

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 3 NEW MEXICO MODULAR BUILDING STRUCTURES

14.12.3.1 ISSUING AGENCY: The Construction Industries Division of the Regulation and Licensing Department.
[14.12.3.1 NMAC - Rp, 14.12.3.1 NMAC, 9-1-13]

14.12.3.2 SCOPE: The construction, alteration, repair, use and occupancy of modular structures in the state of New Mexico.
[14.12.3.2 NMAC - Rp, 14.12.3.2 NMAC, 9-1-13]

14.12.3.3 STATUTORY AUTHORITY: These standards are adopted pursuant to Sections 60-13-9 (K) and (F), and 60-13-44 (H) and (I) of the Construction Industries Licensing Act, NMSA 1978 (1989 replacement pamphlet).
[14.12.3.3 NMAC - Rp, 14.12.3.3 NMAC, 9-1-13]

14.12.3.4 DURATION: Permanent.
[14.12.3.4 NMAC - Rp, 14.12.3.4 NMAC, 9-1-13]

14.12.3.5 EFFECTIVE DATE: August 1, 2013, unless a later date is cited at the end of a section.
[14.12.3.5 NMAC - Rp, 14.12.3.5 NMAC, 9-1-13]

14.12.3.6 OBJECTIVE: The objective of this part is to promote the general welfare of the people of New Mexico by providing for the protection of life and property through construction codes, rules, and standards, the compliance with which will result in safer modular structures.
[14.12.3.6 NMAC - Rp, 14.12.3.6 NMAC, 9-1-13]

14.12.3.7 DEFINITIONS: The following terms shall have the meaning indicated when used in this standard.

A. “Act” means the Construction Industries Licensing Act (Sections 60-13-1 through 60-13-59, NMSA 1978) and the LP Gas Act (Sections 70-5-1 through 70-5-22, NMSA 1978).

B. “Code” means the codes set forth in 14.12.3.8 NMAC.

C. “Commercial use” shall have the same meaning as that given it in the New Mexico commercial building code.

D. “Commission” means the construction industries commission.

E. “Department” means the regulation and licensing department.

F. “Director” means the administrative head of the division.

G. “Division” means the construction industries division of the regulation and licensing department.

H. “Dwelling” means any building that contains one or two *dwelling units* used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

I. “Dwelling unit” means a single unit providing complete independent living facilities, for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

J.H. “Foundation inspection” means the subsequent on-site inspection of the foundation, utility connections, and other items related to the permanent placement of a modular structure set in New Mexico for code compliance pursuant to the requirements of this part by a certified inspector.

K.I. “Inspection”

(1) **“In-plant inspection”** means the inspection of a modular structure for code compliance pursuant to the requirements of this part by an approved inspector or a division inspector.

(2) **“Placement inspection”** means the subsequent on-site inspection of the foundation, hook-ups, and other items related to the permanent placement of a modular structure set in New Mexico for code compliance pursuant to the requirements of this part by a division inspector or a local inspector.

L.J. “Inspector”

(1) **“Division inspector”** means an inspector employed by the division to conduct building inspections.

(2) **“Approved inspector”** means an inspector other than a division inspector approved by the division to perform in-plant inspections of modular structures pursuant to this part.

MK. “**Manufacturer**” means any person engaged in the manufacture, construction and assembly of modular structures.

NL. “**Modular structure**” means any structure built for use or occupancy by persons or property, whether or not designed to be placed on a permanent foundation. Modular structures include factory-built buildings and subassemblies for manufactured residential and commercial units. Modular structure does not include non-assembled component parts that are subject to all permit and inspection requirements, or to manufactured housing structures that are subject to federal regulation.

OM. “**Plans**” means those design documents and related specifications required for the manufacture of any given modular structure as required by code.

PN. “**Residential use**” shall have the same meaning as that given it in the currently adopted New Mexico building code.

QQ. “**Modular non-assembled components**” means constructed components of a residential building, built out of state but assembled on site.

R. “**Storage shed**” means any accessory structure, either freestanding or attached to another structure, that is not classified for human habitation or occupancy and is intended to be used to store personal property.

