

This is an amendment to 13.21.3 NMAC, Section 13 effective 07/15/2025.

13.21.3.13 RULEMAKING RECORD AND ADOPTION OF RULE:

A. The superintendent shall maintain a record of the rulemaking proceeding as required in Section 14-4-5.4 NMSA 1978, and any written comment, document, or other exhibit entered into the rulemaking record during the rule hearing shall be labeled clearly. Pre-filed written comments are part of the rulemaking record without the need for formal admission. Pre-filed comments include, but are not limited to: the petition; public notices of the rulemaking, including any lists of individuals to whom notice was mailed or sent electronically; the proposed rule in underline and strikethrough format; and any written comment submitted during the comment period prior to the rule hearing. Written comments or other documents introduced during the hearing should be admitted into the rulemaking record after being marked as an exhibit.

B. If the rule hearing is conducted by a designated hearing officer, the complete rulemaking record, including any memoranda summarizing the contents of the hearing, if written, shall be compiled and forwarded to the superintendent with sufficient time to review. The superintendent shall review the rulemaking record before rendering a final decision on the proposed rule.

C. The superintendent may adopt, amend, or reject the proposed rule. Any amendments to the proposed rule must fall within the scope of the current rulemaking proceeding. Amendments to a proposed rule are within the scope of the rulemaking if the amendments:

- (1) are a logical outgrowth of the rule proposed in the notice; or
- (2) are proposed, or are reasonably suggested, by comments made during the comment period ~~period [, and the 10 day response period after the close of the comment period has been provided,]~~; and
 - (a) any person affected by the adoption of the rule, if amended, should have reasonably expected that any change from the published proposed rule would affect that person's interest; or
 - (b) the subject matter of the amended rule or the issues determined by that rule are the same as those in the published proposed rule.

D. The date of adoption of the proposed rule shall be the date the final order is signed by the superintendent, unless otherwise specified in the final order.

E. In accordance with Section 14-4-5. NMSA 1978, the final order shall include but not be limited to, the following:

- (1) citation to specific statutory or other authority authorizing the rule;
- (2) effective date of the rule;
- (3) date of adoption of the rule, if different than the date of the final order;
- (4) reasons for adopting the rule, including any findings otherwise required by law of the superintendent, and a summary of any independent analysis done by the superintendent;
- (5) reasons for any change between the published proposed rule and the final rule;
- (6) any findings required by a provision of law for adoption of the rule; and
- (7) reasons for not accepting substantive arguments made through public comment.

[13.21.3.13 NMAC – N/E, 3/01/2019; Rp, 13.21.3.13 NMAC, 4/30/2019; A, 9/10/2024; A, 07/15/2025]