

**TITLE 16        OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 43    HOISTING OPERATORS**  
**PART 2        HOISTING OPERATORS SAFETY; HOISTING OPERATORS CODE**

**16.43.2.1        ISSUING AGENCY:** The Construction Industries Division of the Regulation and Licensing Department.

[16.43.2.1 NMAC - Rp, 16.43.2.1 NMAC, 03/31/15]

**16.43.2.2        SCOPE:** These rules apply to all hoisting operators engaged in construction, excavation or demolition activities within the state of New Mexico.

[16.43.2.2 NMAC - Rp, 16.43.2.2 NMAC, 03/31/15]

**16.43.2.3        STATUTORY AUTHORITY:** These rules are promulgated pursuant to Section 60-15-6 NMSA 1978, of the Hoisting Operators Safety Act (Sections 60-15-1 to -14 NMSA 1978).

[16.43.2.3 NMAC - Rp, 16.43.2.3 NMAC, 03/31/15]

**16.43.2.4        DURATION:** Permanent.

[16.43.2.4 NMAC - Rp, 16.43.2.4 NMAC, 03/31/15]

**16.43.2.5        EFFECTIVE DATE:** March 31, 2015, unless a later date is cited at the end of a section.

[16.43.2.5 NMAC - Rp, 16.43.2.5 NMAC, 03/31/15]

**16.43.2.6        OBJECTIVE:** To promote the general welfare and protect the lives and property of the people of New Mexico by requiring persons operating hoisting equipment to be trained and licensed when employed in construction, demolition or excavation work.

[16.43.2.6 NMAC - Rp, 16.43.2.6 NMAC, 03/31/15]

**16.43.2.7        DEFINITIONS:** [RESERVED]

[16.43.2.7 NMAC - Rp, 16.43.2.7 NMAC, 03/31/15]

[See 16.43.1.7 NMAC and Section 60-15-3 NMSA 1978 for applicable definitions]

**16.43.2.8        IN-HOUSE TRAINING:**

**A.** A person who has successfully completed an in-house training course approved by the council may operate hoisting equipment without the written examination required by Section 60-15-7 NMSA 1978 for a period of two (2) years. Prior to the expiration of two (2) years, and with at least five hundred (500) hours of seat time, the person shall apply for a license pursuant to 16.43.2.10 through 16.43.2.12 NMAC, as applicable.

**B.        Employer responsibility:** An employer choosing to exempt its employees from the licensing requirements of the act for two (2) years by offering an in-house training course for its employees shall be responsible for the qualifications, capability, experience, physical condition, and actions of its hoisting operators.

**C.        Standards for approval of training course:** The council shall determine whether training programs meet the requirements of the federal occupational safety and health administration, United States department of labor or occupational health and safety bureau of the United States department of environment.

**D.        Approval of training course:**

**(1)** Any employer, person or organization wishing to offer an in-house training course to hoisting operators in this state shall first obtain written approval of the course from the council. The request must be submitted on a council approved form containing a complete description of the program's curriculum, content, examination coverage and instructor(s) qualifications. An application fee, as required under 16.43.1.14 NMAC, shall be included with a completed application.

**(2)** After review of the application submitted, the council shall indicate in writing its approval or disapproval, and if disapproved, the council shall provide a reason for the disapproval. The council shall notify the employer, person or organization in writing of the approval or disapproval of the proposal within ninety (90) days of receipt of the completed form. Upon approval, the employer, person or organization shall submit to the council a non-refundable certification fee as required under 16.43.1.14 NMAC.

**(3)** The certification shall be for a period of two (2) years.

[16.43.2.8 NMAC - Rp, 16.43.2.9 NMAC, 03/31/15]

**16.43.2.9 LICENSE:**

**A. Licensure required:** No person shall operate hoisting equipment in construction, demolition or excavation work when the hoisting equipment is used to hoist or lower individuals or material unless the person is licensed under the act, holds an in-house hoisting operator card or is exempt pursuant to Section 60-15-3(M) NMSA 1978.

**B. Description of license:** The license issued by the department shall include, at a minimum: license number; expiration date of license; license classification and endorsement(s); licensee's name, address, and signature; and authorized signature of the designated representative of the department.

**C. Initial license period:** An initial license shall be valid for two (2) years from the date of issuance.

**D. Examination requirements:** All applicants must take the written general examination and the law and safety examination as approved by the council. A class I and II hoisting operator must also take a practical examination or complete a council approved in-house training course.

