



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
January 23, 2009

Michael H. Bray, Chair

Devora D. Mitchell, Member

Pablo Schneider, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

**Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting**

January 23, 2009

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Michael H. Bray, Chair	_____	_____
Devora D. Mitchell, Member	_____	_____
Pablo Schneider, Member	_____	_____
Sheila M. Vallés-Pankratz, Member	_____	_____
Donnie W. Wisenbaker, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Rusk State Office Building, 208 E. 10th Street, Room 227
Austin, Texas 78701
January 23, 2009 10:00 a.m.

AGENDA

CALL TO ORDER, ROLL CALL Chair

CERTIFICATION OF QUORUM Chair

The Board of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA) will meet to consider and possibly act upon:

ACTION ITEMS

- Item 1. Consideration and possible action to approve the minutes of the board meeting on November 7, 2008. Chair
- Item 2. Consideration and possible action to approve adoption of emergency rules with the Texas Register relating to 10 TAC, Chapter 80, §§80.2, 80.21, and 80.22 in order to comply with the Federal Installation Standards. Joe Garcia

REPORT ITEMS

1. Executive Director's Report Joe Garcia
- o MH Functional Areas Status
 - o Featured Employees
 - o Legislative Updates

PUBLIC COMMENT Chair

EXECUTIVE SESSION Chair

Note: The Board may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

- (a) If necessary, the Board will go into executive session to discuss Personnel Matters pursuant to Sec. 551.074, Texas Government Code.
- (b) If necessary, the Board will go into executive session for Consultation with Attorney pursuant to Sec. 551.071, Texas Government Code.

RECONVENE Chair

Reconvene in public session and take action on any matters coming out of Executive Session.

ADJOURN Chair

To access this agenda or request information, please visit our website at www.tdhca.state.tx.us or contact Sharon Choate, TDHCA, 221 E. 11th Street, Austin, Texas 78701, 512-475-2206, sharon.choate@tdhca.state.tx.us.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Agenda Action Item No. 1

**MINUTES OF THE REGULAR MEETING OF THE
MANUFACTURED HOUSING BOARD**

On Friday, November 7, 2008, at 10:20 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") in Room 227 of the Rusk State Office Building, 208 East 10th Street, Austin, Texas. Michael Bray presided. Devora Mitchell and Donnie Wisenbaker, constituting a quorum, attended. Pablo Schneider and Kimberly Shambley were absent. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Kassu Asfaw, Amy Morehouse, Heidi Maldonado, Verna Boswell, Juan Vasquez, Rubie Gamble and Sharon Choate. From the Texas Department of Housing and Community Affairs (other than the MHD) Elena Peinado was present.

Michael Bray called the roll, confirmed the presence of a quorum, and asked for a motion to approve the minutes from the board meeting on August 22, 2008. Upon motion of Devora Mitchell, duly seconded by Michael Bray, the minutes of the previous meeting were unanimously approved.

Joe Garcia presented and discussed the approval of the proposed amendments to 10 TAC, Chapter 80, §§80.23, 80.30, and 80.100 for publication as adopted in the Texas Register. Upon motion of Devora Mitchell, duly seconded by Donnie Wisenbaker, the motion was unanimously approved.

Joe Garcia delivered the Executive Director's Report.

The Board did not convene into an Executive Session.

The next board meeting was tentatively set for Friday, January 23, 2009, at 10:00 a.m.

There being no further business to come before the board, the meeting was adjourned at 11:06 a.m.

Sharon Choate, Secretary

Approved:

Michael Bray, Presiding Chair

Agenda Action Item No. 2

Emergency Manufactured Housing Rules
Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") on an emergency basis adopts amendments to 10 TAC, Chapter 80, §§80.2, 80.21, and 80.22 relating to installation standards of the manufactured housing program.

Section 80.2 – Added definition for Frost Line Zone (16) and renumbered the definitions from number (17) to (26).

Section 80.21 – Revised to differentiate installation for new and used manufactured homes and added new subsection (i) relating to the Frost Line Zone.

Section 80.22 – Revised subsection (a) to clarify the rule only relates to used manufactured homes.

The amendments are adopted on an emergency basis to comply with the Federal Installation Standards that became effective on January 1, 2009.

The amendments are adopted on an emergency basis under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department; under Texas Government Code, Chapter 2306, §§2306.6014 and 2306.6020, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division; and the Texas Government Code, §2001.034, which provides for the adoption of administrative rules on an emergency basis, without notice and comment.

