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STATE RECORDS CENTER AND ARCHIVES
404 MONTEZUMA
SANTA FE, NEW MEXICO 87503
(505) 827-7332

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 3 PUBLIC RECORDS
PART 1 NEW MEXICO ADMINISTRATIVE CODE

- 1 **ISSUING AGENCY:** State Records Center and Archives [7-1-94]
- 2 **SCOPE:** All state agencies. There may be additional requirements on submitting a rule filing for publication in the New Mexico Register (1 NMAC 3.2). [6-21-79, 7-1-94]
- 3 **STATUTORY AUTHORITY:** Section 14-4-7.2 NMSA 1978 directs the State Records Administrator to create and publish a **New Mexico Administrative Code**, and to adopt regulations setting forth procedures for the compilation of the Code and prescribing the format and structure of the Code. Section 14-4-3 NMSA 1978 directs that each agency of the Executive Branch of State Government promulgating any rule shall place the rule in the **format and style required by rule of the records center** and shall deliver **one original paper copy and one electronic copy to the records center.** [7-1-70, 7-1-95]
- 4 **DURATION:** Permanent [7-1-94]
- 5 **EFFECTIVE DATE:** July 1, 1995 [7-1-94, 7-1-95]
- 6 **OBJECTIVE:** The objective of Part 1 of Chapter 3 is to **establish standards and procedures for uniform rule filings in an easily understood and common format.** These standards and procedures are designed to ensure that rule filings with the Records Center are readily identifiable and available for public inspection; that each rule filing can be historically traced from its **current status** back to the **original rule filing**; and that rule filings will be structured to provide for expeditious compilation into the New Mexico Administrative Code. The Code is designed to promote access and assist research by adopting a **consistent numeration system** for New Mexico rules that allows for **electronic storage in a single database**, with a **comprehensive index**, and with a **uniform system for citation.** The Code is designed to provide for ease of amendment and to promote cooperation among state agencies. **After December 31, 1995, all rule filings shall be in NMAC format.** [6-21-79, 6-1-81, 7-1-94, 7-1-95]
- 7 **DEFINITIONS:**
 - 7.1 **"Agency"** means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches (Section 14-4-2(A) NMSA 1978). [7-1-70, 5-3-71]
 - 7.2 **"Amending Part"** means a Part, or portion thereof, which replaces existing rule material. [7-1-94, 7-1-95]

BEFORE THE	
OIL CONSERVATION COMMISSION	
Santa Fe, New Mexico	
Case No. <u>11451</u>	Exhibit No. <u>C2</u>
Submitted by <u>OCD</u>	
Hearing Date <u>1/18/96</u>	