**E. Validity:** A license issued under the act and these rules is valid throughout the state of New Mexico. A license is valid only for the classification and endorsement(s) for which it is issued.

**F. Possession:** The licensee must have their license in their possession and on their person at all times while engaged in the operation of hoisting equipment or any other activity subject to the act.

**G. Proof of license:** If a hoisting operator is asked for proof of licensure by a state inspector, or a state investigator as designated by the department or council, the operator shall produce their hoisting operator's license accompanied by a current motor vehicle driver's license or other form of photo identification.

**H. Non-assignable and non-transferable:** A license may be used legally only by the person to whom it is issued; it may not be transferred, shared, or otherwise assigned.

**I. Lost license:** If a license is lost, destroyed or mutilated, the licensee shall immediately deliver to the department a written statement setting forth the circumstances surrounding the loss, destruction or mutilation of the license, and any applicable fee for the issuance of a duplicate license.

[16.43.2.9 NMAC - Rp, 16.43.2.8 NMAC, 03/31/15]

**16.43.2.10 APPLICATION PROCEDURE:**

**A. Application for licensure:**

(1) Each applicant for licensure must submit to the department the appropriate documentation as specified in these rules.

(2) The filing date of the application shall be the date the application is date-stamped by the department upon its receipt.

**B. Period of validity:** If for any reason all requirements for licensure are not completed by the applicant within six (6) months after the date of filing an application, the application shall be deemed withdrawn. The applicant shall then be required to re-apply for licensure and pay a new application fee.

**C. Licensure in lesser classification:** The department will forward to the council scanned license applications for approval. If the program administrator receives confirmation from the council that the applicant qualifies for a lesser type of license, the administrator will offer the applicant the opportunity of licensure in a lesser classification. If the applicant wishes to obtain licensure in the lesser classification, the applicant must notify the department in writing within thirty (30) days after receipt of the department's offer. Once approved by the superintendent, the administrator will issue a license of lesser classification.

[16.43.2.10 NMAC - Rp, 16.43.2.10 NMAC, 03/31/15]

**16.43.2.11 CLASS I HOISTING OPERATOR:**

**A. Scope of work:**

(1) A class I hoisting operator shall have an endorsement on the applicant's license, based on experience, authorizing him to operate any size or weight of one or more of the following types of cranes: conventional, hydraulic or tower.

(2) A class I hoisting operator may perform the work of a class II or class III hoisting operator without being licensed in either of those classifications.

**B. Requirements for licensure:**

(1) **Application:** applicant must submit to the department a completed application in an approved form.

(2) **Fee:** applicant must submit to the department applicable fee(s) as set out in these rules.

(3) **Age requirement:** the applicant must be at least twenty-one (21) years of age at the time the application is received by the department.

**(4) Experience requirement:**

**(a)** The applicant's experience must include at least five hundred (500) hours of seat time on a crane of the type for which the applicant seeks the initial endorsement in the past three (3) years prior to applying. For a conventional crane endorsement, the applicant's experience must have been with conventional cranes of any size or type. For a hydraulic crane endorsement, the applicant's experience must have been with hydraulic cranes with a manufacturer's rating capacity equal to or greater than one hundred (100) tons and a boom length equal to or greater than one hundred fifty (150) feet. For a tower crane endorsement, the applicant's experience must have been with tower cranes of any size or type.

**(b)** The applicant must demonstrate their operating competency by passing the general examination, the law and safety examination and the practical examination. The practical examination may be substituted with a council approved in-house training course for the type of hoisting equipment for which the applicant seeks a license and an endorsement.

**(c)** A class I hoisting operator who seeks an additional endorsement on their license shall keep a log book of their seat time with the appropriate type of hoisting equipment and must accumulate five hundred (500) hours of seat time under the direct supervision of either a class I hoisting operator with the proper endorsement or the manufacturer's representative.

**(d)** A class II or class III hoisting operator who seeks an initial endorsement as a class I hoisting operator shall keep a log book of their seat time with the appropriate type of hoisting equipment and must accumulate five hundred (500) hours of seat time under the direct supervision of a class I hoisting operator with the proper endorsement.

