

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT
CHAPTER 25 STATE FIRE MARSHAL
PART 10 FIRE PROTECTION FUND

10.25.10.1 ISSUING AGENCY: New Mexico Public Regulation Commission, State Fire Marshal's Division.
[10.25.10.1 NMAC - Rp, 10.25.10.1 NMAC, 7-15-13]

10.25.10.2 SCOPE: This rule applies to all counties, municipalities, and any governmental entity, under law, that receive fire protection fund money.
[10.25.10.2 NMAC – Rp, 10.25.10.2 NMAC, 7-15-13]

10.25.10.3 STATUTORY AUTHORITY: Section 59A-53-12 NMSA 1978.
[10.25.10.3 NMAC – Rp, 10.25.10.3 NMAC, 7-15-13]

10.25.10.4 DURATION: Permanent.
[10.25.10.4 NMAC – Rp, 10.25.10.4 NMAC, 7-15-13]

10.25.10.5 EFFECTIVE DATE: July 15, 2013, unless a later date is cited at the end of a section.
[10.25.10.5 NMAC – Rp, 10.25.10.5 NMAC, 7-15-13]

10.25.10.6 OBJECTIVE: The purpose of this rule is to clarify the requirements under which fire departments are funded and to specify the items and services that can be procured for use in the operations, maintenance and betterment of local fire departments with the intention of reducing losses by fire and reducing fire insurance rates, as well as to ensure that all firefighters within New Mexico have the basic skills and knowledge required to perform as team members of a fire department during emergency operations.
[10.25.10.6 NMAC – Rp, 10.25.10.6 NMAC & 10.25.11.6 NMAC, 7-15-13]

10.25.10.7 DEFINITIONS: As used in this rule:

- A. accreditation** means to give official authorization or approval; or to recognize or vouch for as conforming to a standard;
- B. certified fire department** means a fire department that has been certified pursuant to paragraph 10.25.10.11 of this rule;
- C. certification** means to attest authoritatively; specifically, the issuance of a document that states that one has demonstrated the knowledge and skills necessary to function in a particular field, by a testing procedure;
- D. certifying entity** means an organization that is accredited, or a government agency statutorily authorized to issue certificates;
- E. competent** means capable; fit to perform the assigned tasks;
- F. fire department** means an organization created by any municipality, county, or other governmental entity entitled to fire protection funds and capable of providing fire suppression and related activities;
- G. fire chief** means the highest-ranking officer in charge of a fire department;
- H. fire company** means a group of members that is under the direct supervision of an officer or leader; trained and equipped to perform assigned tasks; arrives at the incident scene on the fire apparatus, or assembles at the scene prior to assignment; usually operates with one piece of apparatus; examples of companies are pumper/engine, truck/ladder, service, elevating platform, rescue, wild land, hazardous materials, and emergency medical/ambulance;
- I. fire protection fund (FPF)** means funds distributed pursuant to the Fire Protection Fund Act, Section 59A-53-1 NMSA 1978;
- J. fire marshal** means the state fire marshal as established under the State Fire Marshal Act, Section 59A-52-1 NMSA 1978;
- K. fire service apparatus** means a motorized vehicle designated to respond to fire service functions performed by the fire department;
- L. fire service** means all fire departments and fire department members that have the skills and equipment needed to perform the functions of a fire department based on NFPA standards or nationally accepted practices; fire service functions performed by fire departments ensure public safety and health; fire services

functions may include, but are not limited to, structural firefighting, wild land firefighting, emergency medical services, rescue, and hazardous materials;

M. fire suppression means the activities involved in controlling and extinguishing fires; fire suppression shall include all activities performed at the scene of a fire incident or training exercise that expose fire department members to the dangers of heat, flame, smoke, and other products of combustion, explosion or structural collapse;

N. initial attack apparatus means a fire service apparatus that meets the general requirements of the applicable NFPA standard and has a permanently mounted fire pump of at least 250 gpm capacity, a water tank, and a hose body; the primary function is to initiate a fire suppression attack on structural, vehicular, or vegetation fires, and to support associated fire department operations;