The agency hereby certifies that the amendments adopted on an emergency basis has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

No other statutes, codes, or articles are affected by the adopted emergency rules.

§80.2. Definitions.

Terms used herein that are defined in the Code and the Standards Act have the meanings ascribed to them therein. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) APA--Administrative Procedure Act, Texas Government Code, Chapter 2001.
- (2) Business days--Includes every day on the calendar except Saturday, Sunday, and federal and state holidays.
- (3) Chattel Mortgage--Any loan that is not subject to the Real Estate Settlement Procedures Act (RESPA).

- (4) Coastline--The shoreline that forms the boundary between the land and the Gulf of Mexico or a bay or estuary connecting to the Gulf of Mexico that is more than five miles wide.
- (5) Cosmetic--Matters of flaws and finish, appearance, materials or workmanship not covered by 24 CFR Part 3280.
- (6) Credit document--Any executed written agreements between the consumer and creditor that describe or are required in connection with an actual credit transaction.
- (7) Creditor--A person involved in a credit transaction who:
 - (A) extends or arranges the extension of credit; or
 - (B) is a retailer or broker as defined in the Standards Act and participates in arranging for the extension of credit.
- (8) Custom designed stabilization system--An anchoring and support system that is not an approved method as prescribed by the state generic standards, manufacturer's installation instructions, or other systems pre-approved by the Department.
- (9) Dangerous conditions--Any condition which, if present, would constitute an imminent threat to health or safety.
- (10) DAPIA--The Design Approval Primary Inspection Agency.
- (11) Department or TDHCA--The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA).
- (12) Deposits - Money or other consideration given by a consumer to a retailer, salesperson, or agent of a retailer to hold a manufactured home in inventory for subsequent purchase or to confirm the agreed price on a home to be specially ordered.
- (13) Down Payment - An amount, including the value of any property used as a trade-in, paid to a retailer to be applied to the purchase price of a manufactured home, including any goods or services that are a part of that transaction.
- (14) Dwelling unit--One or more habitable rooms which are designed to be occupied for living.
- (15) FMHCSS--Federal Manufactured Home Construction and Safety Standards that implement the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., as amended from time to time.

(16) Frost Line Zone -- An area in Texas designated by the Department, as having a frost line depth to consider when conforming with federal rules.

(17)~~(16)~~ Independent testing laboratory--An agency or firm that tests products for conformance to standards and employs at least one engineer or architect licensed in at least one state.

(18)~~(17)~~ Inventory Lender--A person that is involved in extending credit for inventory financing secured by manufactured housing.

(19)~~(18)~~ IPIA--The Production Inspection Primary Inspection Agency which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and/or provides ongoing surveillance of the manufacturing process.

(20)~~(19)~~ Long-Term Lease--For the purpose of determining whether or not the owner of a manufactured home may elect to treat the home as real property, is a lease on land to which the manufactured home has been attached and which:

- (A) has been approved by each lienholder for the manufactured home by placing on file with the Department written consent to have the home treated as real property; or
- (B) is for at least five years if the home is not financed.

(21)~~(20)~~ Main frame--A chassis or structure serving a similar purpose.

(22)~~(21)~~ Manufactured home identification numbers--HUD label number, serial number, or Texas seal number. For the purpose of maintaining ownership and location records, including the perfection of liens, the numbers shall include the HUD label number(s) and the serial number(s) imprinted or stamped on the home in accordance with HUD departmental regulations. For homes manufactured prior to June 15, 1976, the Texas seal number, as issued by the Department, shall be used instead of the HUD label number. If a home manufactured prior to June 15, 1976, does not have a Texas seal, or if a home manufactured after June 15, 1976, does not have a HUD label, a Texas seal shall be purchased from the Department and attached to the home in upper left corner on the end opposite the tongue end and used for identification in lieu of the HUD label number.

(23)~~(22)~~ Manufactured home site--That area of a lot or tract of land on which a manufactured home is or will be installed.

(24)~~(23)~~ Permanent foundation--A foundation which meets the requirements of §80.21 of this chapter (relating to Requirements for the Installation of Manufactured Homes) and was constructed according to drawings, as

required by that section, which state that the foundation is a permanent foundation for a manufactured home.

~~(25)~~(24) Promptly--Means within the time prescribed by the Standards Act, these Rules, and any administrative order (including any properly granted extension) or, in the case of a matter that constitutes an imminent threat to health or safety, as quickly as reasonably possible.

