

APPENDIX A

State Loss Prevention and Control Program Rule

TITLE 1 **GENERAL GOVERNMENT ADMINISTRATION**
CHAPTER 6 **RISK MANAGEMENT**
PART 4 **STATE LOSS PREVENTION AND CONTROL PROGRAM**

1.6.4.1 **ISSUING AGENCY:** General Services Department - Risk Management Division.
[1.6.4.1 NMAC - Rp, 1.6.4.1 NMAC, 7/1/2007]

1.6.4.2 **SCOPE:** Unless otherwise provided by law or by 1.6.4.16 NMAC below, this rule applies to all state agencies, including elected officials and institutions of higher learning. This rule supercedes and replaces all rules and directives for similar programs established by these entities, and shall be complied with by these entities. Loss prevention and control plans will not be acceptable unless they meet the total requirements of this rule and address the prevention and control requirements of all risk management division insurance coverage.
[1.6.4.2 NMAC - Rp, 1.6.4.2 NMAC, 7/1/2007]

1.6.4.3 **STATUTORY AUTHORITY:** This rule is adopted pursuant to Section 15-7-3(A)(9) NMSA 1978 which empowers the risk management division to initiate the establishment of safety programs and to adopt regulations for effective implementation of these programs; and Section 9-17-5(E) NMSA 1978, which empowers the secretary of the general services department to adopt rules and regulations to accomplish the duties of the department and its divisions.
[1.6.4.3 NMAC - Rp, 1.6.4.3 NMAC, 7/1/2007]

1.6.4.4 **DURATION:** Permanent.
[1.6.4.4 NMAC - N, 7/1/2007]

1.6.4.5 **EFFECTIVE DATE:** July 1, 2007, unless a later date is cited at the end of a section.
[1.6.4.5 NMAC - Rp, 1.6.4.5 NMAC, 7/1/2007]

1.6.4.6 **OBJECTIVE:** The objectives of this rule (1.6.4 NMAC) are to:

- A. provide general direction to state agencies in the prevention and control of insurable losses;
- B. assure that loss prevention and control activities become an integral part of the job and the required training of each worker at each state agency;
- C. assure that state agencies establish safety and loss prevention and control as a line management responsibility of high priority and report on the execution of this responsibility;
- D. assure that state agencies demonstrate commitment to safety and loss prevention and control by development of a loss prevention and control plan and appointment of knowledgeable and experienced loss control personnel consistent with the guidelines and intent of this rule; and
- E. assure compliance with this rule by reporting any failure to comply with this rule in the annual report of the risk management director to the state legislature (as required by 15-7-3(C) NMSA 1978), and to the governor, or any other oversight organization as may be required or appropriate, and by adjusting insurance premium rates paid by noncompliant agencies accordingly.

[1.6.4.6 NMAC - Rp, 1.6.4.6 NMAC, 7/1/2007]

1.6.4.7 **DEFINITIONS:** The following definitions apply in this rule.

- A. "RMD" means the risk management division of the general services department.
- B. "State loss control manager" means the state loss control manager of the RMD (as permitted by 15-7-3(A)(10) NMSA 1978).
- C. "Agency" or "state agency" means any department, agency, branch, board, instrumentality or institution of New Mexico state government.
- D. "Sub-agency" means any major entity or program below the prime agency level that is still a part of the agency; e.g., division, district, institution, hospital, field office, etc.

E. "Committee" means any agency or sub-agency loss prevention and control committee.

F. "Loss prevention and control" means any managerial system or systems intended to identify potential or actual loss situations and the implementation of a strategy or strategies to prevent or manage losses. These systems work to achieve reduction in the frequency and costs associated with losses and the elimination of the causes which allow the losses to occur. Loss situations may be bodily injury, death, property damage, employment-related civil rights violations, or other types of potential or actual liability covered under insurance or self-insurance programs. Examples include, but are not limited to the following situations:

