Enclosed is the following proposal:

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14- 4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal and replace the following rules as authorized by Section 9-11-6.2 NMSA 1978:

**Purpose:** The proposed rules are being repealed and replaced to provide guidance on classification and valuation of property for property tax.

**Summary of Proposed Changes:** The New Mexico Taxation and Revenue Department proposes to amend/repeal/replace/adopt the following rules:

**Property Tax Code**

*(Definitions)*

3.6.1.7 NMAC  
*(Taxable Situs – Allocation of Value of Property)*

3.6.5.21 NMAC  
*(Valuation of Residential Property – Counties Whose Ratio is 85%)*

3.6.5.24 NMAC  
*(Special Method of Valuation – Pipelines, Tanks, Sales Meters and Plants Used in the Processing, Gathering, Transmission, Storage, Measurement or Distribution of Oil, Natural Gas, Carbon Dioxide or Liquid Hydrocarbons)*

3.6.5.34 NMAC  
*(Disabled Veteran Exemption)*

3.6.6.13 NMAC  

Section 7-35-2 NMSA 1978

Section 7-36-14 NMSA 1978

Section 7-36-16 NMSA 1978

Section 7-36-27 NMSA 1978

Section 7-37-5.1 NMSA 1978

**Hearing Date:** Notice of public rule hearing: A public hearing will be held on the proposed rule changes on September 9, 2022 at 10:00AM through the internet, email, and telephonic means.

**Technical Information:** No technical or scientific information was consulted in drafting these proposed rule changes.

**Public Hearing Location:** The Public Hearing will be accessible via Zoom https://us02web.zoom.us/j/81404506245?pwd=dWNpVmjKZ0FPRVc3d2ZWN0RkhkZldz09 or by telephone by dialing 1 346 248 7799 Meeting ID: 814 0450 6245 Passcode: 727016. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us.

**How to participate:** Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Alicia Romero at Alicia.Romero@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but
cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

**Complete Copies** of the proposed rule changes can be found at www.tax.newmexico.gov/proposed-regulations-hearing-notices.aspx or are available upon request by contacting the Tax Policy Office at policy.office@state.nm.us.

The copies of the proposed amended, repealed, and replaced rules were placed on file in the Office of the Secretary on July 28, 2022. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final rules, if filed, will be filed as required by law on or about October 11, 2022.

**When are comments due:** Written comments on the proposals can submitted by email to policy.office@state.nm.us or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or on or before September 8, 2022. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than three business days following receipt to allow for public review.

Stephanie Schardin Clarke
Cabinet Secretary
DEFINITIONS

A. “BUFFALO” DEFINED: The terms “buffalo” and “livestock” include the American bison (Bison bison) and any offspring from a crossbreeding of the American bison and domestic cattle.

B. “DIRECTOR” AND “DIVISION”: As used in Parts 1 through 7 of Chapter 3.6 NMAC:
   (1) “Director” means the director of the property tax division of the taxation and revenue department;
   (2) “Division” or “property tax division” means the property tax division of the taxation and revenue department, the director of the division or any employee of the division exercising authority lawfully delegated to that employee through the director.

C. EQUITABLE OWNER IS AN “OWNER”: An “owner” as that term is defined in Section 7-35-2 NMSA 1978 includes, but is not limited to, a person who has equitable ownership of property by reason of being the purchaser or buyer of the property under a conditional sale contract.

D. INTANGIBLE PROPERTY EXCLUDED FROM “PROPERTY”: The term “property” as defined in Section 7-35-2 NMSA 1978 does not include intangible property including, but not limited to, shares of stock, bonds, bills, notes, checks, drafts, bills of exchange, certificates of deposit, letters of credit and negotiable instruments.

E. “LEGAL ENTITY” DEFINED: A “legal entity”, as that phrase is used in Section 7-35-2 NMSA 1978 defining “person”, includes, but is not limited to, the following: an estate, a trust, a receiver, a cooperative association, a club, a corporation, a company, a firm, a partnership, a joint venture, a limited partnership, a limited liability company, an association and to the extent permitted by law, a state or its political subdivisions, other than New Mexico and its political subdivisions.

F. “LIVESTOCK” - “OTHER DOMESTIC ANIMALS USEFUL TO MAN”: Classes of livestock and the value of each class are required to be established by order each tax year pursuant to Section 7-36-21 NMSA 1978. Particular classes or types of “domestic animals useful to man” which are named in the order establishing classes of livestock are “livestock” as that term is defined in Section 7-35-2 NMSA 1978. Poultry and fish are not “livestock” as that term is defined in Section 7-35-2 NMSA 1978.

G. “THESE REGULATIONS”: The phrase “these regulations” means Parts 1 through 7 of Chapter 3.6 NMAC.

3.6.1.7 DEFINITIONS

A. “BUFFALO” DEFINED: The terms “buffalo” and “livestock” include the American bison (Bison bison) and any offspring from a crossbreeding of the American bison and domestic cattle.

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   (1) “Director” means the director of the property tax division of the taxation and revenue department;
   (2) “Division” or “property tax division” means the property tax division of the taxation and revenue department, the director of the division or any employee of the division exercising authority lawfully delegated to that employee through the director.

C. EQUITABLE OWNER IS AN “OWNER”: An “owner” as that term is defined in Section 7-35-2 NMSA 1978 includes, but is not limited to, a person who has equitable ownership of property by reason of being the purchaser or buyer of the property under a conditional sale contract.