[14.12.3.7 NMAC - Rp, 14.12.3.7 NMAC, 9-1-13]

14.12.3.8 APPLICABLE CODES AND STANDARDS: The codes and standards applicable to the construction, alteration, repair, use, occupancy and installation of modular structures are the current codes, applicable statutes, rules, regulations, and standards approved by the commission and adopted by the division that govern construction in the state of New Mexico.

[14.12.3.8 NMAC - Rp, 14.12.3.8 NMAC, 9-1-13]

14.12.3.9 REGISTRATION: No person shall act as a manufacturer in New Mexico and no person who acts as a manufacturer outside New Mexico shall ship a modular or an ANSI/UL approved structure into New Mexico, unless such person is registered with the division as provided in this part.

[14.12.3.9 NMAC - Rp, 14.12.3.9 NMAC, 9-1-13]

14.12.3.10 REGISTRATION REQUIREMENTS:

A. Applicants for registration pursuant to this part must submit the following:

- (1) a completed registration application in form and content satisfactory to the division;
- (2) a fee in the amount of \$50.00 for manufacturers of modular structures for residential use only; and a fee in the amount of \$100.00 for manufacturers of modular structures for commercial and residential use;
- (3) proof of financial responsibility as follows:
 - (a) for manufacturers of modular structures for residential use, in the amount of \$5,000;
 - (b) for manufacturers of modular structures for commercial and residential use, in the amount of \$20,000.00;
 - (c) financial responsibility may be demonstrated by filing with the division and maintaining without interruption for the duration of registration a surety bond issued by an insurance company authorized to do business in the state of New Mexico;
 - (d) all bonds must authorize the division to liquidate the bond to the extent necessary for the payment of fines or penalties as may be assessed under 14.12.3.17 NMAC of the standards that the registrant fails to promptly pay when due.

B. Out-of-state manufacturers must submit proof of compliance with all applicable licensing requirements of the state.

C. In-state manufacturers must be licensed by the division in the GB-02 classification for manufacture of modular structures for residential use or in the GB-98 classification for manufacture of modular structures for commercial or residential use.

D. A manufacturer may be denied registration if there are any unresolved consumer complaints against the manufacturer.

E. Out-of-state manufacturers must submit proof of association with an inspector who has assumed responsibility for the in-plant inspections required by this part and shall request division approval of the inspector if not already approved. Upon satisfactory compliance with the all of the requirements for registration the division shall issue a modular certificate of authority to the manufacturer.

F. Modular certificates of authority issued by the division are not transferable and the registration fee is not refundable.

G. Any change in the information submitted by an applicant for a modular certificate of authority or renewal thereof must be reported, in writing, to the division within 30 days after such change occurs.
[14.12.3.10 NMAC - Rp, 14.12.3.10 NMAC, 9-1-13]

14.12.3.11 RENEWAL:

A. Any modular certificate of authority issued by the division shall expire on the date that is three years from the date of issuance.

B. The registrant may renew a modular certificate of authority by submitting a completed renewal application in form and content satisfactory to the division not later than thirty days prior to the expiration of the modular certificate of authority.

C. An application for renewal shall include with it payment of a renewal fee in the amount of \$100.00 per year or the amount of the fee for renewal of a GB-98 license, whichever is greater.

D. A modular certificate of authority renewed by the division shall expire on the date that is not less than one year and no more than three years from the date of renewal.

E. The renewal fee is not refundable.

[14.12.3.11 NMAC - Rp, 14.12.3.11 NMAC, 9-1-13]

14.12.3.12 APPROVED INSPECTORS:

A. Approval of inspectors.

(1) No inspection of a modular structure shall satisfy the requirements of this part unless conducted by an inspector approved by the division.

(2) An inspector may be approved by the bureau chief of the division responsible for the trade to be inspected. Such approval is conditioned upon the following.

(a) The out of state applicant must obtain a New Mexico state certification in the trade for which approval is sought and a national certification recognized by the division.

(b) Documentation of such certification acceptable to the appropriate bureau chief must be provided to the division.

(c) The applicant must have at least three years of verifiable work experience in the respective trade to be inspected.

(d) Proof of current association through employment, contract or other agreement with a registered manufacturer for the purpose of conducting inspections of modular structures for that manufacturer must be provided to the division.

(e) Proof of financial responsibility in the amount of \$10,000.00 must be provided to the division. Such proof may be demonstrated by evidence of a surety bond issued by an insurance company authorized to do business in New Mexico.

