

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

**14.12.2.1 ISSUING AGENCY:** The Manufactured Housing Division of the Regulation and Licensing Department.  
[14.12.2.1 NMAC - Rp, 14 NMAC 12.2.1, 9-14-00]

**14.12.2.2 SCOPE:** These Rules and Regulations will apply to all manufacturers, dealers, brokers, homeowners, purchasers, inspectors, and the like engaged in activities involving the transporting, sale, business, construction, repair, modification, installation, tie-down, hook-up, and the like of all manufactured homes in the State of New Mexico.  
[14.12.2.2 NMAC - Rp, 14 NMAC 12.2.2, 9-14-00]

**14.12.2.3 STATUTORY AUTHORITY:** Pursuant to Section 60-14-4 of the Manufactured Housing Act (60-14-1 through 60-14-19, NMSA 1978), the Manufactured Housing Division of the Regulation and Licensing Department has the authority to adopt Rules and Regulations relating to the construction, repair, modification, installation, tie-down, hook-up, and sale of all manufactured homes.  
[14.12.2.3 NMAC - Rp, 14 NMAC 12.2.3, 9-14-00]

**14.12.2.4 DURATION:** Permanent; until later amended, repealed or replaced.  
[14.12.2.4 NMAC - Rp, 14 NMAC 12.2.4, 9-14-00]

**14.12.2.5 EFFECTIVE DATE:** September 14, 2000 unless a later date is cited at the end of a Section.  
[14.12.2.5 NMAC - Rp, 14 NMAC 12.2.5, 9-14-00]

**14.12.2.6 OBJECTIVE:** It is the intent of the Manufactured Housing Division and the Manufactured Housing Committee to enforce the New Mexico Manufactured Housing Act and the National Manufactured Housing and Construction Safety Standards Act. The purpose of the Manufactured Housing Act is to insure the purchasers and users of manufactured homes the essential conditions of health and safety which are their right, and to provide that the business practices of the industry are fair and orderly among the members of the industry with due regard to the ultimate consumers in this important area of human shelter.  
[14.12.2.6 NMAC - Rp, 14 NMAC 12.2.6, 9-14-00]

**14.12.2.7 DEFINITIONS:** All words and terms defined in the Manufactured Housing Act have the same meaning in these regulations.

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

**B.** "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.

**C.** "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.

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

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

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

**E.** "Customer, consumer or homeowner". These words are used interchangeably throughout these regulations, 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.

**F.** "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.

**G.** "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 regulations. If (a) or (b) are not met, then seller will have a reasonable time to deliver the home.

**H.** “Down payment” means any payment, such as consideration, a deposit of remuneration, of less than the full purchase price of the home.

**I.** “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 regulations, 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 regulations, 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”.

**J.** “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 Sections 50.3 and 53.

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

**L.** “HUD” means the United States department of housing & urban development.

**M.** “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.

**N.** “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.

**O.** “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).

**P.** “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.

**Q.** “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.

**R.** “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.

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

**T.** “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 (1%) chance of occurring each year, on the average as defined by the federal emergency management agency (F.E.M.A).

**U.** “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.

**V.** “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.

**W.** “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.

**X.** “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.

**Y.** “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.

**Z.** “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 regulations.

**AA.** “Regulation” means the regulations of the manufactured housing division.

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

**CC.** “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.

(1) 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.

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

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

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

**FF.** “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.

**GG.** “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.

**HH.** “Yardline” means a buried material providing utilities from the on-site utility terminal to the manufactured home.

**II.** Words in the singular or plural, masculine and feminine shall each include the other where appropriate.

[14.12.2.7 NMAC - Rp, 14 NMAC 12.2.7, 9-14-00; A, 11-13-00; A, 02-21-07]

#### **14.12.2.8 MINIMUM STANDARDS:**

**A.** Manufactured Homes: The division adopts as part of these regulations the H.U.D. Manufactured Home Construction and Safety Standards Act of 1974, 24 C.F.R. 3280 and the H.U.D. Manufactured Home Procedural and Enforcement Regulations as authorized under Title VI of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5401, et seq., as the minimum New Mexico standards, except as provided herein.

**B.** Installation of Manufactured Homes:

(1) The division adopts, as part of these regulations, the NFPA 70, national electrical code, 2002 edition, as amended, that pertains to manufactured (mobile) homes.

(2) The division adopts, as part of these regulations, the NFPA 54, national fuel gas code, 2002 edition, as amended, that pertains to manufactured (mobile) homes.

(3) The division adopts, as part of these regulations, the uniform plumbing code, 2003 edition, as amended, that pertains to manufactured (mobile) homes.

(4) The division adopts, as part of these regulations, the NFPA 58, standards for the storage and handling of liquefied petroleum gases, 1992 edition, as amended, that pertains to manufactured (mobile) homes.

(5) The division adopts as part of these regulations, the uniform mechanical code, 2003 edition, as amended, that pertains to manufactured (mobile) homes.

**C.** The amendments and changes in these regulations as made by the division shall be enforced thirty (30) days after filing as provided by the State Rules Act (Section 14-4-1, et. seq., NMSA 1978) and the Uniform Licensing Act (Section 61-1-1, et seq., NMSA 1978).

**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 manufactured or installed after May 19, 1988, used for nonresidential, or commercial purposes must be constructed to the appropriate codes or standards as adopted by construction industries division. Construction industries division has full jurisdiction in approval and inspection of nonresidential manufactured units. None of the provisions contained in Subsection E of this section shall apply to retailers licensed by the motor vehicle division of the taxation and revenue department.

**F.** Any person or entity licensed under the Manufactured Housing Act will post a "notice to the public" poster at their place of business in a conspicuous place to the public. The poster will include the name and address of the regulation and licensing department, manufactured housing division, and will inform the consumer where they would be able to file a complaint in regards to any violation of the New Mexico Manufactured Housing Act and regulations. The division will furnish the posters.

[14.12.2.8 NMAC - Rp, 14 NMAC 12.2.8, 9-14-00; A, 7-1-05]

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

**A.** Licenses shall not be transferable.

**B.** A licensee shall notify the Division immediately of any change in the licensee's name, business entity or structure, ownership, place of business, employment or address. Upon receipt of notice of a change of name, the Division shall examine its records to determine if any proposed name is deceptively similar to that of any other licensee and shall approve the name change if no deceptive similarities exist. The licensee shall not do business under a proposed new name or at any new location prior to issuance of a new license.

[14.12.2.9 NMAC - Rp, 14 NMAC 12.2.9, 9-14-00]

**14.12.2.10 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 (2) inches high.

**B.** This Section shall not apply to manufacturers.

**C.** All licensees of the Manufactured Housing Division who advertise must conform to the regulations 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 licensees must include the licensee's name and license number in all media advertisement.

[14.12.2.10 NMAC - Rp, 14 NMAC 12.2.10, 9-14-00]

**14.12.2.11 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 ten 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 regulations; knowingly combine or conspire with, or act as an agent, partner, or associate for an unlicensed person.

**C.** It is a violation of these regulations 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 forty five (45) 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.  
[14.12.2.11 NMAC - Rp, 14 NMAC 12.2.11, 9-14-00]

**14.12.2.12 TEMPORARY SALESPERSON LICENSE: [RESERVED]**

[14.12.2.12 NMAC - Rp 14 NMAC 12.2.12, 9-14-00]

**14.12.2.13 LICENSE CLASSIFICATIONS, SCOPE AND REQUIREMENTS:**

**A.** Any person, prior to engaging in any business regulated by the Act, shall obtain a license in accordance with the Act and these regulations. Licensees shall at all times display their licenses conspicuously at their places of business.

**B.** Any person applying for a license that has been incorporated must submit a certified copy of the Articles of Incorporation at the time the application is filed with the Division.

**C.** The license of a franchise business shall be issued only in the name of the franchise owner. Any licensee doing business as a franchise shall display, conspicuously, the franchise owner's name on signs, in advertisement, and in all written materials. Also, the consumer protection bonds must be written in the franchise name. All requested trademarks must be filed with the Division and name simulates may not be used.

[14.12.2.13 NMAC - Rp, 14 NMAC 12.2.13, 9-14-00]

**14.12.2.14 MANUFACTURERS:**

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

**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 New Mexico Manufacturing Housing 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 fifteenth (15th) of the month following the shipment month.

[14.12.2.14 NMAC - Rp, 14 NMAC 12.2.14, 9-14-00]

**14.12.2.15 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 accounts and records shall be available for inspection during normal business 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.

**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 (1) licensed salesperson per location. For an individual dealer (i.e. non-corporate) the dealer's license shall meet the requirement of a salesman license for the person to whom it is issued. A dealership filing as a corporation must have at least one (1) 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 signed and approved by the purchaser.

**G.** The director of the manufactured housing division may grant a temporary display dealer license to a licensed dealership for a time period not to exceed thirty (30) days.

(1) The original consumer protection bond will cover the temporary display dealership license.

(2) The temporary display dealer's license can only be issued for a display area such as state or county fairs; shopping malls, flea markets, etc.

(3) The cost for temporary display dealer's license is twenty-five dollars (\$25.00).

(4) A letter of request and the appropriate license fee must be submitted to the division and an approval received before the home(s) can be displayed. The letter of request will include the following information how long the home will display at the designated address; the address or location home will be displayed; the names of home(s) and serial number(s).

**H.** 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.

**I.** Temporary Sales Locations: Any licensed dealership may display and offer for sale manufactured homes in a single family residential area specifically designated for manufactured home use.

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

(2) The fee for a temporary sales location shall be \$50.00 and shall be renewed every six months.

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

(4) If a dealer discharges a salesperson for any activities in violation of the MHD rules and regulations the dealer must report the discharge to the division to investigate the potential violation.