O. insurance services office, inc (ISO) means an independent statistical, rating, and advisory organization that serves the property and casualty insurance industry. ISO collects information on a community's public fire protection and analyzes the data using its fire suppression rating schedule (FSRS). ISO then assigns a public protection classification from 1 to 10. Class 1 represents the best public protection and Class 10 indicates no recognized protection;

P. local government means either the municipal or county governing body that governs a given fire department;

Q. main station means a structure owned or leased by the local government that provides adequate protection for all apparatus designated to respond from the structure; as a minimum, the structure should contain an area dedicated for administration, classrooms or a training area, and restrooms; the structure shall house at least one apparatus that meets the criteria for an initial attack or pumper apparatus; the structure shall serve as the command and control station for either all or a designated portion of the department's response area; each fire department shall have at least one main station; if the fire department has more than one main station, there shall be a minimum of three fire companies under the direct control of the senior-ranking officer assigned to each main station; the companies shall be housed in the main station or in substations that are under the command of the senior-ranking officer; separate buildings that house only fire service administration and that are not co-located with other stations may also be considered main stations;

R. may means an optional or discretionary requirement;

S. member means a person involved in performing the duties and responsibilities of a fire department under the auspices of the organization; a fire department member may be a full-time or part-time paid employee, a paid or unpaid volunteer; may occupy any position or rank within the fire department, and may or may not engage in emergency operations;

T. NFPA standard means the most recent edition of the national fire protection association standard for a given subject;

U. New Mexico firefighters training academy (NMFTA) means the primary institution within the state fire marshal's office responsible for developing or conducting fire service related training; the NMFTA is accredited by the international fire service accreditation congress (IFSAC); as it pertains to this system, the mission statement for IFSAC is to measure the level of professionalism of the fire service internationally through the accreditation of those entities who administer standardized written or manipulative examinations of the required knowledge and skills to meet nationally and internationally recognized professional qualification standards;

V. operational/functional status means a certified fire department that has sufficient membership to ensure the response of at least four members to structure fires; all four members shall have sufficient structural firefighting protective clothing and be, as a minimum, competent at the firefighter I level as established by the NMFTA bureau;

W. position task book (PTB) means a document that lists the minimum performance requirements (tasks) for a specific position within the fire service in format that allows a trainee to be evaluated against written standards;

X. pumper apparatus means a fire department apparatus that meets the general requirements of the applicable NFPA standard and has a permanently mounted fire pump of at least 750 gpm capacity, a water tank, and a hose body; the primary function is to combat structural and associated fires;

Y. shall means a mandatory requirement;

Z. should means a recommendation or that which is advised;

AA. SFMO means the state fire marshal's office;

BB. substation means a structure owned or leased by the local government that provides adequate protection for all apparatus designated to respond from the structure; the structure should house at least one

apparatus that meets the general criteria of an initial attack or pumper apparatus; the structure may or may not include separate interior rooms, such as offices, classrooms, and quarters;

CC. trainee means a member of a fire department that is working towards being recognized as competent in a given fire department position; training may be through an academy, conducted by the department, on the job, or by any other means that ensures the trainee can complete the appropriate tasks;

DD. wildland fire apparatus means a fire service apparatus that meets the general requirements of the applicable NFPA standard and is equipped with a pump having a capacity between 20 gpm and 250 gpm, a water tank, and equipment whose primary purpose is to combat vegetation fires, and to support associated fire department operations.

[10.25.10.7 NMAC – Rp, 10.25.10.7 NMAC & 10.25.11.7 NMAC, 7-15-13]

10.25.10.8 APPLICATION REQUIREMENTS TO PARTICIPATE IN DISTRIBUTION:

A. Every local government that desires to have a fire department(s) participate in the distribution of the fire protection fund shall file a complete application on a form prescribed by the fire marshal. This form shall include information necessary to determine the funding needs of the fire department for the following state fiscal year.

B. The application for fire protection funds shall be received in the office of the fire marshal on or before the 30th day of April each year.

[10.25.10.8 NMAC – Rp, 10.25.10.8 NMAC, 7-15-13]

10.25.10.9 ACCUMULATION OF FUNDS:

A. FPF funds cannot be accumulated when the money is not required to accomplish the purpose of the Fire Protection Fund Act or any associated rules promulgated by the fire marshal.