- (1) a state employee who sustains injury by accident arising out of and in the course of employment (workers' compensation);
- (2) a state employee who has an accident while driving a state vehicle on state business (auto liability and/or auto physical damage);
- (3) a fire or other catastrophe which damages or destroys a state building (blanket property);
- (4) a state doctor who performs a professional error during the course of patient treatment (medical professional liability);
- (5) a law enforcement officer who arrests a person without proper legal authority (law enforcement liability);
- (6) a patient who falls out of bed in a state hospital (medical professional liability);
- (7) a visitor who sustains an injury in a state owned or occupied building as a result of state negligence (general liability);
- (8) a state employee who improperly issues or awards a contract or who fails to send a required notice (public official and employee, errors and omissions);
- (9) a state agency which violates a person's rights of hire or promotion because of his or her sex, race, color, national origin, age, religion, sexual orientation, sexual identity or disability (civil rights liability);
- (10) a state board which fails to grant a hearing to a licensee of that board when the board is revoking his or her license for cause (civil rights liability);
- (11) a public employee who mishandles public money in his control (fidelity and surety bond loss);
- (12) a state vehicle which has been left unattended and is vandalized (auto physical damage);
- (13) a state agency which fails to provide a job applicant or employee who is a qualified individual with a disability a reasonable accommodation (civil rights liability);
- (14) a state employee who illegally sexually harasses another employee or creates a hostile environment (civil rights liability);
- (15) a state agency which wrongfully terminates a state employee (civil rights liability);
- (16) a state agency which illegally retaliates against a state employee who files a workers' compensation or equal employment opportunity claim (civil rights liability).

G. "Loss prevention and control coordinator" means the agency loss prevention and control coordinator appointed in accordance with procedures and duties defined in 1.6.4.9 NMAC.

H. "Self-inspection" means that part of a loss prevention and control plan which consists of agency or sub-agency efforts to identify, record and correct incidents, hazards or situations which have the potential to result in loss. [1.6.4.7 NMAC - Rp, 1.6.4.7 NMAC, 7/1/2007]

1.6.4.8 LOSS PREVENTION AND CONTROL PROGRAM, CREATION:

A. The "state loss prevention and control program" is created. The program shall consist of all agency loss prevention and control plans and any loss prevention and control services provided by or implemented through the RMD. The program shall be administered and monitored by the RMD as provided in this rule.

B. Within sixty (60) days after the effective date of this rule, all requirements of this rule shall be incorporated into the agency loss prevention and control plan, that shall include, at a minimum, the following listed areas of claims management:

- (1) appointment and duties of a loss prevention and control coordinator;
- (2) appointment and duties of a loss prevention and control committee;
- (3) self-inspection and audit procedures;
- (4) incident and loss investigation, including record-keeping and reporting procedures;
- (5) claims analysis and management procedures;
- (6) loss prevention and control education and training;
- (7) employee job orientation and training programs;
- (8) implementation of safety and loss prevention and control initiatives;
- (9) implementation of workplace alternative dispute resolution and mediation program initiatives;
- (10) periodic training, at least annually, of managers and supervisors on employment-related civil rights issues.

C. Each agency shall submit a copy of its plan and initial appointments to the state loss control manager. The names of appointees shall be noted by separate letter or exhibit to prevent plans from becoming obsolete due to personnel changes. Any changes in the program or appointments shall be submitted in writing to the state loss control manager.

D. If any agency fails to adopt and promulgate an agency loss prevention and control plan in accordance with this rule, the state loss control manager shall report this matter to the agency head, in writing, with copies to the general services department cabinet secretary and the director of the risk management division.

E. The state loss control manager shall provide a "model" loss prevention and control plan that may be used by each agency as guidance in drafting its loss prevention and control plan.

[1.6.4.8 NMAC - Rp, 1.6.4.8 NMAC, 7/1/2007]

1.6.4.9 LOSS PREVENTION AND CONTROL COORDINATOR, DUTIES:

A. The head of each agency shall appoint a loss prevention and control coordinator, knowledgeable and experienced in loss prevention and control, for:

- (1) the agency;
- (2) each agency division; and
- (3) field locations responsible to the agency head; e.g., corrections institutions, medical facilities, districts, parks, etc.

