

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
TRADE PORTS DEVELOPMENT ACT

Record of Rulemaking

May 5, 2026

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 a.m. – 12:00 p.m. The hearing will be conducted in person at the following location:

Thursday, February 26, 2026, 11:00 a.m. -12:00 p.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-notice/> 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-notice/>. 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 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/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.

[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, projects;
 - (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]

INVOICE

**NM Commission of Public
Records**
1205 Camino Carlos Rey
Santa Fe, NM 87507

darlene.martinez@srca.nm.gov
+1 (505) 476-7912
www.nmcprr.state.nm.us



Bill to
Economic Development Department
1100 S. St Francis Dr
Santa Fe, NM 87505

Ship to
Economic Development Department
1100 S. St Francis Dr
Santa Fe, NM 87505

Invoice details

Invoice no.: SRCA 8816
Terms: Due on receipt
Invoice date: 05/06/2026
Due date: 05/06/2026

Volume: XXXVII
Issue: 9
P.O. number: 41900-0000013880

#	Product or service	Description	Qty	Rate	Amount
1.	NM Register - 431902	New Rule, 12.13.1 NMAC - Trade Ports Development Act - General Provisions, effective: 5/5/2026	98	\$3.00	\$294.00

Total **\$294.00**

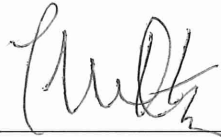
Note to customer

Thank you for your business!

Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # SRCA - 8816 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXVI, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # SRCA - 8816, and that Invoice # SRCA - 8816 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

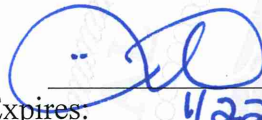
Affiant:

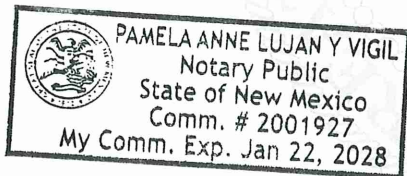

Matthew Ortiz

Subscribed, sworn and acknowledged before me this 10th day of May 2026.

Notary Public:

My Commission Expires:


1/22/2028



**NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
RULEMAKING HEARING
FEBRUARY 26, 2025 11:00AM-12:00PM
TRADE PORTS DEVELOPMENT ACT**

SIGN-IN SHEET

NAME	PHONE	E-MAIL	ORGANIZATION
Marcos Gonzales	505-527-4688	maagonzales@bernco.gov	I-40 Trade Port Corridor Coalition
Carolyn Tobias	505-510-5983	ctobias@bernco.gov	I-40 Trade Port Corridor Coalition

**NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
RULEMAKING HEARING
FEBRUARY 26, 2025 11:00AM-12:00PM
TRADE PORTS DEVELOPMENT ACT**

Official Transcript of Hearing

11:00am – Mr. Dan Opperman (Taft Stettinius & Hollister LLP), attorneys for the New Mexico Economic Development Department, opened the public hearing with the following statement:

“It’s now 11:00am, and we are now opening the Trade Ports Development Act Public Hearing. The purpose of today’s 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. Public comments will be heard until 12:00pm.”

Mr. Marcos Gonzales, on behalf of the I-40 TradePort Corridor Coalition, read the following prepared statement into the record (a written copy was also provided):

“I’m Marcos Gonzales, Executive Development Officer for Bernalillo County/ Carolyn Tobias, Economic Development Manager for Bernalillo County but representing today the I-40 TradePort Corridor Coalition (here in NM includes Sandoval County, Bernalillo County and the Village of Los Lunas; Port of Los Angeles and Long Beach, Mohave County/Kingman, AZ and Winslow AZ, and private partners GLDPartners (Global Logistics Development Partners).

Today’s comments are questions and requests for clarity.

The Trade Port Development Act is robust – much thanks to Representative Lundstrum who invited all the state’s existing Trade Port projects to provide feedback.

The objectives of the Act are:

- Trade Port designation of an area
- Application of a project
- Approval of a P3/ public-private partnership agreement.

We assume, having read the rules that an application will be included with the policies – is it within the policies we can expect clarification?

If so, what is the timing to expect those policies and application?

If applications are accepted for consideration on a rolling basis, what is the anticipated timing from submission to approval to funding – understanding timing is important for implementation of projects (particularly where private partners are managing their risk)

Please include in the Policy and application – clarity on the order of process

Can all the objectives/ components happen in the one application/ hearing?

