

2010 MAY 28 AM 11:32

NMAC TRANSMITTAL FORM

1.24.10 NMAC

[Sequence # _____]

1. Issuing Agency Secretary of State		2. Agency Code (DFA) 370
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3. Agency/Address 325 Don Gaspar, Suite 300 Santa Fe, New Mexico 87503
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4. Contact Person			
Name	Kelli Fulgenzi	Phone #	827-3622
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5. Type of Rule/Action					
New	<input type="checkbox"/>	Amendment	<input checked="" type="checkbox"/>	Renumber	<input type="checkbox"/>
Repeal	<input type="checkbox"/>	Emergency	<input checked="" type="checkbox"/>		

6. Total number of pages	2	7. Hearing date		8. Effective date	5/28/2010
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9. NMAC Number		
Title	Chapter	Part
1	10	30

10. NMAC Name		
Title	Chapter	Part
General Government Administration	Elections and Elected Officials	Native American Voting

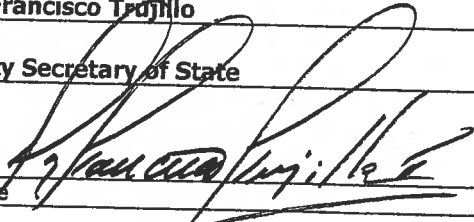
11. Amendment Description Amend 6 sections	12. Amendment's NMAC Citation 1.10.30 NMAC, Sections 6 thru 11
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13. Most recent filing date (if applicable) 10 31 2008

14. Are there any materials incorporated by reference?	
No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	Reference / Internet site
Please list attachments and Internet site(s) if applicable	
1.	
2.	
3.	

15. If materials are attached, has copyright permission been received?		
No	<input type="checkbox"/>	Yes
	<input type="checkbox"/>	Public domain
	<input type="checkbox"/>	<input type="checkbox"/>

16. Legal citation(s) that allows the Issuing Agency to regulate and the Issuing Authority to promulgate regulations on this subject: (provide all that apply) 1.2.1 NMSA 1978, Chapter 270, Laws 2005

17. Signature & Title of Issuing Authority: (Delegated authority must be on file)	
Name: Don Francisco Trujillo	Check if delegated authority <input checked="" type="checkbox"/>
Title: Deputy Secretary of State	
Signature: 	Date Signed: 27 May 10

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This is an emergency amendment to 1.10.30 NMAC, Sections 6 through 11, effective May 28, 2010.

1.10.30.6 OBJECTIVE: ~~[The purpose of this rule is to provide procedures for conducting voting by Native Americans.]~~ The purpose of this rule is to establish procedures for voting on Indian nation, tribe or pueblo lands in New Mexico.

[1.10.30.6 NMAC - N/E, 10-31-08; A/E, 5-28-10]

1.10.30.7 DEFINITIONS:

A. Alternate site means an alternate early voting location or mobile alternate voting location that is situated on the land of an Indian nation, tribe or pueblo as provided for in this rule.

B. Ballot means a paper ballot card that is tabulated on an optical scan vote tabulating system or hand tallied.

~~[C. Request means a request from an Indian nation, tribe or pueblo for an alternate site.]~~

~~[D.]~~ **C. Voter** means any person who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States and who is registered under the provision of the Election Code of the state of New Mexico.

D. Costs means the reasonable monetary fees set by New Mexico law for compensation of personnel who are necessary to run a Native American early voting location.

E. Voting equipment means a combination of mechanical, electromechanical or electronic equipment, including software and firmware required to program and control the equipment that is used to tabulate votes.

F. Precinct board means one presiding judge, one precinct official and one interpreter/language translator.

[1.10.30.7 NMAC - N/E, 10-31-08; A/E, 5-28-10]

1.10.30.8 REQUESTS:

~~[A. Requests. Requests for alternate sites shall be made by the chief executive officer or designee, or by the governing council or body, of an Indian nation, tribe or pueblo. The request need not be in writing, but if the request is not in writing, the county clerk shall keep a record of the request, including the date and the name of the person who made the request. Requests shall be made at least 14 days before early voting commences.]~~

~~[B. Request responses. After a request has been received, the county clerk shall acknowledge, in writing, receipt of the request to the appropriate Indian nation, tribe or pueblo requesting officer, designee, governing council or body. The county clerk shall also provide a copy of the acknowledgement to the secretary of state.]~~ Requests for alternate sites shall be made by the Indian nation, tribe or pueblo in writing to the county clerk no later than the first Monday in November of each odd-numbered year. The request shall specify the location and proposed dates of the requested alternate site.