B. The loss prevention and control coordinator shall conduct and coordinate the agency's loss prevention and control program. The loss prevention and control coordinator's duties shall be specified in the loss prevention and control plan at each of the different levels described in Subsection A of 1.6.4.9 NMAC. At a minimum, the plan shall require each loss prevention and control coordinator to:

- (1) serve as a member on the agency, division or other level loss prevention and control committee;
- (2) report to the agency head on matters pertaining to management of the loss prevention and control program, safety, employment-related civil rights issues, or any other matters of potential or actual liability within the agency;
- (3) chair and coordinate the agency safety committee;
- (4) act as liaison with the state loss control manager and other loss prevention and control coordinators, both within and outside the agency, on loss prevention and control matters;
- (5) establish or interpret and apply policies and procedures to guide the agency in loss prevention and control;
- (6) review agency loss claims and make recommendations to prevent future losses;
- (7) organize, supervise and assist the agency, sub-agency, division or other level, in self- inspection and audit procedures; loss prevention and control coordinators shall develop, use and make available appropriate checklists for self-inspection and audit procedures;
- (8) monitor and, where appropriate, aid in the investigation and reporting of incidents and losses, including receiving, recording and analyzing loss information for statistical purposes; loss prevention and control coordinators may conduct their own investigation and analysis of any incident or loss where necessary to determine the cause and prevent recurrence;
- (9) make loss prevention and control presentations to agency personnel addressing such issues as statistical data records and analysis, training, incident and loss prevention and control, and other relevant matter;
- (10) provide technical information to employees and agency management concerning the New Mexico Occupational Health and Safety Act requirements, as well as RMD policies, procedures and rules;
- (11) conduct loss prevention and control training, and assess the adequacy of such training;
- (12) conduct new employee orientation training to address agency loss prevention and control goals, policies and procedures; and
- (13) report all required information to the state loss control manager, including updated agency loss prevention and control plans, and copies of minutes from quarterly loss control committee meetings (within 30 days of occurrence).

C. Loss prevention and control functions are most productive when they are full time in scope and responsibility due to an ever-changing risk environment and continuing public concerns and expectations that loss prevention and control be actively and effectively managed.

[1.6.4.9 NMAC - Rp, 1.6.4.9 NMAC, 7/1/2007]

1.6.4.10 LOSS PREVENTION AND CONTROL COMMITTEE, DUTIES:

A. A "loss prevention and control committee" shall be created in each state agency. In addition, an agency loss prevention and control plan may provide for committees at division or other appropriate levels.

B. The head of an agency, in the case of an agency committee, and the head of a sub-agency, division or other level, in the case of lower level committees, shall appoint the committee members. In appointing agency committee members, the appointing authority shall attempt to appoint division directors, bureau chiefs and section or unit heads. All major components of an agency's organizational structure shall be represented on the agency committee.

C. Each committee shall elect a chairperson and a secretary from among the committee members annually.

D. Each committee shall hold meetings at least quarterly. Special meetings may be convened at the call of the chairperson or a majority of the committee members. The committee secretary shall keep minutes of the proceedings. Agency minutes shall be approved and signed by the agency head or their designee, and a copy of the agency minutes shall be distributed to all committee members and forwarded to the state loss control manager within thirty (30) days following the loss prevention and control committee meeting. Copies of minutes from lower level committees, if any, shall be provided to the agency loss prevention and control coordinator. Committee meetings may be incorporated into regular agency staff meetings including those at the division or other levels, however, a specific block of staff meeting time must be allocated exclusively to committee business. Additionally, the committee secretary shall record minutes devoted exclusively to committee business.

E. Each agency head shall establish the agency committee's duties as part of the agency loss prevention and control plan. Committees at the division or other levels shall have similar duties. An agency committee's duties shall include, but are not limited to the following loss prevention and control duties:

(1) compile, analyze, and evaluate agency loss information to ensure adequate measures are being taken to prevent recurrence of the same or similar losses; where such measures are not adequate, the committee shall make recommendations to the agency head or initiate additional action, as appropriate;

(2) establish, evaluate and make recommendations for improvement of agency loss prevention and control activities; for purposes of evaluation, the committee may use agency self-inspection reports, RMD audits, other surveys, other guidelines, minutes and written or oral reports from division committees, and any other information the committee considers useful and appropriate;

(3) perform any other functions the committee considers useful and appropriate, and which are consistent with the agency loss prevention and control plan.

