

TITLE 14: HOUSING AND CONSTRUCTION
CHAPTER 6: CONSTRUCTION INDUSTRIES LICENSING
PART 5: LOCAL JURISDICTION INSPECTION PROGRAMS

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

[14.6.5.1 NMAC - Rp, 14 NMAC 6.5.1, 12-1-00]

14.6.5.2 SCOPE: This rule applies to municipalities and political subdivisions of the State and their building trades inspectors.

[14.6.5.2 NMAC - Rp, 14 NMAC 6.5.2, 12-1-00]

14.6.5.3 STATUTORY AUTHORITY: NMSA 1978, section 60-13-9.

[14.6.5.3 NMAC - Rp, 14 NMAC 6.5.3, 12-1-00]

14.6.5.4 DURATION: Permanent.

[14.6.5.4 NMAC - Rp, 14 NMAC 6.5.4, 12-1-00]

14.6.5.5 EFFECTIVE DATE: January 1, 2010, unless a later date is cited at the end of a section.

[14.6.5.5 NMAC - Rp, 14 NMAC 6.5.5, 12-1-00]

14.6.5.6 OBJECTIVE: The objective of this rule is to provide standards for competent and qualified inspection of construction in New Mexico by local jurisdictions, in compliance with applicable building codes and standards.

[14.6.5.6 NMAC - Rp, 14 NMAC 6.5.6, 12-1-00]

14.6.5.7 DEFINITIONS: Terms used in this part shall have the meanings given to them in the Construction Industries Licensing Act, Section 60-13-1 et seq. NMSA 1978 and 14.5.1 NMAC, except as defined herein. The following definitions apply to this part only.

A. CID inspector means an individual who is employed by CID and who is authorized to perform building inspections pursuant to the terms of that employment.

B. Code enforcement services or services means plan review, permitting, inspections and other services performed in connection with the enforcement of building codes and standards.

C. Inspector means an individual who possesses an active, valid inspector certificate issued by CID pursuant to this rule.

D. Local jurisdiction means a municipality or political subdivision of the State including a county.

E. Local building program means a building program constituted by a local jurisdiction in full compliance with all applicable laws and rules, including without limitation NMSA 1978, Sections 3-17-6 and 60-13-44, to perform code enforcement services in that local jurisdiction.

F. Primary inspector means an individual who is certified as a prime inspector in one or more trades pursuant to section 146.5.8.C. of these rules.

G. Governing authority means the governing body of a local jurisdiction.

H. State building codes means the rules found in the New Mexico Administrative Code, Title 14, Chapters 5 through 10.

[14.6.5.7 NMAC - Rp, 14 NMAC 6.5.7, 12-1-00]

14.6.5.8 INSPECTOR CERTIFICATION.

A. General Information.

1. No individual may perform inspection services for a local jurisdiction unless properly certified in the appropriate trade classification(s) pursuant to this rule.

2. Inspector certificates and endorsements issued pursuant to this rule are not transferable.

3. No individual under the age of 21 shall be issued an inspector certificate.

4. In order to be eligible to apply for certification as an inspector, any license or certification issued by CID or by an out-of-state licensing authority to the applicant must be in good standing and, all consumer complaints filed against the applicant must have been resolved.

5. CID may randomly monitor and review code enforcement services performed by any inspector who is, or is required to be, certified by CID, and will notify the inspector of any material deficiencies in the inspector's performance. If the performance of an inspector warrants an investigation pursuant to 60-13-43, CID will notify the local jurisdiction that an investigation has been initiated, and of the findings of any such investigation.

B. Types of Certificates.

1. Original Jurisdiction Certification. An individual, who meets all of the requirements for certification under this rule, is eligible to receive a certificate of approval of competence, issued by the division. Before an inspector may provide inspection services in a local jurisdiction, the employing jurisdiction must provide the division with an affidavit or other official declaration on a form acceptable to the division and signed by an official who has authority to bind the jurisdiction, attesting under oath that the inspector will provide inspection services as an employee of that jurisdiction and that the jurisdiction has adopted a building code pursuant to NMSA 1978, Section 3-16-7, and is in compliance with all state and local laws applicable to its building program.

