

NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to amend the following rules:

**Motor Vehicle Code, Section 66-5-9 NMSA 1978**

**18.19.5.15 NMAC - Proof of Identification Number, Identity, and Age for a Driving Authorization Card or Identification Card that is Not Acceptable for Federal Purposes**

**18.19.5.16 NMAC - Proof of New Mexico Residency**

**Motor Vehicle Code, Section 66-5-15.2 NMSA 1978**

**18.19.5.17 NMAC - Fingerprints and Criminal History Screening**

The proposals were placed on file in the Office of the Secretary on June 14, 2018. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about August 28, 2018.

A public hearing will be held on the proposals on Wednesday, August 1, 2018, at 10:00 a.m. in the in the ACD Classroom on the first floor of the Manual Lujan Building, 1200 St. Francis Drive, Santa Fe, New Mexico. 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](mailto: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. Accessible copies of the proposals are available upon request; contact the Tax Policy Office at [policy.office@state.nm.us](mailto:policy.office@state.nm.us). Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or by email to [policy.office@state.nm.us](mailto:policy.office@state.nm.us) on or before August 1, 2018. All written comments received by the agency will be posted on [www.tax.newmexico.gov](http://www.tax.newmexico.gov) no more than 3 business days following receipt to allow for public review.

**18.19.5.15 - PROOF OF ~~[IDENTIFICATION NUMBER,]~~ IDENTITY, AND AGE FOR A DRIVING AUTHORIZATION CARD OR IDENTIFICATION CARD THAT IS NOT ACCEPTABLE FOR FEDERAL PURPOSES**

**A.** Applicants for a New Mexico driving authorization card or identification card that is not acceptable for federal purposes must provide documentary proof of their ~~[identification number]~~ identity, age and residency.

**B.** An applicant who cannot establish lawful status and who does not hold a current, valid New Mexico driver's license or identification card must also submit fingerprints for a background check, as provided in 19.18.5.17 NMAC.

**C.** ~~[An applicant who chooses to provide a social security number must present his or her social security administration (SSA) account number card. If a SSA account card is not available, the person shall present one the following documents, provided that the document bears the applicant's social security number:~~

- ~~\_\_\_\_\_ (1) a W-2 form;~~
- ~~\_\_\_\_\_ (2) a SSA-1099 form;~~
- ~~\_\_\_\_\_ (3) a non-SSA-1099 form; or~~
- ~~\_\_\_\_\_ (4) a pay stub with the applicant's name and social security number on it.~~

**D.** ~~Applicants can use the following documents to provide documentary proof of their identification number or documentary proof of their identity, but one document cannot be used for proof of both their identification number and identity:~~

- ~~\_\_\_\_\_ (1) a passport or passport card from the applicant's country of citizenship if verified through systematic alien verification for entitlements system (SAVE);~~
- ~~\_\_\_\_\_ (2) a certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;~~

