

“Integrated” Version of Proposed Repeal and Replacement Rule 10.25.5 NMAC

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT
CHAPTER 25 STATE FIRE MARSHAL
PART 5 FIRE PREVENTION AND PUBLIC OCCUPANCY

10.25.5.1 ISSUING AGENCY: New Mexico Public Regulation Commission, State Fire Marshal Division until June 30, 2021; State Fire Marshal, effective July 1, 2021.
[10.25.5.1 NMAC - Rp/E, 10.25.1 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.2 SCOPE:

A. This rule establishes the state's minimum requirements that apply to structures, processes, premises and safeguards regarding:

- (1) the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
- (2) conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
- (3) fire hazards in the structure or on the premises from occupancy or operation;
- (4) matters related to the construction, extension, repair, alteration or removal of fire protection systems; and
- (5) conditions affecting the safety of firefighters and emergency responders during emergency operations.

B. This rule provides standards applicable to the inspection and testing of mechanical fire and smoke dampers and smoke control systems in places of assembly, business, daycare, detention and correctional, educational occupancies, factory industrial, high hazard, health care occupancies, institutional occupancies, residential occupancies consisting of four or more family units, mercantile occupancies, office occupancies, industrial occupancies, storage occupancies, mixed occupancies and miscellaneous structures, underground structures and windowless buildings and all buildings owned or occupied by the state or any political subdivision thereof or by municipal governments.

C. This rule does not apply to detached one- and two-family dwellings or townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade in height built to the New Mexico Residential Building Code.

D. The FM, defined below, may adopt fire protection requirements that are more stringent than Section 10.25.5 NMAC, provided such requirements do not conflict with this rule or 59A-52-18 NMSA 1978. The authority for administration and interpretation of construction-related sections of the NMFC, defined below, which apply to construction projects requiring a building permit is the responsibility of the chief building official or the AHJ. The FM may be granted the authority for the administration and interpretation of fire protection systems, as outlined in a signed partnership agreement with the SFM, defined below. In the event of conflicting fire code interpretation, the SFM may review and determine final interpretation of fire code application upon receiving written notification with supporting documentation, regardless of partnership agreement status. The chief building official of an AHJ, defined below, shall have the authority for the administration and interpretation of building codes, other than fire protection systems.

[10.25.5.2 NMAC - Rp/E, 10.25.5.2 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.3 STATUTORY AUTHORITY: Sections 8-8-6 and 8-8-15 until June 30, 2021, 59A-52-2, 59A-52-15, 59A-52-15.1, 59A-52-16 and 60-2C-3 NMSA 1978, and Laws 2020, Chapter 9, Section 52, effective July 1, 2021.

[10.25.5.3 NMAC - Rp/E, 10.25.5.3 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.4 DURATION: Permanent.

[10.25.5.4 NMAC - Rp/E, 10.25.5.4 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.5 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.

[10.25.5.5 NMAC - Rp/E, 10.25.5.5 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.6 OBJECTIVE: The purpose of this rule is to prescribe minimum fire and life safety requirements and adoption of applicable fire code and all national fire protection association standards, except for NFPA 1 and

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NFPA 101, for the installation, operation and maintenance of fire protection and life safety features in buildings and structures necessary to reasonably protect life and property from the hazards created by fire, explosion, and similar emergencies.

[10.25.5.6 NMAC - Rp/E, 10.25.5.6 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.7 DEFINITIONS: In addition to the definitions contained in Sections 10.25.1.7 and 10.25.2.7 NMAC of the rules pertaining to general provisions and certificates of fitness, respectively, the following definitions apply to this Part:

A. "Authority Having Jurisdiction (AHJ)" means an organization, office, or individual responsible for enforcing the minimum requirements of codes, standards and permits for approving equipment, materials and installations or a procedure within its jurisdiction.

B. "ANSI" means the American national standards institute located in Washington, D.C., or its predecessor organization.

C. "Certificate of Fitness" refers to a verification which is obtained pursuant to Part 10.25.2 NMAC that is valid and on file with the SFM as required by Part 10.25.2 NMAC.

D. "FM" means the fire marshal with the authority over permitting and inspections of fire systems within a particular political subdivision of the state.

E. "IFC" means the international fire code, 2015 edition, published by the International Code Council and is available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.

F. "NFPA" means the national fire protection association located in Quincy, Massachusetts, or its predecessor organization.

G. "NICET" means the national institute for certification in engineering technologies.

H. "NM CID" means the construction industries division of the New Mexico regulation and licensing department.

I. "NMFC" means the New Mexico fire code created by this rule including the IFC currently-adopted by the construction industries division of the regulation and licensing department in New Mexico by reference.

