

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 1 GENERAL PROVISIONS

14.12.1.1 ISSUING AGENCY: The Manufactured Housing Division of the Regulation and Licensing Department.
[14.12.1.1 NMAC - Rp, 14.12.2.1 NMAC, 12/1/2010]

14.12.1.2 SCOPE: These rules apply to all manufacturers, dealers, brokers, salesman, installers, repairman, contractors, and purchasers of manufactured homes in the state of New Mexico.
[14.12.1.2 NMAC - Rp, 14.12.2.2 NMAC, 12/1/2010]

14.12.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Manufactured Housing Act, Sections 60-14-1 through 60-14-20.
[14.12.1.3 NMAC - Rp, 14.12.2.3 NMAC, 12/1/2010]

14.12.1.4 DURATION: Permanent.
[14.12.1.4 NMAC - Rp, 14.12.2.4 NMAC, 12/1/2010]

14.12.1.5 EFFECTIVE DATE: 12/1/2010 unless a later date is cited at the end of a section.
[14.12.1.5 NMAC - Rp, 14.12.2.5 NMAC, 12/1/2010]

14.12.1.6 OBJECTIVE: The objective of 14.12.1 NMAC is to set forth the general provisions, which apply to Part 1, Part 2 and Part 4 through Part 11 of Chapter 12, and to all persons affected or regulated by Part 1, Part 2 and Part 4 through Part 11 of Chapter 12 of Title 14.
[14.12.1.6 NMAC - Rp, 14.12.2.6 NMAC, 12/1/2010]

14.12.1.7 DEFINITIONS: All words and terms defined in the Manufactured Housing Act have the same meaning in these rules.

A. Terms starting with the letter 'A' are defined as follows.

(1) **"Act"** means the Manufactured Housing Act. Chapter 60, Article 14, Section 4, NMSA, 1978 is incorporated herein and made a part of these rules.

(2) **"Alternative permanent foundation systems"** are defined as commercially packaged systems designed by a New Mexico licensed engineer for the purpose of classifying installations as permanent.

(3) **"Anchoring"** is defined as those systems approved by a DAPIA. Where no DAPIA approval exists a licensed professional engineer may design an anchoring system pursuant to the manufacturer's specifications.

(a) **"Tie-down"** is any device designed for the purpose of securing a manufactured home to the ground.

(b) **"Ground anchor"** is a listed screw auger.

B. Terms starting with the letter 'B' are defined as follows. **[RESERVED]**

C. Terms starting with the letter 'C' are defined as follows.

(1) **"Commercial unit"** means any structure designed and equipped for human occupancy for industrial, professional or commercial purposes.

(2) **"Committee"** means the manufactured housing committee.

(3) **"Customer, consumer or homeowner"**. These words are used interchangeably throughout these rules, they are intended to be synonymous, and they mean the purchaser, homeowner or owner of a manufactured home, including an occupant of a manufactured home subsequent to installation.

D. Terms starting with the letter 'D' are defined as follows.

(1) **"DAPIA"** means design approval primary inspection agencies as the term is utilized in the H.U.D. regulation, which is included in the federal preemption, on manufactured homes, and inclusive of on-site installations.

(2) **"Deliver"** as it applies to section 20, means a seller's obligation shall be accomplished when a seller has completed or stands ready, willing and able to physically transport and locate the home to a buyer as specified in the purchase agreement or buyer's order and (a) the weather is not an impediment and (b) the parties responsible for preparing the installation site have acted in good faith and acted according to all relevant statutes, codes and rules. If (a) or (b) are not met, then seller will have a reasonable time to deliver the home.

(3) **"Director"** means the director of the manufactured housing division.

(4) **"Disqualifying criminal conviction"** means a conviction for a crime that is job-related for the position in question and consistent with business necessity.

~~(4)~~ (5) **"Division"** means the manufactured housing division of the regulation and licensing department.

~~(5)~~ (6) **"Down payment"** means any payment, such as consideration, a deposit of remuneration, of less than the full purchase price of the home.

E. Terms starting with the letter 'E' are defined as follows. **[RESERVED]**

F. Terms starting with the letter 'F' are defined as follows. "Federal preemption" is defined as The National Manufactured Housing Construction and Safety Standards Act, Title VI, 42 U.S. Code as amended, including Section 604.(d) and The Manufactured Homes Procedural and Enforcement Regulations, Part 3282, including Section 32.82.11.

(1) Section 604(d) Title VI, 42 U.S. Code is incorporated herein and made a part of these rules, as follows: "no State or political subdivision of a State shall have any authority either to establish or to continue in effect, with respect any manufactured home

covered, any standard regarding construction or safety applicable to the same which is not identical to the Federal manufactured home construction standard”.

(2) Section 3282.11(e) is incorporated herein and made a part of these rules, as follows: “No state or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of congress. The test of whether a state rule or action is valid or must give way is whether the state rule can be enforced or the action taken without impairing the federal superintendence of the manufactured home industry as established by the act”.

G. Terms starting with the letter ‘G’ are defined as follows.

(1) **“Grade level”** shall be defined as the finished grade around the exterior perimeter of the manufactured home; and, which shall slope away from the home to provide positive drainage consistent with the rules and regulations.

(2) **“Ground level”** shall be defined only as the average surface level exposed under the home.

H. Terms starting with the letter ‘H’ are defined as follows. “HUD” means the United States department of housing & urban development.

I. Terms starting with the letter ‘I’ are defined as follows. “Installation inspection permit” shall mean a document issued by the division that shall be used to request any inspection or re-inspection of a manufactured home permanent or non-permanent foundation system, manufactured home installation, utility connection or re-inspection request.

J. Terms starting with the letter ‘J’ are defined as follows. **[RESERVED]**

K. Terms starting with the letter ‘K’ are defined as follows. **[RESERVED]**

L. Terms starting with the letter ‘L’ are defined as follows.

(1) **“License”** means a license, registration, certificate of registration, certificate, or permit.

(2) **“Licensing fee”** means a fee charged at the time an application for a professional or occupational license or renewal is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; “licensing fee” does not include a fee for an inspection, or a fee charged for copies of documents, replacement licenses, examination fees, or other expenses related to a professional or occupational license.

~~(4)~~ (3) **“Liquidated damages”** means the sum provided in a contract that a party agrees to pay if it breaches the contract, which sum is based on the good-faith effort of the parties to estimate the actual damages likely to result from a breach of contract.

(2) (4) **“Listed materials”** means equipment and materials included in a list published by a nationally recognized testing laboratory that maintain periodic inspections of production of listed equipment and materials and whose listing states either that the equipment and materials meet nationally recognized standards or have been tested and found suitable for use in a specific manner and has been approved for use in a manufacturer’s installation manual or an approval in writing by the division’s technical advisory council (TAC).

M. Terms starting with the letter ‘M’ are defined as follows.

(1) **“Manufacturer II”** means an enterprise whose primary business is the acquisition, restoration, renovation, or similar work and resale of distressed or damaged pre-owned manufactured housing units.

(2) **“Military service member”** has the same meaning as defined in Subsection F(3) of Section 61-1-34 NMSA 1978.

~~(2)~~ (3) **“Mobile or manufactured home installation”** means all on-site work necessary for the installation of a manufactured home, including:

- (a) preparation and construction of the foundation system;
- (b) installation of the support piers and earthquake resistant bracing system;
- (c) required connection to foundation system and support piers;
- (d) skirting;
- (e) connections to on-site utility terminals that are necessary for the normal operation of the home; and
- (f) installation of a pressure relief valve when required.

~~(3)~~ (4) **“Mudslide”** means the general and temporary movement down a slope of a mass of rock or soil, artificial fill, or a combination of these materials, caused or precipitated by the accumulation of water on or under the grounds.

N. Terms starting with the letter ‘N’ are defined as follows.

(1) **“Net listing agreement”** is a prohibited employment contract in which a broker, or dealer acting as a broker, receives as a commission all monies in excess of the minimum sales price agreed upon by the broker or dealer and the listing owner.

(2) **“Non-permanent foundation”** shall be defined as various foundational support mechanisms or arrangements other than permanent foundation systems.

O. Terms starting with the letter ‘O’ are defined as follows.

(1) **“One hundred year flood”** means the level of flooding that will be equaled or exceeded once in one hundred (100) years and has a one percent chance of occurring each year, on the average as defined by the federal emergency management agency (F.E.M.A.).

(2) **“On-site utility terminal”** means the consumer’s load side of the on-site utility meter for gas and electric utilities, or the point of attachment or connection to the utility supplier’s distribution system, for water and sewer.

