

This is an amendment to 16.60.4 NMAC, Section 8, 10 and 11, effective 10-01-2015

16.60.4.8 FIRM PERMIT APPLICATION, RENEWAL, REINSTATEMENT AND NOTIFICATION REQUIREMENTS:

A. Pursuant to Sections 12B and 13A, B, E, F, and L of the act, any CPA or RPA acting as the sole proprietor, partner, shareholder or member of a legal business entity who performs or offers to perform accountancy for a client or potential client by holding themselves out to the public must obtain a firm permit to be granted authority to practice public accountancy as a CPA or RPA firm. Pursuant to Section 13I of the act, each office of the firm within New Mexico must obtain a firm permit. All firm permit applications for initial issue, renewal, or reinstatement shall be made on board-prescribed forms and meet all information and fee requirements to be considered complete and filed with the board.

B. Renewal requirements: Deadline for receipt of firm permit renewal applications is no later than 30 calendar days prior to the expiration date printed on the firm permit. Renewal applications shall be postmarked or hand-delivered no later than the last day of the month preceding the month of expiration or the next business day if the deadline falls on a weekend or holiday. The board shall mail firm permit renewal application forms to firm permit holders no less than 30 days prior to the renewal deadline date.

C. Reinstatement requirements:

(1) Reinstatement due to non-renewal/expiration: Requests to reinstate a firm permit that lapsed or expired as a result of non-renewal shall be made on board-prescribed forms and meet all board-prescribed requirements for reinstatement including the current year's renewal fee and peer review program requirements. This rule shall not apply to firms whose permits lapsed or expired for a period of 3 years or more.

(2) Reinstatement applications for relief from disciplinary penalties: A firm whose permit to practice has been subject to board disciplinary action may apply to the board for modification of the board action after completion of all requirements contained in the board's original order:

(a) the application shall be in writing and substantiate the reasons constituting good cause for the relief sought; and

(b) shall be accompanied by at least 2 supporting recommendations, under oath, from practitioners who have personal knowledge of the activities of the applicant since the board action was imposed.

D. Action by the board: An application pursuant to Section 21 of the act will be processed by the board upon the basis of the application materials submitted, supplemented by such additional inquiries the board may require. At the board's discretion, a hearing may be held on an application following procedures the board may find suitable for the particular case.

(1) The board may impose appropriate terms and conditions for firm permit reinstatement or modification of board disciplinary action.

(2) In considering a reinstatement application, the board may consider:

(a) all activities of the applicant since the disciplinary penalty from which relief is sought was imposed;

(b) the offense for which the applicant was disciplined;

(c) the applicant's activities during the time the firm permit was in good standing;

(d) the applicant's rehabilitative efforts;

(e) restitution to damaged parties in the matter for which the penalty was imposed; and

(f) the applicant's general reputation for trust and professional probity.

(3) No application for reinstatement will be considered while the applicant is under sentence for any criminal offense, including any period during which the applicant is on court imposed probation or parole.

E. Notification requirements: A firm registered pursuant to Section 13 of the act shall file written notification with the board of any of the following events concerning the practice of public accountancy within this state within 30 days of occurrence:

(1) formation of a new firm;

(2) change in legal form or name of a firm;

(3) firm termination;

(4) establishment of a new branch office, (register by obtaining a new firm permit for the new branch office, pursuant to Section 61-28B-13I) or the closing or change of address of a branch office in this state; or

(5) the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the act or these rules.

16.60.4.10 PEER REVIEW REQUIREMENTS:

A. Participation: A firm seeking to obtain or renew a firm permit to engage in the practice of public accountancy in New Mexico must undergo a peer review at least once every 3 years beginning with initial firm permit application. Peer review program objectives are established pursuant to Section 13L of the act to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard-setting bodies. Emphasis is on education, including appropriate education programs or remedial procedures that may be recommended or required where reporting does not comply with appropriate professional standards.

(1) Firms contracting to perform audits of state agencies as defined in the Audit Act must also comply with peer review standards applicable to those audits.

(2) Participation is required of each firm registered with the board who performs accounting and auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections. Exceptions to Peer Review participation: preparation of financial statements (accounting) and tax return preparation service shall be in accordance with AICPA standards.

B. Reporting to the board: Within 90 days from the scheduled due date of the peer review for those administered by state societies and 150 days for all others, the firm must submit a copy of the interim or conditional or final acceptance letter or any combination of the above from the administering entity. This must be accompanied by the letter of comments, the reviewer's report, and other supporting documentation as requested by the board.

(1) If within 90 days from the scheduled due date of the peer review for those administered by state societies and 150 days for all others the firm cannot provide the final acceptance letter, the firm must submit a letter to the board explaining its failure to comply. The board may take disciplinary action for failure to comply.