B. FPF funds may be rolled over to subsequent fiscal years for the purposes of accumulating money to procure items or services for use in the operation, maintenance and betterment of the fire department. A request for authorization to rollover and accumulate FPF funds shall accompany the application to participate in distribution. The request must include a detailed description of the intended use of the accumulated money.

C. If the item to be purchased requires rollover and accumulation of FPF funds for more than one-year, only one request and subsequent authorization to accumulate funds is needed. If the item to be purchased changes, a new request for authorization to rollover and accumulate FPF funds shall be submitted to the fire marshal.

[10.25.10.9 NMAC – Rp, 10.25.10.9 NMAC, 7-15-13]

10.25.10.10 PERIODIC REQUIREMENTS:

A. Each fire department shall complete a monthly fire report utilizing the national fire incident reporting system. This report shall be filed with the state fire marshal's office by the 10th day of each month following the month for which the report is prepared, (e.g., the report for January is due by February 10th). Each fire department shall identify and file with the fire marshal's office, as a minimum, one representative responsible to comply with the reporting requirements.

B. Each fire department receiving FPF funds shall submit any other reports the fire marshal shall, from time to time, require and deem necessary.

C. Each fire department receiving FPF funds shall cooperate during any inspection deemed necessary by the fire marshal.

D. Each local government that receives FPF funds shall have in place an accounting system that clearly delineates FPF transactions and, upon request by the fire marshal, make available all records regarding FPF transactions.

[10.25.10.10 NMAC – Rp, 10.25.10.10 NMAC, 7-15-13]

10.25.10.11 CRITERIA FOR THE ESTABLISHMENT, CERTIFICATION AND FUNDING OF NEW DEPARTMENTS:

A. Establishment of a new department. The following actions are to be taken in the order listed.

(1) Local government shall request from the fire marshal an onsite visit of the proposed response area to determine the feasibility of starting a new department.

(2) If the fire marshal determines that starting a new fire department is feasible, the citizens of the community, or communities, shall organize the new fire department. To achieve an operational/functional status, the department shall have sufficient membership to ensure the response of at least four trained members to fires in

structures. To meet this minimum number, the department should have at least 12 adults willing and able to volunteer their services as firefighters.

(3) The local government shall identify water sources within the proposed response area. Ideally, all single point water sources should have a minimum of 30,000 gallons of water usable for suppression. The local government shall obtain written permission from property owners in which they agree to allow the fire department to use private water sources.

(4) The citizens shall petition the local government to establish the fire department by appropriate resolution. The resolution shall contain a legal description of the response area boundaries by section, township, and range.

(5) The local government shall submit to the fire marshal two copies of the resolution along with two clear and concise maps depicting the boundaries of the response area. The maps should be of a scale that clearly depicts the district and identifies the range and township. The preferred scale is one inch equals two miles. The district boundaries should be clearly outlined. Boundaries shall include additional areas to be serviced within an adjacent municipality or county if such additional coverage has been designated by resolution or law. All sources of water for firefighting within the boundaries shall be clearly indicated on the map. An additional copy of the resolution and map should be:

- (a) on file with the local government;
- (b) on file with the fire department (a copy of the map should be posted).

(6) Upon successful completion of Paragraphs (1) through (5), the fire marshal shall place the new department on probation for one year. The fire department's one-year probation period shall start no earlier than the date of the local government resolution.

(7) The local government shall obtain essential firefighting equipment and personal protective equipment.

(8) As a minimum, the local government shall obtain an operational apparatus meeting the general criteria for an initial attack or pumper apparatus. A waiver may be granted by the fire marshal for an apparatus not meeting this requirement. The request for a waiver shall include a detailed plan that establishes how this requirement is to be eventually met.

(9) The apparatus shall be housed to provide adequate protection. The structure should be owned or leased to the local government. However, while on probation other arrangements approved by the local government are acceptable.