J. Until June 30, 2021, "**SFM**" 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. Beginning 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.

[10.25.5.7 NMAC - Rp/E, 10.25.5.7 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.8 ADOPTION OF FIRE CODE AND NATIONAL STANDARDS: The SFM adopts the IFC, 2015 edition, which is incorporated by reference as revised in this rule. In this rule, revisions are numbered to correspond with the section numbering of the IFC and such revisions further amend such sections of the IFC. All references in the IFC to the international mechanical code mean the New Mexico mechanical code, NM CID rule Section 14.9.2 NMAC. All references in the IFC to the international plumbing code mean the New Mexico plumbing code, NM CID rule Section 14.8.2 NMAC. For purposes of this rule, the application of building code section 102.4 of the IFC, 2015 edition, means that the design and construction of new structures shall comply with the currently adopted New Mexico building code, NM CID rule Section 14.7.2 NMAC.

[10.25.5.8 NMAC - Rp/E, 10.25.5.8 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, __/__/2020]

10.25.5.9 REVISIONS TO IFC CHAPTER 1 ADMINISTRATION:

A. Section 101 General.

(1) **Section 101.1 Title.** Insert in brackets: New Mexico.

(2) **Section 101.2.1 Appendices.** Appendices D, E, F, G and J of the IFC shall apply. All remaining appendices shall not apply, except where adopted by an AHJ.

(3) **Sections 101.3 through 101.5.** See the corresponding sections of the IFC.

B. Section 104 General authority and responsibilities. If Section 104.6 (official records) or any other provision of the NMFC conflicts with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978, the provisions of the Inspection of Public Records Act shall control.

C. Section 105 permits. The following sections of the IFC are deleted: Section 105.6, Section 105.7.2 through 105.7.5, Section 105.7.8 through 105.7.16 and Section 105.7.18. The NMFC establishes the state

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minimum fire code allowing local jurisdictions and political subdivisions the ability to enact stricter ordinances provided the state minimum is complied with by all such jurisdictions. The SFM requires permits and licenses for fireworks as provided in 10.25.6 NMAC.

D. Certificates of fitness. The SFM requires certificates of fitness for the installation, inspection, maintenance, servicing, tagging, recharging or repairing of fire protection systems as provided in Part 10.25.2 NMAC.

E. Section 105.3 Conditions of a Permit. This section is deleted in its entirety and replaced with the following language: "105.3 conditions of a permit. Such permission, if granted in Section 105.1.2.2, shall not be construed as authority to violate, cancel or set aside any other provisions of this code or other applicable regulations or laws of the jurisdiction."

F. Section 105.4.1 Construction documents: submittals. This section is deleted in its entirety and replaced with the following language:

(1) One set of construction documents shall be submitted to the SFM or FM when required.

(2) All construction documents that are submitted to the SFM shall comply with the plans submittal information provided by the SFM on their respective website and shall be submitted with the applicant's certificate of fitness number, permit application and permit number or building official unique identifier and shall comply with the approval process provided in Section 10.25.5.18 NMAC.

G. Section 108 Board of appeals. This section is deleted in its entirety and replaced with the following language: The appeal processes provided in Sections 59A-52-21 and 59A-52-22 NMSA 1978 shall apply and may be initiated by filing an appeal as provided in 10.25.1 NMAC.

H. Section 109 Violations. The penalties listed in section 109.4 of the IFC shall not apply in New Mexico. The penalties authorized in Sections 59A-52-24 and 59A-52-25 NMSA 1978 shall apply.

I. Section 111 Stop work order. The penalties listed in section 111.4 of the IFC shall not apply. The penalties authorized in Sections 59A-52-24 and 59A-52-25 NMSA 1978 shall apply.

J. Section 113 Fees. This section of the IFC shall not apply.
[10.25.5.9 NMAC - Rp/E, 10.25.5.9, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

10.25.5.10 REVISIONS TO IFC CHAPTER 2 DEFINITIONS:

A. Definitions defined by the SFM or the NMFC shall apply specifically to the enforcement and requirements of Part 10.25.5 NMAC. Terms not defined in this rule but defined in the New Mexico building code, NM CID rule Part 14.7.2 NMAC, the New Mexico residential building code, NM CID rule Part 14.7.3 NMAC, the New Mexico existing building code, NM CID rule Part 14.7.7 NMAC, the New Mexico mechanical code, NM CID rule Part 14.9.2 NMAC, the New Mexico plumbing code, NM CID rule Part 14.8.2 NMAC, the New Mexico electrical code, NM CID rule Part 14.10.4 NMAC.

