

## **“Integrated” Version of Proposed Repeal and Replacement Rule 10.25.2 NMAC**

**TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT**  
**CHAPTER 25 STATE FIRE MARSHAL**  
**PART 2 CERTIFICATES OF FITNESS**

**10.25.2.1 ISSUING AGENCY:** New Mexico Public Regulation Commission, State Fire Marshal Division until June 30, 2021; State Fire Marshal, effective July 1, 2021.  
[10.25.2.1 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.2 SCOPE:** This rule applies to the installation, inspection, maintenance, servicing, tagging or repairing of fire protection equipment or systems by companies or individuals who operate in the state of New Mexico.  
[10.25.2.2 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.3 STATUTORY AUTHORITY:** Sections 8-8-6 and 8-8-15 until June 30, 2020, 59A-52-2, 59A-52-15, 59A-52-15.1, 59A-52-16 NMSA 1978 and Laws 2020, Chapter 9, Section 52, effective July 1, 2021.  
[10.25.2.3 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.4 DURATION:** Permanent.  
[10.25.2.4 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.5 EFFECTIVE DATE:** Unless a later date is otherwise provided by law or in the rule, the effective date of this rule shall be the date of publication in the New Mexico register.  
[10.25.2.5 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.6 OBJECTIVE:** The purpose of this rule is to assure a minimum level of competency necessary to perform the installation, inspection, maintenance and repair of fire protection equipment, through approved certification.  
[10.25.2.6 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.7 DEFINITIONS:** In addition to the definitions contained in Sections 10.25.1.7 and 10.25.5.7 NMAC of the rules pertaining to general provisions and fire prevention and public occupancy, respectively, the following definitions apply to this Part:

- A.** "NICET" means the National Institute for Engineering Technologies.
- B.** "NM CID", means the New Mexico Construction Industries Division.
- C.** "Qualified Party" means a person holding a license from NM CID, and having met the requirements of this rule to install, inspect, service, maintain, tag, recharge or repair fire protection systems or fire extinguishers.
- D.** "SFM", until June 30, 2021, means the director of the state fire marshal division under the public regulation commission who has the authority for final determination of the application of the fire provisions of this rule throughout the state. Effective July 1, 2021, "SFM" means the director of the division of the state fire marshal's office under the homeland security and emergency management department who has the authority for final determination of the application of the fire provisions of this rule throughout the state.
- E.** "SFMO" means a SFM deputy, a SFM supervisor or a SFM fire inspector.

[10.25.2.7 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.8 TYPES OF CERTIFICATES REQUIRED:**

**A. When required.** No person shall install, inspect, maintain, service, tag, recharge or repair fire protection equipment, fire protection systems or fire extinguishers unless first having obtained a certificate of fitness from the SFM in compliance with these rules. Any person holding a certificate of fitness shall have a copy readily available in all service vehicles, on-site while performing work, and in places of business for review upon request by the SFMO or local FM. Certificates of fitness are non-transferable.

**B. Types of certificates.** The SFM or AHJ may issue a certificate of fitness for the installation, inspection, maintenance, tagging, recharging or repairing of the following:

- (1) water-based fire protection systems;
- (2) fire alarm systems;
- (3) special hazards systems;

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- (4) fire and smoke dampers:
  - (a) electrically actuated fire and smoke dampers, or
  - (b) mechanically actuated fire and smoke dampers; and
- (5) portable fire extinguishers.

[10.25.2.8 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**10.25.2.9 APPLICATION PROCEDURE:** Any company or person may apply to obtain a certificate of fitness by submitting the required application to the SFM as provided in Section 10.25.1.9 NMAC. An AHJ may issue a certificate of fitness within their respective jurisdiction, but shall comply with the minimum requirements of this rule and Subsection A of Section 10.25.2.8 NMAC.