B. Certification of a new department. The fire marshal shall certify a new department when the following requirements have been met:

(1) the department shall have been on probation for a period of no less than one year;
(2) the department shall have an alarm notification system in place; this system shall be designed so that there is no delay in the receipt of alarms and the dispatch of firefighters; a waiver may be granted by the fire marshal for a specific period if there is a detailed plan that establishes how this requirement is to be met;

(3) as a minimum, the following records shall be on file with the fire department:
(a) response records that indicate the date, times (alarm to return to service), location and type of response and the number and names of responders;

(b) training records that indicate the date, times (start to end), location and description of training, and the number and names of attendees;

- (c) minutes of department business meetings;
- (d) maintenance records of equipment and apparatus;
- (e) up-to-date roster of fire department members;

(4) no later than 30 days prior to the end of the one-year probation period, the fire department provide the fire marshal with the following:

- (a) a description of the alarm system;
- (b) a complete itemized inventory of firefighting equipment and apparatus;
- (c) a roster of firefighters names, addresses and telephone numbers;
- (d) a written request for a certification inspection;

(5) a fire department that fails to comply with any portion of the certification requirements shall remain on probation until all requirements are met;

(6) upon review and approval of all requirements, probational departments shall be certified by written notice.

C. Funding of new departments.

(1) Certified new departments shall receive their first year funding based on pro rata distribution of the department's ISO class. Departments that have not been evaluated by ISO shall have their pro rata distribution based on an ISO Class 10. The distribution shall be based on the state's fiscal year.

(2) All subsequent annual funding shall be based on the department's ISO classification and number of approved main and substations.

[10.25.10.11 NMAC – Rp, 10.25.10.11 NMAC, 7-15-13]

10.25.10.12 ISO CLASS 10 DEPARTMENTS:

A. All Class 10 departments shall have three years from the date of certification as a fire department or from the effective date of this rule (whichever is longer) to achieve Class 9 or better.

B. Class 10 departments may submit a written request to the fire marshal for extension if Class 9 has not been obtained. The request shall identify why Class 9 has not been achieved and include a comprehensive plan that details how these deficiencies shall be corrected.

C. Departments that fail to achieve a Class 9 or better within three years, and that do not receive an extension, shall be inspected to determine their operational/functional status. Departments determined to be non-operational by the fire marshal shall be subject to closure in accordance with Section 59A-53-14 NMSA 1978.

[10.25.10.12 NMAC – Rp, 10.25.10.12 NMAC, 7-15-13]

10.25.10.13 ESTABLISHMENT OF MAIN STATION AND SUBSTATION FOR FUNDING PURPOSES:

A. All stations shall have a name or numerical designation. (example: Washington Street Station or XYZ Fire Department Station No. 2).

B. Existing main and substations shall meet the following requirements:

(1) be a sufficient distance from other stations to reasonably effect response time or ISO classification for a given population, or be located in an area that historically has had periods where accessibility to the area from other stations has been limited due to man made obstacles, geographical constraints, or acts of nature (example: river, railroad tracks, etc.);

(2) be owned or leased to the local government. FPF money cannot be used to pay for additions to or major reconstruction of a leased building; departments shall have three years from the date of certification as a fire department or from the effective date of this document (whichever is longer) to have established a main station that is either leased to or owned by the local government; departments may submit a written request to the fire marshal for extension of the three years; the request shall identify why the extension is needed and include a comprehensive plan that details how and when this requirement shall be met;

(3) provide apparatus with adequate protection, within reasonable expectation from elements, preventing possible damage to any components of the apparatus;

(4) house at least one operational apparatus that meets the general criteria for an initial attack or pumper apparatus; a waiver may be granted by the fire marshal for an apparatus not meeting this requirement.

C. Requirements/procedure for establishment of new main and substations are as follows:

(1) the local government shall file a written request with the fire marshal for an inspection of the proposed new station site; as a minimum, the station, when completed, shall comply with the requirements for existing substations identified above;

(2) inspection and approval of proposed location from the fire marshal;

(3) if FPF funds shall be used in whole or part to construct the station, the local government shall hold fee simple title to the land on which the substation is to be constructed; however, this provision shall not prohibit construction of a substation on donated land where the donor has reserved the right of reversion of the land under stated conditions;

(4) the local government shall request in writing an onsite inspection and certification by the fire marshal; certifications of new main and substations shall take place before the last day of May for the stations to be included in the calculations for distribution of funds for the next fiscal year.

