

**TITLE 1            GENERAL GOVERNMENT ADMINISTRATION**  
**CHAPTER 18       EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)**  
**PART 795          ERRDS, HOMELAND SECURITY AND EMERGENCY MANAGEMENT**  
**DEPARTMENT**

**1.18.795.1        ISSUING AGENCY:** State Commission of Public Records - State Records Center and Archives.  
[1.18.795.1 NMAC - N, 7/23/2007]

**1.18.795.2        SCOPE:** homeland security and emergency management department  
[1.18.795.2 NMAC - N, 7/23/2007]

**1.18.795.3        STATUTORY AUTHORITY:** Section 14-3-1 NMSA 1978. The administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.  
[1.18.795.3 NMAC - N, 7/23/2007]

**1.18.795.4        DURATION:** Permanent  
[1.18.795.4 NMAC - N, 7/23/2007]

**1.18.795.5        EFFECTIVE DATE:** July 23, 2007 unless a later date is cited at the end of the section.  
[1.18.795.5 NMAC - N, 7/23/2007]

**1.18.795.6        OBJECTIVE:** To establish a records retention schedule for the orderly management and retirement of records necessary for the carrying out the Public Records Act per Section 14-3-6 NMSA 1978.  
[1.18.795.6 NMAC - N, 7/23/2007]

**1.18.795.7        DEFINITIONS:**

- A.        "Administrator"** means the state records administrator (Section 14-3-2 NMSA 1978).
- B.        "Agency"** means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).
- C.        "Archives"** means the state archives of the commission of public records.
- D.        "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).
- E.        "Microphotography"** means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission of public records.
- F.        "Non-record"** means extra copies of documents kept solely for convenience of reference, stocks of publications, 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 reading file or informational files.
- G.        "Program"** means group of functions or processes that categorize the record series.
- H.        "Public record"** means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).
- I.        "Records custodian"** means the statutory head of the agency using or maintaining the records or the custodian's designee.
- J.        "Records management"** means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

**K. "Records retention and disposition schedule"** means rules adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

**L. "Resource group"** means group of individuals certified for specialized search and rescue missions.

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

[1.18.795.7 NMAC - N, 7/23/2007]

**1.18.795.8 ABBREVIATIONS AND ACRONYMS:**

**A. "DOB"** stands for date of birth.

**B. "NMAC"** stands for New Mexico administrative code.

**C. "NMSA"** stands for New Mexico statutes annotated.

**D. "SSN"** stands for social security number.

[1.18.795.8 NMAC - N, 7/23/2007]

**1.18.795.9 INSTRUCTIONS:**

**A.** For records of a general administrative nature, refer to the GRRDS, General Administrative Records Retention and Disposition Schedule, 1.15.2 NMAC.

**B.** For records of a financial nature, refer to the GRRDS, General Financial Records Retention and Disposition Schedule, 1.15.4 NMAC.

**C.** For records of a personnel nature, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule, 1.15.6 NMAC, and for officers personnel records, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule, 1.15.7 NMAC.

**D.** For records of a medical nature, refer to the GRRDS, General Medical Records Retention and Disposition Schedule, 1.15.8 NMAC.

**E.** Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.

**F.** The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

**G.** Confidentiality is denoted for each file but all materials in a file may be confidential. Refer to note. Where portions of file may be confidential, refer to legal counsel for agency.

**H.** Access to confidential documents or confidential files shall be shall only by authorization of agency or attorney general or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

**I.** Records, papers or documents may be reformatted thorough microphotography. Such reformatted records shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies (Sections 14-1-5 and 14-1-6 NMSA 1978).

**J.** Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

[1.18.795.9 NMAC - N, 7/23/2007]

**1.18.795.10 - 1.18.795.125 [RESERVED]**

**1.18.795.126 TOXIC INVENTORY EMERGENCY (TIER II) REPORT FILES:**

**A. Program:** emergency management

**B. Maintenance system:** alphabetical by county, then by entity

**C. Description:** records concerning required inventory of chemicals maintained by various public and private facilities. File may include toxic inventory emergency report, map of site, correspondence, material safety data sheet, etc.

**D. Retention:** 10 years from date file created, then transfer to archives for review and final disposition

**E. Confidentiality:** Portions of record may contain confidential information per CFR 40 Subsection 53.15 (i.e., trade secrets and confidential or privileged information).  
[1.18.795.126 NMAC - Rp, 1.18.790.141 NMAC, 7/23/2007]

**1.18.795.127 EMERGENCY MANAGEMENT AND HOMELAND SECURITY TRAINING FILES:**

- A. Program:** emergency management
- B. Maintenance system:** chronological by date of course
- C. Description:** records concerning emergency management and homeland security training. File may include application (i.e., name, address, DOB, SSN, employment history, etc.), course description (i.e., name of instructor, type of course, etc.), copy of certification, etc.
- D. Retention:**
  - (1) **Accepted:** six years after date of certification
  - (2) **Rejected:** three years after date of rejection
- E. Confidentiality:** Portions of record may be confidential per 5 USC, Section 552a (i.e., social security number).  
[1.18.795.127 NMAC - Rp, 1.18.790.142 NMAC, 7/23/2007]

**1.18.795.128 FORM "R" REPORT FILES:**

- A. Program:** emergency management
- B. Maintenance system:** chronological by calendar year, then alphabetical by company.
- C. Description:** annual reports of activities, uses and regulated allowable releases of extremely toxic chemicals into the environment by New Mexico facilities. Files may include *form "R" report* with attachments, cover letter, revisions, correspondence, etc.
- D. Retention:** 10 years after date of report, then transfer to archives for review and final disposition
- E. Confidentiality:** Portions of record may contain confidential information per CFR 40 Subsection 53.15 (i.e., trade secrets and confidential or privileged information).]  
[1.18.795.128 NMAC - Rp, 1.18.790.143 NMAC, 7/23/2007]

**1.18.795.129 RELEASE REPORT (304) FILES:**

- A. Program:** emergency management
- B. Maintenance system:** chronological by calendar year, then alphabetical by company
- C. Description:** emergency reports submitted by facilities regarding excessive toxic chemical releases, either as a result from routine maintenance or an emergency situation. Files may include release report (i.e., name of facility, date of report, date of release, time of release, substance released, quantity, reason for release, actions taken, potential health concerns or effects), correspondence, etc.
- D. Retention:** 30 years after date report issued, transfer to archives for review and final disposition
- E. Confidentiality:** Portions of record may contain confidential information per CFR 40 Subsection 53.15 (i.e., trade secrets and confidential or privileged information).]  
[1.18.795.129 NMAC - Rp, 1.18.790.144 NMAC 7/23/2007]

**HISTORY OF 1.18.795 NMAC:**

**NMAC History:**

1 NMAC 3.2.93.790, ERRDS, Department of Public Safety, filed 6/14/1996.  
1.18.790 NMAC, ERRDS, Department of Public Safety, filed 6/8/2000.  
1.18.790 NMAC, ERRDS, Department of Public Safety, filed 4/13/2007.

**History of Repealed Material:**

1.18.790 NMAC, ERRDS, Department of Public Safety, filed 6/8/2000 - Repealed 5/14/2007