

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

**14.5.1.1 ISSUING AGENCY:** Construction Industries Division of the Regulation and Licensing Department.  
 [14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 11/15/2016]

**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 CILA and LP GAS Act.  
 [14.5.1.2 NMAC - Rp, 14.5.1.2 NMAC, 11/15/2016]

**14.5.1.3 STATUTORY AUTHORITY:** Section 60-13-9 NMSA 1978.  
 [14.5.1.3 NMAC - Rp, 14.5.1.3 NMAC, 11/15/2016]

**14.5.1.4 DURATION:** Permanent.  
 [14.5.1.4 NMAC - Rp, 14.5.1.4 NMAC, 11/15/2016]

**14.5.1.5 EFFECTIVE DATE:** November 15, 2016, unless a later date is cited at the end of a section.  
 [14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 11/15/2016]  
 [From the date of publication of this rule in the New Mexico register, until July 1, 2017, permits may be issued under either the previously-adopted rule, or this rule. After July 1, 2017, permits may be issued only under this rule.]

**14.5.1.6 OBJECTIVE:** The purpose of this rule is to set forth general provisions governing contracting work in New Mexico.  
 [14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 11/15/2016]

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

**A. Trade bureau chief “TBC”** means the administrative head of a state of New Mexico trade bureau charged with the administration and enforcement of this that trade bureau’s state adopted codes. The trade bureau chiefs are the ultimate authority to determine interpretations of their trade code, this includes applications of the New Mexico trade codes. The trade bureau chief shall recommend to “CID and CIC” all minimum standards for code adoptions.

**B. Certified building official “CBO”** means an employee of any county, municipality or other political subdivision 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 company or construction organization for at least five of the past 10 years. This official is charged with the administration and enforcement of the adopted administrative codes for an AHJ.

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

**D. Inspector** means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work in a jurisdiction that has an inspection and permitting agency with a state approved CBO to ensure that all work performed by a contractor or the homeowner complies with the applicable codes.

**E. Authority having jurisdiction “AHJ”** means the entity with permitting and enforcement authority over a project within its jurisdiction.

**F. CID and division** mean the construction industries division of the regulation and licensing department.

**G. CID rules** means the rules compiled in Title 14, Chapters 5 through 10 of the New Mexico Administrative Code.

**H. CILA** means the Construction Industries Licensing Act, Section 60-13-1 et seq. NMSA 1978.

**I. Commission** means the construction industries commission.

**J. Commissioning** means adjusting, balancing, documenting, and certifying the completion of an heating, ventilation, air conditioning (HVAC) system.

**K. Contracting** has the meaning given in Section 60-13-3 NMSA 1978.

**L. Director** has the meaning given it in Section 60-13-2 NMSA 1978.

**M. IBC** means the 2015 International Building Code.

**N. IFC** means the 2015 International Fire Code.

**O. IRC** means the 2015 International Residential Code.

**P. LPG Standards** means 19.15.40 NMAC, Liquefied Petroleum Gas Standards, and 70-5-1 et seq. NMSA 1978, Liquefied and Compressed Gasses, collectively.

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

- R.** **NMCBC** means 14.7.2 NMAC, 2015 New Mexico Commercial Building Code, which adopts by reference and amends the 2015 international building code.
- S.** **NMEBC** means 14.7.7 NMAC, 2015 New Mexico Existing Building Code, which adopts by reference and amends the 2015 international existing building code.
- T.** **NMEBMC** means 14.7.4 NMAC, 2015 New Mexico Earthen Building Materials Code.
- U.** **NMEC** means 14.10.4 NMAC, 2017 New Mexico Electrical Code, which adopts by reference and amends the 2017 National Electrical Code.
- V.** **NMECC** means 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, which adopts by reference and amends the 2009 International Energy Conservation Code.
- W.** **NMESC** means 14.10.5 NMAC, 2012 New Mexico Electrical Safety Code, which adopts by reference and amends the 2012 National Electrical Safety Code.
- X.** **NMMC** means 14.9.2 NMAC, 2015 New Mexico Mechanical Code, which adopts by reference and amends the 2012 Uniform Mechanical Code.
- Y.** **NMPC** means 14.8.2 NMAC, 2015 New Mexico Plumbing Code, which adopts by reference and amends the 2012 Uniform Plumbing Code.
- Z.** **NMRBC** means 14.7.3 NMAC, 2015 New Mexico Residential Building Code, which adopts by reference and amends the 2015 International Residential Code.
- AA.** **NMSEC** means 14.9.6 NMAC, 2012 New Mexico Solar Energy Code, which adopts by reference and amends the 2012 Uniform Solar Energy Code.
- BB.** **NMSPSHTC** means 14.8.3 NMAC, 2012 New Mexico Swimming Pool, Spa, and Hot Tub Code, which adopts by reference and amends the 2012 Uniform Swimming Pool, Spa, and Hot Tub Code.
- CC.** **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.
- DD.** **ULA** means Section 61-1-1 et seq. NMSA 1978, the Uniform Licensing Act.
- [14.5.1.7 NMAC - Rp, 14.5.1.7 NMAC, 11/15/2016; A, 5/15/2018]