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- 7.3 "**Chapter**" means the name and number of the normal divisions of a Title. Chapters are assigned by the Records Center. Assignments are based upon the subject matter covered by agencies' rule filings. While Title describes broadly related governmental functions, a Chapter identifies **separate governmental functions, or subject matter areas, usually, but not always, under the jurisdiction of a single state agency.** Example: The NMAC Chapter name under which this rule filing is made is "Public Records". The NMAC Chapter number that this Part belongs to is 1 NMAC 3 (i.e. Title 1 of the NMAC, Chapter 3). [7-1-94, 7-1-95]
- 7.4 "**Duration**" means the length of time a rule is intended to be in effect. While most rules are permanent, some are for specific time frames, e.g., rules governing hunting seasons. [7-1-94]
- 7.5 "**Effective Date**" means the date as specified as the effective date in the Part but not earlier than the date of publication in the New Mexico Register. [7-1-94, 7-1-95]
- 7.6 "**Emergency Rule**" means a rule filed whose immediate implementation is necessary for the public peace, health, safety or general welfare. [7-1-95]
- 7.7 "**Filing a Rule**" means the process by which one **(1) paper copy** of a rule filing, **corresponding electronic copy**, and **NMAC Transmittal Form** are delivered to the Records Center and, if accepted by the Records Center, are date stamped and accessioned. [6-21-79, 6-1-81, 7-1-94, 7-1-95]
- 7.8 "**History Note**" means the material placed in square brackets at the end of each Paragraph, or other subdivision, containing the **original effective date**, the dates of subsequent amendment, and **any former NMAC identification numbers** when a Paragraph has been recompiled. The original date of this Paragraph is 7-1-95. [7-1-95]
- 7.9 "**Issuing Authority**" means the public official or employee of the issuing agency who is specifically authorized to approve the issuance of rules for that agency. The individual must be specifically authorized by statute, agency rule, or formal appointment. [7-1-94, 7-1-95]
- 7.10 "**New Part**" means a Part which did not previously exist in the New Mexico Administrative Code and where no pre-NMAC rules exist covering the same subject matter. [7-1-94, 7-1-95]
- 7.11 "**NMAC**" means the New Mexico Administrative Code which is the organizing structure for rules filed by New Mexico State agencies. The NMAC is also the body of filed rules and the published versions thereof. The NMAC is structured by Title, Chapter, and Part. [7-1-94, 7-1-95]
- 7.12 "**NMAC Table of Contents**" means the master list maintained by the Records Center of the Titles and Chapters contained in the NMAC. [7-1-94, 7-1-95]
- 7.13 "**Number**" [means the number of the Title and the Chapter as defined by the Records Center in the NMAC Table of Contents (1 NMAC 3.1.21) plus the **unique Part Number assigned by the promulgating agency with the approval of the Records Center.** The number may include additional divisions below the Part where appropriate. The number at the part level may consist of **numbers or letters or both.** [7-1-95]
- 7.14 "**Objective**" means a **summary of the intended effect of the rule and why this is necessary.** [7-1-94, 7-1-95]

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- 7.15 **"Paragraphs"** means the **smallest subdivision of a section**. The Paragraph is the **smallest identifiable unit of a rule filing** and of the NMAC. Each Paragraph may show a paragraph name, but must show the Section and Paragraph number. Example: The Paragraph name of this paragraph is "Paragraphs". This NMAC Paragraph number is 1 NMAC 3.1.7.15 (i.e., Title 1, Chapter 3, Part 1, Section 7, Paragraph 15). [7-1-94, 7-1-95]
- 7.16 **"Part"** means the name and "number" of the normal division of a Chapter. Parts consist of a unified body of rule material applying to a specific function or devoted to a specific subject matter. Parts may be divided into sub-Parts in order to further group similar subject matter. Parts are assigned by individual agencies under the approval of the Records Center. The NMAC Part name under which this rule filing is made is "New Mexico Administrative Code". Example: The NMAC Part number for this Part is 1 NMAC 3.1 (i.e., Title 1, Chapter 3, Part 1). [7-1-94, 7-1-95]
- 7.17 **"Publication in New Mexico Register"** means the process of publication, in accordance with 1 NMAC 3.2, in the New Mexico Register. The publication date is the date of the issue of the New Mexico Register in which a rule appears. [7-1-95]
- 7.18 **"Records Center"** means the agency responsible for administering the State Rules Act, NMSA 1978 14-4-1 et seq. [7-1-94]
- 7.19 **"Repealing Part"** means a Part removing an entire Part which the agency intends to eliminate from the NMAC. Repeal of less than an entire Part constitutes an Amending Part. [7-1-94]
- 7.20 **"Rule"** means any rule, regulation, order, standard or statement of policy, including amendments thereto or repeals thereof, issued or promulgated by an agency of state government and purporting to affect one (1) or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, and as further defined in Section 14-4-2(C) NMSA 1978 and Attorney General Opinion No. 93-1. [12-15-67, 7-1-70, 5-3-71, 6-21-79, 7-1-94]
- 7.21 **"Rule Filing"** means the body of rule material organized for filing in accordance with Section 14-4-3 NMSA 1978 and 1 NMAC 3.1. [7-1-94]
- 7.22 **"Scope"** means the coverage of the Part. It includes to whom the rule applies, for example, to the general public, for-profit corporations, public utilities, all state agencies, etc. Scope shall note exclusions from coverage, and cross reference other parts of the New Mexico Administrative Code which deal with the same or similar subject matter. Scope shall also indicate whether the rule is exhaustive of the subject area and whether other rules may also apply. [7-1-94, 7-1-95]
- 7.23 **"Section"** means a division of a Part. A Section has both a name and a number. The Section name of this section is "Definitions". This NMAC Section number is 1 NMAC 3.1.7 (i.e., Title 1, Chapter 3, Part 1, Section 7). [7-1-95]
- 7.24 **"Statutory Authority"** means the citation to statute or constitutional section which authorizes the issuance of rules concerning the topic of the Part in the New Mexico Administrative Code. In the absence of express legislative authority, statutory authority means citation to the general legislative authority of the agency over the topic. [7-1-94]