~~(26)~~(25) Stabilization systems--A combination of the anchoring and support system. It includes, but is not limited to the following components:

- (A) Anchoring components--Any component which is attached to the manufactured home and is designed to resist the horizontal and vertical forces imposed on the manufactured home as a result of wind loading. These components include, but are not limited to auger anchors, rock anchors, slab anchors, ground anchors, stabilizing devices, connection bolts, j-hooks, buckles, and split bolts.
- (B) Anchoring equipment--Straps, cables, turnbuckles, tubes, and chains, including tensioning devices, which are used with ties to secure a manufactured home to anchoring components or other devices.
- (C) Anchoring systems--Combination of ties, anchoring components, and anchoring equipment that will resist overturning and lateral movement of the manufactured home from wind forces.
- (D) Diagonal tie--A tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.
- (E) Footing--That portion of the support system that transmits loads directly to the soil.
- (F) Ground anchor--Any device at the manufactured home site designed to transfer manufactured home anchoring loads to the ground.
- (G) Longitudinal ties--Designed to prevent lateral movement along the length of the home.
- (H) Shim--A wedge-shaped piece of hardwood or other registered component not to exceed one (1) inch vertical (actual) height.
- (I) Stabilizing components--All components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors and any other equipment, which supports the manufactured home and secures it to the ground.
- (J) Support system--A combination of footings, piers, caps and shims that support the manufactured home.

- (K) Vertical tie--A tie intended primarily to resist the uplifting and overturning forces.

§80.21. Requirements for the Installation of Manufactured Homes.

(a) All new manufactured homes shall be installed in accordance with the home manufacturer's DAPIA-approved installation instructions.

~~(b)(a)~~ All used ~~When they are installed, all~~ manufactured homes shall be installed by a licensed installer to resist overturning and lateral movement of the home, and the installation must be completed in accordance with instructions appropriate for the Wind Zone where the home is to be installed as per one of the following:

- (1) the home manufacturer's DAPIA-approved installation instructions;
- (2) the state's generic standards set forth in §§80.22, 80.23, 80.24, and 80.25 of this chapter;
- (3) the instructions for a stabilization system registered with the Department in accordance with §80.26 of this chapter (relating to Registration of Stabilizing Components and Systems); or
- (4) the instructions for a special stabilization system which:
 - (A) may or may not be a permanent foundation;
 - (B) is for a particular manufactured home or an identified class of manufactured homes to be installed at a particular area with similar soil properties according to county soil survey or other geotechnical reports; and
 - (C) is either:
 - (i) a pre-existing foundation for which a professional engineer or architect licensed in Texas has issued written approval for the installation of a particular home, and the written approval shall be submitted to the Department with the installation report; or
 - (ii) installed in accordance with a custom designed stabilization system drawing that is stamped by a Texas licensed professional engineer or architect. A copy of the stabilization system drawing must be forwarded to the Department along with the installation report.

~~(c)(b)~~ When a home is installed on a stabilization system registered with the Department or a special stabilization system, the installer must follow the home manufacturer's DAPIA-approved installation instructions for any aspect of the installation that is not covered by the system's installation instructions or drawings.

(d)(e) The installer must use stabilizing components that have the required capacity and install them according to the anchor or stabilizing component manufacturer's current installation instructions. All stabilizing components must be resistant to all effects of weathering including that encountered along the Texas gulf coast. Anchors must be made resistant to corrosion. Nonconcrete stabilizing components and systems for use within 1500 feet of the coastline shall be specifically certified for this use. Preservative treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the latest edition of the International Residential Code. The use of re-conditioned equipment (i.e. anchor, strap, and clip) or any anchoring component by licensed installer on the new installations is not permitted. Homeowners are exempt from this requirement provided the integrity of the component is acceptable and approved by the state and the original product number, vendor name, and/or patent number must be legible on the product.

(e)(d) Site Preparation Responsibilities and Requirements:

(1) The responsible installer of a new manufactured home is responsible for the proper preparation of the site where the manufactured home will be installed.

(2)(4) A consumer acquiring a used manufactured home to be installed, ~~new or used~~, is responsible for the proper preparation of the site where the manufactured home will be installed except as set forth in §80.22 of this chapter (relating to Generic Standards for Moisture and Ground Vapor Controls).

(3)(2) Whenever a licensed retailer intends to sell a used manufactured home, regardless of where it is located or is to be located, the retailer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth in Subchapter I of this chapter (relating to Forms) PRIOR to the execution of any binding sales agreement.