[14.12.2.15 NMAC - Rp, 14 NMAC 12.2.15, 9-14-00; A, 12-1-03; A, 7-1-05]

#### **14.12.2.16 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 accounts and records 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.
- [14.12.2.16 NMAC - Rp, 14 NMAC 12.2.16, 9-14-00; A, 12-13-02; A, 12-1-03; A, 7-1-05]

**14.12.2.17 INSTALLERS 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 modify and 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, or MHD-3.
  - (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 and to connect electrical cable to the home's approved existing receptacle and to install and repair skirting.
  - (2) MHD-2 shall permit the holder to perform all functions of an MHD-1 and to make structural repairs, alterations and modifications.
  - (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 licensee shall be extended to install gas yardlines to manufactured homes upon acquiring an appropriate endorsement from the Division. No endorsement shall be issued to any individual until he has passed with a satisfactory score an examination approved and adopted by the Division.
  - (5) The scope of an MHD-3 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 2 years in the last 10 years of verifiable experience performing electrical work on manufactured homes or related equipment. No endorsement shall be issued to any individual until he has passed with a satisfactory score an examination approved and adopted by the Division.
- D.** Structural repairs, alterations and modifications allowed by classifications MHD-2 and MHD-3 are limited to the manufactured 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.** Waiver: The Division may, upon request, waive separate licensure for any person holding a valid license in the electrical, mechanical or LP gas 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, mechanical or LP gas work on a manufactured home within the scope of such license. Any person requesting a waiver, 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.

**F.** 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.

[14.12.2.17 NMAC - Rp, 14 NMAC 12.2.17, 9-14-00; A, 3-29-02]

#### **14.12.2.18 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 ten (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.

[14.12.2.18 NMAC - Rp, 14 NMAC 12.2.18; A, 3-29-02; A, 12-1-03]

#### **14.12.2.19 TRUST ACCOUNTS:**

**A.** This section shall apply only to transactions involving pre-owned manufactured homes in which the dealer or broker has no ownership interest.

**B.** Every dealer and broker shall maintain a trust account in a banking institution authorized to conduct business in this state.

**C.** All money, funds or negotiable instruments received by the dealer or broker in a manufactured home transaction shall as soon as is practicable be deposited in the trust account and such money, funds or negotiable instruments shall remain in the trust account until the transaction is completed or otherwise terminated. Upon the completion or termination of the transaction, the dealer or broker shall account for all money, funds and negotiable instruments in accordance with these rules and shall disburse each money, funds and negotiable instruments to the parties to the transaction accordingly.



**D.** Every dealer and broker shall keep records of all money, funds and negotiable instruments received and deposited in the trust account, which records shall include, but are not limited to, the following information:

- (1) the type and amount of money, funds or negotiable instruments received and deposited and from whom they were received;
- (2) the date of deposit;
- (3) the date, amount and purpose of withdrawals;
- (4) the name of the person or persons for whose account the money, funds or negotiable instruments were deposited;
- (5) to whom the money, funds or negotiable instruments belong.

**E.** All records, accounts and funds shall be subject to inspection by the Division at the dealer's or broker's place of business and at the banking institution.

**F.** A dealer or broker shall not deposit any money, funds or negotiable instruments in the trust account other than those required by this section. Provided however, a dealer or broker may deposit a sum of money other than trust money in the trust account in order to meet the minimum balance required by the banking institution to maintain the account and avoid service charges.

[14.12.2.19 NMAC - Rp, 14 NMAC 12.2.19, 9-14-00]

#### **14.12.2.20 DEPOSITS:**

**A.** Consumer deposits for a manufactured home transaction will not be collected without a bona fide purchase agreement or buyer's order signed by both buyer and seller which shall include but is not limited to: year, model, manufacturer, serial number if unit is in stock, purchase price, required deposit and financing terms of the purchase.

**B.** Deposits will be refunded in full if financing is denied or terms of approval are significantly different from original agreement. If the buyer fails to complete his obligation for the purchase, deposits will be refunded as follows:

(1) Deposits on units in stock will be refunded in full less all actual costs incurred by the seller, such costs to be a minimum of \$150.00 and a maximum of 5% of the purchase price.

(2) Deposits on ordered units ordered for a specific purchaser will be refunded in full, less all actual costs incurred by the seller, such costs to be a maximum of 10% of the purchase price. Seller must fully disclose that the unit will be ordered.

(3) Deposits on homes requiring repairs, upgrades, modifications or changes agreed to by both buyer and seller in writing will be refunded in full less actual costs of repairs, upgrades, modifications, or changes.

**C.** The timetable for refund of deposits is:

(1) Cash deposits should be refunded within one (1) business day, but in no case, later than five (5) business days after the request for refund.

(2) Check deposits should be refunded within one (1) business day after clearing the maker's bank, but in no case, later than five (5) business days, after the refund request.

(3) Deposits other than cash or check will be refunded no later than two (2) days after the refund request.

[14.12.2.20 NMAC - Rp, 14 NMAC 12.2.20, 9-14-00; A, 8-30-02]

#### **14.12.2.21 SUPERVISION OF 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 regulations shall be prima facie proof of inadequate supervision and control.

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

**C.** Failure to comply with these regulations 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.

[14.12.2.21 NMAC - Rp, 14 NMAC 12.2.21, 9-14-00]

**14.12.2.22 PRE-OWNED MANUFACTURED HOMES:** The following regulations apply only to pre-owned manufactured homes for the purpose of resale.

**A.** For purposes of this Regulation or other laws of this state the term "habitable" as applied to manufactured housing is limited to and means that there are no known defects, damage or deterioration to the home which creates a dangerous or unsafe situation or condition. All plumbing, heating and electrical systems are in safe working order at the time of delivery.

**B.** Any home offered for resale that is not suitable for human habitation must be clearly marked, as such, with a posted sign not less than 18" x 12" with letters not smaller than one inch high. Also, all purchase agreements or contracts of sale must reflect that the consumer purchased the home "As Is - Not Suitable for Human Habitation".

[14.12.2.22 NMAC - Rp, 14 NMAC 12.2.22, 9-14-00]

**14.12.2.23 AUCTIONS:**

**A.** All pre-owned homes to be sold at an auction must meet the requirements as set forth in Section 22 of these regulations.

**B.** All homes to be auctioned will be sold through a bona fide manufactured home dealer licensed by the Manufactured Housing Division.

**C.** All homes to be auctioned must be at the auction location one working day before the auction and the Division must be notified in writing of all homes to be auctioned at least 5 days before the auction.

**D.** All documentation will be ready to transfer ownership at completion of sale.

**E.** The Division will inspect each home and documents on each home to be auctioned.

**F.** All pre-owned homes to be auctioned must have affixed a pre-owned label as referred to in section 25.15 of these regulations.

**G.** Any home not in compliance with these regulations will be posted with "Prohibited Sales Notice". Upon compliance to the regulation a fee of \$60.00 will be paid for removal of notice prohibiting the sale.

**H.** Only licensed manufactured home dealers may purchase manufactured homes at an auction.

[14.12.2.23 NMAC - Rp, 14 NMAC 12.2.23, 9-14-00; A, 12-1-03]

**14.12.2.24 LICENSING PROCEDURES:**

**A.** Application for any license required by these regulations shall be made on forms provided by the Division. Each application shall be accompanied by fees as provided by Section 14.12.2.25 NMAC.

**B.** Upon acceptance of the application by the Division, the applicant or his designated qualifying party shall take an examination. Examinations will be administered by the Division at its office in Santa Fe, New Mexico or at locations designated by the Division.

**C.** No license shall be issued until the applicant or his designated qualifying party has passed the examination, and has tendered all fees, and has posted all necessary bonds required by these regulations.

**D.** Any applicant who has not completed and filed an application for licensure within one year after notification that he has successfully passed the entry examination shall be required to retake the examination prior to issuance of a license.

**E.** If any part of an application is incomplete, the Division must give written notice to the licensee and if the application is not brought back into conformance within 30 days after written notification by the Division, the Division is hereby authorized to close the license file.

[14.12.2.24 NMAC - Rp, 14 NMAC 12.2.24, 9-14-00]

**14.12.2.25 FEES:**

**A.** Fees shall not be refunded.

**B.** Examination fee is Fifty Dollars (\$50.00).

**C.** Annual license fees:

(1) Manufacturer I: Five Hundred Dollars (\$500.00).

(2) Manufacturer II-Re-furbisher: Four Hundred Dollars (\$400.00).

(3) Dealer: Two Hundred Dollars (\$200.00).

(4) Installer and Repairman: Two Hundred Dollars (\$200.00).

(5) Salesperson: Fifty Dollars (\$50.00).

(6) Broker: Two Hundred Dollars (\$200.00).

(7) Associate Broker: Fifty Dollars (\$50.00).

**D.** Inspection or Re-inspection fee(s): Sixty Five Dollars (\$65.00).

**E.** Permits: Sixty Five Dollars (\$65.00). The permit will be for the installation, permanent foundation and utility connections.

- F.** Transfer of Salesperson's License: Twenty-five Dollars (\$25.00).
  - G.** Re-issuance of qualifying party certificate from one business to another: Twenty-five Dollars (\$25.00).
  - H.** Manufacturer II-Re-furbisher Inspection Permit: One Hundred and Twenty Dollars (\$120.00).
  - 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 two hundred dollars (\$200.00) per licensee and post with MHD an installer's or repairman's consumer protection bond, pursuant to Section 14.12.2.31 NMAC.
  - J.** Addition of a qualifying party to an existing license: Twenty-five Dollars (\$25.00).
  - K.** Bad or returned checks:
    - (1) An additional charge of \$20.00 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 (\$65.00) for each inspection. Inspections shall be paid by the installer/repairman, dealer, manufacturer or broker, as appropriate.
  - M.** Temporary Dealer's Display License: Twenty-five Dollars (\$25.00).
  - N.** Pre-owned label: Forty Dollars (\$40.00).
  - O.** Change of a licensee's name, address or license status: Twenty-five Dollars (\$25.00).
  - P.** Inspection Fee for removal of a "Prohibited Sales Notice" by the Division: Sixty Dollars (\$60.00).
  - Q.** Requested inspection: Sixty Five Dollars (\$65.00).
  - R.** Manufacturer's supervision or compliance monitoring, pursuant to an amount approved by HUD.
- [14.12.2.25 NMAC - Rp, 14 NMAC 12.2.25, 9-14-00; A, 8-11-03; A, 12-1-03]

**14.12.2.26 RENEWALS:**

- A.** Each license shall be renewed annually during its anniversary month. Renewal applications are available request from the Division.
- B.** The licensee is responsible for renewing his license.
- C.** The Division shall allow a 30-day grace period after a license has expired for a licensee to renew without penalty. The Division shall notify the licensee of the failure to renew during this grace period reported to the Division. At the conclusion of the grace period, the Division will initiate provisions of the Manufactured Housing Act.

