

This is an amendment to 16.60.4 NMAC, Sections 10 and 11, effective 10-1-2016.

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 three 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 six months prior to expected completion date of the peer review.

E. Exemptions: A firm which does not perform accounting 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 a "pass" rating 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.] Participation: A firm seeking to obtain or renew a firm permit to provide accounting and auditing services in New Mexico must be enrolled in a peer review program and undergo a peer review pursuant to Section 6.60.4.10 B. 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 provides accounting or auditing services pursuant to Subsection 13L of the act.~~

~~**B. Timing of peer reviews:**~~

~~(1) Each holder of a board-issued firm permit shall enroll in a board approved peer review program and arrange, schedule, complete and allow time for the sponsoring organization to consider their peer reviews for acceptance prior to the June 30 renewal period.~~

~~(a) Firms need to ensure that their peer review year ends and corresponding due dates allow for compliance with Subsection 13E of the act.~~

~~(b) Firms may need to consider changing their current peer review year ends and the timing of when their peer reviews are performed in order to comply.~~

~~(2) When a firm performs its first engagement requiring its initial peer review, the firm shall be enrolled in a board approved peer review program by the report date of the first engagement, and the due date ordinarily will be 18 months from the report date of that engagement.~~

~~(a) The initial peer review must report on the firm's practice for a full year.~~

~~(b) The requirements of Subsection 13L of the act regarding permit renewal are initially applicable to the firm the first June 30 renewal period after the 18 month due date.~~

~~(c) The peer review year end means the year end as determined by the firm and its reviewer and may be different than the firm's tax reporting year end.~~

~~(3) A firm's subsequent peer review ordinarily has a due date of three years and six months from the year-end of the previous peer review.~~

~~(4) The board may grant extensions up to 180 days from the original due date in order for the firm to comply with the peer review requirements in Subsection 13E and 13L of the act. All requests for extensions shall be submitted to the board in writing by the firm no later than 30 days prior to renewal date and should include any extensions approved by the sponsoring organization. The board may recognize extensions granted by the~~

sponsoring organization. The board has the authority at its sole discretion to grant any reasonable extensions that it deems necessary and extensions are ordinarily granted for the following reasons:

- (a) health;
- (b) military service; or
- (c) other good cause clearly outside the control of the firm.

C. 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 six months prior to expected completion date of the peer review.

D. Exemptions: A firm which does not perform accounting 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.

E. Reporting to the board: Firms are required to submit a copy of the following documents related to its most recently accepted peer review to the board:

- (1) peer review report which has been accepted by the sponsoring organization;
- (2) the firm's letter of response (accepted by the sponsoring organization), if applicable;
- (3) the acceptance letter from the sponsoring organization;
- (4) letter(s) signed by the firm acknowledging that the firm agrees to take any actions required by the sponsoring organization, if applicable;
- (5) the completion letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.
- (6) Upon request of the board, any correspondence from the sponsoring organization regarding the scheduling or completion of a peer review.

F. Submission of documents: the above documents shall be submitted by the firm to the board via mail, or electronically or digitally as follows:

- (1) The documents in paragraph (E)(1) through (E)(3) shall be submitted within 30 days of the sponsoring organization's acceptance.
- (2) The documents in (E)(4) within 30 days from the date the letter is signed by the firm, or with submission of firm renewal application, whichever occurs first.
- (3) The documents in (E)(5) above shall be submitted to the board within 30 days of the date of the letter.
- (4) The documents in (E)(6) above shall be submitted to the board within 30 days of receiving the documents by the firm or upon request by the board.
- (5) If the firm cannot submit the documents in paragraphs (E)(1) through (E)(5) within the stated timeframe or, at the maximum, 180 days after the scheduled due date of the peer review, the firm must submit a letter to the board via mail, electronically or digitally explaining its failure to comply. The board may take disciplinary action for failure to comply.
- (6) Firms may also satisfy this document submission requirement by having the sponsoring organization make the documents described in (E)(1) through (E)(5) above available to the board within the stated time frames via the AICPA Facilitated State Board Access (FSBA) secure website process.

G. Additional information to be provided by firms or the sponsoring organization, upon request by the board, shall provide written permission for the sponsoring organization to provide information to the board. Permission may be granted annually on the firm renewal form. Such information may include the following (or similar) types of objective information about a firm's review, if known:

- (1) the date the review is or was scheduled to take place;
- (2) the name of the reviewing firm, team captain or review captain;
- (3) if the field work on the peer review has commenced;
- (4) the date the exit conference was expected to or did occur;
- (5) a copy of any extension approval letters;
- (6) whether the peer review working papers have been received by the sponsoring organization;
- (7) whether a must select engagement was included in the scope of engagements reviewed;
- (8) if a technical review is in progress;
- (9) whether the review has been presented to a report acceptance body (RAB);
- (10) the date the review is expected to be presented to the report acceptance body;

(11) if the firm is going through fair procedures to determine whether it is cooperating with the peer review.

H. Approved peer review sponsoring organizations, programs and peer review standards:

(1) The board shall approve sponsoring organizations, peer review program(s) and standards.