- \_\_\_\_\_ (3) \_\_\_\_\_ a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- \_\_\_\_\_ (4) \_\_\_\_\_ an unexpired employment authorization document issued by the U.S. department of homeland security, form I-766 or form I-688B, verified by SAVE;
- \_\_\_\_\_ (5) \_\_\_\_\_ an identification card issued by the consulate of Mexico in El Paso, Texas, or Albuquerque, New Mexico, or such other foreign consulate with which the New Mexico motor vehicle division has established a reliable method of verifying the authenticity of the identification card;
- \_\_\_\_\_ (6) \_\_\_\_\_ an individual tax identification number;
- \_\_\_\_\_ (7) \_\_\_\_\_ a certified letter of enrollment issued by a federally recognized Indian nation, tribe or pueblo;
- \_\_\_\_\_ (8) \_\_\_\_\_ a valid identification card issued by a federally recognized Indian nation, tribe or pueblo;
- \_\_\_\_\_ (9) \_\_\_\_\_ certified copy of foreign birth certificate issued by the applicant's place of birth, provided that if the document is not in English, a certified copy of the foreign birth with a notarized English translation;
- \_\_\_\_\_ (10) \_\_\_\_\_ affidavit of Indian birth;
- \_\_\_\_\_ (11) \_\_\_\_\_ a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;
- \_\_\_\_\_ (12) \_\_\_\_\_ a state government issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;
- \_\_\_\_\_ (13) \_\_\_\_\_ a state government issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;
- \_\_\_\_\_ (14) \_\_\_\_\_ an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;
- \_\_\_\_\_ (15) \_\_\_\_\_ a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;
- \_\_\_\_\_ (16) \_\_\_\_\_ an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center identification card;
- \_\_\_\_\_ (17) \_\_\_\_\_ a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2);
- \_\_\_\_\_ (18) \_\_\_\_\_ a United States, state, or local government issued photo ID, issued based on name, social security number and date of birth;
- \_\_\_\_\_ (19) \_\_\_\_\_ N560 certificate of citizenship if verified in SAVE;
- \_\_\_\_\_ (20) \_\_\_\_\_ N550 certificate of naturalization if verified in SAVE;
- \_\_\_\_\_ (21) \_\_\_\_\_ a valid permanent resident card issued by the United States government if verified in SAVE;
- \_\_\_\_\_ (22) \_\_\_\_\_ a valid I-551 resident alien card issued since 1997 if verified in SAVE; or
- \_\_\_\_\_ (23) \_\_\_\_\_ a valid New Mexico license or identification card;
- \_\_\_\_\_ (24) \_\_\_\_\_ a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of birth and court seal;
- \_\_\_\_\_ (25) \_\_\_\_\_ a New Mexico correction department photo identification card, or a photo identification card issued by the federal bureau of prisons, that includes the name, date of birth and documentation that the card has not expired within the past year;
- \_\_\_\_\_ (26) \_\_\_\_\_ a social security card;
- \_\_\_\_\_ (27) \_\_\_\_\_ a medical insurance card or documentation of medical insurance coverage of eligibility that contains an identification number;
- \_\_\_\_\_ (28) \_\_\_\_\_ military discharge/separation papers (DD-214);
- \_\_\_\_\_ (29) \_\_\_\_\_ selective service card.] Applicants can use one of the following documents if it contains the applicant's name and date of birth, to provide documentary proof of their identity and age.

If the document does not contain the applicant's name and date of birth, two of the following documents will be required:

- \_\_\_\_\_ (1) \_\_\_\_\_ an original or certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;
- \_\_\_\_\_ (2) \_\_\_\_\_ a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- \_\_\_\_\_ (3) \_\_\_\_\_ an unexpired employment authorization document issued by the U.S. department of

homeland security, form I-766 or form I-688B, verified by SAVE;

(4) an identification card issued by the consulate of Mexico in El Paso, Texas, or Albuquerque, New Mexico, or such other foreign consulate;

(5) a certified letter of enrollment issued by a federally recognized Indian nation, tribe or pueblo;

(6) a valid identification card issued by a federally recognized Indian nation, tribe or pueblo;

(7) certified copy of foreign birth certificate issued by the applicant's place or birth, provided that if the document is not in English, a certified copy of the foreign birth with a notarized English translation;

(8) affidavit of Indian birth;

(9) a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(10) a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(11) a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(12) an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

(13) a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;

(14) an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center identification card;

(15) a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2);

(16) a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth;

(17) N560 certificate of citizenship if verified in SAVE;

(18) N550 certificate of naturalization if verified in SAVE;

(19) a valid permanent resident card issued by the United States government if verified in SAVE;

(20) a valid I-551 resident alien card issued since 1997 if verified in SAVE;

(21) a valid New Mexico license or identification card;

(22) a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of birth and court seal;

(23) a New Mexico correction department photo identification card, or a photo identification card issued by the federal bureau of prisons, that includes the name, date of birth and documentation that the card has not expired within the past year;

(24) a social security card;

(25) military discharge/separation papers (DD 214);

(26) selective service card;

(27) an I-94 form presented without a passport if it contains the applicant's photo;

(28) a military dependent identification card that includes the applicant's photo;

(29) a medical insurance card or documentation of medical insurance coverage or eligibility containing an insurance identification number including a Medicaid or Medicare card;

(30) a passport or passport card from the applicant's country of citizenship;

(31) a passport or passport card from the United States if verified through systematic alien verification for entitlements system (SAVE);

(32) individual tax identification number (ITIN);

(33) a medical record less than one year old that is not from a visit to an emergency room or urgent care facility;

(34) proof of eligibility for and receipt of welfare benefits, including general assistance, temporary assistance for needy families and the supplemental nutrition assistance program with a copy of the human services department eligibility profile page dated with the last year.

[18.19.5.15 NMAC - N, 11/15/2016; A/E, 6/26/2018; A, xx/xx/20xx]

#### **18.19.5.16 - PROOF OF NEW MEXICO RESIDENCY**

**A.** All applicants for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, and all applicants for a driving authorization card or identification card not acceptable for federal purposes must provide documentary evidence demonstrating New Mexico residency.

