

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 24 RULES
PART 10 NEW MEXICO ADMINISTRATIVE CODE (NMAC)

1.24.10.1 ISSUING AGENCY: State Records Administrator.
[1.24.10.1 NMAC - Rp 1 NMAC 3.3.10.1, 2/29/2000; A, 9/15/2014]

1.24.10.2 SCOPE: All state agencies. General provisions, including applicable definitions, are found in 1.24.1 NMAC. There are additional requirements on submitting a rule filing for publication in the New Mexico register (see 1.24.15 NMAC), for emergency rule filings (see 1.24.20 NMAC) and for transition to a new NMAC structure (see 1.24.11 NMAC).
[1.24.10.2 NMAC - Rp 1 NMAC 3.3.10.2, 2/29/2000]

1.24.10.3 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 compiling the code and prescribing the format and structure of the code. Section 14-4-3 NMSA 1978 directs that promulgated rules shall be in style and format required by and delivered to the state records administrator together with a concise explanatory statement to be filed noting the date and hour of filing.
[1.24.10.3 NMAC - Rp 1 NMAC 3.3.10.3, 2/29/2000; A, 7/1/2017]

1.24.10.4 DURATION: Permanent.
[1.24.10.4 NMAC - Rp 1 NMAC 3.3.10.4, 2/29/2000]

1.24.10.5 EFFECTIVE DATE: February 29, 2000, unless a later date is cited at the end of a section.
[1.24.10.5 NMAC - Rp, 1 NMAC 3.3.10.5, 2/29/2000; A, 9/15/2014; A, 11/30/2015]

1.24.10.6 OBJECTIVE: The objective of this rule is to establish standards for uniform rule filings in an easily understood and common format. These standards are designed to ensure that rules 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 are structured for expeditious compilation into the NMAC. The NMAC is designed to promote access and assist research by adopting a system for uniformly organizing state rules that facilitates fully searchable electronic access. Additionally, it is designed to facilitate electronic publication and availability via the internet.
[1.24.10.6 NMAC - Rp 1 NMAC 3.3.10.6, 2/29/2000]

1.24.10.7 DEFINITIONS: [Reserved]
[1.24.10.7 NMAC - Rp 1 NMAC 3.3.10.7, 2/29/2000]

1.24.10.8 NMAC STRUCTURE AND IDENTIFICATION:

A. The NMAC, a hierarchical structure, is divided into titles, chapters and parts, on the basis of subject matter. A title broadly organizes related governmental rule material in the first level of the hierarchy. The title is divided into chapters that identify distinct governmental functions. The chapter is divided into parts. The part relates to specific subject matter. It is at this level that rules are organized. The part is subdivided into sections. The section may be further subdivided into subsections, paragraphs and sub-paragraphs.

B. Each division of the NMAC through the section level shall have a name and number.
(1) The names and numbers of NMAC titles are listed in 1.24.10.26 nmac, TABLE OF CONTENTS. Chapter names and numbers shall be assigned and maintained by the records center.

(2) The individual number of a title, chapter, part or section shall be expressed as a whole number. Titles shall be limited to two arabic digits; chapters shall be limited to three arabic digits; and parts and sections shall be limited to four arabic digits.

C. Subsections shall be indicated by at least one, but not more than three, upper-case alphabetic characters. Paragraphs are indicated by at least one, but not more than three, arabic digits within parentheses. Sub-paragraphs shall be indicated by at least one, but not more than three, lower-case alphabetic characters within parentheses.

D. The part name and number shall be assigned by the filing agency and subject to approval by the administrative law division of the state commission of public records.

(1) The part names shall be descriptive and not exceed 120 characters. Agencies shall use names that provide adequate notice of the nature and content of the part.

(2) The individual part number shall not exceed four arabic digits and shall not include dashes or alphabetic characters.

(3) "Part 1" of each chapter shall be used or reserved for the general provisions that apply to all the parts in that chapter.

E. At the beginning of each part, an agency shall identify the part by title number and name, chapter number and name, and part number and name.

F. The first seven sections of each part shall state:

(1) Section 1 - name of the issuing agency in a section entitled "ISSUING AGENCY";

(2) Section 2 - the scope of the part in a section entitled "SCOPE";

(3) Section 3 - the statutory authority under which a part is issued, in a section entitled "STATUTORY AUTHORITY";

(4) Section 4 - the intended duration of the part in a section entitled "DURATION";

(5) Section 5 - the effective date of the part in a section entitled "EFFECTIVE DATE";

(6) Section 6 - the objective of the part in a section entitled "OBJECTIVE";

(7) Section 7 - the definitions that apply just to the part in a section entitled "DEFINITIONS." If there are no definitions for the part, Section 7 shall be reserved i.e., [RESERVED]. An annotation to general provisions may be included.

G. Section 8, and all subsequent sections, shall encompass the body of rule material specific to the part.

H. A section has both a name and number assigned by the promulgating agency. Each section shall be identified at the beginning by the full NMAC number (title number, followed by a period, chapter number, followed by a period, part number, followed by a period and the section number) followed by the name of the section. Example: Section 12 of this part is 1.24.10.12 STYLE

I. A section may be divided into subsections. Subsections may be used to further group similar paragraphs.

J. A paragraph is a unit of grammatical, tabular or other discrete, organized information that may be, although not advisably, divided into further units.