(2) The board adopts the American Institute of certified Public Accountants (AICPA) as an approved sponsoring organization and its peer review program and the New Mexico Society of CPAs (NMSCPA) or its successor and other peer review programs administered by entities fully involved in the administration of the AICPA peer review program. These organizations are not required to submit a plan of administration to the board for approval. The board may approve other sponsoring organizations and peer review programs.

(3) Any board approved peer review program and any peer reviewer performing a peer review under this section shall utilize standards for performing and reporting on peer reviews by a recognized national accountancy organization whose standards are generally accepted by other regulatory authorities in the United States, including but not limited to the AICPA standards for performing and reporting on peer review.

(4) The board may terminate its approval of a sponsoring organization for cause following notice and opportunity for hearing. For purposes of this paragraph, "cause" includes but is not limited to failure to maintain an ongoing compliance with the requirements.

(5) For an organization, not specifically identified in these rules as board-approved, to receive board approval for its peer review program and standards, the organization must submit evidence to the satisfaction of the board. At a minimum, the evidence shall include the standards, procedures, guidelines, oversight process, training materials and related documents used to administer, perform, and accept peer reviews. The board has the authority to request any other documents/ information from an organization about its peer review program in determining whether to grant approval.

(6) For firms required to be inspected by the public company accounting oversight board (PCAOB), the board approves the PCAOB's inspection process for reviewing practices subject to its authority (which are not included in the scope of peer review programs). Firms receiving inspections under the PAOB are also required to meet the peer review requirements under a board-approved peer review program that covers the portion of the firm's practice not subject to the PCAOB inspection process, should the firm have such a practice.

I. Authority and function of peer review oversight committee:

(1) The board may appoint up to five individuals licensed in this or another state to a peer review oversight committee to monitor programs administered by the sponsoring organization and report periodically to the board. Peer review oversight committee members shall not be current members of the board or perform any enforcement related work for regulator or governmental bodies, professional organizations (including but not limited to an AICPA ethics committee, AICPA joint trial board or state professional ethics committee) or similar groups or subgroups, including consultants and other similar arrangements for the board; and may be removed or replaced by the board at its discretion.

(2) Each committee member shall annually sign a confidentiality statement indicating they will not divulge any information to the board or any other person or entity that would identify any firm, licensee, or peer reviewer/reviewing firm.

(3) The peer review oversight committee may conduct oversight of approved sponsoring organization to provide reasonable assurance that the program it is administering is complying with the minimum standards for performing and reporting on peer reviews. The committee shall report to the board any modifications to the sponsoring organization and shall make the recommendations regarding their continued approval.

(a) Oversight procedures to be performed by the peer review oversight committee may consist of, but are not limited to, the following activities:

(i) visit the sponsoring organization for the approved peer review program;

(ii) review the sponsoring organization's procedures for administering the program;

(iii) meet with the sponsoring organization's RAB during consideration of peer review documents;

(iv) review the sponsoring organization's compliance with their programs.

(b) The peer review oversight committee shall verify that firms comply with peer review requirements as follows:

(i) verification may include review of the peer review report, the firm's response to the matters discussed in the peer review report, and the acceptance letter outlining any additional

corrective or monitoring procedures, and the letter(s) signed by the sponsoring organization notifying the firm that required actions have been appropriately completed:

(ii) any other actions deemed necessary by the peer review oversight committee to assure compliance with peer review standards.

J. Disciplinary Action

(1) The board shall take disciplinary action against a firm for failure to comply with peer review requirements. Actions may 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) Peer review documents must be submitted to the board office in accordance with Section 16.60.4.10F.

(a) For each day the firm is delinquent in submitting the documents, the board may assess a fine of \$10 per day not to exceed \$1,000.

(b) If peer review documents are 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) Requests for extensions must be submitted no later than 30 days prior to renewal date as required by Subsection B, Paragraph 4 of 16.60.4.10 NMAC.

K. 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 sponsoring organization 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.

L. In the event a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered to be the succeeding firm, if any. The succeeding firm shall retain its peer review status and the review due date.

[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, 09-15-2015; A, 10-1-2016]

16.60.4.11 [FIRM MERGERS, COMBINATIONS, DISSOLUTIONS, SEPARATIONS, OR PERMIT EXPIRATION/REQUEST FOR REINSTATEMENT: In the event of a firm merger, combination, dissolution or separation, the firms must notify the board of changes in quality review cycles.

A. In the event that two 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.

B. 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).

C. 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.

D. 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.]

[RESERVED]

[16.60.4.11 NMAC - Rp 16 NMAC 60.4.10 through 60.4.16, 02-14-2002; A, 01-15-2004; A, 09-15-2015; Repealed, 10-01-2016]

HISTORY OF 16.60.4 NMAC:

History of Repealed Material:

16 NMAC 60.4, Public Accountants - Certification; Experience Requirements and Procedures, filed 09-27-95 and 16 NMAC 60.11, Public Accountants - Peer Review Requirements, filed 02-27-98, repealed effective 02-14-2002.

Other History:

16 NMAC 60.4, Public Accountants - Certification; Experience Requirements and Procedures, filed 09-27-95 and 16 NMAC 60.11, Public Accountants - Peer Review Requirements, replaced by 16.60.4 NMAC, Firm Permit, Peer Review Requirements, and Business Name Prohibitions, effective 02-14-2002.