

**Interpretative Bulletin to the Regulations**  
**I-1-94**  
**MANUFACTURED HOME PROCEDURAL AND**  
**ENFORCEMENT REGULATIONS**  
**24 CFR Part 3282**

The US Department of Housing and Urban Development has issued regulations implementing the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* The Manufactured Home Procedural and Enforcement Regulations ("Regulations"), in part, provide for consumer complaint handling and remedial actions. 24 CFR part 3232, subpart I.

Section 3282.404(b) of the regulations (24 CFR 3282.404(b)) provides that whenever the manufacturer receives from any source information that may indicate the existence of a problem in a manufactured home for which the manufacturer is responsible for providing notification under §3282.404(a), the manufacturer is required, as soon as possible, but not later than 20 days after receipt of the information, to carry out any necessary investigations and inspections to determine whether the manufacturer is responsible for providing notification under §3282.404(a). The manufacturer is further required to maintain complete records of all such information and determinations in a form that will allow the Secretary, the Secretary's Agent or a State Administrative Agency ("SAA") readily to discern who made the determination with respect to a particular piece of information, what the determination was, and the basis for the determination. Such records are required to be kept for a minimum of five years from the date the manufacturer received the information.

Section 3282.404(a) of the Regulations (24 CFR 3282.404(a)) requires notification of consumers and dealers when the manufacturer has information that a Defect *exists* or *may exist* in a class of manufactured homes produced by the manufacturer. Notification of consumers and dealers is also required with respect to all manufactured homes produced by the manufacturer in which there exists or may exist an Imminent Safety Hazard or Serious Defect. In the case of Imminent Safety Hazards and Serious Defects, correction of the affected homes is also required under 24 CFR 3282.406.

The Department's policy with regard to §3282.404 of the Regulations has been consistent since the inception of the manufactured housing program and has been espoused at SAA and Primary Inspection Agency ("PIA") workshops and in materials distributed to SAAs, PIAs, and manufacturers at those workshops. Notwithstanding, it has come to the Department's attention that some manufacturers are not making the required determinations for each problem or maintaining complete records of the determinations if they are being made. In some cases, manufacturers are making one determination for an unrelated group of problems in a home. Therefore, the Department finds it necessary, in light of this apparent noncompliance, to reiterate the policy.

Accordingly, the Department of Housing and Urban Development interprets 24 CFR 3282.404(b) as follows:

Whenever the manufacturer receives from any source (including, but not limited to: Home purchasers or owners, dealers, PIAs, SAAs, component suppliers and the manufacturer's own employees) information that may indicate the existence of a Noncompliance, Defect, Serious Defect or Imminent Safety Hazard in a manufactured home, the manufacturer shall, as soon as possible, but not later than 20 days after receipt of the information, carry out any necessary investigations and inspections to determine whether the manufacturer is responsible for providing notification under 24 CFR 3282.404(a).

If, on its face, the information clearly indicates the problem is a Noncompliance, the manufacturer shall make the determination that notification is not required and need not do anything further unless required, by the Secretary or an SAA, to notify consumers and dealers pursuant to 24 CFR 3282.407. However, the manufacturer must keep complete records of such information, the determination, and the basis for that determination.

If, however, the information indicates that the problem in the manufactured home is or *may be* a Defect, Serious Defect or Imminent Safety Hazard, the manufacturer shall carry out necessary investigations and inspections to determine the extent and seriousness of the problem. The manufacturer shall then make a determination whether notification (and correction) is required.

In some cases, what the problem is will not be apparent from the face of the information. For example, a consumer complaint about a crack in the wallboard may, at first glance, appear to be a nonstandard cosmetic item. However, upon further investigation, it may become apparent that the crack is a symptom of a structural problem. Such a structural problem may be a Serious Defect resulting from an improper design and may have been incorporated into numerous homes. Therefore, the manufacturer must thoroughly investigate and consider all the information it receives or already has in its possession and must obtain any additional information necessary to make the determination. In making the class determination, the manufacturer must review relevant information to determine whether it has produced other homes that have or may have the same problem (for example: prior consumer complaints, PIA inspection records, information from suppliers, information from dealers, designs, quality control records, etc.). In determining what records of other homes should be reviewed to look for similar problems, the manufacturer may need to pay close attention to homes with similar characteristics to the home known to have the problem (for example: similar models, homes with similar options or construction, homes containing components similar to the subject home, etc.).

If it is questionable whether a particular home definitely is in or not in a class of affected homes, the manufacturer should presume that the home is affected and treat it as part of the class. Moreover, even if a home has been corrected by a third party, the manufacturer is still responsible for conducting the necessary investigations and making the necessary determinations. Under 24 CFR 3282.366(b), the Production Inspection Primary Inspection Agency (IPIA) is responsible for reviewing a determination with regard to a class of potentially affected homes including the determination of whether or not a class exists. In addition, both IPIAs and Design Approval Primary Inspection Agencies are responsible for assisting the Secretary or an SAA in identifying the class of manufactured homes.

The manufacturer shall maintain complete records of all such information and determinations in a form that will allow the Secretary, the Secretary's agent, or an SAA readily to discern who made the determination with respect to a particular piece of information, what the determination was, and the full basis for the determination (not merely a conclusion). Such basis must include a description of and the findings from the investigations and inspections the manufacturer carried out to determine whether notification (and correction) is required and whether the Defect, Serious Defect, or Imminent Safety Hazard is or *may be* in a class of homes. Often, this will require that the manufacturer determine the source of the problem. Such records must be kept for a minimum of five years from the date the manufacturer received the information.

Failure to comply with the requirements of Subpart I of the Regulations and this Interpretative Bulletin may subject the manufacturer to civil and criminal penalties under 42 U.S.C. 5410, and a possible action for injunctive relief under 42 U.S.C. 5411. Similar actions may be brought by SAAs under their State statutory authorities.

This Interpretative Bulletin is issued pursuant to 24 CFR 3282.113. The Secretary has received requests from State officials urging immediate action on this matter, because of the difficulty they are finding in monitoring the manufacturers' compliance with the Regulations and ultimately protecting the public. In addition and as noted above, this Interpretative Bulletin does not denote any change in policy held by the Department. Therefore, due to the need for expeditious resolution of these issues and the fact that this is not a change in the position or policy of the Department, the Secretary deems it not to be in the public interest to issue the interpretation for public comment in the **Federal Register** or otherwise to treat this Interpretative Bulletin as rulemaking.

Authority: 42 U.S.C 5403 and 3535(d).

Dated: October 31, 1994.

Nicolas P. Retsinas  
Assistant Secretary for Housing  
Federal Housing Commissioner

[FR Doc. 94-30420 Filed 12-9-94; 8:45 am.]