

This rule was filed as 12 NMAC 26.8.

**TITLE 12      TRADE COMMERCE AND BANKING**  
**CHAPTER 26   CEMETERIES**  
**PART 8        CERTIFIED AUDIT**

**12.26.8.1      ISSUING AGENCY:** Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michael's Drive, Santa Fe, New Mexico 87504. Telephone No. (505) 827-7100.  
[11/8/93; 9/30/97; Recompiled 10/15/01]

**12.26.8.2      SCOPE:** All cemeteries licensed by the state of New Mexico.  
[9/30/97; Recompiled 10/15/01]

**12.26.8.3      STATUTORY AUTHORITY:** Endowed Care Cemetery Act of 1961 ("Act"), Sections 58-17-1 to 58-17-17 NMSA 1978.  
[11/8/93; Recompiled 10/15/01]

**12.26.8.4      DURATION:** Permanent.  
[11/8/93; 9/30/97; Recompiled 10/15/01]

**12.26.8.5      EFFECTIVE DATE:** November 8, 1993 unless a later date is cited at the end of a section or paragraph. Reformatted in NMAC format effective September 30, 1997.  
[11/8/93; 9/30/97; Recompiled 10/15/01]  
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

**12.26.8.6      OBJECTIVE:** The objective of this subpart [now part] is to clarify the term "certified audit".  
[11/8/93; 9/30/97; Recompiled 10/15/01]

**12.26.8.7      DEFINITIONS:** [RESERVED]  
[9/30/97; Recompiled 10/15/01]

**12.26.8.8      CERTIFIED AUDIT:** For the purposes of Section 58-17-13(A) of the Act, a "certified audit" shall consist of the following procedures.

- A. Obtain the entire population of contracts used in the cemetery operation representing all sales occurring in a specific year.
- B. Determine that there are no missing contracts. Verify that the first contract in the current year is the next contract after the last contract of the previous year.
- C. Depending on the volume of business transacted, choose two or more months, at random, in order to reduce the "test size" of the examination.
- D. Review all of the contracts in each sample, and tally all sales of endowed care properties. Calculate the proper amount to be placed in trust in accordance with the Act.
- E. Obtain cemetery deposit records and compare the recording of deposits to the result of the calculation performed under paragraph 8.1.4 of this section [now Subsection D of 12.26.8.8 NMAC].
- F. Obtain bank trust account statements and review the deposits.
- G. Ensure that the deposits are sufficient in amount. Note: Section 58-17-6 of the Act allows a cemetery authority to make deposits on installments on a pro-rata basis. Contracts for the sale of numerous goods and services that include the sale of endowed care property are common. Determine what proportion to the total sale the endowed care sale represents. Multiply that factor times the installment payment and then determine the required statutory percentage.

Example:

Total contract sale . . . . . \$1,000.00  
Endowed care sale (plot) . . . \$ 750.00  
Endowed care sale = 75% of the total sale.  
Installment of \$100.00/month for 10 months.

$\$100.00 \times .75 = \$75.00$

$\$75.00 \times .25 = \$18.75$  required deposit to trust fund.

Check point:  $\$750.00 \times .25 = \$187.50$

$\$18.75 \times 10$  installments =  $\$187.50$

Review Section 58-17-6 of the Act for compliance.

H. Ensure that the deposits are made on a timely basis. Compare the date of deposit to the date of close of the month in which monies were received. Not more than thirty days should have elapsed.

I. Trace trust account disbursements from the bank to the cemetery's record(s) of expenditures. Acceptable expenditures are those listed under the definition of "endowed care". Note: cemeteries should have accounting controls and procedures to enable an examiner to trace bank disbursements to specific expenditures. [11/8/93; 9/30/97; Recompiled 10/15/01]

**HISTORY OF 12.26.8 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center under:

Regulation 93-1CE, Certified Audit, filed 11/8/93.

History of Repealed Material: [RESERVED]

Other History:

Regulation 93-1CE, Certified Audit, filed 11/8/93 was renumbered and reformatted into first version of the New Mexico Administrative Code as 12 NMAC 26.8, Cemeteries - Certified Audit, filed 9/17/97.