

# **New Mexico Fire Chief's Handbook Laws, Regulations and Resources**

**2002  
edition**

# **New Mexico Fire Chief's Handbook**

**Public Regulation Commission  
Insurance Division**

**George H. Chavez  
State Fire Marshal**

**2002**

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 HERB H. HUGHES, VICE CHAIRMAN  
DISTRICT 2 RORY McMINN  
DISTRICT 3 JEROME D. BLOCK  
DISTRICT 4 LYNDA M. LOVEJOY  
DISTRICT 5 TONY SCHAEFER, CHAIRMAN



## STATE FIRE MARSHAL'S OFFICE

(800) 244-6702 or (505) 827-3550

Fax (505) 827-3778

GEORGE H. CHAVEZ, STATE FIRE MARSHAL

To: Local Elected Officials  
Fire Chiefs

From: George H. Chavez, State Fire Marshal

Subject: New Mexico Fire Chief's Handbook

I am pleased to present to you the 2002 version of the New Mexico Fire Chief's Handbook. The reason this handbook was developed is to provide guidance to fire chiefs and local elected officials on the statutory requirements related to operations of fire departments in the state of New Mexico.

The overview will provide you with our perception related to the statutes and relevant pieces of information provided in the handbook. Please read it first as it will provide you with most of the information that you need. You can then refer to the other sections for further reference.

You should carefully review Section Two – Fire Protection Fund. In that section you will find three fairly new items:

- Our most current regulations for expenditure of Fire Protection Funds
- Our new monthly report form
- The Firefighting Qualification System regulations and Firefighter One Task Book

I hope that you find this version of the Fire Chief's Handbook helpful. If you have any suggestions for future versions of the book, please let me know.

As always, if you have any questions, please contact my office.

## **Table of Contents**

### **The Fire Chief's Handbook, An Overview**

#### **Section 1 – State Fire Marshal's Office**

- 1-1 State Fire Marshal's Office Directory
- 1-2 Organization Chart of the State Fire Marshal's Office
- 1-3 State Fire Marshal Act, Section 59A-52-1, et seq., NMSA 1978

#### **Section 2 – Fire Protection Fund**

- 2-1 Introduction to the Fire Protection Fund
- 2-2 Fire Protection Fund, Section 59A-53-1, et seq., NMSA 1978
- 2-3 Regulation – Fire Protection Fund (SFMO Regulation 10.25.10 NMAC)
  - New Department Procedure
- 2-4 Regulation – Firefighting Qualification System (SFMO Regulation 10.25.11 NMAC)
  - Firefighting Qualification Taskbook
- 2-5 Incident Reporting Requirements
  - Monthly Report (SFM-FR-2002)
  - New Mexico Incident Report (SFM-FR-88-2)
  - Fire Fatality Report (SFM-FD-1)
- 2-6 Procurement, Section 13-1-1 et seq., NMSA 1978
- 2-7 New Mexico Finance Authority (General Information)
- 2-8 Attorney General's Opinion on ownership of funds (1078 NMAG Op. No. 80-35)
- 2-9 DFA/FCD Rule Number 95-1, Payment of Mileage and Per Diem

#### **Section 3 – New Mexico Firefighter's Training Academy**

- 3-1 Introduction to the Firefighter's Training Academy
- 3-2 Firefighter's Training Academy Directory
- 3-3 Organization Chart of the Firefighter's Training Academy
  - General Admission Application - Word
  - General Admission Application - Blank
  - Protective Ensemble Checklist

#### **Section 4 – Authorities of Municipalities and Counties**

- 4-1 Ordinances Act, Section 3-17-1, et seq., NMSA 1978
- 4-2 Powers of Municipalities Act, Section 3-18-11, et seq., NMSA 1978
- 4-3 Fire Act, Section 30-17-1 et seq., NMSA 1978
- 4-4 Firefighting; county may purchase from municipalities, Section 4-36-5, NMSA 1978
- 4-5 Arson Reporting Immunity, Section 41-8-1 et seq. NMSA 1978
- 4-6 False Alarms, Section 30-7-21 and others, NMSA 1978
- 4-7 Fireworks Act. Section 60-2C-1, et seq., NMSA 1978
- 4-8 Adoption of Codes (SFMO Regulation 10.25.9 NMAC)
- 4-9 Fire District Bonds, Section 5-7-1 et seq. NMSA 1978
- 4-10 County Fire Protection Excise Tax, Section 7-20E-15 NMSA 1978
- 4-11 School Fire Drills, Section 22-13-14, NMSA 1978