(2) Each holder of a board-issued firm permit shall schedule a review to commence no later than the end of their first year of operations. Firms applying for their initial permit with a current (within the 3 years preceding initial application) peer review acceptance letter may submit that year's acceptance letter in support of their initial application and shall then schedule and maintain a subsequent review for each successive 3-year review period thereafter.

(3) Upon completion of the scheduled peer review, each firm shall schedule and maintain subsequent reviews for each successive 3-year period thereafter. It is the responsibility of the firm to anticipate its needs for review services in sufficient time to enable completion and acceptance of the review within the requirement of each successive 3-year reporting period.

(4) The board, at its sole discretion, may grant any reasonable extensions that it deems necessary.

C. Peer review program standards:

(1) The board adopts the standards for performing and reporting on peer reviews or any successor standards for peer review promulgated by the American institute of certified public accountants (AICPA) as its minimum standards for review of practice firms. This shall not require a membership in any specific administering entity or the AICPA.

(2) Approved administering entities shall be AICPA, the national conference of CPA practitioners (NCCPAP), state CPA societies fully involved in the administration of the AICPA peer review program and such other entities which register with and are approved by the board on their adherence to the peer review minimum standards.

(3) The board may, for cause, revoke approval of an administering entity.

D. Hardship Exceptions: The board may make exceptions to the requirements set out in this section for hardships. All hardship requests must be in writing, setting forth detailed reasons for the request, and must be submitted no later than 6 months prior to expected completion date of the peer review.

E. Exemptions: A firm which does not perform accounting and/or auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections is exempt from the peer review program and shall re-certify annually to the board as to this exempt status as part of the firm permit renewal process. A previously exempt firm which begins providing the above described services must initiate and complete a review within 18 months of the date the services were first provided.

F. Procedures for an administering entity.

(1) To qualify as an administering entity, an organization must submit a peer review administration plan to the board for review and approval. The plan of administration must:

- (a) establish a peer review committee (PRC) and subcommittees as needed, and provide professional staff as needed for the operation of the peer review programs;
- (b) establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the administering entity;
- (c) establish procedures for resolving any disagreement which may arise out of the performance of a peer review;
- (d) establish procedures to evaluate and document the performance of each reviewer and conduct hearings which may lead to the disqualification of a reviewer who does not meet the AICPA standards; and
- (e) require the maintenance of records of peer reviews conducted under the program in accordance with the records retention rules of the AICPA.
- (2) A peer review committee (PRC) is comprised exclusively of CPAs practicing public accountancy and formed by an administering entity for the purpose of accepting peer review reports submitted by firms on peer review engagements.
- (3) Each member of a PRC must be active in the practice of public accountancy at a supervisory level in the accounting or auditing function while serving on the committee. The member's firm must be enrolled in an approved practice-monitoring program and have received ~~an unmodified~~ a "pass" rating on ~~report~~ on its most recent peer review. A majority of the committee members must satisfy the qualifications required of on-site peer review team captains as established and reported in the AICPA standards for performing and reporting on peer reviews.
- (4) The PRC members' terms shall be staggered to provide for continuity.
- (5) A PRC member may not concurrently serve as a member of his state's board of accountancy.
- (6) A PRC member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence of or has a conflict of interest with the firm.
- (7) A PRC decision to accept a report must be made by a majority of a quorum of members.
- (8) Responsibilities of peer review committee. The PRC shall:
 - (a) establish and administer the administering entities' peer review program in accordance with the AICPA standards for performing and reporting on peer reviews;
 - (b) when necessary in reviewing reports on peer reviews, prescribe actions designed to assure correction of the deficiencies in the reviewed firm's system of quality control policies and procedures;
 - (c) monitor the prescribed remedial and corrective actions to determine compliance by the reviewed firm;
 - (d) resolve instances in which there is a lack of cooperation and disagreement between the committee and review teams or reviewed firms in accordance with the administering entities adjudication process;
 - (e) promptly act upon requests from firms for changes in the timetable of their review;
 - (f) appoint members to subcommittees and task forces as necessary to carry out its functions;
 - (g) establish and perform procedures for insuring that reviews are performed and reported on in accordance with the AICPA standards for performing and reporting on peer reviews;
 - (h) establish a report acceptance process which facilitates the exchange of viewpoints among committee members; and
 - (i) provide to the board administrative statistical reports regarding their peer review program as requested.

