

This rule was filed as GSD 86-506.

**TITLE 1           GENERAL GOVERNMENT ADMINISTRATION**  
**CHAPTER 5       PUBLIC PROPERTY MANAGEMENT**  
**PART 17          CLEAN INDOOR AIR REGULATION: USE OF PROPERTY CONTROL DIVISION**  
**REAL PROPERTY**

**1.5.17.1           ISSUING AGENCY:** General Services Department - Property Control Division.  
[7/10/86; Recompiled 11/30/01]

**1.5.17.2           SCOPE:** This regulation affects all state agencies using buildings under the control of property control division, general services department. This includes all executive state departments, boards, commissions, councils, agencies and divisions of state government.  
[7/10/86; Recompiled 11/30/01]

**1.5.17.3           STATUTORY AUTHORITY:** This regulation is based on:  
A.       Section 15-3-2 A.(2) NMSA 1978, which provides that the director of the property control division regulate the use of the occupancy of buildings and real property under his control and make reasonable requirements for the continuation of that use or occupancy and Sections 15-3-25 through 15-3-28 NMSA 1978 regarding motor pool vehicles.  
B.       Section 24-16-1 through 24-16-11 NMSA 1978.  
[7/10/86; Recompiled 11/30/01]

**1.5.17.4           DURATION:** [Permanent]  
[Recompiled 11/30/01]

**1.5.17.5           EFFECTIVE DATE:** Immediately, July 1, 1986 [filed July 10, 1986]  
[7/10/86; Recompiled 11/30/01]

**1.5.17.6           OBJECTIVE:** Establish a policy on smoking in the general services department and all property control division buildings. This regulation constitutes the general services department's policy as required under Section 24-16-1 through 24-16-11 NMSA 1978.  
[7/10/86; Recompiled 11/30/01]

**1.5.17.7           DEFINITIONS:**  
A.       "Act" means the "Clean Indoor Air Act, Sections 24-16-1 through 24-16-11 NMSA 1978.  
B.       "Agency" means any unit of state government including, but not limited to, boards, commissions, bureaus, agencies, councils, divisions and departments.  
C.       "Agency head" means the person having the highest authority within an agency, or his designee.  
D.       "Building services" means the building services division of the general services department.  
E.       "Department" means the general services department.  
F.       "Director" means the director of the property control division of the general services department, or his designee.  
G.       "Division" means the property control division of the general services department.  
H.       "Manager" means that person designated by the director as manager of a building used by more than one agency and that person designated as manager of a building by an agency head where the agency has sole use of that building.  
I.       "Premises" means the real property under the control of the division and all improvements and structures thereon that is the subject of the regulations governing the use of such real property.  
J.       "Smoking" or "smoke" means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling or the smoke of a pipe, cigar or cigarette or any kind.  
K.       "User agency" means the agency assigned the use of division premises by the director, pursuant to Section 15-3-2A (1) and (2) NMSA 1978.  
[7/10/86; Recompiled 11/30/01]

**1.5.17.8 POLICY:** The policy of this regulation is to reduce the hazards of smoking to both smokers and non-smokers by actively encouraging smokers to stop, or at least reduce their smoking, and by providing non-smokers an atmosphere free of the discomfort and hazards of smoke.  
[7/10/86; Recompiled 11/30/01]

**1.5.17.9 PROCEDURES:**

A. Scope: This regulation constitutes the written policy statement required by the act for all agencies using division premises or leasing real property pursuant to the terms of leases that must be approved by the division under the requirements of Section 15-3-2A NMSA 1978. Nothing in this regulation should be construed as prohibiting user agencies from establishing rules on smoking policy within and for such agencies where such agency rules explain, implement, or embellish the act or this regulation.