P. Terms starting with the letter ‘P’ are defined as follows.

(1) **“Perimeter enclosure”** is defined as any arrangement that encloses and provides weather protection to the volume beneath the principle structure. Perimeter enclosures shall not be load bearing unless engineered to be load bearing by a licensed engineer or the manufacturer. Permanent perimeter enclosures are defined as constructed or assembled components consisting of durable materials (i.e. concrete, masonry, treated wood or other approved materials) or other materials approved by the division.

(2) **“Perimeter marriage band”** is defined as the covering placed over the gap that exists between the exterior, at the unit’s floor level and the perimeter enclosure. The materials used shall be appropriate for the weather and designed and installed in a manner consistent with good construction and engineering standards.

(3) **“Permanent foundations”** are defined as constructed or assembled components consisting of durable materials (i.e. concrete, masonry, treated wood or other approved materials), and are required to be constructed on-site and shall have attachments points to anchor and stabilize the manufactured home. The design of the foundation shall be DAPIA approved or designed by a licensed professional engineer in accordance with the manufacturer’s specifications.

(4) **“Pre-owned home”** or “pre-owned manufactured home” means a manufactured home of which title has been issued to a consumer or a manufacturer’s statement of origin has been issued and a unit has been subsequently declared as real property, pursuant to New Mexico property tax laws.

(5) **“Prohibited sales notice”** means a printed notification, issued by the division, that a manufactured home may not be offered for sale because of violations of these rules.

Q. Terms starting with the letter ‘Q’ are defined as follows. **[RESERVED]**

R. Terms starting with the letter ‘R’ are defined as follows.

(1) **“Regulation”** means the rules of the manufactured housing division.

(2) **“Real estate”** means land, improvements, leaseholds and other interests in real property that are less than a fee simple ownership interest, whether tangible or intangible.

(3) **“Retailer”** is used interchangeably with the word “dealer” throughout these rules, these words are synonymous, and they mean “dealer” as defined pursuant to NMSA 1978, 60-14-2 (E).

(4) **“Retail installment contract”** means the contract as defined in NMSA 1978, 56-1-1 (H). The contract must conform to NMSA 1978, 56-1-2.

(a) Suggested examples of when a retail installment contract will be contemplated as part of the transaction: (a) chattel mortgage from a third party lender; (b) security agreement; (c) conditional sale contract; (d) contract in form of a bailment.

(b) Suggested examples of when a retail installment contract will not be contemplated as part of the transaction: (a) cash sale.

(5) **“Retaining walls”** are defined as a barrier with a minimum differential height of eighteen inches (18”), which retains a lateral load.

(6) **“Riser”** means that portion of the yardline, which protrudes through the grade level of the ground.

S. Terms starting with the letter ‘S’ are defined as follows. **“Superintendent”** means the superintendent of the regulation and licensing department.

T. Terms starting with the letter ‘T’ are defined as follows. **[RESERVED]**

U. Terms starting with the letter ‘U’ are defined as follows.

(1) **“Unavailability of the manufacturer’s installation manual”** shall mean the inability to obtain such manual after undertaking a reasonable and diligent effort to obtain the same prior to the installation of a home; and includes, but is not limited to, circumstances where the customer of a used home has lost or misplaced the manual, the manufacturer is no longer in business and manuals are unavailable, or no such manual was ever printed or delivered at the time of the manufacture of a home and a photocopy of the manual could not be obtained at the manufactured housing division.

(2) **“Utility”** means electric, gas, water or sewer services, but does not include refuse services.

(3) **“Utility supplier”** means any person, park owner, municipality or public utility that supplies electricity, water, liquefied petroleum gas, natural gas or sewer service to a manufactured home.

V. Terms starting with the letter ‘V’ are defined as follows. **[RESERVED]**

W. Terms starting with the letter ‘W’ are defined as follows. **[RESERVED]**

(1) **“Veteran”** means a person who has received an honorable discharge or separation from military service.

X. Terms starting with the letter ‘X’ are defined as follows. **[RESERVED]**

Y. Terms starting with the letter ‘Y’ are defined as follows. **“Yardline”** means a buried material providing utilities from the on-site utility terminal to the manufactured home.

Z. Terms starting with the letter ‘Z’ are defined as follows. **[RESERVED]**

[14.12.1.7 NMAC - Rp, 14.12.2.7 NMAC, 12/1/2010; A, 1/1/2022]

14.12.1.8 LOCAL ORDINANCES: Ordinances of any political subdivision of New Mexico relating to gas, including natural gas, liquefied petroleum gas or synthetic natural gas; electricity; sanitary plumbing; and installation or sale of manufactured homes shall not be inconsistent with any rules, regulations, codes or standards adopted by the division pursuant to the Manufactured Housing Act.

[14.12.1.8 NMAC - N, 12/1/2010]

14.12.1.9 GENERAL ADMINISTRATION:

A. Rules are adopted by the division to further define the Manufactured Housing Act and the functions of the manufactured housing committee and the division.

B. Prior to adoption of rules, amendments to rules or repeal of rules the division or committee shall hold a public hearing before the superintendent of the regulation and licensing department and the manufactured housing committee or a hearing officer designated by the superintendent and the committee.

C. As provided by the Manufactured Housing Act (Section 16-14-4 NMSA 1978), rules and regulations are subject to committee approval prior to division adoption.

D. If the division and the manufactured housing committee do not mutually agree to proposed rules, the superintendent may appoint a task force to develop mutually agreeable rules. At a minimum, the task force shall consist of the division director and two manufactured housing committee members. The superintendent may be a member of the task force.

- E. The committee shall meet at least bimonthly at the call of the chairman and annually elect a chairman and vice chairman.
- F. Meeting notice resolution, consistent with the Open Meetings Act (Section 10-15-1 et seq., NMSA, 1978), shall be adopted annually by the committee at a regularly scheduled committee meeting.
- G. Adopted rules must be filed and published as provided by the State Rules Act (Section 14-4-1, et. seq., NMSA 1978) and shall be enforced 30 days after filing as provided by the Uniform Licensing Act (Section 61-1-1, et seq., NMSA 1978).
[14.12.1.9 NMAC - N, 12/1/2010]

14.12.1.10 MINIMUM CONSTRUCTION AND INSTALLATION STANDARDS:

- A. The division adopts as part of these rules the following federal statutes and regulations as minimum standards for new manufactured home construction and installation:
 - (1) Manufactured Home Construction and Safety Standards Act of 1974, as amended by the National Manufactured Housing Improvement Act of 2000, 42 U.S.C. 5401-5426;
 - (2) Manufactured Home Construction and Safety Standards, 24 C.F.R. Section 3280;
 - (3) Manufactured Home Procedural and Enforcement Regulations, 24 C.F.R. Section 3282;
 - (4) Model Manufactured Home Installation Standards, 24 C.F.R. Section 3285; and the
 - (5) Manufactured Home Installation Program, 24 C.F.R. Section 3286.
- B. All new manufactured homes manufactured or sold within New Mexico shall comply with the construction standards promulgated by the United States department of housing and urban development, 24 C.F.R. Section 3280 and Section 3282, under the national manufactured housing construction and safety standards act of 1974, as amended, 42 U.S.C. Section 5401- Section 5426.
- C. The division adopts as part of these rules the following standards as minimum standards for used, preowned, or resold manufactured home installation:
 - (1) NFPA 70, national electrical code, 2008 edition, as amended, that pertains to manufactured (mobile) homes;
 - (2) NFPA 54, national fuel gas code, 2006 edition, as amended, that pertains to manufactured (mobile) homes;
 - (3) uniform plumbing code, 2006 edition, as amended, that pertains to manufactured (mobile) homes;
 - (4) NFPA 58, standards for the storage and handling of liquefied petroleum gases, 2008 edition, as amended, that pertains to manufactured (mobile) homes; and the
 - (5) uniform mechanical code, 2006 edition, as amended, that pertains to manufactured (mobile) homes.
- D. Manufactured homes installed before May 19, 1988, used for nonresidential purposes are granted until May 19, 1993 to comply with the requirements for access to the handicapped. If a nonresidential manufactured home is relocated or if major modifications are made to the unit, the unit must be brought into compliance to the state requirements for access to the handicapped.
- E. Any unit used for nonresidential, or commercial purposes, manufactured or installed after May 19, 1988, must be constructed to the appropriate uniform building code standards as adopted by the construction industries division of the regulation and licensing department. The construction industries division has full jurisdiction in approval and inspection of nonresidential manufactured units. None of the provisions contained in this subsection shall apply to retailers licensed by the motor vehicle division of the taxation and revenue department.
[14.12.1.10 NMAC - N, 12/1/2010]

