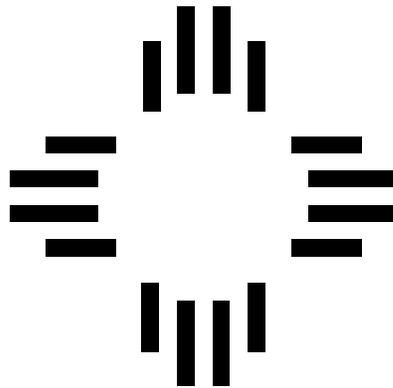


New Mexico Register

Volume XIII, Issue Number 22
November 27, 2002



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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New Mexico Register

Volume XIII, Number 22

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Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." 14-4-5 NMSA 1978.

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Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail rules@rain.state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED REVISION OF AIR QUALITY REGULATION

20.2.70 NMAC - *Operating Permits*

The New Mexico Environmental Improvement Board will hold a public hearing on February 13, 2003 at 1:00 p.m. at City County Government Center, One Civic Plaza, 9th Floor Committee Room Albuquerque, New Mexico. The hearing is anticipated to continue on February 14, 2003 at the same location. The purpose of the hearing is to consider proposed revisions to Sections 7, 300 and 302 of 20.2.70 NMAC – *Operating Permits*.

The proponent of some of the regulatory changes is the New Mexico Environment Department; the Industry Working Group is the proponent of some of the proposed changes.

The Department's proposal revises the requirements for dispersion modeling in operating permit applications and compliance certifications for New Mexico and National Ambient Air Quality Standards.

The Industry Working Group's proposal revises the definition of "Applicable Requirement" to specify that National Ambient Air Quality Standards are "applicable requirements" only for temporary sources permitted pursuant to Section 504(e) of the Clean Air Act and sources required to submit a dispersion modeling analysis under 20.2.70.300.D(10) NMAC. The Industry Working Group's proposal also specifies that New Mexico Ambient Air Quality Standards are not "applicable requirements". The Industry Working Group's proposal also revises the requirement regarding annual compliance certifications and restricts the Department's authority to impose emission limitations on transition sources subject to 20.2.70.300.D(10) NMAC.

The proposed regulations may be reviewed during regular business hours at the office of the Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room N-2150, Santa Fe, NM. Copies of the Department's proposed revisions may be obtained by contacting Rita

Trujillo at (505) 955-8024 or Lany Weaver at (505) 955-8090 or by visiting the Department's web site at www.nmenv.state.nm.us. Follow the links to the Air Quality Bureau's page.

Copies of the Industry Working Group's proposed revisions may be obtained by contacting Louis Rose at (505) 986-2506.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures), Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section 74-2-6 NMSA 1978 and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- identify the person for whom the witness(es) will testify;
- identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and describe, or attach, all exhibits anticipated to be offered by that person at the hearing.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board not later than 5:00 pm on January 31, 2003, and should reference the name of the regulation and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Geraldine Madrid-Chavez, Office of the Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room N-2150, Santa Fe, NM 87505.

Any person who wishes to submit a non-technical written statement in lieu of oral testimony may do so at or before the hearing.

If you are an individual with a disability and you require assistance or an auxiliary aid,

e.g. sign language interpreter, to participate in any aspect of this process, please contact Cliff Hawley by January 12, 2003. Mr. Hawley's telephone number is (505) 827-2844. He is Chief of the Program Support Bureau, New Mexico Environment Department, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, NM, 87502. (TDD or TDY users please access his number via the New Mexico Relay Network. Albuquerque TDD users: (505) 275-7333. Outside of Albuquerque: 1-800-659-1779.)

Copies of the agenda and the proposed regulations will be provided in alternative forms, e.g. audiotape, if requested by January 31, 2003.

The Board may make a decision on the proposed regulatory change at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

ss/Dr. Hilary A. Noskin, Chair

NEW MEXICO LIVESTOCK BOARD

NEW MEXICO LIVESTOCK BOARD NOTICE OF RULE MAKING HEARING AND REGULAR BOARD MEETING

NOTICE IS HEREBY GIVEN that a rule making hearing and regular board meeting will be held on Thursday December 12, 2002, at the Albuquerque Hilton, Colorado Room, Albuquerque, New Mexico, at 9:00 a.m. The board will consider rules governing livestock inspection, transportation of livestock including district lines and other matters of general business in Accordance with Section 77-2-7.

Copies of rules can be obtained by contacting John Wortman, Executive Director, New Mexico Livestock Board, 300 San Mateo, N. E., Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161. Interested persons may submit their views on the proposed rules to the Board at the above address and/or may appear at the scheduled hearing and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

**End of Notices and Proposed
Rules Section**

Adopted Rules and Regulations

NEW MEXICO OFFICE OF CULTURAL AFFAIRS MUSEUM DIVISION

This is an amendment to Title 4, Chapter 51, Part 5, Sections 5, 6, 7, 8, 10, and 11 of NMAC. This action also renumbers and reformats the previously numbered version into the current NMAC requirements from 4 NMAC 51.3.2, named "Fees, Subpart 2 - Archaeological Records Repository And Cultural Resource Information System", filed 08/16/96 to 4.51.5 NMAC, Archaeological Records Repository And Cultural Resource Information System.

