

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVISIONS
PART 1 GENERAL PROVISIONS

14.5.1.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 3/10/2022]

14.5.1.2 SCOPE: This rule applies to all the administration, interpretation, and enforcement of contracting work performed in New Mexico subject to the jurisdiction of Construction Industries Licensing Act and the Liquefied Petroleum and Compressed Natural Gas (LPG & CNG Act).
[14.5.1.2 NMAC - Rp, 14.5.1.2 NMAC, 3/10/2022]

14.5.1.3 STATUTORY AUTHORITY: Section 60-13-9 NMSA 1978.
[14.5.1.3 NMAC - Rp, 14.5.1.3 NMAC, 3/10/2022]

14.5.1.4 DURATION: Permanent.
[14.5.1.4 NMAC - Rp, 14.5.1.4 NMAC, 3/10/2022]

14.5.1.5 EFFECTIVE DATE: March 10, 2022, unless a later date is cited at the end of a section.
[14.5.1.5 NMAC - Rp, 14.5.1.5 NMAC, 3/10/2022]

14.5.1.6 OBJECTIVE: The purpose of this rule is to set forth general provisions as the statewide minimum standards governing construction contracting work in New Mexico.
[14.5.1.6 NMAC - Rp, 14.5.1.6 NMAC, 3/10/2022]

14.5.1.7 DEFINITIONS: The definitions in this section are used throughout the construction industries division rules contained in Chapters 5 through 10 of Title 14.

A. “Apprentice” means an individual who is learning a particular trade from a validly licensed employer. CID recognizes apprentices whether registered in an apprenticeship program recognized by the New Mexico state apprenticeship council pursuant to the New Mexico department of workforce solutions or unregistered while learning the particular trade skills.

B. “Authority having jurisdiction” “AHJ” means the state or a municipality, county or other political subdivision that has a full-service building department employing a full-time certified building official and has permitting, inspection and enforcement authority over the general construction, electrical and mechanical-plumbing trades within its jurisdiction. Provided however, that a municipality, county or other political subdivision established as an AHJ prior to July 1, 2009, with authority over specified trades shall continue in that capacity without a full-service building department until relinquishing its authority as a building trades department.

C. “Baby changing facility” means a table or other device suitable for changing the diaper of a child age three or under.

D. “Certified building official” “CBO” means an employee of the state, a county, a municipality or other political subdivision who is approved by the division as to experience and qualifications, and who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has been either a practicing inspector or practicing contractor for at least five years or held a management position in a construction-related business or construction organization for at least five of the past 10 years. Each CBO is charged with the administration and enforcement of the provisions of the Construction Industries Licensing Act and the administrative codes under the act.

E. “Certificate of occupancy” “C/O” means the written approval for a newly constructed building or for a change in building occupancy, certifying that the building has passed all required inspections and is safe for occupancy. Once issued it remains in effect unless suspended or revoked pursuant to Subsection F of 14.5.3.13 NMAC.

F. “Change of occupancy” means a change in the use of the building or portion of a building including a change of the occupancy classification or any change in use within a classification group to another occupancy in the group.