[14.12.2.26 NMAC - Rp, 14 NMAC 12.2.26, 9-14-00]

**14.12.2.27 INACTIVE LICENSE:**

- A.** A licensee can submit a written request to the Division that this 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 of or disciplinary action against a licensee.

[14.12.2.27 NMAC - Rp, 14 NMAC 12.2.27, 9-14-00]

**14.12.2.28 BONDS:**

- A.** Consumer protection bonds or other security as approved by the division, shall not be released by the division until all claims and complaints against the licensee have finally resolved or until two (2) years after the licensee ceased doing business in New Mexico, whichever period is later; the time period provided herein shall be six (6) months for bonds or other security posted by installers and repairmen.
- B.** All liability on a consumer protection bond or other form of security allowed by the division shall be applicable to the bond or other security in effect as of the date of sale or service of the occurrence which gave rise to the liability. In the event that the total amount of claims against a consumer protection bond exceeds the aggregate total amount of any bond or other form of approved security, the division may distribute the proceeds of such bond as other approved security pro rata to the claimants.
- C.** The committee may order the division to attach and disburse a licensee's consumer protection bond subsequent to a hearing before the committee without necessarily taking action against the licensee's license.

The division may attach any licensee's consumer protection bond and indemnify a consumer for losses to the limit of the bond for damages resulting from such licensee's violation of the act or regulations or from fraud, misrepresentation, making of false promises or the refusal, failure of inability to transfer good and sufficient legal titles, as these causes are set forth and authorized in Section 60-14-6, N.M.S.A. 1978. The division, upon a finding of a violation by a licensee, may further require the licensee to increase the amount of any bond. Any increase shall be in proportion to the seriousness of the offense or to the repeat nature of the licensee's violation, but shall not exceed one hundred thousand dollars (\$100,000.00) for manufacturers, fifty thousand dollars (\$50,000.00) for dealers, and brokers, twenty-five thousand dollars (\$25,000.00) for installers and repairmen. The division may reduce any increased bond when satisfied that violations have been cured by appropriate corrective action and that the licensee is otherwise in good standing. The division director is authorized to negotiate settlements and is authorized to sign and enter into stipulated agreements with licensees.

**D.** If reimbursement to a consumer for repairs, parts or other work is requested in a complaint the committee shall determine the reasonable value of such repairs, parts or work.

**E.** If a licensee has posted more than one (1) consumer protection bond with the division, the division may, upon request from such licensee, review the performance record of the licensee and authorize the release of one (1) or more bonds. In no case shall the division authorize the release of all bonds except in accordance with Section 14.12.2.28 NMAC.

**F.** If a licensee does not conduct any business after issuance of his license and the posting of the applicable bond, the division, upon receipt of the satisfactory evidence that no business was conducted, and upon surrender of the license, may release the licensee's bond.

**G.** A corporate surety which issues a surety bond for a license may cancel the surety bond by giving sixty (60) days prior written notice to the division of such cancellation, provided, however, that no such cancellation shall be effective unless the division has approved the cancellation by appropriate signature on the notice.

**H.** The division shall give written notice to any corporate surety of any formal notice of contemplated disciplinary action served upon a licensee that is insured by that corporate surety.

**I.** Payments from a consumer protection surety bond may only be used to reimburse a consumer for actual damages incurred as a result of actions caused by a licensee. Actual damages may include, but are not limited to, repairs, parts or other work requested in a complaint, after the committee determines the reasonable value of such repairs, parts or work, and for reimbursement of deposits or down payments. The proceeds of a bond may not be used to pay punitive damages, attorneys fees or costs associated with, or attributable, to pain and suffering.

[14.12.2.28 NMAC - Rp, 14 NMAC 12.2.28, 9-14-00; A, 7-1-05]

**14.12.2.29 MANUFACTURER'S CONSUMER PROTECTION BOND:** (Required for All Manufacturer Classifications)

**A.** Each Manufacturer or Manufacturer II-Re-furbisher shall maintain consumer protection bonds with the Division equal to the number of locations or plants shipping units into New Mexico or constructing units in New Mexico. Each bond may be satisfied by a surety bond or other security in the form and in the amount prescribed by the Division within a minimum amount for each location, fifty thousand dollars (\$50,000.00) for a Manufacturer I and ten thousand dollars (\$10,000.00) for a Manufacturer II-Re-furbisher. Each surety in the form of a cash consumer protection bond shall be posted with a financial institution located in New Mexico. Out-of-state manufacturers shall submit an affidavit consenting to service of process in New Mexico in connection with all claims filed pursuant to the provisions of the Act.

**B.** Each bond shall be indemnity for any loss sustained by any consumer as a result of:

- (1) a violation by the manufacturer of any provision of the Act or of these regulations;
- (2) a violation of the manufacturer's written warranty;
- (3) fraud by the manufacturer in the execution of performance of a contract;
- (4) the misrepresentation or the making of false promises through the advertising, the agents, or the salespersons of the manufacturer;
- (5) refusal, failure or inability of the manufacturer to transfer good and sufficient legal title to the consumer.

[14.12.2.29 NMAC - Rp, 14 NMAC 12.2.29, 9-14-00]

**14.12.2.30 DEALER'S CONSUMER PROTECTION BOND:**

**A.** Each dealer shall maintain consumer protection bonds with the Division equal to the number of locations at which the dealer does business. Each bond may be satisfied by a surety bond or other security in the form and in the amount prescribed by the Division, with a minimum amount of fifty thousand dollars (\$50,000.00)

for each location. Each surety in the form of cash consumer protection bond shall be posted with a financial institution located in New Mexico. Out of state dealers shall submit an affidavit consenting to service of process in New Mexico in connection with all claims filed pursuant to the provisions of the Act.

**B.** Each bond shall be indemnity for any loss sustained by the consumer as a result of:

- (1) a violation by the dealer of any provision of the Act or of these regulations;
- (2) fraud by the dealer in the execution or in the performance of a contract;
- (3) the misrepresentation or making a false promise through the advertising, the agents, or the salespersons or the dealer;
- (4) a violation of the dealer's written warranty;
- (5) refusal, failure or inability of the dealer to transfer good and sufficient legal title to the consumer.

[14.12.2.30 NMAC - Rp, 14 NMAC 12.2.30, 9-14-00; A, 12-13-02]

**14.12.2.31 INSTALLER'S OR REPAIRMAN'S CONSUMER PROTECTION BOND:**

**A.** Each installer and each repairman shall maintain consumer protection bonds with the Division. Each bond may be satisfied by a surety bond or other security in the form and in the amount prescribed by the Division. The minimum bond amount shall be in an amount not less than Ten Thousand Dollars (10,000.00). Bonds shall be presented to the Division upon application for licensure and subsequently at each license renewal period. Each surety in the form of a cash consumer protection bond must be posted with a financial institution located in New Mexico. Out of state installers or repairmen shall submit an affidavit consenting to service of process in New Mexico in connection with all claims filed pursuant to the provisions of the Act.

**B.** Each bond shall be indemnity for any loss sustained by any consumer as a result of:

- (1) fraud by the installer or repairman in the execution of performance of a contract;
- (2) the misrepresentation or the making of a false promise by the installer or repairman, or through the advertising, or through the agents of the installer or the repairman;
- (3) a violation of the installer's or repairman's written warranty.

[14.12.2.31 NMAC - Rp, 14 NMAC 12.2.31, 9-14-00]

**14.12.2.32 BROKER'S CONSUMER PROTECTION BOND:**

**A.** Each broker shall maintain a consumer protection bond with the Division. Each bond may be satisfied by a surety bond or other security in the form and in the amount prescribed by the Division, with a minimum amount of fifty thousand dollars (\$50,000.00). Each branch office shall have an associate broker with a proper license and fifty thousand dollars (\$50,000.00) consumer protection bond. Each surety in the form of a cash consumer protection bond must be posted with a financial institution located in New Mexico. Out of state brokers shall submit an affidavit consenting to service of process in New Mexico in connection with all claims filed pursuant to the provisions of the Act.

**B.** Each bond shall be indemnity for any loss sustained by a consumer as a result of:

- (1) a violation by the broker of any provision of the Act or these regulations;
- (2) fraud by the broker in the execution or performance of a contract;
- (3) the misrepresentation or the making of a false promise by the broker or through the advertising of the broker;

[14.12.2.32 NMAC - Rp, 14 NMAC 12.2.32, 9-14-00; A, 12-13-02]

**14.12.2.33 WARRANTIES:** The following warranties shall be issued by each licensee as prescribed:

If a licensee fails to correct a violation within the prescribed warranty period and the consumer has written documentation to the licensee before the expiration of the warranty, the consumer may file a written complaint with the Division within a two year period from the start of the original warranty.

[14.12.2.33 NMAC - Rp, 14 NMAC 12.2.33, 9-14-00]

**14.12.2.34 MANUFACTURER'S WARRANTY:**

**A.** The manufacturer's warranty shall be set forth in a separate written document, which shall be delivered to the consumer and shall contain, but is not limited to, the following terms:

- (1) That the manufactured home complies with the Act and these regulations;
- (2) That the warranty shall be in effect for a period of at least one (1) year from the date of delivery to the consumer and is not restricted to the original consumer and shall carry forward to subsequent owners during the one (1) year period;
- (3) That the manufactured home is free from defects in materials and workmanship;

(4) That the manufacturer warrants all appliances and equipment installed in the manufactured home by the manufacturer to be free from defects in material and workmanship, unless the manufacturer furnishes a valid warranty from the manufacturer or dealer of the appliances and equipment warranting against any defects in materials and workmanship to the consumer for a period of at least one (1) year from date of delivery;

(5) That the manufacturer shall take appropriate corrective action, within a reasonable period of time, after the warranty violation has been communicated to the manufacturer by the Division or by the consumer;

(6) That the warranty shall contain the license number, address and telephone number of the manufacturer where notices of defects or warranty violations may be given and shall also contain the H.U.D. label number, serial number and year model of the manufactured home involved;

(7) The warranty shall not be voided as long as the installation of the manufactured home conforms to these regulations.