[1.24.10.8 NMAC - Rp 1 NMAC 3.3.10.15, 2/29/2000; A, 6/30/2004; A, 11/30/2015]

1.24.10.9 NMAC CITATION:

A. The format for full citation of material contained in the NMAC shall be the name of the part, followed by a comma, a space, the name of the issuing agency, followed by a comma, a space, the title number, followed a period, the chapter number, followed by a period, the part number, followed by a period, the section number, a space and the initials "NMAC." The citation shall be followed by the effective date in parentheses. Example: Disclosure of Taxpayer Information, New Mexico Taxation and Revenue Department, 3.1.3.8 NMAC (10/31/1996)

B. A modified full citation where the name of the issuing agency is omitted from the citation may be used. Example: Disclosure of Taxpayer Information, 3.1.3.8 NMAC (10/31/1996)

C. The short-form citation of the NMAC is the title, chapter, part and section number separated by periods and followed by "NMAC". Example: 3.1.3.8 NMAC

D. Where a provision has been amended, the effective date shall be the effective date of the version that is being cited.

E. Where reference is to the whole part, the reference date shall be the original effective date together with the date of last amendment, i.e., (7/1/94 as amended through 1/1/2000.)

F. Where citation below the level of a section is desired, designations below the section shall precede the citation. Example: Subsection A of 3.1.3.8 NMAC.

[1.24.10.9 NMAC - Rp 1 NMAC 3.3.10.8, 2/29/2000; A, 6/30/2004]

1.24.10.10 ISSUING AUTHORITY:

A. The issuing authority is responsible for ensuring compliance with the requirements set forth in this part.

B. Where delegation is authorized, the agency may, by rule or formal appointment, specify an issuing authority other than that named in statute. The agency shall forward, in writing, the title, name and signature of the designee to the state records administrator. The agency shall notify, in writing, the state records administrator of any

change in the designation. Designation shall only be made by the issuing authority. Formally appointed designees are not allowed to appoint other designees.

C. The administrative law division shall not accept a rule filing or a concise explanatory statement signed by other than the issuing authority, or a formally appointed designee.

[1.24.10.10 NMAC - Rp 1 NMAC 3.3.10.9, 2/29/2000; A, 6/30/2004; A, 11/30/2015; A, 7/1/2017]

1.24.10.11 WHAT CONSTITUTES A RULE:

“Rule” and “proposed rule” have been defined and set forth within statute (See Section 14-4-2 NMSA 1978).

[1.24.10.11 NMAC - N, 2/29/2000; A, 6/30/2004; A, 7/1/2017]

1.24.10.12 STYLE:

A. Style shall be guided by relevant portions of the current edition of the legislative drafting manual of the New Mexico legislature published by the New Mexico legislative council service. The following provisions are specifically adopted.

(1) Chapter 4, Bill Drafting, the portion dealing with brackets, line-through and underscoring shall apply to proposed amendments and amendments for publication in the New Mexico register. This style shall not be applied to the integrated part.

(2) Chapter 7, Legislative Style and Language Provisions, except for the portion dealing with numbers, formulas and charts, as set forth:

(a) use words for numbers zero to nine (except for dates, numbers with decimals, money or technical, scientific or statistical matter);

(b) use figures for numbers 10 and greater, except when beginning a sentence;

(c) spell out numerical figures when using percentages; the word “percent” shall be spelled out except in tables, which use the percent symbol (%); (e.g., twenty-five percent)

(d) spell out fractions standing alone (e.g., one-half, one-third, etc.);

(e) insert a hyphen between the numerator and the denominator of a fraction, unless either element already contains a hyphen; do not spell out a portion of a fraction and express the other part as a figure; and

(f) use figures for fractions with numbers 10 and greater.

(3) Figures and symbols may represent amounts of money. It is not necessary to spell out the number. If a sum of money is spelled out, follow the spelling with figures and money symbol (\$) in parenthesis.

B. Special symbols shall be avoided and the common abbreviation or full spelling used instead. For example, deg. for degree and lbs. for pounds.

C. No rule filing shall be typed in all capital letters.

D. Indentions shall be standardized as follows.

(1) Section numbers shall be flush with the part’s one-inch margin.

(2) One tab shall be used to indent the first line of a subsection. Tab once after the subsection designation before beginning the text.

(3) Paragraphs shall be indented two tabs. Tab once after the paragraph designation before beginning the text.

(4) Subparagraphs shall be indented three tabs. Items are to remain within the text of subparagraph. Upon request for need and upon approval by administrative law division, items may be indented four tabs. Tab once after the subparagraph or item designation before the beginning of the text.

(5) Automatic indents are not permitted.

E. Sections shall be clearly separated.

F. The name of the issuing agency in Section 1 and in full citation shall be typed in title case.

G. The first page of a new part or integrated part shall begin with the title, chapter and part numbers and names. The information shall be flush with the document's one-inch margin and typed in bold capital letters.