G. “CID” and “division” mean the construction industries division of the regulation and licensing department.

- H.** “**CID rules**” means the rules compiled in Title 14, Chapters 5 through 10 of the New Mexico Administrative Code.
- I.** “**CILA**” means the Construction Industries Licensing Act, Section 60-13-1 et seq. NMSA 1978.
- J.** “**CIC**” and “**Commission**” means the construction industries commission.
- K.** “**Code**” means the statewide construction codes adopted by the commission.
- L.** “**Code Bond**”: means the construction license bond required in Section 60-13-49 NMSA 1978, for correction of code violations certified by the division.
- M.** “**Commercial**” means a structure that is classified as having a use identified in the New Mexico Commercial Building Code, including but not limited to, assembly, business including a public building, educational, institutional, mercantile, storage or utility.
- N.** “**Commercial or industrial work**” means all electrical, mechanical or plumbing work not defined as residential work in 14.6.6. NMAC.
- O.** “**Commissioning**” means test procedures and results completed and certified by the registered design professional or approved agency and provided to the building owner or owner’s authorized agent.
- P.** “**Completion**” means the date of the issuance of a certificate of occupancy or the date of the final inspection by the governmental entity having jurisdiction over code enforcement.
- Q.** “**Contracting**” has the same meaning as defined in Section 60-13-3 NMSA 1978.
- R.** “**CVD**”: means a code violation determination report prepared by a division employee.
- S.** “**Direct supervision**” means supervision, inspection and evaluation by a certified journeyman, working in the immediate proximity of a trainee or apprentice, overseeing all classification activities as they occur while providing direction, feedback, assistance and evaluation of the work of the apprentice.
- T.** “**Director**” has the same meaning as defined in Subsection N of Section 60-13-2 NMSA 1978.
- U.** “**Disqualifying criminal conviction**” has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.
- V.** “**Electrical wiring**” means installation; alteration; connection; service and maintenance; demolition; or repair of raceways; conduits; conductors; cables; boxes; fittings; wiring devices; luminaires; overcurrent devices; distribution equipment; or other equipment or apparatus that is used as part of, or in connection with, an electrical installation.
- W.** “**Fixed works**” means public work projects and facilities that require specialized engineering, knowledge and skill
- X.** “**Foreman**” means an owner or employee of a licensed company with experience in a particular trade who is charged with organizing and managing the execution of that trade for single or multiple projects for the licensed entity.
- Y.** “**Formal hearing**” means a hearing held under the ULA, Section 60-1-1 through 60-1-33 NMSA 1978.
- Z.** “**Gross incompetence or gross negligence**” means, but shall not be limited to, a significant departure from the prevailing industry standard, manufacturer specifications or any provision of CILA, ULA or rule adopted by the commission
- AA.** “**IBC**” means the International Building Code currently adopted by reference.
- BB.** “**Industrial**” means buildings and structures designed to house industrial processes for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations.
- CC.** “**Informal hearing**” means a hearing held pursuant to Subsection C of Section 60-13-27 NMSA 1978.
- DD.** “**Inspector**” means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work, in the jurisdiction of the AHJ employing said inspector to ensure that all work performed by a contractor or a homeowner complies with the CILA and its administrative code.
- EE.** “**IRC**” means the International Residential Code currently adopted by reference.
- FF.** “**License**” means a license, registration, certificate of registration, or certificate.
- GG.** “**Licensing fee**” has the same meaning as defined in Paragraph (2) of Subsection F of Section 61-1-34 NMSA 1978.
- HH.** “**LPG standards**” means Section 70-5-1 et seq. NMSA 1978, LPG and CNG Act and 19.15.40 NMAC, Liquefied Petroleum Gas Standards, collectively.
- II.** “**Mechanical and or plumbing work**” means installation, alteration, connection, maintenance, demolition, or repair of piping, fixtures, or equipment as defined in Section 60-13-32 NMSA 1978; ducts, appurtenances or other equipment that is used as part of, or in connection with a mechanical or plumbing system installation.

JJ. “**Military service member**” has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

KK. “**NMCBC**” means 14.7.2 NMAC, the currently adopted New Mexico Commercial Building Code, which adopts by reference and amends the designated IBC

LL. “**New Mexico certified building official**” and “**NMCBO**” means a person who meets the qualifications of a CBO, is employed by CID as a trade bureau chief, and appointed by the director as the state of New Mexico’s CBO. The NMCBO has ultimate authority over conflicts arising among AHJs other than trade bureau chiefs.

MM. “**New Mexico construction code(s)**” means any of the rules compiled in Title 14, Chapters 7 through 10 of the New Mexico Administrative Code.

NN. “**New restroom**” means a toilet facility constructed as part of the construction of a new commercial building or facility, constructed as part of a new addition to an existing commercial building or facility, constructed as a standalone restroom facility, or a new toilet facility constructed in an existing building.

OO. “**NMCBC**” means 14.7.2 NMAC, the currently adopted New Mexico Commercial Building Code, which adopts by reference and amends the designated IBC.

PP. “**NMEBC**” means 14.7.7 NMAC, the currently adopted New Mexico Existing Building Code, which adopts by reference and amends the designated International Existing Building Code.

QQ. “**NMEBMC**” means 14.7.4 NMAC, currently adopted New Mexico Earthen Building Materials Code.

RR. “**NMEC**” means 14.10.4 NMAC, the currently adopted New Mexico Electrical Code, which adopts by reference and amends the designated National Electrical Code.

SS. “**NMRECC**” means 14.7.6 NMAC, the currently adopted New Mexico Residential Energy Conservation Code, which adopts by reference and amends the designated International Residential Energy Conservation Code.

TT “**NMCECC**” means 14.7.9 NMAC, the currently adopted New Mexico Commercial Energy Conservation Code, which adopts by reference and amends the designated International Commercial Energy Conservation Code.

UU. “**NMESC**” means 14.10.5 NMAC, the currently adopted New Mexico Electrical Safety Code, which adopts by reference and amends the designated National Electrical Safety Code.