(4)(3) Whenever a licensed installer proposes to move a used manufactured home, the installer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth in Subchapter I of this chapter PRIOR to entering into a binding agreement to move that home.

(f)(e) If at the time of installation or within 90 days thereafter as stated on the contract, the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or installer is responsible for installing any required moisture and ground vapor control measures in accordance with the home installation instructions, specifications of a registered stabilization system, or the generic standards and shall provide for the proper cross ventilation of the crawl space. If the consumer contracts with a person other than the retailer or installer for the skirting, the consumer is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space.

(g)(f) Clearance: If the manufactured home is installed according to the state's generic standards, a minimum clearance of 18 inches between the ground and the bottom of

the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.25 of this chapter (relating to Generic Standards for Multi-Section Connections Standards) for additional requirements for utility connections. The Installer must remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located.

(h)(g) Drainage: The consumer is responsible for proper site drainage where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

(i) Frost Line Zone.

(1) The following Texas counties have a 12 inch frost line depth to consider for the installation of a new manufactured home: Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, King, Knox, Lamb, Lipscomb, Lubbock, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, and Wilbarger.

(2) For a new home to be installed in a Frost Line Zone county, footings placed in freezing climates must be designed using methods and practices that prevent the effects of frost heave by one of the following methods:

(A) Conventional footings. Conventional footings must be placed below the frost line depth for the site unless an insulated foundation or monolithic slab is used (refer to 24 CFR 3285.312(b)(2) and 24 CFR 3285.312(b)(3)).

(B) This is not subject to the provisions in 24 CFR 3285.2(c) that also require review by the manufacturer and approval by its DAPIA for any variations to the manufacturer's installation instructions for support and anchoring.

(C) Monolithic slab systems. A monolithic slab is permitted above the frost line when all relevant site-specific conditions, including soil characteristics, site preparation, ventilation, and insulative properties of the under floor enclosure, are considered and anchorage requirements are accommodated as set out in 24 CFR 3285.401. The monolithic slab system must be designed by a registered professional engineer or registered architect:

(i) In accordance with acceptable engineering practice to prevent the effects of frost heave; or

(ii) In accordance with SEI/ASCE 32-01 as defined in 24 CFR 3285.4.

(D) Insulated foundations. An insulated foundation is permitted above the frost line, when all relevant site-specific conditions, including soil characteristics, site preparation, ventilation, and insulative properties of the under floor enclosure, are considered, and the foundation is designed by a registered professional engineer or registered architect:

(i) In accordance with acceptable engineering practice to prevent the effects of frost heave; or

(ii) In accordance with SEI/ASCE 32-01 as defined in 24 CFR 3285.4.

§80.22. *Generic Standards for Moisture and Ground Vapor Controls.*

- (a) If the used manufactured home is installed according to the state's generic standards and the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, the enclosure must meet the following requirements:
- (1) At least one access opening that does not require the use of tools to gain access shall not be less than 18 inches in any dimension and not less than three square feet in area shall be provided by the installer. The access opening shall be located so as to enable, to the extent reasonably possible, the visual inspection of water supply and sewer drain connections.
 - (2) If a clothes dryer exhaust duct, air conditioning condensation drain, or combustion air inlet is present, the installer must pass it through the skirting to the outside. All air conditioning condensation lines must be installed in such manner that prevents ponding within 5 feet of the foundation.
 - (3) Crawl space ventilation must be provided at the rate of minimum 1 square foot of net free area, for every 150 square feet of floor area.
 - (4) At least six openings shall be provided, one at each end of the home and two on each side of the home. There must be a ventilation within 3 feet of each corner. The openings shall be screened or otherwise covered to prevent entrance of rodents (note: screening will reduce net free area). For example, a 16'x76' single section home has 1216 square feet of floor area. This 1216 square feet divided by 150 equals 8.1 square feet or 1166 square inches of net free area crawl space ventilation.

- (b) The generic ground vapor control measure shall consist of a ground vapor retarder that is minimum 6 mil polyethylene sheeting or its equivalent, installed so that the area under the home is covered with sheeting and overlapped approximately 12 inches at all joints. Any tear larger than 18 inches long or wide must be taped using a material appropriate for the sheeting used. The laps should be weighted down to prevent movement. Any small tears and/or voids around construction (footings, anchor heads, etc.) are acceptable.