## **Section 5 – General Information**

- 5-1** Resource List
- 5-2** Emergency Vehicles, Section 66-1-4.1 et seq., NMSA 1978
- 5-3** Alcohol on Public Property, Section 60-7A-22 et seq., NMSA 1978
- 5-4** Class “E” License

## **Section 6 – Benefits for Firefighters**

- 6-1** Volunteer Firefighters Retirement – Section 10-11A-1 et seq., NMSA 1978
- 6-2** Fire Fighter and Peace Officer Survivors Scholarships, Section 21-21F-1 et seq., NMSA 1978
- 6-3** Public Safety Officers’ Benefits Program, 42 U.S. Congress 3796, et seq. 1976

## **Section 7 – Suggested Forms**

- 7-1** Fire Department Personnel File
- 7-2** Personnel Exposure Record
- 7-3** Fire Department Training Record
- 7-4** Self Contained Breathing Apparatus Inspection Record
- 7-5** SCBA Cylinder Record
- 7-6** Fire Apparatus Annual Pump Test Record
- 7-7** Fire Department Annual Hose Test Record
- 7-8** Fire Apparatus Inspection Record
- 7-9** Fire Hydrant Record
- 7-10** Fire Department Pre-Fire Plan

**The New Mexico Fire Chief's Handbook,  
2002 edition  
An Overview**

The intent of this section is to provide an overview of the legislation and an introduction to the information contained in the handbook, as it is understood by the state fire marshal's office in the performance of its various mandates. The specific state statutes are attached and referenced by statute or regulation number. In this book they are grouped together in sections.

**Section 1 – State Fire Marshal's Office**

- State Fire Marshal's Office Directory
- Organization Chart of the State Fire Marshal's Office
- State Fire Marshal Act, Section 59A-52-1, et seq., NMSA 1978

**Section 2 – Fire Protection Fund**

- Introduction to the Fire Protection Fund
- Fire Protection Fund, Section 59A-53-1, et seq., NMSA 1978
- Regulation – Fire Protection Fund (SFMO Regulation 10.25.10 NMAC)
  - New Department Procedure
- Regulation – Firefighting Qualification System (SFMO Regulation 10.25.11 NMAC)
  - Firefighting Qualification Task book
- Incident Reporting Requirements
  - Monthly Report (SFM-FR-2001-1)
  - New Mexico Incident Report (SFM-FR-88-2)
  - Fire Fatality Report (SFM-FD-1)
- Procurement, Section 13-1-1 et seq., NMSA 1978
- Regulations governing mileage and per diem
- New Mexico Finance Authority (General Information)
- Attorney General's Opinion on ownership of funds (1078 NMAG Op. No. 80-35)
- DFA/FCD Rule Number 95-1, Payment of Mileage and Per Diem

**Section 3 – New Mexico Firefighter's Training Academy**

- Introduction to the Firefighter's Training Academy
- Firefighter's Training Academy Directory
- Organization Chart of the Firefighter's Training Academy
- General Admission Application - Word
- General Admission Application - blank
- Protective Ensemble Checklist

**Section 4 – Authorities of Municipalities and Counties**

- Ordinances Act, Section 3-17-1, et seq., NMSA 1978
- Powers of Municipalities Act, Section 3-18-11, et seq., NMSA 1978
- Fire Act, Section 30-17-1 et seq., NMSA 1978
- Firefighting; county may purchase from municipalities, Section 4-36-5, NMSA 1978
  - Arson Reporting Immunity, Section 41-8-1 et seq. NMSA 1978

