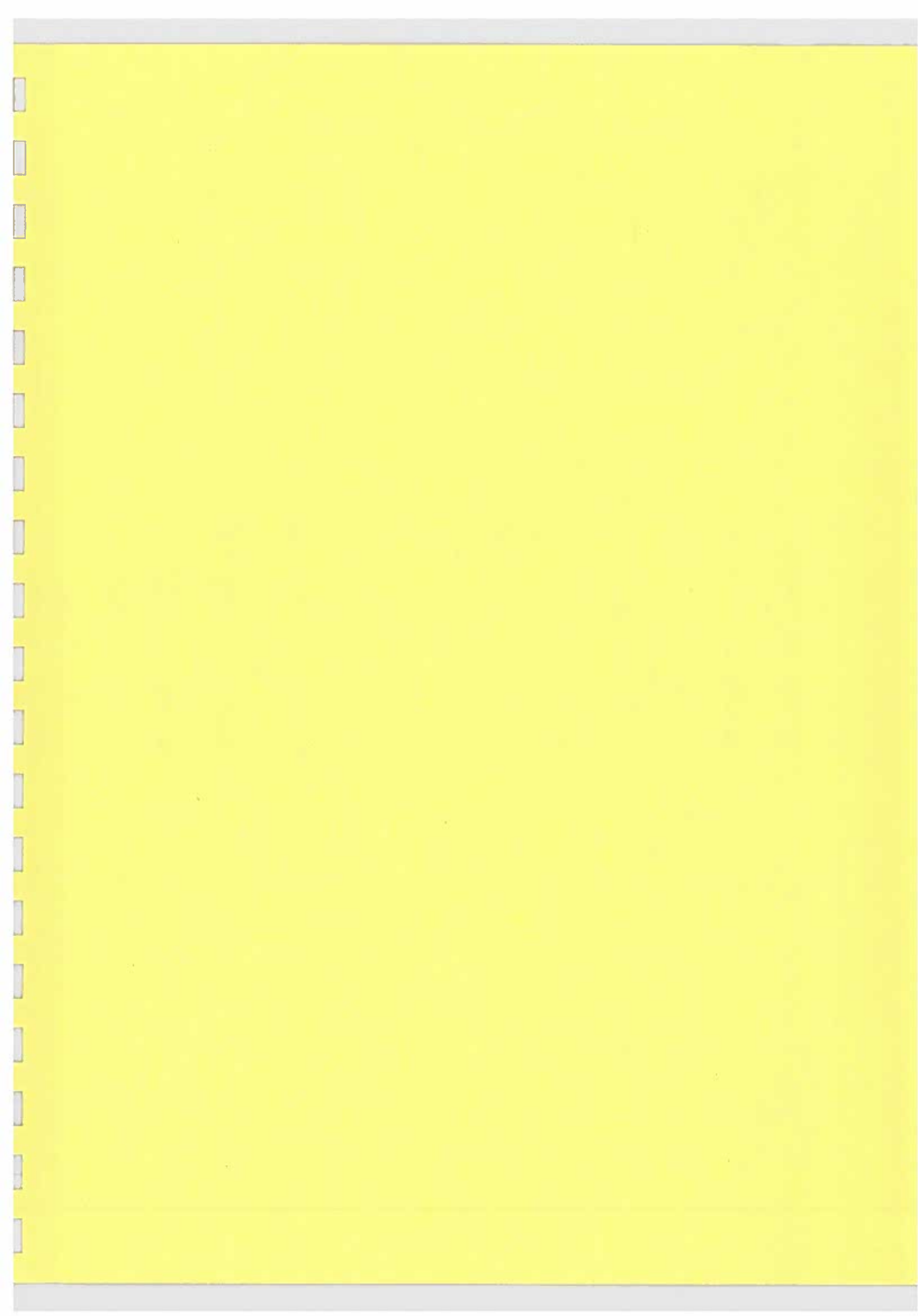
☐

Title:

Chair, State Commission of Public Records

Signature: (BLACK Ink only)

Date signed:



Concise Explanatory Statement: 1.13.10 NMAC

The proposed amendment of 1.13.10 NMAC is to add the rejection of storage boxes that are less than three quarters full, or that have glossy exteriors, from being accepted for storage at the record centers, and to add a reference to the fee schedule for the storage of microfilm.

NMAC

Transmittal Form



Volume: Issue: Publication Date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: (ALD Use Only) Most Recent Filing Date:
New ☐ Amendment ☒ Repeal ☐ Repeal/Replace ☐ Renumber ☐ Emergency ☐

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment Description (If filing an Amendment): Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Yes ☐ No ☒ Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes ☐ No ☐ Public domain ☐

Concise Explanatory Statement for rulemaking adoption:

Notice date(s): Hearing date(s): Rule Adoption date: Rule Effective date:

Specific statutory or other authority authorizing rulemaking:

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

See page 2 for findings.

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

Name: Check if authority has been delegated ☐

Title:

Signature: (BLACK ink only) Date signed:

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

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.

1. Section 9 is being amended to add the rejection of storage boxes that are less than three quarters full from being accepted to the record centers; and
2. Section 14 is being amended to add a reference to the fee schedule for the storage of microfilm.

This amendment was made to include public comments received at the public hearing held on Tuesday, November 14, 2017.

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

Melissa T. Salazar

Check if authority has been delegated

Title:

State Records Administrator

Signature: (BLACK ink only)

Date signed:

