

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

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

[14.12.2.1 NMAC - Rp, 14.12.2.1 NMAC, 12-01-10]

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

[14.12.2.2 NMAC - Rp, 14.12.2.2 NMAC, 12-01-10]

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

[14.12.2.3 NMAC - Rp, 14.12.2.3 NMAC, 12-01-10]

14.12.2.4 DURATION: Permanent.

[14.12.2.4 NMAC - Rp, 14.12.2.4 NMAC, 12-01-10]

14.12.2.5 EFFECTIVE DATE: 12-01-10 unless a later date is cited at the end of a section.

[14.12.2.5 NMAC - Rp, 14.12.2.5 NMAC, 12-01-10]

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

[14.12.2.6 NMAC - Rp, 14.12.2.6 NMAC, 12-01-10]

14.12.2.7 DEFINITIONS: [RESERVED]

14.12.2.8 LICENSING PROCEDURES:

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

B. Application for any license required by these regulations shall be made on a form provided by the division. Each application shall be accompanied by the required nonrefundable fee as provided by 14.12.10 NMAC.

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

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

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

F. Any applicant who has not completed an application for licensure within one (1) year after notification that he has successfully passed the entry examination shall be required to reapply for licensure and retake the examination.

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

[14.12.2.8 NMAC - Rp, 14.12.2.24 NMAC, 12-01-10]

14.12.2.9 MANUFACTURERS:

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

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

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

[14.12.2.9 NMAC - Rp, 14.12.2.14 NMAC, 12-01-10]

14.12.2.10 DEALERS:

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

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

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

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

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

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

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

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

E. Each dealership location must have at least one (1) licensed salesperson per location. For an individual dealer operating a single lot, the dealer's license shall meet the requirement of a salesperson license for the person to whom it is issued. A dealership operating multiple lots must have at least one (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 acknowledged and signed by the purchaser.

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

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

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

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

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

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

[14.12.2.10 NMAC - Rp, 14.12.2.15 NMAC, 12-01-10]

14.12.2.11 BROKERS:

A. A manufactured home broker's license entitles its holder to engage in the functions authorized for brokers in the act. A manufactured home broker's functions are strictly limited to only pre-owned manufactured homes. Any person who in any manner engages in brokerage activities for more than one manufactured home in any consecutive 12-month period is required to be licensed as a manufactured home broker.

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

C. Each manufactured home broker shall be individually licensed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[14.12.2.11 NMAC - Rp, 14.12.2.16 NMAC, 12-01-10]

14.12.2.12 TEMPORARY SALESPERSON LICENSE:

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

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

C. Custody of license.

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

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

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

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

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

[14.12.2.12 NMAC - Rp, 14.12.2.12 NMAC, 12-01-10]

14.12.2.13 SALESPERSONS:

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

B. Each salesperson shall be licensed individually.

C. Custody of license.

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

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

D. Change of employment.

(1) When any salesperson is discharged or transfers his place of employment, the employer shall return the salesperson's license to the division within 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.

[14.12.2.13 NMAC - Rp, 14.12.2.18 NMAC, 12-01-10]

14.12.2.14 INSTALLER AND REPAIRMEN:

A. An installer's license entitles its holder to install manufactured homes for remuneration or consideration as provided for by these regulations.

B. A repairman's license entitles its holder to repair manufactured homes for remuneration or consideration as provided for by these regulations. An exception to this rule is a person(s) who makes manufacturer's warranty repairs and is employed and paid wages by a New Mexico licensed manufacturer or its designated agent. Such person(s) are not required to maintain a repairman's license.

C. Licenses for installers and repairmen shall be classified as MHD-1, MHD-2, MHD-3, MHD-3 Y and MHD-3 E.

(1) MHD-1 shall permit the holder to level ground and place piers to support a manufactured home, to attach and tighten tiedowns, to connect existing water and sewer lines, to connect electrical cable to the home's approved existing receptacle, to install and repair skirting, and to install concrete associated with footings or foundations.

(2) MHD-2 shall permit the holder to perform all functions of an MHD-1 and to make structural repairs and alterations.

(3) MHD-3 shall permit the holder to perform all the functions of an MHD-2 and to service and repair natural gas piping and appliances, change and adjust orifices in a manufactured home prior to connection to L.P. gas, and to service and repair plumbing and electrical systems.

(4) The scope of an MHD-3 Y licensee shall be extended to install gas yardlines to manufactured homes upon acquiring an appropriate endorsement from the division.

(5) The scope of an MHD-3 E licensee shall be extended to install feeder assemblies from the on-site utility terminal to the manufactured home not to exceed 30 feet. The provisions for obtaining a separate electrical endorsement shall include a minimum of two years in the last 10 years of verifiable experience performing electrical work on manufactured homes or related equipment.