Or does each step require a new stop at the committee for approval? The timing it would take for the quarterly committee to meet step by step would be very drawn out.

As the private partner is required to provide a match for their part of an application – it will be important to have clarity on timing of the process and also expectations on timing of project delivery etc.

Clarity for regional projects – for example the I-40 TradePort Corridor –

- Do we apply for multiple regions to be included as a designation (as our Albuquerque TradePort has various modal components throughout the region) – and then provide a new application per project, if those projects are located in different parts of the designated region?

What happens if a lead partner or governance changes during the course of the project?

What also is the timing for spending the funds?

The I-40 TradePort Corridor eagerly awaits your policies and application to answer these questions. We are ready to apply and leverage other support to truly activate a site that does have site readiness need for water infrastructure.

Thank you”

12:00pm – Mr. Opperman concluded the meeting. No other persons other than those identified on the sign-in sheet attended the public hearing and the hearing was closed.

Present at the Public Hearing were the following individuals:

- Dan Opperman, Taft Stettinius & Hollister LLP (Taft) (Counsel to the New Mexico Economic Development Department)
- Camila Gutierrez Writtenberry, Taft
- Jackie Thornburg, New Mexico Economic Development Committee
- Joshua Smith, New Mexico Economic Development Committee

**NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
RULEMAKING HEARING
FEBRUARY 26, 2025 11:00AM-12:00PM
TRADE PORTS DEVELOPMENT ACT**

Public Comments Received

Tradeport Area: For purposes of our USDOT application, all of Dona Ana County was considered a Tradeport. This was to leverage the extensive rail and interstate transportation system that flows through the region and the planned industrial areas that service them. We were also very deliberate in connecting our “site readiness” opportunities to the Tradeport opportunity with this in mind. Lately I have been hearing legislators refer to Dona Ana’s tradeport (NMTradeport) as just Santa Teresa, and we want to convey that our Tradeport extends throughout the county.

Tradeport Projects: The style of projects we hope the definitions would allow include:

- a. Site Infrastructure: Given the connection between our proposed site readiness locations and their connections to the Tradeport objective, there are site infrastructure opportunities we hope can benefit from the Tradeport Act. As an example, currently there is a major I-10 by-pass project that connects El Paso’s loop to New Mexico. All commercial trucks will then be using this route which will change the flow of goods around El Paso and coming into Anthony, NM. This creates industrial/logistics opportunities for two areas of the County (Chaparral and Vado which both sites were submitted for site readiness). The Chaparral site would require support for a off ramp which we view as a potential private-public opportunity that Tradeport Act funding might fit as an example. The Vado site requires funding for remediation.
- b. Transportation/Road Infrastructure: Another project that is gaining momentum is the development of the High Mesa Rd which would connect Santa Teresa’s port of entry to I-10, directly supporting transportation efficiencies for the national highway system, and attracting more distribution into New Mexico. We feel this supports the intent of the Tradeport Act, but want to make sure it would be considered a Tradeport Project.
- c. And finally, there are potential industrial tie-ins in Santa Teresa which we already believe fit the definitions of Tradeport.

So the definition of Tradeport Area and Project Types were our main concerns and wished to provide input on.

Thank you for hearing us out and please email me if you have any questions.

Davin Lopez
President & CEO
Mesilla Valley Economic Development Alliance

2-26-26

Trade Port Development Act Rule Making – Public Comment for Advisory Committee

Carolyn Tobias

Economic Development Manager

Bernalillo County

I'm Marcos Gonzales, Executive Development Officer for Bernalillo County/ Carolyn Tobias, Economic Development Manager for Bernalillo County but representing today the I-40 TradePort Corridor Coalition (here in NM includes Sandoval County, Bernalillo County and the Village of Los Lunas; Port of Los Angeles and Long Beach, Mohave County/Kingman, AZ and Winslow AZ, and private partners GLDPartners (Global Logistics Development Partners).

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As the private partner is required to provide a match for their part of an application – it will be important to have clarity on timing of the process and also expectations on timing of project delivery etc.

3. Clarity for regional projects – for example the I-40 TradePort Corridor –

a. Do we apply for multiple regions to be included as a designation (as our Albuquerque TradePort has various modal components throughout the region) – and then provide a new application per project, if those projects are located in different parts of the designated region?