Counties; powers, ordinances, Section 4-37-1, NMSA 1978  
County Fire Protection Excise Tax, Section 7-20E-15 NMSA 1978  
Fire District Bonds, Section 5-7-1 et seq. NMSA 1978  
Fireworks Act. Section 60-2C-1, et seq., NMSA 1978  
Adoption of Codes (SFMO Regulation 10.25.9 NMAC)  
School Fire Drills, Section 22-13-14, NMSA 1978

### **Section 5 – General Information**

Resource List  
Emergency Vehicles, Section 66-1-4.1 et seq., NMSA 1978  
Alcohol on Public Property, Section 60-7A-22 et seq., NMSA 1978  
Class “E” License

### **Section 6 – Benefits for Firefighters**

Volunteer Firefighters Retirement – Section 10-11A-1 et seq., NMSA 1978  
Fire Fighter and Peace Officer Survivors Scholarships, Section 21-21F-1 et seq.,  
NMSA 1978  
Public Safety Officers’ Benefits Program, 42 U.S. Congress 3796, et seq. 1976  
Public Safety Officer’s Educational Assistance Program, 42 U.S. Congress 3796, et  
seq. 1976

### **Section 7 – Suggested Forms**

Fire Department Personnel File  
Personnel Exposure Record  
Fire Department Training Record  
Self Contained Breathing Apparatus Inspection Record  
SCBA Cylinder Record  
Fire Apparatus Inspection Record  
Fire Apparatus Annual Pump Test Record  
Fire Department Annual Hose Test Record  
Fire Department Pre-Fire Plan

## **The State Fire Marshal** Section 59A-52-1, et seq., NMSA 1978

The Legislature of the State of New Mexico establishes the State Fire Marshal's office and the authority of municipalities and counties to create fire departments. The State Fire Marshal has several responsibilities summarized below:

- Appointment of deputies
- Cooperation with other agencies for prevention and control of fire
- Fire protection training programs
- Fire prevention and control in public schools and other public buildings
- Investigation of fire hazards
- Investigation of fires and explosions
- Regulation of flammable liquids

Under the **Fire Protection Fund Act, (Fire Protection Fund - NMSA Article 53 Section 59A-53-1 through 17)** the State Fire Marshal performs the following:

- Certification of needs for fire departments using a formula defined by law
- Distribution of the Fire Protection Fund
- Develop regulations for fire protection fund expenditures
- Report unlawful expenditures
- Close fire departments
- Certify new fire departments

It should be understood that municipalities or counties, through ordinance, create fire departments. While there are other possible types of fire departments such as private and federal fire departments, the majority of fire departments in New Mexico are created by cities and counties to provide fire protection to the public in those respective communities. It is clear in state law the owner of the fire department is the local government, i.e., the city or county. Subsequently, they are the authority having jurisdiction for their respective fire department(s). The State Fire Marshal provides funding through the Fire Protection Fund Act to those local governments for their fire departments. This may be the sole source of funding for that fire department. There are several other sources of funding available to fire departments.

- Cities and counties can fund fire departments as part of their general operating budget in addition to the use of Fire Protection Funds.
- Counties may impose a 1/8<sup>th</sup> or 1/4<sup>th</sup> of one percent excise tax for fire protection (**County Fire Protection Excise Tax, Section 7 – 20A – 1 et seq., NMSA 1978**). A copy is in the Fire Chiefs Handbook.
- **Emergency Medical Services Fund Act (Section 24 – 10A –1 et seq. NMSA 1978)** administered by the New Mexico Department of Health, Injury Prevention and EMS Bureau.
- Other occasional funding sources, usually federal programs, are offered to fire departments for training or equipment needs. These may be offered through the Fire Marshal's Office or through other state agencies. They may be offered

directly to local fire departments.

- The Energy, Minerals and Natural Resources Department, State Forestry Division provides reimbursement for wild-land fire response when a cooperative agreement is in place.

## **Fire Protection Fund**

The Fire Protection Fund (FPF) is funded through a 3% tax imposed on insurance premiums. Because of the FPF Act, the funding is then distributed to the fire districts in New Mexico based on their respective Insurance Services Office, Inc. (ISO) rating which is defined in the FPF act and is distributed to cities and counties through an application process. ISO is an independent organization that provides services to the insurance industry. The rating system has been adapted into the FPF Act as a means of funding distribution. For additional information on ISO, contact the State Fire Marshal's Office.