2. Sequential Jurisdiction Certification. An inspector who changes employment from one local building program to another is eligible to receive an endorsement certifying him or her to work in the new local building program on the following conditions:

a. The new employing jurisdiction must have a building program that is in compliance with all applicable laws.

b. The inspector has ceased to be employed by the original jurisdiction and has become an employee of the new jurisdiction.

c. The inspector is in compliance with all certification requirements.

d. The employing jurisdiction must provide the division with an affidavit or other official declaration on a form acceptable to the division, signed by an official who has authority to bind the jurisdiction, attesting under oath that the individual is providing inspection services as an employee of the jurisdiction and that the jurisdiction is in compliance with all state and local laws applicable to its building programs.

C. Qualifications. An individual seeking to be certified by the division as an inspector must have the following qualifications:

1. Certification in a primary trade.

a. Work Experience – single trade:

(1) General building: a minimum of three years of field experience as a foreman, as the qualifying party on a GB-98 license, or an out-of-state equivalent;

(2) Electrical: a minimum of three years of field experience as a New Mexico certified journeyman in the EE-98J classification, or an out-of-state equivalent;

(3) Mechanical/plumbing: a minimum of three years of field experience as a New Mexico certified journeyman in the JP, JPF, JG, or JPG classification(s), or an out-of-state equivalent.

b. Work Experience Equivalences – single trade.

(1) Applicants for a mechanical or electrical inspector certification may substitute technical, university, or college training in the mechanical or electrical field for up to two years field experience. The equivalency shall be calculated such that one year of technical, university or college training shall equal one-half year of field experience. In no case may education be substituted for more than two years of field experience.

(2) Applicants for a mechanical, electrical or general construction inspector certification may substitute five years of work experience in the appropriate classification as a certified out-of-state building inspector, or three years experience as a CID inspector.

2. Certification in an additional discipline. In order to qualify as a "multiple inspector", an inspector who is properly qualified and certified as a prime inspector may conduct inspections in an additional discipline if the following qualification requirements are met:

a. The inspector must have taken and passed the current State certification examination in the additional discipline.

b. The inspector must become nationally certified in the additional discipline within eighteen (18) months of State multiple-certification.

c. The inspector must successfully complete a minimum of 40 hours of classroom training by the appropriate trade bureau chief, or a nationally certified inspector designated by the bureau chief.

d. The inspector must successfully complete a minimum of 80 hours of field training by the bureau chief, or a nationally certified inspector designated by the bureau chief.

e. The inspector shall perform only residential inspections in the additional discipline.

f. The local jurisdiction for which the inspector intends to work in the capacity of a multiple inspector must have a full-time inspector on staff as a properly certified primary inspector in the discipline, and must provide supervision and oversight of the inspector working in the additional discipline.

[14.6.5.8 NMAC - Rp, 14 NMAC 6.5.8, 12-1-00]

3. Examination – all certifications.

a. An applicant for inspector certification must have taken and passed the current New Mexico inspector exam for the type of construction to be inspected with a score of 75% or higher.

b. An applicant for inspector certification must be, or within 12 months of employment as an inspector, become certified as an inspector by nationally recognized standards association, approved by CID, which certifies inspectors in the type of construction to be inspected. National certification must remain valid for the duration of the inspector's State certification. Failure to maintain national inspection certification constitutes grounds for rescission of a State inspector state certificate or endorsement.

D. Application. An individual seeking any type of inspector certificate must complete and submit an application, in a form approved by the division, along with the applicable fee and the affidavit of at least one competent individual who, under oath, attests to the duration, type and quality of the work experience of the applicant.