1. What happens if a lead partner or governance changes during the course of the project?

2. What also is the timing for spending the funds?

The I-40 TradePort Corridor eagerly awaits your policies and application to answer these questions. We are ready to apply and leverage other support to truly activate a site that does have site readiness need for water infrastructure.

Gallup-Mckinley County TradePort Authority comments on proposed new rules relating to the Trade Ports Development Act, Laws 2025, Ch. 86 (House Bill Approved April 8, 2025)

GENERAL COMMENTS AND MATTERS NOT ADDRESSED IN THE RULE THAT NEED TO BE ADDRESSED:

1. Finance is not promulgating rules through this rulemaking notwithstanding the fact it has authority to do so under 9-15F-12 of the Act. Coordination between EDD and Finance is required to avoid conflict and jurisdictional issues.
2. References to policies that may be established by the secretary at some future point are better detailed in the rule, or it should be clear where such policies may be located. The Rule must capture the policy. In addition, the Rule should set forth the process the Secretary will use to establish policies in certain areas, including for the prioritization of loan and grant applications, and whether there will be an opportunity to comment on the prioritization policies, including whether prioritization will weigh the needs of the trade port districts that serve disadvantaged communities.
3. The Act, e.g. Section 7(C), displays fundamental ambiguity regarding whether a trade port project can occur without a p3 agreement.
4. Does the Act permit a trade port project to be undertaken only by a public entity (i.e., with no p3 agreement as a component)? See, compare, and contrast Sections 2(H), 4(E), 7(C), 8(C)(1), 8(C)(4), 8(D)(11), and 9(E).
5. Additional content should be provided for the definition of a trade port. For example, whether two modes sufficient for the “multimodal system”? Likewise, by what criteria is “logistical capacity” to be judged?
6. What is the difference between an “arrangement” in Section 2(C) and an “agreement” in Section 2(D)? Presumably, the legislature intended there to be a difference because it used different words. The definitions of public-private partnership and public-private partnerships agreement again raise the question of whether there can be a trade port project without a p3 agreement.
7. It would be helpful to make clear that political subdivisions of the state include counties and cities.
8. Clarification is needed as to whether the cost-benefit analysis must show that the p3 agreement will be less expensive, more efficient, or otherwise superior to a traditional public-partner-managed project.
9. The rule should address Section 8(D)(5) “other acceptable forms of security” and clarify what, if any, public-private partnership agreements don’t require approval from the secretary.
10. Clarification is needed as to when Section 8(D)(11) anti-competition component is triggered.
11. Section 9(D)(1) of the Act provides that “the private partner shall provide funds that match or exceed the public partner’s monetary obligation for the public-private partnership agreement, **as provided by rule.**” Nowhere in the proposed rule is the match identified, including what counts toward the match.

12. The proposed rule does not address whether money in the fund may be used for a public-only project. See Section 9(D) of the Act.

12.13.1.1 ISSUING AGENCY and 12.13.1.2 SCOPE

Because the issuing agency (economic development department) is not the state board of finance, none of the rules can be deemed to be issued in accordance with Section 12 of the Act. Additional areas of conflict may exist between the secretary’s preliminary approval (Section 7(E)) and state board of finance final approval (Section 12(A)). Other needs for coordination between the EDD and Finance as evidenced by the subtle distinction of fund administration by EDD (Section 9(B)) and Finance disbursement approval based on benchmark satisfaction (Section 12(B)).

The phrase “strategic economic development” is not used in the Act. Its use could be misleading, and could skew prioritization as between districts or projects deemed “strategic.” In sum, the term should be removed or fully and neutrally defined.

The scope should cross-reference specific provisions of EDD’s rulemaking authority in the Act, including application criteria for *preliminary* approval of p3 agreements, grants and loans under Section 7(E), and private partner matching requirements under Section 9(D)(1).

EDD’s statutory authority for rulemaking is not found in 9-15F-6, but rather Sections 7(E) and 9(D)(1).

12.13.1.5 EFFECTIVE DATE

The effective date must comply with the State Rules Act.

12.13.1.6 OBJECTIVE

Unclear what the objective of the Rules are from the summary of the statutory text and certain operative provisions of the Act. The objectives should be more clearly stated and defined. Certain paraphrases are incomplete and potentially misleading, for example Act defines a district as a “distinct geographic area” compared to a “specific geographic area” and the Rules don’t make clear if distinct and specific are synonymous or different. The significant conflict of interest rule at Section 5(F) should be highlighted. Additionally, the authority granted to the secretary is preliminary approval (state board of finance has final approval), and the secretary’s modification authority is omitted.

