

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The New Mexico Economic Development Department (“Department”) will hold a public hearing on Thursday, February 26, 2026, from 11:00 – 12:00 a.m. The hearing will be conducted in person at the following location:

Thursday, February 26, 2026, 11:00-12:00 a.m. Mountain Time

Mabry Hall located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, NM 87501

The purpose of the rule hearing is to obtain input and public comment on proposed new rules relating to 12.13.1 NMAC, Trade Ports Development Act, Laws 2025, Ch. 86 (House Bill 19 Approved April 8, 2025).

Copies of the proposed rule may be accessed online at <https://edd.newmexico.gov/about-us/public-notices/> or contact Department staff at info@edd.nm.gov (505) 827-0300.

The Department will accept written public comments on the proposed rule beginning January 27, 2026. Please submit written comments on the proposed rule to the Department via electronic mail at info@edd.nm.gov or by regular mail at 1100 S. Saint Francis Dr., Santa Fe, New Mexico, 87505. Written comments must be received no later than 5 p.m. on February 26, 2026. Comments received prior to the rule hearing will be posted to the Department website at <https://edd.newmexico.gov/about-us/public-notices/>. Interested persons will also be given the opportunity to present their comments during the rule hearing.

Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Department Staff as soon as possible at info@edd.nm.gov or (505) 827-0300. The Committee requests advance notice to provide required special accommodations at least one week prior to the meeting or as soon as possible.

Statutory Authority: Legal authority for this rulemaking may be found in the Trade Ports Development Act, Section 9-15F-1 et seq., NMSA 1978, specifically 9-15F-6.

Proposed Rule:

This is a new Rule, 12.13.1 NMAC, Sections 1 through 18, effective March 24, 2026.

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

12.13.1.2 SCOPE: All public partners and private partners applying for Strategic Economic Development Trade Ports Development Act funds through the Economic Development Department.
[12.13.1.2 NMAC - N, xx/xx/2026]

12.13.1.3 STATUTORY AUTHORITY: Section 9-15F-6, NMSA 1978.
[12.13.1.3 NMAC - N, xx/xx/2026]

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

12.13.1.5 EFFECTIVE DATE: xx/xx, 2026 unless a later date is cited at the end of a section.
[2.95.1.5 NMAC - N, xx/xx/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, 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, xx/xx/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 grants and loans from the trade port development fund.

C. **"Committee"** means the trade ports advisory committee created to recommend approval or disapproval of 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 for the purpose of studying the costs and benefits of entering into a public-private partnership for a proposed trade port project.

F. **"Match requirement"** means a private partner's matching funds 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.

I. **"Public-private partnership"** means an arrangement between one or more public partners and one or more private partners for the development of a trade port project pursuant to the act.

J. **"Public-private partnership agreement"** means a contract between one or more public partners and one or more private partners in connection with the development of a trade port project.

K. **"Secretary"** means the secretary of economic development.

L. **"State board of finance"** means the department of finance and administration board of finance division.

M. **"Trade port"** means a multimodal system of facilities and services in a given location with the logistical capacity to efficiently manage cargo and enhance national supply chain resiliency by facilitating the movement and redistribution of goods and commodities to other locations.

N. **"Trade port corridor"** means a strategic route or network that facilitates the efficient movement

of goods and services across borders.

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

P. “Trade port district” means a distinct geographic area subject to the approval of the secretary pursuant to the requirements of the act within which proposed trade port projects may be approved for grants or loans.

Q. “Trade port project” means a project subject to the approval of the secretary pursuant to the act that creates or modifies infrastructure for the construction of buildings or other facilities that support the functions of a trade port within an approved trade port district.

R. “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, xx/xx/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, xx/xx/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 project with department staff, the secretary, as well as consultants and/or professionals that the department may propose. The secretary may require a pre-application conference as needed, at his/her sole discretion. 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 (8)] 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 [ninety (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].

[12.13.1.9 NMAC - N, xx/xx/2025]

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.

[12.13.1.10 NMAC - N, xx/xx/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 public partner partnership requesting the designation of a trade port district for a certain geographical area shall submit an application to the committee and the secretary that includes:

- (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:
 - (a) Legal description of the land to be included, 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,
- (6) Financial plan, including cost-effectiveness and financial feasibility.
- (7) Partnership and governance;
- (8) Impact and workforce development;
- (9) Environmental and compliance, including a description of the environmental impact and mitigation measures; and
- (10) Supporting documentation as requested by the secretary in consultation with the committee.

D. The committee will complete the initial evaluation of the 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, xx/xx/2026]

12.13.1.12 TRADE PORT PROJECTS, 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.

[12.13.1.12 NMAC - N, xx/xx/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.

D. The attorney general shall, as requested by the secretary, enforce the clawback or recapture provision in a public-private partnership agreement in the event of a default on the agreement.

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

12.13.1.14 TRADE PORTS DEVELOPMENT FUND APPLICATIONS, REVIEW: a public partner or public private partnership requesting funding from the trade ports development fund for a trade port project shall submit an application to the committee and the secretary that includes:

- A. Public partner information;
- B. Private partner information;
- C. Project overview;
- D. Project narrative;
- E. Financial plan;
- F. Partnership and governance;
- G. Impact and workforce development;
- H. Environmental and compliance, including a description of the environmental impact and mitigation measures;
- I. Supporting documentation; and
- J. A certification by the applicant that all information is true and correct.

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

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

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

12.13.1.17 REPORTING: Beginning December 1, 2026, and by December 1 of each year thereafter, 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, xx/xx/2026]

12.13.1.18 AMENDMENT OF RULES: This rule may be amended or repealed at any time by the department.
[12.13.1.18 NMAC - N, xx/xx/2026]

HISTORY OF 12.13.1 NMAC: [RESERVED]