

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.
[10.25.5.1 NMAC - N, 11/15/2007]

10.25.5.2 SCOPE:

- A.** This rule applies 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; and
 - (4) matters related to the construction, extension, repair, alteration or removal of fire protection, suppression or alarm systems.
- B.** Other agencies have adopted rules that may apply and that are not affected by these rules.
- (1) CID has adopted rules for housing and construction that include provisions on fire prevention in Title 14, Chapters 5 through 10 NMAC.
 - (2) The environmental improvement board has adopted rules for aboveground and underground storage tanks containing petroleum or hazardous substances and rules governing hazardous waste administered by the environment department in Title 20, Chapter 5 NMAC.
 - (3) The board of licensure for professional engineers and surveyors has adopted rules for the design of fire protection and alarm systems in Title 16, Chapter 39 NMAC.
- C.** AHJs may adopt fire protection requirements that are more stringent or comprehensive than 10.25.5 NMAC, as long as the requirements do not conflict with these rules.
[10.25.5.2 NMAC - N, 11/15/2007]

10.25.5.3 STATUTORY AUTHORITY: Sections 8-8-21, 59A-52-15, and 59A-52-16 NMSA 1978.
[10.25.5.3 NMAC - N, 11/15/2007]

10.25.5.4 DURATION: Permanent.
[10.25.5.4 NMAC - N, 11/15/2007]

10.25.5.5 EFFECTIVE DATE: November 15, 2007, unless a later date is cited at the end of a section.
[10.25.5.5 NMAC - N, 11/15/2007]

10.25.5.6 OBJECTIVE: The purpose of this rule is to prescribe minimum requirements for the operation and maintenance of 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 - N, 11/15/2007]

10.25.5.7 DEFINITIONS: In addition to the definitions in 10.25.1 NMAC:

- A.** **fire code official** shall have the meaning provided in Section 202 of the IFC;
- B.** **IBC** means the international building code, 2003 edition, published by the international code council, inc. and available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 or 800-214-4321;
- C.** **IEBC** means the international existing building code, 2003 edition, published by the international code council, inc. and available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 or 800-214-4321;
- D.** **IFC** means the international fire code, 2003 edition, published by the international code council, inc. and available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 or 800-214-4321;
- E.** **NFPA 1** means the fire prevention code, 1997 edition, published by the national fire protection association and available by contacting: Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101 or 800-344-3555;

F. NFPA 101 means the life safety code, 1997 edition, published by the national fire protection association and available by contacting: Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101 or 800-344-3555; and

G. UBC means the uniform building code, 1997 edition, published by the international conference of building officials and available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 or 800-214-4321.

[10.25.5.7 NMAC - N, 11/15/2007]

10.25.5.8 ADOPTION OF NATIONAL STANDARD: The fire marshal adopts and incorporates by reference IFC as revised in this rule. In this rule, revisions are numbered to correspond with the numbering of the IFC.

[10.25.5.8 NMAC - N, 11/15/2007]

10.25.5.9 CHAPTER 1 ADMINISTRATION:

A. Section 101 General.

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

(2) **101.2 Scope.** This section of the IFC shall not apply. 10.25.5.2 NMAC defines the scope of this rule.

(3) **101.2.1 Appendices.** The appendices of the IFC shall not apply, except where adopted by an AHJ.

B. Section 104 General authority and responsibilities. If Section 104.6 (official records) or any other provision of the IFC 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. This section of the IFC shall not apply. These rules do not affect the requirements imposed by those counties and municipalities with concurrent jurisdiction that require permits relating to fire protection. The fire marshal issues only the following permits with the following exceptions.

(1) **Permits and licenses for fireworks.** The fire marshal requires permits and licenses for fireworks as provided in 10.25.6 NMAC.

(2) **Certificates of fitness.** The fire marshal requires certificates of fitness for the installation, inspection, maintenance and repair of fire protection systems as provided in 10.25.2 NMAC.

(3) **105.4.1 Construction documents:** submittals.

(a) Two (2) sets of construction documents shall be required.

(b) All construction documents shall be submitted with the applicant's certificate of fitness number and shall comply with the approval process provided in 10.25.5.16 NMAC.

D. Section 108 Board of appeals. This section of the IFC shall not apply. 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.

E. Section 109 Violations. The penalties in this section 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.

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

[10.25.5.9 NMAC - N, 11/15/2007]

10.25.5.10 CHAPTER 2 DEFINITIONS: Unless defined by the fire marshal in Title 10 NMAC or by CID in Title 14 NMAC, terms used herein shall have the definition provided in Chapter 2 of the IFC. Where a term is defined by the fire marshal, the fire marshal's definition shall supersede all other definitions. Where a term is not defined by the fire marshal, but is defined by CID in Title 14 NMAC, the CID definition shall apply.