12.13.1.7 DEFINITIONS

Terms defined in the Act itself should not be reiterated – G, H, I, J, K, M, P, and Q are all definitions found in the Act and can be cross-referenced

B. Strike and replace “**Application**” to mean a written request to EDD or Finance to take action in accordance with the authority under the Act, including but not limited to grants and loans from the Fund for trade port projects.

C. Strike and replace “**Committee**” to mean the trade ports advisory committee.

E. Strike and replace “**Feasibility Study Grant**” to mean a grant award made pursuant to Section 9(C) of the Act.

F. Strike and replace “**Match requirement**” to mean a private partner’s monetary obligation that matches or exceeds a public partner’s monetary obligation for a p3 agreement.

N. Strike and replace “**Trade port corridor system**” to mean a route or network that facilitates the efficient movement of goods or services across borders, with additional clarification as to what is meant by “borders.”

R. Cite to the definition provided by the U.S. Department of Transportation or don’t define and rely on Section 3(B)(1) as USDOT makes the designation

12.13.1.8 ELIGIBILITY AND PRIORITIZATION POLICIES

The first sentence should be deleted, if not the entire section.

The committee does not have any decision-making authority, its role is advisory. Furthermore, Sections 8 and 3 of the Act are mandatory criteria and prioritization is impossible.

There is also nothing in the Act regarding prioritization of grants and loans, see Section 9. Prioritization may infringe upon Finance’s final approval authority.

12.13.1.9 PRE-APPLICATION AND APPLICATION PROCESS

A. The pre-application conference purpose should be confined to the application criteria, completing the application, and otherwise ensuring the application is ready for submission. All other purposes raise significant questions of lobbying, bias, discrimination, etc. that undermine satisfying the criteria embedded in the Act and may lead to unfair advantage. The act contemplates that all applicants should have the same opportunities. Concerns regarding the inclusion of confidential business information in the application process should be addressed, including the mechanisms that will be used to ensure state agency staff and outside consultants do not disclose confidential information. Further, if non-state agency personnel are to be involved their role should be clearly defined. Finally, pre-application conferences should be available for trade port designation applications, applications for grants or loans, or p3 agreements, i.e., the pre-application process should be applied across the board.

C. The committee’s function under Section 6 is to review and recommend secretarial action on applications. That is, the committee is the body to review and evaluate each completed application. The rule should make clear whether the committee is subject to the Open Meetings Act.

12.13.1.10 REVIEW AND APPROVAL PROCESS

This should be folded into the prior section – pre-application, application, review, recommendation and approval process – to encompass the respective duties and authorities of the applicant, the committee, the secretary, and Finance. Other than the final approval authority, there seems to be no justification to differentiate the process for public-private partnerships, district designations, grants and loans, p3 agreements (linked to projects in the Act, see Section 7(C)).

The rule should make clear the secretary’s action is governed by the Act, in certain cases subject to final approval by Finance.

Under the Act, a trade port project does not need to be approved, the p3 agreement does. This

distinction is important. A trade port project by itself and uncoupled from a p3 agreement does not require approval – it is only when a project is to occur through or in conjunction with a p3 arrangement that secretarial approval is required under Section 7(C).

Finally, trade port district designation and trade port project funding both require submission of an application to for review by both the committee and the secretary. These appear to be time-consuming processes that may hinder the timely expenditure of funding allocated to trade ports and related projects, and jeopardize any allocation of additional future funding. Consolidation of the processes should be considered.

12.13.1.11 TRADE PORT DISTRICT PROPOSAL, etc.

General Comment: How will the criterion listed in section 12.13.1.11 Trade Port District Designation be weighted and applied? Specifically, how will "Beneficial Impact on economically disadvantaged communities" be measured? This criterion was specifically listed in the act.

B. Insert following “the” “criteria set forth in the Act and policies established consistent with the Act.”

C. “Public partner partnership” does not exist; furthermore, only a public partner or private partner may propose a district designation as set forth in Section 3(A) of the Act. “Certain” may be inconsistent with “specific” as used in the Act. Section 3(B) of the Act specifies the factors and criteria to meet and many of the factors in this section C go beyond the criteria or risk conflict and confusion, for example:

(1) and (2) are vague and examples of helpful information should be provided;

(3) missing USDOT designation, foreign-trade zone or subzone, and other criteria from Section 3(B) of the Act;

(5)(e) and (f), (6), and (9) should be omitted to avoid mixing apples (project) and oranges (designation criteria);

(7) the meaning of “partnership” is unclear; and

(8) the meaning of “impact” and its relation to Section 3(B)(9) criteria is unclear.