H. Use of tables is permissible but shall be used sparingly because tables may cause difficulties in the rule filing process and may increase publication costs. The agency shall be guided by the following when using tables.

(1) Tables shall be in portrait orientation.

(2) Text in tables shall be Times New Roman, 10-point font.

I. No rule filing shall contain footnotes.

[1.24.10.12 NMAC - N, 2/29/2000; A, 6/30/2004; A, 9/15/2014; A, 11/30/2015]

1.24.10.13 ELECTRONIC STANDARDS:

- A. Electronic storage media for rule filings shall be one of the following:
 - (1) USB-flash-drive; or
 - (2) CD; or,
 - (3) as an attachment via an e-mail address.
- B. For rule filings, the electronic format shall be *MS Windows* version of *MS Word* software using Times New Roman, 10-point font, normal style.
- C. Special coding, such as hanging indents, automatic tabbing, automatic numbering, body text style, non-breaking hyphens, automatic tracking, or any other special font shall not be used.
- D. Use of images shall be limited. If necessary, they shall be included in the electronic version of the document as GIF or PDF files.
- E. **Page Layout:**
 - (1) A rule filing shall be single-spaced with double spacing between sections.
 - (2) The original paper version of a rule filing shall be single-sided.
 - (3) Margins shall be a minimum of one inch on all four sides, excluding the footer.
 - (4) Tabs shall be set at 0.5 inches.
 - (5) The document shall have a footer for page identification which shall appear at the midpoint within the one-inch margin on the foot of every page. The footer shall contain the NMAC number down through the part number in the bottom left corner of the footer. The page number shall be located at the bottom right corner of the footer.

[1.24.10.13 NMAC - Rp, 1 NMAC 3.3.10.13, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.14 PAPER VERSION STANDARDS:

- A. **Paper:**
 - (1) Output shall be produced from, and not vary from, the electronic version of the rule filing.
 - (2) Size shall be 8.5 x 11 inches.
 - (3) Weight shall be a minimum of 20-lb. bond or copier paper.
 - (4) Color shall be white.
- B. **Ink:** Color shall be black and uniform throughout.
- C. **Binding:** Rule filings shall be unbound and consist of individual sheets.
- D. **Page Layout:** In all other respects, paper version shall conform to the page layout described in 1.24.10.13 NMAC above.

[1.24.10.14 NMAC - Rp, 1 NMAC 3.3.10.13, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

1.24.10.15 NMAC TRANSMITTAL FORM:

- A. Each rule filing delivered to the records center shall be accompanied by a completed NMAC transmittal form in hard copy with an original signature in black ink or with a valid digital signature.
- B. The administrative law division shall provide agencies with blank NMAC transmittal forms in electronic format.
- C. The filing agency shall complete the NMAC transmittal form and submit to the administrative law division for review and approval prior to adoption of any rulemaking.
- D. The NMAC transmittal form shall not be handwritten and shall be suitable for reproduction.
- E. The following shall appear on the NMAC transmittal form:
 - (1) issuing agency name and address;
 - (2) three digit DFA account code for the agency (if applicable);
 - (3) volume, issue, publication date in register for rule filing;
 - (4) contact person's name, phone number, and e-mail address;
 - (5) type of filing - i.e., new, amendment, renumber, repeal, repeal/replace or emergency filing;
 - (6) total number of pages;
 - (7) date(s) of any public hearing(s) on the proposed rule or amendment;
 - (8) effective date of the rule filing;
 - (9) NMAC title, chapter and part name and number;
 - (10) description of amendment (for amendment filing only, i.e. "amending two sections");
 - (11) amendment's NMAC citation (i.e. 1.24.10.15 and 16 NMAC);

- (12) sequence number and most recent filing date of the part (if applicable and designated for administrative law division use only);
- (13) declaration of incorporated material;
- (14) if reference materials are attached and are protected by copyright:
 - (a) indication if copyright permission was obtained;
 - (b) the proof of permission; or
 - (c) material is within the definition of public domain;
- (15) specific statutory or other authority authorizing the rulemaking by the issuing agency to promulgate rules;
- (16) any findings required by a provision of law for adoption of the rule;
- (17) rule adoption date; and
- (18) rule effective date.

F. Each rule filing shall bear the original signature of the issuing authority or authorized designee in black ink on the paper copy of the NMAC transmittal form. If authority is delegated, the box shall be checked.

G. Those portions of the transmittal form that are completed by the issuing agency under the concise explanatory statement heading shall be considered sufficient compliance with State Rules Act and shall be provided to the public at the time the issuing agency adopts any rule making.

[1.24.10.15 NMAC - Rp, 1 NMAC 3.3.10.11, 2/29/2000; A, 6/30/2004; A, 9/15/2014; A, 11/30/2015; A, 7/1/2017]

1.24.10.16 FILING A RULE:

A. At the time of filing the filing agency shall present the following, which has been reviewed and pre-approved by administrative law division:

- (1) one paper version of the completed NMAC transmittal form;
- (2) one electronic version of the text of the rule or amendment;
- (3) one electronic version of the integrated part (if filing an amendment); and
- (4) one electronic version of the billing information sheet.