#### 14.5.1.8 RESPONSIBILITY FOR COMPLIANCE:

- A.** Every person who performs work in connection with the installation or repair 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 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 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, 11/15/2016]

#### 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 other requirements than the provisions of other New Mexico construction codes, the general rule of interpretation to be applied is that the most restrictive provision shall apply, and the most specific provision shall govern more general provisions. If it is determined by the TBC or AHJ responsible for enforcing the codes that the conflict between the provisions should be resolved by a different interpretation, the determinations shall control.
- B. With prior New Mexico construction codes.** The code adopted at the time a structure is built 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 will govern.
- C. Between current New Mexico construction codes and codes adopted by other state agencies.** The occupancy classification of a building shall be established by the general building trade bureau chief or CBO.
- D. With requirements of other agencies.** Any licensee, qualifying party or journeyman 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; the public regulation commission; the governor's committee on the concerns of the handicapped; and local zoning and historical authorities.
- E. 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, to the extent that such reference requires, and with all such modifications and amendments as may be made to the provision. 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, 11/15/2016]

**14.5.1.10 CERTIFIED BUILDING OFFICIAL FOR AN AHJ: Power and Duties: The CBO is responsible for enforcing the state and local codes in an AHJ.** The interpretations and procedures established by a CBO must be pursuant to CID statutes and rules:

[14.5.1.10 NMAC - Rp, 14.5.1.10 NMAC, 11/15/2016]

#### **14.5.1.11 TRADE BUREAU CHIEFS:**

**A. Powers and duties:** Each trade bureau chief is authorized to render interpretations of the New Mexico construction code and to establish procedures for the interpretation and application of that code.

**B. Alternative materials and methods of construction:** A 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 code impossible 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 in writing and signed by the trade bureau chief. A trade bureau chief may require supporting data be supplied by the requestor.

**D. Alternatives.** The trade bureau chief is responsible, for approving materials, designs and methods of construction that are not expressly specified in that the 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, 11/15/2016]

#### **14.5.1.12 UNSAFE STRUCTURES OR OTHER LIFE SAFETY HAZARD:**

**A.** 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, or correction notice, or stop work order as is necessary to abate the unsafe condition or hazard;

(2) if the unsafe condition or hazard is in an existing building not related to construction in progress, prepare a report detailing the observed unsafe condition or hazard; the report shall be provided to the local AHJ;

(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 trade bureau chief or CBO.

**B.** If requested by an AHJ having condemning authority, the trade bureau chief will inspect or designate an inspector to inspect the property and report findings.

[14.5.1.12 NMAC - Rp, 14.5.1.12 NMAC, 11/15/2016]

#### **14.5.1.13 TECHNICAL ADVISORY COUNCILS, HEARINGS, APPEALS:**

##### **A. Technical advisory council.**

(1) Each trade bureau chief may create a technical advisory council and appoint members to assist that the bureau in an advisory capacity on technical aspects of the particular industry.

(2) These councils will meet at the call of the trade bureau chief.

##### **B. Appeals.**

(1) A person aggrieved by the director's decision in regard to identical or similar names may appeal to the commission (Section 60-13-13.2 NMSA 1978).

(2) All other appeals shall follow provisions of the Uniform Licensing Act "ULA".

(3) Appeals from the decision of the commission shall be made in writing to the district court of the county of the residence of the aggrieved party within 30 days after the decision of the commission has been delivered to the complainant, as provided in Section 61-1-17 NMSA 1978.

[14.5.1.13 NMAC - Rp, 14.5.1.13 NMAC, 11/15/2016]

#### **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 02-16-1972;

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

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

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

CID 82-1, Construction Industries Rules and Regulations, filed 04-14-1982;

CID 85-1, Construction Industries Rules and Regulations, filed 02-04-1985;

CID 90-1, Construction Industries Rules and Regulations, filed 05-31-1990.

#### **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.

**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 09-14-1996.

14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act (filed 09-03-1996) amended and replaced by 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act effective 09-23-1997.

14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 09-02-1997) 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 07-01-2002) has been replaced by 14.5.1 NMAC, Construction Industries General Provisions - General Provisions, effective 7-1-2004.