[1.6.4.10 NMAC - Rp, 1.6.4.10 NMAC, 7/1/2007]

1.6.4.11 SELF INSPECTION AND AUDIT REQUIREMENTS:

A. Each state agency shall implement and execute effective self-inspection and audit programs as part of the agency's loss prevention and control plan. Self inspection and audit procedures shall be accomplished at every agency level and shall extend to all agency operations. Self inspection and audit of each agency operation should be conducted as often as needed or required, but at least semiannually.

B. Loss prevention and control coordinators at all agency levels shall ensure that appropriate checklists are developed and used for self-inspection and audit purposes. Checklists should be tailored to the work site or environment being inspected, should be specific as to the conditions being inspected and should be easy to use. Checklists should not be limited to physical hazards, but should also address operational procedures or actions which might result in loss; e.g., procedures and activities which might result in violation of a person's constitutional rights. Other examples are: unsafe work practices resulting from incorrect and/or non-existent procedures, a poor quality work product due to improper management controls, unwritten or poorly communicated employment policies, or inconsistent application of employment policies and practices. In addition, checklists should include assessment of employment conditions, policies and practices using standards established by regulatory authorities in the jurisdiction or industry, loss prevention and control criteria, and generally accepted "best practices" as a baseline.

C. RMD shall maintain and make available a set of general guidelines for initiating and developing loss prevention and control self-inspections and audits. The information is not a complete listing, but is intended to be used by agencies' loss control coordinators and committees as a guide for developing and compiling their own self inspection checklists and audit procedures specific to their individual agency's needs. The material may also be used as training material. RMD's general guidelines shall include: samples of inspection, audit and reporting procedures and forms; information on applicable legal or industry standards; and, information on issues of particular concern or loss potential. Loss control coordinators and committees may obtain complete information from pertinent federal, state and local statutes, rules and regulations, manuals and texts on industry standards, OSHA requirements, fire protection codes and standards, pertinent technical data, department of labor (DOL) rules and regulations, equal employment opportunity commission (EEOC) and state human rights division guidelines, reference texts on federal and state employment law, other controlling authorities, etc.

D. A written report shall be made of all unsatisfactory conditions observed during self inspection or audit; the report shall include information on issues of particular concern or loss potential. In many cases, the checklist may serve as the report or audit. A copy of all self-inspection reports and agency audits shall be furnished to the agency loss prevention and control coordinator. Repeat deficiencies shall be identified as such and shall be brought to the attention of the committee and the agency head. For each noted unsatisfactory condition, corrective action shall be taken or initiated as soon as possible. A written response shall be made describing the corrective action taken or the action plan intended to address the issue. The supervisory person most immediately responsible for the operation in which the unsatisfactory condition is found shall write the response as promptly as possible, but no later than thirty (30) days of the time the condition is brought to his or her

attention. Corrective action documentation shall be attached to the self-inspection report or audit. A copy shall be furnished to the agency loss prevention and control coordinator, who shall keep such records consistent with agency and state policy.

E. Records created pursuant to Subsection A through D of 1.6.4.11 NMAC shall be available for risk management division review for purposes of study (pursuant to 15-7-3(A)(8) NMSA 1978) and consultation (15-7-3(A)(11) NMSA 1978). As may be permitted by law, records may also be subject to review by, or protected from disclosure to, other regulatory authorities, or to others as permitted by law, subject to the exceptions and provisions contained in the Inspection of Public Records Act (Sections 14-2-1 and following NMSA 1978).

[1.6.4.11 NMAC - Rp, 1.6.4.11 NMAC, 7/1/2007]

1.6.4.12 INCIDENT AND LOSS INVESTIGATION:

A. Each state agency shall establish and implement procedures for in-depth investigation, analysis, and evaluation of incidents and losses as part of the agency's loss prevention and control plan. The procedures shall provide that incidents and losses be thoroughly investigated by the supervisory person most immediately responsible for the operation in which the loss occurred, by an individual who has been trained to perform this type of work, or both. The investigation shall be initiated as soon as possible, but within two workdays. The investigation will be documented into a written format which will describe or provide incident data relevant to the following minimum phases:

(1) investigative facts;

(2) the investigator's analysis, based upon investigative findings, as to the immediate and root causes of the loss;

(3) the investigator's recommendations for correcting the problem or preventing further losses of the same kind; and

(4) all supplemental investigative data such as statements, other reports, photos, sketches, etc.