B. Other material to be published in the New Mexico register in conjunction with promulgation of the rule or amendment shall be delivered to the administrative law division at the time of filing. Examples include synopses, short-form publication, conversion tables, any technical information relied upon in formulating the final rule, any comments or other material received by agency during rule hearing, and summaries of public comment.

C. At the time of filing, an agency may submit to the administrative law division an additional paper copy, for annotation on the first page of the rule with the date and hour of filing, to be returned to the agency (Section 14-4-3 NMSA 1978).

D. If a short-form publication or synopsis is made in accordance with the requirements of 1.24.15 NMAC, the full text of the rule shall be submitted as part of the rule filing. The full text shall be published in the NMAC at no additional cost to the agency.

E. No rule shall be valid and enforceable until it is filed with the administrative law division 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 three weeks after filing with the records center (Sections 14-4-3 and 14-4-5 NMSA 1978).

F. A valid purchase order number must be included on the billing information sheet at the time of filing. A purchase order must be submitted to the records center by paper or electronic version at least one business day prior to the publication date.

[1.24.10.16 NMAC - Rp, 1 NMAC 3.3.10.10, 2/29/2000; A, 6/30/2004; A, 9/15/2014; A, 11/30/2015; A, 7/1/2017]

1.24.10.17 REJECTED RULE FILINGS:

A. The administrative law division shall refuse to file written material if it is not a rule as defined in the State Rules Act or if the materials submitted for rule filing do not conform to the style and format requirements detailed in 1.24.10 NMAC.

- (1) Materials that are not rules may be filed as a publication.
- (2) Rule filings that do not conform to style and format requirements shall be returned to the filing agency and shall not be filed or published in the New Mexico register.
- (3) Rule filings that do not meet the minimum statutory time periods for notice of proposed rulemaking, public participation, and public comments shall be returned to the filing agency and shall not be filed or published in the New Mexico register.

B. The administrative law division shall identify material previously filed as a rule but not conforming to the definition of a rule. The material shall be removed from the rules collection and rule history database with 30 days written notice to the affected agency.

C. If an affected agency finds it previously filed material as a rule that does not conform to the definition of a rule, that agency shall notify the administrative law division in writing. If the administrative law division agrees the material does not conform to the definition of a rule, the material shall be removed from the rules collection and the rule history database within 30 days of receiving the notice.

[1.24.10.17 NMAC - N, 2/29/2000; A, 6/30/2004; A 9/15/2014; A, 11/30/2015; A, 7/1/2017]

1.24.10.18 AMENDMENTS OR REPEALS OF EXISTING RULES:

A. Amendments to a part shall be prepared by the agency in such a manner as to provide for full-section addition, substitution or deletion. Parts shall only be amended by replacement, deletion or addition of whole sections. Deleting, replacing or adding words and sentences to a section shall be accomplished by replacement of the whole section.

(1) If a section contains entirely new material, unrelated to the material formerly contained in the section with the same NMAC number, then the former section shall be repealed. The repeal shall be identified within the history note at the end of the section with the appropriate notation (see 1.24.10.20 NMAC).

(2) An addition of a new section is an amendment to the part.

(3) If an entire part is being amended, agencies shall have to file a repeal and replace of the part.

(4) The first sentence on the first page of the text of an amendment shall state, "This is an amendment to (insert appropriate title number, chapter number, part number) NMAC, Section (insert the section number of the amended sections), effective (insert appropriate effective date)." Example: This is an amendment to 1.12.10 NMAC, Sections 8, 9 & 10, effective June 1, 2015.

(5) For clarity, agencies may precede the text of an amendment with an explanatory paragraph to be published in the New Mexico register but which shall not be part of the rule or may publish a synopsis thereof.

B. Repeals shall be done by the issuing agency at the part level by identifying an expiration in the duration section of the part or by issuing a repealer. If less than a full part is being repealed, the rule filing shall be treated as an amendment. If other parts are affected by the repeal, they shall be amended as appropriate.

(1) If a part has been entirely rewritten and restructured so that a detailed section by section comparison is not possible, the agency may repeal the existing part and issue a new part with either the same or new part number as a repeal and replace. Where a new part number is used, an agency may record a reference to the pre-existing part in the historical note of the new part.

(2) The history note shall reflect the original NMAC effective date and number. When a part has been entirely repealed, its history shall be reflected in the history of the part, which shall remain in the NMAC.

(3) Once a part number has been used in the NMAC, the history of the part shall continue to contain all NMAC history for that part, regardless of repealers.

C. Superseding rule filings are not permitted. This activity shall be handled through amendment of the part or by repeal and replacement of the part.

[1.24.10.18 NMAC - Rp, 1 NMAC 3.3.10.12, 2/29/2000; A, 6/30/2004; A, 9/15/2014; A, 11/30/2015]

1.24.10.19 Errors in the New Mexico administrative code:

A. Agencies may report errors at any time. Differences detected between the official and compiled rules shall be reported to the administrative law division, in writing, as soon as possible.

B. The administrative law division shall effect correction of differences detected in the NMAC as soon as possible.

C. In instances where there is a difference between the filed rule and the NMAC, the filed rule prevails.

D. If the filed rule is in error it shall be corrected by agency amendment or by written authority by agency to correct minor stylistic changes (numerical, punctuation, misspellings) if caught by administrative law division post-filing.