[10.25.5.10 NMAC - N, 11/15/2007]

10.25.5.11 CHAPTER 4 EMERGENCY PLANNING AND PREPAREDNESS

A. Amend section 404.2 by adding a numbered paragraph 12 that states: "12. Class B occupancies housing state employees, except that buildings not owned or leased by a state government agency are required to comply with this section only to the extent that the occupants are state employees".

B. Amend section 405.2 by adding the following language to Table 405.2 as a new row between group A and group E:

GROUP B as limited by 10.25.11 NMAC	SEMI-ANNUAL	As per 404.2.12
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[10.25.5.11 NMAC - N, 11/15/2007]

10.25.5.12 CHAPTER 6 BUILDING SERVICES AND SYSTEMS: Amend section 603.9 to add “if required by the fire code official” at the end of the section.
[10.25.5.12 NMAC - N, 11/15/2007]

10.25.5.13 CHAPTER 9 FIRE PROTECTION SYSTEMS:

A. Section 903 Automatic Sprinkler Systems. This section of the IFC shall apply with the following changes.

- (1) The exception described in Section 903.2 of the IFC shall not apply.
- (2) Section 903.2.7 of the IFC shall not apply to detached one and two family homes.

B. Section 904.11 Commercial cooking systems. The exception described in Section 904.11 of the IFC shall not apply.

C. Section 905.1 Standpipe systems, general. Add the following language at the end of the section, “Unless required by a fire code official, 1.5 inch hoses and hose cabinets are not required for Class II and Class III standpipe systems”.

D. Section 906.1 Portable fire extinguishers. Delete the exception in 906.1 and substitute the following: “Exception: In groups A, B and E occupancies equipped throughout with quick-response sprinklers, the fire code official may, in his discretion, permit fire extinguishers to be installed only in special hazard areas”.

E. Section 909 Smoke control systems. Section 909 of the IFC shall apply with the following changes.

(1) Section 909.8.1 Exhaust rate.

(a) Substitute 6 feet (1829 mm) for 10 feet (3048 mm) in the first sentence before the phrase “above any walking surface”.

(b) Substitute the phrase “shall not increase the smoke production rate beyond the capabilities of the smoke control system” for “shall not exceed 200 feet per minute (60,960 mm per minute) toward the fire” in the second to the last sentence.

(2) Section 909.8.3 Balcony spill plumes. This section of the IFC shall not apply.

(3) Section 909.8.4 Window plumes. This section of the IFC shall not apply.

(4) Section 909.9 Design fire. Revise the first sentence of this section of the IFC to read “The design fire shall be based on a rational analysis performed by a licensed professional engineer”.

[10.25.5.13 NMAC - N, 11/15/2007]

10.25.5.14 CHAPTER 10 MEANS OF EGRESS: This chapter of the IFC applies, except Table 1004.1.2 is amended to add the following: “New and existing correctional facilities and detention centers: the occupant load for which the means of egress is calculated by the maximum number of persons intended to occupy the floor or area, shall be no less than 60 square feet of gross floor area per person”.

[10.25.5.14 NMAC - N, 11/15/2007]

10.25.5.15 CHAPTER 33 EXPLOSIVES AND FIREWORKS: This chapter of the IFC and 10.25.6 NMAC apply to fireworks. If there is any conflict between this chapter of the IFC and the Fireworks Licensing and Safety Act, Sections 60-2C-1 through 60-2C-11 NMSA 1978, or these rules, the Fireworks Licensing and Safety Act or these rules shall control.

[10.25.5.15 NMAC - N, 11/15/2007]

10.25.5.16 REPEAL OF CODES: The fire marshal hereby repeals NFPA 1 and NFPA 101 except as provided in 10.25.5.17 NMAC.

[10.25.5.16 NMAC - N, 11/15/2007]

10.25.5.17 APPROVAL OF FIRE PROTECTION SYSTEMS: Prior to beginning construction or occupancy of any building or structure regulated by the IFC, the owner shall apply for approval from the fire marshal or AHJ of a fire protection system for the building or structure. The review and approval of fire protection systems is in addition to any review required by CID in Title 14 of the New Mexico administrative code.

A. Filing drawings for review.

(1) **Documents required.** The owner shall submit two (2) sets of shop drawings for the building or structure. For his own convenience, an owner may submit additional sets of drawings and an envelope with prepaid postage for the fire marshal's use in returning the drawings after review.

(2) **Where to submit.** The owner shall submit drawings to the code enforcement section of the fire marshal's office in compliance with 10.25.1 NMAC or to an AHJ as provided by the AHJ. The fire marshal shall not accept drawings by facsimile transmission.

