

This is an amendment to 1.13.30 NMAC, Sections 2, 7, 10-14, and 16, effective xx/xx/xxxx.

1.13.30.2 SCOPE: ~~[All agencies that utilize the records center services.]~~ 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, 11/30/2015; A, xx/xx/xxxx]

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 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.

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.] R. “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; A, xx/xx/xxxx]

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.

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

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

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.]~~ 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 proof of the records destroyed.]~~ 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 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, 11/30/2015; A, xx/xx/xxxx]

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 may order an audit prior to approval of on-site destruction.]~~ 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 storage boxes 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, 11/30/2015; A, xx/xx/xxxx]

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.]~~ 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.

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.

D. 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, 1.13.10.17 NMAC, 11/30/2015; A, xx/xx/xxxx]

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 1.13.30.10 NMAC.

[1.13.30.14 NMAC - Rp, 1.13.30.14 NMAC, 11/30/2015; A, xx/xx/xxxx]

1.13.30.16 MANAGEMENT RESPONSIBILITIES: The development and implementation of ~~[an]~~ a records management program is the responsibility of each agency records custodian, as defined by the Public Records Act, ~~[Section 14-3-2 (B) and (D) 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]~~ and non-records.

[1.13.30.16 NMAC - N, 11/30/2015; A, xx/xx/xxxx]