

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 13 TRADE PORTS DEVELOPMENT ACT
PART 1 GENERAL PROVISIONS

12.13.1.1 ISSUING AGENCY: Economic Development Department.
[12.13.1.1 NMAC - N, 05/05/2026]

12.13.1.2 SCOPE: All public partners and private partners applying for Trade Ports Development Act funds through the economic development department.
[12.13.1.2 NMAC - N, 05/05/2026]

12.13.1.3 STATUTORY AUTHORITY: Subsection E of Section 9-15F-7, NMSA 1978.
[12.13.1.3 NMAC - N, 05/05/2026]

12.13.1.4 DURATION: Permanent.
[12.13.1.4 NMAC - N, 05/05/2026]

12.13.1.5 EFFECTIVE DATE: May 5, 2026, unless a later date is cited at the end of a section.
[2.95.1.5 NMAC - N, 05/05/2026]

12.13.1.6 OBJECTIVE:

A. Section 9-15F-3, NMSA 1978, provides that a private partner or a public partner may propose a specific geographic area for designation as a trade port district.

B. Section 9-15F-4, NMSA 1978, provides standards to approve proposed trade port grants, loans, and public-private partnership agreements, which include but are not limited to the effect the project will have on the further the development of a trade port, the cost-effectiveness and financial feasibility, the net environmental impact, and the projected time frame for completion.

C. Section 9-15F-5, NMSA 1978, creates the trade ports advisory committee, establishes the membership of the committee, and provides that the department shall provide necessary administrative services to the committee.

D. Section 9-15F-6, NMSA 1978, provides that the committee is granted authority to recommend approval or disapproval of specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements for a trade port project, applications for grants or loans from the trade ports development fund, and consult with state agencies on technical issues relevant to the trade ports advisory committee's consideration of an application.

E. Section 9-15F-7, NMSA 1978, provides that the secretary is granted the authority to review and approve or disapprove specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements for a trade port project subject to final approval by the state board of finance, applications for grants or loans from the trade ports development fund, and consult with state agencies on technical issues relevant to the secretary's consideration of an application, and take all other actions necessary to implement the Trade Ports Development Act, including entering into joint powers agreements and retaining legal counsel and experts when appropriate.

F. Section 9-15F-9, NMSA 1978, creates the trade ports development fund which consists of appropriations, gifts, grants, donations, income from investment of the fund, payments of principal and interest on loans made from the fund and any other money distributed or otherwise allocated to the fund. Income from the fund shall be credited to the fund and provides that the department shall administer the fund.

[12.13.1.6 NMAC - N, 05/05/2026]

12.13.1.7 DEFINITIONS:

A. "Act" means the Trade Ports Development Act, Sections 9-15F-1 through 9-15F-13, NMSA 1978, as the same may be amended and supplemented.

B. “**Application**” means a written document made publicly available by the department and filed with the department for the purpose of evaluating a public partner’s or private partner’s application for designation as a trade port district and grants and loans from the trade port development fund.

C. “**Committee**” means the trade ports advisory committee created to recommend approval or disapproval of specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements, proposed rules, and applications for grants and loans from the trade ports development fund.

D. “**Department**” is the economic development department.

E. “**Feasibility Study Grant**” means a grant award to a public partner for the purpose of studying the costs and benefits of entering into a public-private partnership for a proposed trade port project pursuant to the act.

F. “**Match requirement**” means a private partner’s matching funds, including cash or in-kind contributions, that exceed the public partner’s monetary obligation for the public-private partnership agreement.

G. “**Private partner**” means an individual, a foreign or domestic corporation, a general partnership, a limited liability company, a limited partnership, a joint venture, a business trust, a public benefit corporation, a nonprofit entity or other private business entity or a combination thereof.

H. “**Public partner**” means the state and the state’s branches, agencies, departments, boards, instrumentalities or institutions, public universities and related agencies, special purpose district, public improvement districts, tax increment development districts, and all political subdivisions of the state and their agencies, instrumentalities and institutions, including a department, an agency, an institution of higher education, a board or a commission, and includes Indian nations, tribes and pueblos that have entered into a partnership with a private partner that has been approved by the secretary.

I. “**State board of finance**” means the department of finance and administration board of finance division.

J. “**Trade port corridor**” means a strategic route or network that facilitates the efficient movement of goods, commodities and services to other locations.

K. “**Trade ports development fund**” means the fund created in the state treasury by Section 9-15F-9 NMSA 1978.

L. “**Trade port regional infrastructure accelerator**” means a designation by the United States department of transportation as a trade port regional infrastructure accelerator to assist entities in developing improved infrastructure priorities and financing strategies for local projects.