**(5) Verification of work experience:**

**(a)** Applicant shall furnish written statement(s) from present or former supervisor(s) or employer(s) verifying that the applicant has had, in total, at least 500 hours seat time operating the type(s) of hoisting equipment which the applicant is applying for licensure in the past three (3) years prior to applying. The statement(s) shall contain at least the following information relating to the applicant: dates of employment, type(s) and tonnage(s) of hoisting equipment operated, and number of hours of operation of each type of equipment.

**(b)** If applicant is a class I hoisting operator seeking an additional endorsement on their license, applicant shall present to the department their log book showing at least five hundred (500) hours of seat time operating the type of equipment for which the applicant seeks an additional endorsement. The seat time must have been under the direct supervision of either a class I hoisting operator with the proper endorsement or the manufacturer's representative.

**(c)** A class II or class III hoisting operator who seeks an initial endorsement as a class I hoisting operator shall present to the department their log book showing at least five hundred (500) hours of seat time operating the type of equipment for which the applicant seeks the endorsement. The seat time must have been under the direct supervision of a class I hoisting operator with the proper endorsement.

**(6) Proof of physical condition:**

**(a)** The applicant shall furnish to the department a current certificate of physical examination conducted and signed by a licensed physician or physician assistant within the past twelve (12) months.

**(b)** The applicant shall furnish to the department a report from a certified drug testing laboratory showing that the applicant has passed a drug screen within the past twelve (12) months.

**(7) Proof of compliance with Parental Responsibility Act:** If applicant's name appears on a certified list from the New Mexico human services department of persons not in compliance with a judgment and order for child support, the applicant must present to the department a statement of compliance from the human services department.

**(8) Law and safety examination:** The applicant must demonstrate knowledge of the act and these rules by passing a written New Mexico law and safety examination selected and approved by the council. Such examination will include questions regarding the operation of hoisting equipment, hoisting laws, load charts, and signals.

[16.43.2.11 NMAC - Rp, 16.43.2.11 NMAC, 03/31/15]

**16.43.2.12 CLASS II HOISTING OPERATOR:**

**A. Scope of work:**

**(1)** A class II hoisting operator may operate a hydraulic crane of up to one hundred (100) tons lifting capacity with a maximum boom length of one hundred fifty (150) feet, regardless of mounting or means of mobility.

(2) A class II hoisting operator may perform the duties of a class I hoisting operator without being licensed in that classification *only* while working under the direct supervision of a class I hoisting operator with the proper endorsement.

(3) A class II hoisting operator may perform the work of a class III hoisting operator without being licensed in that classification.

**B. Requirements for licensure:**

(1) **Application:** Applicant must submit to the department a completed application in an approved form.

(2) **Fee:** Applicant must submit to the department applicable fee(s) as set out in these rules.

(3) **Age requirement:** The applicant must be at least eighteen (18) years of age.

(4) **Experience requirements:**

(a) The applicant's experience must include at least five hundred (500) hours of seat time on a hydraulic crane over two (2) tons and up to one hundred (100) tons lifting capacity with a maximum boom length of one hundred fifty (150) feet, regardless of mounting or means of mobility in the past three (3) years prior to applying.

(b) The applicant must demonstrate their operating competency by passing the general examination, the law and safety examination and the practical examination. The practical examination may be substituted with a council approved in-house training course for the type of hoisting equipment for which the applicant seeks a license and an endorsement.

(c) A class III hoisting operator who seeks licensing as a class II hoisting operator must have at least five hundred (500) hours of seat time operating the appropriate type of equipment under the direct supervision of a class I with the proper endorsement or a class II hoisting operator.

(5) **Verification of work experience:**

(a) Applicant shall submit written statement(s) from present or former supervisors or employers verifying that the applicant has had, in total, at least five hundred (500) hours seat time operating the type of hoisting equipment which the applicant is applying for licensure. The statement(s) shall contain at least the following information relating to the applicant: dates of employment, type(s) and tonnage(s) of hoisting equipment operated, and number of hours of operation of each type of equipment.

(b) If applicant is a class III hoisting operator seeking to qualify as a class II hoisting operator, applicant must present their log book verifying at least five hundred (500) hours of seat time operating the appropriate type of equipment under the direct supervision of a class I with the proper endorsement or a class II hoisting operator.

(6) **Proof of physical condition:**

(a) The applicant shall furnish to the department a current certificate of physical examination conducted and signed by a licensed physician or physician assistant within the past twelve (12) months.

(b) The applicant shall furnish to the department a report from a certified drug testing laboratory showing that the applicant has passed a drug screen within the past twelve (12) months.

