

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 24 RULES
PART 1 GENERAL PROVISIONS

1.24.1.1 ISSUING AGENCY: State Records Administrator.
[1.24.1.1 NMAC - N, 2/29/2000, A, 9/15/2014]

1.24.1.2 SCOPE: All state agencies.
[1.24.1.2 NMAC - N, 2/29/2000]

1.24.1.3 STATUTORY AUTHORITY: The State Rules Act, Section 14-4-1 et seq. NMSA 1978.
[1.24.1.3 NMAC - N, 2/29/2000]

1.24.1.4 DURATION: Permanent.
[1.24.1.4 NMAC - N, 2/29/2000]

1.24.1.5 EFFECTIVE DATE: February 29, 2000 unless a later date is cited at the end of a section.
[1.24.1.5 NMAC - N, 2/29/2000]

1.24.1.6 OBJECTIVE: The objective of this rule is to establish the general provisions for the rules filed in this chapter.
[1.24.1.6 NMAC - N, 2/29/2000]

1.24.1.7 DEFINITIONS:

A. Terms beginning with the letter “A”:

(1) **“Agency”** means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches (Subsection A of Section 14-4-2 NMSA 1978).

(2) **“Amendment”** means a change or modification to the existing text of a rule. An amendment can be no less than a section. A repeal of less than a part is an amendment.

(3) **“Annotation”** means referenced material that is not part of the rule, located in brackets at the end of a section.

B. Terms beginning with the letter “B”: [RESERVED]

C. Terms beginning with the letter “C”:

(1) **“Chapter”** means the required NMAC designation for the normal division of a title. Chapter names and numbers are assigned by the records center, based upon the subject matter covered by agencies’ rule filings. The chapter identifies distinct governmental functions, or subject-matter areas, usually, but not always, under the jurisdiction of a single agency.

(2) **“Cited material”** means the source document from which the rule text was derived. The source document need not be consulted in order to determine what the rule is.

(3) **“Compact disk (CD)”** means a digital optical disc data storage format.

(4) **“Compilation”** means the composition of filed rules into the New Mexico administrative code.

D. Terms beginning with the letter “D”:

(1) **“Duration”** means the length of time a rule is intended to be in effect, either permanent or for a set period of time. It is placed in the required NMAC section entitled DURATION.

E. Terms beginning with the letter “E”:

(1) **“Effective date”** means the date the rule goes into effect. It is placed in the required NMAC section entitled EFFECTIVE DATE. A rule’s effective date cannot be earlier than the date of publication in the New Mexico register.

(2) **“Emergency rule”** means a rule filing whose immediate implementation is necessary for the public peace, health, safety or general welfare.

F. Terms beginning with the letter “F”:

(1) **“Filing”** means the process by which one paper copy of a part or amendment, the corresponding electronic copy, the agency billing information sheet, and the NMAC transmittal form are delivered to the records center and, if accepted by the records center, are date stamped and accessioned. See also “rule filing”.

(2) **“Filing date”** means the date a rule filing is date stamped by the records center.

G. Terms beginning with the letter “G”: [RESERVED]

H. Terms beginning with the letter “H”:

(1) **“History note”** means the required annotation of changes or repeals to a part or a section noted at the end of a modified section. At a minimum, this note contains the effective date of the original filing and the dates and identification numbers of any subsequent amendment(s), promulgation(s) and any repeal.

(2) **“History of the part”** means the material located after the last section of the part comprising pre-NMAC history and history of repealed material.

(3) **“History of repealed material”** means the listing of repealed pre-NMAC or NMAC material that pertains to the subject matter of the part. The listing contains the pre-NMAC rule number or NMAC number and the name and the effective date of repeal for each repealed rule or part. It is placed in the history of the part.

I. Terms beginning with the letter “I”:

(1) **“Incorporation by reference”** see, “referenced material incorporated or adopted by rule”.

(2) **“Integrated part”** means a compiled part that incorporates amendments to sections of that part.