**A. Fire Protection Companies.** An application for a certificate of fitness from a company shall:

- (1) include the applicant company's name, complete mailing address, direct telephone number, email address, name and signature of the authorized representative or owner of the company, and date submitted;
- (2) indicate the discipline(s) for which a certificate of fitness is being requested, as listed in Subsection B of Section 10.25.2.8 NMAC;
- (3) include a statement that the applicant agrees to be inspected by the SFM, designees of the SFM, or an AHJ at any time during normal business hours;
- (4) for a certificate of fitness to perform work on water-based fire protection systems, an application shall include:
  - (a) the name of the qualified party who possesses a valid NM CID MS-12 license, the license number, and the license expiration date;
  - (b) documentation of a valid NICET Level II certification in "Water Based Systems Layout" with the certification number and the certification expiration date;
  - (c) proof of liability insurance coverage with no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate coverage;
- (5) for a certificate of fitness to perform work on fire alarm systems, an application shall include:
  - (a) the name of the qualified party who possesses a valid NM CID ES-3 license, the license number, and the license expiration date;
  - (b) documentation of a valid NICET Level II certification in "Fire Alarm Systems" with the certification number and the certification expiration date;
  - (c) proof of liability insurance coverage with no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate coverage;
- (6) for a certificate of fitness to perform work on special hazards systems, an application shall include:
  - (a) the name of the qualified party who possesses a valid NM CID MM-98, MS-14 or JS-12 license, the license number, and the license expiration date;
  - (b) documentation of a valid NICET Level II certification in "Special Hazards Systems" with the certification number and the certification expiration date;
  - (c) proof of liability insurance coverage with no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate coverage;
- (7) for a certificate of fitness to perform work on fire and smoke dampers, an application shall include:
  - (a) the name of the qualified party who possesses a valid NM CID MM-98 or MM-3 license, and license number with expiration date;
  - (b) proof of liability insurance coverage with no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate coverage;
  - (c) for electrically actuated fire and smoke dampers monitored by a fire alarm system, applicants shall comply with requirements of Paragraph 5 of Subsection A of this Section 10.25.2.9 NMAC;
  - (d) for mechanically actuated fire and smoke dampers, applicants shall provide documentation of a valid NFPA-Certified Fire Protection Specialist certification or of an approved fire and life safety certification from a program accredited by ANSI.
- (8) for a certificate of fitness to perform work on portable fire extinguishers, an application shall include:
  - (a) the name of the qualified party;

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(b) documentation of a valid fire extinguisher certification that is compliant with the most current edition of NFPA 10, with the certification number and the certification expiration date, provided, however, that the certification program shall consist of a practical and written exam and the applicant shall achieve a minimum of 85% competency on each exam; and;

(c) proof of liability insurance coverage with no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate coverage;

(d) a statement that the qualified party operates from a fixed location, provides mobile recharging service, or both;

(e) a statement that the qualified party agrees to allow only trained personnel to maintain, service and recharge portable fire extinguishers, maintains all current training documentation for personnel and calibration records of applicable equipment;

(f) a statement that the qualified party agrees to provide its personnel with all service manuals and documentation, proper tools, recharging materials, lubricants and manufacturers' recommended replacement parts or parts specifically listed for use in fire extinguishers;

(9) include a statement that the qualified party acknowledges that all employees meet or exceed the minimum requirements of Subsection B of Section 10.25.2.9 NMAC, except for those individuals who are applying to obtain a certificate of fitness for fire extinguishers; and

(10) whenever a company applies to obtain a certificate of fitness for two or more of the fire protection disciplines as listed in Subsection B of Section 10.25.2.8 NMAC, the company applicant shall provide proof of liability insurance coverage with no less than one million dollars (\$1,000,000) per occurrence and no less than five million dollars (\$5,000,000) in combined single, aggregate, or umbrella coverage.