(7) **Proof of compliance with Parental Responsibility Act:** If applicant's name appears on a certified list from the New Mexico human services department of persons not in compliance with a judgment and order for child support, applicant must present to the department a statement of compliance from human services department.

(8) **Law and safety examination:** The applicant must demonstrate knowledge of the act and these rules by passing a written New Mexico law and safety examination selected and approved by the council. Such examination will include questions regarding the operation of hoisting equipment, hoisting laws, load charts, and signals.

[16.43.2.12 NMAC - Rp, 16.43.2.12 NMAC, 03/31/15]

**16.43.2.13 CLASS III HOISTING OPERATOR:**

**A. Scope of work:**

(1) A class III hoisting operator may work as an apprentice, trainee, or crane oiler or driver, under the direct supervision of a class I with the proper endorsement or class II hoisting operator.

(2) A class III hoisting operator may perform the duties of a class I or class II hoisting operator without being licensed in that classification *only* while working under the direct supervision of a class I with the proper endorsement or class II hoisting operator.

**B. Requirements for licensure:**

- (1) **Application:** Applicant must submit to the department a completed application in an approved form.
- (2) **Fee:** Applicant must submit to the department applicable fees as set out in these rules.
- (3) **Age requirement:** The applicant must be at least eighteen (18) years of age at the time the application is received by the department.
- (4) **Experience requirements:** No prior experience in the hoisting industry is required.
- (5) **Proof of physical condition:**
- (a) The applicant shall furnish to the department a current certificate of physical examination conducted and signed by a licensed physician or physician assistant within the past twelve (12) months.
- (b) The applicant shall furnish to the department a report from a certified drug testing laboratory showing that the applicant has passed a drug screen within the past twelve (12) months.
- (6) **Proof of compliance with Parental Responsibility Act:** If applicant's name appears on a certified list from the New Mexico's human services department of persons not in compliance with a judgment and order for child support, applicant must present to the department a statement of compliance from human services department.
- (7) **Law and safety examination:** The applicant must demonstrate knowledge of the act and these rules by passing a written New Mexico law and safety examination selected and approved by the council. Such examination will include questions regarding the operation of hoisting equipment, hoisting laws, load charts, and signals.

[16.43.2.13 NMAC - Rp, 16.43.2.13 NMAC, 03/31/15]

#### **16.43.2.14 LOG BOOK:**

- A. Class I hoisting operator:** A log book must be kept by any class I hoisting operator who seeks an additional endorsement on their class I license.
- B. Class II hoisting operator:** A log book must be kept by any class II hoisting operator who seeks to become a class I hoisting operator.
- C. Class III hoisting operator:** A log book must be kept by any class III hoisting operator who seeks to become a class I or class II hoisting operator.
- D. Contents of log book:** The log book shall contain, at a minimum: the name of the person maintaining the log, type and tonnage of equipment operated, boom length, date and specific hours of operation, total hours of operation, printed name of direct supervisor (a class I with the proper endorsement or class II hoisting operator in the proper class of equipment being operated) and signature of direct supervisor for respective time periods.

[16.43.2.14 NMAC - Rp, 16.43.2.14 NMAC, 03/31/15]

#### **16.43.2.15 EXAMINATIONS:**

- A. Testing services:** The department or council may accept examinations administered by nationally approved companies or the results of an examination administered by an approved in-house training provider.
- B. General examination:**
- (1) A written general examination selected and approved by the council shall be scheduled at least monthly; the dates and locations of the examinations shall be determined by the examining vendor approved by the council.
- (2) The written general examination shall test the applicant's knowledge of hoisting equipment operation, its care and maintenance, inspection and set-up, and related safety practices.
- (3) The written general examination shall be required to be taken and passed by all applicants for hoisting operator licenses in any classification.
- (4) A passing grade shall be a score above seventy-five percent (75%).
- C. Law and safety examination:**
- (1) A written New Mexico law and safety examination selected and approved by the council shall be scheduled at least monthly; the dates and locations of the examinations shall be determined by the examining vendor approved by the council.
- (2) The law and safety examination shall test the applicant's knowledge of the act and the rules under Title 16, Chapter 43. Such examination for class I, class II and class III applicants will include questions regarding hoisting equipment operation, load charts and signals. Such examination will include questions regarding the operation of hoisting equipment, hoisting laws, load charts, signals, and hoisting laws.

