

**TITLE 2 PUBLIC FINANCE**  
**CHAPTER 1 GENERAL PROVISIONS**  
**PART 2 ADOPTION OF RULES BY THE STATE BOARD OF FINANCE**

**2.1.2.1 ISSUING AGENCY:** State Board of Finance, 181 Bataan Memorial Building, Santa Fe, NM.  
[2.1.2.1 NMAC - N, 1/15/2001]

**2.1.2.2 SCOPE:** State board of finance.  
[2.1.2.2 NMAC - N, 1/15/2001]

**2.1.2.3 STATUTORY AUTHORITY:** Subsection E of Section 6-1-1 NMSA 1978 provides that the state board of finance, in addition to other powers and duties provided by law, may make rules and regulations for carrying out its duties and responsibilities as designated in statute.  
[2.1.2.3 NMAC - N, 1/15/2001]

**2.1.2.4 DURATION:** Permanent.  
[2.1.2.4 NMAC - N, 1/15/2001]

**2.1.2.5 EFFECTIVE DATE:** January 15, 2001, unless a later date is cited at the end of a section.  
[2.1.2.5 NMAC - N, 1/15/2001]

**2.1.2.6 OBJECTIVE:** This rule provides the rulemaking process used by the state board of finance, unless another process is required by law for a specific rule.  
[2.1.2.6 NMAC - N, 1/15/2001]

**2.1.2.7 DEFINITIONS:**

- A.** “**Board**” means state board of finance.
- B.** “**New Mexico register**” means the official publication for all notices of rule makings and filings of adopted rules, including emergency rules, by agencies and is published by the state records administrator.
- C.** “**NMAC**” means New Mexico administrative code.
- D.** “**Records center**” means the New Mexico commission of public records, state records center and archives.

[2.1.2.7 NMAC - N, 1/15/2001; A, 10/17/2017]

**2.1.2.8 RULEMAKING NOTICE:**

- A.** The board shall distribute a notice of proposed rulemaking at least 30 days before the hearing on the rule change by:
  - (1) posting the notice on the board website;
  - (2) posting the notice on the sunshine portal;
  - (3) making the notice available in the board’s offices;
  - (4) sending the notice by mail or electronic mail to persons who have made a written request to the board for advance notice of hearings and who have provided a mail or an electronic mail address to the board;
  - (5) providing the notice to the New Mexico legislative council for distribution to appropriate interim and standing legislative committees; and
  - (6) publishing the notice in the New Mexico register and in a newspaper of general circulation in the state.
- B.** Content - The notice shall include:
  - (1) a summary of the full text of the proposed rule;
  - (2) a short explanation of the purpose of the proposed rule;
  - (3) a citation to the specific legal authority authorizing the proposed rule and the adoption of the rule;
  - (4) information on how a copy of the full text of the proposed rule may be obtained, including an internet link to the full text;
  - (5) information on how a person may comment on the proposed rule, where comments will be received and when comments are due;
  - (6) information on where and when a public rule hearing will be held and how a person may

participate in the hearing; and

(7) a citation of technical information, if any, that served as a basis for the proposed rule, and information on how the full text of the technical information may be obtained.

[2.1.2.8 NMAC - N, 10/17/2017]

#### **2.1.2.9 COMMENTS ON RULEMAKING:**

**A.** The public comment period shall commence upon publication of the notice required by Section 2.1.2.8 NMAC and end as provided for in the notice.

**B.** A person may submit written or electronic comments on a proposed rule change, and those comments shall be made part of the hearing record. Individuals or entities shall provide written comments on the proposed rule change to the board administrator through the end of the public comment period, unless the board president or the board extends the time for filing comments. The board president or the board may extend the time for filing written or electronic comments by making an announcement at the hearing or by posting notice on the board's website. The board administrator shall post copies of written or electronic comments that persons have filed with the board administrator on the board's website as soon as practicable after they are filed.

[2.1.2.9 NMAC - N, 10/17/2017]

#### **2.1.2.10 PROCESS OF ADOPTION OF RULES:**

**A.** Upon completion of the public comment period, the board shall fully consider all submissions of public comments, and the findings and recommendations of a board committee or staff at a public hearing following the public comment period. After the public hearing, the board may:

- (1) adopt the proposed rule without revision;
- (2) revise and adopt the proposed rule;
- (3) revise the proposed rule and seek additional comments;
- (4) reject the proposed rule; or
- (5) repeal the rule.

**B.** At the time it adopts the rule, the board shall provide to the public a concise explanatory statement containing:

- (1) the date the agency adopted the rule;
- (2) a reference to the specific statutory or other authority authorizing the rule; and
- (3) any findings required by a provision of law for adoption of the rule.

[2.1.2.10 NMAC - N, 1/15/2001; A & Rn, 10/17/2017]

#### **2.1.2.11 FILING AND PUBLICATION; EFFECTIVE DATE:**

**A.** Within 15 days after the adoption of a rule, the board staff shall file the adopted rule with the records center and shall provide to the public the adopted rule.

**B.** Except as provided in 2.1.2.10 NMAC, no rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico register.

**C.** Relevant rules may be posted on the board's website, as determined by board staff.

[2.1.2.11 NMAC - N, 1/15/200; A & Rn, 10/17/2017]

#### **2.1.2.12 EMERGENCY RULES:**

**A.** If the board determines that an emergency exists which requires immediate action to prevent an imminent peril to public health, safety or welfare, the unanticipated loss of funding for an agency program, or a violation of federal law, it may adopt a rule or amendment or repeal thereof, and the emergency rule shall become effective immediately upon its filing in accordance with the State Rules Act. The emergency rule shall be published in the New Mexico register within 30 days of this filing.

**B.** The board shall provide to the public a record of any finding pursuant to Subsection A of this section and a detailed justification for that finding before issuing an emergency rule. The record shall include a statement that the emergency rule is temporary. After such record has been provided to the public, the board may issue the emergency rule immediately without a public rule hearing or with any abbreviated notice and hearing that it finds practicable.

**C.** The emergency rule shall not continue in effect longer than 45 days unless within that time the board commences proceedings to adopt the rule by issuing the notice required in Section 2.1.2.8 NMAC.

**D.** If the board commences proceedings under Section 2.1.2.8 NMAC, the emergency rule shall remain in effect until a permanent rule takes effect or until the procedures are otherwise completed.

**E.** In no event shall any emergency rule remain in effect for more than 120 days.  
[2.1.2.12 NMAC - N, 1/15/2001; A & Rn, 10/17/2017]

**HISTORY OF 2.1.2 NMAC:**

**Pre-NMAC History: none.**