**B.** Each manufacturer shall warrant repair work performed under the one-year warranty. Such repair work shall be warranted for a period of at least 90 days or until the end of the original one-year warranty, whichever is later. The warranty need not be in writing.

**C.** All work performed under a Manufacturer II license must be warranted against defects in materials and workmanship for a period of at least six (6) months.

[14.12.2.34 NMAC - Rp, 14 NMAC 12.2.34, 9-14-00]

#### **14.12.2.35 DEALER'S WARRANTY: (New Homes Only)**

**A.** The dealer's warranty shall be set forth in a separate written document which shall be delivered to the consumer on or before the date of delivery of the manufactured home to the consumer and shall contain, but is not limited to, the following term:

(1) That all changes, additions, or alterations made to the manufactured home by the dealer are free from defects in materials and workmanship; and that all appliances and equipment installed by the dealer are free from defects in materials and workmanship unless the dealer furnishes a valid written warranty from the manufacturer or dealer of the appliances and equipment to the consumer warranting against any defect in materials or workmanship to the consumer for a period of time customary in the industry for a warranty for the particular appliance or equipment;

(2) That all warranties shall be in effect for a period of at least one (1) year from the date of delivery to the consumer and is not restricted to the original consumer and shall carry forward to subsequent owners during the one (1) year period;

(3) That the dealer shall take appropriate corrective action within a reasonable period of time after the warranty violation has been communicated to the dealer by the Division or by the consumer;

(4) That the warranty shall contain the license number, address and telephone number of the dealer where notice of defects or warranty violations may be given and shall also contain the H.U.D. label number, serial number and year model of the manufactured home involved.

**B.** Each dealer shall warrant repair work on changes, additions or alterations made or authorized by the dealer performed under the one-year warranty. Such repair work shall be warranted for a period of at least 90 days or until the end of the original one - year warranty, whichever is later. This warranty need not be in writing.

[14.12.2.35 NMAC - Rp, 14 NMAC 12.2.35, 9-14-00]

#### **14.12.2.36 INSTALLER'S AND REPAIRMAN'S WARRANTY:**

**A.** Installers and repairmen of manufactured homes must each provide the consumer at the time of installation or repair with a written warranty which shall contain, but is not limited to, the following terms:

(1) That all services performed by the installer or repairman have been performed in compliance with the Act and these regulations;

(2) That all labor and materials furnished by the installer for blocking and leveling the manufactured home are free from defects in materials and workmanship for ninety (90) days from the date of installations. Re-leveling required as a result of ground settling or site conditions does not fall within the scope of this warranty.

(3) That any installation or repair, appliance or accessory sold by the installer or the repairman to the consumer other than blocking and leveling are free from defects in materials and workmanship unless the installer or repairman shall provide the consumer with a valid written warranty from the maker or dealer of the materials, appliances or accessory warranting against any defect in the materials or workmanship for a period of time customary in the industry for a warranty for the particular appliance, equipment or material;

(4) That the installer or repairman shall take the appropriate corrective action within a reasonable period of time after a warranty violation has been communicated to the installer or repairman by the Division or the consumer;

(5) That the warranty shall contain the license number, address and telephone number of the installer or repairman where notice of defects and warranty violations may be given and shall also contain the H.U.D. label number, if applicable, and serial number of the manufactured home involved.

**B.** Each installer and repairman shall warrant against defects in materials or workmanship and all repair work performed by him under the warranty required in this section. Such repair work shall be warranted for a period of at least 90 days or until the end of the original warranty, whichever is later. This warranty need not be in writing.

[14.12.2.36 NMAC - Rp, 14 NMAC 12.2.36, 9-14-00]

**14.12.2.37 INSPECTIONS:** Pursuant to the Manufactured Housing Act, Division inspectors are authorized to conduct inspections, re-inspections or investigations of any section or component of a manufactured home, its installation, set-up or utility connection.

[14.12.2.37 NMAC - Rp, 14 NMAC 12.2.37, 9-14-00]

**14.12.2.38 GENERAL:**

**A.** An inspector may enter, at any reasonable time, any licensee's premises where manufactured homes are manufactured and inspect any documents and records required to be maintained under the Act and these regulations.

**B.** An inspector may enter, at any reasonable time, any licensee's premises where manufactured homes are sold, or offered for sale, and inspect any purchase agreement or sales contract pertaining to a sales transaction.

**C.** An inspector may enter any licensee's location during normal working hours to inspect new or pre-owned manufactured homes for compliance with the Act and these regulations.

**D.** An inspector shall, upon discovery of license violations or other violations which may constitute an immediate danger to the health and safety of a consumer, issue a notice of violation to the licensee describing the violation. A manufactured home, which contains violations, shall be conspicuously tagged with a "Prohibited Sales Notice".

**E.** Upon notification from the licensee that license violations or other violations in a manufactured home have been corrected, and upon inspection and verification of appropriate correction, the Division shall authorize the removal of the "Prohibited Sales Notice".

**F.** The Division may grant written approval to transfer locations of any manufactured home bearing a "Prohibited Sales Notice" upon receipt of a written request from the licensee or owner indicating the purpose of the relocation and the relocation address.

**G.** Any inspector may order or cause the immediate discontinuance of natural gas, LP gas, electrical or other service to a manufactured home determined by him to be dangerous to life or property because of any defect, faulty design, incorrect installation or other deficiency in any manufactured home or component, appliance, part or service equipment in a manufactured home, connected to a manufactured home or provided for service to the manufactured home.

(1) The inspector shall notify the homeowner or current occupant of the discontinuance of service or intention to discontinue service and shall also notify the public utility or other entity providing the service.

(2) The inspector may order the correction of any defect or incorrect installation and shall issue a notice to the owner or current occupant of the manufactured home outlining the corrections to be made in order to meet the requirements of these regulations and the H.U.D. standards.

(3) If the defects or incorrect installation are caused by a licensee of the Division, the inspector shall issue a notice to such licensee outlining the corrections to be made in order to meet the requirements of these regulations and the H.U.D. standards. The inspector shall order the licensee to make such corrections within a specified period of time. The licensee shall notify the inspector of the completion of the corrections in order that they may be inspected. The licensee shall perform any additional corrections ordered by the inspector if the inspected corrections are insufficient to correct the defects. Failure by a licensee to comply with any order of an inspector under this regulation shall be grounds for disciplinary action.

(4) The inspector shall attach a notice to the manufactured home, which shall state that the particular service to the home has been discontinued by order of the inspector and shall detail the reasons for the discontinuance.

(5) Service to the manufactured home shall not be restored until authorized by the inspector after all necessary corrections have been made.

**H.** All manufactured homes that have been re-manufactured or reconstructed must be permitted and inspected before being offered for sale. All utilities in the home must pass the tests as outlined in the Federal Manufactured Housing Construction and Safety Standards.

**I.** The Division has the right jointly with the appropriate utility company to condemn a manufactured home that is found to be a fire hazard, or which constitutes a hazard to health and safety of a person residing in the State of New Mexico.

**J.** If the Division finds a licensee or its qualifying party to be in violation of this regulation, the licensee must correct the violation at its own expense to the satisfaction of the Division.

[14.12.2.38 NMAC - Rp, 14 NMAC 12.2.38, 9-14-00]

**14.12.2.39 REQUESTED INSPECTIONS:** A request for inspection, of a manufactured home, may be made by HUD or by an SAA, any licensee, financial institution or manufactured home homeowner, in which they have a substantial interest.

[14.12.2.39 NMAC - Rp, 14 NMAC 12.2.39, 9-14-00]

**14.12.2.40 INSTALLATION INSPECTIONS:**

**A.** The division shall inspect each installation of a manufactured home.

**B.** The division shall issue a notice of violation whenever a manufactured home contains a violation of the installation requirements pursuant to regulations. The notice shall include a description of each violation.

**C.** Upon correction of any violation a re-inspection of the manufactured home shall be requested.

**D.** Upon receipt of an inspection request, the division shall inspect the manufactured home and shall post notice of any continuing violation.

**E.** Mechanical, electrical and general construction contractors licensed with the construction industries division and who perform work on manufactured homes are not required to hold a license with the manufactured housing division. However, they must be registered with the manufactured housing division. The registration form shall show the name of the license holder, business address, mailing address, type of license issued by the construction industries division, expiration date of license, and the name of the qualifying party. Registrants must pay any required fee and must post a consumer protection bond with the division.

**F.** All materials used in the installation of all manufactured homes shall be listed materials or have prior written approval of the division.

[14.12.2.40 NMAC - Rp, 14 NMAC 12.2.40, 9-14-00; A, 7-1-05]

**14.12.2.41 INSPECTION PERMITS:**

**A.** No manufactured home shall be installed in New Mexico unless the installer, or homeowner, if authorized, has obtained an installation and/or permanent foundation inspection permit(s) from the division.

**B.** Installation inspection permits shall include the name and license number of each licensee performing installation work and the consumer's name and address. When the consumer's address is a post office box or rural route, a map showing the current location shall be included. Unlicensed homeowners performing work on their own principal residential property must perform all the work themselves, or must employ or contract division approved licensees, to perform said work. The unlicensed homeowner shall execute a document, prepared by the division, acknowledging their understanding and expertise, pursuant to federal and New Mexico installation rules, regulations, standards, including the manufacturer's installation and site engineering requirements; and, shall assume all legal liability for any work performed, or under the supervision or contract of said homeowner. The unlicensed homeowner shall assume all responsible for compliance with all local and state requirements, codes and inspection requirements.