**B.** Applicants must provide two of the following documents, showing the applicant's name or the name of applicant's spouse in combination with a certificate of marriage and a New Mexico residential address for the applicant, as proof that the applicant lives in New Mexico.

- (1) a current real property rental agreement or purchase agreement;
- (2) a utility bill dated within 60 days, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;
- (3) an insurance bill, card or binder, dated within the past 6 months;
- (4) a bank or credit card statement dated within 60 days;
- (5) an employment pay stub that contains the applicant's name and address, dated within 60 days;
- (6) a current, local property tax statement or mortgage documents;
- (7) a document from an education institution, such as a transcript, report card or enrollment confirmation, provided it is dated within 60 days;
- (8) original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;
- (9) a New Mexico medical assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;
- (10) a New Mexico public assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;
- (11) documents indicating membership in a New Mexico religious organization, provided that the applicant is less than 18 years of age; or
- (12) documents indicating membership in a New Mexico sports organization, provided that the applicant is less than 18 years of age;
- (13) ~~[if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, the parent/guardian's New Mexico identification card, or two proofs of New Mexico residency of the parent/guardian.]~~ a New Mexico medical or public assistance card, profile printout or a letter from the issuing agency;
- (14) ~~if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, the parent/guardian's New Mexico identification card, or two proofs of New Mexico residency of the parent/guardian; and~~
- (15) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501(c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

**C.** Applicants for an identification card not acceptable for federal purposes who are homeless or in temporary lodging and unable to provide two of the documents identified in Subsection B of 18.19.5.16 NMAC may provide an affidavit or a notarized letter from ~~[in the manner required by the department from]~~ a representative of a New Mexico governmental entity, not-for-profit organization, assisted care facility/home, adult assisted living facility/home, homeless shelter, transitional service provider, or group/half way house attesting to the address where the applicant resides or receives services *in lieu of* the documents required in Subsection B of 18.19.5.16 NMAC. [18.19.5.16 NMAC - N, 11/15/2016; A/E, 6/26/2018; A, xx/xx/20xx]

#### **18.19.5.17 - FINGERPRINTS AND CRIMINAL HISTORY SCREENING**

**A. Authority; use of criminal history information:** The taxation and revenue department (TRD) is authorized to obtain the criminal history records of applicants for driving authorization cards and TRD is authorized to obtain criminal history records of applicants for identification cards that are not acceptable for federal agencies for federal purposes, provided that the applicant does not possess a valid New Mexico license or identification card and that the applicant does not provide proof of lawful status.

**B. Procedure for applicants:**

- (1) If an applicant otherwise meets the application and eligibility requirements, then TRD

shall take a full-face or front-view photograph and fingerprints of the applicant and shall submit the same to the New Mexico department of public safety (DPS) for the purpose of obtaining a current criminal history screening through the national crime information center as well as a criminal history screening through the records of DPS.

(2) An applicant shall provide to TRD a criminal background screening request, fingerprints, and supporting documentation including an authorization for release of information to TRD in accordance with the procedures of DPS.

(3) DPS will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be transmitted to TRD for review.

(4) Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to ~~[TRD. TRD shall timely submit the fees to DPS.]~~ DPS or designee of DPS. Fees cannot be waived by TRD.

(5) TRD shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.

**C. TRD review of criminal history information:**

(1) TRD shall review the results and shall not issue a driving authorization card if the results show that the applicant has an outstanding criminal arrest warrant for a felony or a misdemeanor charge in any state or country or if the results show that the applicant's fingerprints are associated with any name, date of birth or social security number other than those provided when the person applied for the driving authorization card.

(2) TRD shall notify the person if the application is denied, including the reason for the denial, and the person's right to a hearing.

(3) TRD shall destroy the results of the screening after it has completed its review and issued the driving authorization card, or one year from the date of the denial, whichever occurs sooner.

**D. Evidence of eligibility:** A person whose application for a driving authorization has been denied shall become eligible upon submitting evidence that the basis for ineligibility was resolved. Such evidence may include:

(1) documents that demonstrate that the criminal arrest warrant was quashed, withdrawn, or resolved;

(2) documents that demonstrate that there is not a conflict with the name, date of birth or social security number; or

(3) other documents as approved by the director of the motor vehicle division.

[18.19.5.17 NMAC - N, 11/15/2016; A/E, 6/26/2018; A, xx/xx/20xx]