(3) Any bond submitted as proof of financial responsibility shall authorize the division to liquidate the bond or securities to the extent necessary to pay fines and penalties as may be assessed under 14.12.3.17 NMAC of the standards that the inspector fails to promptly pay when due.

B. Any approved inspector must maintain both New Mexico and national certification throughout the course of association with a registered manufacturer for the purposes of conducting inspections required by this part.

C. If a registered manufacturer ceases association with its approved inspector of record with the division, the manufacturer shall notify the division in writing within 30 days and shall identify a new inspector for approval pursuant to this part by the division.

D. No inspector regulated by the construction industries division and employed by a political subdivision or municipality is eligible to be an approved in-plant inspector.

[14.12.3.12 NMAC - Rp, 14.12.3.12 NMAC, 9-1-13]

14.12.3.13 COMPLIANCE:

A. Any modular structure manufactured in New Mexico, or to be shipped into New Mexico for placement, must comply with the following provisions.

B. Code compliance shall be determined through a three-step process.

(1) Step one - plan review.

(a) Modular structures to be sold or placed in New Mexico must be constructed according to plans that have been submitted by registered manufacturers and reviewed and approved by the division.

(b) Manufacturers must submit two sets of plans for each modular structure design together with the appropriate plan review fee.

(c) Plans must include a recommended method of anchoring the modular structure to a foundation.

(d) The plans shall be submitted and reviewed by the division for code compliance pursuant to all rules, procedures and guidelines established by the division and compliance with the currently adopted New Mexico state codes, rules, procedures and guidelines established by the division for all modular plan review.

(e) Plans that are not submitted properly or that are determined to be non-compliant with currently adopted New Mexico state codes shall be rejected by the division.

(f) No modular structure built pursuant to rejected or unapproved plans will be eligible to receive a compliance decal as required by this part as a prerequisite for the sale or permanent placement of a modular structure in New Mexico.

(g) There shall be no deviation in the construction/assembly of a modular structure from the approved plans for the modular structure without the prior written approval of the specific deviation by the division. The division may require the submission of additional design information including revised plans as it deems necessary to make a determination on the approval or rejection of the deviation.

(2) Step two - in-plant inspection.

(a) Each modular structure must receive the following mandatory in-plant inspections during construction/assembly by the manufacturer.

(i) General construction: framing, energy efficiency, weather resistive barrier and pre-final.

(ii) Mechanical: rough-in and top-out.

(iii) Plumbing: rough-in and pre-final.

(iv) Electrical: rough-in and pre-final.

(b) All work required to be inspected must be uncovered and accessible by the inspector at the time of the inspection. Any work covered prior to inspection shall be uncovered as required by the inspector to allow a full assessment of code compliance of the work.

(c) The manufacturer must keep for reference and make available to the inspector upon request an original set of approved plans for each modular structure to be inspected.

(d) If any inspection reveals a code violation, the inspector shall immediately issue a written correction notice and the manufacturer shall make the indicated correction(s). Thereafter, the inspector shall re-inspect the modular structure to confirm that the correction has been made. If corrective action is not taken, such that code compliance is achieved, the inspector shall cease all inspections and shall not issue any compliance decal(s).

(e) Upon satisfactory completion of the final inspection, the inspector shall issue a final inspection report in which all inspections are documented and the compliance decal number and the modular structure serial number are noted. This final inspection report is due to the division within 10 days after issuance of the compliance decal pursuant to Paragraph (3) of Subsection B of 14.12.3.13 NMAC. Failure to remain current and timely in the submission of final inspection reports shall cause the manufacturer of the modular structures, which are the subject of such reports, to be ineligible to order or receive compliance decals until all outstanding final inspection reports are received by the division.

(3) Issuance of compliance decal.

(a) Upon satisfactory completion of all required inspections the inspector shall affix a compliance decal inside the door to the electrical panel or inside the mechanical room of the inspected modular structure.

(b) No compliance decal shall be issued to, or placed on, a modular structure which has been determined to be not compliant with code or wherein all required inspections were not appropriately requested and performed.

(c) If a manufacturer ships into New Mexico or offers for sale in New Mexico a non-compliant modular structure or one that is lacking a decal, the manufacturer shall not be eligible to order compliance decals. The manufacturer's certificate of authority shall be subject to suspension or revocation and the manufacturer may be assessed an administrative fine.