4.51.5.5 EFFECTIVE DATE: September 1 1996~~[-]~~, unless a later date is cited at the end of the section.
[9-1-96; 4.51.5.5 NMAC – Rn, 4 NMAC 51.3.2.5 & A, 1-1-03]

4.51.5.6 OBJECTIVE: It is the objective of [~~Subpart 2 of Part 3 of Chapter 51 [now 4.51.5 NMAC]~~] to ensure that data contained in the state archaeological records repository and the New Mexico cultural resource information system (NMCRIS), collectively known as ARMS, is available to all qualified entities, as herein defined, and that the dissemination of such data does not create a risk of loss of archaeological resources in the state of New Mexico. It is the further purpose of this regulation to ensure that criteria and procedures for the dissemination or confidentiality of such data are consistent with the purposes of ARMS, such purposes being the ready retrieval and rapid analysis of archaeological data by and for managers and scholars; the inclusion in the records repository and the NMCRIS of all recorded archaeological sites in New Mexico regardless of ownership; and the maintenance and expansion of the records repository and the NMCRIS as a basis for compliance with state and federal historic preservation statutes, for determinations of site significance, and for statewide archaeological plans.
[9-1-96; 4.51.5.6 NMAC – Rn, 4 NMAC 51.3.2.6 & A, 1-1-03]

4.51.5.7 DEFINITIONS: As used in this [~~subpart]part[]]:~~

A. "archaeological records" refers to the paper files and other materials including, but not limited to, forms, journals, maps, databases, photographs, manuscripts, and reports dealing with archaeological investigations conducted in the state of New Mexico.

B. "archaeological site" means a location exhibiting evidence of past human activity that has scientific archaeological significance.

C. "archaeological survey" means a scientific field investigation in which a specified area, or a sample thereof, is subjected to systematic, intensive inspection by one or more qualified archaeologists for the purpose of identifying and characterizing archaeological sites and other evidence of past human activity.

D. "ARMS" means the archaeological records management system, a program of the office of cultural affairs, museum of New Mexico, administered by the historic preservation division through a [~~joint powers agreement~~] Memorandum of Agreement between [with] the museum of New Mexico and the historic preservation division. ARMS includes the New Mexico cultural resource information system (NMCRIS) and the state archaeological records repository of the museum of New Mexico.

E. "ARMS user account application" means a document requesting an individual computer account that, when signed by the state, the qualified user, and, if appropriate, by a representative of his/her qualified institution, constitutes a contract between these parties and specifies the rules and conditions of use of ARMS.

F. "ARMS user agreement" refers to a document, signed annually by the state and a qualified user or institution, that specifies the conditions and requirements for using and disseminating information obtained from the repository and the NMCRIS.

G. "cooperative agreements" means intergovernmental or joint powers agreements, as appropriate, between ARMS and other state, federal, tribal, or local government agencies implemented to ensure the maintenance, expansion, and currency of the [~~repository and the NMCRIS~~] ARMS, and to achieve and maintain the comparability and accessibility of such information throughout the state~~[-]~~, and particularly on all state and federal lands, under whatever jurisdiction, in the interests of efficiency and of interagency cooperation.

H. "NMCRIS" means the New Mexico cultural resource information system, an automated information system that serves as an inventory and database of all cultural properties in the state of New Mexico, and as an index to their geographic locations and related archival and object collections at the repository and elsewhere.

I. "performing entity" means the entity, usually a researcher, indi-

vidual consulting archaeologist, or an archaeological consulting company, that actually conducts an archaeological survey, and, in so doing, generates archaeological records.

J. "qualified user" means any individual or representative of a public or private entity including, but not limited to, corporations, partnerships, trusts, associations, educational institutions, foundations, and museums; any Indian tribe, band, or nation; any agency of any of the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands; or any agency of the state or federal government, who meets one or more of the following minimum standards:

(1) has a degree in archaeology, anthropology, history, or a closely related field, or city planning or equivalent training, from an accredited educational institution;

(2) is a bona fide representative of an agency or institution or private entity which holds a federal or state permit for performing archaeological work within the state;

(3) is a bona fide representative of an agency or institution or private entity involved with the protection and preservation of cultural resources (for example, an environmental or city planner);

(4) is an academic researcher affiliated with an accredited educational or research institution.

K. "qualified institution" refers to any public or private entity including, but not limited to, corporations, partnerships, trusts, associations, educational institutions, foundations, and museums; any Indian tribe, band, or nation; any agency of any of the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands; or any agency of the state or federal government, that meets one or more of the following minimum standards:

(1) holds a federal or state permit for performing archaeological work within the state;

(2) is involved with the protection and preservation of cultural resources (for example, an environmental or city planning department);

(3) is involved in academic research.

L. "registrar" means the manager of ARMS charged with the responsibility of maintaining, expanding, and disseminating the information contained in the records repository and the NMCRIS.

M. "report recipient" means the entity, usually an individual or business, that pays for archaeological investigations as part of the process of applying

for federal or state land-use permits, as required under Section 106 of the National Historic Preservation Act (NHPA) and other state and federal statutes.

N. "records repository" means the official state archaeological archives, located at the museum of New Mexico, museum of Indian arts and culture/laboratory of anthropology.

O. "SHPO" means the state historic preservation officer, the state official who is statutorily charged with administering the Cultural Properties Act, NMSA 1978, Section 18-6-8, and the National Historic Preservation Act, as amended, 16 U.S.C. 470 et. seq.