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- 7.25 **"Sub-Part"** A sub-Part is used to group sections or to further group similar subject matter. [7-1-95]
- 7.26 **"Sub-Section"** A sub-Section is used to further group similar Paragraphs. [7-1-95]
- 7.27 **"Title"** means the name and number of the major divisions of the NMAC. Each Title brings together broadly related government functions. Titles are assigned by the Records Center. Example: The NMAC Title name under which this rule filing is made is "General Government Administration". The NMAC Title number that this Part belongs to is Title 1. [7-1-94]

8 NMAC CITATIONS:

- 8.1 The recommended format for citing material contained in the NMAC shall be the **name of the Part, or the name of a division of a Part, followed by a comma, the name of issuing agency, the NMAC Title number, space, the initials "NMAC", space, the Chapter number, period, and the Part number.** Numbers delineating divisions below Part shall be separated by periods. The above citations shall be followed by the **effective date in parenthesis.** Example: New Mexico Administrative Code, State Records Center and Archives, 1 NMAC 3.1 (7-1-94). Where a provision has been amended, the effective date should be the effective date of the version that is being cited. [7-1-94, 7-1-95]
- 8.2 The **recommended short form** leaves off the name of the Part, the name of the issuing agency and the date. Example: 1 NMAC 3.1. [7-1-94]

9 ISSUING AUTHORITY:

- 9.1 The Issuing Authority is responsible for ensuring that the requirements set forth in this Part have been complied with. [7-1-94]
- 9.2 Where delegation is authorized, the agency may, by rule or formal appointment, specify an Issuing Authority other than that specifically named in statute. [7-1-94, 7-1-95]
- 9.3 Each rule filing shall be signed by the Issuing Authority. [6-21-79, 6-1-81]
- 9.4 The authorizing signature shall appear on the NMAC Transmittal Form. [6-21-79, 6-1-81, 7-1-94]
- 9.5 The authorizing signature shall be in black ink. [6-21-79, 6-1-81]

10 FILING A RULE:

- 10.1 The original paper version of a rule filing, one (1) electronic copy, and the original NMAC Transmittal Form and such other material **as is required for the New Mexico Register** shall be delivered to the Records Center. At the time of filing, an agency may submit to the Records Center an additional paper copy, for annotation with the date and hour of filing, to be returned to the agency. **Even if a synopsis was approved** in accordance with the requirements of 1 NMAC 3.2.8, the **full text of the rule must be submitted** on diskette at the time of delivery of the synopsis for publication in the New Mexico Administrative Code. [6-21-79, 6-1-81, 7-1-94, 7-1-95]

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10.2 **No rule is valid and enforceable until it is filed with the records center and published in the New Mexico Register as provided by the State Rules Act.** If properly submitted and not published as a result of error, the rule shall be deemed to have been published (3) three weeks after filing with the Records Center. Section 14-4-3, 14-4-5 NMSA 1978 [7-1-94, 7-1-95]