[10.25.10.13 NMAC – Rp, 10.25.10.13 NMAC, 7-15-13]

10.25.10.14 RESPONSIBILITIES:

A. SFMO

(1) NMFTA shall publish or adopt all performance evaluations required under this rule in the form of position task books (PTBs). The NMFTA shall use NFPA standards, other national standards, or nationally

accepted training curriculum as the basis for PTBs. The NMFTA shall develop and offer performance-based courses that fulfill the requirements of a PTB.

(2) Trainees who successfully complete the NMFTA training program that was established to fulfill a PTB requirement shall be certified as having passed the written and manipulative examination for that position by the NMFTA. Depending on the training program, certification by NMFTA may be accomplished by one or more of the following:

- (a) attending NMFTA campus course and successfully completing the written and manipulative examination(s);
- (b) attending an NMFTA filed (adjunct) course and successfully completing the written and manipulative examinations(s);
- (c) successful completion of the written and manipulative examination(s) for a given course (i.e., challenge the course).

(3) Certification by NMFTA is not mandatory. The intent of NMFTA certification is to provide assurance to local government that a fire department member has been evaluated and has demonstrated the knowledge and skills necessary to function in the position identified in a given PTB.

B. Local government, in conjunction with the fire department(s), under its jurisdiction.

(1) Local government shall ensure fire department members under its charge have the knowledge and skills necessary to perform in their assigned positions. This includes not only initial competency, but also that the competency is maintained.

(2) All fire departments shall have a training program and policy that ensures that personnel are trained, and that competency is maintained to effectively, efficiently, and safely execute all operations consistent with the department's local responsibilities.

(3) All fire departments shall make available training and education for all members commensurate with the duties and functions they are expected to perform. All fire departments shall provide their members with training and education appropriate for their duties and responsibilities before permitting them to engage in emergency operations.

(4) If there is a PTB that has been published by or recognized by the fire marshal, all fire departments should have all appropriate members evaluated against the document. Only those members that are determined to be qualified (evaluated under a specific PTB) by local government should hold the applicable title (i.e., firefighter).

(5) Regardless of whether or not the trainee has been certified by NMFTA, local government shall ensure that the trainee is competent and that the level of competency achieved under a given PTB is maintained. Use only the PTB by local government does not constitute state certification, and the local government assumes responsibility and liability for competence of their firefighters. A PTB does not meet prerequisite requirements for other state certification or training courses.

(6) A trainee should be determined to be competent, by local government, at all tasks required by local government within two years of entering trainee status (i.e., assigned a PTB).

(7) Upon request by the fire marshal, completed and signed PTBs shall be made available for inspection.

[10.25.10.14 NMAC – Rp, 10.25.11.8 & 10.25.10.14 NMAC, 7-15-13]

10.25.10.15 PURCHASE OF EQUIPMENT AND SUPPLIES:

A. Training and equipment needed to support the fire department's ability to suppress structure fires shall be the first priority when expending FPF funds. Departments that are not adequately trained or equipped to conduct structural firefighting shall only expend FPF monies on equipment and training directly related to structural firefighting. Exceptions to these rules shall be requested in writing to the fire marshal and shall receive authorization by the fire marshal prior to any expenditure.

B. Factors that shall be utilized to determine if a fire department has the ability to conduct structural firefighting are as follows:

- (1) shall have and be able to sustain an ISO classification of nine or better, and;
- (2) shall meet the criteria of operational/functional status as defined in the rule.

C. Fully operational departments may expend funds relevant to the operations and maintenance of the fire department based on NFPA standards or nationally accepted fire service practices without prior approval of the fire marshal if a reasonable need exists for each purchase.

D. No expenditure of funds from the fire protection fund shall be made by any fire department for any fire service apparatus, land, buildings, building renovations, or dedicated water supply for fire suppression until such fire department has presented to the state fire marshal sufficient evidence that a need exists for such fire service

apparatus, land, buildings, building renovations, or dedicated water supply for fire suppression. Approval may be denied if the requesting department is not in good standing with the periodic requirements as identified in this rule.

