

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF AMENDING RULES)
PERTAINING TO FIRE AND SMOKE DAMPERS) Docket No. 20-00105-FM
PURSUANT TO SECTION 52A-52-15.1 OF THE STATE)
FIRE MARSHAL STATUTES)**

ORDER FOR STAFF RESPONSE AND WRITTEN COMMENTARY

This matter comes before the New Mexico Public Regulation Commission (the “Commission”) upon the Commission’s own motion.

Whereupon, being duly informed,

THE COMMISSION FINDS:

1. On December 2, 2020, the Commission issued its Order Amending Written Comment Period and Re-Opening Record (the “Comment Order”). In the Comment Order, the Commission, among other things, re-opened the record and extended the comment period until January 15, 2021.

2. The Commission is considering changes to the proposed rule¹ based on concerns as to whether “installation” language should be included in the proposed rule.

3. The Commission finds that it is in the public interest to have additional comments filed by Fire Marshall Staff and interested persons in order to determine if the “installation” language currently in the proposed rule should remain in place or be removed.

4. The Commission has jurisdiction over this matter.

IT IS THEREFORE ORDERED:

¹The term “Proposed Rule” as used in this Order refers collectively to the Commission’s Proposed Repeal and Replacement Rules 10.21.1, 10.25.2 and 10.25.5 NMAC as were attached to the June 24, 2020 “Order Initiating Proposed Rulemaking and Changing Case Caption and Notice of Proposed Rulemaking).

A. Fire Marshall Staff shall respond with additional written comments to the following questions by **end of day January 8, 2021**;

- a. Should the Commission remove the terms “installation” or “install” from the proposed rule in Sections 10.25.2.2, 10.25.2.6, 10.25.2.7, 10.25.2.8, 10.25.2.9, 10.25.5.6, 10.25.5.9 and 10.25.5.16? Provide the basis of your answer and support with redlined versions of the sections listed.
- b. If the Commission removed the terms “installation” or “install” from the proposed rule, additional revision would be required concerning the responsibility for review of construction documents in Sections 10.25.5.9 (F) and 10.25.5.16. Provide your proposed redline revisions for these sections indicating the agency responsible for the revised responsibility of construction documents and include the legal basis for your proposed revisions.
- c. Is the NICET Level II certification accredited or recognized by ANSI?
 - i. If the answer to question “c” is no, then should the Commission remove the requirement of NICET Level II certification? Provide the basis of your answer including proposed redline revisions.

B. Interested persons shall file their written comments on the proposed rules no later than **January 8, 2021**. Any response comments shall be filed **January 15, 2021**. Comments suggesting changes to the proposed rule shall state and discuss the particular reasons for the

suggested changes and shall include all specific rule language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the proposed rule shall be in legislative or MS Word “Track-Changes” format (which includes redlined changes – underlining for language added and crossing out of language to be deleted). Please note that the redlines should begin with the text of the Proposed Rule, not the current rule in the New Mexico Administrative Code. All pleadings, including comments and suggested changes to the proposed rules, shall bear the caption and Docket Number contained at the top of this Notice and be sent to all parties listed on the Certificate of Service for this docket.

C. Written comments or written response comments, containing the Docket Number in this matter, should be submitted in PDF format to PRC.Records@state.nm.us in accordance with the Commission’s temporary electronic filing policy.

D. Copies of the proposed rules may be downloaded from the Commission’s web site, www.nmprc.state.nm.us.

E. This Order shall constitute notice to provide additional written commentary. This Order shall be provided to the public, in conformity with the State Rules Act, Sections 14-4-1 *et seq.* (amended 2017).

F. This Notice and Order shall be e-mailed to all persons listed on the attached Certificate of Service.

G. This Notice and Order is issued by the Chair of the Commission or by any single Commissioner in accordance with 1.2.2.30(B) NMAC.

H. This Order is effectively immediately.

ISSUED at Santa Fe, New Mexico, this 24th day of December, 2020.



NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Theresa Becenti-Aguilar, electronically signed
COMMISSIONER THERESA BECENTI-AGUILAR

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF A COMMISSION RULEMAKING)
AMENDING RULES PERTAINING TO FIRE AND SMOKE) Case No. 20-00105-FM
DAMPERS PURSUANT TO SECTION 59A-52-15.1 OF THE)
STATE FIRE MARSHAL STATUTES)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Order For Staff Response and Written Commentary** issued on December 24th, 2020 was sent via email to the parties listed below:

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AND SENT VIA USPS FIRST CLASS MAIL TO:

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 8915 Adams St NE; Suite A
 Albuquerque, NM 87113

THE FOLLOWING PARTIES SUBMITTED WRITTEN COMMENTS IN THIS MATTER WHICH DID NOT INCLUDE AN EMAIL OR PHYSICAL ADDRESS SO THERE WAS NO WAY TO SERVE THEM THE FORGOING:

- Jack Milarch on behalf of NM Homebuilders Association
- Carla Kugler on behalf of Associated Builders and Contractors

DATED this 24th day of December, 2020.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Isaac Sullivan-Leshin, electronically signed

Isaac Sullivan-Leshin, Paralegal

Isaac.sullivan-leshin@state.nm.us

Sullivan-Leshin, Isaac, PRC

From: Sullivan-Leshin, Isaac, PRC
Sent: Thursday, December 24, 2020 1:55 PM
To: Records, PRC, PRC
Subject: 20-00105-FM; Filing Submission
Attachments: 20-00105-FM, Order For Staff Response and Written Commentary.pdf

IN THE MATTER OF AMENDING RULES PERTAINING TO FIRE AND)
SMOKE DAMPERS PURSUANT TO SECTION 52A-52-15.1 OF THE) Docket No. 20-00105-FM
STATE FIRE MARSHAL STATUTES)
_____)

Please file the attached ORDER FOR STAFF RESPONSE AND WRITTEN COMMENTARY into the above captioned case.

Thank you.