[1.24.10.19 NMAC - N, 2/29/2000; A, 11/30/2015]

1.24.10.20 HISTORY NOTE: History notes facilitate the use of the NMAC and track the historical development of a rule provision.

A. There shall be a history note appended at the end of each section.

B. The history note shall contain the original effective date of sections filed after the implementation of NMAC. It shall also detail all subsequent amendments and number changes by section. Standard notations identified in this section shall be used to minimally identify the types of modifications made to sections.

(1) History shall appear in chronological sequence in brackets at the end of each section. A semicolon shall separate each significant change noted in the sequence of a section's history. Significant changes are: an amendment; a section number or name change; and an insertion of new rule material at a section number where previously repealed material had been located. Minimum dates required for each change are:

- (a) effective date of new material;
- (b) effective date of amended sections;
- (c) effective date of repealed material; and
- (d) effective date of the change to section numbers and names.

(2) If the section has been amended, note the new effective date and the nature of changes if possible. If the section has been renumbered, list the former number and the effective date of change.

(3) Agencies shall provide information, in addition to dates, in the history using the following system: Identify the short form of the affected part or section followed by a space, a dash, a space and then the letter or combination of letters identifying the type of change. The last date in a series indicates the date of the last change to the section. Use:

- (a) "A" for amendment, followed by a comma, a space and the effective date of amendment;
- (b) "Re-pr" for re-promulgated, followed by a comma, a space and the effective date of re-promulgation;
- (c) "Rp" for replaced, followed by a comma, followed by the short form citation of the rule replaced, followed by a comma, a space and the effective date of replacement;
- (d) "Rn" for renumbered, followed by a comma, the former number, a space and the effective date of renumbering; and
- (e) "N" for new, followed by a comma, a space and the effective date of the new material;
- (f) "Repealed" for a section that is deleted and not replaced, followed by a comma, a space and the effective date of the deletion; and
- (g) "E" for an emergency filing, in combination with the appropriate action code and a slash (/).

C. The history note is not part of the rule.

[1.24.10.20 NMAC - Rp 1 NMAC 3.3.10.15.11.1 through 1 NMAC 3.3.10.15.11.3, 2/29/2000; A, 6/30/2004]

1.24.10.21 history of the part:

A. Pre-NMAC history is the first division of the history of the part and shall contain the pre-NMAC development of the rule material included in the part. The records center may add this material in brackets where it has not previously been part of the NMAC.

B. History of repealed material is the second division of the history of the part and shall contain repeals of NMAC parts or sections in full.

(1) When a section is repealed and not replaced, using the short form, followed by a space, a dash, a space, and then the word "repealed", a comma, a space and the effective date of the repeal.

(2) When only a section is repealed, and replaced, that history remains in the section history note.

(3) When a part is repealed, the history of the part shall identify the part using the short form and the name, followed by a space, a dash, a space, the word "repealed", a comma, a space, and the effective date of the repeal. The history of repealed material shall be retained in the NMAC.

[1.24.10.21 NMAC - Rp 1 NMAC 3.3.10.15.11.1 & 1 NMAC 3.3.10.15.11.4, 2/29/2000; A, 11/30/2015]

1.24.10.22 MATERIAL REFERENCED IN RULES:

A. The source of material, which is fully included in the text of the rule, may be given as a citation. Where there is no intent to include in the rule additional material by incorporation from the cited reference, the source material need not be attached.

B. Referenced material (including standards, codes and manuals) incorporated or adopted by rule must be filed as part of that rule which may be accomplished by attachment.

(1) Referenced material that has been formally published does not need to meet style and format requirements of 1.24.10 NMAC. A copy of this formally published material must be filed.

(2) Other attachments must meet all style, format and filing requirements, including provision of an electronic copy, unless an exception has been granted pursuant to 1.24.10.24 NMAC.

(3) References to United States U.S. law shall be deemed to be references to the current version of such law, including subsequent amendments, unless otherwise expressly stated in the rule. References to U.S. law do not require submittal or a copy. In lieu of submitting a paper copy of these references, the issuing authority shall on the NMAC transmittal form list the references and internet site. This information shall be verified by the records center at the appropriate internet site to ensure access is available to users of the NMAC. If an internet site is not available or cannot be located, one paper copy of the attachment shall be filed with the rule for historical reference.

(4) Referenced material, other than U.S. law (including material referenced in New Mexico statutes or the NMAC), 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.

C. Referenced material that is not incorporated in the rule may be referenced in either the text or in an annotation. Annotations are not part of the rule.

[1.24.10.22 NMAC - Rp 1 NMAC 3.3.10.17.1 & 1 NMAC 3.3.10.17.2, 2/29/2000; A, 6/30/2004; A, 11/30/2015]

1.24.10.23 REFERENCES TO COPYRIGHTED MATERIAL: If an agency chooses to incorporate copyrighted material into a rule, it shall receive permission from the copyright holder prior to such incorporation. Such permission shall 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. A copy of such copyright permission shall be submitted with the filing. Failure to provide copyright permission shall result in rejection of the rule filing.

