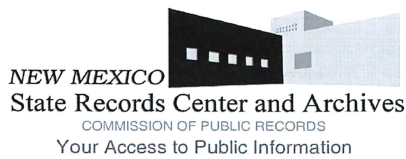


NMAC

Transmittal Form



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Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use) Recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

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Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The Department of Homeland Security and Emergency Management (DHSEM) is issuing a temporary emergency rule to be effective October 7, 2022. This amendment adds (1) fire and smoke dampers to the enumerated bases for a certificate of fitness, and (2) application requirements for certification to inspect and test such dampers.

The recent enactment of 10.25.12 NMAC requires inspection and testing of mechanical fire and smoke dampers in various commercial, residential, and industrial occupancies and government buildings. Provisions of the fire code are often enforced by regulations requiring occupancies to obtain certificates of fitness issued by code enforcement personnel.

10.25.2 NMAC does not include fire and smoke dampers among the enumerated disciplines subject to a certificate of fitness and must be amended before enforcement personnel can issue certificates of fitness regarding dampers. Amending 10.25.2 NMAC through the standard rulemaking process prescribed by the State Rules Act would not be complete until midway through the coming winter—long after the risk of structure fires increase with the need to heat buildings during the colder months. Thus, DHSEM finds that completing the rulemaking procedure would cause an imminent peril to the health, safety, and welfare of the public.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Randy Varela

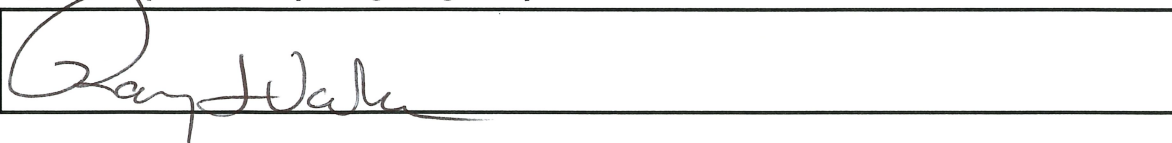
Check if authority has been delegated



Title:

State Fire Marshal

Signature: (BLACK ink only OR Digital Signature)



Date signed:

10/5/22

2022 OCT -7 AM 11: 34

This is an emergency amendment to 10.25.2 NMAC, Sections 1, 8, and 9, effective 10/7/2022.

10.25.2.1 ISSUING AGENCY: [~~New Mexico Public Regulation Commission.~~] Department of Homeland Security and Emergency Management.

[10.25.2.1 NMAC - N, 11-15-07; A/E, 10/7/20222]

10.25.2.8 TYPES OF CERTIFICATES REQUIRED:

A. When required. No person shall install, inspect, maintain, service, tag or repair fire protection equipment or systems unless he has obtained a certificate of fitness from the fire marshal in compliance with these rules. Any person holding a certificate of fitness shall have a copy of it available in all service vehicles and offices for review if requested during inspection by the fire marshal or AHJ. Certificates of fitness are not transferable.

B. Types of certificates. The fire marshal or AHJ may issue certificates of fitness for installation, inspection, maintenance, repair, recharging or tagging in the following disciplines:

- (1) automatic fire suppression systems and fire pumps;
- (2) automatic fire detection and alarm systems;
- (3) chemical fire suppression systems; [~~and~~]
- (4) portable fire extinguishers; and
- (5) fire and smoke dampers.

[10.25.2.8 NMAC - N, 11-15-07; A/E, 10/7/20222]

10.25.2.9 APPLICATION PROCEDURE: Any person may apply for a certificate of fitness by submitting the required application to the fire marshal as provided in 10.25.1.9 NMAC or to an AHJ. The mandatory applications described in 10.25.1.9 NMAC are available as indicated in 10.25.1.9 NMAC.

A. Information required for initial application. Each application for a certificate of fitness shall include:

- (1) the applicant's name, mailing address, telephone number and signature of authorized representative;
- (2) the disciplines for which certification is requested, listed in 10.25.2.8 NMAC;
- (3) a statement that the applicant agrees to be inspected by the fire marshal, his designees or an AHJ at any time during normal business hours;
- (4) for certification for automatic fire suppression systems and fire pumps: the name of the qualified party, the type and number of his CID license and a copy of his license;
- (5) for certification for automatic fire detection and alarm systems: the name of the qualified party, the type and number of his CID license and a copy of his license;
- (6) for certification for chemical fire suppression systems: the name of the qualified party, the type and number of his CID license and a copy of his license;
- (7) for certification for portable fire extinguishers, a statement indicating that the applicant:
 - (a) operates from a fixed location, provides mobile recharging service, or both;
 - (b) agrees to allow only trained personnel to maintain, service and recharge portable fire extinguishers; and
 - (c) 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.

(8) for certification to inspect and test fire and smoke dampers, an application shall include:

(a) 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 the American National Standards Institute (ANSI).

(b) 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 10.25.2.9 NMAC.

(c) for fire and smoke dampers with both mechanical and electrical components, the applicant inspecting the mechanical components shall provide documentation pursuant to subparagraph (a) of this paragraph and the applicant inspecting the electrical components shall provide documentation pursuant to subparagraph (b) of this paragraph.

B. Requirements for renewal. Any person seeking to renew a certificate of fitness shall apply following the process provided, and submit all information required, for an initial application.

[10.25.2.9 NMAC - N, 11-15-07; A/E, 10/7/20222]