D. INTANGIBLE PROPERTY EXCLUDED FROM “PROPERTY”: The term "property" as defined in Section 7-35-2 NMSA 1978 does not include intangible property. “Intangible property” is contingent and dependent upon other property and cannot be owned, used, transferred, or held separately from other property. To the extent that intangible property contributes to, or affects, the value of property, its value must be appropriately considered when determining taxable value. Examples of non-property intangibles are shares of stock, bonds, bills, notes, checks, drafts, bills of exchange, certificates of deposit, letters of credit and negotiable monetary instruments.

E. “LEGAL ENTITY” DEFINED: A “legal entity”, as that phrase is used in Section 7-35-2 NMSA 1978 defining “person”, includes, but is not limited to, the following: an estate, a trust, a receiver, a cooperative association, a club, a corporation, a company, a firm, a partnership, a joint venture, a limited partnership, a limited liability company, an association and to the extent permitted by law, a state or its political subdivisions, other than New Mexico and its political subdivisions.

F. “LIVESTOCK” - “OTHER DOMESTIC ANIMALS USEFUL TO MAN”: Classes of livestock and the value of each class are required to be established by order each tax year pursuant to Section 7-36-
21 NMSA 1978. Particular classes or types of “domestic animals useful to man” which are named in the order establishing classes of livestock are “livestock” as that term is defined in Section 7-35-2 NMSA 1978. Poultry and fish are not “livestock” as that term is defined in Section 7-35-2 NMSA 1978.

G. “THESE REGULATIONS”: The phrase “these regulations” means Parts 1 through 7 of Chapter 3.6 NMAC.

3.6.5.21 TAXABLE SITUS - ALLOCATION OF VALUE OF PROPERTY

A. INTERESTS IN REAL PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES: Under Section 7-36-7 NMSA 1978, property, except that listed in Subsection B of that section, which has a taxable situs in New Mexico is subject to valuation for property taxation purposes. Therefore, an interest in real property located in New Mexico, having situs in New Mexico by reason of Paragraph (2) of Subsection A of Section 7-36-14 NMSA 1978, is subject to valuation for property taxation purposes.

B. PROPERTY USED TO TRANSPORT PROPERTY HAS SITUS: The phrase “property being transported in interstate commerce that is physically present in the state only while being transported through or over the state” as used in Subparagraph (a) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not include properties used as instrumentalities of interstate commerce, such as railroad engines and cars and commercial aircraft, even though these properties may move in interstate commerce.

C. LIVESTOCK IN FEEDLOTS NOT INCLUDED UNDER FREEPORT PROVISIONS: The terms “warehouse” and “factory” as used in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978, do not include livestock feedlots. Therefore, livestock in New Mexico feedlots are not excepted from the acquisition of taxable situs in New Mexico by reason of Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978.

D. ORIGINAL PACKAGE DOCTRINE NOT APPLICABLE UNDER FREEPORT PROVISIONS: The property referred to in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not acquire taxable situs in this state because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

E. OUT OF STATE DESTINATION NOT SPECIFIED OR SPECIFIED IN ALTERNATIVES:

(1) If the original transportation of the property referred to in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 has ceased and a final destination for the property outside New Mexico has not been specified, the property will be presumed to have a taxable situs in New Mexico. This presumption may be overcome by a showing that:

(a) a final destination for the property, outside the state, has been specified, or

(b) that the property is part of a percentage of property, based on a preceding five-year average, which has been transported outside the state after storage, manufacturing, processing or fabricating.

(2) Final destination for property is specified when information showing alternative destinations, depending on the use of the property, or other definite circumstances, is provided.

F. “FARM CROPS” DO NOT INCLUDE SEVERED TIMBER OR LIVESTOCK: The phrase “farm crops” as used in Subparagraph (c) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not include livestock, severed timber or forest products.

G. INTANGIBLE PROPERTY NOT SUBJECT TO VALUATION: Intangible property is not subject to valuation or taxation under the Property Tax Code because it is not within the definition of “property” found in Section 7-35-2 NMSA 1978. Pursuant to 7-37-2 NMSA 1978, tax is imposed only on “property.”

3.6.5.21 TAXABLE SITUS - ALLOCATION OF VALUE OF PROPERTY

A. INTERESTS IN REAL PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES: Under Section 7-36-7 NMSA 1978, property, except that listed in Subsection B of that section, which has a taxable situs in New Mexico is subject to valuation for property taxation purposes. Therefore, an interest in real property located in New Mexico, having situs in New Mexico by reason of Paragraph (2) of Subsection A of Section 7-36-14 NMSA 1978, is subject to valuation for property taxation purposes.

B. PROPERTY USED TO TRANSPORT PROPERTY HAS SITUS: The phrase “property being
transported in interstate commerce that is physically present in the state only while being transported through or over the state" as used in Subparagraph (a) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not include properties used as instrumentalities of interstate commerce, such as railroad engines and cars and commercial aircraft, even though these properties may move in interstate commerce.

C. **LIVESTOCK IN FEEDLOTS NOT INCLUDED UNDER FREEPORT PROVISIONS:** The terms "warehouse" and “factory” as used in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978, do not include livestock feedlots. Therefore, livestock in New Mexico feedlots are not excepted from the acquisition of taxable situs in New Mexico by reason of Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978.

D. **ORIGINAL PACKAGE DOCTRINE NOT APPLICABLE UNDER FREEPORT PROVISIONS:** The property referred to in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not acquire taxable situs in this state because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

E. **OUT OF STATE DESTINATION NOT SPECIFIED OR SPECIFIED IN ALTERNATIVES:**

(1) If the original transportation of the property referred to in Subparagraph (b) of Paragraph (3) of Subsection A Section 7-36-14 NMSA 1978 has ceased and a final destination for the property outside New Mexico has not been specified, the property will be presumed to have a taxable situs in New Mexico. This presumption may be overcome by a showing that:
   (a) a final destination for the property, outside the state, has been specified, or
   (b) that the property is part of a percentage of property, based on a preceding five-year average, which has been transported outside the state after storage, manufacturing, processing or fabricating.