**B. Fire Protection System Technicians.** Any person who wishes to install, modify, service, tag, recharge or repair fire protection equipment or systems shall be employed by an approved company in accordance with the requirements of Subsection A of Section 10.25.2.9 NMAC and shall comply with following minimum requirements:

(1) in addition to any NM CID requirements, such person shall possess a minimum of a NICET Level II certification in the exact discipline(s) for which a certificate of fitness is being sought, e.g., "Fire Alarms," "Water-Based Systems Layout" or "Special Hazards Systems"; or

(2) fire protection technicians shall possess a minimum NICET Level I certification and shall be directly supervised by a person who possesses a NICET Level II certification in the exact discipline(s) for which a certificate of fitness is being sought, e.g., "Fire Alarms", "Water-Based Systems Layout" or "Special Hazards Systems". A supervisor who possesses a NICET Level II certification in a discipline that is different from the discipline for which a certificate of fitness is being sought by the NICET Level I fire protection technician, is not qualified to provide supervision under this Paragraph.

**C. Requirements for renewal.** Any person or company seeking to renew a certificate of fitness shall follow the process required by this rule, and shall submit all information as prescribed for an initial application. [10.25.2.9 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

### 10.25.2.10 REVIEW OF APPLICATION:

**A. Review.** The SFMO shall review each application and shall return it to the applicant if the application is determined to be incomplete as provided by Section 10.25.1.10 NMAC. An application returned by the SFMO shall be deemed denied. A local FM shall follow the review process provided in their respective ordinance, and shall assure that the applicant has first obtained a valid certificate of fitness from the SFM.

**B. Denial.** The SFMO may recommend to the SFM denial of an application if the:

(1) application is incomplete or does not include documentation required by these rules or Section 10.25.1.10 NMAC;

(2) applicant does not have required licenses or qualifications for the disciplines requested;

(3) application is not properly signed with original signature;

(4) SFMO determines that the application contains any falsification or misrepresentations; or

(5) a lack of competency of the applicant has been documented and determined.

**C. Approval.** If the SFMO recommends approval of the application, a SFM deputy may issue a certificate of fitness valid for up to two years, expiring on December 31 of the second year. A certificate of fitness shall not be issued for a time period longer than the earliest expiration date contained on documentation provided by the applicant at the time the application is submitted.

[10.25.2.10 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

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**10.25.2.11 CHANGES TO INFORMATION ON APPLICATION OR CERTIFICATE:** An applicant or certificate of fitness holder shall notify the SFM within five business days of any change in information on the application or on the certificate of fitness, such as, but not limited to, a change of address or change of qualifying party.

[10.25.2.11 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

### **10.25.2.12 EXPIRATION AND REVOCATION OF CERTIFICATE:**

**A. Expiration.** A certificate of fitness automatically expires at the conclusion of the time period for which it was issued or shall expire if notification is not provided to the SFM as required by Section 10.25.2.11 NMAC.

**B. Revocation.** The SFM, a SFM deputy or an AHJ may revoke, or refuse to issue, a certificate of fitness if:

(1) any of the required licenses or qualifications of the applicant expire, are canceled or are revoked;

(2) during an inspection, the SFMO or AHJ finds a substantial violation of these rules, applicable fire codes, or NFPA standards for a discipline for which the certificate of fitness was issued;

(3) the SFMO determines that the applicant made false statements or misrepresentations of material fact in the application or documentation submitted with the application;

(4) the SFMO determines that the certificate of fitness was issued in error or in violation of an applicable statute or these rules;

(5) the SFMO determines that the applicant has a documented and verified lack of competency which poses a significant harm or imminent danger to the public; or

(6) the SFMO determines that the applicant installed a fire protection system without written approval from the SFM, the SFM's designee, or local FM.

**C. Rules of procedure.** Until June 30, 2021, all matters before the commission involving the SFM shall follow the commission's rules of procedure. Beginning July 1, 2020, all matters involving the SFM shall follow rules of procedure that may be adopted by the SFM.

**D. Review.** A person whose certificate of fitness is revoked by the SFM, a SFM deputy or an AHJ may request a review by the SFM of the revocation using the procedures enumerated in Subsection A of Section 10.25.1.15 NMAC.

[10.25.2.12 NMAC - N, 11/15/2007; Rp, \_\_\_/\_\_\_/2020]

**HISTORY OF 10.25.2 NMAC: [RESERVED]**