B. Section 202 General Definitions. The definition of "record drawings" is deleted in its entirety and replaced with the following language: "record drawings" means submittals and amended submittals that document the location of all appurtenances of fire protection systems to include any corrections incurred during final acceptance, as required by IFC Section 105.4.

[10.25.5.10 NMAC - Rp/E, 10.25.5.10 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

10.25.5.11 REVISIONS TO IFC CHAPTER 3 GENERAL REQUIREMENTS:

A. Section 301.2 Permits. This Section shall apply to the extent mandated by a local AHJ.

B. Section 304.1.2 Vegetation. This section applies to the extent mandated by the local AHJ.

C. Section 307, Open burning, recreational fires and portable outdoor fireplaces. This section of the IFC applies only and to the extent mandated by the local AHJ.

D. Section 308.1.6.3 Sky lanterns. The following shall be added: "No amendment or provision by an AHJ may allow for the release of untethered sky lanterns or similar devices."

[10.25.5.11 NMAC - N, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

10.25.5.12 REVISIONS TO IFC CHAPTER 4 EMERGENCY PLANNING AND PREPAREDNESS:

In section 405.5 Record keeping, item number 7 is amended-with the following language: "Problems encountered and corrective actions for the problems encountered."

[10.25.5.12 NMAC - Rp/E, 10.25.5.11 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

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10.25.5.13 REVISIONS TO IFC CHAPTER 10 MEANS OF EGRESS: The institutional portion of Table 1004.1.2 is amended to add correctional facilities and detention centers having an occupant load factor of 60 gross, in accordance with NM CID rule Subsection B of Section 14.7.2.18 NMAC.
[10.25.5.15 NMAC - Rp/E, 10.25.5.14 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

10.25.5.14 REVISIONS TO IFC CHAPTER 56 EXPLOSIVES AND FIREWORKS: This chapter of the IFC and 10.25.6 NMAC shall apply to fireworks. If there is any conflict between the IFC and the Fireworks Licensing and Safety Act, Sections 60-2C-1 through 60-2C-11 NMSA 1978, the Fireworks Licensing and Safety Act shall control.
[10.25.5.16 NMAC - N, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

10.25.5.15 REPEAL OF CODES: NFPA 1 and NFPA 101 are repealed.
[10.25.5.17 NMAC - Rp/E, 10.25.5.16 NMAC, 6/28/2019; Rp, 11/26/2019; Rp, ___/___/2020]

10.25.5.16 APPROVAL OF FIRE PROTECTION SYSTEMS: Prior to beginning construction or occupancy of any building or structure regulated by the currently-adopted NMFC, the contractor and technicians shall possess a valid certificate of fitness as required by Part 10.25.2 NMAC. Fire protection drawings shall be submitted to the SFM or FM, as appropriate, for plan review and ultimate approval by the AHJ.

A. Filing drawings with the SFM for review.

(1) **Documents required.** The contractor shall submit one set of drawings for the building or structure. Submittals shall be in accordance with "Plans Submittal Information" obtained via the SFM website and this rule. For convenience, a contractor may submit additional sets of drawings and an envelope with prepaid postage directly to the SFM for the SFM's use in returning the drawings after review. Electronic filing of fire protection plans will be accepted via electronic plans review software that is compatible with software used by the SFM.

(2) **Where to submit.** The contractor shall submit drawings of the fire protection system to the fire code enforcement bureau of the SFM in compliance with Section 10.25.1 NMAC or to an AHJ who has obtained a valid partnership agreement with the SFM. The SFM shall not accept drawings by facsimile transmission.

(3) **Requirements for drawings.** The drawings shall clearly indicate fire protection systems in sufficient detail to establish compliance with applicable codes and standards, and shall include the signature and seal of the licensed professional engineer in accordance with the New Mexico Engineering and Surveying Practice Act (found at Chapter 61, Article 23 NMSA 1978) that prepared the drawings. Drawings submitted shall comply with plans submittal information provided by the SFM on its website. Fire protection designers who wish to submit fire protection plans shall possess, at minimum, a valid NICET level III certification in the relevant discipline. The NICET level, certification number, expiration date, and signature shall be indicated on all fire protection drawings submitted to the SFM or AHJ.

(4) **Fees.** The SFM does not require any fees for review of fire protection systems.