**C.** Installation inspection permits shall be returned to the division in accordance with the instructions on the permit. Upon final inspection, inspectors shall certify on the permit, or upon any inspection report, that the manufactured home meets the minimum standards for use and occupancy provided for by the act and these regulations.

**D.** Permits are valid one hundred eighty (180) days from the date of issuance. A time extension may be granted by the division for delay occasioned by weather conditions or with inspections involving a home that is being re-manufactured or installed on a permanent foundation.

**E.** An installation permit must be issued with each new or pre-owned manufactured home to be installed in the state of New Mexico. The issued permit shall be utilized by the person who installs the home.



**F.** Upon a written request the division may issue a \$15.00 permit for any alteration, modification or repair of a manufactured home or any component part of a manufactured home except warranty work, which is performed under a previous permit and installation.

**G.** Any system or structural modification work done under the manufacturer II license must be permitted and inspected.

**H.** If a manufactured home installation is made without a permit, the homeowner, dealer or installer will be subject to a fine of a double permit fee.

**I.** The division may assess a re-inspection fee against any person found to be in violation of this regulation.

**J.** Upon a written request the division may issue a \$15.00 permit for an existing installation when the home is converting from LP Gas to natural gas or natural gas to LP gas.

**K.** Where a licensed installer does not perform the gas pressure test on a manufactured home the installer shall leave the original installation permit taped to the furnace door. (This applies only to natural gas homes.)

[14.12.2.41 NMAC - Rp, 14 NMAC 12.2.41, 9-14-00; A, 7-1-05]

#### **14.12.2.42 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, N.M.S.A. 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 thirty (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 thirty (30) days of such determination. The consumer shall make himself available during reasonable business hours within the prescribed thirty (30) days.

(1) The Division shall contact the licensee by mail and request correction of the violations within forty (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 forty (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) the determination; (b) who made the determination; and (c) how the determination was made.

(3) Where it is determined that there is cause for the complaint, the Division shall attempt to achieve a satisfactory resolution of the complaint through correspondence or informal conference.

(4) If it is determined 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/or correction plan to the Director of the Manufactured Housing Division within twenty (20) days of receipt of the letter and as required under Subpart I of the Federal Regulations. If, within twenty (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 sixty (60) days to notify and correct and an additional thirty (30) days to submit closeout reports of all action taken by the manufacturer in the case.

**C.** If the complaint is not completely resolved by the foregoing method, the Division 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.** The Division will charge a re-inspection fee of Forty-Five Dollars (\$45.00) 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 not accepted by the Division, no fee will be charged. The fee shall be charged to the dealer, manufacturer, installer/repairman, or broker as appropriate.

[14.12.2.42 NMAC - Rp, 14 NMAC 12.2.42, 9-14-00]

**14.12.2.43      **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.

[14.12.2.43 NMAC - Rp, 14 NMAC 12.2.43, 9-14-00; A, 12-1-03]

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

[14.12.2.44 NMAC - Rp, 14 NMAC 12.2.44, 9-14-00]

**14.12.2.45      **UTILITY CONNECTIONS:****

**A.** No utility supplier shall have a connection from a supply of electricity, water, liquefied petroleum gas, natural gas or sewer without first obtaining a permit for installation from the Division.

**B.** No utilities shall be connected until the home is properly installed upon a permanent foundation, or a non-permanent foundation.

**C.** The Manufactured Housing Division will honor and recognize the following licensee classifications issued by the Construction Industries Division and may upon approval by the Director of Manufactured Housing Division perform work on or in manufactured homes commensurate with their CID license classification: EE-1 - Residential Wiring; MM-1 Plumbing; MM-2 Natural Gas Fitting; MS-1 - Residential Plumbing; MS-2 - Residential Natural Gas Fitting; LP-6 - Installation Service and Repair of Mobile Units, GB-2 - Residential Construction; and all licensed journeyman.

[14.12.2.45 NMAC - Rp, 14 NMAC 12.2.45, 9-14-00]

**14.12.2.46      **GAS CONNECTIONS:**** Any installation or repair of liquefied petroleum gas piping, or appliances in a manufactured home shall be performed by a person licensed by the liquefied petroleum gas bureau of the construction industries division of the regulation and licensing department, and shall be performed in accordance with the regulations of the LPG bureau.

**A.** No riser, inlet or gas connection or inlet gas connection shall be located beneath any manufactured home or any exit. No manufactured home shall be installed over a gas yardline.

**B.** The gas inlet on the manufactured home shall protrude no more than six (6) inches from the manufactured home. The inlet shall be rigidly anchored or strapped to a structural member within six (6) inches of the point where it enters beneath the manufactured home.

[14.12.2.46 NMAC - Rp, 14 NMAC 12.2.45.2, 9-14-00; A, 7-1-05]

**14.12.2.47      **EXTERIOR GAS PIPING:**** All gas piping beneath a manufactured home shall be adequately supported by galvanized, or equivalently protective metal straps or hangers at least every four (4) feet, except, where adequate support and protection is provided by structural members.

**A.** Gas shut-off valves shall not be placed beneath a manufactured home.

**B.** Any extensions or alterations made to the gas piping system for the purpose of establishing the supply inlet for connection to the riser may not reduce or restrict the gas piping size from that of the original inlet.

**C.** There shall be only one point of crossover between the sections of a multi-wide manufactured home which must be readily accessible from the outside.

**D.** The connector used for the crossover on multi-wide manufactured homes when gas is supplied to more than one (1) section, must be made by a listed "Quick Disconnect" device, which shall be designed to provide a positive seal of the supply side of the gas system when such device is separated.

**E.** The crossover connection shall be of the same size as the piping with which it directly connects.

**F.** When the gas riser is located on the opposite side of the manufactured home from the supply inlet, the gas piping may be run under the home in compliance with Section 47 of these regulations.

**G.** All exterior openings shall be sealed to resist the entrance of rodents.  
[14.12.2.47 NMAC - Rp, 14 NMAC 12.2.45.2.1.1.3, 9-14-00]

**14.12.2.48 INTERIOR GAS PIPING:** Each gas-fired appliance must have a listed shut-off valve located within three (3) feet of the appliance and located in the same room as the gas appliance. Appliance connectors shall not exceed three (3) feet in length, except for range connectors, which shall not exceed six (6) feet in length.  
[14.12.2.48 NMAC - Rp, 14 NMAC 12.2.45.2.1.1.4, 9-14-00]

**14.12.2.49 BOND OF GAS PIPING:**

**A.** Gas piping shall not be used as an electrical ground.  
**B.** Gas piping shall be bonded. Metallic gas piping shall be considered bonded if it is connected to the terminal on the chassis of the manufactured home by clamps, solderless connectors or by suitable ground-type straps.  
[14.12.2.49 NMAC - Rp, 14 NMAC 12.2.45.2.1.1.5, 9-14-00]

**14.12.2.50 PRESSURE TESTS:**

**A.** Before the gas supply may be turned on, each manufactured home must pass a pressure test at the installation site.  
**B.** Before appliances are connected, the piping shall withstand a pressure test of at least six (6) inches mercury or three (3) PSI Gauge for a period of not less than ten (10) minutes without showing a drop in pressure. Pressure shall be measured with a mercury manometer, slope gauge or equivalent device calibrated to read in increments of not greater than 1/10 pound. The source of normal operating pressure shall be isolated before pressure tests are made. The temperature of the ambient air on the piping must remain constant throughout the test.  
**C.** After the appliances are connected, the piping system must be pressurized to not less than the pressure the supplier furnishes to the manufactured home's piping. All appliance connections shall be checked for leakage.  
[14.12.2.50 NMAC - Rp, 14 NMAC 12.2.45.2.1.1.6, 9-14-00]

**14.12.2.51 RESTRICTIONS:**

**A.** Gas installations shall be performed only by licensed installers (MHD-3), or a natural gas fitter (MM-2), or a residential gas fitter (MS-2) or their qualified journeyman.  
**B.** Any gas installer who signs the certification is responsible for checking the gas system and appliances to insure compliance with any applicable regulations.  
**C.** All materials used for the installation, extension, alteration or repair of any gas piping system shall be new and free from defects or internal obstruction. Inferior or defective materials shall be removed and replaced with acceptable materials.  
[14.12.2.51 NMAC - Rp, 14 NMAC 12.2.45.2.1.1.7, 9-14-00]

**14.12.2.52 MANUFACTURED HOME CONNECTED TO NATURAL GAS:**

**A.** The gas riser shall be located within twenty-four (24) inches of the manufactured home.  
**B.** The size of the gas connections shall not be less than three-quarters (3/4) inch I.D. standard iron pipe size; or the connector shall be the same size as the inlet.  
**C.** The main gas connection shall be doped and shall be an approved flexible-type connection. Approved connectors are:  
**(1)** Flex connectors: The maximum length for flex connectors is thirty-six (36) inches. A list of approved flex connectors is maintained by the Division.  
**(2)** Black or galvanized malleable iron pipe and fittings may be used to construct a double- swing joint. This connection requires the use of elbows, unions and nipples constructed in such a manner as to allow the connection to give without breaking in all of the three (3) dimensions that a shifting unit might move. No elbows that are used in the double- swing joint shall be beneath the manufactured home.  
**(3)** All fittings and nipples except unions used in the gas piping system of a manufactured home must have tapered threads.  
**D.** Any copper tubing used for natural gas must be annealed type grade K or L, internally tinned.  
**E.** Gas shut off valves shall be installed on each natural gas riser at a height at not less than four (4) inches above grade. The shut-off valve shall be located between the on-site utility terminal and the outside flexible connector of the manufactured home.

**F.** Ratings of gas appliances are based on sea level operations. Appliance ratings shall be reduced at the rate of four percent (4%) for every one thousand (1,000) feet above sea level for appliances above two thousand (2,000) feet.