14.12.1.11 NOTICE TO THE PUBLIC:

- A. Manufactures, brokers, dealers and salespersons licensed under the Manufactured Housing Act must post a "notice to the public" poster at their place of business. The poster must be located by the main door entrance or a location within full reading view of the public.
- B. The poster will include the name and address of the regulation and licensing department, manufactured housing division, and will inform the consumer how and where to file a complaint in regards to any alleged violation of the New Mexico Manufactured Housing Act and rules.
- C. The manufactured housing division will furnish the posters.
[14.12.1.11 NMAC - Rp, 14.12.2.8 NMAC, 12/1/2010]

14.12.1.12 STANDARD OF CONDUCT:

- A. Any dealer, salesperson, or broker who receives any consideration for arranging the transfer of equity or the assumption of a loan on a manufactured home shall ascertain whether such manufactured home has a lien or security interest filed on it with the motor vehicle division of the New Mexico department of taxation and revenue. Such licensee shall insure that written consent is obtained from the holder of the lien or security interest, if any, approving the transferee's assumption of the transferor's obligation to the lien holder within 10 days prior to the effective date of the transfer. For purposes of this subsection, "assumption of a loan" means any substitution or attempt to substitute the responsible persons on the contract or agreement of repayment of amounts owed to a lender and includes "wraparound" agreements.
- B. No licensee shall aid or abet an unlicensed person to evade the provisions of the act or these rules; knowingly combine or conspire with, or act as an agent, partner, or associate for an unlicensed person.
- C. It is a violation of the Manufactured Housing Act and these rules to act outside the scope of or to misrepresent intentionally or unintentionally the scope of any license issued by the division.
- D. All conditions of a sales contract signed by a dealer or broker and homeowner must be completed within 90 days from the date of delivery unless otherwise signed and agreed to by both parties.
- E. A copy of a purchase agreement and sales contract signed by both the licensee and purchaser are to be given to the purchaser at the time of signing or closing.

F. When a licensed dealer or licensed manufacture agrees to provide any installation in connection with the sale or lease of a mobile or manufactured home, the licensed dealer or licensed manufacture must confirm that the installer or repairman is licensed in accordance with these rules and the act. Confirmation is a copy of the current license or verification of licensure printed from the division webpage and must be retained in the customers file and be available for inspection by the division.

G. When a licensed dealer or licensed manufacture agrees to provide any foundation work in connection with the sale or lease of a mobile or manufactured home, the licensed dealer or licensed manufacture must confirm that the general building contractor (GB-2, GB-98, or GS-4) is licensed in accordance with these rules and the act. Confirmation is a copy of the current license or verification of licensure printed from the division webpage and must be retained in the customers file and be available for inspection by the division.
[14.12.1.12 NMAC - Rp, 14.12.1.11 NMAC, 12/1/2010]

14.12.1.13 SUPERVISION OF LICENSEE EMPLOYEES:

A. A licensee shall adequately supervise and control employees. The failure of a licensee to undertake appropriate corrective action within a reasonable period of time after the licensee has actual knowledge of a violation of the act or these rules shall be prima facie proof of inadequate supervision and control.

B. A licensee's obligation to comply with the act and these rules shall not be altered by any contract or agreement between the licensee and his employees, agents or subcontractors.

C. Failure to adequately supervise and control employees may, after opportunity for hearing, result in a license denial, revocation or suspension.

D. A qualifying party shall provide adequate supervision and inspect all installations and endorse such inspections by personally signing an inspection permit.

[14.12.1.13 NMAC - N, 12/1/2010]

14.12.1.14 CHANGE OF EMPLOYMENT, ADDRESS, NAME, OWNERSHIP OR BUSINESS ENTITY OR STRUCTURE:

A. Licenses are not transferable.

B. A licensee must notify the manufactured housing division immediately of any change in the licensee's name, business name, mailing or business address, business entity or structure, business ownership, place of business or employment.

C. Upon receipt of notice of a change of business name, the division will examine its records to determine if the proposed business name is deceptively similar to that of any other licensee and may approve the business name change if no deceptive similarities exist. The licensee shall not do business under a proposed new business name or at any new location prior to approval by the division and issuance of a new license.

[14.12.1.14 NMAC - Rp, 14.12.1.9 NMAC, 12/1/2010]

14.12.1.15 ADVERTISING AND VEHICLE IDENTIFICATION:

A. The licensee's name and licensee number shall be included in advertising and on all vehicles used in conjunction with the installation and repair of manufactured homes in the licensee's business. Letters and numbers on licensee's service vehicles shall be no less than two inches high.

B. This section shall not apply to manufacturers.

C. All licensees of the manufactured housing division who advertise must conform to the rules set forth by the New Mexico Unfair Trade Practices Act, Section 57-12-1 thru 57-12-22 of New Mexico Statutes and Regulation Z of the Board of Governors of the Federal Reserve System, Section 226.24 Advertising, paragraph C.

D. All licenses must include the licensees name and license number in all media advertisement.

[14.12.1.15 NMAC - Rp, 14.12.2.10 NMAC, 12/1/2010]

14.12.1.16 INSPECTION OF PUBLIC RECORDS:

A. Requests for inspection of records are governed by the Inspection of Public Records Act (NMSA 1978, Section 14-2-1 et. seq.).

B. The division director shall appoint a custodian of public records. The custodian may require that a request for inspection of records be in writing and delivered or addressed to the custodian of public records, manufactured housing division, regulation and licensing department, 2550 Cerrillos Road, P.O. Box 25101, Santa Fe, New Mexico 87504. A written request shall provide the name, address, and telephone number of the person seeking access to the records and shall identify the records requested with reasonable particularity.

C. The custodian of public records, or a substitute in the custodian's absence, shall respond to all written requests for inspection of public records as provided for in the Inspection of Public Records Act and shall provide reasonable facilities to make or furnish copies of public records to persons requesting them, during usual business hours.

D. The custodian shall charge a reasonable copy fee or the regulation and licensing department standard IPRA fee, whichever is higher, and at the custodian's discretion may require such payment to be received before copies are made.

E. Nothing in this rule prevents a member of the public from making an oral request for public records and the custodian or designee providing the requested public records.

[14.12.1.16 NMAC - Rp, 14.12.2.62 NMAC, 12/1/2010]

14.12.1.17 LOCAL PLANNING, AND ZONING JURISDICTIONS OR UNITS INSTALLED IN FLOODPLAIN OR MUDSLIDE AREAS:

A. All installations of residential manufactured homes must comply with the Manufactured Housing Act, all rules adopted by the division and all locally adopted zoning and planning requirements.

B. Prior to delivery of a manufactured home every dealer shall have the consumer sign a document acknowledging that the consumer has been advised to check with the local governing body in the locality of the site where the home will be installed to determine flood zone area installation requirements.

[14.12.1.17 NMAC - Rp, 14.12.2.59 NMAC, 12/1/2010]

14.12.1.18 SEVERABILITY: If any section of these rules is held to be inoperative, invalid or illegal, the remaining provisions shall continue in effect and operation.

[14.12.1.18 NMAC - Rp, 14.12.2.44 NMAC, 12/1/2010]

HISTORY of 14.12.1 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

CIC 70-5, 1969 Standards for Mobile Homes, filed 9/2/1970

CIC MB 70-9, Standard for Mobile Homes for New Mexico, filed 10/23/1970

CIC 71-5, 1971 Mechanical Mobile Home Code for New Mexico, filed 9/16/1971

CIC 72-3, 1972 Standards for Mobile Homes, filed 8/18/1972

CIC 73-1, 1973 Standards for Mobile Homes, filed 10/30/1973

CIC MHB 75-4, 1975 Standard for Mobile Home Regulations pertaining to Manufacturers, Dealers, and Installers, filed 10/8/1975

CIC MHB 77-7, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers, and Repairmen, filed 4/2/1977

MHD 77-1, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers and Repairmen, filed 4/26/1977

MHD 81-1, Mobile Housing Division Regulations, filed 5/27/1981

MHD 83-1, Manufactured Housing Division Regulations, filed 8/18/1983

MHD 85-1, Manufactured Housing Division Regulations, filed 2/1/1985

MHD 88-1, Manufactured Housing Division Regulations, filed 8/9/1988

MHD 90-1, Manufactured Housing Division Regulations, filed 12/8/1989

History of Repealed Material:

14 NMAC 12.2, Manufactured Housing Requirements (filed 9-16-97) repealed 12/1/1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10-14-98) repealed 6/1/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4-14-99) repealed 9-14/2000.

14.12.2 NMAC, Manufactured Housing Requirements (filed 8-01-00) repealed 12/1/2010.

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12/8/1989) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12/1/191998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6/1/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9/14/2000.

Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8/1/2000) were replaced by 14.12.1 NMAC, General Provisions, effective 12/1/2010.

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 2 LICENSURE REQUIREMENTS

14.12.2.1 ISSUING AGENCY: The Manufactured Housing Division of the Regulation and Licensing Department.
[14.12.2.1 NMAC - Rp, 14.12.2.1 NMAC, 12/10/2010]

14.12.2.2 SCOPE: These rules and regulations apply to all manufacturers, dealers, brokers, salesman, installers, repairman, contractors, and purchasers of manufactured homes in the state of New Mexico.
[14.12.2.2 NMAC - Rp, 14.12.2.2 NMAC, 12/10/2010]

14.12.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Manufactured Housing Act, Sections 60-14-1 through 60-14-20 NMSA 1978.
[14.12.2.3 NMAC - Rp, 14.12.2.3 NMAC, 12/10/2010]

14.12.2.4 DURATION: Permanent.
[14.12.2.4 NMAC - Rp, 14.12.2.4 NMAC, 12/10/2010]

14.12.2.5 EFFECTIVE DATE: 12/10/2010 unless a later date is cited at the end of a section.
[14.12.2.5 NMAC - Rp, 14.12.2.5 NMAC, 12/10/2010]

14.12.2.6 OBJECTIVE: The objective of 14.12.2 NMAC is to set forth the classifications, requirements and documentation, which must be submitted to the manufactured housing division, for licensure under the Manufactured Housing Act.
[14.12.2.6 NMAC - Rp, 14.12.2.6 NMAC, 12/10/2010]

14.12.2.7 DEFINITIONS: [RESERVED]

14.12.2.8 LICENSING PROCEDURES:

A. Any person or business, prior to engaging in any scope of practice regulated by the act, shall obtain a license in accordance with the act and these regulations. Licensees shall at all times display their license at their primary place of business within public view.

B. Application for any license required by these regulations shall be made on a form provided by the division. Each application shall be accompanied by the required nonrefundable fee as provided by 14.12.10 NMAC. A military service member or veteran as defined in these rules shall not be charged a licensing fee for the first three years a license issued under these rules is valid.

C. If an application is not complete, the applicant will be notified of all deficiencies within 20 days of the division's receipt. If an incomplete application is not completed within 30 days after written notification by the division, the division shall close the license application file.

D. Within 20 days of the division receiving a completed application, the applicant or his designated qualifying party shall be notified that they are eligible to take the required examination. Examinations will be administered by the division at its office in Santa Fe, New Mexico or at locations designated by the division.

E. Any occupational or professional license pursuant to these rules shall be issued as soon as practicable, but no later than 30 days after a military service member or a veteran as defined in these rules files an application and successfully passes any required examination, pays any required fees, and provides a background check if required.

~~[E-]~~ **F.** No license shall be issued until the applicant or his designated qualifying party has passed the required examination, has tendered all fees and has posted all necessary bonds required by 14.12.4 NMAC.

~~[F-]~~ **G.** Any applicant who has not completed an application for licensure within one year after notification that he has successfully passed the entry examination shall be required to reapply for licensure and retake the examination.

H. An application for a license under the Manufactured Housing Act shall be denied pursuant to 28-2-4 NMSA 1978 if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction. A conviction for any one of the following offenses, or their equivalents in any other jurisdiction, is a disqualifying criminal conviction.

(1) homicide;

(2) convictions involving physical harm to a person, including assault and battery, sexual offenses;

(3) kidnapping and human trafficking;

(4) crimes against children and dependents, including sexual crimes or offenses, and child abuse or neglect;

(5) arson;

(6) property damage;

(7) larceny and theft, including computer crimes, and unlawful taking of a motor vehicle;

(8) crimes involving fraud, including theft of identity, and money laundering;

(9) attempt, conspiracy, and solicitation of any disqualifying crime.

I. Any person who applies for a license or certification or renewal under these rules who is convicted of a disqualifying crime in New Mexico or any other state on or after the date of application shall notify the division within 10 days of the conviction, along with the date, crime and case number.

J. Upon denial of a license including denial based on a disqualifying criminal conviction, the applicant shall be provided notice and an opportunity to be heard pursuant to the pertinent notice and hearing provisions of the Uniform Licensing Act.

[G.] K. Any person applying for a license whose business is a corporation, limited liability company, limited partnership, limited liability partnership or general partnership must submit a certified copy of the articles of incorporation, articles of organization, certificate of registration, or statement of qualification at the time the application is filed with the division.

[14.12.2.8 NMAC - Rp, 14.12.2.24 NMAC, 12/10/2010; A, 1/1/2022]

14.12.2.9 MANUFACTURERS:

A. A manufacturer's license entitles its holder to sell or import for sale manufactured homes in New Mexico.

B. Each manufacturing plant or location shall have a qualifying party and each location shall have a separate license.

C. Each manufacturing plant is required to submit a written report to the division of all new homes shipped into or within New Mexico. The report must contain the following information: New Mexico license number and name; the serial number and H.U.D. label number assigned to the home and the name of the retailer to whom the homes are delivered. The report must be filed by the 15th of the month following the shipment month.

[14.12.2.9 NMAC - Rp, 14.12.2.14 NMAC, 12/10/2010]

14.12.2.10 DEALERS:

A. A dealer's license entitles its holder to engage in the business of selling, exchanging, buying for resale, leasing, offering to or attempting to negotiate sales or exchanges or lease-purchases of new and pre-owned manufactured homes. A dealer may also perform all functions, which a broker is authorized to perform under the act and these regulations. Any person who in any manner acts as a dealer in the transaction of more than one manufactured home in any consecutive 12-month period is required to be licensed as a dealer.

B. Each dealer's location shall have a qualifying party and each location shall have a separate license.

C. A dealer shall maintain a place of business, which is an actual physically, established location from which business can be conducted and where all documents directly related to the purchase, sale, trade and installation of a manufactured home within the preceding three years shall be available for inspection during normal business hours by a representative of the division. All locations in which a dealer offers manufactured homes off-site from the dealer's physical location are to be considered an extension of the dealer's lot. A post office box, secretarial service, telephone answering service, or similar entity does not constitute an actual physically established location.

D. The following provisions shall govern all transactions in which a dealer is involved in a transfer of a pre-owned manufactured home between a buyer and a seller, other than the dealer.

(1) The dealer's role is that of a fiduciary to his principal.

(2) In all such transactions which require a transfer of title, the dealer must: determine the status of title, including all recorded liens and security interests, of the manufactured home according to the title records of the motor vehicle division, and disclose in writing to all parties in the transaction the status of title of the home as shown by such records.

(3) All listing agreements entered into by a dealer shall disclose the percentage amount or fee to be received by the dealer upon the completion of a transaction under the terms of the listing agreement.

(4) Prior to the closing between the buyer and seller on a transaction, the dealer shall deliver to both the buyer and the seller a closing statement which shall contain, but is not limited to, the following information: the purchase price; all funds paid and to be paid by the buyer; all funds received and to be received by the seller; receipt and disposition of all other funds relevant to the transaction; the method of assumption, disposition or other treatment of existing loans on the home and liens on or security interests in the home.

E. Each dealership location must have at least one licensed salesperson per location. For an individual dealer operating a single lot, the dealer's license shall meet the requirement of a salesperson license for the person to whom it is issued. A dealership operating multiple lots must have at least one licensed salesperson. All persons engaged in selling manufactured homes for a dealer must be licensed with the division before engaging in the business.

F. Each dealer is required at the time of sale of a manufactured home to make a full disclosure to the buyer, concerning the disposition of the wheels, axles and hitch(es). Such disclosure must be acknowledged and signed by the purchaser.

G. If a dealership is open for business prior to receiving the appropriate license to conduct business, the division may tag each home with a "prohibit sales notice" and an inspection fee of \$60.00 will be charged to the dealer for removal of each such tag.

H. Any licensed dealership may display and offer for sale manufactured homes off-site from the dealer's physical location. All locations in which a dealer offers manufactured homes off-site from the dealer's physical location are to be considered an extension of the dealer's lot.

(1) The dealer shall notify the manufactured housing division in writing, on a form supplied by the division, of each address and location where homes off-site from the dealers physical location will be displayed and offered for sale.

(2) Each home displayed off-site from the dealer's physical location and offered for sale must display a copy of the dealer's license and a copy of the MHD compliance poster.

(3) All rules and regulations of the manufactured housing division shall apply to off-site sales locations.

I. If a dealer discharges a salesperson for any activities in violation of the MHD rules and regulations the dealer must report the discharge within 30 days to the division to investigate the potential violation.