P. "Sponsoring entity" refers to the entity, usually a federal or state agency, that has administrative responsibility for consulting with the SHPO under Section 106 of the National Historic Preservation Act concerning the potential effects of federally funded or licensed undertakings on archaeological and other historic properties. [9-1-96; 4.51.5.7 NMAC – Rn, 4 NMAC 51.3.2.7 & A, 1-1-03]

4.51.5.8 DOCUMENTS

CITED IN THIS PART: Documents cited in this ~~[Subpart]Part~~ may be viewed at the Museum of New Mexico, ~~[Museum of Indian Arts and Culture]~~ Laboratory of Anthropology, 708~~[-710]~~ Camino Lejo, Santa Fe, New Mexico 87504, or on the ARMS web site: <http://potsuii.arms.state.nm.us>. [9-1-96; 4.51.5.8 NMAC – Rn, 4 NMAC 51.3.2.8 & A, 1-1-03]

4.51.5.10 PROCEDURES:

A. Access Procedures: In order to maintain the confidentiality of sensitive archaeological data, all qualified users and institutions must sign an ARMS user agreement. Qualified users and institutions must complete, sign, and submit a new agreement to the ARMS at the beginning of each calendar year.

B. Survey Registration:

(1) Registration is required before archaeological survey records can be added to the records repository and integrated into the NMCRIS, and is mandatory for all archaeological surveys conducted in the state of New Mexico. Registration is optional for archaeological surveys conducted entirely on tribal lands in New Mexico, unless a cooperative agreement exists between the tribe and the ARMS.

(2) Registration is the responsibility of the performing entity (a qualified user or institution), and shall be made prior to submission of the report and associated records to the sponsoring entity. ~~[Registration may be accomplished by mail~~

~~(ARMS Survey Registration, 228 East Palace Avenue, Santa Fe, NM 87501); phone (505-827-6347), fax (505-827-6497), or e-mail (registrar@arms.state.nm.us). Registration forms are available from the ARMS and require that qualified users and institutions provide the following information for each survey:~~

~~(a) the name of the performing entity;~~

~~(b) the name of the sponsoring entity;~~

~~(c) the name of the report recipient;~~

~~(d) the area that was surveyed, in acres; and the number of both new and previously registered archaeological sites that were recorded or inspected during the survey.] Unassisted survey registration may be performed directly by users through the ARMS web site (<http://potsuii@ARMS.state.nm.us>). Alternatively, survey registration forms may be submitted to ARMS by fax (505-476-1320) or e-mail (registrar@arms.state.nm.us) if response time is not critical. Survey registration forms are also available through the ARMS web site.~~

(3) In response to each registration request, ARMS personnel will provide a NMCRIS activity number for each survey and a laboratory of anthropology (LA) site number for each newly recorded archaeological site. These identification numbers must be clearly indicated on all records that are to be submitted to the sponsoring entity. [9-1-96; 4.51.5.10 NMAC – Rn, 4 NMAC 51.3.2.10 & A, 1-1-03]

4.51.5.11 FEES:

A. General: Except as noted below, all use of the records repository and the NMCRIS is subject to the payment of reasonable, nondiscriminatory fees in order to insure that accurate, comprehensive, and current information is available to qualified users and institutions. All fees received will be placed in a separate account and expended solely for the maintenance and operation of the records repository and the NMCRIS.

B. Access Fees:

(1) With the exception of government institutions that have entered into cooperative agreements with the ARMS, all qualified users and institutions are subject to an annual access fee on the following basis: \$100 per year for ~~[qualified users and institutions involved in the use and/or production of archaeological records for the purposes of compliance with cultural resource laws and regulations, or the use or production of archaeological records for the purpose of academic research.] individuals, companies with 3 or fewer supervisory~~

~~staff; \$150 per year for companies with 4 - 10 supervisory staff; \$250 per year for companies with 11 - 20 supervisory staff; and \$400 per year for companies with 21 or more supervisory staff. The number of supervisory staff will be determined using current state archeological permit information on file at the New Mexico Historic Preservation Division.~~

~~(2) [No access fees shall be collected from active students performing academic research and working under a qualified user with a current ARMS user agreement.] To further the Museum of New Mexico's educational mission, no access fees shall be collected from qualified users and educational institutions involved in academic research provided records are submitted in accordance with the NMCRIS User's Guide. All qualified users and institutions must have a current ARMS User Agreement~~

(3) Payment of ARMS access fees entitles qualified users and institutions to unlimited use of the archeological records and unlimited staff assistance each calendar year for basic records and map checks, provided that no single request requires more than one hour of staff time. Requests that require more than one hour of staff time will be subject to additional charges, billed at \$[20] 50 per hour in not less than one-hour increments.

(4) Payment of access fees entitles qualified users and institutions to unlimited on-site and ~~[remote (e.g., via modem or internet connections)] internet~~ use of the NMCRIS ~~[database]~~ applications, provided that individual users obtain and maintain a user account on the ARMS computer system, as described in ~~[Section 200] 4.51.5.10 NMAC. [Payment of access fees also entitles qualified users and institutions to unlimited staff assistance for custom database queries and creation of electronic data files, provided no single request requires more than one hour of technical staff time. Requests that require more than one hour of technical staff time will be subject to additional charges, billed at \$25 per hour in not less than one hour increments.]~~

(5) Qualified users and institutions will be charged on a per/hour basis for staff assistance for custom database queries and creation of electronic data files. Requests are billed at \$100 per hour of technical staff time in not less than one-hour increments. In lieu of per/hour charges, qualified users and institutions may negotiate annual service contracts with ARMS for access to Geographic Information System (GIS) data files, applications, and related technical support.