B. Designation of smoking permitted and non-smoking areas:

(1) The exterior signs: The director shall post signs on all public entrances of division buildings pursuant to Section 24-16-8 NMSA 1978, or designate a state agency occupying the building to post the required signs, pursuant to the procedures of Section 6.4 [now Subsection D of 1.5.17.9 NMAC]. The exterior signs must be conspicuously posted on or near all public entrances. The signs shall either state "no smoking" or "no smoking except in designated areas." Such signs may be affixed to interior surfaces if the signs are readily visible from the exterior of the building.

(2) The interior signs: The director shall designate smoking-permitted areas in every enclosed indoor building area in division buildings or shall designate the entire building as a non-smoking area. Where smoking-designated areas exist in a building, the remainder of the building shall automatically be a non-smoking area. Whenever an agency is assigned a specific area of a division building by the director, the agency head shall make such designations.

C. Signs: Upon designation of smoking-permitted areas, the director or agency head shall notify building services or the manager of the location and type of signs to post. The designations may also include areas for the posting of "no smoking" signs. The building services director shall post and maintain the signs for Division buildings within the city limits of Santa Fe, New Mexico. The manager of each building or agency head shall post and maintain the signs for division buildings outside Santa Fe city limits. Agencies who do not require building services or the manager to post signs, may post their own signs except for those signs to be affixed in a permanent manner, such as bolting or nailing into a wall or door. Agencies installing their own signs shall be responsible for maintaining the signs. Types of signs:

- (1) "No smoking", as designated in appendix 8.1;
- (2) "No smoking except in designated areas", as designated in appendix 8.2;
- (3) "Smoking permitted area", as designated in appendix 8.3;
- (4) All signs shown in appendix 8.1 through 8.3 are full size.

D. Required use of signs; installation and maintenance: The signs designated under Section 6.3.1 [now Paragraphs (1) (2) and (3) of Subsection C of 1.5.17.9 NMAC] or signs with the same wording and are otherwise substantially similar shall be the only signs used by building services and by the manager. Building services or the manager may install and maintain the signs in areas designated by agencies occupying division buildings, provided however, that the agency shall pay the cost of such signs. In making the request, the user agency requesting building services or the manager to install signs shall provide exact locations and designations of sign type.

E. Compliance with Sections 24-16-6, 24-16-8 and 24-16-9 NMSA 1978:

(1) The agency head of any agency using division premises is deemed "the person in charge of a public place" for the purposes of establishing the duty of complying with the requirements of the act.

(2) Common areas: The director may designate any agency using a division premises as the agency in control of any area of the premises that is in common use with other agencies housed in the premises, and any exterior portions of the premises for purposes of establishing the "person in charge of public place" under the act.

F. Ventilation systems: Any agency seeking better ventilation systems or other physical modifications to the premises to reduce smoke transfer to non-smoking areas must first notify building services or the manager for maintenance, and the director, if repairs or renovation are needed. This provision shall not apply to physical modifications that are not affixed to the premises.

G. Designation of smoking/non-smoking work areas:

- (1) Fully enclosed work areas: Fully-enclosed work areas are those areas within a building that have

no openings to other portions of the building other than ventilation, utility passages, doorways (with a door than can be closed) and/or windows that can be closed. In order to qualify as a fully-enclosed work area, the interior doors (and windows, where applicable) must remain closed while occupants are smoking in order to contain smoke in a smoking-permitted designated area. Any agency employee or employees exclusively occupying a fully-enclosed office or work area may designate that area as a smoking or non-smoking area, provided however, that should the designation allow smoking, adequate ventilation must exist or interior doors and windows must be closed while occupants are smoking to limit the smoke going into non-smoking areas, provided that employers (the agency) shall not be required to make structural or other physical modifications to accomplish adequate ventilation. The director shall determine what measures, if any, may be taken to establish adequate ventilation.

(2) Report of designation: All designations required under Section 6.7 [now Subsection G of 1.5.17.9 NMAC] shall be approved by the agency head in charge of the work area before posting of any signs, or such designation shall be pursuant to procedures established within that agency.

(3) No smoking areas: Smoking in division premises is prohibited in all elevators, hallways, and nurses aid stations or similar facilities for medical treatment of employees.