(2) Final destination for property is specified when information showing alternative destinations, depending on the use of the property or other definite circumstances, is provided.

F. **“FARM CROPS” DO NOT INCLUDE SEVERED TIMBER OR LIVESTOCK:** The phrase “farm crops” as used in Subparagraph (c) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not include livestock, severed timber or forest products.

3.6.5.24 **VALUATION OF RESIDENTIAL PROPERTY COUNTRIES WHOSE RATIO IS 85%:**

A. Valuation for property tax year 2001: For counties whose sales ratio for residential property is at least 85 percent for the 2000 property tax year, valuations for residential properties in the county for the 2001 property tax year shall be determined under this subsection.

(1) For residential properties being valued for the first time or that underwent in 2000 a change of ownership, as that term is defined in Section 7-36-21.2 NMSA 1978, use or zoning, the valuation for property taxation purposes for 2001 shall be the property’s current and correct value.

(2) For all other residential properties, the valuation for 2001 shall not exceed 106.1 percent of the sum of the property’s valuation for property taxation purposes in 1999 plus the contributory value of physical changes made to the property not already recognized in the property record or 103 percent of the sum of the property’s valuation for property taxation purposes in 2000 plus the contributory value of physical changes made to the property not already recognized in the property record.

B. Valuation in the 2002 and subsequent property tax years: For counties whose sales ratio for residential property is at least 85% for the 2000 property tax year and, beginning with the property tax year following the property tax year for which the county’s sales ratio was at least 85%, for counties whose sales ratio for residential property is less than 85% for property tax year 2000 but whose sales ratio is at least 85% for any subsequent property tax year, the current and correct values of residential property for property tax years subsequent to 2001 shall be:

(1) For a single-family dwelling owned and occupied by an individual who is at least sixty-five years old on the valuation date, who meets the income requirements of Section 7-36-21.3 NMSA 1978 for the property tax year and who has claimed for the property tax year entitlement to the provisions of Section 7-36-21.3 NMSA 1978 in accordance with applicable regulations and instructions, the valuation shall be lesser of (i) the current and correct value of the property or (ii) the valuation of the property either in 2001 if the individual was aged 65 or older in 2001 or, if subsequent to 2001, the year in which the individual’s sixty-fifth birthday occurred.
3.6.5.24 VALUATION OF RESIDENTIAL PROPERTY-APPLICATION OF LIMITATIONS ON INCREASES:

A. Valuation in the 2022 and subsequent property tax years: Each year, residential property is required to be valued at its current and correct value, unless the limitations in Sections 7-36-21.2 or 7-36-21.3 NMSA 1978 apply.

(1) Limitations in Section 7-36-21.3 NMSA 1978: For a single-family dwelling owned and occupied by an individual who is at least sixty-five years old in the tax year for which valuation of the dwelling is made, who meets the income requirements of Section 7-36-21.3 NMSA 1978 for the property tax year and who has claimed for the property tax year entitlement to the provisions of Section 7-36-21.3 NMSA 1978 in accordance with applicable rules and instructions, the valuation shall be lesser of:

(a) the current and correct value of the property for the current property tax year; or

(b) the lesser of (i) the current and correct value of the property in which the owner’s sixty-fifth birthday occurs if the owner has continuously owned and occupied the dwelling since the year of the owner’s sixty-fifth birthday or (ii) the valuation of the property for the year following the year in which a person who is aged sixty-five years or older first owns and occupies the dwelling and continuously owns and occupies the dwelling since then.

(2) For a residential property that underwent in the prior year a change of ownership, as that term is defined in Section 7-36-21.2 NMSA 1978, use or zoning or is being valued for the first time, the valuation shall be the current and correct value for the property.

(3) Limitations in Section 7-36-21.2 NMSA 1978: For residential property not described in the preceding two subparagraphs, the valuation may not exceed the current and correct value for the property tax year, 103 percent of the sum of the valuation for the property for the preceding year plus the contributory value of any physical changes not already recognized in the property record, or 106.1 percent of the sum of the property’s valuation for property taxation purposes in the property tax year two years prior plus the contributory value of physical changes made to the property not already recognized in the property record. This includes residential property owned and occupied by individuals sixty-five years of age or older in both the current and the prior property tax years and who, having met the income requirements for the prior property tax year, do not meet the income requirements for the current property tax year.

C. To be eligible for the limitation on valuation pursuant to Section 7-36-21.3 NMSA 1978, the claimant shall complete and submit to the county assessor appropriate forms required by the department. Such forms may require attachment of true copies of New Mexico income tax returns showing the claimant’s modified gross income. Failure to submit to the county assessor completed forms, including any required attachments, shall result in denial of eligibility for the valuation limitation pursuant to Section 7-36-21.3 NMSA 1978.

D. If, prior to the setting of property tax rates for the property tax year, the department of finance and administration or the department determines that the valuation maintenance amount for residential property in a jurisdiction exceeds a limit set by Section 7-36-23.2 NMSA 1978, the department shall order the valuations on the affected residential properties to be reduced pro rata by an aggregate amount just sufficient to eliminate the excess.
$240,000 for each of those years. For the current property tax year, the market price of the residence has increased to $285,000. In the current property tax year, however, X’s income exceeds the maximum allowed by Section 7-36-21.3 NMSA 1978. Therefore, the 7-36-21.3 NMSA 1978 limitation no longer applies and the limitation in 7-36-21.2 NMSA 1978 does. Based on the initial valuation of $240,000, this produces a valuation of approximately $278,225 for the current year. If X does not qualify in succeeding years for the limitation in 7-36-21.3 NMSA 1978, the property’s valuation will continue to be subject to the limitation in Section 7-36-21.2 NMSA 1978 instead. If X does re-qualify in a subsequent property tax year for the limitation in 7-36-21.3 NMSA 1978, the property’s valuation will be its current and correct valuation as limited by Section 7-36-21.2 NMSA 1978 for the year prior to the year in which X re-qualifies.