E. Renewal.

1. Inspector certificates and trade endorsements must be renewed every three years.

2. An applicant for renewal of an inspector certificate/endorsement must have completed a minimum of 16 hours of approved course work, of which a minimum of eight hours must comprise instruction on changes in the code(s) enforced by the inspector that have been adopted by the State since the certificate or endorsement was issued or last renewed.

3. Application for renewal of an inspector certificate/endorsement must be filed with the division prior to the last working day before the certificate/endorsement expires. An expired certificate/endorsement shall be renewable within a six-month period without examination and upon the payment of a fee equal to double the renewal fee. If the certificate/endorsement has not been timely renewed, it shall automatically expire. The filing date of the application shall be the postmark date if mailed, or the date the application is received by the division if hand delivered.

4. The application for renewal must be accompanied by the renewal fee and proof of compliance with the continuing education requirement applicable to the certificate/endorsement being renewed. Incomplete or inaccurate applications will be rejected. Rejection of an application does not extend the renewal period and, if the expiration date occurs before a complete and accurate application is filed with the division, the certificate or endorsement will expire for failure to renew.

5. The division shall send notification of the renewal date to the certificate holder no less than thirty days prior to the expiration date of the certificate or endorsement. Notification will be sent to the inspector at his employment address with a copy to the employing jurisdiction. Whether or not the renewal notice is received, it is the sole responsibility of the certificate holder to timely renew the certificate or endorsement, and failure to do so will result in the expiration of the certificate or endorsement.

F. Rescission.

1. Grounds. An inspector certificate or endorsement issued by the division shall be rescinded by the construction industries commission for any of the following causes:

a. misrepresentation of a material fact by the applicant in obtaining the certificate or endorsement;

b. willful or fraudulent commission of any act by the inspector acting as an inspector which results in substantial injury to another, as determined by a court of competent jurisdiction;

c. acceptance of a bribe or other violation of the government conduct act while acting as an inspector;

d. evading or violating, or aiding another to evade or violate, any provision of the CILA or any applicable code, standard, or rule adopted pursuant to that act, or any ordinance or other law adopted by the local jurisdiction employing the inspector which is applicable to the performance any duty for which certification or endorsement by the State is required;

e. abuse of authority;

f. performing inspection duties outside the scope of the inspector's certificate(s) or endorsement(s);

g. failure to maintain all required inspector certificates and endorsements in good standing; or

h. gross incompetence, repeated negligence or willful malfeasance in the performance of duties for which certification or endorsement by the state is required.

2. Rescission proceedings. All rescission proceedings shall be conducted pursuant to the due process provisions of the ULA.

3. Effect of rescission.

a. After rescission of an inspector certificate or endorsement by the commission, no individual shall be eligible to apply for a new inspector certificate or endorsement until three years after the effective date of the rescission.

b. No new inspector certificate may be issued to an individual whose inspector certificate has been rescinded if, during the period of rescission, the division finds that the individual has engaged in activity that constitutes a violation of any provision of CILA or the rules promulgated pursuant thereto.

G. Commission approval. If an inspector certificate or endorsement has been rescinded or suspended by the commission, or if there is an open investigation that might result in the rescission or suspension of a certificate or endorsement, or if the individual to whom the certificate or endorsement was issued is not in compliance with applicable laws and orders of the commission, the individual is not eligible to apply for sequential jurisdiction, trade or RCI certification or endorsement unless such certification or endorsement is pre-approved by the commission.

[14.6.5.8 NMAC - Rp, 14 NMAC 6.5.8, 12-01-00]

14.5.6.9 TEMPORARY SERVICES TO LOCAL BUILDING PROGRAMS: CID may temporarily provide code enforcement services within the geographic boundaries of a local jurisdiction in lieu of its local building program at the request of the governing authority in that jurisdiction for a period of 180 days or less. Such services shall be performed on the following terms and conditions:

A. Affidavit. The requesting jurisdiction must provide the division with an affidavit or other official declaration on a form acceptable to the division, signed by an official who has authority to bind the jurisdiction, attesting under oath that the jurisdiction is in compliance with all state and local laws applicable to local building programs.