[12.13.1.7 NMAC - N, 05/05/2026]

12.13.1.8 ELIGIBILITY AND PRIORITIZATION POLICIES: The secretary, in consultation with the committee, will develop policies and consider a variety of factors in reviewing proposed public-private partnerships for a trade port project, specific geographic areas to be designated as trade port districts, and applications for grants or loans from the fund for trade port projects. The committee shall give priority to proposed public-private partnerships that meet the requirements of Section 9-15F-8 NMSA 1978. The committee shall give priority to proposed specific geographic areas to be designated as a trade port district that meets the requirements of Section 9-15F-3 NMSA 1978. In considering whether to approve a proposed grant, loan and public-private partnership agreement, the secretary shall consider the criteria set forth in Section 9-15F-4 NMSA 1978. The secretary, in consultation with the committee, shall establish policies for prioritization of loans and grants.

[12.13.1.8 NMAC - N, 05/05/2026]

12.13.1.9 PRE-APPLICATION AND APPLICATION PROCESS:

A. Prior to initiating the preparation of an application, a public partner or public-private partnership is encouraged to schedule a “pre-application conference” to discuss the proposed trade port district or request for a grant or loan from the trade port development fund with department staff, the secretary, as well as consultants and/or professionals that the department may propose. The purpose of this conference is to allow the applicant and department staff to discuss areas of strength and opportunities of the application in order to optimize the application review process.

B. Applications must be submitted at least eight business days prior to the committee’s upcoming meeting to be considered during the upcoming meeting.

C. The application review process commences when an applicant files a completed application with the department. The department shall endeavor to review and evaluate each completed application within 90 days of receipt to allow the committee, department staff, and the secretary to perform a thorough review. The chair may call a special meeting of the committee to expedite an application as needed, or at the secretary’s request. Meetings of a quorum of committee members are public meetings subject to the New Mexico open meetings act.

[12.13.1.9 NMAC - N, 05/05/2026]

12.13.1.10 REVIEW AND APPROVAL PROCESS:

A. The committee shall review specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements for a trade port project, and applications for grants or loans from the trade ports development fund, and make recommendations to the secretary.

B. Upon the recommendation of the committee, the secretary shall:

- (1) determine whether further information is needed to make a final decision; or
- (2) determine whether the recommendation of the committee should be accepted.

C. All determinations by the secretary shall be considered final, with the exception of public-private partnership agreements that require state board of finance approval.

[12.13.1.10 NMAC - N, 05/05/2026]

12.13.1.11 TRADE PORT DISTRICT PROPOSAL, APPLICATION, REVIEW AND DESIGNATION CRITERIA:

A. The committee, in consultation with the secretary and the department, will administer an outreach program to public and private partners and notify applicants regarding proposals for specific geographic areas to be considered for designation as a trade port district.

B. Proposals for specific geographic areas to be considered as a trade port district shall meet the criteria set forth in the policies established by the secretary and consistent with the act.

C. A public partner or private partner requesting the designation of a trade port district for a specific geographical area shall submit an application to the committee and the secretary that includes, without limitation and subject to policies established by the secretary and criteria set forth in the act:

- (1) Public partner information;
- (2) Private partner information;
- (3) Market and geographical analysis, including:
 - (a) Proximity to a designated federal interstate highway or other four-lane vehicular highway;
 - (b) Proximity to an airport that can provide national and international passenger and air freight service;
- (4) List of existing infrastructure suitable for redevelopment or expansion;
- (5) Project overview, including without limitation and subject to policies established by the secretary:
 - (a) Specific geographic location, including information regarding ownership;
 - (b) Beneficial impact on economically disadvantaged communities;
 - (c) Availability of a public partner capable of coordinating development activities;
 - (d) Ability to use any available economic development incentive programs for projects;
 - (e) Technological feasibility;
 - (f) Projected time frame; and
 - (g) Availability of a qualified labor pool that can address workforce development needs;

(6) Financial plan, including cost-effectiveness and financial feasibility;

(7) Whether the proposed district has been designated as a trade port regional infrastructure accelerator by the United States department of transportation or a federal designation as a foreign-trade zone or subzone;

(8) Environmental and compliance, including a description of the environmental impact and mitigation measures; and

(9) Supporting documentation as requested by the secretary in consultation with the committee relevant to the criteria established in the act and subject to the policies established by the secretary.

D. The committee will complete the initial evaluation of the specific geographic area proposals and shall make a recommendation to the secretary for consideration. The secretary may consult with other agencies and experts as deemed appropriate in order for the secretary to make a final decision.

[12.13.1.11 NMAC - N, 05/05/2026]

12.13.1.12 TRADE PORT PROJECT FUNDING, REVIEW AND APPROVAL PROCESS: For all proposed trade port projects, in deciding whether to approve a proposed grant, loan and public-private partnership agreement, the secretary shall consider, at a minimum, the criteria set forth in Section 9-15F-4 NMSA 1978, as may be amended and supplemented from time to time, as well as any criteria set forth in policies established by the secretary.