C. To be eligible for the limitation on valuation pursuant to Section 7-36-21.3 NMSA 1978, the claimant shall complete and submit to the county assessor appropriate forms required by the department. Such forms may require attachment of true copies of New Mexico income tax returns showing the claimant’s modified gross income. Failure to submit to the county assessor completed forms, including any required attachments, shall result in denial of eligibility for the valuation limitation pursuant to Section 7-36-21.3 NMSA 1978.

D. The limitations provided by Sections 7-36-21.2 and 7-36-21.3 NMSA 1978 do not apply to property when the property’s zoning changes. For purposes of administering the limitations, the first application of zoning to residential property not previously zoned shall not be considered a change of zoning and the limitations of either Section 7-36-21.2 or 7-36-21.3, if either is otherwise applicable, shall be applied. Any other change in a residential property’s zoning, regardless of whether the actual use of the property remains unchanged, means that the property must be valued at its current and correct without application of either limitation.

E. The limitation provided by Sections 7-36-21.3 NMSA 1978 does not apply to a property when the property is no longer occupied or used as a single-family dwelling, regardless of whether the subsequent use is also residential.

F. Disabled persons: Even though Section 7-36-21.3 NMSA 1978 fails to specify when its limitation applies to disabled persons, it seems clear from the text of Subsections A, C and I that the limitation is intended to apply to disabled persons. Accordingly, for a single-family dwelling owned and occupied by an individual who is disabled in the tax year for which valuation of the dwelling is made, who meets the income requirements of Section 7-36-21.3 NMSA 1978 for the property tax year and who has claimed for the property tax year entitlement to the provisions of Section 7-36-21.3 NMSA 1978 in accordance with applicable rules and instructions, the valuation shall be lesser of:

1. the current and correct value of the property for the current property tax year; or
2. the lesser of (i) the current and correct value of the property in which the owner’s disability occurs if the owner has continuously owned and occupied the dwelling since the year of the owner’s disability or (ii) the valuation of the property for the year following the year in which a person who is disabled first owns and occupies the dwelling and continuously owns and occupies the dwelling since then.

[3.6.5.24 NMAC - N, 4/30/2001; Rp, xx/xx/xxxx]

3.6.5.34 SPECIAL METHOD OF VALUATION – PIPELINES, TANKS, SALES METERS AND PLANTS USED IN THE PROCESSING, GATHERING, TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL, NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS:

A. OIL & GAS PIPELINES - VALUATION METHOD:

1. All pipelines, tanks, sales meters and plants as defined in Section 7-36-27 NMSA 1978 which are used in the processing, gathering, transmission, storage, measurement or distribution of oil, natural gas, carbon dioxide, or liquid hydrocarbons are valued by the division or county assessors in accordance with the valuation methods found in Section 7-36-27 NMSA 1978 and Section 3.6.5.34 NMAC.

2. PIPELINES, DIRECT CUSTOMER DISTRIBUTION PIPELINES, LARGE INDUSTRIAL SALES METERS, TANKS AND PLANTS.

   a. Pipelines, direct customer distribution pipelines, large industrial sales meters, tanks and plants are valued in accordance with the method described in Subsection D of Section 7-36-27 NMSA 1978.

   b. For purposes of calculating depreciation or related accumulated provision for depreciation, straight line depreciation over the useful life of the property, as determined by the federal energy regulatory commission, is used. Property that does not fall within the federal energy regulatory commission’s
reporting requirements is assumed to have a useful life of twenty-five (25) years, unless substantial evidence of another useful life is accepted by the division.

(3) For purposes of Subsection B of Section 7-36-27 NMSA 1978, “other justifiable factors” includes, but is not limited to, functional and economic obsolescence.

(a) Functional obsolescence is the loss in value that is caused by functional inadequacies or deficiencies caused by factors within the property, and is a loss in value that is in addition to a loss in value attributable to physical depreciation.

(b) Economic obsolescence is the loss in value that is caused by unfavorable economic influences or factors outside the property, and is a loss in value that is in addition to a loss in value attributable to physical depreciation.

(c) Requests for economic or functional obsolescence must be made at the time the annual report is filed. The request must be supported with sufficient documentation, and must be based on a situation present at least six (6) months prior to January 1 of the tax year. In addition to other information that may be required pursuant to this section, an economic or functional obsolescence factor must be provided together with documentation to support and demonstrate how the factor was arrived at. Such documentation shall consist of objective evidence demonstrating functional or economic obsolescence such as comparisons to a documented industry standard, to a close competitor or to an engineer's or appraiser's valuation, or any other comparable objective evidence of functional or economic obsolescence.

(d) If requested by the taxpayer, the department shall provide guidance to a taxpayer as to the documents necessary to support a request for obsolescence for a pipeline, customer distribution pipeline, large industrial sales meter, tank or plant as defined in Section 7-36-27 NMSA 1978. Upon request, the department shall name, in addition to the other information required by this section, any specific documentation that would support a request for obsolescence. Such specific documentation may include:

(i) a report of audited or FASB writedowns;

(ii) partnership agreements and narrative explanations of the mechanism for distributing profits and maintenance responsibilities for the property;

(iii) for a functional obsolescence claim, an explanation of how scheduled depreciation will not sufficiently restore the cost of the property before its usefulness is over;

(iv) a report comparing the replacement cost new, less physical depreciation, with the value of the property as estimated under an income approach;

(v) a report comparing output, or cost of operation or capacity utilization of the property, to output, or cost of operation or capacity utilization of comparison property;

(vi) long term strategic plans for the property, including an analysis of market share, barriers to competitive entry and transportation alternatives; and

(vii) a report addressing the reasons the taxpayer has not sold or written off the property for which the obsolescence is claimed.