C. Survey Registration

Fees: Qualified users and institutions are subject to survey registration fees to cover

the costs of database management and billing activities, except in cases where archaeological survey is performed on a volunteer basis by a non-profit archaeological society or foundation, or where archaeological survey is performed pursuant to a cooperative agreement with the ARMS.

(1) Surveys less than 5120 acres:

(a) For each survey of 5,120 acres (8 square miles) or less, a fee to register that survey with the ARMS will be assessed based on the total area surveyed, measured in acres, using the schedule below:

Class Number	Survey Size (acres*)	Survey Registration Fee
1.	≤5	\$10
2.	6 to 10	\$20
3.	11 to 20	\$30
4.	21 to 40	\$45
5.	41 to 80	\$60
6.	81 to 160	\$80
7.	161 to 320	\$120
8.	321 to 640	\$175
9.	641 to 1,280	\$250
10.	1,281 to 2,560	\$400
11.	2,561 to 5,120	\$760

*rounded to nearest acre

(b) The survey registration fee reflects the cost of processing records by the ARMS for the average survey in each of the 11 survey size classes, based on statewide archaeological survey statistics amassed over the last 20 years in the NMCRIS.

(2) Surveys greater than 5120 acres: Fees for surveys larger than 5,120 acres (8 square miles) shall be determined by multiplying the total number of new archaeological sites that were discovered during survey by \$10.00, plus \$175 for processing the report and survey location data. Archaeological sites that were previously registered with ARMS shall not be included in the calculation of survey registration fees.]

(1) Intensive Archaeological Surveys: The survey registration fee reflects the cost of processing records by the ARMS for the average survey in each of the 12 survey-size classes, based on statewide archeological survey statistics amassed over the last 25 years in the NMCRIS. Each survey will be assessed a fee by ARMS based on the total are surveyed, measured in acres, using the schedule below.

Class Number	Survey Size (acres*)	Survey Registration Fee
1	Less than 6	\$20
2	6 to 10	\$40
3	11 to 20	\$60
4	21 to 40	\$90
5	41 to 80	\$120
6	81 to 160	\$160
7	161 to 320	\$240
8	321 to 640	\$350
9	641 to 1,280	\$500
10	1,281 to 2,560	\$800
11	2,561 to 5,120	\$1520
12	Greater than 5,120	\$1520 (1-42 sites) plus \$15/site for additional sites

*rounded to nearest acre

(2) Sample Archaeological Surveys: Survey registration fees for archaeological surveys utilizing some form of statistical or judgmental sampling procedure shall be based on the area actually surveyed in an intensive fashion, rather than the entire project area.

(3) Reduced Fees: Survey Registration Fees may be reduced for qualified users and institutions that routinely use automated registration and data entry applications supported by ARMS, and/or provide spatial data in a format compatible with NMCRIS. To qualify for a reduction in survey registration fees, users must provide written justification to the Registrar and attach it to the annual ARMS User Agreement. With the concurrence of the SHPO and the Director of the Museum of New Mexico, the Registrar may reduce the

survey registration fee by no more than 25% for the calendar year.

D. System Maintenance

Fees: Except in cases where a cooperative agreement with HPD is in force, participating government agencies are subject to annual fees to cover the costs of operating and maintaining NMCRIS. The System Maintenance Fee is \$10 for each project and \$15 for each archeological site registered with NMCRIS under participating agency sponsorship.

E. Cooperative

Agreements: Cooperative agreements may be negotiated between the Historic Preservation Division and other government entities to advance the sharing of cultural resource data in New Mexico and further the preservation goals of the Office of Cultural Affairs. Agreements must refer to this regulation for purposes of repository access and computer security. Except in cases where the SHPO determines the historic preservation benefits are significant, all cooperative agreements between HPD and a government entity must provide for annual financial support for ARMS to cover the costs of operating and maintaining NMCRIS. The level of support shall be based on the relative proportion of archeological records generated by each governmental entity and maintained in NMCRIS, and the value of services provided by ARMS to the governmental entity.

F. Billing and Payment:

(1) Access Fees: [The access fee shall be due on 1 September 1996 for the remaining four (4) months of 1996 (i.e., \$50 for all users), and must thereafter be renewed each January for the full amount (i.e., \$100 for all users). Access fees must also be accompanied by a signed ARMS user agreement.] The ARMS access fee is due by January 31 of each calendar year and must be accompanied by a signed ARMS User Agreement.

(2) Survey Registration Fees: Payment of survey registration fees is the responsibility of the [performing entity] qualified user or institution performing the survey. Archaeological surveys initiated before the effective date of this regulation (September 1, 1996) shall not be subject to the survey registration fee. [Starting in January 1997, each qualified user and institution shall be invoiced in January and July of each year for surveys performed under their auspices and registered with the ARMS within the previous six (6) months. Two (2) copies of an itemized statement will be mailed to qualified users and institutions identifying each activity registered during the six (6) month billing period, the number of surveyed acres involved, the total number of sites recorded, the total

