

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- C.** History notes, histories of the part, and amendments to history notes need not be published in the New Mexico register.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 SYNOPSIS: 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