10.3 **The Records Center shall refuse to file a rule if it does not meet the format and style requirements detailed by 1 NMAC 3.1.** [6-21-79, 6-1-81, 7-1-94]

10.3.1 **Rejected rule filings will not be submitted for publication.** [7-1-94, 7-1-95]

11 NMAC TRANSMITTAL FORM:

11.1 Each rule filing delivered to the Records Center shall be accompanied by a **NMAC Transmittal Form** (see 1 NMAC 3.1.22). [6-21-79, 6-1-81, 7-1-94]

11.2 NMAC Transmittal Forms shall be provided by the Records Center and completed by the filing agency prior to the filing. [6-21-79, 6-1-81, 7-1-94]

11.3 The NMAC Transmittal Form shall be typed and suitable for reproduction. [6-21-79, 6-1-81, 7-1-94]

11.4 The **NMAC name and number shall appear on the NMAC Transmittal Form.** [6-21-79, 6-1-81, 7-1-94]

11.5 The NMAC Transmittal Form shall show for each rule filing whether it is **new, amending, or repealing**, and whether it is an emergency rule filing. [7-1-94, 7-1-95]

11.6 **If a rule filing affects a pre-NMAC "rule", the name, number and filing date of the pre-NMAC rule shall also be noted on the NMAC Transmittal Form.** [7-1-94]

11.7 The NMAC Transmittal Form shall show the **public hearing date for the rule filing, if one has been held.** [7-1-94]

12 MODIFICATIONS TO EXISTING RULES: AMENDMENTS AND REPEALS

12.1 Amendments will be prepared in such a manner as to provide for **full paragraph substitution/deletion** to the affected Part; there will be no cross-out/write-in amendments. [6-21-79, 6-1-81, 7-1-94, 7-1-95]

12.2 Repeals may be done at **any level below the Chapter level:** Paragraph, Section, Subsection, Part, Subpart. However, if any rule provisions are to be continued unchanged they may not be repealed. Repeal only those paragraphs that are being repealed. In that case, if an entire Part is being filed, the Part will be an Amending Part, even though some provisions are being repealed. [7-1-95]

12.3 **Superseding rule filings are not permitted.** If a rule filing contains material that is unchanged from an earlier version, **those unchanged paragraphs should continue to carry their History Note** in square brackets, see 1 NMAC 3.1.15.11. If a paragraph contains entirely new material, unrelated to the material formerly contained in the paragraph with the same NMAC number, then the former paragraph should be repealed. If a newly filed paragraph modifies an existing paragraph, then it is treated as an amendment. [7-1-95]

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13 MATERIAL, TECHNICAL & ELECTRONIC STANDARDS:

13.1 Electronic Copy:

1313.23.1

13.1.1 Diskette should be 5.25" or 3.5", high density. [7-1-95]

1313.23.2

13.1.2 Electronic format - refer to the requirements of 1 NMAC 3.2, Section 9.1.1. [7-1-95]

1313.23.3

13.1.3 Word processing documents shall not be typed in all capital letters. [7-1-95]

1313.23.4

13.1.4 Word processing documents shall have paragraphs clearly separated. [7-1-95]

13.2 **Technical Standards** for electronic copy will be the same as those requirements specified in 1 NMAC 3.2 Section 9. [7-1-95]

13.3 Paper Copy:

13.3.1 Shall be output from and not vary from the electronic version of the rule. [7-1-95]

13.3.2 Size shall be 8 1/2 x 11 inches. [1 NMAC 3.1.13.1, 12-15-67, 7-1-70]

13.3.3 Weight shall be a minimum of 16 lbs. [1 NMAC 3.1.13.1, 6-21-79, 6-1-81]

13.3.4 Color shall be white. [1 NMAC 3.1.13.1, 7-1-70, 4-8-74, 6-21-79]

13.4 **Ink:** Color shall be black and uniform throughout. [1 NMAC 3.1.13.2, 7-1-70, 6-21-79, 6-1-81, 7-1-94]