(e) The department shall provide guidance to a taxpayer as to documents necessary to support a request for obsolescence for a pipeline that may be in addition to any documents specified in Subparagraph (d) of this paragraph. Upon request, the department shall name, in addition to the other information required by this section, any specific documentation that would support a request for obsolescence. Such specific documentation may include:

(i) reserve estimates and projections made at the time the pipeline was planned and prior to construction;

(ii) current reserve estimates and projections;

(iii) income projections for the pipeline, including assumptions as to throughput, rates and customers, at the time that the pipeline was planned and prior to construction;

(iv) income and expense statements of the pipeline for each of the last three most recent years, including assumptions as to throughput, rates and customers; provided that the statement shall conform to the taxpayer's annual reports, FERC documents; or other audited sources;

(v) a statement of actual throughput for the past five years of operation; and

(vi) transportation contracts.

(f) In reviewing a request for obsolescence pursuant to Section 7-36-27 NMSA 1978, the department shall determine whether a taxpayer has provided documentation sufficient to establish a
reduction in taxable value for functional obsolescence or economic obsolescence. If the department determines the documentation is not sufficient because the taxpayer failed to submit documents required by Subparagraph (c) of this paragraph, the department shall inform the taxpayer of that failure in a notice provided by April 1 or thirty days after the return is filed but no later than April 15 of the tax year. If the taxpayer does not file the report by March 15 of the property tax year, the department shall not be required to furnish a timely notice of deficiency by April 15 of the property tax year. In the case of properties regulated by the federal energy regulatory commission, the notice of deficiency shall be provided to the taxpayer within fifteen days after the filing of the report. Such notice shall list the specific documents that the department would require to support the requested reduction for functional obsolescence or economic obsolescence.

(g) If a taxpayer is notified of a deficiency pursuant to Subparagraph (f) of this paragraph, the taxpayer shall have ten days to correct the deficiency. The department will determine whether the documentation timely submitted by the taxpayer adequately supports the taxpayer’s request for obsolescence and cures the deficiency. The department’s final valuation of the taxpayer’s property will reflect the department’s approval or denial of the taxpayer’s request for obsolescence.

(h) In order to allocate value to the taxing jurisdiction wherein the property (valued in accordance with the method described in Subsection D of Section 7-36-27 NMSA 1978) is located the following formula is used, where:

\[ A = \text{Pipe size in inches} \]
\[ B = \text{Miles of pipe} \]
\[ C = \text{Inch miles} \]
\[ D = \text{Total tangible property cost less depreciation (all sizes)} \]
\[ E = \$ \text{Per inch mile} \]
\[ F = \text{Inch miles of pipe in taxing jurisdiction} \]
\[ G = \$ \text{Value of pipe in taxing jurisdiction} \]

(i) \[ A \times B = C \]

(ii) \[ \frac{D}{\text{Total }C} = E \]

(iii) \[ E \times F = G; \text{ or} \]

(iv) \[ G = \left(\frac{D}{(A \times B)}\right) \times F \]

(4) SALES METERS.

(a) The value of sales meters, other than large industrial sales meters, is determined in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Sales Meters</th>
<th>Value per meter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type I</td>
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<td></td>
</tr>
<tr>
<td>Type II</td>
<td>109.90</td>
<td></td>
</tr>
<tr>
<td>Type III</td>
<td>477.35</td>
<td></td>
</tr>
</tbody>
</table>

(b) In preparing the above schedule, all partial statutory exemptions have been considered. Therefore, no such exemptions are allowed in determining net taxable value by means of the above schedule. For purposes of the above schedule, the types of sales meters, other than large industrial sales meters, are:

(i) TYPE I - sales meters with a capacity of less than 250 cubic feet per hour at one-half inch differential. These generally include meters providing residential service.

(ii) TYPE II - sales meters with a capacity from 250 cubic feet to 950 cubic feet per hour at one-half inch differential. These generally include meters providing commercial or public authority service.

(iii) TYPE III - sales meters with a capacity greater than 950 cubic feet per hour at one-half inch differential and those meters providing industrial service with an installed cost including the associated regulator, appurtenances and devices of less than two thousand five hundred dollars ($2,500.00).

(5) CONSTRUCTION WORK IN PROGRESS.
For those persons who maintain their records in accordance with a uniform system of accounts approved by the federal energy regulatory commission, the total amount entered into the construction work in progress account shall be reported to the assessing authority as construction work in progress.

For other persons, the total of the balances of work orders for pipelines, plants, large industrial sales meters and tanks in the process of construction on the last day of the preceding calendar year, exclusive of land and land rights, is reported to the assessing authority. Construction work in progress is reported as follows:

(i) total construction work in progress;
(ii) fifty percent (50%) of the construction work in progress as the value for property taxation purposes; and
(iii) value of construction work in progress by taxing jurisdiction in which the construction is located.

The value as stated in Item (iii) of Subparagraph (b) of this paragraph is the value reported. No deductions for depreciation or any other purposes apply. Exemptions have been considered. Therefore, the taxable value and the net taxable value are the same.