[14.12.3.13 NMAC - Rp, 14.12.3.13 NMAC, 9-1-13]

14.12.3.14 COMPLIANCE DECALS:

A. A compliance decal is issued by the division for the purpose of indicating that a given modular structure has been determined to be code compliant pursuant to this part.

B. No modular structure may be sold or permanently placed in New Mexico unless a compliance decal has been affixed to it by an inspector after satisfactory completion of the plan review and in-plant inspection requirements set forth in this part.

C. Any modular unit manufactured under a national recognized testing laboratory (UL) or approved testing agency (ANSI) shall not be installed in New Mexico unless a compliance decal has been obtained from the division. The compliance decal application must include UL or ANSI verification.

D. Compliance decals may be ordered from the division by the manufacturer before or after construction upon payment of the applicable fee(s) and submission of the serial number(s) of the modular structure(s) to which the compliance decal(s) shall apply. All issued compliance decals are sent to the inspector who has or will conduct the required in-plant inspections.

E. The fee for each compliance decal shall be as set forth in a fee schedule published by the division. This fee must be paid in full to the division in advance of issuance of the compliance decal(s).

F. Compliance decals remain the property of the state of New Mexico. Each decal is unique to the modular structure to which it is assigned and affixed. Compliance decals are not transferable among manufacturers, inspectors, or modular structures.

G. Any compliance decal that is not affixed to the modular structure bearing the serial number submitted with the order for that decal must be returned to the division immediately upon the determination that the decal will not be used for that structure; unless the manufacturer has received prior written permission from the division to use the decal on a modular structure that has a different serial number.

[14.12.3.14 NMAC - Rp, 14.12.3.14 NMAC, 9-1-13]

14.12.3.15 PLACEMENT OF MODULAR STRUCTURES:

A. Each modular structure to be permanently placed within the state of New Mexico shall be set in accordance with all applicable statutes, codes, rules, regulations and local ordinances governing construction in the state of New Mexico. This includes, but is not limited to, the following basic licensing, plan review, permitting, and inspection requirements.

(1) All permanent foundations to which a modular structure is to be attached shall be appropriately designed and permitted by the division or local building department having jurisdiction.

(a) Commercial modular foundations will require either a New Mexico registered engineer or architect seal.

(b) Residential modular foundations do not require a New Mexico registered engineer or architect seal.

(2) All permanent foundations to which a modular structure is to be attached shall be constructed by a licensed GB-2 or GB-98 contractor for residential units and GB-98 contractor for all commercial units; all final electrical work shall be performed by a properly licensed electrical contractor and journeyman and all mechanical/plumbing mechanical work shall be performed by a properly licensed mechanical/plumbing contractor and journeyman.

(3) The installation of a modular unit shall be performed by a GB-98 (commercial/residential) or GB-2 (residential) contractor who shall be the licensed contractor of record and shall be responsible for the installation of the structure, including out of state modular manufacturer installers.

(4) The appropriately licensed contractor (general, electrical and plumbing/mechanical) shall request all required inspections including but not limited to:

(a) footings;

(b) foundation;

(c) anchoring;

(d) grounding system;

(e) electrical pre-final;

(f) electrical final;

(g) plumbing final;

(h) mechanical final;

(i) LP Gas, if applicable;

(j) accessibility, if applicable;

(k) building final and certificate of occupancy.

B. Building plans shall be available at the placement site and openings for inspection of anchoring shall be provided.

C. If the building official having jurisdiction has reason to believe that a code violation has been covered, the building official may require the removal of panels or the like to reveal covered work. The failure of an inspector to appropriately document all in-plant inspections is cause for a building official to require work to be exposed for inspection.

D. Before the building final inspection is conducted the electrical, plumbing/mechanical and all other required inspections must be successfully completed. **The building official having jurisdiction shall issue a certificate of occupancy.**

E. The building final inspection report and the certificate of occupancy shall both clearly indicate the manufacturer's name, the serial number of the modular structure, the name of the inspector who conducted the in-plant inspections and the compliance decal number.