B. A copy of the investigative report shall be furnished to the investigator's immediate supervisor, to the agency loss prevention and control coordinator, and to the division, or other level loss prevention and control coordinator. Care must be exercised in the handling of confidential investigative material.

C. Investigations pertinent to an alleged job-related injury or illness and all necessary and supplemental documentation generated as a result of investigating such a claim will become a part of the injury or illness claim record.

D. If the quantity or complexity of incidents and losses makes loss investigation too great a burden on an individual supervisor, the duty to investigate may be delegated, with the agency head's approval, to an appropriate individual. The supervisor should review each report prepared by another investigator and document his or her comments on the adequacy of findings and the recommended corrective actions as part of the report.

E. The agency loss prevention and control coordinator shall evaluate the adequacy of the action taken to avoid recurrence of losses. The evaluation will be accomplished within thirty (30) days of receipt. The evaluation shall be provided to the loss prevention and control committee and to the supervisor responsible for the report.

F. Agency heads shall ensure that findings and corrective actions affecting one activity of the agency are communicated to and implemented in all other activities or programs of that agency.

G. Any investigations and reports prepared pursuant to this section are supplementary to and do not replace reports required to comply with state and federal laws, insurance and other mandatory reporting requirements. Wherever possible, efforts to meet the requirements of this rule and other applicable laws should be combined.

[1.6.4.12 NMAC - Rp, 1.6.4.12 NMAC, 7/1/2007]

1.6.4.13 LOSS PREVENTION AND CONTROL TRAINING:

A. In order that all employees better understand why losses occur and how such losses can be avoided, each agency shall provide safety and loss prevention and control and employment-related civil rights training to its employees on at least an annual basis. This type of training can be in the form of crew meetings, staff meetings, written correspondence, analysis reports or formal training. Integration of this training with other training programs is encouraged. Any formal safety or loss prevention and control training shall be documented and made a part of an employee's training file.

B. The supervisor is in the best position to relate pertinent loss prevention and control information to the worker. The supervisor must discuss loss prevention and control policies, procedures, and strategies with employees, individually and at group training sessions.

C. Training in the safe and correct way to do every job is critical to loss prevention and control and must be fully covered in initial employee orientations and continued training.

D. The New Mexico Occupational Health and Safety Act and other applicable laws and regulations, mandate certain employee protections against injury or illness on the job. Training on these provisions must be included in loss prevention and control training on a continuing basis.

E. Training in employment-related civil rights is critical to loss prevention and control and provides managers and supervisors with techniques necessary for treating all state employees in a fair and consistent manner.

F. Federal law, including, Title VII of the Civil Rights Act, and state law, including the Human Rights Act (Sections 28-1-1 and following NMSA 1978), and other applicable laws and regulations, protect against civil rights violations on the job. Training on these provisions must be included in loss prevention and control training on a continuing basis.

G. A summary of losses occurring within the department or agency, and analysis and an explanation of why the losses are occurring, shall be used to supplement safety and loss prevention and control training whenever possible. The summary should be distributed to department management and supervisory personnel at least annually.

[1.6.4.13 NMAC - Rp, 1.6.4.13 NMAC, 7/1/2007]

1.6.4.14 JOB-RELATED INJURY OR ILLNESS CLAIMS MANAGEMENT:

A. The high incidence of this type loss in terms of productivity, quality of work, training, hiring, administrative costs and benefits attributed to job-related injury or illness claims warrants special mention and demands close managerial control.