VV. “**NMMC**” means 14.9.2 NMAC, the currently adopted New Mexico Mechanical Code, which adopts by reference and amends the designated Uniform Mechanical Code.

WW. “**NMPC**” means 14.8.2 NMAC, the currently adopted New Mexico Plumbing Code, which adopts by reference and amends the designated Uniform Plumbing Code.

XX. “**NMRBC**” means 14.7.3 NMAC, the currently adopted New Mexico Residential Building Code, which adopts by reference and amends the designated International Residential Code.

YY “**NMSEC**” means 14.9.6 NMAC, the currently adopted Mexico Solar Energy Code, which adopts by reference and amends the designated Uniform Solar Energy Code.

ZZ. “**NMSPSHTC**” means 14.8.3 NMAC, the currently adopted New Mexico Swimming Pool, Spa, and Hot Tub Code, which adopts by reference and amends the designated Uniform Swimming Pool, Spa, and Hot Tub Code.

AAA. “**NOI**” means a notice of investigation prepared by a division employee.

BBB “**Notice of contemplated action**” (“**NCA**”): means the official notice to a licensee that the commission is seeking to take action against a licensee for alleged violations of the CILA or rules promulgated by the commission.

CCC. “**Place of public accommodation**” means a structure or facility intended to accommodate members of the public as specifically provided in Section 60-13-10.3 NMSA 1978 and supplemented in Table 2902.1 of the NMCBC 14.7.2.37 NMAC.

DDD. “**Prime contractor**” means the licensed contractor who contracted with the property owner to oversee the construction project and act as the owner’s agent as defined in Subsection B of 14.6.6.8 and Subsection A of 14.6.6.9 NMAC.

EEE. “**Public building**” means a building or other structure on publicly owned lands or used by the state, a municipality, county or other political subdivision of the state using state, municipal or county funds, bonds or other revenue

FFF. “**Published code**” means any code or standard published by an entity other than the state of New Mexico and adopted by reference, or referred to as a standard in the CID rules.

GGG. “Residential work” means work on one and two family dwelling units, and residences including apartment houses accommodating not more than four family units (Groups R-1, R-2, R-3) as defined in 14.7.2 NMAC. This includes structures in Group U, as defined in 14.7.2 NMAC, when incidental to groups R-1, R-2 and R-3.

HHH. “Roof coating” means a fluid material applied in the field as a sacrificial film to the roof surface to provide weather protection over the original waterproof membrane. The coating protects the waterproof roof substrate from the weather (solar radiation, heat and moisture) and may change the appearance of the roof. Roof coatings do not replace a roof assembly or roof covering.

III. “School” means a public school, a school district, a regional educational cooperative, shared maintenance program, charter school, or private school, recognized by the New Mexico public education department that offers grade levels from kindergarten through 12th grade only.

JJJ. “Statewide inspector’s certificate” means a state-issued certificate that enables an inspector to conduct inspections in one or more trade bureau jurisdictions for the state or any county, municipality or other political subdivision in which the inspector is employed and that has a certified building official in its employ.

KKK. “Sub-contractor” means a licensed contractor who is hired by the prime contractor, regardless if the sub-contractor obtains its own permit or works under the permit obtained by the prime contractor.

LLL. “Substantially equivalent” means the determination by the Construction Industries Division that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Construction Industries Licensing Act.

MMM. “Surety” means the insurance company authorized by the NM department of insurance to transact business in New Mexico and acts as the underwriter of a contractor’s code bond.

NNN. “Technically infeasible” means an alteration of a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

OOO. “Trade bureau” means the general construction, mechanical-plumbing, electrical or liquefied petroleum (LP) gas trade bureau of the CID.

PPP. “Trade bureau chief” “TBC” means the administrative head of a New Mexico CID trade bureau charged with the administration and enforcement of the trade bureau’s state adopted codes and standards. The trade bureau chiefs are the ultimate authority having jurisdiction to determine and render interpretations of their trade codes. The trade bureau chief shall recommend to the CID and the CIC all minimum standards and codes, for their specific trade(s), for adoption.

QQQ. “ULA” means the Uniform Licensing Act, Section 61-1-1 et seq. NMSA 1978.

RRR. “Unregistered apprentice” means a person who, for the purpose of learning a trade of journeyman and is not registered in an apprenticeship program recognized by the New Mexico state apprenticeship council.

SSS. “Veteran” has the same meaning as defined in Paragraph (4) of Subsection F of Section 61-1-34 NMSA 1978.