(3) **Requirements for drawings.** The drawings shall show the fire protection systems in sufficient detail to allow the fire marshal or AHJ to analyze compliance with applicable codes and standards, and shall provide the signature and seal of the engineer that prepared the drawings. The fire marshal has optional guidelines available to assist in compliance with applicable codes and standards that may be obtained as provided in 10.25.1.9 NMAC.

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

B. Third party review. The fire marshal, in his sole discretion, may require and arrange for third party review of drawings if specialized expertise or knowledge is needed. If the fire marshal determines third party review is necessary, he shall so notify the owner in writing with an estimate of the cost. If the owner decides to proceed with review, he 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 fire marshal returns the drawings.

C. Return of drawings. If the owner has provided an envelope with prepaid postage, the fire marshal or AHJ shall mail the drawings back to the owner after review. If the owner did not supply a postage-prepaid envelope, the fire marshal or AHJ shall call the owner to pick up the drawings. The fire marshal, or AHJ if so provided in its authorizing legislation, shall keep one (1) set of drawings. If the fire marshal or AHJ approves the drawings, he shall stamp the drawings "approved". If the fire marshal or AHJ rejects the drawings, he shall attach a letter to the drawings explaining the basis for rejection.

D. Rejection. The fire marshal or AHJ may reject drawings for the following reasons:

- (1) the drawings are incomplete;
- (2) the drawings indicate a violation of these rules or applicable codes and standards;
- (3) the engineer that prepared the drawings did not sign, seal or prepare the drawings in accordance with Title 16, Chapter 39 NMAC;
- (4) the drawings or certificate of fitness documentation contain a misrepresentation or inaccuracy;
- (5) third party review indicates that the drawings indicate a violation of these rules, applicable codes or standards, or specialized requirements presented by the drawings; or
- (6) any other reason provided in the authorizing legislation of an AHJ.

E. Re-submission. If drawings are rejected, the owner may correct the deficiencies indicated in the rejection letter and re-submit the drawings by the same process for filing original drawings for review.

F. Construction.

(1) After an AHJ has approved and returned drawings, an owner may install or construct the building or structure in compliance with the approved drawings.

(2) After the owner has completed the installation or construction, he may request that the AHJ perform an inspection. The request may be made orally or in writing to the fire marshal at the address or phone number provided in 10.25.1.9 NMAC or as otherwise required by another AHJ.

G. Inspection and testing. The AHJ will inspect the building or structure within a reasonable period of time after the owner's request. The AHJ will not approve the installation or construction if the inspection indicates:

- (1) a violation of these rules or applicable codes and standards;
- (2) the building or structure was not installed or constructed in compliance with the drawings;
- (3) the building or structure was not installed or constructed by a person with an applicable certificate of fitness; or
- (4) any other reason provided in the authorizing legislation of an AHJ.

H. Re-inspection. If the AHJ does not approve the installation or construction and the owner corrects the deficiencies noted in the inspection, the owner may re-apply for inspection following the same procedure as for the initial inspection.

[10.25.5.17 NMAC - N, 11/15/2007]

10.25.5.18 CODE REQUIREMENTS FOR EXISTING BUILDINGS AND STRUCTURES: For purposes of this section, “constructed” shall mean that the owner has begun any substantial portion in the design, permitting or building of a building or structure.

A. Existing buildings and structures. An owner is not required to renovate or adapt an existing building or structure to comply with the IFC, but shall comply with the requirements in place when the existing building or structure was constructed, as defined below.

(1) Any building or structure constructed prior to 1989 shall comply with the requirements of the UBC.

(2) Any building or structure constructed between 1989 and the effective date of the fire marshal’s adoption of the IFC may comply with either the UBC or the IFC.

B. New construction.

(1) Any building or structure constructed within six months after the effective date of the fire marshal’s adoption of the IFC may comply with either the IFC or with NFPA 1 and NFPA 101.

(2) Any building or structure constructed six months or more after the effective date of the fire marshal’s adoption of the IFC shall comply with the IFC.

C. Variance. The fire marshal may grant a variance from any of the requirements of this subsection if the applicant demonstrates to the fire marshal’s satisfaction that the variance sought does not degrade the overall protection of individuals from fire and similar emergencies.

D. Hazard to life or property. Notwithstanding any other provision of these rules, if the fire marshal or AHJ determines that a nonconforming facility constitutes a hazard to life or property, the fire marshal or AHJ shall so notify the owner of the facility in writing, and shall permit the owner a reasonable period of time to comply with current rules. If the owner does not comply with the notification and its requirements within the time specified, the fire marshal or AHJ may order the owner to take the facility out of service.

[10.25.5.18 NMAC - N, 11/15/2007]

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.

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.