B. Each agency head shall establish a workers' compensation claims management policy and implementing programs that comply with relevant laws and regulations, the mandates of this rule, executive orders, mandates from the workers' compensation administration, state safety and loss prevention and control initiatives and other appropriate requirements. Each agency shall have written policies regarding:

- (1) workers' compensation claims management procedures;
- (2) early return to work procedures for workers with job-related injuries or illnesses; and
- (3) new employee orientation programs to include job safety, workers' compensation, and employment-related civil rights.

C. Each agency shall have individual and specific written policies providing for the following items, as they apply to job-related injury or illness claims:

- (1) establishment of safety and loss prevention and control as line management responsibilities of high priority and evaluate on the execution of these responsibilities; standards shall be in writing at the agency level;
- (2) training, appropriate to each supervisor, on the supervisor's role and what the supervisor is responsible for accomplishing;
- (3) assignment of an individual or individuals, at the agency level, responsible for maintaining complete job-related injury and illness claim records for the purpose of upkeep, monitoring, and analysis and for providing management information data; sub-agencies are also required to maintain job-related injury and illness records; the names of these individuals are to be submitted to the state loss control manager of the RMD; these same persons will be the agency contacts for the RMD workers' compensation bureau;
- (4) mandatory information: claims records retained by the agency or sub-agency and submitted to the RMD workers' compensation bureau shall contain the following mandatory documents:
 - (a) notice of accident (WCA form NOA-1, as may be amended);
 - (b) employer's first report of injury or illness (WCA form E1.2, as may be amended);
 - (c) authorization to release medical information (WCA mandatory form, per Subparagraph (c) of Paragraph (2) of Subsection R of 11.4.4.9 NMAC, as may be amended);
- (5) other information: claims records retained by the agency or sub-agency and submitted to the RMD workers' compensation bureau may contain the following documents, if appropriate or applicable to the job-related injury or illness situation:
 - (a) doctor's visit form (or similar record of information);
 - (b) injured employee and witness statements;
 - (c) supervisor's investigation report;
 - (d) safety specialist or loss prevention and control coordinator investigation report;
 - (e) follow-up action documents;
 - (f) adjuster's and medical provider's documents; and
 - (g) photographs and sketches, as appropriate.

D. In formulating the policies required by this rule Paragraphs (1), (2) and (3) of Subsection B of 1.6.4.14 NMAC, each agency shall ensure the policies address and include direction for the following items:

- (1) injured employee responsibilities: this criterion shall include, at a minimum, injury reporting procedures, administration and documentation details, and compliance with medical treatment plan;
- (2) employer responsibilities: this criterion shall include, at minimum, job-related injury or illness reactive procedures, contact protocol, employer involvement in all phases of job-related injury or illness claim management, and accountability measures;

(3) identification of jobs or the modification of jobs to accommodate the job-related injured or ill worker who is placed on restricted or modified work status; this criterion shall also include the procedures and authorities to implement such procedures;

(4) identification and analysis of root causes of job-related injury or illness and recommended corrective action or change to prevent recurrence of such job-related illness or injury.

E. Every effort shall be made to implement an early return to work program that includes, at a minimum, the requirements of Section 52-1-25.1 NMSA 1978. To ensure that sound claims management procedures have been accomplished and that reasonable accommodations and opportunities afforded by applicable legal mandates have been explored, no state employee shall be terminated from employment because of a job-related injury or illness or physical circumstances resulting from a job-related injury or illness unless the state agency has provided advance notice to the state risk management division, attention: workers' compensation claims specialist.

F. Except as provided in Paragraphs (1) and (2) of this subsection, vacant positions resulting from job related injuries or illnesses shall not be filled, except by temporary employment.

(1) A position may be permanently filled if there is documented medical diagnosis or evidence that an employee with a job-related injury or illness has reached maximum medical improvement or that the employee's impairment or condition is permanent and that the employee cannot perform the essential functions of the particular job.

(2) A position may be permanently filled if there is a critical need and that need cannot be satisfied with temporary employment, and the agency has made a "good faith" effort to do so, and the provisions of Subsection E of this section have been satisfied.

G. The state loss control manager and the workers' compensation claims specialist of the RMD, or their designees, shall provide "model" programs, policies and supplemental materials that may be used by each agency as guidance in creating programs and drafting policies.

