

This is an amendment to 1.13.10 NMAC, Sections 2, 7, 8, 11, and 14, and repealing Section 13, effective xx/xx/xxxx.

1.13.10.2 SCOPE: ~~[All agencies that utilize the records center services and state archives.]~~ All state agencies and any public entity that use the state records center services.
[1.13.10.2 NMAC - Rp, 1.13.10.2 NMAC, 11/30/2015; A, xx/xx/xxxx]

1.13.10.7 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. “Custodial agency”** means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.
- C. “Custody”** means the guardianship of records, archives and manuscripts, which may include both physical possession (protective responsibility) and legal title (legal responsibility).
- D. “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.
- E. “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).
- F. “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.
- G. “Inactive record”** ~~[means a record where the retention trigger event has occurred and the record is closed.]~~ 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.
- H. “Master microfilm”** means the original microform produced from which duplicates or intermediates can be obtained.
- I. “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 provided by information system technology pursuant to rules adopted by the commission.
- J. “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.
- K. “Pending litigation”** means threatened, pending or active proceedings in a court of law whose activity is in progress but not yet completed.
- L. “Pick-up only personnel”** means personnel authorized by a records custodian, chief records officer or record liaison officer to only pick-up records from the records center.
- 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. “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.
- ~~O. “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.]~~
- ~~[P.]Q.~~** **“Trigger event”** means the closing event of a record which begins the retention period.
[1.13.10.7 NMAC - Rp, 1.13.10.7 NMAC, 11/30/2015; A, xx/xx/xxxx]

1.13.10.8 CUSTODY OF RECORDS: In accordance with the functional records retention and disposition schedule, agency records stored at the records center shall remain in the custody of the records custodian of the custodial agency until:

- A.** they are destroyed or transferred to archives with written approval from the administrator; and

B. the written consent of the records custodian or designated chief records officer of the custodial agency.
[1.13.10.8 NMAC - Rp, 1.13.10.8 NMAC, 11/30/2015; A, xx/xx/xxxx]

1.13.10.11 STORAGE OF RECORDS WITH A FINITE RETENTION AT THE RECORDS CENTER:

A. The records management division provides storage to agencies for inactive public records. Non-record materials shall not be submitted for storage in the records center.

B. Records involved in pending litigation, an audit or investigation are not eligible for transfer to the records center.

C. Agencies shall submit storage transmittal form(s) electronically using a form approved by the administrator.

D. Each storage transmittal form shall contain records of one media type and designate one storage location.

E. Records will not be accepted for storage whose retention will be met within 36 months.

F. Barcode labels provided by the records center staff shall be affixed to the records storage boxes prior to delivery. The labels shall be placed two to three-inches below the handle side of the storage box.

G. The records custodian, the chief records officer and the records liaison officer shall be notified by the records management division when records in storage have met the legal retention period and are eligible for destruction.

H. If an agency does not respond to the authorization to destroy records by the established deadline, the administrator shall charge the custodial agency a storage fee for the storage of 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.

I. ~~[Records currently stored requiring a legal hold must be identified by the custodial agency in writing on an annual basis and permanently removed from the records center if the legal hold lasts longer than five years. Agencies will be assessed a storage fee for all records with legal holds greater than five years. Records which are immediately affected by the provisions of this section shall have until July 1, 2017 to resolve the issue by removing the records from the records center, approving the destruction if the legal hold has been lifted or paying the storage fee assessed.]~~ A storage fee shall be charged for records that are eligible for destruction but are not destroyed at the request of the custodial agency. For information on the fee schedule, refer to 1.13.2 NMAC.

[1.13.10.11 NMAC - Rp, 1.13.10.13 NMAC, 11/30/2015; A, xx/xx/xxxx]

1.13.10.13 [STORAGE OF ELECTRONIC MEDIA:]

~~**A.** For storage requirements, refer to 1.13.10.11 or 1.13.10.12 NMAC.~~

~~**B.** An agency shall have an approved imaging plan on file with the administrator before electronic media can be stored at the records center. For imaging plan requirements, refer to 1.14.2 NMAC.]~~ **RESERVED**

[1.13.10.13 NMAC - Rp, 1.13.10.15 NMAC, 11/30/2015; Repealed, 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. ~~[An agency]~~ 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.

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]