

HOUSE BILL 267

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO RULES; AMENDING THE STATE RULES ACT; REQUIRING AN AGENCY TO RESPOND IN WRITING TO PUBLIC COMMENTS ON A PROPOSED RULE BEFORE THE RULE IS PROMULGATED; REQUIRING PUBLICATION IN THE NEW MEXICO REGISTER OF AGENCY RESPONSES TO PUBLIC COMMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-4-5 NMSA 1978 (being Laws 1967, Chapter 275, Section 6, as amended) is amended to read:

"14-4-5. TIME LIMIT ON ADOPTION OF A PROPOSED RULE-- FILING AND COMPLIANCE REQUIRED FOR VALIDITY.--

A. Except in the case of an emergency rule, no rule shall be valid or enforceable until it is published in the New Mexico register as provided by the State Rules Act.

B. An agency shall not adopt a rule until the public comment period has ended and the agency has responded in

1 writing to each public comment on the proposed rule. If the  
2 agency fails to take action on a proposed rule within two years  
3 after the notice of proposed rulemaking is published in the New  
4 Mexico register, the rulemaking is automatically terminated  
5 unless the agency takes action to extend the period. The  
6 agency may extend the period of time for adopting the proposed  
7 rule for an additional period of two years by filing a  
8 statement of good cause for the extension in the rulemaking  
9 record, but it shall provide for additional public  
10 participation, comments and rule hearings prior to adopting the  
11 rule.

12 C. An agency may terminate a rulemaking at any time  
13 by publishing a notice of termination in the New Mexico  
14 register. If a rulemaking is terminated pursuant to this  
15 section, the agency shall provide notice to the public.

16 D. Within fifteen days after adoption of a rule, an  
17 agency shall file the adopted rule with the state records  
18 administrator or the administrator's designee and shall provide  
19 to the public the adopted rule. The state records  
20 administrator or the administrator's designee shall publish  
21 rules as soon as practicable after filing, but in no case later  
22 than ninety days after the date of adoption of the proposed  
23 rule. Unless a later date is otherwise provided by law or in  
24 the rule, the effective date of a rule shall be the date of  
25 publication in the New Mexico register.

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1           E. A proposed rule shall not take effect unless it  
2 is adopted and filed within the time limits set by this  
3 section."

4           SECTION 2. Section 14-4-5.3 NMSA 1978 (being Laws 2017,  
5 Chapter 137, Section 5) is amended to read:

6           "14-4-5.3. PUBLIC PARTICIPATION, COMMENTS AND RULE  
7 HEARINGS.--

8           A. The notice of proposed rulemaking shall specify  
9 a public comment period of at least thirty days after  
10 publication in the New Mexico register during which a person  
11 may submit information and comment on the proposed rule. The  
12 information or comment may be submitted in an electronic or  
13 written format or at a public rule hearing pursuant to  
14 Subsection B of this section. The agency shall consider all  
15 information and comment on a proposed rule that is submitted  
16 within the comment period and respond in writing to each public  
17 comment, pursuant to Subsection D of this section.

18           B. At the public rule hearing, members of the  
19 public shall be given a reasonable opportunity to submit data,  
20 views or arguments orally or in writing. Each agency shall  
21 determine, in accordance with governing statutory and case law,  
22 the manner in which parties to the proceeding and members of  
23 the public will be able to participate in public hearings. All  
24 public hearings shall be conducted in a fair and equitable  
25 manner. Except as otherwise provided by law, an agency

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1 representative or hearing officer shall preside over a public  
2 rule hearing.

3 C. The public rule hearing shall be open to the  
4 public and be recorded.

5 D. An agency response to a public comment on a  
6 proposed rule shall:

7 (1) be unique to that public comment;

8 (2) be fact-specific to the concerns of that  
9 comment;

10 (3) address the impact of the comment on the  
11 rule to be promulgated;

12 (4) be in writing; and

13 (5) be published with the rule in the New  
14 Mexico register."

15 SECTION 3. Section 14-4-7.1 NMSA 1978 (being Laws 1989,  
16 Chapter 38, Section 1, as amended) is amended to read:

17 "14-4-7.1. NEW MEXICO REGISTER.--

18 A. The state records administrator shall provide  
19 for publication of a New Mexico register at least twice a  
20 month. The New Mexico register shall be published in such a  
21 way as to minimize the cost to the state. To accomplish this,  
22 the state records administrator is authorized to provide for  
23 charges for subscriptions and for publication of notice and  
24 other items, including advertising, in the register.

25 B. The New Mexico register shall be the official

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1 publication for all notices of rule makings and filings of  
2 adopted rules, including emergency rules, by agencies. [~~(1)~~]  
3 The register shall include the full text of any adopted rules,  
4 including emergency rules, and responses to public comments as  
5 provided in Subsection D of Section 14-4-5.3 NMSA 1978.

6 Proposed rules may be published in full or in part at the  
7 discretion of the issuing agency. [~~(2)~~] Upon request of an  
8 issuing agency, the state records administrator may determine  
9 that publication in the register of the full text of an adopted  
10 rule would be unduly cumbersome, expensive or otherwise  
11 inexpedient and may publish instead a synopsis of the adopted  
12 rule and a statement that a copy of the rule is available from  
13 the issuing agency.

14 C. The New Mexico register shall be available by  
15 subscription and single copy purchase to any person, including  
16 agencies of the executive, judicial and legislative branches of  
17 state government and its political subdivisions, at a  
18 reasonable charge approved by the state records administrator.  
19 The administrator may authorize distribution of a certain  
20 number of copies of the register without charge to agencies or  
21 political subdivisions as deemed economically feasible and  
22 appropriate.

23 D. The New Mexico register may include a summary or  
24 the text of any governor's executive order; a summary, listing  
25 or the text of any attorney general's opinion; a calendar

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1 listing the date, time and place of all or selected agency  
2 rule-making hearings; a list of gubernatorial appointments of  
3 state officials and board and commission members; or other  
4 material related to administrative law and practice.

5 E. The state records administrator shall adopt and  
6 promulgate rules necessary for the implementation and  
7 administration of this section."

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