B. **OIL & GAS PIPELINES – NONPIPELINE PROPERTY:** Pipelines, tanks, sales meters and plants which are not used in the conduct of the pipeline business or public utility business, and which are not necessary to the proper functioning of the pipeline business or public utility business, are not subject to valuation by the division and are valued by the county assessor of the county in which the property is located.

C. **OIL & GAS PIPELINES – VALUATION OF NONPIPELINE REAL PROPERTY:**

Residential housing, office buildings, warehouses and other real property excluded from the definitions of property found in Subsection B of Section 7-36-27 NMSA 1978 but used in the conduct of the pipeline or public utility business are valued in accordance with the method stated in Section 7-36-15 NMSA 1978 and regulations thereunder. The term “pipeline” as defined in Paragraph (5) of Subsection B of Section 7-36-27 NMSA 1978 does not include rights of way, easements and other fractional interests in real property. Therefore, the value of those interests is not included in the valuation determined under this section.

3.6.5.34 **SPECIAL METHOD OF VALUATION - PIPELINES, TANKS, SALES METERS AND PLANTS USED IN THE PROCESSING, GATHERING, TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL, NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS:**

A. **OIL & GAS PIPELINES - VALUATION METHOD:**

(1) All pipelines, tanks, sales meters and plants as defined in Section 7-36-27 NMSA 1978 which are used in the processing, gathering, transmission, storage, measurement or distribution of oil, natural gas, carbon dioxide, or liquid hydrocarbons are valued by the division or county assessors in accordance with the valuation methods found in Section 7-36-27 NMSA 1978 and Section 3.6.5.34 NMAC.

(2) **PIPELINES, DIRECT CUSTOMER DISTRIBUTION PIPELINES, LARGE INDUSTRIAL SALES METERS, TANKS AND PLANTS.**

(a) Pipelines, direct customer distribution pipelines, large industrial sales meters, tanks and plants are valued in accordance with the method described in Subsection D of Section 7-36-27 NMSA 1978.

(b) For purposes of calculating depreciation or related accumulated provision for depreciation, straight line depreciation over the useful life of the property, as determined by the federal energy regulatory commission, is used. Property that does not fall within the federal energy regulatory commission’s reporting requirements is assumed to have a useful life of twenty-five (25) years, unless substantial evidence of another useful life is accepted by the division.

(3) For purposes of Subsection B of Section 7-36-27 NMSA 1978, “other justifiable factors” includes, but is not limited to, functional and economic obsolescence.

(a) Functional obsolescence is the loss in value that is caused by functional inadequacies or deficiencies caused by factors within the property, and is a loss in value that is in addition to a loss in value attributable to physical depreciation.

(b) Economic obsolescence is the loss in value that is caused by unfavorable economic influences or factors outside the property, and is a loss in value that is in addition to a loss in value attributable to physical depreciation.
(c) Requests for economic or functional obsolescence must be made at the time the annual report is filed. The request must be supported with sufficient documentation, and must be based on a situation present at least six (6) months prior to January 1 of the tax year. In addition to other information that may be required pursuant to this section, an economic or functional obsolescence factor must be provided together with documentation to support and demonstrate how the factor was arrived at. Such documentation shall consist of objective evidence demonstrating functional or economic obsolescence such as comparisons to a documented industry standard, to a close competitor or to an engineer's or appraiser's valuation, or any other comparable objective evidence of functional or economic obsolescence.

(d) If requested by the taxpayer, the department shall provide guidance to a taxpayer as to the documents necessary to support a request for obsolescence for a pipeline, customer distribution pipeline, large industrial sales meter, tank or plant as defined in Section 7-36-27 NMSA 1978. Upon request, the department shall name, in addition to the other information required by this section, any specific documentation that would support a request for obsolescence. Such specific documentation may include:

(i) a report of audited or FASB writedowns;
(ii) partnership agreements and narrative explanations of the mechanism for distributing profits and maintenance responsibilities for the property;
(iii) for a functional obsolescence claim, an explanation of how scheduled depreciation will not sufficiently restore the cost of the property before its usefulness is over;
(iv) a report comparing the replacement cost new, less physical depreciation, with the value of the property as estimated under an income approach;
(v) a report comparing output, or cost of operation or capacity utilization of the property, to output, or cost of operation or capacity utilization of comparison property;
(vi) long term strategic plans for the property, including an analysis of market share, barriers to competitive entry and transportation alternatives; and
(vii) a report addressing the reasons the taxpayer has not sold or written off the property for which the obsolescence is claimed.

(e) The department shall provide guidance to a taxpayer as to documents necessary to support a request for obsolescence for a pipeline that may be in addition to any documents specified in Subparagraph (d) of this paragraph. Upon request, the department shall name, in addition to the other information required by this section, any specific documentation that would support a request for obsolescence. Such specific documentation may include:

(i) reserve estimates and projections made at the time the pipeline was planned and prior to construction;
(ii) current reserve estimates and projections;
(iii) income projections for the pipeline, including assumptions as to throughput, rates and customers, at the time that the pipeline was planned and prior to construction;
(iv) income and expense statements of the pipeline for each of the last three most recent years, including assumptions as to throughput, rates and customers; provided that the statement shall conform to the taxpayer's annual reports, FERC documents; or other audited sources;
(v) a statement of actual throughput for the past five years of operation; and
(vi) transportation contracts.

(f) In reviewing a request for obsolescence pursuant to Section 7-36-27 NMSA 1978, the department shall determine whether a taxpayer has provided documentation sufficient to establish a reduction in taxable value for functional obsolescence or economic obsolescence. If the department determines the documentation is not sufficient because the taxpayer failed to submit documents required by Subparagraph (c) of this paragraph, the department shall inform the taxpayer of that failure in a notice provided by April 1 or thirty days after the return is filed but no later than April 15 of the tax year. If the taxpayer does not file the report by March 15 of the property tax year, the department shall not be required to furnish a timely notice of deficiency by April 15 of the property tax year. In the case of properties regulated by the federal energy regulatory commission, the notice of deficiency shall be provided to the taxpayer within fifteen days after the filing of the report. Such notice shall list the specific documents that the department would require to support the requested reduction for functional obsolescence or economic obsolescence.