[14.12.2.10 NMAC - Rp, 14.12.2.15 NMAC, 12/10/2010]

14.12.2.11 BROKERS:

A. A manufactured home broker's license entitles its holder to engage in the functions authorized for brokers in the act. A manufactured home broker's functions are strictly limited to only pre-owned manufactured homes. Any person who in any manner engages in

brokerage activities for more than one manufactured home in any consecutive 12-month period is required to be licensed as a manufactured home broker.

B. A manufactured home broker cannot negotiate any transaction involving the sale, exchange, renting or leasing of real estate unless he is licensed under the Real Estate Act of New Mexico.

C. Each manufactured home broker shall be individually licensed.

D. A manufactured home broker's role is that of a fiduciary to his principal.

E. In all transactions which require the transfer of title to a manufactured home and in which a manufactured home broker is involved the manufactured home broker must determine the status of title, including all recorded liens and security interests, of the manufactured home according to the title records of the motor vehicle division, and disclose in writing to all parties in the transaction the status of title of the home as shown by such records.

F. A manufactured home broker shall maintain a place of business, which is an actual physically, established location from which business can be conducted and where all documents directly related to the purchase, sale, trade and installation of a manufactured home within the preceding three years shall be available for inspection during normal business hours by a representative of the division. Each branch office shall also maintain copies of adequate records for this same inspection purpose of all transactions handled within the branch office.

G. A manufactured home broker shall fully disclose to the consumer any ownership interest of the manufactured home broker, either direct or indirect, in the manufactured home prior to the consumer's entering into any agreement for the purchase of the home.

H. All listing agreements entered into by a manufactured home broker shall disclose the percentage amount or fee to be received by the manufactured home broker upon the completion of a transaction under the terms of the listing agreement.

I. A manufactured home broker shall not enter into a net listing agreement.

J. Upon receipt of a written offer to purchase, a manufactured home broker shall promptly deliver the written offer to purchase to the seller. Upon obtaining written acceptance of the offer to purchase, the manufactured home broker shall promptly deliver true copies to the purchaser and seller. All terms of the transaction must be included in the written offer to purchase.

K. Before receiving a customer deposit, a manufactured home broker shall give to a purchaser an itemized statement of all approximate costs relevant to the transaction.

L. A manufactured home broker shall initiate the transfer of title on a manufactured home no later than 30 days from the completion of the transaction. A manufactured home broker shall not be responsible for title transfer if it is the responsibility of the purchaser's lienholder.

M. Prior to the closing between the buyer and seller, the manufactured home broker shall deliver to both the buyer and seller a closing statement which shall contain, but is not limited to, the following information:

- (1) the purchase price;
- (2) all funds paid and to be paid by the buyer;
- (3) all funds received and to be received by the seller;
- (4) receipt and disposition of all other funds relevant to the transaction;
- (5) the method of assumption, disposition or other treatment of existing loans on the home and liens on or security

interest in the home.

N. A manufactured home broker shall not operate or provide a lot or other location where manufactured homes are displayed for consumers.

O. Each manufactured home broker branch location shall have as qualifying party, a licensed and bonded associate manufactured home broker.

P. A manufactured home broker shall not purchase a manufactured home from a financial institution licensed by the New Mexico financial institutions division or consumer for the purpose of resale.

Q. A manufactured home broker will not engage in the business of buying and selling manufactured homes.

R. Every manufactured home broker will be audited annually to ensure they are not in the business of buying or selling manufactured homes.

[14.12.2.11 NMAC - Rp, 14.12.2.16 NMAC, 12/10/2010]

14.12.2.12 TEMPORARY SALESPERSON LICENSE:

A. The director may issue a one time 30 day temporary sales license for individuals who have never been licensed by the division as a temporary salesperson or salesperson. A temporary salesperson license shall not be renewed.

B. A temporary salesperson's license entitles its holder to be employed, either directly or indirectly, with or without remuneration or consideration by a dealer or broker to engage in sales or lease-purchases of new and pre-owned manufactured homes through that dealership or brokerage as allowed by the employer's license.

C. Custody of license.

(1) A temporary salesperson's license shall be in the custody of the licensee's employer.

(2) A temporary salesperson shall be issued a wallet card by the division. The card shall contain the licensee's name, license number and the address of the employer.

(3) If a temporary salesperson is discharged or terminates their employment, the employer shall return the temporary salesperson's license to the division within 10 days of the last date of employment. The division shall immediately terminate the temporary license.

D. A temporary salesperson shall not work for, be employed by or conduct transactions for more than one dealer or broker.

E. All transactions handled by or involving a temporary salesperson must be reviewed and supervised by the employing dealer or broker. All documents prepared by the temporary salesperson, in a transaction, must be reviewed by the dealer or broker.

[14.12.2.12 NMAC - Rp, 14.12.2.12 NMAC, 12/10/2010]

14.12.2.13 SALESPERSONS:

- A.** A salesperson's license entitles its holder to be employed, either directly or indirectly, with or without remuneration or consideration by a dealer or broker to engage in sales or lease-purchases of new and pre-owned manufactured homes through that dealership or brokerage as allowed by employer's license.
- B.** Each salesperson shall be licensed individually.
- C.** Custody of license.
 - (1) A salesperson's license shall be in the custody of his employer.
 - (2) Each salesperson shall be issued a wallet card by the division. The card shall contain the licensee's name, license number and the address of the employer.
- D.** Change of employment.
 - (1) When any salesperson is discharged or transfers his place of employment, the employer shall return the salesperson's license to the division within 10 days of the date of termination. The division shall place the license in an inactive status.
 - (2) Upon employing a salesperson whose license has been returned to the division, the division, upon notification from the new employer and the request for transfer, shall transfer the salesperson's license for the remainder of any unexpired term of such license. The division shall also issue a new wallet card.
- E.** A salesperson or associate broker shall not work for, be employed by or conduct transactions for more than one dealer or broker at the same time.
- F.** All transactions handled by or involving a salesperson must be reviewed and supervised by the employing dealer or broker. All documents prepared by the salesperson, in a transaction, must be reviewed by the dealer or broker.
- G.** A salesperson shall not act as a salesperson while his license is in the custody of the division.
- H.** A salesperson may not be licensed while there is an outstanding complaint with the manufactured housing division.

[14.12.2.13 NMAC - Rp, 14.12.2.18 NMAC, 12/10/2010]

14.12.2.14 INSTALLER AND REPAIRMEN:

- A.** An installer's license entitles its holder to install manufactured homes for remuneration or consideration as provided for by these regulations.
- B.** A repairman's license entitles its holder to repair manufactured homes for remuneration or consideration as provided for by these regulations. An exception to this rule is a person(s) who makes manufacturer's warranty repairs and is employed and paid wages by a New Mexico licensed manufacturer or its designated agent. Such person(s) are not required to maintain a repairman's license.
- C.** Licenses for installers and repairmen shall be classified as MHD-1, MHD-2, MHD-3, MHD-3 Y and MHD-3 E.
 - (1) MHD-1 shall permit the holder to level ground and place piers to support a manufactured home, to attach and tighten tiedowns, to connect existing water and sewer lines, to connect electrical cable to the home's approved existing receptacle, to install and repair skirting, and to install concrete associated with footings or foundations.
 - (2) MHD-2 shall permit the holder to perform all functions of an MHD-1 and to make structural repairs and alterations.
 - (3) MHD-3 shall permit the holder to perform all the functions of an MHD-2 and to service and repair natural gas piping and appliances, change and adjust orifices in a manufactured home prior to connection to L.P. gas, and to service and repair plumbing and electrical systems.
 - (4) The scope of an MHD-3 Y licensee shall be extended to install gas yardlines to manufactured homes upon acquiring an appropriate endorsement from the division.
 - (5) The scope of an MHD-3 E licensee shall be extended to install feeder assemblies from the on-site utility terminal to the manufactured home not to exceed 30 feet. The provisions for obtaining a separate electrical endorsement shall include a minimum of two years in the last 10 years of verifiable experience performing electrical work on manufactured homes or related equipment.
- D.** Structural repairs, alterations and modifications allowed by classifications MHD-2 and MHD-3 are limited to the manufactured home itself and include awnings and porches supported by the home. Any structural repair, alteration or modification outside the manufactured home, including any concrete construction other than small pads for support posts, is not included under the MHD-2 or MHD-3 classifications. Licensees must comply with provisions of the Construction Industries Licensing Act. Sections 60-13-1, et. seq., NMSA 1978, to build any structure which requires a license under that act.
- E.** An applicant shall provide evidence of meeting at least one of the following minimum experience requirements:
 - (1) 1,800 hours of experience installing manufactured homes;
 - (2) 3,600 hours of experience in the construction of manufactured homes;
 - (3) 3,600 hours of experience as a building construction supervisor;
 - (4) 1,800 hours as an active manufactured home installation inspector;
 - (5) completion of one year of a college program in construction-related field; or
 - (6) any combination of experience or education from 1 - 5 above that totals 3,600 hours.
- F.** An applicant for installation license must complete 12 hours of training, at least 4 of which must consist of training on the federal installation standards and installation program. The training must be conducted by committee approved trainers who meet the requirements of 24 C.F.R. Section 3286 subpart D. The curriculum must include, at a minimum, training in the following areas:
 - (1) an overview of the Manufactured Home Construction and Safety Standards Act and the general regulatory structure of the HUD manufactured housing program;