~~number of sites registered, the survey registration fee, if any, and the total invoice amount.] Each qualified user and institution shall be invoiced on a monthly basis. Invoices shall contain an itemized statement identifying each activity registered during the one (1) month billing period, the number of surveyed acres involved, the total number of sites recorded, the total number of sites registered, the survey registration fee, if any, and the total invoice amount. Payment shall be made by check and must be accompanied by one copy of the invoice. [All] Checks must be made out to "MNM/ARMS 40.390" and be mailed to: Museum of New Mexico, Attn: Archaeological Records Management, P.O. Box 2087, Santa Fe, NM 87504-2087.~~

(3) System Maintenance Fees:

~~Payment of the System Maintenance Fee is the responsibility of the participating government agency sponsoring the project under which the survey and archeological sites were registered. Each participating agency shall be invoiced annually on 1 July. Invoices shall contain an itemized statement identifying each project and site registered during the one (1) year billing period, and the total invoice amount. Payment shall be made by check. Checks must be made out to "MNM/ARMS 40.390" and be mailed to: Museum of New Mexico, Attn: Archaeological Records Management, P.O. Box 2087, Santa Fe, NM 87504-2087~~

G. Penalties: ~~Accounts will be considered delinquent if any fees are more than one hundred eighty (180) days overdue. Payment of survey registration fees shall not, however, be due for survey projects that remain incomplete as of the invoice date, or where contract disputes have delayed final payments to consultants. Written explanation of extenuating circumstances must be submitted by the performing agency with each invoice listing an incomplete survey. Overdue accounts may result in denial of an ARMS user agreement and revocation of ARMS access privileges.] Payment of fees is required within 45 days of the invoice date. Accounts with balances that remain unpaid for more than 45 days will be considered delinquent. Overdue accounts shall result in termination of and/or non-renewal of the ARMS User Agreement and related privileges~~
[9-1-96; 4.51.5.11 NMAC – Rn, 4 NMAC 51.3.2.11 & A, 1-1-03]

**NEW MEXICO
DEPARTMENT OF
FINANCE AND
ADMINISTRATION
BOARD OF FINANCE**

This is an amendment to 2.60.8 NMAC, Sections 6, 7, 8 and 9.

2.60.8.6 OBJECTIVE: This rule provides general guidance regarding the financial and legal requirements for acceptance of credit/debit cards through the state's fiscal agent bank and any approved processor and the use of electronic fund transfers.
[2.60.8.6 NMAC - N, 8-31-2000; A, 11-27-2002]

2.60.8.7 DEFINITIONS:

A. "Agency" means each department, agency, branch, commission, and board of government of the State of New Mexico.

B. "Board" means state board of finance.

C. "Credit/Debit Card" means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services. Cards must be authorized and accepted by the fiscal agent per the state's fiscal agent and merchant agreement and pursuant to current contracts between credit card companies and the board.

D. "Electronic Fund Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

E. "Fiscal Agent Agreement" means the agreement between the ~~[state board of finance]~~ board and the fiscal agent bank that defines the terms, conditions, and procedures of the fiscal agent designation.

F. "Merchant Agreement" means the section of the fiscal agent agreement that addresses the terms and use of credit/debit cards.

G. "Public Body" means any department, board, agency or instru-

mentality of the state, any county, city, town, village, school district, other district, educational institution or any other governmental agency or political subdivision of the state.
[2.60.8.7 NMAC - N, 8-31-2000; A, 11-27-2002]

2.60.8.8 AGENCY RESPONSIBILITIES IN CREDIT/DEBIT CARD ACCEPTANCE

A. ~~[All agencies requesting]~~ Credit/debit card services will be provided through the state's fiscal agent ~~[shall comply with all]~~ subject to the terms and conditions as set out in the fiscal agent agreement and the board's agreements with the individual credit card companies.

B. All costs associated with credit/debit card acceptance will be paid for by the agency to the fiscal agent ~~[bank]~~ pursuant to the fiscal agent agreement.

C. The agency shall determine if initiators of transactions will pay transaction fees or if the agency will absorb fees.

D. Any merchant equipment to be purchased or leased by an agency requesting credit/debit card services shall be paid for by that agency pursuant to a separate agreement between that agency and the fiscal agent ~~[bank]~~ or an approved processor.

E. Agencies requesting credit/debit card acceptance ~~[through the fiscal agent agreement]~~ shall submit to the director of the board a written request that contains the following:

(1) Reason for credit/debit card services.

(2) Confirmation that the agency has read and will follow the terms and conditions for credit/debit card acceptance as set out in the fiscal agent agreement and the board's agreements with the individual credit card companies.

(3) Confirmation that the agency will pay all costs associated with the acceptance of credit/debit card services, including purchases or leases of merchant equipment, as set out in the fiscal agent agreement and any agreement with an approved processor. If ~~[card transaction]~~ fees are paid by the ~~[initiator of transactions]~~ cardholder, this should be so stated by the agency and the procedures used to charge and collect fees from cardholders should be specified.

F. Each agency is responsible for tracking, researching and recording all credit/debit card transactions for reconciliation purposes.

G. Acceptance of credit/debit cards from the Internet ~~[should]~~

shall be done in a secure fashion and on a secure system.

H. The board, in consultation with the fiscal agent, may, at any time, deny acceptance of credit/debit cards by an agency through the fiscal agent agreement. The reasons for denial may include, but are not limited to, the following:

(1) Cost effectiveness.
(2) Illegal or misuse of credit/debit card transactions.

(3) Failure to adhere to the terms and conditions of these regulations, ~~and~~ the fiscal agent agreement and merchant agreement, or the board's agreements with the individual credit card companies.