(g) If a taxpayer is notified of a deficiency pursuant to Subparagraph (f) of this

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paragraph, the taxpayer shall have ten days to correct the deficiency. The department will determine whether the documentation timely submitted by the taxpayer adequately supports the taxpayer’s request for obsolescence and cures the deficiency. The department’s final valuation of the taxpayer’s property will reflect the department’s approval or denial of the taxpayer’s request for obsolescence.

(h) In order to allocate value to the taxing jurisdiction wherein the property (valued in accordance with the method described in Subsection D of Section 7-36-27 NMSA 1978) is located the following formula is used, where:

\[ A = \text{Pipe size in inches} \]
\[ B = \text{Miles of pipe} \]
\[ C = \text{Inch miles} \]
\[ D = \text{Total tangible property cost less depreciation (all sizes)} \]
\[ E = \text{$ Per inch mile} \]
\[ F = \text{Inch miles of pipe in taxing jurisdiction} \]
\[ G = \text{$ Value of pipe in taxing jurisdiction} \]

(i) \[ A \times B = C \]

(ii) \[ D \quad = \frac{E}{\text{Total C}} \]

(iii) \[ E \times F = G; \text{ or} \]

(iv) \[ G = \frac{D}{(A \times B)} \times F \]

(4) SALES METERS.

(a) The value of sales meters, other than large industrial sales meters, is determined in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Sales Meters</th>
<th>Value per meter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type I</td>
<td>$52.14</td>
</tr>
<tr>
<td>Type II</td>
<td>109.90</td>
</tr>
<tr>
<td>Type III</td>
<td>477.35</td>
</tr>
</tbody>
</table>

(b) In preparing the above schedule, all partial statutory exemptions have been considered. Therefore, no such exemptions are allowed in determining net taxable value by means of the above schedule. For purposes of the above schedule, the types of sales meters, other than large industrial sales meters, are:

(i) TYPE I - sales meters with a capacity of less than 250 cubic feet per hour at one-half inch differential. These generally include meters providing residential service.

(ii) TYPE II - sales meters with a capacity from 250 cubic feet to 950 cubic feet per hour at one-half inch differential. These generally include meters providing commercial or public authority service.

(iii) TYPE III - sales meters with a capacity greater than 950 cubic feet per hour at one-half inch differential and those meters providing industrial service with an installed cost including the associated regulator, appurtenances and devices of less than two thousand five hundred dollars ($2,500.00).

(5) CONSTRUCTION WORK IN PROGRESS.

(a) For those persons who maintain their records in accordance with a uniform system of accounts approved by the federal energy regulatory commission, the total amount entered into the construction work in progress account shall be reported to the assessing authority as construction work in progress.

(b) For other persons, the total of the balances of work orders for pipelines, plants, large industrial sales meters and tanks in the process of construction on the last day of the preceding calendar year, exclusive of land and land rights, is reported to the assessing authority. Construction work in progress is reported as follows:

(i) total construction work in progress;

(ii) fifty percent (50%) of the construction work in progress as the value for property taxation purposes; and
(iii) value of construction work in progress by taxing jurisdiction in which the construction is located.

The value as stated in Item (iii) of Subparagraph (b) of this paragraph is the value reported. No deductions for depreciation or any other purposes apply. Exemptions have been considered. Therefore, the taxable value and the net taxable value are the same.

**B. OIL & GAS PIPELINES - NONPIPELINE PROPERTY:** Pipelines, tanks, sales meters and plants which are not used in the conduct of the pipeline business or public utility business, and which are not necessary to the proper functioning of the pipeline business or public utility business, are not subject to valuation by the division and are valued by the county assessor of the county in which the property is located.

**C. OIL & GAS PIPELINES - VALUATION OF NONPIPELINE REAL PROPERTY:** Residential housing, office buildings, warehouses and other real property excluded from the definitions of property found in Subsection B of Section 7-36-27 NMSA 1978 but used in the conduct of the pipeline or public utility business are valued in accordance with the method stated in Section 7-36-15 NMSA 1978 and regulations thereunder. The term “pipeline” as defined in Paragraph (5) of Subsection B of Section 7-36-27 NMSA 1978 does not include rights of way, easements and other fractional interests in real property. Therefore, the value of those interests is not included in the valuation determined under this section.

**D. OIL & GAS PIPELINES - VALUATION OF SALTWATER DISPOSAL PIPELINE PROPERTY:** All pipelines, tanks, sales meters and plants as defined in Section 7-36-27 NMSA 1978 which are used in the processing, gathering, or disposal of saltwater or other liquid hydrocarbons are valued by the division in accordance with the valuation methods found in Section 7-36-27 NMSA 1978 and Section 3.6.5.34 NMAC.

**3.6.6.13 DISABLED VETERAN EXEMPTION:**

**A. PROPERTY TAXES AUTHORIZED BY LAWS OUTSIDE THE PROPERTY TAX CODE AND SPECIAL BENEFIT ASSESSMENTS:** The disabled veteran exemption applies to property taxes imposed by laws other than the Property Tax Code, such as the ad valorem tax on taxable property within a hospital district Section 4-48A-16 NMSA 1978 (1987); the property tax on taxable property within a college district Section 21-2A-5 NMSA 1978 (1995); the property tax on all property subject to taxation within a flood control district Section 72-18-20 NMSA 1978 (1986); and, the general ad valorem tax on all property subject to taxation within a solid waste authority Section 74-10-27 NMSA 1978 (1993). The disabled veteran exemption is not effective against impositions of special benefit assessments authorized by laws outside the Property Tax Code, such as conservancy district assessments.