D. Structural repairs, alterations and modifications allowed by classifications MHD-2 and MHD-3 are limited to the manufactured home itself and include awnings and porches supported by the home. Any structural repair, alteration or modification outside the manufactured home, including any concrete construction other than small pads for support posts, is not included under the MHD-2 or MHD-3 classifications. Licensees must comply with provisions of the Construction Industries Licensing Act, Sections 60-13-1, et. seq., NMSA 1978, to build any structure which requires a license under that act.

E. An applicant shall provide evidence of meeting at least one of the following minimum experience requirements:

- (1) 1,800 hours of experience installing manufactured homes;
- (2) 3,600 hours of experience in the construction of manufactured homes;
- (3) 3,600 hours of experience as a building construction supervisor;
- (4) 1,800 hours as an active manufactured home installation inspector;
- (5) completion of one year of a college program in construction-related field; or
- (6) any combination of experience or education from 1 - 5 above that totals 3,600 hours.

F. An applicant for installation license must complete 12 hours of training, at least 4 of which must consist of training on the federal installation standards and installation program. The training must be conducted by committee approved trainers who meet the requirements of 24 C.F.R. Section 3286 subpart D. The curriculum must include, at a minimum, training in the following areas:

- (1) an overview of the Manufactured Home Construction and Safety Standards Act and the general regulatory structure of the HUD manufactured housing program;
- (2) an overview of the manufactured home installation standards and regulations established in parts 24 C.F.R. Section 3285 and 24 C.F.R. Section 3286, and specific instruction including:
 - (a) preinstallation considerations;
 - (b) site preparation;
 - (c) foundations;
 - (d) anchorage against wind;
 - (e) optional features, including comfort cooling systems;
 - (f) ductwork and plumbing and fuel supply systems;
 - (g) electrical systems; and
 - (h) exterior and interior close-up work;
- (3) an overview of the construction and safety standards and regulations found in parts 24 C.F.R. Section 3280 and 24 C.F.R. Section 3282;
- (4) licensing requirements applicable to installers;
- (5) installer responsibilities for correction of improper installation, including installer obligations under applicable state and HUD manufactured housing dispute resolution programs;

- (6) inspection requirements and procedures;
- (7) problem-reporting mechanisms;
- (8) operational checks and adjustments; and
- (9) penalties for any person's failure to comply with the federal or state requirements;
- (10) qualified trainers must revise and modify course curriculum as needed to include, at a minimum,

any relevant modifications to the federal or state act or the standards, rules and regulations, as well as to provide any training further mandated by the division and HUD.

G. An applicant for licensure must provide evidence of receiving a passing grade of 70 percent on a HUD administered or HUD approved examination.

H. An installer or repairman shall maintain a place of business, which is an actual physically, established location from which business can be conducted and where accounts and records shall be available for inspection during normal working hours by a representative of the division. A post office box, secretarial service, telephone answering service or similar entity does not constitute an actual physically established location for purposes of this subsection.

I. The division may, upon request, grant separate licensure for any person holding a valid license in the electrical or mechanical classifications issued under the Construction Industries Licensing Act (Sections 60-13-1, et. seq., NMSA 1978), as amended, and may permit such person to act in the capacity of an installer or repairman for electrical or mechanical work on a manufactured home within the scope of such license. The division may also, upon request, grant separate licensure for any person holding a valid license in the general construction classifications, including GB-2, GB-98, or GS-4 classifications issued under the Construction Industries Licensing Act (Sections 60-13-1, et. Seq., NMSA 1978), as amended, and may permit such person to act in the capacity of a contractor for work associated with the general construction license classification. A person licensed under this provision may not perform or permit the installation of a manufactured home, including installations of alternate manufactured home foundation systems. Any person requesting a license, in accordance with this provision, shall furnish proof satisfactory to the division of his status as a licensee of the construction industries division or its successor. Nothing in this provision shall be construed as a waiver of any obligation to comply with any other requirement of the Manufactured Housing Act or these regulations, including the bonding requirements of these regulations.

[14.12.2.14 NMAC - N, 12-01-10; A, 11-01-13]

HISTORY of 14.12.2 NMAC:

Pre-NMAC History:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History of Repealed Material:

14 NMAC 12.2, Manufactured Housing Requirements (filed 9-16-97) repealed 12-01-1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10-14-98) repealed 6-01-1999.

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

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

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12-08-89) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12-01-1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10-14-98) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6-01-1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4-14-99) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9-14-2000.

Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8-01-00) were replaced by 14.12.2 NMAC, Licensure Requirements, effective 12-01-2010.