[14.5.1.7 NMAC - Rp, 14.5.1.7 NMAC, 3/10/2022]

14.5.1.8 RESPONSIBILITY FOR COMPLIANCE:

A. Every person who performs work in connection with the installation, construction, alteration, repair or demolition of any building or structure, or on any electrical, gas, mechanical or plumbing system, or other constructions as defined by Section 60-13-3 NMSA 1978 or Section 70-5-6 NMSA 1978 and regulated by the division’s statutes and rules is responsible for complying with all statutes and rules.

B. When a violation of the statutes or code is alleged, the AHJ shall investigate the allegation to obtain sufficient evidence or proof to determine whether a violation has occurred. The AHJ may require tests, at no cost to CID or the AHJ, to determine compliance. Such tests shall be conducted in conformance with nationally recognized testing standards, or if no standards have been established, in conformance with such specifications as the AHJ shall approve.

[14.5.1.8 NMAC - Rp, 14.5.1.8 NMAC, 3/10/2022]

14.5.1.9 CONFLICTS:

A. Between current New Mexico construction codes. When the provisions of one New Mexico construction code specifies different materials, methods, construction, or requirements than another New Mexico construction codes, the general rule of legal interpretation shall be applied that the most specific provision shall govern over more general provisions.

B. Title 14 NMAC is recognized as the state minimum standards. An AHJ may enact ordinances that are stricter than the state adopted minimum codes. If a conflict arises between the TBC and the CBO of an AHJ regarding compliance with a particular state adopted minimum code, the determination of the TBC shall control. The interpretation of an AHJ ordinance beyond the requirements of the state adopted minimum codes is the sole authority of the CBO of the AHJ

C. With prior New Mexico construction codes. The code adopted at the time a structure is built or modified governs. If modifications are made under a subsequent code, that code governs the areas modified. If all or any part of the structure is determined to be unsafe, 14.5.1.12 NMAC shall apply.

D. Between current New Mexico construction codes and codes adopted by other state agencies. The NMRBC and the NMCBC establish the type of structure, the design, construction and the occupancy classification of a building. These codes shall govern over any codes concerning construction adopted by other agencies which conflict as to type of structure, the design, construction and the occupancy classification. The construction codes adopted and enacted by the CID shall govern if the construction is specifically required in the enacted code.

E. With requirements of other agencies. All licensees, qualifying parties and journeymen must follow all regulatory agency laws when said agency has jurisdiction over certain aspects of a project. These may include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, any local fire code enforcement agency; or any other applicable code or standard enforced by the state environment department; the state health department, state human services department; transportation department, the public regulation commission; homeland security and emergency management department, the governor's committee on the concerns of the handicapped; historical authorities; and local zoning, and floodplain.

F. With referenced and incorporated codes and standards. The provisions of any published code or standard referenced in the CID rules shall be deemed to be incorporated into and made part of the CID rules, including all modifications and amendments to the referenced codes and standards. If the reference results in a conflict between the provision of the published code or standard and the CID rules, the CID rules shall govern. [14.5.1.9 NMAC - Rp, 14.5.1.9 NMAC, 3/10/2022]

14.5.1.10 CERTIFIED BUILDING OFFICIAL FOR AN AHJ: Power and duties: The CBO is responsible for enforcing the state and local rules and codes in an AHJ. The interpretations and procedures established by a CBO must be in compliance with CID statutes and rules. [14.5.1.10 NMAC - Rp, 14.5.1.10 NMAC, 3/10/2022]

14.5.1.11 TRADE BUREAU CHIEFS:

A. Powers and duties: Each trade bureau chief is the ultimate authority and is authorized to render interpretations of the trade bureau's adopted New Mexico codes and standards and to establish procedures for the interpretation and application of those codes.

B. Alternative materials and methods of construction: The trade bureau chief is authorized to permit a variance or approve an alternative material or method of construction as provided in this section.

C. Variances. If the circumstances of a particular construction project make strict compliance with state adopted code(s) and standards technically infeasible or impracticable, the trade bureau chief responsible for enforcing that code has the authority to approve a variance. No variance shall be valid or have force or effect unless issued in writing and signed by the trade bureau chief.

D. Alternatives. The trade bureau chief is responsible, for approving materials, designs and methods of construction that are not expressly specified in that particular code.

E. Supporting data. The trade bureau chief may require supporting data be supplied by the requestor.

[14.5.1.11 NMAC - Rp, 14.5.1.11 NMAC, 3/10/2022]

14.5.1.12 UNSAFE STRUCTURES OR OTHER LIFE SAFETY HAZARD:

A. For purposes of this section, an unsafe condition is any condition that poses an actual threat to the health, safety or welfare of persons or property and constitutes a violation of the CILA or its rules.