[1.24.10.23 NMAC - Rp 1 NMAC 3.3.10.17.3, 2/29/2000]

1.24.10.24 EXCEPTIONS: Exceptions to any provision of 1.24.10 NMAC shall be requested in writing to the state records administrator and may be approved by the state records administrator on a filing-by-filing basis.

[1.24.10.24 NMAC - Rp 1 NMAC 3.3.10.18, 2/29/2000]

1.24.10.25 PROCEDURE FOR APPROVAL OF NEW CHAPTERS AND PARTS:

A. If a chapter on a specific subject does not exist in the NMAC hierarchy, an agency may send a written request to the state records administrator for the creation of a new chapter. If the state records administrator approves the request, a new chapter will be created in the NMAC.

B. In order to avoid any delay in filing a rule, agencies shall submit, in writing, proposed part names and numbers to the administrative law division of the records center. The administrative law division of the records center shall approve or reject proposed part names and numbers within two weeks or shall notify the agency of further delay in approval. When the administrative law division of the records center rejects part names and numbers, it shall propose alternative names and numbers for submitted parts and state the reason why the proposed names and numbers were unsatisfactory.

[1.24.10.25 NMAC - Rp 1 NMAC 3.3.10.20, 2/29/2000; A, 6/30/2004]

1.24.10.26 NMAC TABLE OF CONTENTS:

Code Titles

1	General Government Administration
2	Public Finance
3	Taxation
4	Cultural Resources
5	Post-Secondary Education
6	Primary and Secondary Education
7	Health
8	Social Services
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10	Public Safety and Law Enforcement
11	Labor and Workers' Compensation
12	Trade, Commerce and Banking

- 13 Insurance
 - 14 Housing and Construction
 - 15 Gambling and Liquor Control
 - 16 Occupational and Professional Licensing
 - 17 Public Utilities and Utility Services
 - 18 Transportation and Highways
 - 19 Natural Resources and Wildlife
 - 20 Environmental Protection
 - 21 Agriculture and Ranching
 - 22 Courts
- [1.24.10.26 NMAC - Rp 1 NMAC 3.3.10.21, 2/29/2000]

HISTORY of 1.24.10 NMAC:

Pre-NMAC History: Material in the part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives:

- SRC Rule 67-13, Style and Format for State Rules, 12/15/67
- SRC Rule 70-2, Style and Format for State Rules, 7/1/70
- SRC Rule 71-1, Style and Format for State Rules, 5/3/71
- SRC Rule 74-1, State Rules Format and Style, 4/8/74
- SRC Rule 79-2, State Rules Format and Style, 2/7/79
- SRC Rule 79-3, State Rules: Format, Style and Filing Requirements, 6/21/79
- SRC Rule 81-3, State Rules: Format, Style and Filing Requirements, 6/1/81 as amended through 6/16/95.

History of the Repealed Material:

- SRC 67-13 Style and Format for State Rules - Superseded, 7/1/70
- SRC 70-2 Style and Format for State Rules - Superseded, 5/3/71
- SRC Rule 71-1 Style and Format for State Rules - Superseded, 4/8/74
- SRC Rule 74-1 Style and Format for State Rules - Superseded, 2/7/79
- SRC Rule 79-2 Style and Format for State Rules - Superseded, 6/21/79
- SRC Rule 79-3 State Rules: Format, Style and Filing Requirements - Superseded, 6/1/81
- SRC Rule 81-3 State Rules: Format, Style and Filing Requirements - Repealed, 1/1/96
- 1 NMAC 3.1 New Mexico Administrative Code - Repealed, 7/1/96
- 1 NMAC 3.3.10 New Mexico Administrative Code - Repealed, 2/29/2

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 24 RULES
PART 15 NEW MEXICO REGISTER

1.24.15.1 ISSUING AGENCY: State Records Administrator.
[1.24.15.1 NMAC - Rp 1 NMAC 3.3.15.1, 2/29/2000; A, 9/15/2014]

1.24.15.2 SCOPE: All state agencies. General provisions, including applicable definitions, are found in 1.24.1 NMAC. There are additional requirements on submitting a rule filing to the records center, see 1.24.10 NMAC.
[1.24.15.2 NMAC - Rp 1 NMAC 3.3.15.2, 2/29/2000]

1.24.15.3 STATUTORY AUTHORITY: Subsection E of Section 14-4-7.1 NMSA 1978 directs the state records administrator to adopt and promulgate rules necessary for the implementation and administration of the New Mexico register.
[1.24.15.3 NMAC - Rp 1 NMAC 3.3.15.3, 2/29/2000; A, 7/1/2017]

1.24.15.4 DURATION: Permanent.
[1.24.15.4 NMAC - Rp 1 NMAC 3.3.15.4, 2/29/2000]

1.24.15.5 EFFECTIVE DATE: February 29, 2000, unless a later date is cited at the end of a section.
[1.24.15.5 NMAC - Rp 1 NMAC 3.3.15.5, 2/29/2000; A, 9/15/2014; A, 11/30/2015]