F. Failure to obtain required inspections and a certificate of occupancy may result in the denial of utility services to the modular structure by the service provider.
[14.12.3.15 NMAC - Rp, 14.12.3.15 NMAC, 9-1-13]

14.12.3.16 EXCEPTIONS:

A. A modular structure that carries a UL or other ANSI approved testing laboratory's label as a rated assembly shall be exempt from Paragraphs (1) and (2) of Subsection B of 14.12.3.13 NMAC. The foundation and accessibility to these structures shall be subject to all applicable codes.

B. One story detached accessory structures used as tool and storage sheds, playhouses, and similar uses are exempt from the provisions of the manufacturing code provided the floor area does not exceed 120 square feet for commercial use and 200 square feet for residential use. This exemption shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the currently adopted New Mexico building codes. All work must be done in a manner that will comply with the code requirements.
[14.12.3.16 NMAC - Rp, 14.12.3.16 NMAC, 9-1-13]

14.12.3.17 PROHIBITED USES AND OCCUPANCY OF CONVERTED STRUCTURES:

A. Storage sheds and similar structures shall not be used as a dwelling or dwelling unit, and therefore cannot be used for human habitation or occupancy unless the storage shed or similar structure has been subject to plan review, permitting and inspection and constructed or altered in a manner that converts a storage shed or similar structure so that it may be safely used as a dwelling for human habitation and occupancy. Any storage shed or similar structure safely converted for use as a dwelling for human habitation and occupancy shall be issued a certificate of occupancy prior to human habitation and occupancy.

B. Any storage shed or similar structure safely converted for use as a dwelling for human habitation and occupancy shall be subject to all applicable codes and standards as provided in 14.12.3.8 NMAC and NM state construction codes, rules and guidelines.

C. A new storage shed or similar structure offered for sale shall not be advertised or represented to be safe for human habitation or occupancy, and unless converted in accordance with Subsection A of this Section, shall have a decal permanently affixed to the storage shed or similar structure that clearly informs the public that it is "NOT SUITABLE FOR HUMAN HABITATION OR OCCUPANCY."

D. Any storage shed or similar structure safely converted for use as a dwelling for human habitation and occupancy shall have a permanent foundation and be subject to all requirements as provided in 14.12.3.15 NMAC.

14.12.3.187 REVOCATION, SUSPENSION OR OTHER DISCIPLINE:

A. Violations of this part or any other applicable code are cause for disciplinary action by the commission against a manufacturer or an approved inspector. Such discipline may include suspension or revocation of a modular certificate of authority, withdrawal of inspector approval and an administrative penalty in accordance with Sections 60-13- 23 and 23.1 of the Construction Industries Licensing Act, NMSA 1978.

B. Any disciplinary action taken by the commission against a registrant shall be taken in accordance with the Uniform Licensing Act, NMSA 1978.
[14.12.3.17 NMAC - Rp, 14.12.3.17 NMAC, 9-1-13]

14.12.3.198 TEMPORARY INSTALLATION:

A. Modular units may be installed on a temporary foundation for a period of up to one year. Units installed as temporary and remaining in place after the one-year period must be placed on a permanent foundation.

B. Modular units installed as temporary shall meet all currently adopted New Mexico building codes, and accessibility requirements.
[14.12.3.18 NMAC - Rp, 14.12.3.18 NMAC, 9-1-13]

14.12.3.2019 MODULAR NON-ASSEMBLED COMPONENTS:

A. Modular non-assembled component panels will meet all the requirements of this rule with the exception of Sections 14, 15 and 18 of 14.12.3 NMAC.

B. Assembly of component panels on site are subject to all building permitting and inspection requirements for site built construction.
[14.12.3.19 NMAC - N, 9-1-13]

History of 14.12.3 NMAC:

Pre-NMAC History:

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

CID-GCB-MOD/MFG-85-1, Off-Site Conventionally Built Modular Manufactured Unit Standards, filed 10-24-85;

CID-GCB-MOD/MFG-91-1, Off-Site Conventionally Built Modular Manufactured Unit Standards, filed 06-28-93.

History of Repealed Material: CID-GCB-MOD/MFG-91-1, Off-Site Conventionally Built Modular Manufactured Unit Standards, filed 06-28-93, repealed effective 2-16-2003.

14.12.3 NMAC, Modular Structures (filed 1-16-2003) repealed 9-1-13.