(1) Any fire department intending to purchase any fire service apparatus, land, buildings, building renovations, or dedicated water supply for fire suppression shall submit a written request for approval to expend fire protection funds to the state fire marshal before any purchase is made.

(2) The written request shall be approved in writing by the state fire marshal before any fire protection funds may be expended or obligated in any way. Purchases shall always be made in the name of the appropriate municipality or county.

E. Equipment and appliances necessary to perform fire service functions and emergency medical services as provided by the fire department are allowed without prior approval of the state fire marshal if a reasonable need exists for each purchase. A guideline is available to all local governments and fire departments upon request, or may be viewed electronically on the public regulation commission's web page at <http://www.nmprc.state.nm.us/sfm.htm>.

F. Fire departments may purchase meals for members with state fire funds, provided the following guidelines are followed:

(1) any major incident (structure fires, wild land fires, etc.) lasting more than four hours of time on scene;

(2) any training which is physically exerting in nature lasting four hours or more (structural fire training, wild land, rescue, etc.); classroom trainings do not qualify for this provision;

(3) to provide rehab supplies on emergency apparatus, such as water, sport drinks, MRE's trail mixes, etc.

G. The use of FPF funds for social events is prohibited.

H. Schools, courses, and conferences attended shall be related to fire service and shall be of content relevant to the needs of the department.

[10.25.10.15 NMAC – Rp, 10.25.10.14 NMAC, 7-15-13]

10.25.10.16 PURCHASE OF AUTOMOTIVE APPARATUS: All vehicles purchased with FPF funds shall meet the following requirements:

A. new vehicle specifications for bid shall be submitted to the fire marshal and shall be approved by the fire marshal prior to advertising for bids;

B. a detailed description of used vehicles shall be submitted to the fire marshal and shall be approved prior to expending or committing FPF funds;

C. all new apparatus shall meet the general requirements established under the appropriate NFPA standard or nationally accepted practices if applicable, and shall be designed to meet the operational requirements of the department; if assistance is needed in determining what would be appropriate to meet the potential fire flow requirements for the department's response area, a department may submit the following information to the fire marshal:

(1) a description of the water supply source(s) (example: hydrants, cisterns, river, overhead tank, etc.);

(2) a description of how the water supply shall be delivered to the apparatus (example: short lay of five-inch supply line from hydrants, long lay of five-inch supply line from relay pumper, tanker shuttle, etc.); and

(3) a list containing the five highest commercial fire flow requirements within the response area (identify how this determination was made, example: taken from ISO batch report, used NFPA 1142, etc.); if unable to determine fire flow requirements, describe what each building is being used for (occupancy class), what each building is built of (construction classification), and square footage and height;

D. a requesting department shall provide documentation verifying the department's ability to achieve the required fire flow within its identified response district prior to any funds being expended on non-structural apparatus.

[10.25.10.16 NMAC – Rp, 10.25.10.15 NMAC, 7-15-13]

10.25.10.17 COMPLIANCE WITH PROCUREMENT CODE REQUIRED: All purchases shall be made by the designated purchasing officer in compliance with the provisions and requirements of the New Mexico procurement code.

[10.25.10.17 NMAC – Rp, 10.25.10.16 NMAC, 7-15-13]

10.25.10.18 EQUIPMENT INVENTORY: All fire departments shall maintain an equipment inventory list. All single items purchased with FPF monies costing two hundred and fifty dollars (\$250) or more shall be listed on the fire department's inventory list. A physical inventory of such items shall be conducted no less than annually. A copy of the inventory shall be maintained at the main station(s).
[10.25.10.18 NMAC – Rp, 10.25.10.17 NMAC, 7-15-13]

HISTORY OF 10.25.10 NMAC:

Pre-NMAC history:

FM 77-1, Rules and Regulations Relating to the Fire Protection Fund Act and List of Approved Equipment, filed on 3-30-77.

NMAC History:

10 NMAC 25.10, Fire Protection Fund, filed 6-9-97 – Repealed 12-31-2000.

10.25.10 NMAC, Fire Protection Fund, filed on 12-13-2000 – Repealed 7-15-2013.

10.25.11 NMAC, Firefighting Qualification System, filed 12-13-2000 – Repealed 7-15-2013.