1.24.15.6 OBJECTIVE: The State Rules Act, Section 14-4-1 et seq. NMSA 1978, directs the state records administrator to publish a state register twice a month for notices of rule-making, proposed rules, adopted rules and other material relative to administrative law. The register provides a method for informing the public of rule-making activity within the executive branch of state government.
[1.24.15.6 NMAC - Rp 3.3.15.6, 2/29/2000]

1.24.15.7 DEFINITIONS: [RESERVED]
[1.24.15.7 NMAC - Rp 1 NMAC 3.3.15.7, 2/29/2000]

1.24.15.8 REQUIREMENTS FOR AGENCIES RELATIVE TO PUBLISHING NOTICES AND RULES IN THE NEW MEXICO REGISTER:

- A.** Agencies shall publish in the New Mexico register:
 - (1) notices of rule-making; and
 - (2) adopted rules filed with the administrative law division of the state records center under the State Rules Act, either in full text, short-form publication or in synopsis; synopses shall have prior approval of the state records administrator and such approval shall also be published;
 - (3) emergency rules.
- B.** Agencies may publish other materials related to administrative law at their discretion.
- C.** History notes, histories of the part, and amendments to history notes need not be published in the New Mexico register.

[1.24.15.8 NMAC - Rp 1 NMAC 3.3.15.8, 2/29/2000; A, 7/15/2003; A, 9/15/2014; A, 11/30/2015; A, 7/1/2017]

1.24.15.9 requirements for NOTICES: All notices submitted for filing must conform to the following requirements:

- A.** The content of any notice of proposed rulemaking must have at least the following:
 - (1) name of agency holding the hearing;
 - (2) a summary of or the actual full text of the proposed rule;
 - (3) a short explanation of the purpose of the proposed rule;
 - (4) a citation to specific legal authority authorizing the proposed rule and the adoption of the proposed rule;

- (5) information on how a copy of full text of proposed rule may be obtained , if full text is not already included within the body of the notice;
 - (6) information on how a person may comment on proposed rule, where comments will be received and when comments are due;
 - (7) where and when the public rule hearing will be held, that includes the address, date and time and how a person may participate in the hearing;
 - (8) a citation to technical information, if any, that serves as a basis for the proposed rule and information on how the full text of the technical information may be obtained, if not already included within the body of the notice;
 - (9) an internet link providing free access to the full text of the proposed rule, if full text is not already included within the body of the notice.
- B.** The form of any notice must conform to the following:
- (1) the notice heading shall be in bold or capital letters and be centered at top of page;
 - (2) the notice heading shall simply and accurately describe the rulemaking hearing;
 - (3) the text of the notice shall be flush with the document's left margin; and,
 - (4) the use of legal, case, or other headings is discouraged.
- C.** The administrative law division, as designation by the state records administrator, shall not accept for publication any notice of proposed rulemaking that does not on its face meet the statutory 30 day minimum time periods for public rule hearing, public participation and public comments.
[1.24.15.9 NMAC - N, 11/30/2015; A, 7/1/2017]

1.24.15.10 requirements for synOpses: Synopses of adopted rules must be certified as giving adequate notice of the contents of the rule. If an agency chooses to submit to the register a synopsis of an adopted rule in place of the full text it shall:

- A.** Have legal counsel (the in-house attorney or its assigned assistant attorney general) review the synopsis for its adequacy of notice.
- B.** Have legal counsel certify that the synopsis gives adequate notice of the content of the rule, considering at least the following:
 - (1) whether the subject matter is fully disclosed;
 - (2) whether the persons affected are fully disclosed;
 - (3) whether the interests of the persons affected are described;
 - (4) whether geographical applicability is clearly stated;
 - (5) where a rule incorporates commercially published material (such as the Code of Federal Regulations, Uniform Plumbing Code, etc.) and such material is a substantial portion of the rule, whether such material is clearly identified in the synopsis;
 - (6) whether the telephone number and address of the issuing agency or a URL are provided for obtaining the full text of the rule; and
 - (7) whether the effective date of the rule is clearly stated.
- C.** Include with the synopsis the following certification by the agency's legal counsel that will be printed in the register along with the synopsis:

I CERTIFY THAT THIS SYNOPSIS GIVES ADEQUATE NOTICE OF THE CONTENTS OF THE RULE DESCRIBED ABOVE

THIS ____ DAY OF _____ 20__

BY: (name of certifying attorney) _____

- D.** The records center shall not ordinarily accept synopses of rules for publication in the register.
 - (1) Exceptions may be granted for a rule on a one-time-only basis if the state records administrator determines "that publication in the register of the full text of an adopted rule would be unduly cumbersome, expensive or otherwise inexpedient."
 - (2) Exceptions may be granted for a rule when an agency can demonstrate that a synopsis might be more informative than publication. This might be the case when a single word is added, grammar is corrected or the proposed change is so minor as to make publication of the full section unreasonable.
 - (3) If an agency wishes to request an exception:

(a) the request must be submitted to the state records administrator in writing, in hard copy, along with hard copies of the proposed synopsis, the certificate of adequate notice, and the full text of the rule at least 30 days prior to the intended filing date of the rule;

(b) the request shall disclose how the agency intends to provide complete copies of the rule to the affected persons and entities.