[14.12.2.52 NMAC - Rp, 14 NMAC 12.2.45.2.1.2, 9-14-00]

**14.12.2.53 ELECTRIC CONNECTIONS:**

**A.** General Requirements:

(1) All manufactured homes shall be connected to the electrical power by means of a four (4) wire connection, with the fourth (4th) (green) wire acting as an equipment ground, grounding the home to the service pole or pedestal.

(2) No electrical power connection shall be spliced unless the splice is protected in an approved weather-tight raceway.

(3) Aluminum wire may be used in the state of New Mexico in size #2 or larger.

(a) Aluminum wire shall not be directly connected to copper wire without the use of an approved disconnect device.

(b) Metallic gas, water, waste pipes, and air-circulating ducts on a manufactured home shall be bonded. They will be considered bonded if they are attached to the terminal on the chassis by clamps, solderless connectors, or by suitable grounding type straps.

(c) All electrical wiring installed to an evaporative cooler must be installed in a protective conduit and the cooler must be installed in accordance to the manufacturer's listed instructions.

(d) All electrical wiring installed to any air conditioning unit must be installed in accordance to the air conditioners manufacturer's listed instructions.

(4) The manufacturer's electrical installation instructions must be followed on all new homes installed in the state of New Mexico.

**B.** Power Cords:

(1) If the manufactured home is rated less than one hundred (100) AMPS and does not use an underground electrical supply, a listed power cord of the proper sizing may be installed pursuant to the manufacturer's installation manual or the national electric code (NEC).

(2) Only one (1) power cord may be connected to a manufactured home.

(3) The power cord must be a single continuous length and shall not exceed either the length requirements of the (NEC) or the rated ampacity, including voltage drop.

(4) When a power cord is used, it shall be protected at the connection by an over-load device sized pursuant to the NEC and the ampere rating of the cord.

(5) The power supply to the manufactured home shall be a feeder assembly consisting of not more than one manufactured home power-supply cord with integral molded cap.

(6) If the manufactured home has a power-supply cord, it shall be permanently attached to the distribution panelboard or to a junction box permanently connected to the distribution panelboard, with the free end terminating in an attachment plug cap.

(7) A listed clamp or the equivalent shall be provided at the distribution panelboard knock out to afford strain relief for the cord to prevent strain from being transmitted to the terminals when the power-supply cord is handled in its intended manner.

(8) The cord shall be of an approved type with four conductors, one of which shall be identified by a continuous green color or a continuous green color with one or more yellow stripes for use as the grounding conductor.

(9) Length of Supply Cord: The overall length of a power-supply cord, measured from the end of the cord, including bared leads, to the face of the attachment- plug cap shall not be less than 21 feet and shall not exceed 36 ½ feet.

(10) The power-supply cord shall bear the following marking: "For use with manufactured homes."

(11) The point of entrance of the feeder assembly to the manufactured home shall be in the exterior wall, floor, or roof, in the rear third section of the manufactured home.

(12) Where the cord passes through walls or floors, it shall be protected by means of conduit and bushings. The cord may be installed within the manufactured home walls, provided a continuous raceway is installed from the branch- circuit panelboard to the underside of the manufactured home floor. The raceway may be rigid conduit, electrical metallic tubing or polyethylene (PE), polyvinylchloride (PVC) or acrylonitrile-butadiene-styrene (ABS) plastic tubing having a minimum schedule forty.

**C.** Underground Electrical Supply:

(1) Manufactured homes which are rated at one hundred (100) AMPS and over, and which use an underground electrical supply, must be connected by a permanently installed feeder circuit.

(2) All underground feeder assemblies shall meet the requirements set forth in the edition of the national electrical code currently in effect pursuant to the Construction Industries Licensing Act, and must comply with manufacturers installation manual.

**D. Overhead Electrical Feeder:**

(1) A manufactured home may have an overhead feeder installed provided it meets the following requirements.

(2) The mast weatherhead must be installed in accordance with the instructions provided by the manufacturer and must be located on the load bearing exterior wall.

**E. Overhead Electrical Supply:**

(1) Overhead electrical supply may only be made to a manufactured home that is installed on an approved permanent foundation and pursuant to Section 14.12.2.57 NMAC.

(2) The mast weatherhead must be installed in accordance with the instructions provided by the manufacturer and the NEC, and must be located on the load bearing exterior wall.

**F.** All connections must be installed in accordance with the service requirements of the national electrical code, NFPA No. 70 as set forth in the edition of the national electrical code currently in effect pursuant to the Construction Industries Licensing Act.

[14.12.2.53 NMAC - Rp, 14 NMAC 12.2.46; A, 3-29-02; A, 7-1-05]

**14.12.2.54 WATER CONNECTIONS:**

**A. General Requirements:**

(1) All exterior openings shall be sealed to resist the entrance of rodents.

(2) All piping and fixtures provided by the installer, subject to freezing temperatures, shall be insulated or protected to prevent freezing.

(3) If a heat tape is used, it must be U.L. listed.

**B. Water Connections:**

(1) Piping must be of standard weight brass, galvanized wrought iron, approved CPCV, galvanized steel, grade K, L or M copper tubing or other listed materials.

(2) The size of piping shall not be less than one-half (½) inch I.D. tubing as listed in these regulations.

[14.12.2.54 NMAC - Rp, 14 NMAC 12.2.47, 9-14-00]

**14.12.2.55 DRAINAGE CONNECTIONS (Utility):**

**A. General Requirements:**

(1) All exterior openings shall be sealed to resist the entrance of rodents.

(2) All joints, connections, devices and piping in the system, downstream of traps and vents, shall be made gas-tight.

**B. Materials:**

(1) Sewer hookups shall be made with cast iron pipe, or minimum scheduled forty (40) ABS OR PVC plastic pipe, or listed material.

(2) The ABS black and PVC white may be mixed provided that a listed bonding glue is used.

(3) Plastic pipe and fittings shall be joined with a listed bonding glue which shall insure a positive seal at all joints.

(4) Ninety (90) degree elbows used in making the drainage line connection shall be medium or long sweep elbows.

**C. Connection to Yardline:**

(1) The drainage line shall be a minimum three (3) inch I.D. pipe.

(2) All piping must be supported at least every four (4) feet by adequate anchored galvanized, or listed protected metal straps or hangers, or by blocks.

(3) The line must have a slope of at least one-quarter (1/4) inch drop per one (1) foot of horizontal run.

(4) All installations must have at least one (1) accessible clean out.

(5) Any bend in the line of one hundred eighty degrees (180) or more shall have a clean-out.

[14.12.2.55 NMAC - Rp, 14 NMAC 12.2.48, 9-14-00]

**14.12.2.56 NON-PERMANENT FOUNDATIONS:**

**A.** No political subdivision of the State shall regulate the installations or construction standards of a manufactured home, including the foundation systems.

**B.** Perimeter Enclosures:

(1) All materials to be used for a perimeter enclosure must have prior approval by the Division.

(2) Material shall be installed in accordance with the material manufacturer's recommended installation instructions or in accordance with the minimum standards adopted by the Division.

(3) The manufactured home's perimeter enclosure must be self-venting, and no flammable objects may be stored under the manufactured home.

(4) An access or inspection panel shall be installed in the perimeter enclosure and shall be located so that utilities and blocking may be inspected.

(5) All vents and openings shall be installed to prevent entry of rodents and direct rainfall not to exceed ¼ inch mesh.

(6) All perimeter enclosures in excess of thirty (30") in heights must be supported vertically at least every four (4) feet or installed according to the enclosure material manufacturer's specifications.

**C.** ANCHORING: When the manufacturer has issued required instructions for anchoring, the Manufacturer's instructions shall be followed.

**D.** NEW HOMES: The manufacturer's installation manual shall be followed for all new homes installed within the State of New Mexico. The person(s) performing the work to install a new home shall be responsible to insure that all necessary installation permits have been obtained by the homeowner, customer or installer, to be determined in writing prior to the delivery of subject home.

**E.** USED, PRE-OWNED AND REALES: The person(s) performing the work to install a used, preowned or resold manufactured home shall be responsible for: a) all installation permits; b) calling for inspections; and c) compliance with all locally adopted zoning, planning and floodplain ordinances and d) compliance with all minimum soil compaction criteria, slope and drainage requirements. The person(s) performing the work shall be responsible only for the work they perform. When available all units shall be installed in accordance with the manufacturer's installation manual. Requirements when the Manufacturer's Installation Manual is not available:

(1) Blocking: All piers and footings shall be installed in such a manner that the manufactured home shall be leveled.

(2) All marriage joints in multi-wide homes shall be installed to prevent air infiltration.

(3) All roofs and floor marriage joints shall be lag bolted no more than four (4') feet apart. Beam support blocking must be provided.

**F.** Materials:

(1) Standard eight inch by eight inch by sixteen inch (8"X8"X16") hollow, concrete or Concrete Masonry Unit (CMU), or other listed material may be used for block pier construction.

(2) Standard eight inch by four inch by sixteen inch (8"X4"X16") solid concrete or cinder blocks or other listed materials may be used for pier, top cap and footing construction.

**G.** Footings:

(1) Each pier shall have a footing beneath it of solid concrete or CMU or other listed material with a minimum sixteen inch by sixteen inch (16"X16") ground bearing surface four (4") inches thick.

(2) Two (2) eight inch by four inch by sixteen inch (8"X4"X16") solid blocks may be used for a footing provided they are placed together with seam between the two blocks running parallel with the frame of the manufactured home.

(3) Any concrete ribbon footings installed by the licensee shall be a minimum of six (6") inches thick by sixteen (16") inches wide and centered as closely as possible to the center of the frame members.

(4) Other listed materials which provide equivalent load bearing capacity and resistance to decay may be used, when they receive prior approval by the division.

**H.** Spacing:

(1) The maximum distance allowed between piers is eight (8') feet on center.

(2) Piers shall be placed within three (3') feet from each end of the manufactured home.

(3) Exceptions: If the wheel space of the manufactured home does not permit eight (8') foot blocking, additional support shall be provided at both ends of the wheel space.