B. When conducting an inspection, if an inspector discovers an unsafe condition or a life safety hazard the inspector shall take the following action:

(1) If the unsafe condition or hazard results from construction in progress, issue a correction notice and stop work order as is applicable to abate the unsafe condition or hazard; if a stop work order is appropriate the inspector shall contact the TBC or CBO for authority to issue the stop work order unless the correction is for life safety. In such circumstance the stop work order shall be issued by the inspector providing notification to the specific TBC or CBO.

(2) If the unsafe condition or hazard is in an existing building not related to construction in progress, complete a correction notice detailing the observed unsafe condition or hazard. Either a correction notice or report shall be provided to the AHJ and the owner, agent or person in control or possession of the structure when the identity of the owner, agent or person cannot be readily determined. The report shall be provided no later than 48 hours after the observation of the unsafe condition.

(3) If the unsafe condition or hazard relates to any utility service the inspector shall proceed in accordance with Subsections A through D of Section 60-13-42 NMSA 1978; any service disconnected pursuant to this rule shall not be reconnected without the prior written approval of the TBC or CBO.

C. If requested by a condemning authority, the TBC or CBO of the applicable AHJ will inspect or designate an inspector to inspect the property within its jurisdiction and report findings to the condemning authority pursuant to Paragraph (2) of Subsection B of this section.

[14.5.1.12 NMAC - Rp, 14.5.1.12 NMAC, 3/10/2022]

14.5.1.13 TECHNICAL ADVISORY COMMITTEE:

A. Each TBC may create a technical advisory committee and appoint members to assist the TBC in an advisory capacity on technical aspects of the particular industry.

B. The committee will meet at the call of the trade bureau chief.

C. The members serve at the pleasure of the TBC.

[14.5.1.13 NMAC - Rp, 14.5.1.13 NMAC, 3/10/2022]

14.5.1.14 APPEALS:

A. All appeals, other than the allowable appeal to the commission regarding identical or similar names pursuant to Section 60-13-13.2 NMSA 1978 shall follow provisions of the ULA.

B. Appeals from the decision of the commission shall be made in writing to the district court as provided in Section 61-1-17 NMSA 1978.

[14.5.1.14 NMAC - N, 3/10/2022]

History of 14.5.1 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11/25/1970;

CIC 72-4, General Construction Classifications, filed 2/16/1972;

CIC 76-2, Rules and Regulations, filed 5/05/1976;

CID 78-2, Rules and Regulations, filed 12/05/1978;

CID 79-1, Rules and Regulations, filed 6/06/1979;

CID 82-1, Construction Industries Rules and Regulations, filed 4/14/1982;

CID 85-1, Construction Industries Rules and Regulations, filed 2/04/1985;

CID 90-1, Construction Industries Rules and Regulations, filed 5/31/1990.

History of Repealed Material:

14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 92/97), repealed 12/1/2000.

14.5.1 NMAC, Construction Industries General Provisions - Open Meetings Act (filed 10/16/2000) repealed 7/1/2004.

14.5.1 NMAC, Construction Industries General Provisions - General Provisions, (filed 5/27/2004) repealed 11/15/2016.

14.5.1 NMAC, General Provisions, (filed 1/15/2016) was repealed and replaced by 14.5.1 NMAC, General Provisions, effective 3/10/2022.

Other History:

That portion of CID 90-1, Construction Industries Rules and Regulations, filed 05/31/1990 -- renumbered, reformatted and amended to 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act, effective 9/14/1996.

14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act (filed 9/03/1996) amended and replaced by 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act effective 9/23/1997. 14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 9/02/1997) replaced by 14.5.1 NMAC, Housing and Construction - Construction Industries General Provisions - Open Meetings Act, effective 12/1/2000.

14.5.1 NMAC, Construction Industries General Provisions - Open Meetings Act (filed 10/16/2000);

that portion of 14.1.1 NMAC, Housing General Provisions - General Provisions (filed 10/16/2000);

that portion of 14.5.4 NMAC, Construction Industries General Provisions - Alternative Materials, Methods and Assemblies of Construction (filed 10/16/2000);

that portion of 14.5.7 NMAC, Construction Industries General Provisions - Technical Advisory Councils, Hearings, Appeals, Severability (filed 10/16/2000);

that portion of 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10/16/2000);

that portion of 14 NMAC 9.2, 1997 New Mexico Plumbing and Mechanical Code (filed 10/30/1998);

that portion of 14.10.4 NMAC, State of New Mexico Electrical Code (filed 7/01/2002) has been replaced by 14.5.1 NMAC, Construction Industries General Provisions - General Provisions, effective 7/1/2004.