- (2) an overview of the manufactured home installation standards and regulations established in parts 24 C.F.R. Section 3285 and 24 C.F.R. Section 3286, and specific instruction including:
- (a) preinstallation considerations;
 - (b) site preparation;
 - (c) foundations;
 - (d) anchorage against wind;
 - (e) optional features, including comfort cooling systems;
 - (f) ductwork and plumbing and fuel supply systems;
 - (g) electrical systems; and
 - (h) exterior and interior close-up work;
- (3) an overview of the construction and safety standards and regulations found in parts 24 C.F.R. Section 3280 and 24 C.F.R. Section 3282;
- (4) licensing requirements applicable to installers;
 - (5) installer responsibilities for correction of improper installation, including installer obligations under applicable state and HUD manufactured housing dispute resolution programs;
 - (6) inspection requirements and procedures;
 - (7) problem-reporting mechanisms;
 - (8) operational checks and adjustments; and
 - (9) penalties for any person's failure to comply with the federal or state requirements;
 - (10) qualified trainers must revise and modify course curriculum as needed to include, at a minimum, any relevant modifications to the federal or state act or the standards, rules and regulations, as well as to provide any training further mandated by the division and HUD.
- G.** An applicant for licensure must provide evidence of receiving a passing grade of seventy percent on a HUD administered or HUD approved examination.
- H.** An installer or repairman shall maintain a place of business, which is an actual physically, established location from which business can be conducted and where accounts and records shall be available for inspection during normal working hours by a representative of the division. A post office box, secretarial service, telephone answering service or similar entity does not constitute an actual physically established location for purposes of this subsection.
- I.** The division may, upon request, grant separate licensure for any person holding a valid license in the electrical or mechanical classifications issued under the Construction Industries Licensing Act (Sections 60-13-1, et. seq., NMSA 1978), as amended, and may permit such person to act in the capacity of an installer or repairman for electrical or mechanical work on a manufactured home within the scope of such license. The division may also, upon request, grant separate licensure for any person holding a valid license in the general construction classifications, including GB-2, GB-98, or GS-4 classifications issued under the Construction Industries Licensing Act (Sections 60-13-1, et. Seq., NMSA 1978), as amended, and may permit such person to act in the capacity of a contractor for work associated with the general construction license classification. A person licensed under this provision may not perform or permit the installation of a manufactured home, including installations of alternate manufactured home foundation systems. Any person requesting a license, in accordance with this provision, shall furnish proof satisfactory to the division of his status as a licensee of the construction industries division or its successor. Nothing in this provision shall be construed as a waiver of any obligation to comply with any other requirement of the Manufactured Housing Act or these regulations, including the bonding requirements of these regulations.
[14.12.2.14 NMAC - N, 12/10/2010; A, 11/01/2013]

HISTORY of 14.12.2 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

- CIC 70-5, 1969 Standards for Mobile Homes, filed 09-02-70
- CIC MB 70-9, Standard for Mobile Homes for New Mexico, filed 10/23/1970
- CIC 71-5, 1971 Mechanical Mobile Home Code for New Mexico, filed 09/16/1971
- CIC 72-3, 1972 Standards for Mobile Homes, filed 08/18/1972
- CIC 73-1, 1973 Standards for Mobile Homes, filed 10/30/1973
- CIC MHB 75-4, 1975 Standard for Mobile Home Regulations pertaining to Manufacturers, Dealers, and Installers, filed 10/08/1975
- CIC MHB 77-7, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers, and Repairmen, filed 04/02/1977
- MHD 77-1, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers and Repairmen, filed 04/26/1977
- MHD 81-1, Mobile Housing Division Regulations, filed 05/27/1981
- MHD 83-1, Manufactured Housing Division Regulations, filed 08/18/1983
- MHD 85-1, Manufactured Housing Division Regulations, filed 02/01/1985
- MHD 88-1, Manufactured Housing Division Regulations, filed 08/09/1988
- MHD 90-1, Manufactured Housing Division Regulations, filed 12/08/1989

History of Repealed Material:

- 14 NMAC 12.2, Manufactured Housing Requirements (filed 9-16-97) repealed 12/01/1998.
- 14 NMAC 12.2, Manufactured Housing Requirements (filed 10-14-98) repealed 6/01/1999.
- 14 NMAC 12.2, Manufactured Housing Requirements (filed 4-14-99) repealed 9/14/2000.

14.12.2 NMAC, Manufactured Housing Requirements (filed 8-01-00) repealed 12/01/2010.

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12/08/1989) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12/01/1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6/01/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9/14/2000.

Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) were replaced by 14.12.2 NMAC, Licensure Requirements, effective 12/01/2010.

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 8 RENEWAL AND CONTINUING EDUCATION

14.12.8.1 ISSUING AGENCY: The Manufactured Housing Division of the Regulation and Licensing Department.

[14.12.8.1 NMAC - Rp, 14.12.2.1 NMAC, 12/01/2010]

14.12.8.2 SCOPE: These rules and regulations apply to all manufacturers, dealers, brokers, salesman, installers, repairman, contractors, and purchasers of manufactured homes in the state of New Mexico.

[14.12.8.2 NMAC - Rp, 14.12.2.2 NMAC, 12/01/2010]

14.12.8.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Manufactured Housing Act, Sections 60-14-1 through 60-14-20 NMSA 1978.

[14.12.8.3 NMAC - Rp, 14.12.2.3 NMAC, 12/01/2010]

14.12.8.4 DURATION: Permanent.

[14.12.8.4 NMAC - Rp, 14.12.2.4 NMAC, 12/01/2010]

14.12.8.5 EFFECTIVE DATE: 12/01/2010 unless a later date is cited at the end of a section.

[14.12.8.5 NMAC - Rp, 14.12.2.5 NMAC, 12/01/2010]

14.12.8.6 OBJECTIVE: The objective of 14.12.8 NMAC is to set forth the license renewal and continuing education requirements for individuals licensed under the Manufactured Housing Act and these regulations.

[14.12.7.6 NMAC - Rp, 14.12.2.6 NMAC, 12/01/2010]

14.12.8.7 DEFINITIONS: [RESERVED]

[Refer to 14.12.1.7 NMAC]

14.12.8.8 RENEWALS:

A. Each license shall be renewed annually during its anniversary month. The division shall mail a renewal notice to each current licensee at least 30 days prior to the expiration date of the license.

B. Renewal notices will be mailed to the last known address on file with the division. It is the responsibility of the licensee to keep the division informed of any changes in address.

C. The licensee is responsible for renewing his license. Failure to receive the renewal notice shall not relieve the licensee of the responsibility of renewing his license before the expiration date.

D. The filing date of a renewal application shall be the date the envelope is postmarked or, if hand delivered, the date the renewal application is received by the division.

E. The division shall allow a 30-day grace period after a license has expired for a licensee to renew without penalty. After the 30-day grace period the licensee must pay a late renewal fee equal to one dollar (\$1.00) for each day, up to thirty days, that has elapsed since the 30-day grace period and thereafter for a fee equal to twice the amount of the annual license fee.

F. A renewal application for a license under the Manufactured Housing Act shall be denied pursuant to 28-2-4 NMSA 1978 if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction as defined in these rules.

G. Any person who applies for renewal of a license or certification under these rules who is convicted of a disqualifying crime in New Mexico or any other state on or after the date of any renewal application shall notify the division within 10 days of the conviction, along with the date, crime, and case number.

[F-] H. If a license is expired for one-year following the expiration date the license shall be cancelled and the licensee must re-apply for licensure, which includes taking and passing any required examination.

I. Renewal of any occupational or professional license pursuant to these rules shall be issued as soon as practicable, but no later than 30 days after a military service member or a veteran as defined in these rules files an application and successfully passes any required examination, pays any required fees, and provides a background check if required.

J. Upon denial of a renewal for a license including denial based on a disqualifying criminal conviction, the applicant shall be provided notice and an opportunity to be heard pursuant to the pertinent notice and hearing provisions of the Uniform Licensing Act.