(3) **“Issuing agency”** means the agency that originally promulgated the rule, or its successor agency. It is listed in the required NMAC section entitled ISSUING AGENCY.

(4) **“Issuing authority”** means the public official or employee of the issuing agency who is specifically authorized to approve the issuance of rules for that agency.

(5) **“Item”** means the normal division of a sub-paragraph that is always the eighth level of the NMAC hierarchy. Items are identified by a lower-case roman numeral within parentheses.

J. Terms beginning with the letter “J”: [RESERVED]

K. Terms beginning with the letter “K”: [RESERVED]

L. Terms beginning with the letter “L”: [RESERVED]

M. Terms beginning with the letter “M”: [RESERVED]

N. Terms beginning with the letter “N”:

(1) **“Name”** means the textual designation of a title, chapter, part or section.

(2) **“New part”** means a part which did not previously exist in the New Mexico administrative code and where no pre-NMAC rules exist covering the same subject matter, or a complete replacement of an entire part and its amendments.

(3) **“NMAC”** means the New Mexico administrative code, the organizing structure for rules filed by New Mexico state agencies. The NMAC is also the body of filed rules and the published versions thereof. The hierarchy of the NMAC is structured by title, chapter, part and section.

(4) **“NMAC table of contents”** means the master list of approved NMAC titles maintained by the records center. It may also include chapter and part designations.

(5) **“Normal style”** means left justified, Times New Roman 10 point font, single-spaced text, with one inch margins and one-half inch header and footer.

(6) **“Notice of rulemaking”** means the advertisement published in the New Mexico register to provide public notice of an agency’s intention to promulgate a rule(s) along with the date and time of hearings for the purpose of collecting public comment on the proposed rule(s).

(7) **“Number”** means the numerical designations assigned to titles, chapters, parts and sections that combine to form a unique numerical designation for a rule. Numbers need not be sequentially assigned and intermediate ranges may be reserved.

O. Terms beginning with the letter “O”:

(1) **“Objective”** means the purpose of the rule or the reason for its necessity. It is stated in the required NMAC section entitled OBJECTIVE.

(2) **“Original filing”** means the first filing of new rule material.

P. Terms beginning with the letter “P”:

(1) **“Paragraph”** means the normal division of a subsection and the sixth level of the NMAC hierarchy. Paragraphs are identified by a number within parentheses.

(2) **“Part”** means the required NMAC designation for the normal division of a chapter. A part consists of a unified body of rule material applying to a specific function or devoted to a specific subject matter. Structurally, a part is the equivalent of a rule.

(3) **“Pre-NMAC history”** means the regulatory filing history (list) of filed rules, prior to converting to NMAC style and format, that provided the source material for the specific NMAC part. It contains the rule number, the rule name and the filing date for each listed rule.

(4) **“Promulgation”** means the public declaration of the adoption of an official and final rule.

(5) **“Publication in the New Mexico register”** means the process of publishing in the New Mexico register in accordance with 1.24.15 NMAC. The publication date is the date of the issue of the New Mexico register in which a rule appears.

Q. Terms beginning with the letter “Q”: [RESERVED]

R. Terms beginning with the letter “R”:

(1) **“Recompile”** means the action of renumbering, reformatting and restructuring an existing rule without changing the text so that it complies with the current NMAC style and formatting requirements. Rules are recompiled for the convenience of using the NMAC website. The original filing remains the official version of the rule.

(2) **“Records center”** means the commission of public records, state records center and archives, the agency responsible for administering the State Rules Act, Section 14-4-1 et seq. NMSA 1978.

(3) **“Referenced material incorporated or adopted by rule”** means a source document that must be consulted in order to determine what the rule is, where such incorporated or adopted material is not stated in the rule.

(4) **“Reformat”** means the application of adopted style and format requirements to current rules to conform to the NMAC structure promulgated by the records center.

(5) **“Renumbering”** means the assignment of a new number to an existing chapter, part or section.