(3) All applicants for hoisting operator licenses in any classification are required to pass the law and safety examination.

(4) A passing grade shall be a score above seventy-five percent (75%).

**D. Practical examination:**

(1) A practical exam shall be conducted by a designee of the council.

(2) If an applicant passes the general examination and the law and safety examination but does not meet the experience requirements set out in 16.43.2.10 or 16.43.2.11 NMAC of these rules, and the applicant elects not to accept a lesser classification as provided in 16.43.2.12 NMAC of these rules, then the applicant shall be required to pass a practical examination.

(3) The practical examination shall demonstrate the applicant's competence in the safe operation of hoisting equipment. The applicant shall satisfactorily demonstrate the ability to perform common tasks required of a hoisting operator, including but not limited to operation, inspection and maintenance procedures, understanding load capacity charts, safely raising and lowering a load, raising and lowering the boom, swinging the crane with a suspended load, braking, and understanding hand signals.

(4) Practical examinations shall be scheduled by an examining vendor approved by the council.

(5) The exam will be graded on a pass or fail basis, determined by the proctor of the examination.

(6) A practical examination may be substituted with an in-house training course approved by the council for the type of hoisting equipment for which the applicant seeks a license or endorsement.

**E. Re-scheduling of examination:** Any applicant unable to take the law and safety examination at their scheduled time must notify the examining vendor in a timely manner or the examination fee will be forfeited. [16.43.2.15 NMAC - Rp, 16.43.2.15 NMAC, 03/31/15]

**16.43.2.16 CHANGES IN STATUS:**

**A. Change of address:** A licensee shall report to the department in writing any change of permanent address within thirty (30) days of such change.

**B. Change of name:** If a licensee legally changes their name and wishes their license to reflect that name change, the licensee shall submit proof of the name change and a fee in accordance with these rules.

**C. Change of classification:** An applicant for a hoisting operator's license in a classification different from the classification currently held or for an additional endorsement shall apply on approved forms supplied by the department.

[16.43.2.16 NMAC - Rp, 16.43.2.16 NMAC, 03/31/15]

**16.43.2.17 LICENSE RENEWAL:**

**A. Timely renewal:** It is the responsibility of the licensee to timely renew their license on forms prescribed by the department. There shall be a thirty (30) day grace period at the end of a two (2) year license before the license will be deemed expired.

**B. Filing date:** The filing date of the application shall be the date it is received and date-stamped by the department.

**C. Refresher course:**

(1) A refresher course must have been completed no more than twelve (12) months prior to the filing date of the licensee's renewal application.

(2) The council shall produce a list of all approved refresher courses and shall update the list whenever any party is added to or removed. The list, and any updates, shall be forwarded to the department to publish on the council's website.

**D. Documentation required for renewal of license:**

(1) **Renewal form:** A licensee must submit to the department a completed renewal form no later than thirty (30) days after the expiration of their license.

(2) **Fee:** Applicant must submit to the department any application fee(s) as set out in these rules.

(3) **Proof of physical condition:** The required proof shall be the same as an initial license.

(4) **Proof of compliance with Parental Responsibility Act:** The required proof shall be the same as the initial license.

(5) **Refresher course:** A licensee must submit to the department proof of successful completion of a refresher course as set in these rules.

[16.43.2.17 NMAC - Rp, 16.43.2.17 NMAC, 03/31/15]

**HISTORY OF 16.43.2 NMAC:**

**Pre NMAC History:** None.

**History of Repealed Material:**

16 NMAC 43.2, “Hoisting Operators Safety” (filed 1-02-1997) repealed 07/30/06.

16.43.2 NMAC, Hoisting Operators Safety; Hoisting Operators Code (filed 6-30-2006) repealed 03-31-15.

**NMAC Other History:** 16 NMAC 43.2.2, Hoisting Operators Safety (filed 1-02-1997), effective 1-15-1997.

16 NMAC 43.2, Hoisting Operators Safety (filed 1-02-1997) was renumbered, reformatted, amended, and replaced by 16.43.2 NMAC, Hoisting Operators Safety; Hoisting Operators Code, effective 07/30/06.

16.43.2 NMAC, Hoisting Operators Safety; Hoisting Operators Code (filed 6-30-2006) repealed and replaced by 16.43.2 NMAC, Hoisting Operators Safety; Hoisting Operators Code, effective 03/31/15.