K. A military service member or veteran as defined in these rules shall not be charged a licensing fee for the first three years a license issued under these rules is valid.

[14.12.8.8 NMAC - Rp, 14.12.2.26 NMAC, 12/01/2010; A, 1/1/2022]

14.12.8.9 INACTIVE LICENSE:

A. A licensee can submit a written request to the division that a license be placed in inactive status. The licensee must surrender his license certificate to the division and submit a written statement indicating that no work will be performed under the inactive license during the period that the license is in inactive status.

B. Regulations pertaining to renewal of any license or to bonding requirements shall apply to any license during the period the license is in inactive status.

C. Inactive status of a license shall not affect any pending investigation or disciplinary action against a licensee.
[14.12.8.9 NMAC - Rp, 14.12.2.27 NMAC, 12/01/2010]

14.12.8.10 CONTINUING EDUCATION: In order to qualify for annual renewal of an installer or repairman license, the licensee must provide evidence of completing 3 hours of division approved continuing education.
[14.12.8.10 NMAC - N, 12/01/2010]

HISTORY of 14.12.8 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

CIC 70-5, 1969 Standards for Mobile Homes, filed 09/02/1970

CIC MB 70-9, Standard for Mobile Homes for New Mexico, filed 10/23/1970

CIC 71-5, 1971 Mechanical Mobile Home Code for New Mexico, filed 09/16/1971

CIC 72-3, 1972 Standards for Mobile Homes, filed 08/18/1972

CIC 73-1, 1973 Standards for Mobile Homes, filed 10/30/1973

CIC MHB 75-4, 1975 Standard for Mobile Home Regulations pertaining to Manufacturers, Dealers, and Installers, filed 10/08/1975

CIC MHB 77-7, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers, and Repairmen, filed 04/02/1977

MHD 77-1, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers and Repairmen, filed 04/26/1977

MHD 81-1, Mobile Housing Division Regulations, filed 05/27/1981

MHD 83-1, Manufactured Housing Division Regulations, filed 08/18/1983

MHD 85-1, Manufactured Housing Division Regulations, filed 02/01/1985

MHD 88-1, Manufactured Housing Division Regulations, filed 08/09/1988

MHD 90-1, Manufactured Housing Division Regulations, filed 12/08/1989

History of Repealed Material:

14 NMAC 12.2, Manufactured Housing Requirements (filed 9/16/1997) repealed 12/01/1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) repealed 6/01/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) repealed 9/14/2000.

14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) repealed 12/01/2010.

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12/08/1989) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12/01/1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6/01/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9/14/2000.

Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) were replaced by 14.12.8 NMAC, Renewal and Continuing Education, effective 12/01/2010.

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 10FEES

14.12.10.1 ISSUING AGENCY: The Manufactured Housing Division of the Regulation and Licensing Department.
[14.12.10.1 NMAC - Rp, 14.12.2.1 NMAC, 12/01/2010]

14.12.10.2 SCOPE: These rules and regulations apply to all manufacturers, dealers, brokers, salesman, installers, repairman, contractors, and purchasers of manufactured homes in the state of New Mexico.
[14.12.10.2 NMAC - Rp, 14.12.2.2 NMAC, 12/01/2010]

14.12.10.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Manufactured Housing Act, Sections 60-14-1 through 60-14-20 NMSA 1978.
[14.12.10.3 NMAC - Rp, 14.12.2.3 NMAC, 12/01/2010]

14.12.10.4 DURATION: Permanent.
[14.12.10.4 NMAC - Rp, 14.12.2.4 NMAC, 12/01/2010]

14.12.10.5 EFFECTIVE DATE: December 1, 2010 unless a later date is cited at the end of a section.
[14.12.10.5 NMAC - Rp, 14.12.2.5 NMAC, 12/01/2010]

14.12.10.6 OBJECTIVE: The objective of 14.12.10 NMAC is to set forth fees for the manufactured housing division.
[14.12.10.6 NMAC - Rp, 14.12.2.6 NMAC, 12/01/2010]

14.12.10.7 DEFINITIONS: [RESERVED]
[Refer to 14.12.1.7 NMAC]

14.12.10.8 FEES:

- A.** Fees shall not be refunded, except that upon written request, the director shall have the discretion to refund any fees.
- B.** Examination fee is fifty dollars (\$50).
- C.** Annual license fees.

(1) A military service member or veteran as defined in these rules shall not be charged a licensing fee for the first three years a license issued under these rules is valid.

~~(4)~~ (2) Manufacturer I: five hundred dollars (\$500).

~~(2)~~ (3) Manufacturer II-re-furbisher: four hundred dollars (\$400).

~~(3)~~ (4) Dealer: two hundred dollars (\$200).

~~(4)~~ (5) Installer and repairman: two hundred dollars (\$200).

~~(5)~~ (6) Salesperson: fifty dollars (\$50).

~~(6)~~ (7) Broker: two hundred dollars (\$200).

~~(7)~~ (8) Associate broker: fifty dollars (\$50).

D. Re-inspection fee(s): sixty five dollars (\$65).

E. Inspection Permits: sixty five dollars (\$65). The permit will be for the installation, permanent foundation and utility connections.

F. Transfer of salesperson's license: twenty-five dollars (\$25).

G. Re-issuance of qualifying party certificate from one business to another: twenty-five dollars (\$25).

H. Manufacturer II-re-furbisher inspection permit: one hundred and twenty dollars (\$120).

I. Contractors and journeyman licensed by the construction industries division performing work on manufactured homes shall be registered with the manufactured housing division (MHD) and pay an annual registration fee of one hundred dollars (\$100) per licensee and post with MHD an installer's or repairman's consumer protection bond, pursuant to 14.12.4.13 NMAC.

J. Addition of a qualifying party to an existing license: twenty-five dollars (\$25).

K. Bad or returned checks:

(1) An additional charge of twenty (\$20) shall be made for any check, which fails to clear or is returned for any reason.

(2) Such returned checks shall cause any license issued, renewed or test scheduled as the result of such payment to be immediately suspended until proper payment in full is received.

L. Consumer complaint inspections: sixty five dollars (\$65) for each inspection. Inspections shall be paid by the installer/repairman, dealer, manufacturer or broker, as appropriate.

M. Pre-owned label: forty dollars (\$40).

N. Change of a licensee's name, address or license status: twenty-five dollars (\$25).

O. Inspection fee for removal of a "Prohibited Sales Notice" by the division: sixty dollars (\$60).

P. Requested inspection: sixty five dollars (\$65).

Q. Manufacturer's supervision or compliance monitoring, pursuant to an amount approved by HUD.

R. Alteration, modification, or repair fee: fifteen dollars (\$15).

S. Conversion fee: fifteen dollars (\$15).

[14.12.10.8 NMAC - Rp, 14.12.2.25 NMAC, 12/01/2010; A, 11/15/2017; A, 1/1/2022]

HISTORY of 14.12.10 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

CIC 70-5, 1969 Standards for Mobile Homes, filed 09/02/1970

CIC MB 70-9, Standard for Mobile Homes for New Mexico, filed 10/23/1970

CIC 71-5, 1971 Mechanical Mobile Home Code for New Mexico, filed 09/16/1971

CIC 72-3, 1972 Standards for Mobile Homes, filed 08/18/1972

CIC 73-1, 1973 Standards for Mobile Homes, filed 10/30/1973

CIC MHB 75-4, 1975 Standard for Mobile Home Regulations pertaining to Manufacturers, Dealers, and Installers, filed 10/08/1975

CIC MHB 77-7, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers, and Repairmen, filed 04/02/1977

MHD 77-1, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers and Repairmen, filed 04/26/1977

MHD 81-1, Mobile Housing Division Regulations, filed 05/27/1981

MHD 83-1, Manufactured Housing Division Regulations, filed 08/18/1983

MHD 85-1, Manufactured Housing Division Regulations, filed 02/01/1985

MHD 88-1, Manufactured Housing Division Regulations, filed 08/09/1988

MHD 90-1, Manufactured Housing Division Regulations, filed 12/08/1989

History of Repealed Material:

14 NMAC 12.2, Manufactured Housing Requirements (filed 9/16/1997) repealed 12/01/1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) repealed 6/01/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) repealed 9/14/2000.

14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) repealed 12/01/2010.

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12/08/1989) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12-01-1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6/01/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9/14/2000.

Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) were replaced by 14.12.10 NMAC, Fees, effective 12/01/2010.

