

NOTICE OF PROPOSED RULEMAKING

The New Mexico Colonias Infrastructure Board (Board) will hold a public hearing on Friday, February 12, 2021, from 9:00 a.m. until 10:00 a.m., and on Tuesday February 16, 2021, from 2:00 p.m. to 3:00 p.m. The public comment hearing will be conducted virtually via Zoom; the public may attend the hearing using the following methods:

February 12, 2021, 9:00 a.m. – 10:00 a.m.
Zoom meeting link: <https://zoom.us/j/93650034928>
To join the meeting by phone dial: 646-558-8656
Meeting ID: 936 5003 4928
Passcode: 514544

February 16, 2021, 2:00 p.m. – 3:00 p.m.
Zoom meeting link: <https://zoom.us/j/91731903358>
To join the meeting by phone dial: 646-558-8656
Meeting ID: 917 3190 3358
Passcode: 033322

The purpose of the rule hearing is to obtain input and public comment on the amendments proposed to the following rules:

2.91.2.11 NMAC - QUALIFIED PROJECT FINANCING
2.91.2.14 NMAC - FINANCIAL ASSISTANCE AGREEMENT

Statutory Authority: Legal authority for this rulemaking may be found in the Colonias Infrastructure Act, Sections 6-30-5, 6-30-6, and 6-30-8 NMSA 1978. Pursuant to NMSA 1978, Section 6-30-8, the New Mexico Finance Authority is responsible for the administration of the colonias infrastructure project fund.

Summary of Proposed Changes: Amends 2.91.2.11 and parts of 2.91.2.14 NMAC to clarify the Authority's responsibility to administer the colonias infrastructure project fund and financing of projects recommended by the Board.

Proposed Rule Changes:

2.91.2.11 QUALIFIED PROJECT FINANCING: The authority may recommend structured financial assistance packages that include loans, grants and any other type of assistance authorized by the authority [~~and the board~~]. The structure, terms and conditions of the financial assistance will be determined by the authority in accordance with the policies jointly established by the board and the authority. Any variance from the policies in connection with financial assistance for any qualified project shall be approved by the authority [~~and the board~~]. Financial assistance for qualified projects may be pooled, at the sole discretion of the authority, under policies jointly established by the board and authority.
[2.91.2.11 NMAC – N, 2/15/2012; A, 4/06/2021]

2.91.2.14 FINANCIAL ASSISTANCE AGREEMENT:

A. The [~~board, the~~] authority and the qualified entity will enter into an agreement to establish the terms and conditions of financial assistance from the [~~board~~] authority. The agreement will include the terms of repayment and remedies available to [~~the board and~~] the authority in the event of a default. The [~~board, or the~~] authority [~~-, on behalf of the board,~~] will monitor terms of the agreement and enforce or cause to be enforced all terms and conditions thereof, including prompt notice and collection.

B. The interest rate on any financial assistance extended shall be determined by the authority based on the cost of funds and ability of a qualified entity to repay a loan, and in accordance with the policies jointly established by the board and the authority. The interest rate shall not change during the term of the financial assistance unless refinanced or unless the financial assistance is structured as a variable rate obligation.

C. The agreement will contain provisions which require financial assistance recipients to comply with all applicable federal, state and local laws and regulations.

D. In the event of default under a financial assistance agreement by a qualified entity, ~~[the board, or]~~ the authority ~~[, on behalf of the board,]~~ may enforce its rights by suit or mandamus and may utilize all other available remedies under state and applicable federal law.
[2.91.2.14 NMAC – N, 2/15/2012; A, 4/06/2021]

Copies of the proposed rule may be accessed online at: <https://www.nmfinance.com/colonias-infrastructure-board/> or contact Board staff at (505) 992-9648, toll free 1-800-ASK-NMFA (1-877-275-6632).

The Board will accept written public comments on the proposed amendments beginning January 12, 2021. Please submit written comments on the proposed changes to the Authority, attention Angela Quintana, Senior Program Administrator, via electronic mail at: colonias@nmfa.net, or by regular mail at 207 Shelby Street, Santa Fe, NM 87501. Written comments must be received no later than 5 p.m. on February 18, 2021. Comments received prior to the rule hearing will be posted to the Board website at: <https://www.nmfinance.com/colonias-infrastructure-board>. Persons will also be given the opportunity to present their comments at the rule hearing.

Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Angela Quintana as soon as possible. The Board requests advance notice to provide required special accommodations at least one week prior to the meeting or as soon as possible.