(4) The state records administrator shall provide a written response to the request.

(5) If the synopsis is approved, a copy of the written approval for the exception by the state records administrator must be included as part of the synopsis when it is published.

(6) For guidance on filing temporary emergency rules in synopsis form see 1.24.20 NMAC. [1.24.15.9 NMAC - Rp 1 NMAC 3.3.15.8, 2/29/2000; 1.24.15.10 NMAC - Rn, 1.24.15.9 NMAC, 11/30/2015]

1.24.15.11 REQUIREMENTS FOR SHORT-FORM PUBLICATION:

A. Where a part is amended, an agency may select to publish just the section being modified.

B. Where changes are minor, an agency may choose to publish only the full text that is actually being changed.

(1) When less than a section is proposed to be published, the agency shall provide an explanatory paragraph describing the context and effect of the amendment.

(2) The full text of all changes being made by the amendment shall be published. At a minimum the published text shall be a full paragraph, but not less than a sentence.

(3) Legal counsel shall review any explanatory paragraph to ensure that the publication gives adequate notice of the amendment. In reviewing adequacy of notice, legal counsel shall consider the same elements as contained in 1.24.15.9 NMAC.

C. Publication of less than the full rule in the New Mexico register shall not affect filing requirements under 1.24.10 NMAC.

[1.24.15.10 NMAC - N, 2/29/2000; 1.24.15.11 NMAC - Rn, 1.24.15.10 NMAC, 11/30/2015]

1.24.15.12 TECHNICAL REQUIREMENTS FOR PUBLISHING IN THE NEW MEXICO REGISTER:

A. All agencies shall submit adopted rules in electronic format according to criteria established in 1.24.10.13 NMAC. Where requirements of 1.24.10 NMAC are met, referenced material need not otherwise be included. Electronic copies of notices and proposed rules may be submitted via e-mail, provided a paper copy is also faxed to the records center.

B. Each rule filing or notice shall be accompanied by a separate electronic document called the billing information sheet that contains the following information:

(1) agency and division (if applicable) names;

(2) three-digit agency DFA account code (for billing);

(3) contact person's name, address, phone number and e-mail address;

(4) part name(s) or document name(s);

(5) part number(s), if applicable;

(6) file names of electronic documents with application extension;

(7) New Mexico register volume number, issue number, and publication date;

(8) name of assigned administrative law division analyst; and

(9) purchase order number.

C. The agency shall submit one electronic copy of notices of rule-making or adopted rules to the administrative law division for submission to the New Mexico register.

(1) Agencies that do not deliver both an original paper copy and one electronic version of an adopted rule shall have the rule rejected.

(2) Material that is filed after the cut-off date for publication shall be published in the next issue, and, if necessary, the effective date shall be modified. For emergency rule filings under unique circumstances and only if not in conflict with any other statute, the state records administrator has authority to allow publication of material filed after submittal deadline.

(3) Submissions for publication in the New Mexico register shall comply with the standards established in Subsections B and C of 1.24.10.13 NMAC.

[1.24.15.11 NMAC - Rp, 1 NMAC 3.3.15.9, 2/29/2000; A, 7/15/2003; A, 9/15/2014; 1.24.15.12 NMAC - Rn & A, 1.24.15.11 NMAC, 11/30/2015]

1.24.15.13 CHARGES FOR PUBLISHING IN THE NEW MEXICO REGISTER: There shall be a \$3.00 per column inch charge to agencies publishing material in the New Mexico register. All material shall be published in the New Mexico register shall use Word document Times New Roman, 10-point font.

[1.24.15.12 NMAC - Rp, 1 NMAC 3.3.15.10, 2/29/2000; A, 7/15/2003; A, 7/1/2009; A, 10/15/2014; 1.24.15.13 NMAC - Rn, 1.24.15.12 NMAC, 11/30/2015; A, 1/1/2017; A, 7/1/2017]

[Charges for publishing in the New Mexico register are also found in 1.13.2.18 NMAC.]

1.24.15.14 FEES FOR COPIES OF THE NEW MEXICO REGISTER:

A. Individual copies of the New Mexico register shall be \$12.00.

B. Annual paper subscription fees for the New Mexico register shall be \$270.00.

[1.24.15.13 NMAC - Rp, 1 NMAC 3.3.15.11 & 1 NMAC 3.3.15.12 & 1 NMAC 3.3.15.13 & 1 NMAC 3.3.14, 2/29/2000; A, 7/15/2003; A, 7/1/2009; 1.24.15.14 NMAC - Rn, 1.24.15.13 NMAC, 11/30/2015]

[Fees for copies of the New Mexico register are also found in 1.13.2.19 NMAC.]

History OF 1.24.15 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives: SRC Rule 90-10, Requirements for the Submission of Notices, Rule Material, and Other Material Relative to Administrative Law to the New Mexico State Register, 8/1/90.

History of Repealed Material:

SRC 90-10 Requirements for the Submission of Notices, Rule Material, and Other Material Relative to Administrative Law to the New Mexico State Register - Superseded, 1/1/95

1 NMAC 3.3.15 New Mexico Register - Repealed, 2/29/2000