[1.6.4.14 NMAC - Rp, 1.6.4.14 NMAC, 7/1/2007]

1.6.4.15 RISK MANAGEMENT DIVISION AGENCY LOSS PREVENTION AND CONTROL PLAN AUDIT:

A. The state loss control manager or persons designated by the state loss control manager shall conduct loss prevention and control plan audits of state agencies as a method of providing agency heads with an evaluation of the effectiveness of an agency's total loss prevention and control effort. The audits shall take place with such frequency as the director of the RMD deems necessary. Following an audit, the state loss control manager shall submit a written report to the agency head which will provide an evaluation of the agency's loss prevention and control effort along with recommendations.

B. The agency head (or the sub-agency head if the audit applies only to a sub-agency) shall respond to RMD audits within thirty (30) days citing what actions have been taken to address the issues and the recommendations noted in the report.

C. The state loss control manager shall provide assistance to state agencies in developing and implementing their loss prevention and control plans. The state loss control manager shall:

(1) provide a "model" of an actual state agency loss prevention and control plan (for use in drafting individual agency loss prevention and control plans, which shall satisfy individual agency missions and meet individual agency needs);

(2) provide "model" self-inspection checklists (see RMD general guidelines referenced in Subsection C of 1.6.4.11 NMAC established for this purpose);

(3) as part of an audit procedure, provide agencies with loss information from RMD claim reports; the state loss control manager (or the state loss control manager's designee) shall assist agencies in the interpretation of and the use of RMD reports and other loss information;

(4) provide general information to assist in incident and loss investigations;

(5) in coordination with the secretary of the general services department and the director of the risk management division, develop programs, policies and procedures which will further enhance the on-going state loss prevention and control program effort.

[1.6.4.15 NMAC - Rp, 1.6.4.15 NMAC, 7/1/2007]

1.6.4.16 LOSS PREVENTION AND CONTROL PROGRAM, EXEMPTION REQUIREMENTS:

A. In special circumstances and for good cause, the RMD director may exempt a state agency, or a portion of an agency, from any or all parts of this rule.

B. All agencies that have a loss prevention and control program exemption prior to the effective date of this rule must re-qualify for an exemption within sixty (60) days of the effective date of this rule.

C. Requests for exemption shall be made to the RMD director, in writing, stating the extent of and the justification for the request. The RMD director shall base the decision to grant or deny the request for exemption on the following:

- (1) the size of the requesting agency;
- (2) the need, or lack thereof, for the loss prevention and control program, or portions of the program, in the requesting agency;
- (3) the costs versus the benefits that can reasonably be expected to be derived from the loss prevention and control program; and
- (4) any other matters that the director, in his or her sole discretion, reasonably believes to be relevant.

D. The RMD director shall grant or deny the exemption in writing, stating the reasons for the decision. The exemption may be granted, at the discretion of the RMD director, in a modified form. Exemptions shall be for a specified period of time, not to exceed two (2) years. At the end of such time, any exemptions shall automatically expire unless the agency has made written application to the RMD director for an additional extension at least ninety (90) days prior to the expiration, in which case, expiration shall be postponed pending the RMD director's decision to grant or deny the additional extension. Additional extensions are subject to the same time constraints as the initial extension. In addition, an exemption will automatically expire if the agency full time employee (FTE) structure is significantly increased.

[1.6.4.16 NMAC - Rp, 1.6.4.16 NMAC, 7/1/2007]

HISTORY OF 1.6.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

GSD 84-703 State Loss Control Program, 4/4/84;
GSD 86-703 State Loss Control Program, 6/30/86; and
GSD 91-703 State Loss Control Program, 11/14/91.

History of Repealed Material: 1.6.4 NMAC, State Loss Control Program (filed 09/01/2004) repealed 7/1/2007.

Other History:

GSD 91-703 State Loss Control Program (filed 11/14/91) was reformatted and renumbered to 1.6.4 NMAC, State Loss Control Program, to comply with the current NMAC requirements, effective 9/15/2004.

1.6.4 NMAC, State Loss Control Program (filed 9/1/2004) was replaced by 1.6.4 NMAC, State Loss Prevention and Control Program, effective 7/1/2007.