There is a regulation (**SFMO Regulation 10.25.10 NMAC**) relative to the distribution and use of the Fire Protection Fund. Specifically the regulation defines the following subjects:

- Application requirements
- Accumulation of funds
- Periodic Requirements
- Criteria for establishment and funding of new fire departments
- Establishment of main and sub-stations for funding
- Purchase of equipment and supplies
- Purchase of apparatus (fire trucks)
- Inventory

The regulation should answer most questions about expenditure of fire protection funds. Fire chiefs and elected officials should notify the State Fire Marshal's office any time that there is a change in personnel, specifically the fire chief, to assure that funding applications are provided in a timely fashion. The State Fire Marshal's office should also be notified in writing when there is a policy change at the local level such as where correspondence should be directed, adoption of codes or ordinances that may effect the legal relationship between the State Fire Marshal and the jurisdiction having authority.

New fire departments that start the process of receiving fire protection funds and are rated as an ISO Class 10 fire district should request an ISO inspection to improve the department rating. Staff from the SFM office can assist with that process.

Under the State Fire Marshal act, the authority to develop training for the fire service in New Mexico is given. To that end the **Firefighting Qualification System (FQS)** was developed and is in effect through regulation (**SFMO Regulation 10.25.11 NMAC**). This system was developed with significant input from the fire service in New Mexico. Fire chiefs and local officials should familiarize themselves with the FQS since the burden of assuring adequate and appropriate training lies with the local jurisdiction. It is the intent of the State Fire Marshal to assure minimal standards are developed and maintained for

the fire service in the state. Questions about the FQS should be directed to the State Fire Marshal's Office.

There is a requirement for reporting of fire department response from each department receiving Fire Protection Funds. Three forms have been developed and are provided in the Fire Chief's Handbook for use. The report that is required by the SFMO is the **Monthly Fire Report (SFM – FR 2002)**. Instructions are provided. The monthly report must be filed with the SFMO no later than the 10<sup>th</sup> of each month for the previous month. Failure to file the monthly report can jeopardize receipt of Fire Protection Funds.

The State Fire Marshal's Office conducts inspections of fire departments to assure adequate apparatus, equipment, training and timely response is provided to the community in the event of a structure fire. This may include audits of financial records, training records, vehicle maintenance records and incident reports. These inspections are conducted in conjunction with visits to local officials (e.g., city or county managers) to provide an overview of the inspection process and assure that information is adequately distributed.

Included in the Fire Protection Fund Section of the Chief's Handbook is a copy of sections of the **State Procurement Act (Section 13-1 et seq., NMSA 1978)**, which are relative to the fire service. This is not the entire act and chiefs should discuss any purchase with their respective financial authority. The Department of Finance Administration (DFA) issues regulations on allowable amounts for mileage and per diem. Fire departments should check with the respective financial authority on mileage and per diem. The Fire Marshal's Office is frequently asked about the use of "slush funds" by fire departments. A New Mexico Attorney General's opinion is included which covers this topic.

### **The New Mexico Finance Authority (NMFA)**

The New Mexico Finance Authority (NMFA) provides loans to local governments for a variety of projects. The State Fire Marshal's Office routinely works with the NMFA to assist with the procurement of capital purchases, usually apparatus and fire stations, although other capital outlay items have been procured with NMFA assistance. Specifications for apparatus and locations for fire stations must be approved and permission given by the State Fire Marshal's Office to use Fire Protection Funds for each project prior to the purchase. If the fire department / local government anticipates financing for these projects, they should contact the NMFA and begin the process.

### **Mileage and Per Diem**

The rules provided by the New Mexico Department of Finance Administration for mileage and per diem apply to local governments. Fire chiefs should confirm with their respective governing body to determine what rates may be in place. Fire Protection Funds may be used to pay mileage and per diem rates not to exceed the provisions of these regulations.

### **Section 3 – New Mexico Firefighter’s Training Academy**

The State of New Mexico has an excellent training facility dedicated to the fire service. Courses are provided by the academy by resident, non-resident and guest instructors that cover a wide variety of fire service related topics. The academy has several classrooms and live exercise areas that are in a controlled area. All members of the fire service in the state are encouraged to use the facility and take advantage of the courses offered. Section 3 provides general admission policies and application forms.