I. If an agency wishes to use a third party processor (other than the fiscal agent), the agency shall include in its submittal to the director of the board a request stating its desire to do so, including the reasons for the request. Reasons for denial may include, but are not limited to, the reasons specified in subsection H. In addition, upon approval, the agency's agreement with the third-party processor must be approved by the board's director to ensure compliance with the fiscal agent agreement, the merchant agreement and the board's agreements with the individual credit card companies.

[2.60.8.8 NMAC - N, 8-31-2000; A, 11-27-2002]

2.60.8.9 ~~[FISCAL AGENT RESPONSIBILITIES IN]~~ **RESPONSIBILITIES FOR CREDIT/DEBIT CARD ACCEPTANCE**

A. The fiscal agent bank shall provide credit/debit card ~~processing~~ services, upon written request by the director of the board, to any agency so requesting subject to the terms and conditions set out in the fiscal agent and merchant ~~agreement~~ agreements and the individual credit card companies agreements with the board.

B. The charge for credit/debit card services will be the fee designated in the fiscal agent agreement. ~~Transaction charges will be billed to~~ or that set out in the approved third-party processor's agreement. The fiscal agent shall bill the appropriate agency through account analysis performed by the fiscal agent ~~bank~~ in accordance with the relevant provisions of the fiscal agent agreement. At the end of each fiscal year, the fiscal agent bank shall submit a report to board staff summarizing the credit/debit card fees and merchant equipment costs charged to each of the user agencies for that fiscal year. Each Agency will be responsible for all processing fees or charges as set out in the approved third-party processor's agreement with the Agency, if any.

~~[C. Any amendments to the fiscal agent and/or merchant agreement are subject to approval by the Board.]~~

[2.60.8.9 NMAC - N, 8-31-2000; A, 11-27-2002]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.3 NMAC, sections 8, 10 and 11.

19.31.3.8 PUBLIC LICENSES AND PERMITS - APPLICATION FOR:

A. Application Form:

Application for all public licenses and permits shall be made on the standard application form provided by the Department of Game & Fish.

B. **Application Deadline(s):** Applications for all depredation hunts, turkey, antelope, elk, bighorn sheep, bear entry, deer entry, oryx, javelina, bison, and ibex hunts must be received, in the Santa Fe Office only, by 5:00 p.m. on dates set by the State Game Commission.

C. **Mailed Application Deadline:** Mailed applications postmarked, but not delivered by the deadline date, will be accepted by the Santa Fe Office up to five (5) working days after that deadline.

D. **One Applicant per Application:** No more than one (1) person may apply under each application number for bighorn~~[-]~~ sheep, bear entry, ~~oryx,~~ ibex, bison, and depredation hunts.

E. **Two Applicants per Application:** No more than two (2) persons may apply under the same application number for turkey **and oryx.**

F. **Four Applicants per Application:** No more than four (4) persons may apply under the same application number for deer entry, elk, antelope, and javelina.

G. **Resident and Non-resident application combination: Any mixture or combination of residents and non-residents may make application for special drawing providing the number of applicants does not exceed the restriction of this section (subsection D, E or F).**

~~[G.] H. Applications~~ **[Returned] Rejected:** Applications for licenses may be ~~[returned to applicants if the applicants are]~~ **rejected by the Department if an applicant did not:**

(1) ~~[Not]~~ **Apply** on the proper form **as designated by the Director;**

(2) ~~[Are filled out incorrectly; or]~~ **Submit the correct or required information;**

(3) ~~[Are not accompanied by]~~

Submit the correct license or application fee, **and any other required fee;**

(4) **Meet the deadline date;**

(5) **Comply with a current statute or rule, or did not submit valid written landowner permission when specified by rule.**

~~[H.] I. More Applications than Permits:~~ If more applications for public licenses or permits are received ~~[then]~~ **than** there are licenses or permits available, the available licenses or permits shall be allotted by means of a public drawing ~~[in the Santa Fe Office].~~

~~[H.] J. Increase In [License] Licenses or Permits:~~ The number of licenses or permits available may be increased to accommodate corrections or errors by the Department which result in the addition of names to the successful list.

~~[J.] K. Additional Choices:~~ Applicants for public licenses may designate additional choices for hunt periods. No additional choices may be made for Hunt Codes designated as unlimited as defined in 19.31.8 NMAC.

~~[K.] L. Application Categories:~~ Applications for special drawing hunts will be ~~[divided into the following categories, and those applications not meeting these criteria will be rejected]~~ **placed into the appropriate categories, as specified in 17-3-16 NMSA 1978 by Department personnel or their designee. Special drawings shall continue to draw applicants from the appropriate drawing pool progressively for each respective hunt code, starting with first choice applicants, then proceeding to second and subsequent choice applicants until the quota has been met or the pool of applicants has been exhausted.**

~~[(1) Applications containing up to four (4) nonresidents only will be placed in a separate drawing pool and will be allotted 10% of the licenses for that hunt code.~~

~~(2) Applicants containing up to four (4) non resident applicants and that contain a valid outfitter registration number will be placed in a separate pool and will be allotted 12% of the licenses.~~

~~(3) Applicants containing up to four (4) resident applications only will receive 78% of the available licenses for each hunt code.~~

~~(4) Applicants containing any other combination of applicants will be rejected by the Department.~~

~~(5) Any licenses left over from the drawing pool as indicated in Paragraphs 1, 2, and 3 of subsection J. of 19.31.3.8 NMAC will be allocated as prescribed in Paragraph C of Section 17-3-16 NMSA 1978 Compilation, 1997 supplement.]~~

M. Resident and Non-res-

Ident Applications:

(1) A non-resident applicant must have a valid outfitter registration number on his or her application to be placed in the separate pool designed for guided hunts.