13.5 **Binding:** Rule filings shall be unbound and consist of individual sheets. [1 NMAC 3.1.13.3, 12-15-67, 7-1-70, 6-1-81, 7-1-94]

13.6 Page Layout:

13.6.1 Margins shall be a minimum of one (1) inch on all four sides, including page identification. [1 NMAC 3.1.14.1, 12-15-67, 7-1-70, 7-1-94]

13.6.2 A Rule filing shall be suitable for reproduction. [1 NMAC 3.1.14.2, 6-21-79, 7-1-94]

13.6.3 A Rule filing shall be single spaced with increased, or double spacing between paragraphs. [1 NMAC 3.1.14.3, 7-1-70, 5-3-71, 4-8-74, 6-21-79, 6-1-81, 7-1-94]

13.6.4 No rule filing shall be typed in all capital letters. [1 NMAC 3.1.14.4, 7-1-94]

13.6.5 No rule filing shall contain footnotes, except that individual paragraphs may have notes appended at the end of the paragraph. Word processing generated footnotes shall not be used. [7-1-95]

13.6.6 The original paper version of a rule filing will be a one (single) sided copy. Any additional copies may be two (double) sided. [1 NMAC 3.1.14.5, 7-1-70, 5-3-71, 4-8-74, 2-7-79, 6-21-79, 6-1-81, 7-1-94, 7-1-95]

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13.6.7 For page identification, the word processing document shall have a footer, which will appear at the bottom or foot of every page, containing the page number of the rule filing, and the NMAC number down through the Part number. See the bottom center and left-hand corner of this page for an example. [7-1-95]

14 RESERVED

15 NMAC IDENTIFICATION:

- 15.1 The NMAC is divided into Titles, Chapters, Parts, Sections, and Paragraphs on the basis of subject matter. Each division of the NMAC down through the Section shall have a name and number. [7-1-95]
- 15.2 The NMAC Title and Chapter name and number must be selected from the 1 NMAC 3.1.21 NMAC Table of Contents. [7-1-94]
- 15.3 The NMAC Part name and number must be approved by the Records Center. The Part names must be descriptive, short, and not exceed 120 characters each. [7-1-94]
- 15.4 Agencies may use existing alphanumerical systems for numbering their Parts and may use existing names where the name provides adequate notice of the nature and contents of the Part. [7-1-94]
- 15.5 At the beginning of each Part, an agency shall identify the Part by NMAC Title, Chapter and Part name and number (see the NMAC name and number of this rule filing on page 1 for an example). [7-1-94]
- 15.6 At the beginning of each Part, an agency shall state the name of the Issuing Agency, the Scope of the Part, its Duration, the Effective Date, the Statutory Authority under which it is issued, and its Objective (e.g., see Sections 7.4, 7.5, 7.14, 7.22, and 7.24 of this Part). Where the Statutory Authority or Duration for a subdivision of a Part is distinct from that of the Part, it may be separately stated in the subdivision of the Part. [7-1-94, 7-1-95]
- 15.7 Agencies may use sub-Parts to group sections or to further group similar subject matter. [7-1-95]
- 15.8 **SECTIONS:** A Part may be divided into Sections. A Section has both a name and number. Sections are assigned by individual agencies. Each Section should show the Section Name and Number. If necessary a Section may be divided into Sub-Sections. Sub-Sections may be used to further group similar Paragraphs. [1 NMAC 3.1.19.1, 7-1-94, 7-1-95]
- 15.9 **PARAGRAPHS:** A Section or subdivision thereof may be further divided into Paragraphs. A Paragraph is the name and number of a grammatical, tabular or other discrete paragraph which is not subdivided into further units. A Paragraph name is optional. There should be no sub-paragraphs. The Paragraph is the smallest identifiable unit of a rule filing and of the NMAC. Each Paragraph may show the paragraph name but must show the Section and Paragraph number. [1 NMAC 3.1.19.2, 7-1-94, 7-1-95]