(6) **“Repealer”** means a rule filing which revokes or annuls an entire part.

(7) **“Re-promulgation”** means the filing of pre-existing rule material with the express intent that it continue in effect, or resume being in effect. This was done specifically pursuant to Subsection D of 14-4-7 NMSA 1978.

(8) **“Reserved”** means portions of the New Mexico administrative code (NMAC) with the word RESERVED in square brackets. Chapters, parts and sections may be reserved to hold space between lower numbered and higher numbered portions of the hierarchy, or may be reserved by agencies with the intent to write rule text in that area.

(9) **“Restructuring”** means the reformatting and reorganizing of the hierarchy of the NMAC by assigning new designations to existing rule material without altering the content of that material.

(10) **“Rule”** means any rule, regulation, order, standard or statement of policy, including amendments thereto or repeals thereof, issued or promulgated by an agency of state government and purporting to affect one or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, and as further defined in subsection C of Subsection 14-4-2 NMSA 1978 and Attorney General Opinion No. 93-1.

(11) **“Rule filing”** means the body of rule material organized for filing in accordance with Section 14-4-3 NMSA 1978 and 1.24.10 NMAC.

S. Terms beginning with the letter “S”:

(1) **“Scope”** means the extent of a rule’s coverage. It identifies to whom the rule applies and whom it affects - for example, to the general public, for-profit corporations, public utilities, all state agencies, etc. It includes exclusions from coverage, and cross-reference to other parts of the NMAC which deal with the same or similar subject matter. It also indicates whether the rule is exhaustive of the subject area and whether other rules may apply. It is stated in the required NMAC section entitled SCOPE.

(2) **“Section”** means the required NMAC designation for the normal subdivision of a part. It has both a name and number, is the smallest fillable unit of a rule filing of the NMAC and is the fourth level of the NMAC hierarchy.

(3) **“Statutory authority”** means the statute or constitutional provision which authorizes the promulgation of rules concerning the topic of the part. In the absence of express legislative authority, statutory authority cites to the general legislative authority of the agency over the topic of the rule. It is stated in the required NMAC section entitled STATUTORY AUTHORITY.

(4) **“Sub-paragraph”** means the normal subdivision of a paragraph that is always the seventh level of the NMAC hierarchy. Sub-paragraphs are identified by a lower case letter within parentheses.

(5) **“Subsection”** means the normal subdivision of a section and is always the fifth level of the NMAC hierarchy. A subsection is identified by a capital letter.

(6) **“Synopsis”** means a condensed version or outline of a rule.

T. Terms beginning with the letter “T”:

(1) **“Title”** means the required NMAC designation for the major divisions of the NMAC.

Each title brings together broadly related governmental functions and is the first level of the NMAC hierarchy. Titles shall be assigned by the records center.

(2) **“Title case”** means the style where the first letter of each significant word is capitalized.

U. Terms beginning with the letter “U”:

(1) **“URL”** means the internet address of a web site.

(2) **“USB flash drive”** means a data storage device that includes flash memory with an integrated universal serial bus (USB) interface. USB flash drives are typically removable and rewritable, and physically much smaller than an optical disc.

(3) **“U.S. law”** means the United States code, the code of federal regulations, the federal register, New Mexico statutes, published portions of the NMAC and any material referenced therein.

V. Terms beginning with the letter “V”: [RESERVED]

W. Terms beginning with the letter “W”: [RESERVED]

X. Terms beginning with the letter “X”: [RESERVED]

Y. Terms beginning with the letter “Y”: [RESERVED]

Z. Terms beginning with the letter “Z”: [RESERVED]

[1.24.1.7 NMAC - Rp 1 NMAC 3.3.10.7 & 1 NMAC 3.3.15.7 & 1 NMAC 3.3.20.7, 2/29/2000; A, 6/30/2004; A, 9/15/2014]

[The most recent amendment includes definitions not previously promulgated.]

HISTORY OF 1.24.1 NMAC: [RESERVED]