(2) For an application to be successfully drawn, there must be a sufficient number of licenses or permits available for that hunt code to accommodate all applicants from their respective drawing pools.

(3) Any licenses left over from the appropriate drawing pool will be allocated as prescribed in Paragraph C of Section 17-3-16 NMSA 1978 Compilation.

[4-1-95, A, 10-14-95, A, 9-14-96, 10-15-96, 5-31-97, 12-31-97, 2-28-98; 19.31.3.8 NMAC - Rn & A, 19 NMAC 31.3.8, 1-31-01, A, 12-28-01; A, 11-27-02]

19.31.3.10 DEER LICENSE VALIDATIONS

A. Sporting Arms Validations: Whenever a license vendor issues a deer license, the vendor shall mark the hunter's selection of sporting arms type.

(1) Licenses validated for rifle shall be validated for hunting deer with modern sporting arms during seasons for modern sporting arms. Licenses validated for bow shall be valid for hunting deer with bows and arrows during seasons for bow deer hunting. Licenses validated for muzzle-loaders shall be valid for hunting deer with muzzle-loaders during seasons for muzzle-loader deer hunting.

(2) It shall be unlawful for anyone to hunt deer with any sporting arms type other than that for which his/her license is validated.

B. D-Hunt Season Validations: Whenever a license vendor issues a deer license validated for rifle, the vendor shall mark on it the hunter's D-Hunt season as defined in Title 19, Chapter 31, Part 8. It shall be unlawful for anyone to hunt deer in any deer season other than that for which his/her license is validated.

C. Game Management Unit (GMU) Validations : Whenever a license vendor issues a deer license, the vendor shall mark the hunter's selection of one of the (GMU's) described in Title 19, Chapter 30, Part 4. It shall be unlawful for anyone to hunt deer in any (GMU) other than that for which his/her license is validated, except ~~[that the (GMU) validation shall not apply to the Sugarite Canyon State Park, Sandia Game Refuge, or the late bow hunts.]~~ **as allowed by State Game Commission rule(s).**

D. Change of Validation: No one other than a Department representa-

tive, a law enforcement designee or a Department license vendor may change the sporting arms, D-Hunt, or (GMU) selection(s) marked on any deer license. Such changes must be made on the face of the license, using a special stamp supplied by the Department. No sporting arms, D-Hunt, or (GMU) changes may be made after the start of the first deer season for which the license is validated.

[4-1-95, A, 1-29-99; 19.31.3.10 NMAC - Rn & A, 19 NMAC 31.3.10, 1-31-01; A, 11-27-02]

19.31.3.11 RESTRICTIONS:

A. One license per big game species per year: It shall be unlawful for anyone to hold more than one permit or license for any one big game species during the current license year unless otherwise allowed by ~~[regulation]~~ **rule.**

B. Valid dates of license or permit: All permits or licenses shall be valid only during the dates specified and only in the area which is specified. **Except that a permit or license will be valid on the contiguous deeded land of private property that extends into an adjacent GMU or AMU, that is open to hunting for that species, when the license holder is in possession of current, valid written permission from the appropriate landowner. This exception shall only apply when the adjacent unit has the same restrictions as to weapon type, bag limit, season dates and license availability.**

C. Rocky Mountain Bighorn sheep - once-in-a-lifetime: It shall be unlawful for anyone to apply for a Rocky Mountain Bighorn Sheep license if one has previously held a license to hunt Rocky Mountain Bighorn Sheep in New Mexico. Exception: Any resident, nonresident, or alien is eligible to submit a bid for the special bighorn permit S-1-488 (auction permit) and S-1-490 (lottery permit) regardless if he/she has previously held a permit to hunt Rocky Mountain or Desert Bighorn Sheep in New Mexico.

D. Desert Bighorn sheep- once-in-a-lifetime: It shall be unlawful for anyone to apply for a Desert Mountain Bighorn Sheep license if one has previously held a license to hunt Desert Mountain Bighorn Sheep in New Mexico. Exception: Any resident, nonresident, or alien is eligible to submit a bid for the special bighorn permit S-1-488 (auction permit) and S-1-490 (lottery permit) regardless if he/she has previously held a permit to hunt Rocky Mountain or Desert Bighorn Sheep in New Mexico.

E. Rocky Mountain and Desert Bighorn Sheep: It shall be unlawful to apply for both Rocky Mountain and

Desert Bighorn Sheep licenses in the same license year.

F. Trophy Ibex - once-in-a-lifetime: It shall be unlawful for anyone to apply for a trophy Ibex license if he/she ever held a license or authorization to purchase a license to hunt trophy Ibex.

G. Oryx - once-in-a lifetime: It shall be unlawful, beginning April 1, 1993, for anyone to apply for an oryx license if he/she ever held a "once-in-a-lifetime" license to hunt oryx. Exception: Depredation oryx hunts, youth oryx hunts and incentive hunts are not once-in-a-lifetime hunts.

H. Valle Vidal (as described in 19.30.4.11(A) NMAC):

(1) It shall be unlawful for anyone to apply for a license of a species in the Valle Vidal if he/she ever held a license for that species in Valle Vidal area since 1983. Exceptions: A person who had held a rifle license for a mature bull elk may apply for an antlerless elk license and vice versa, and a person who has held a Valle Vidal license issued through the incentive authorization program.