[1.10.30.8 NMAC - N/E, 10-31-08; A/E, 5-28-10]

1.10.30.9 ACTION FOLLOWING RECEIPT OF A REQUEST:

A. Location of alternate site.

~~[(1) If a county clerk receives a request from an Indian nation, tribe or pueblo with a boundary that is located less than fifteen miles from the office of a county clerk for a county in which the Indian nation, tribe or pueblo is located; the county clerk is strongly encouraged to provide an alternate site.]~~

~~[(2) If a county clerk receives a request from an Indian nation, tribe or pueblo with a boundary that is located more than fifteen miles from the office of a county clerk for a county in which the Indian nation, tribe or pueblo is located; the county clerk shall provide an alternate site as required by Section 1-5-5.6 NMSA 1978. The county clerk shall coordinate with the chief executive officer or designee of the Indian nation, tribe or pueblo to determine the location of the alternate site.]~~ An alternate site located on the land of an Indian nation, tribe or pueblo shall conform to the same requirements applicable to other alternate voting locations for early voting in the county, except as specified in Section 1-6-5.8 NMSA 1978 and this rule.

B. Staffing of alternate site. ~~[The county clerk shall ensure that adequate interpreters are available at the alternate site who can speak the language or languages of the Indian nation, tribe or pueblo on whose land the alternate site is located, and who can provide information in that language to voters concerning the voting process, voting requirements, and the candidates and issues on the ballot so as to allow voters to make informed decisions concerning how they wish to vote.]~~ The county clerk shall provide one presiding judge, one precinct official and one federally mandated interpreter/language translator.

C. **Hours for operating alternate site.** Except as provided in this subsection, pursuant to Section 1-6-5.7 NMSA 1978, beginning on the third Saturday before election day, an alternate site shall be open for ~~[voting from noon to 8 p.m. on Tuesdays through Fridays and 10:00 a.m. to 6 p.m.]~~ early voting for at least eight consecutive hours through the Saturday immediately preceding the election. A county clerk may request and the secretary of state may grant a modification of these hours of operation from the secretary of state because of a hardship arising from inadequate facilities, difficulties with making appropriate personnel available or other exigent circumstances, provided the county clerk justifies in writing to the secretary of state the need for a modification.

D. **Early voting procedures at alternate sites.** Except as otherwise provided by law, county clerks shall use the same procedures for voting at alternate sites that are used at early voting sites not situated on the land of an Indian nation, tribe or pueblo.
[1.10.30.9 NMAC - N/E, 10-31-08; A/E, 5-28-10]

~~1.10.30.10 [ACTION IN THE ABSENCE OF A REQUEST: Establishment of alternate site. If, prior to the start of registration for voting, the county clerk for a county in which an Indian nation, tribe or pueblo is located and whose boundary is located more than fifteen miles from the office of the county clerk has not received a request from the Indian nation, tribe or pueblo for an early voting site, the county clerk is encouraged to contact the appropriate authority for the Indian nation, tribe or pueblo concerning arranging for an alternate site.]~~

ALTERNATE SITES. RESPONSIBILITIES OF COUNTY CLERKS AND RESPONSIBILITIES OF SECRETARY OF STATE:

A. The county clerk shall provide all transportation, setup and maintenance of all voting equipment to be used in a Native American early voting location.

B. The secretary of state shall sustain the cost of all ballots, provide adequate voting equipment, and reimburse the equivalent cost for early voting site personnel designated in each respective county, which shall consist of one presiding judge, one precinct official and one interpreter/language translator. Said personnel shall be hired and supervised by the county clerk.

C. The county clerk shall execute a written agreement with the Indian nation, tribe or pueblo to provide early voting services, personnel and equipment on Indian lands. Such agreement shall indicate hours of operation, dates of early voting and location of the site for the county to maintain early voting locations on Indian lands. The agreement shall be approved by the secretary of state prior to the commencement of early voting.

[1.10.30.10 NMAC - N/E, 10-31-08; Repealed/E, 5-28-10; 1.10.30.10 NMAC - N/E, 5-28-10]

1.10.30.11 VOTING SUPPORT FOR MEMBERS OF INDIAN NATIONS, TRIBES OR PUEBLOS:

A. **Voting materials in Native American languages.** County clerks in counties covered under 42 U.S.C. Section 1973aa-1a(b) shall provide all registration and voting notices, forms, instructions, assistance, and other information relating to the electoral process in the language or languages of the applicable Indian nation, tribe, or pueblo.

B. **Dissemination of voting information through the media.** If a minority language is historically unwritten, county clerks in counties covered under 42 U.S.C. Section 1973aa-1a(b) shall orally disseminate information relating to the electoral process, including voting procedures and ballot information, in the language of the applicable minority group through public service announcements on radio or television. The public service announcements shall be broadcast during daylight hours on radio and television stations available in the areas where the Indian nations, tribes or pueblos being targeted are located.

~~[C. — Staffing of polling places on election day. The county clerk shall ensure that adequate interpreters are available at election day polling places situated on the lands of Indian nations, tribes or pueblos. The interpreters shall be able to speak the language of the relevant Indian nation, tribe or pueblo, and shall provide information to voters in the relevant language about the voting process, voting requirements and the candidates and issues on the ballot, so as to allow voters to make informed decisions concerning how they wish to vote. The number of interpreters available shall be adequate to accommodate voters who need to use the respective Indian language effectively to cast their ballots.]~~

[1.10.30.11 NMAC - N/E, 10-31-08; A/E, 5-28-10]