(4) Common non-work areas: Not more than one-half of all seating capacity and floor space may be designated as a smoking area for all employee lunchrooms, cafeterias, auditoriums, employee lounges, public and employee restrooms and reception (waiting) rooms. The non-smoking area must be contiguous and it must be accessible through a non-smoking area.

(5) Common work areas: Whenever smokers and non-smokers work together, the agency head or director of the division to which the area is assigned shall, upon request of an employee, provide to that employee a work area that is designated as a non-smoking area and is smoke-free to the extent ventilation systems provide smoke-free areas, provided that no structural change in the work areas available to that employee is required. Structural changes shall not include modification of movable partitions. Nothing in this regulation shall be construed as prohibiting the user agency or the director from authorizing structural or other changes to division buildings or requesting funding for such changes for the purpose of improving working environments. The various divisions or smaller units of an agency in the same building shall coordinate efforts to combine smokers or non-smokers where such grouping does not substantially interfere with the work duties of the employees being grouped together.

(6) Smoking in motor pool vehicles:

(a) The motor pool of GSD shall designate twenty-five percent of all vehicles as vehicles in which smoking is prohibited. State employees requesting "non-smoking" vehicles shall be provided such vehicles to the extent of their availability. There shall be no smoking in all "non-smoking" designated vehicles.

(b) Required travel: Any state employee who is required to travel in a GSD motor pool division vehicle as a part of his duties of employment may request other people in such vehicle to refrain from smoking. No state employee may smoke when such request is made.

(7) Non-discrimination: Agency supervisors of state employees may not discriminate or retaliate in any manner against employees requesting nonsmoking or smoking permitted work areas or vehicles or against any employee who files a complaint for violation of these regulations or of the act.

(8) Conference/meeting rooms: Unless adequate seating space and ventilation exist, there shall be no smoking in conference or meeting rooms during meetings unless all in attendance affirmatively state that smoking is permissible. Agency employees in charge of the meeting shall enforce this provision.

(9) Pipes and cigars: Nothing in this regulation shall be construed as prohibiting a user agency from passing rules or regulations requiring that smoking-permitted areas shall be for smoking of cigarettes only.

(10) Tobacco sales: Nothing in this regulation shall be construed as prohibiting a user agency from passing rules or regulations requiring that tobacco sales in the user agency offices are prohibited. Existing concession sales contracts may be modified to prohibit such sales whenever economically possible upon request by the user agency's agency head to the director. All new concession sales contracts may have provisions prohibiting tobacco sales when the user agency agency head makes such request to the director.

[7/10/86; Recompiled 11/30/01]

#### **1.5.17.10 IMPLEMENTATION AND ENFORCEMENT OF RULES:**

A. The agency heads shall arrange seating in work areas and non-work areas to provide smoke-free areas, in compliance with the requirements of this regulation.

B. Agency heads shall:

(1) ask smokers to refrain from smoking on request of a client, employee or any other person

asserting he is suffering from discomfort from the smoke;

(2) affirmatively direct smokers to smoking-permitted areas; and

(3) use existing physical barriers and ventilation systems to minimize the toxic effect of transient smoke in adjacent smoking areas.

C. Any agency employee failing to comply with this regulation may be disciplined by the agency head to the extent permitted by state personnel board rules and regulations.

D. Any person who is not a state employee may be asked to leave the building if he will not comply with a request to stop smoking in a non-smoking area.

[7/10/86; Recompiled 11/30/01]

**1.5.17.11 APPENDIXES:**

A. "No smoking" sign.

B. "No smoking except in designated areas" sign.

C. "Smoking permitted" sign.

[7/10/86; Recompiled 11/30/01]

**HISTORY OF 1.5.17 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

GSD 86-506 Clean Indoor Air Regulation: Use of Property Control Division Real Property, filed 7/10/86.

**History of Repealed Material:** [RESERVED]