### **Section 4 - Authorities of Municipalities and Counties**

This section is about the authorities of municipalities and counties. Local government has the responsibility to provide fire protection to the public. That responsibility can be carried out through several approaches such as adoption of life safety, building and fire protection codes. Various state statutes are listed in this section, but any consideration of local codes must be researched and well thought out.

Of significant importance is the need for local communities to empower their respective fire departments. Frequently the state fire marshal’s office is approached about the authority of local fire chiefs to enter premises for the purposes of suppressing fires or inspections of public occupancies. Local governments should resolve those issues. Guidance can be provided by the State Fire Marshal’s Office.

- Ordinances Act, Section 3-17-1, et seq., NMSA 1978
- Powers of Municipalities Act, Section 3-18-11, et seq., NMSA 1978
- Fire Act, Section 30-17-1 et seq., NMSA 1978
- Firefighting; county may purchase from municipalities, Section 4-36-5, NMSA 1978
- Arson Reporting Immunity, Section 41-8-1 et seq. NMSA 1978
- False Alarms, Section 30-7-21 and other NMSA 1978
- Fireworks Act. Section 60-2C-1, et seq., NMSA 1978
- Adoption of Codes (SFMO Regulation 10.25.9 NMAC)
- Fire District Bonds, Section 5-7-1 et seq. NMSA 1978
- County Fire Protection Excise Tax, Section 7-20E-15 NMSA 1978
- School Fire Drills, Section 22-13-14, NMSA 1978

### **Section 5 – General Information**

This section is provided to answer questions that the State Fire Marshal’s Office is frequently asked. There are two state statutes provided (***Emergency Vehicles and Alcohol on Public Property***) that should be self-explanatory. These are from the Motor Vehicle Code and the Liquor Control Act and should be referenced as needed. The entire statutes are not listed for purposes of brevity. The Class “E” License is a requirement from the New Mexico Department of Taxation and Revenue, Motor Vehicles Division. Chief’s review the requirements carefully to assure compliance.

#### **Resource List**

- Emergency Vehicles, Section 66-1-4.1 et seq., NMSA 1978

## **Section 6 – Benefits for Firefighters**

The State of New Mexico provides a retirement benefit to volunteer firefighters through the **Volunteer Firefighters Retirement – Section 10-11A-1 et seq., NMSA 1978**. There are reporting requirements involved in the VFR that can be obtained from the Public Employees Retirement Association (PERA). Their telephone number is 505-827-4700. Their website address is <http://www.state.nm.us/pera/home.htm>. The VFR is not operated by the State Fire Marshal's Office.

In the event of a line of duty death, the state and federal governments have provided two separate benefit programs to surviving family members. New Mexico has the **Fire Fighter and Peace Officer Survivors Scholarships Act, Section 21-21F-1 et seq., NMSA 1978** provides a college scholarship program administered by the Board of Educational Finance. Two federal programs administered by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, provide relief for firefighters injured or killed in the line of duty. The **Public Safety Officers' Benefits Program** provides a lump sum payment for families of firefighters killed in the line of duty. The **Public Safety Officers' Educational Assistance Program** provides financial assistance for higher education to spouses and children of firefighters disabled by catastrophic injuries sustained in the line of duty. The website is <http://www.ojp.usdoj.gov/BJA>.

## **Section 7 – Suggested Forms**

Frequently the State Fire Marshal's office is asked for guidance and forms to use in the operations of the fire department. This section provides some basic forms and help to provide good documentation. Several of these forms are necessary for inspection by the Insurance Services Office, Inc. (ISO) to determine the adequacy of fire protection in the given area.

- Fire Department Personnel File
- Personnel Exposure Record
- Fire Department Training Record
- Self Contained Breathing Apparatus Inspection Record
- SCBA Cylinder Record
- Fire Apparatus Annual Pump Test Record
- Fire Department Annual Hose Test Record
- Fire Apparatus Inspection Record
- Fire Department Hydrant Record
- Fire Department Pre-Fire Plan