Also, it should be noted the 5(a) legal description of the land for purposes of a district designation may involve substantial cost.

In (10), “relevant to criteria as established by the act” should be inserted following “documentation” and preceding “as.”

D. The Act states the committee will recommend approval, modification, or disapproval of the designation. The secretary will then either approve, modify, or disapprove. The secretary may consult with the department of transportation, request updates to any technical information, and take all other actions necessary as set forth in Sections 7(G) through (I) of the Act. The inclusion of experts without first retaining them as required by Section 7(I) raises transparency concerns. A final decision is subject to the secretary’s modification and termination authority under Section 7(D) of the Act.

12.13.1.12 TRADE PORT PROJECTS, REVIEW AND APPROVAL PROCESS

This section seems irrelevant if no more than the minimum criteria set forth in Section 4 of the Act will be relied upon for consideration. If additional criteria are to be considered, then they should be elaborated in the rule.

12.13.1.13 PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, etc.

This section should address the procedures and criteria by which the secretary gives preliminary approval.

A. Use plural nouns and conform grammar accordingly. The Section 8(B) publication requirement and Section 8(C) pre-agreement requirements are missing.

B. Any additional claw-back policies should be expressly established within the Rule. Furthermore, if form claw-back or recapture provisions are to be required, the same should be addressed and approved by the attorney general as they are charged with enforcing.

C and D reiterate the statute and it's unclear why the same was not done for other provisions of Section 8 of the Act.

12.13.1.14 TRADE PORTS DEVELOPMENT FUND APPLICATIONS, REVIEW

Money in the fund is restricted for use by public partners, the Act does not permit use of the fund by a public private partnership. Does this mean that the public private partnership may request the funds only for the use by the public partner? The rule provides no clear answer how this will work given the stated restriction. Furthermore, if the fund may be used for a trade port project that does not include a p3 agreement, the rule should make this clear.

The application contents are dependent on the entity (public partner or public private partnership) applying for the funds, and contents applicable to each should be clearly defined.

The rule is titled "review" but the rule does not contain provisions for the review process, including for example timeframe for committee review and committee review and recommendation. Similar to comment for 12.13.1.12 including whether there will be additional criteria.

12.13.1.15 ADMINISTRATIVE COSTS

Language is inconsistent with the Act. Omit "fees" and replace "approval" with "appropriation."

12.13.1.16 ADMINISTRATION OF THE TRADE PORTS DEVELOPMENT FUND

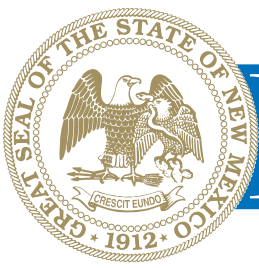
The rule reiterates the Act and fails to address administration of the fund.

12.13.1.17 REPORTING

"Beginning December 1, 2026" violates the Act on its face. Replace "beginning" with "on."

12.13.1.18 AMENDMENT OF RULES

Strike and replace with "This rule or any provision of this rule may be amended, supplemented or repealed by the department, subject to the State Rules Act."



Michelle Lujan Grisham • Governor
Rob Black • Cabinet Secretary
Isaac Romero • Deputy Cabinet Secretary

April 10, 2026

Re: Economic Development Department Secretary's Approval of the Trade Ports Development Rules

Pursuant to the Trade Ports Development Act, chp. 86, 2025 N.M. Laws (H.B. 19), the Trade Ports Advisory Committee has completed its review of the proposed Trade Ports Development Rules under NMSA 1978, § 9-15F-6.

Based on the Committee's recommendation, findings, and the administrative records, I hereby:

1. **APPROVE** the Trade Ports Development Rules as final; and
2. **AUTHORIZE** Economic Development Department staff, in coordination with program consultants and applicable state entities, to take necessary steps to complete the rulemaking process, including submission for filing and publication in accordance with the State Rules Act, NMSA 1978, § 14-4.

This approval constitutes final agency action and authorizes submission that aligns with the required 15-day submission period. The anticipated effective date of the Trade Ports Development Rules is May 5, 2026, upon publication.