G. Disciplinary Action.

- (1) The board shall take disciplinary action against a firm for failure to comply with peer review requirements. Actions shall include, but are not limited to, remedial and corrective procedures, fines, and denial of firm registration.
- (2) In the event a firm is unwilling or unable to comply with established standards, or a firm's professional work is so egregious as to warrant disciplinary action, the board shall take appropriate action to protect the public interest.
- (3) A copy of the peer review acceptance letter from the administering entity must be submitted to the board office no later than 90 days after the scheduled date for the peer review as determined by the administering entity.
 - (a) For each day the firm is delinquent in submitting the acceptance letter, the board may assess a fine of \$10 per day not to exceed \$1,000.
 - (b) If a peer review acceptance letter is submitted more than 100 days late, a notice of contemplated action may be issued against all licensees listed on the most recent firm permit renewal application as owners of the firm.

(4) If an extension for completion of a peer review is granted by the administering entity, the board shall also accept this extension, provided that the firm provides the board office with documentation of the extension from the administering entity.

H. Privileged information: A report, statement, memorandum, transcript, funding record, or working paper prepared for and an opinion formulated in connection with any positive enforcement or peer review is privileged information held by the administering entity and may not be subject to discovery, subpoena, or other means of legal compulsion for release to any person and is not admissible as evidence in any judicial or administrative proceeding except for a board hearing.

I. Peer review continuing professional education (CPE) credit: The board will allow a firm up to a total of 24 hours of CPE credits for its CPAs. These hours shall be allocated by the firm to participating firm CPAs and must be used in the calendar year of the acceptance letter.

(1) Firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.

(2) Firms having a system peer review will be allowed up to 24 hours of CPE credits.

(3) Firms having a system peer review at a location other than the firm's office shall be considered a system peer review and will be allowed up to 12 hours of CPE credits.

(4) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.

[16.60.4.10 NMAC - Rp 16 NMAC 60.11.8 & 16 NMAC 60.11.9, 02-14-2002; A, 06-15-2004; A, 12-30-2005; A, 06-30-2008; A, 10-01-2015]

16.60.4.11 FIRM MERGERS, COMBINATIONS, DISSOLUTIONS, SEPARATIONS, OR PERMIT EXPIRATION/REQUEST FOR REINSTATEMENT:

A. In the event of a firm merger, combination, dissolution or separation, the firms must notify the board of changes in quality review cycles.

(1) In the event that 2 or more firms are merged or sold and combined, the surviving firm shall retain the peer review year of the largest (based on accounting and auditing hours) firm.

(2) In the event that a firm is divided, the firm(s) shall retain the review year of the former practice unit. In the event that such review is due in less than 12 months, a review year shall be assigned so that the review occurs within 18 months of the commencement of the new firm(s).

(3) In the event that a firm's permit expires/lapses due to non-renewal, the firm shall retain the year of the previously established firm peer review reporting completion dates. Peer review completion with a supporting acceptance letter shall be required to support any reinstatement application request.

(4) The firm must notify the board within 20 days of an extension, approved by the administering entity, as a result of a merger, combination, dissolution, or separation. Extension may not exceed 180 days.

~~**B.** Hardship Exceptions: The board may make exceptions to the requirements set out in this section for hardships. All hardship requests must be in writing, setting forth detailed reasons for the request, and must be submitted no later than 6 months prior to expected completion date of the peer review.~~

~~**C.** Exemptions: A firm which does not perform accounting and/or auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections is exempt from the peer review program and shall re-certify annually to the board as to this exempt status as part of the firm permit renewal process. A previously exempt firm which begins providing the above described services must initiate and complete a review within 18 months of the date the services were first provided.~~

~~**D.** Procedures for an administering entity.~~

~~(1) To qualify as an administering entity, an organization must submit a peer review administration plan to the board for review and approval. The plan of administration must:~~

~~(a) establish a peer review committee (PRC) and subcommittees as needed, and provide professional staff as needed for the operation of the peer review programs;~~

~~(b) establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the administering entity;~~

~~(c) establish procedures for resolving any disagreement which may arise out of the performance of a peer review;~~

~~(d) establish procedures to evaluate and document the performance of each reviewer and conduct hearings which may lead to the disqualification of a reviewer who does not meet the AICPA standards; and~~

~~_____ (e) require the maintenance of records of peer reviews conducted under the program in accordance with the records retention rules of the AICPA.~~

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~~G. Peer review continuing professional education (CPE) credit: The board will allow a firm up to a total of 24 hours of CPE credits for its CPAs. These hours shall be allocated by the firm to participating firm CPAs and must be used in the calendar year of the acceptance letter.~~

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~~(3) Firms having a system peer review at a location other than the firm's office shall be considered a system peer review and will be allowed up to 12 hours of CPE credits.~~

~~(4) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.~~

[16.60.4.11 NMAC - Rp 16 NMAC 60.4.10 through 60.4.16, 02-14-2002; A, 01-15-2004; A, 10-01-2015]