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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, Insurance Division, State Fire Marshal's Office.

[10.25.10.1 NMAC – N, 1-1-01]

10.25.10.2 SCOPE: This rule applies to all counties, and incorporated cities, towns, villages that receive Fire Protection Fund monies.

[10.25.10.2 NMAC – N, 1-1-01]

10.25.10.3 STATUTORY AUTHORITY: NMSA 1978 Section 59A-53-12.

[10.25.10.3 NMAC – N, 1-1-01]

10.25.10.4 DURATION: Permanent.

[10.25.10.4 NMAC – N, 1-1-01]

10.25.10.5 EFFECTIVE DATE: January 1, 2001, unless a later date is cited at the end of a section.

[10.25.10.5 NMAC – N, 1-1-01]

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.

[10.25.10.6 NMAC – N, 1-1-01]

10.25.10.7 DEFINITIONS: As used in this rule:

A. certified fire department means a fire department (see definition of fire department) that has been certified pursuant to paragraph 10.25.10.11 of this rule.

B. fire department means an organization belonging to any incorporated city, town, or village, or county entitled to fire protection funds, capable of providing fire suppression and related activities.

C. fire chief means the highest-ranking officer in charge of a fire department.

D. 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, wildland, hazardous materials, and emergency medical/ambulance.

E. fire protection fund (FPF) refers to funds distributed pursuant to the Fire Protection Fund Act, NMSA 1978 59A-53-1.

F. Fire Marshal means the State Fire Marshal as established under the State Fire Marshal Act, NMSA 1978 59A-52-1.

G. firefighting qualification system (FQS) refers to the performance-based qualification system that incorporates regional training associations and the NMFTA into a systematic approach to training and evaluation. The intent of the system is to provide a realistic means of ensuring 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.

H. 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. These may include functions other than structural firefighting, such as wildland/interface firefighting, rescue operations, hazardous materials emergency response, confined space rescue, and emergency medical services.

I. 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.

J. 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.

K. Insurance Services Office, Inc (ISO) is 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.

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

M. 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 senior ranking officer shall be a rank above that of a company officer (examples - deputy/assistant chief, division chief, district chief or battalion chief). 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.

N. may means an optional or discretionary requirement.

O. 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.

P. NFPA Standard refers to the most recent edition of the National Fire Prevention Association standard for a given subject.

Q. New Mexico Firefighters Training Academy (NMFTA) is the primary institution within the State Fire Marshal's Office responsible for developing and/or conducting fire service related training.

R. operational/functional status means a certified fire department (see definition for 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 under the Firefighting Qualification System.

S. 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.

T. shall means a mandatory requirement.

U. should means a recommendation or that which is advised.

V. SFMO means the State Fire Marshal's Office.

W. 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.

X. 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 – N, 1-1-01]

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 – N, 1-1-01]

10.25.10.9 ACCUMULATION OF FUNDS:

A. FPF monies 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 monies 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 monies 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 monies for more than one-year, only one request and subsequent authorization to accumulate monies is needed. If the item to be purchased changes, a new request for authorization to rollover and accumulate FPF monies shall be submitted to the Fire Marshal.

[10.25.10.9 NMAC – N, 1-1-01]

10.25.10.10 PERIODIC REQUIREMENTS:

A. Each fire department shall complete a monthly fire report. 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)

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

C. Each fire department receiving FPF monies shall cooperate during any inspection deemed necessary by the Fire Marshal.

D. Each local government that receives FPF monies 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 – N, 1-1-01]

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 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 (1) inch equals two (2) miles. The district boundaries should be clearly outlined. 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. Systems that depend upon telephone call lists, group telephone alerting systems that ring fewer than eight telephones in the homes or businesses of firefighters, or where an individual shall travel in excess of two hundred feet to activate an alerting system are not acceptable. 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 thirty 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 such time that 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 – N, 1-1-01]

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 NMSA 1978, Section 59A-53-14.
[10.25.10.12 NMAC – N, 1-1-01]

10.25.10.13 ESTABLISHMENT OF MAIN STATION AND SUBSTATION FOR FUNDING PURPOSES:

A. All stations shall have a name and/or numerical designation (example – Washington Street Station and/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 and/or ISO classification for a given population, and/or be located in an area that historically has had periods where accessibility to the area from other stations has been limited due to manmade obstacles, geographical constraints, or acts of nature (example – river, railroad tracks, etc.).

(2) Be owned or leased to the local government. FPF monies 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.

(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 monies 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 – N, 1-1-01]

10.25.10.14 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 monies. 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 an ISO Classification of 9 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. Limitations to this rule are as follows:

(1) The primary purpose of emergency medical services equipment and supplies is to render aid and assistance to injured responders. Purchase of basic medical equipment and supplies that are intended to be used for the treatment of infection control, CPR, bleeding control, and shock management is authorized. Purchase of advanced medical supplies and equipment shall be requested in writing to the Fire Marshal and shall receive authorization by the Fire Marshal prior to any expenditure.

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

(3) The use of FPF monies for social events is prohibited.

(4) Medical related schools, courses, and conferences shall be limited to requirements established under 1 above.

(5) 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.

[10.25.10.14 NMAC – N, 1-1-01]

10.25.10.15 PURCHASE OF AUTOMOTIVE APPARATUS: All vehicles purchased with FPF monies 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 monies.

C. All new apparatus shall meet the general requirements established under the appropriate NFPA standard 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.); and

(2) A description of how the water supply shall be delivered to the apparatus (example – short lay of 5-inch supply line from hydrants, long lay of 5-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.

[10.25.10.15 NMAC – N, 1-1-01]

10.25.10.16 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.

[10.25.10.16 NMAC – N, 1-1-01]

10.25.10.17 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).
[10.25.10.17 NMAC – N, 1-1-01]

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 on 6-9-97.