B. Third party review. The SFM or FM, as appropriate, in their discretion, may require a third party review of drawings if specialized expertise or knowledge is needed, as indicated in IFC Section 104.7.2. If the contractor agrees to proceed with review, the contractor shall file written approval by the method provided in 10.25.1.8 NMAC and shall pay directly to the third party the cost of such review before the SFM or FM, as appropriate, returns the drawings.

C. Return of drawings. If the SFM or FM, as appropriate, approves the drawings, the drawings shall be stamped "approved", with the name of the reviewer from the SFM or FM, as appropriate, with the submitter or contractor, as appropriate. The SFM or FM shall retain one complete set of drawings or submittals for a period no less than five years or for as long as the structure or activity to which such records relate remain in existence. If the SFM or FM, as appropriate, rejects the drawings or submittals, an explanation for the basis for rejection shall be given to the submitter or contractor. The submitter or contractor shall pick up approved drawings if prior arrangements have not been agreed to for return by mail. Hard copy plans will be kept for no longer than 21 calendar days.

D. Rejection. The SFM or FM, as appropriate, may reject fire protection system drawings for noncompliance with the plan submittal requirements indicated on the SFM website and by Subsection A of Section 10.25.5.16 NMAC for the following reasons:

- (1) the drawings are incomplete;
- (2) the drawings indicate a violation of these rules or applicable codes and standards;

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- (3) the submitted drawings are not in accordance with Title 16, Chapter 39 NMAC;
- (4) no certificate of fitness is on file with the SFM;
- (5) the drawings or submittals contain a misrepresentation or inaccuracy;
- (6) third party review of the drawings or submittals reveals a violation of these rules,

applicable codes or standards;

- (7) all SFM requirements have not been included in the submittals; or
- (8) any other valid reason as determined by the SFM.

E. Resubmission of drawings. If drawings are rejected, the contractor may correct the deficiencies noted in the rejection letter and the corrected drawings may be resubmitted. Submittals shall be submitted by the same process for filing original drawings for review.

F. Construction.

- (1) Construction may begin upon approval of plans and issuance of the proper permits.

(2) **New construction.** Any new building, new alteration, new addition or new structure after the effective date of the adoption of the currently-adopted NMFC shall comply with the currently-adopted NMFC.

(3) After installation of the fire protection system has been completed, a request for inspection shall be made to the SFM, FM or AHJ. The request may be made orally or in writing to the SFM or as otherwise required by the SFM.

G. Inspection and testing. The SFM or FM, as appropriate, shall perform an inspection of the fire protection system of a building or structure within a reasonable period of time after a request for inspection has been made. The SFM or FM, as appropriate, shall not approve the installation if the inspection indicates:

- (1) a violation of this rule or applicable codes and standards;
- (2) the fire protection system was not installed in compliance with the drawings;
- (3) the fire protection system was not installed by a licensed entity and certified journeyman;
- (4) no valid certificate of fitness is on file with the SFM;
- (5) the final acceptance testing of each fire protection system is not recorded as complete;
- (6) the fire protection system was installed by anyone other than the company indicated on

the approved plans;

(7) any other disciplines, other than fire protection work, has not been inspected and approved, i.e. plumbing, mechanical or electrical work; or

- (8) for any other valid reason as determined by the SFM.

H. Re-inspection. If the FM does not approve the installation of the fire protection system and the responsible party corrects the deficiencies noted in the inspection, the responsible party may re-apply for inspection following the same procedure as for the initial inspection or by Paragraph 2 of Subsection F of Section 10.25.5.16 NMAC.

[10.25.5.21 NMAC - Rp/E, 10.25.5.17 NMAC, 6/28/2019; Rp, 11/26/2019; Rn, 10.25.5.18 NMAC 04/___/2020]

HISTORY OF 10.25.5 NMAC:

Pre-NMAC History: none.

History of Repealed Material:

10 NMAC 25.5, Fire Prevention (filed 05/09/1997) repealed 11/15/2007.

10.25.5 NMAC, Fire Prevention and Public Occupancy (filed 11/1/2007) repealed, effective 6/28/2019.

10.25.5 NMAC, Fire Prevention and Public Occupancy emergency rule repealed, effective 11/26/2019.

NMAC History:

10 NMAC 25.6, Safe Handling and Sale of Fireworks, effective 6/9/1997.

10 NMAC 25.5, Fire Prevention (filed 05/09/1997) was replaced by 10.25.5 NMAC, Fire Prevention and Public Occupancy, effective 11/15/2007.

10.25.5 NMAC, Fire Prevention and Public Occupancy (filed 11/1/2007) was replaced by 10.25.5 NMAC, Fire Prevention and Public Occupancy, effective 6/28/2019.