**I.** Concrete Masonry Unit (CMU) Piers, Top Caps and Shims:

(1) CMU piers shall be positioned perpendicular to the frame of the manufactured home.

(2) Each CMU pier must have a minimum four (4") inch solid top cap or two (2") inch nominal wood cap which has the same perimeter dimension as the pier.

(3) A maximum of four and one-half (4-1/2") inches of wood are allowed on top of each CMU pier. Each layer of shims shall be driven from the opposite direction as the shim below it. Concrete Masonry Unit's (CMU) Pier Heights: When the footings, CMU piers and wood exceed forty-one (41") inches in height, the CMU piers must be constructed of double tiers of interlocking blocks. When the footings, CMU piers and wood exceed forty-eight (48") inches in height, the interlocking blocks shall be filled with concrete and reinforced with four (4) three-eighths (3/8") inch rebar. When the footings, CMU piers and wood exceed sixty (60") inches in height, the pier construction must be designed by a New Mexico licensed professional engineer and submitted to the Division for approval.

**J. Pre-Fabricated Piers:**

- (1) All piers shall be approved by the Division prior to installation.
- (2) The spacing of piers shall be the same as for block piers.
- (3) One (1) listed, treated, sixteen inch by sixteen inch (16"X16") pad may be used with each pier as a footing.
- (4) The maximum height that a pier jack extension shall be raised is two (2") inches.
- (5) The maximum height for piers, including the footing and jack extension, is thirty-four (34") inches.
- (6) The flanges on the top of the jack extension shall be alternated.

**K. Other Piers:** All other piers shall be pre-approved by the division prior to their use or installation.

**L. Multi-wide homes** shall be supported within two (2) feet of each end and ten (10') feet on center (O.C), and or on each end of any opening exceeding four (4') feet along the marriage line.  
[14.12.2.56 NMAC - Rp, 14 NMAC 12.2.49, 9-14-00]

**14.12.2.57 PERMANENT FOUNDATION SYSTEM:**

**A.** These standards are minimum state requirements and they are applicable to new and used home installations, unless expressly specified otherwise. The division may approve other permanent foundations when the manufacturer's installation manual does not make a provision for permanent foundations or is not available. Two sets of drawings submitted by a New Mexico licensed engineer or a HUD approved D.A.P.I.A engineer may be submitted to the division for review, and subsequent denial or approval along with a certificate that the engineer has contacted the home's manufacturer. No political subdivision of the state shall regulate the installations or construction standards, of a manufactured home, including foundation systems.

**B. Perimeter enclosure.**

- (1) All materials used for a perimeter enclosure must be approved by the division.
- (2) Materials shall be installed in accordance with the manufacturer's recommended installation instructions or in accordance with the minimum standards accepted by the division.
- (3) The manufactured home's perimeter enclosure must be self-ventilating, and no flammable objects may be stored under the manufactured home.
- (4) An access or inspection panel shall be installed in the perimeter enclosure and shall be located so that utilities and blocking may be inspected.
- (5) All vents and openings shall be installed to prevent entry of rodents and direct rainfall not to exceed ¼ inch mesh.
- (6) All perimeter enclosures in excess of thirty inches (30") in height must be supported vertically at least every four (4') feet or installed according to the enclosure manufacturer's specifications.

**C. New home installations:** The manufacturer's installation manual shall be followed for all new homes installed within the state of New Mexico. The person(s) performing the work to install a new home shall be responsible to insure that all necessary installation permits have been obtained by the homeowner, customer or installer, to be determined in writing prior to the delivery of subject home. Compliance with permanent foundation criteria, site work 14.12.2.60 NMAC, planning, and zoning, slope and drainage requirements is the sole and separate responsibility of the persons, companies or contractors performing such work.

**D. Installation of used, pre-owned or resold manufactured homes:** The installer of a used, pre-owned or resold manufactured home shall be responsible to insure that all necessary installation permits have been obtained by the customer, retailer and or installer to be determined in writing prior to delivery of subject home. Compliance with permanent foundation criteria, site work 14.12.2.60 NMAC, planning, and zoning, slope and drainage requirements is the sole and separate responsibility of the persons, companies or contractors performing such work. The manufacturer's manual shall be kept with the subject home at all times. The installer shall use the manufacturer's installation instructions and installation manual when available.

**E.** Re-installed unit's: The following regulations shall apply to all homes being re-installed where no manufacturer's installation manual is provided.

(1) The lowest point of the frame shall be a minimum of eighteen (18") inches above the ground level under the manufactured home (also see Section 14.12.2.56 NMAC).

(2) The slope around the manufactured home shall provide for the control and drainage of surface water and shall be sufficient to prevent the collection of water under the home or around the perimeter of the home (see site requirements, Section 14.12.2.60 NMAC).

(3) In lieu of an engineered soil report, the soil conditions (relative to the placement of the foundation) at the installation site shall be tested by the installer prior to installing the foundation and shall be an average of at least 1000 psf with no more than 25% variability between readings. The installer shall list the psf measurement on the permanent foundation permit. Testing and recording shall be conducted as follows:

- (a) test an area adjacent to, or within 10 feet of, the perimeter of the home;
- (b) dig down to undisturbed soil a minimum of four (4) inches; uncover an area of at least one square foot;
- (c) using a penetrometer take at least seven readings;
- (d) take an average of the middle five readings disregarding the highest and lowest readings; round the average down to the nearest soil bearing value;
- (e) installers shall then record the psf measurement on the permanent foundation permit; and
- (f) drive a wooden stake beside the test area so that the inspector will be able to verify the results should the inspector desire to do so.

**F.** A minimum thirty-two inch by thirty-two inch (32"X32") access or inspection panel shall be installed a minimum of three (3") inches above grade and located to allow inspection at any time. The cover on the exterior access inspection panel must be constructed to exclude entry of vermin and water.

**G.** Footings and Piers:

(1) The manufactured home shall be installed on ribbon footings set on the undisturbed ground not less than five and one-half (5 1/2") inches in thickness and sixteen (16") inches in width with two (2) pieces of continuous three-eighth (3/8") inch rebar or a number 10 gauge re-mesh wire installed in the footing. All footings shall be constructed of a minimum of three thousand (3000) pound concrete. All above grade footings shall be constructed with forms (wood, fiberboard, metal, plastic), used to contain poured concrete while in a plastic state. These forms must be firmly braced to withstand side pressure or settlement and to maintain design dimensions. Finished concrete surface(s) shall be smooth and level to fully accept and support pier installation(s). Forms may be removed upon sufficient hardening of concrete. The home may be placed whenever concrete is properly cured, minimum of seven (7) days.

(2) Piers shall be constructed in accordance with Section 14.12.2.56 NMAC of these regulations.

(3) The steel frame must be attached to the footing supporting the structure by means of a listed anchoring device at least every twelve (12) feet at a minimum and at least two (2) feet from each end wall.

**H.** Ventilation:

(1) All manufactured homes shall have one (1) square foot of unrestricted venting area for every one hundred-fifty (150) square feet of enclosed floor space. Vents shall be uniformly distributed on the two (2) opposite long- walls. At least one vent shall be located within four (4) feet of each end-wall.

(2) Vents shall be constructed and installed to exclude entry of vermin and water.

**I.** Alternative permanent foundation systems:

(1) Other types of permanent foundation systems designed for the purpose of classifying an installation as a permanent foundation shall be submitted on an individual basis. These require submittal of installation instructions, calculations and design layouts. All submissions shall be stamped by a New Mexico licensed engineer, and each application shall be region specific. Commercially packaged systems must submit their complete installation and design package to be kept on file with the division. It shall be the responsibility of the system proprietor to submit any updates or alterations of the system.

(2) Any installation of an alternative foundation system on a new home or any home within two years of original purchase must be installed based upon the manufacturer's written approval or be included in the manufacturer's installation manual.

[14.12.2.57 NMAC - Rp, 14 NMAC 12.2.50, 9-14-00; A, 12-1-03; A, 7-1-05; A, 02-21-07]

#### **14.12.2.58 RETAINING WALL (New or Used; Pre-owned or Resold):**

**A.** A retaining wall shall consist of a reinforced concrete footing and a masonry stem wall or other division approved material. Designs for retaining walls shall meet division approval and shall be submitted to the



division in advance. Two sets of drawings stamped by a New Mexico licensed engineer shall be submitted to the Division for review, denial or approval.

**B.** The retaining wall shall not be used as support for the outer edge of the manufactured home, unless called for by the manufacturer's installation instructions.

**C.** Retaining walls shall be constructed pursuant to the 1997 edition of the Uniform Building Code. [14.12.2.58 NMAC - Rp, 14 NMAC 12.2.51, 9-14-00]

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

**A.** All installations of manufactured homes must comply with these Regulations [14.12.2 NMAC] and all locally adopted zoning and planning requirements.

**B.** Every dealer prior to delivery of a manufactured home sold, shall have acknowledged by the consumer a document advising the consumer to check with the local governing body in the locality of the site where the home will be installed to determine installation requirements in flood zone areas.

[14.12.2.59 NMAC - Rp, 14 NMAC 12.2.52, 9-14-00]

**14.12.2.60 SITE WORK:**

**A.** Sections 60A through 60E apply to person(s) performing the work to install homes on a site. Sections 60B through 60D apply to the general requirements for sites.

**B.** The person or persons performing the work to install a manufactured home, new, used, pre-owned or resold, shall review the intended installation site and determine that the site is suitable for the home and that the installation will comply with all local and state requirements prior to the installation. All manufactured home sites designed for either a non-permanent foundation or for a permanent foundation will comply with the following minimum standards:

(1) Sites shall have acceptable soils to withstand the stresses and load bearing elements of the manufactured home to be placed upon the site.

(2) New units shall comply with the soils criteria delineated by the manufacturer in the manufacturer's installation manual.

**C.** Sites shall be prepared in such a manner as to comply with all locally adopted zoning, planning and floodplain requirements. This standard applies to new and used, pre-owned or resold homes.