[12.13.1.12 NMAC - N, 05/05/2026]

12.13.1.13 PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, APPROVAL, RESTRICTIONS:

A. A public partner is authorized to enter into public-private partnership agreements with a private partner to provide economic and administrative efficiencies in connection with the development of trade port projects. Prior to entering into a public-private partnership agreement, a public partner shall provide the committee with all information required by the act and policies established by the secretary.

B. In addition to the provisions required by the act, a public-private partnership agreement shall meet the criteria contained in policies established by the secretary in consultation with the committee, including clawback provisions specific to each public-private partnership agreement as determined by the secretary.

C. A public-private partnership agreement for a trade port project shall not become effective until it receives preliminary approval by the secretary pursuant to the act and final approval by the state board of finance.

[12.13.1.13 NMAC - N, 05/05/2026]

12.13.1.14 TRADE PORTS DEVELOPMENT FUND APPLICATIONS, REVIEW:

A. a public partner requesting a grant from the trade ports development fund, or a public partner or public-private partnership requesting a grant or loan from the trade ports development fund for a trade port project shall submit an application to the committee and the secretary that includes:

- (1) Public partner information;
- (2) Private partner information;
- (3) Project overview;
- (4) Project narrative;
- (5) Financial plan;
- (6) Partnership and governance;
- (7) Impact and workforce development;
- (8) Environmental and compliance, including a description of the environmental impact and mitigation measures;
- (9) Supporting documentation; and
- (10) A certification by the applicant that all information is true and correct.

B. The committee will complete the initial evaluation of the request for a grant or loan and shall make a recommendation to the secretary for consideration. The secretary may consult with other agencies and experts as deemed appropriate in order for the secretary to make a final decision.

[12.13.1.14 NMAC - N, 05/05/2026]

12.13.1.15 ADMINISTRATIVE COSTS: Money in the trade ports development fund may be used for administrative and reimbursable costs incurred by the department, the state board of finance and the department of transportation, subject to the legislative appropriation process.

[12.13.1.15 NMAC - N, 05/05/2026]

12.13.1.16 ADMINISTRATION OF THE TRADE PORTS DEVELOPMENT FUND:

A. Pursuant to Section 9-15F-9 NMSA 1978, the trade ports development fund is created in the state treasury and shall be administered by the department pursuant to policies established by the secretary for the purposes of carrying out the provisions of the act, including the planning, renovation or construction of trade ports and associated facilities and infrastructure.

B. The trade ports development fund consists of appropriations, gifts, grants, donations, income from investment of the fund, payments of principal and interest on loans made from the fund and any other money distributed or otherwise allocated to the fund. Income from the trade ports development fund shall be credited to the fund. Money in the trade ports development fund shall not revert or be transferred to any other fund at the end of the fiscal year.

C. Money in the trade ports development fund may be used to make grants of up to two hundred fifty thousand dollars (\$250,000) to a public partner for the purposes of studying the costs and benefits of entering into a public-private partnership for a proposed trade port project.

D. Money in the trade ports development fund may be used to provide grants and loans for financing a trade port project through a public-private partnership agreement, provided that the private partner provides funds that match or exceed the public partner's monetary obligation for the public-private partnership agreement, and the public partner certifies to the secretary that the public partner has taken all action necessary to approve the public-private partnership agreement and that the agreement contains all terms and conditions required by Subsection D of Section 9-15F-8 NMSA 1978 of the act.

E. Money in the trade ports development fund may be used pursuant to Subsections A and C of 12.13.1.14 NMAC only for grants or loans to a public partner for a trade port project.

F. Money in the trade ports development fund may be used for grants or loans to an Indian nation, tribe or pueblo that has entered into a partnership with a private partner for the development of a trade port project only if:

(1) The agreement between the Indian nation, tribe or pueblo and the private partner is approved by the secretary; and

(2) The grant or loan application is approved by the secretary.

[12.13.1.16 NMAC - N, 05/05/2026]

12.13.1.17 REPORTING: As required by the act, the secretary shall provide a report to the governor and the legislative finance committee regarding:

A. trade port districts and trade port projects approved by the secretary;

B. a description of the businesses and industries participating in each approved trade port district and trade port project;

C. grant and loan applications approved by the secretary;

D. public-private partnership agreements approved by the secretary;

E. the status of the trade ports development fund; and

F. any recommended changes to the act.

[12.13.1.17 NMAC - N, 05/05/2026]

12.13.1.18 AMENDMENT OF RULES: This rule may be amended or repealed at any time by the department in accordance with the provisions of the state rules act.

[12.13.1.18 NMAC - N, 05/05/2026]

HISTORY OF 12.13.1 NMAC: [RESERVED]