B. Request. The request for services must be in writing and must include:

1. The date requested services are to commence and are expected to terminate;
2. The trades for which the services are requested (e.g., general building, electrical, plumbing/mechanical); and
3. Any other relevant information required by CID.

C. Notice. A request for services must be received by CID no less than 30 days before the date on which services are requested to commence. A request received less than 30 days before the date on which services are to commence may result in a delay in the commencement of services and is subject to escalated fees and charges, as set forth in 14.5.5 NMAC.

D. Applicable codes. CID shall perform all code enforcement services in compliance with current state building codes. CID will not enforce a local jurisdiction's amendments to the state building codes.

E. Permitting authority.

1. At the time CID commences providing services, the local building program shall cease to perform plan review on, and to issue the type(s) of, building permits for which CID has been requested to provide services. The local building program shall refer all requests for such permits to CID for issuance.
2. CID shall perform all plan reviews and issue all permits for which services have been requested on work initiated after the commencement of the provision of services by CID in the local jurisdiction. All applicable permit fees shall be paid by the permit applicant to CID, and the local jurisdiction shall pay a service charge for each permit issued by CID, as set forth in 14.5.5 NMAC.
3. CID shall perform all plan reviews and inspections on any permit issued, or in the process of being issued, by CID including those that are in the application process or are still active at the time the local building program resumes full operation and begins issuing new permits. All fees and service charges associated with such permits shall be paid to CID by the permit applicant or holder and the local jurisdiction, as applicable.
4. CID may waive any one or any combination of the foregoing conditions when the duration of the requested services is three weeks or less.

F. Open permits. CID shall provide inspection services pursuant to any permit that is open and active and was issued by a local building program prior to the effective date of CID's commencement of services as follows:

1. all requests for inspections to be performed by CID shall be made through the CID inspection request call center or as CID shall otherwise direct;
2. the local jurisdiction shall pay a fee for each inspection performed by CID, as provided in 14.5.5 NMAC;
3. CID shall make inspection results available to the local building program; and
4. CID shall issue certificates of occupancy only on that work that has been fully inspected by CID.

Each certificate of occupancy issued by a local building program on a project that was partially inspected by CID shall expressly provide that CID did not perform all of the inspections on the project and that the certificate of occupancy does not attest to the code compliance of the work not inspected by CID.

G. Code interpretation. Any determination by CID regarding code interpretation, application or enforcement shall take precedence over any conflicting or different interpretation, application or enforcement by the governing authority. All interpretations shall be made and conflicts resolved according to Title 14 Chapters 5 through 10 NMAC.

H. Conflicts. Nothing in this rule shall be interpreted or applied in such a way as to conflict with any other provision of the state building codes.

[14.6.5.9 NMAC - Rp, 14 NMAC 6.5.9, 12-01-00]

History of 14.6.5 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 11-25-70;
CIC 72-4, General Construction Classifications, filed 02-16-72;
CIC 76-2, Rules And Regulations, filed 05-05-76;
CID 78-2, Rules And Regulations, filed 12-05-78;
CID 79-1, Rules And Regulations, filed 06-06-79;
CID 82-1, Construction Industries Rules And Regulations, filed 04-14-82;
CID 85-1, Construction Industries Rules And Regulations, filed 02-04-85;
CID 90-1, Construction Industries Rules And Regulations, filed 05-31-90.

Other History:

That portion of CID 90-1, Construction Industries Rules And Regulations, filed 05-31-90 -- renumbered, reformatted and amended to 14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, filed 09-03-96.

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, filed 09-02-97

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, amendment filed 10-22-97

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, amendment filed 04-17-00

14.6.5 NMAC, Housing and Construction - Construction Industries Licensing - Inspectors, effective 12-1-00

History of Repealed Material:

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, repealed effective 12-1-00.