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 11 DISCIPLINE

14.12.11.1 ISSUING AGENCY: The Manufactured Housing Division of the Regulation and Licensing Department.
[14.12.11.1 NMAC - Rp, 14.12.2.1 NMAC, 12/01/2010]

14.12.11.2 SCOPE: These rules and regulations apply to all licensed manufacturers, dealers, brokers, salesman, installers, repairman, and contractors, and unlicensed manufacturers, dealers, brokers, salesman, installers, repairman, and contractors required by the Manufactured Housing Act to be licensed by the manufactured housing division.
[14.12.11.2 NMAC - Rp, 14.12.2.2 NMAC, 12/01/2010]

14.12.11.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Manufactured Housing Act, Sections 60-14-1 through 60-14-20 NMSA 1978.
[14.12.11.3 NMAC - Rp, 14.12.2.3 NMAC, 12/01/2010]

14.12.11.4 DURATION: Permanent.
[14.12.11.4 NMAC - Rp, 14.12.2.4 NMAC, 12/01/2010]

14.12.11.5 EFFECTIVE DATE: December 1, 2010 unless a later date is cited at the end of a section.
[14.12.11.5 NMAC - Rp, 14.12.2.5 NMAC, 12/01/2010]

14.12.11.6 OBJECTIVE: The objective of 14.12.11 NMAC is to set forth the disciplinary process for licensees under the Manufactured Housing Act and division rules.
[14.12.11.6 NMAC - Rp, 14.12.2.6 NMAC, 12/01/2010]

14.12.11.7 DEFINITIONS: [RESERVED]
[Refer to 14.12.1.7 NMAC]

14.12.11.8 COMPLAINTS AND HEARINGS:

A. A person claiming to be injured by an alleged violation of the Act or these regulations or by reason of any other cause set forth in Section 60-14-6, NMSA 1978, may file with the division a written complaint which shall state the name and address of the licensee against whom the complaint is made and shall include a concise statement of the alleged violation. If it is determined by the division that the complaint is insufficient or defective, the complainant shall be promptly notified and permitted to amend the complaint.

B. Upon receipt of a written complaint, the division shall investigate by telephone or by personal contacts within 30 days of receipt of the complaint the alleged violation to determine whether cause exists to investigate further. If such cause exists, an on-site inspection will be made within 30 days of such determination. The consumer shall make himself available during reasonable business hours within the prescribed 30 days.

(1) The division shall contact the licensee by mail and request correction of the violations within 40 day's of receipt of the complaint. The letter may also request investigation according to Subpart I of the Federal Manufactured Home Construction and Safety Standards, Federal Procedural and Enforcement Regulations, which require investigation of class or re-occurrences of non-conformances to the federal standards.

(2) Following this initial 40 day period, if it is determined that there is no cause for the complaint, the complaint shall be dismissed. The division shall also place all information in their consumer complaint files for five years after closing of the case. This information shall include:

- (a) ~~(a)~~ the determination;
- (b) ~~(b)~~ who made the determination; and
- (c) ~~(c)~~ how the determination was made.

(3) If the committee determines that there is cause for the complaint, the division shall attempt to achieve a satisfactory resolution of the complaint through correspondence or informal conference. All resolutions are pending final approval of the committee.

(4) If the committee determines that the items requested to be corrected by the complainant are the responsibility of the manufacturer, and that these items are required to be corrected under the federal regulations, the manufacturer will be requested to submit a notification and correction plan to the director of the manufactured housing division within 20 days of receipt of the letter and as required under Subpart I of the federal regulations. If, within 20 days and there does not seem to be a reoccurrence of the same deficiencies, no formal plan needs to be submitted if the division has granted waiver to the plan. If a plan is submitted to the division, the division shall approve or modify the plan and send it back to the manufacturer for remedial action. The plan shall include, but not be limited to, a list of manufactured homes affected, method of correction, content of notification notice to consumer and the requirements as detailed under Subpart I of the federal regulations. The manufacturer shall have 60 days to notify and correct and an additional 30 days to submit closeout reports of all action taken by the manufacturer in the case.

C. The discovery by the Committee or the division that an applicant for a license or permit or renewal of a license or permit under these rules has a disqualifying criminal conviction as defined herein and has failed to disclose this fact on the application, or failed to inform the division within 10 days of conviction shall be grounds for discipline under this rule.

~~C.] D.~~ If the complaint is not completely resolved by the foregoing method, the committee may proceed with formal disciplinary action in accordance with the Uniform Licensing Act, Sections 61-1-1, et seq., N.M.S.A. 1978, as amended, and the division may conduct further inspections or investigations.

~~D.] E.~~ The division will charge a re-inspection fee each time a re-inspection is performed on a home that is involved in a consumer complaint. Those consumer complaints that the division investigates that are dismissed by the committee, no fee will be charged. The fee shall be charged to the dealer, manufacturer, installer/repairman, or broker as appropriate.

[14.12.11.8 NMAC - Rp, 14.12.2.42 NMAC, 12/01/2010; A, 1/1/2022]

14.12.11.9 SUSPENSION AND REVOCATION:

A. Hearings on suspensions or revocations of licenses on grounds enumerated in the Act and these regulations shall be conducted in accordance with the Uniform Licensing Act. (Section 61-1-1 et seq., NMSA 1978, as amended.)

B. Following a committee action to suspend or revoke a licensee's license, all homes must be tagged with a "Prohibited Sales Notice." The inspection fee for the removal of a "Prohibited Sales Notice" by the division shall be sixty dollars (\$60.00), except when waived by the director of the division.

C. Any person that has had their license suspended or revoked or bond attached that acted as the qualifying party cannot be re-licensed until all outstanding complaints are final and closed. They must also post a consumer protection bond with the division in the amount of \$100,000.00. They cannot be an employee of any licensee of the manufactured housing division until all complaints are final and closed.

[14.12.11.9 NMAC - Rp, 14.12.2.43 NMAC, 12/01/2010]

14.12.11.10 UNLICENSED ACTIVITY: When a person or business entity conducts business in any area requiring licensure, he/she must cease all activities until he/she is licensed and complies with all provisions of the act and these regulations. Failure to cease all activity by a person or business entity will subject such person or business entity to all penalties pursuant to the act and these regulations.

[14.12.11.10 NMAC - Rp, 14.12.2.64 NMAC, 12/01/2010]

14.12.11.11 LICENSES VOIDED OR CANCELED BY OPERATION OF LAW:

A. When a license has been suspended, canceled, has not been renewed during the 30 day grace period, or is otherwise voided by operation of law, the licensee cannot work until he/she receives a new license, or until his/her license is properly reinstated as active, pursuant to the requirements of the act and these regulations.

B. Any licensee working while his/her license has been suspended, canceled, has not been renewed during the 30 day grace period, or otherwise voided by operation of law shall be guilty of unlicensed activity. Such a licensee must resolve any and all unlicensed activity charges pursuant to the requirements of the act and these regulations before obtaining a new license, or renewing, or otherwise reactivating his/her license or certificate of competence.

[14.12.11.11 NMAC - Rp, 14.12.2.65 NMAC, 12/01/2010]

HISTORY of 14.12.11 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

CIC 70-5, 1969 Standards for Mobile Homes, filed 09/02/1970

CIC MB 70-9, Standard for Mobile Homes for New Mexico, filed 10/23/1970

CIC 71-5, 1971 Mechanical Mobile Home Code for New Mexico, filed 09/16/1971

CIC 72-3, 1972 Standards for Mobile Homes, filed 08/18/1972

CIC 73-1, 1973 Standards for Mobile Homes, filed 10/30/1973

CIC MHB 75-4, 1975 Standard for Mobile Home Regulations pertaining to Manufacturers, Dealers, and Installers, filed 10/08/1975

CIC MHB 77-7, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers, and Repairmen, filed 04/02/1977

MHD 77-1, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers and Repairmen, filed 04-26-77

MHD 81-1, Mobile Housing Division Regulations, filed 05/27-81

MHD 83-1, Manufactured Housing Division Regulations, filed 08/18/1983

MHD 85-1, Manufactured Housing Division Regulations, filed 02/01/1985

MHD 88-1, Manufactured Housing Division Regulations, filed 08/09/1988

MHD 90-1, Manufactured Housing Division Regulations, filed 12/08/1989

History of Repealed Material:

14 NMAC 12.2, Manufactured Housing Requirements (filed 9/16/1997) repealed 12/01/1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) repealed 6/01/1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) repealed 9/14/2000.

14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) repealed 12/01/2010.

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12/08/1989) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12/01/1998.
14 NMAC 12.2, Manufactured Housing Requirements (filed 10/14/1998) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6/01/1999.
14 NMAC 12.2, Manufactured Housing Requirements (filed 4/14/1999) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9/14/2000.
Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8/01/2000) were replaced by 14.12.11 NMAC, Discipline, effective 12/01/2010.