**B. RESIDENCY:** Section 7-37-5.1 NMSA 1978 requires that the property for which the exemption is claimed must be occupied by the disabled veteran (or the disabled veteran’s surviving spouse) as his or her principal place of residence. Therefore, a person claiming the disabled veteran exemption must be a current New Mexico resident to qualify for the exemption.

**C. SURVIVING SPOUSE:**

(1) A surviving spouse of a disabled veteran may apply for the exemption even if the disabled veteran did not apply for the exemption during his or her lifetime if the surviving spouse meets the requirements of Subsection C of Section 7-37-5.1 NMSA 1978.

(2) After the disabled veteran’s death, his or her resident unmarried surviving spouse is entitled to the disabled veteran exemption if he or she continuously occupies the property, on which the disabled veteran exemption was claimed, as the surviving spouse’s principal place of residence.

(3) If a disabled veteran’s surviving spouse remarries and thereafter obtains an annulment of the marriage or a divorce from the subsequent spouse, he or she does not revert to the status of an unmarried surviving spouse entitled to claim the disabled veteran exemption.

(4) An unmarried surviving spouse of a disabled veteran who at the time of the disabled veteran’s death was legally separated from the veteran is entitled to the disabled veteran exemption.

**D. CONTINUOUSLY OCCUPIES PRINCIPAL PLACE OF RESIDENCE:** Subsection B of Section 7-37-5.1 NMSA 1978 provides for an exemption from property tax of a disabled veteran’s principal place of residence when it is occupied by the disabled veteran. Subsection C of Section 7-37-5.1 NMSA 1978 allows the surviving spouse of a disabled veteran to claim the exemption if the surviving spouse continues to occupy the property continuously as the surviving spouse’s principal place of residence. “Principal place of residence” means
the dwelling owned and occupied by the disabled veteran and so much of the land surrounding it, not to exceed five acres, as is reasonably necessary for use of the dwelling as a home and may consist of a part of a multi dwelling or a multipurpose building and a part of the land upon which it is built. “Occupy the property continuously” means that the individual is physically present in the residence for a total of 185 days or more in aggregate during the prior year and is domiciled in New Mexico as of January 1 of the property tax year for which the exemption is claimed. The definition of “domicile” in Subsections C and D of 3.3.1.9 NMAC is incorporated herein by reference.

3.6.6.13 DISABLED VETERAN EXEMPTION:
A. PROPERTY TAXES AUTHORIZED BY LAWS OUTSIDE THE PROPERTY TAX CODE AND SPECIAL BENEFIT ASSESSMENTS: The disabled veteran exemption applies to property taxes imposed by laws other than the Property Tax Code, such as the ad valorem tax on taxable property within a hospital district Section 4-48A-16 NMSA 1978 (1987); the property tax on taxable property within a college district Section 21-2A-5 NMSA 1978 (1995); the property tax on all property subject to taxation within a flood control district Section 72-18-20 NMSA 1978 (1986); and, the general ad valorem tax on all property subject to taxation within a solid waste authority Section 74-10-27 NMSA 1978 (1993).
B. RESIDENCY: Section 7-37-5.1 NMSA 1978 requires that the property for which the exemption is claimed must be occupied by the disabled veteran (or the disabled veteran’s surviving spouse) as his or her principal place of residence. Therefore, a person claiming the disabled veteran exemption must be a current New Mexico resident to qualify for the exemption.
C. SURVIVING SPOUSE:
(1) A surviving spouse of a disabled veteran may apply for the exemption even if the disabled veteran did not apply for the exemption during his or her lifetime if the surviving spouse meets the requirements of Subsection C of Section 7-37-5.1 NMSA 1978.
(2) After the disabled veteran’s death, his or her resident unmarried surviving spouse is entitled to the disabled veteran exemption if he or she continuously occupies the property, on which the disabled veteran exemption was claimed, as the surviving spouse’s principal place of residence.
(3) If a disabled veteran’s surviving spouse remarries and thereafter obtains an annulment of the marriage or a divorce from the subsequent spouse, he or she does not revert to the status of an unmarried surviving spouse entitled to claim the disabled veteran exemption.
(4) An unmarried surviving spouse of a disabled veteran who at the time of the disabled veteran’s death was legally separated from the veteran is entitled to the disabled veteran exemption.
D. CONTINUOUSLY OCCUPIES PRINCIPAL PLACE OF RESIDENCE: Subsection B of Section 7-37-5.1 NMSA 1978 provides for an exemption from property tax of a disabled veteran’s principal place of residence when it is occupied by the disabled veteran. Subsection C of Section 7-37-5.1 NMSA 1978 allows the surviving spouse of a disabled veteran to claim the exemption when the surviving spouse continuously occupies the property as the surviving spouse’s principal place of residence. “Principal place of residence” means the dwelling owned and occupied by the disabled veteran and so much of the land surrounding it, not to exceed five acres, as is reasonably necessary for use of the dwelling as a home and may consist of a part of a multi-dwelling or a multipurpose building and a part of the land upon which it is built. “Occupy the property continuously” means that the individual is physically present in the residence for a total of 185 days or more in aggregate during the prior year and is domiciled in New Mexico as of January 1 of the property tax year for which the exemption is claimed. The definition of “domicile” in Subsections C and D of 3.3.1.9 NMAC is incorporated herein by reference.