Sincerely,

Rob Black
Cabinet Secretary
New Mexico Economic Development Department

Instructions for completing the NMAC TRANSMITTAL FORM



Your agency must complete the following:

Volume, Issue and Publication Date. [Example: Volume: XXXII , Issue: 10, Publication date: May 25, 2021.](#)

Provide the total number of pages of the paper version of the new rule, amendment, repeal, or emergency document. [Note: Do not include the pages of the transmittal form, billing sheet, PO, etc.](#)

Sequence number is for **ALD use only**.

Issuing agency's name and mailing address.

Agency's 3-digit DFA code. [Example: 123](#)

Contact person's Name, Phone number, E-mail address.

Check type of rule action: **New** (brand new rule or replacement rule), **Amendment**, **Repeal** (repeal and do not replace or repeal and replace), **Emergency**, or **Renumber**. [For a repeal and replacement rule, the agency must provide TWO signed transmittal forms; one for the repeal statement and another for the new \(replacement\) rule.](#)

Most Recent Filing Date of the Part for **ALD use only**.

Identify NMAC Title, Chapter and Part numbers and Title, Chapter and Part names.

[Example:](#)

Title 19 Natural Resources and Wildlife

Chapter 30 Wildlife Administration Aquatic

Part 14 Invasive Species

Description of Amendment: (if amending) [Example: "Amending three sections"](#).

Amendment's NMAC citation: (if amending) [Example: "Sections 9, 10 and 18 of 7.1.13 NMAC"](#).

Are any materials incorporated by reference? [Check: Yes or No. If Yes, please list attachments or provide Internet site.](#)

If incorporated, has copyright permission been granted? [Check Yes or No or check if document is in the public domain.](#)

Concise Explanatory Statement for rulemaking adoption See 1.24.25.14 NMAC:

Provide your agency's specific statutory or other authority authorizing rulemaking: Check with your agency's general counsel office to determine the correct citation(s) authorizing your agency to make rules.

Provide your Notice date(s) ([when notice of rulemaking was published in Register](#)): Hearing date(s) (if agency has board or commission): Rule adoption date: ([see note below](#)) and Rule effective date ([date rulemaking becomes effective](#))

Note:

- There must be at least **30** days between the notice publication date and hearing date.
- Your agency **must file** your rule within **15** days from rule adoption date. The date of adoption of the proposed rule shall be the date the concise explanatory statement is signed by the agency, unless otherwise specified in the concise explanatory statement. Unless your rule is an emergency filing, the rule effective date cannot be any earlier than the publication date in the New Mexico Register.

Findings required for rulemaking adoption. If attaching a separate document as findings or as concise explanatory statement, please indicate as such in findings section.

[Check with your agency's general counsel office regarding substance of any required findings to be filed.](#)

Issuing Authority: Name, Title Date signed and original Signature of issuing authority or their delegate in **black** ink or with valid digital signature: [Note: If authority has been delegated, this box must be checked. A letter of delegation must be on file with the State Records Center and Archives, Administrative Law Division.](#)

NMAC

Transmittal Form



Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use) Recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Check if authority has been delegated

Title:

Signature: (BLACK ink only OR Digital Signature)

Date signed:

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Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use) Recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment):
Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

9-15F-1 through 9-15F-13 NMSA 1978: Legal authority for this rulemaking may be found in the Trade Ports Development Act, Section 9-15F-7(E). Pursuant to Section 9-15F-5 NMSA 1978, the New Mexico Economic Development Department is responsible for providing necessary administrative services.

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

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Findings required for rulemaking adoption:

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Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Reasons for adopting rule: New rule to implement the Trade Ports Development Act, Section 9-15F-1 through 9-15F-13, NMSA 1978, pursuant to House Bill 19, Laws 2025, Chapter 86, Section 7.

Reasons for any change between the published proposed rule and the final rule: Revisions to the proposed rule were made after consideration by the Trade Ports Advisory Committee of public comments received at the public hearing and submitted in accordance with the Notice of Rulemaking guidance on providing written comments.

Reasons for not accepting substantive arguments made through public comment: All comments were given full consideration, with some comments accepted and others not accepted as deemed not necessary or misplaced. Certain comments will be addressed in policies developed by the department in consultation with the committee.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Check if authority has been delegated

New Mexico Economic Development Department

Title:

Rob Black, Cabinet Secretary, New Mexico Economic Development Department

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Rob Black

Digitally signed by Rob Black
Date: 2026.04.22 08:07:25 -06'00'

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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.

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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:

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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

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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]