(2) It shall be unlawful to hunt bear in the Valle Vidal Area except for properly licensed bear hunters that possess a Valle Vidal elk hunting muzzleloader or rifle license and only during the dates of the elk hunt specified. No dogs shall be allowed to hunt bear on the Valle Vidal.

I. Transfer of Permits of Licenses: It shall be unlawful to transfer permits or licenses to other persons, areas, or other hunt periods except as permitted by regulation adopted by the State Game Commission.

J. Refunds will not be made for any license or permit after it has been awarded or issued.

K. More Than One Application: It shall be unlawful to submit more than one application per species for any license issued through a special drawing, unless otherwise permitted by regulation. Exception: An individual may apply for both a population reduction hunt on public or private land and a special drawing hunt.

L. Deer Entry Hunts: ~~[Any hunter successfully drawing a permit in any Deer Entry hunt must have his/her deer license validated for that hunt.]~~ It shall be unlawful for any Deer Entry hunter to hunt during any other deer season. ~~[All deer entry hunters must have in their possession their deer entry permit and deer license while hunting.]~~

M. Handicapped Fishing or Handicapped General Hunting License Qualifications: To hold a handicapped fishing or handicapped general

hunting license, the individual must be a resident of New Mexico and must show proof of a severe disability by reason of one or more physical disabilities resulting from amputation, arthritis, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, and end-stage renal disease, or who has a combination of permanent disabilities which cause comparable substantial functional limitation. Reasonable accommodation will be made, relating to these licenses, upon request.

N. Handicapped Elk or Antelope License Qualifications: To hold a handicapped elk or antelope license, any individual must show proof of a permanent mobility restriction which limits their activity to a walker, wheelchair, or two crutches, or severely restricts the movement in both arms or who has a combination of permanent disabilities which cause comparable substantial functional limitation.

O. Bison-once-in-a-life-time: It shall be unlawful for anyone to apply for a bison license if he/she ever held a license or authorization to purchase a license to hunt bison.

P. Youth Hunts: Only applicants who have not reached their 18th birthday by the opening day of the hunt are eligible to apply for or participate in a youth only hunt.

Q. Bear Entry Hunt: It shall be unlawful to hunt bear without having a valid bear entry permit and a valid license in the hunters possession in designated wildlife areas. Bear entry hunters shall be allowed to hunt any other bear hunt provided they have a valid license and tag. [4-1-95, 10-14-95, 10-31-97; Rn, 19 NMAC 31.3.7, 2-28-98, A, 12-29-99, A, 5-14-99 A, 7-15-99, A, 10-15-99; 19.31.3.11 NMAC - Rn & A, 19 NMAC 31.3.11, 1-31-01, A, 12-14-01; A, 12-28-01; A, 11-27-02]

NEW MEXICO HIGHWAY AND TRANSPORTATION DEPARTMENT

This is an amendment to 18.11.2.5 and 18.11.2.8 of the NMAC. 18.11.2 NMAC was also renumbered and reformatted to comply with the current NMAC requirements.

18.11.2.5 EFFECTIVE DATE: March 30, 1996, unless a later date is cited at the end of a section.
[3/30/96; 18.11.2.5 NMAC - Rn & A, 18

NMAC 11.2.5, 11/30/02]

18.11.2.8 A P P L I C A N T REQUIREMENTS:

A. An applicant for aircraft registration must be the owner or lessee of an aircraft based or hangared in the State of New Mexico.

B. If requested by a representative of the Division, the applicant shall make available for inspection by the Division, any or all of the following information for aircraft based or hangared in the State of New Mexico.

(1) Current Federal Aviation Administration Certificate of Aircraft Registration;

(2) Federal Aviation Administration Airworthiness Certificate; and

(3) Proof of maximum certificated gross weight.

C. If takeoff gross weight is different from landing gross weight, the takeoff gross weight shall be used in determining the registration fee.

D. The New Mexico Certificate of registration must be kept in the aircraft at all times and presented for inspection upon demand by an Officer of the State of New Mexico or County or City therein, or any agent of the Division or the Federal Aviation Administration.

E. ~~[Registration sticker must be affixed to the left side of the left vertical stabilizer. If aircraft has multiple vertical stabilizers, the sticker shall be affixed to the left side of the left most vertical stabilizer. ALTERNATIVE: The sticker must be affixed to the inside of the left rear window so that the printing is readily visible through the window.]~~

F. ~~Display of Registration sticker must occur upon receipt of registration material. Failure to display registration sticker will result in written warning to display. If no action is taken, registration will be considered invalid and a penalty equal to ten percent (50%) [10%] of regular registration fee times each month or portion of a month that the registration sticker is not displayed shall be assessed.]~~ The Division shall use the FAA registration number displayed on the aircraft as required by FAA regulations for purposes of identifying whether an aircraft is properly registered.
[12/29/71, 10/09/80, 3/30/96; 18.11.2.8 NMAC - Rn & A, 18 NMAC 11.2.8, 11/30/02]

End of Adopted Rules and Regulations Section

SUBMITTAL DEADLINES AND PUBLICATION DATES**2002**

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Issue Number 17	September 3	September 16
Issue Number 18	September 17	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

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Issue Number 4	February 17	February 28
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Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
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Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
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