15.10 RESERVED

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- 15.11 **HISTORY OF SECTIONS AND PARAGRAPHS:** Rule filings shall show, **at a minimum, both the original effective date and the current version effective date** for each paragraph. This is to facilitate use of the NMAC both in paper and electronic format, and to permit tracing the historical development of a rule provision. There shall be a History Note placed at the end of each Paragraph, or other subdivision if not divided down to the paragraph level, containing the **original effective date, the date of each subsequent amendment** of that paragraph, and **any former NMAC identification numbers** for that paragraph. This History Note shall be placed in **square brackets**. The original date of this paragraph is 7-1-94. The date of the most recent amendment to this paragraph is 7-1-95. An agency may use an **ellipsis (3 dots) to replace any intermediate history of a paragraph**, but it must show both the original effective date and the date of the most recent amendment to the paragraph. If a paragraph formerly had a different NMAC number, the History Note should include the former NMAC identification number. See the History Note to this paragraph for an example. [1 NMAC 3.1.19.3, 7-1-94, 7-1-95]
- 16 **RESERVED**
- 17 **REFERENCED MATERIAL:**
- 17.1 Referenced material (including **standards, codes and manuals**) **incorporated or adopted by rule must be filed as part of that rule. This may be accomplished by attachment.** However, the attachment must meet **all format, style and filing requirements, including electronic copy**, unless an exception has been granted following 1 NMAC 3.1.18. Referenced material, other than U.S. Law, New Mexico Statutes, or the NMAC (1 NMAC 3.1.17.2), shall be the version filed with or referenced by the rule and shall not include any subsequent amendments or changes to the referenced material, unless otherwise expressly stated in the rule. [6-6-91, 7-1-94, 7-1-95]
- 17.2 References to the United States Code, Code of Federal Regulations, Federal Register, New Mexico Statutes, and filed portions of the NMAC do not need to meet style and format requirements of this rule, including the need to submit an electronic copy. References to the U.S. Code, Code of Federal Regulations, Federal Register, New Mexico Statutes, or the NMAC shall be deemed to be references to the current version of such law, including subsequent amendments, unless otherwise expressly stated in the rule. One (1) paper copy of the attachment must be filed with the rule for historical reference. [6-6-91, 7-1-94, 7-1-95]
- 17.3 **REFERENCES TO COPYRIGHTED MATERIAL:** If an agency chooses to incorporate copyrighted material into a rule, they must receive permission from the copyright holder prior to such incorporation. Such permission must include the right to incorporate such material into the NMAC, and to have such material subject to the laws, rules and contractual obligations of the state with respect to the NMAC. Any costs for such permission shall be the responsibility of the incorporating agency. The receipt of such copyright permission must be indicated on the NMAC Transmittal Form. The publisher of the NMAC may rely upon the agency's indication on the NMAC Transmittal Form. Failure to indicate receipt of copyright permission will result in rejection of the rule filing. [7-1-95]
- 18 **EXCEPTIONS:** Exceptions to any part of 1 NMAC 3.1 shall be requested in writing and may be approved by the Records Center on a filing by filing basis. [12-15-67, 7-1-70, 5-3-71, 4-8-74, 6-21-79, 6-1-81, 7-1-94]

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19 **RESERVED**

20 **PROCEDURE FOR OPTIONAL PRE-APPROVAL:** In order to avoid any delay in a rule filing, agencies may submit proposed Part names and numbers to the Records Center. The Records Center will approve or reject proposed Part names and numbers within two (2) weeks or shall notify the agency of further delay in approval. When the Records Center rejects Part names and numbers it shall, in the alternative, propose revised names and numbers for submitted Parts or state the reason why the proposed names and numbers were unsatisfactory. [7-1-94]

21 **NMAC TABLE OF CONTENTS:**

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