**D.** Permanent foundation sites shall be prepared in such a manner that positive drainage of surface water is maintained and directed away from the manufactured home and adjacent improvements. The perimeter completely around the manufactured home shall be sloped to provide positive drainage away from the home and prevent moisture accumulation under the home, unless the manufacturer's installation instructions or the local requirements for slope and drainage applies. Slope shall be 1% to the property line or for 20 feet.

**E.** Every manufactured home prior to installation shall have a site plan review approved by the local, county, municipal authority or state authority, if any; and, when required, shall illustrate the placement of the home on the site, the location of property lines, the zoning classification of the site, the location, type and specifications of the septic system, water utility, electrical utility and service, and the gas utility source and size, if utilized.

[14.12.2.60 NMAC - Rp, 14 NMAC 12.2.53, 9-14-00]

**14.12.2.61 INSTALLATION OF FIREPLACES AND SOLID FUEL-BURNING STOVES:** All solid fuel-burning factory-built fireplaces and stoves must be installed according to the manufacturer's installation instructions for use in a manufactured home and in compliance with Section 3280.709 of the H.U.D. Manufactured Housing Construction and Safety Standards. The H.U.D. standards control in the case of inconsistencies. Each installation shall be permitted and inspected.

[14.12.2.61 NMAC - Rp, 14 NMAC 12.2.54, 9-14-00]

**14.12.2.62 INSPECTION OF PUBLIC RECORDS:**

**A.** Requests for inspection of division and committee records are governed by the Inspection of Public Records Act (NMSA 1978, Section 14-2-1 and following).

**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 state the name, address, and telephone number of the person requesting the records and shall identify the records 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 this rule and shall provide reasonable facilities to make or furnish copies of public records to persons requesting them, during regular business hours.

**D.** Within three business days after the custodian of public records receives a written request for inspection of public records, he or she shall inform the requesting party in writing when the request will be acted on, if it is not acted on within the three day period. The custodian shall either make the requested records available to the requesting party, or shall state why the requested records (or some of them) will not be made available, within fifteen calendar days of the division's receipt of a request, except as provided in Subsection E of 14.12.2.62 NMAC of this rule.

**E.** If the custodian determines that a written request for records is excessively burdensome or broad, the custodian may take a reasonable additional period of time or make the requested records available or explain why the requested records (or some of them) will not be made available and, within fifteen days of the division's receipt of the request, shall provide the requesting party with written notification that an additional period of time will be needed to respond to the request.

**F.** Where the number of pages of public records provided in response to a request is fewer than 25 pages, no charge will be assessed for the division making copies for requesting party. Where the number of pages of public records provided in response to a request is 25 pages or more, the custodian shall charge a reasonable copying fee per page of \$.20 per page and, at the custodian's discretion, may require such payment to be received before copies are made.

**G.** Nothing in this rule prevents a member of the public from making an oral request for public records and the custodian or other official or employee of the division or the committee either providing public records that have been requested orally (after determining that the requested records are public), or require the request to be put in written form.

[14.12.2.62 NMAC - Rp, 14 NMAC 12.2.55, 9-14-00; A, 7-1-05]

#### **14.12.2.63 CONSUMER PROTECTION BOND PROCEDURES:**

**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 the Manufactured Housing Act, NMSA 1978, § 60-14-6, may file with the Division a written complaint which states the name and address of the bondholder whose bond has been claimed against and includes a concise statement of the cause of the alleged injury. If it is determined by the Division that the complaint is insufficient or defective, the complainant shall be promptly notified and may be permitted to amend the complaint, in the sole discretion of the Division.

**B.** Upon receipt of a written complaint, the Division shall investigate, by telephone or by in person contact, within thirty (30) days of receipt of the complaint to determine whether cause exists to investigate further. If such cause exists, an on-site inspection may be made within thirty (30) days of such determination. The on-site inspection is not mandatory. The complainant should be available to the investigator during reasonable business hours during the investigation period.

**C.** The Division shall give written notice to the bondholder within ten (10) days of receipt of the complaint. The notice shall request correction of the violations within forty (40) days of the Division's 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-conformance to the Federal Standards.

**D.** Any notice or decision required pursuant to this regulation, may be served either personally or by regular, or certified mail, return receipt requested, directed to the bondholder's last known address as shown by the records of the Division. If the notice or decision is served personally, service shall be made in the same manner as is provided in the Rules of Civil Procedure for the New Mexico District Courts. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date shown on the return receipt showing delivery, or on the date of the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery of the notice or decision.

**E.** If it is determined that there is no cause for the complaint, the complaint shall be dismissed. The Division shall retain all information on which the decision was based in its consumer complaint files for five (5) years after closing the case. This information should include (a) the determination; (b) who made the determination; and (c) how the determination was made.

**F.** Where it is determined that there is cause for the complaint, the Division should attempt to achieve a satisfactory resolution of the complaint through correspondence or informal conference.

**G.** If it is determined 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, in writing, a notification and/or correction plan to the Director of the Manufactured Housing Division within twenty (20) days of receipt of the request and as required under Subpart I of the Federal Regulations. The plan should include, but not 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. If a plan is submitted to the Division, the Division should approve or modify the plan and sent it back to the manufacturer for remedial action in the case. If, within twenty (20) days, 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. The manufacturer shall have sixty (60) days to notify and correct, and an additional thirty (30) days to submit closeout reports of all action taken by the manufacturer.

**H.** The Division may charge a re-inspection fee of forty-five Dollars (\$45.00) each time a re-inspection is performed in connection with a consumer complaint. On those consumer complaints, which the Division investigates but are not prosecuted by the Division, no fee will be charged. The fee, if assessed, shall be charged to the dealer, manufacturer, installer/repairman, or broker as appropriate.

**I.** If the complaint is not substantially resolved by the foregoing method, the Division may send the complaint to the Committee for bond attachment proceedings consistent with the procedure set forth herein.

**J.** If the matter is referred to the Committee for bond revocation proceedings, the Division shall serve upon the bondholder a written notice containing a statement (1) indicating the general nature of the evidence against the bondholder and (2) that the bondholder, may request a hearing on the matter within twenty (20) days after service of the notice. If the Division has not received such a request within the twenty (20) days after service of the notice, the Committee will take the contemplated action.

**K.** If the bondholder does not mail a request for a hearing within the time and in the manner required by this section, the Committee may take the action contemplated in the notice, and such action shall be final.

**L.** If the bondholder timely requests a hearing, the Division shall notify the bondholder of the time and place of hearing, and the statutes and regulations authorizing the Committee to take the contemplated action. The notice shall set the hearing within a reasonable time after the Division's receipt of the request for hearing, but in no event later than sixty (60) days thereafter.

**M.** The Committee shall conduct the hearing, or may appoint a hearing officer to do so.

**N.** A bondholder may be self-represented or may be represented by a licensed member of his or her profession or occupation, or both; and may present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues;

**O.** Upon written request to another party, any party may ask to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The Division and the Committee have no power to force the parties to comply with such requests.

**P.** The Party to whom such a request is made should comply with it within ten (10) days after the mailing or delivery of the request. No such request should be made less than fifteen (15) days before the hearing.

**Q.** The Committee has the discretion to grant continuances, to take testimony or to examine witnesses. The Committee may also hold conferences before or during the hearing for the settlement or simplification of the issues.

**R.** The Division shall present the case against the bondholder.

**S.** The Committee may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The Committee may in its discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

**T.** The Committee may take notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within their specialized knowledge. When the Committee takes notice of a fact, the bondholder should be notified either before or during the hearing of the fact so noticed and its source and shall be afforded an opportunity to contest the fact so noticed.

**U.** The Committee members may use their experience, technical competence and specialized knowledge in the evaluation of evidence presented to them.

**V.** The record may be preserved by tape recording.

**W.** Whether conducted by the Committee or by a hearing officer, after a hearing has been completed, all members who were not present throughout the hearing should familiarize themselves with the record, including the hearing officer's report, before participating in the decision.

**X.** A decision based on the hearing shall be made by a quorum of the Committee and signed by the person designated by the Committee within ninety (90) days after the hearing.

**Y.** Within fifteen days (15) after the decision is rendered and signed, the Division shall serve upon the bondholder a copy of the written decision.

**Z.** If a person who has requested a hearing does not appear, and no continuance has been granted, the Committee may hear the evidence of such witnesses as may have appeared, and the Committee may proceed to consider the matter and dispose of it on the basis of the evidence before it. Where because of accident, sickness or other cause a person fails to request a hearing or fails to appear for a hearing which he has requested, the person may within a reasonable time apply to the Committee to reopen the proceeding, and the Committee upon finding sufficient cause shall immediately fix a time and place for a hearing and give the person notice as required above. At the time and place fixed, a hearing shall be held in the same manner as would have been employed if the person had appeared in response to the original notice of hearing.

**AA.** These procedures do not grant a statutory right of review.

**BB.** The Division reserves the right to change, modify or discontinue these procedures at any time.

**CC.** Unless otherwise defined herein, the terms used in these procedures share the same definitions and meanings as in the Manufactured Housing Division rules and regulations.

[14.12.2.63 NMAC - N, 3-30-01]

#### **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, 09-02-70

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

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

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

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

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

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

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

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

MHD 83-1, Manufactured Housing Division Regulations, 08-18-83

MHD 85-1, Manufactured Housing Division Regulations, 02-01-85

MHD 88-1, Manufactured Housing Division Regulations, 08-09-88

MHD 90-1, Manufactured Housing Division Regulations, 12-08-89

##### **HISTORY OF REPEALED MATERIAL:**

14 NMAC 12.2, Manufactured Housing Requirements, filed 9-16-97, repealed effective 12-01-98.

14 NMAC 12.2, Manufactured Housing Requirements, filed October 14, 1998, is repealed effective 6-01-99 and re-promulgated as 14 NMAC 12.2 Manufactured Housing Requirements, effective 6-01-99.

14 NMAC 12.2, Manufactured Housing Requirements, filed April 14, 1999, is repealed effective 9-14-00 and replaced as 14.12.2 NMAC, Manufactured Housing Requirements, effective 9-14-00.