

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3282

[Docket No. FR-4319-A-01]

RIN 2502-AH14

Revision of Manufactured Home Procedural and Enforcement Regulations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: HUD plans to update the procedural and enforcement regulations of the Manufactured Home Construction and Safety Standards program. In preparation for this update, HUD is soliciting suggestions, with an emphasis on innovative and streamlined procedures, from interested members of the public.

DATES: *Comment Due Date:* December 8, 1998.

ADDRESSES: Interested persons are invited to submit comments and responses to the Rules Docket clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) responses are not acceptable. A copy of each response will be available for public inspection and copying during regular business hours (7:30 am to 5:30 pm Eastern Time at the above address).

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, mailing address: Room 9156, 451 7th Street, SW, Washington, D.C. 20410-8000, telephone (202) 708-6401. Hearing or speech-impaired individuals may call HUD's TTY number (202) 708-0770, or 1-800-877-8399 (Federal Information Relay Service TTY). Other than the "800" number, these are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background—Manufactured Home Construction and Safety Standards

The National Manufactured Housing Construction and Safety Standards Act of 1974 (Act), 42 U.S.C. 5401 *et seq.*, authorizes the Secretary to establish and amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS), which are codified at 24

CFR parts 3280 (Standards) and 3282 (Procedural and Enforcement Regulations). The stated purposes of the Act are to reduce the number of personal injuries and deaths, and the amount of insurance costs and property damage resulting from manufactured home accidents, and to improve the quality and durability of manufactured homes. HUD administers the Act through the Federal Manufactured Housing Program (Program).

By this advance notice of proposed rulemaking, HUD is soliciting specific suggestions and language to be included in a subsequent proposed rule to update the procedural and enforcement provisions in part 3282. Changes to the actual standards in part 3280 are being proposed and considered through a separate process, because of the technical nature of those standards and statutory requirements. In the process announced in this advance notice of proposed rulemaking, HUD wishes to consider only improvements to its procedural requirements under the Program.

The purpose of part 3282 is to outline the procedures for the implementation of HUD's responsibilities under the Act. Currently, HUD meets these responsibilities in part through the use of private and State inspection organizations and cooperation with State agencies. The part 3282 regulations address approvals and inspections necessary to enforce the Standards; to determine that a manufactured home fails to comply with an applicable standard or contains a serious defect or imminent safety hazard; and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the serious defect or imminent safety hazard.

The Federal Manufactured Housing Program was established in 1974, and has now been administered by the Department for over 22 years. The experience of the industry, State agencies, consumers and the Department provides the Department with the basis for recommending program changes to implement a more efficient and effective monitoring and enforcement process. This process includes approvals and inspections, investigations and enforcement of the standards, and remedying of defects. The Department hopes to make improvements in these areas and streamline the regulations while helping to increase the safety, quality and durability of manufactured homes.

With better enforcement regulations the Department will ensure that manufacturers producing homes that comply with the Federal construction

and safety standards are not put at a competitive disadvantage. More effective and efficient regulations will also make manufactured housing a more attractive source of affordable housing.

Under current regulations, HUD's method of monitoring and enforcement is the same as when the program was initiated. While the method works well in most cases, HUD is interested in considering alternative approaches that may better serve the objectives of consumers, the industry, and HUD.

Specifically, HUD seeks input on innovative and streamlined structures and procedures with respect to subparts A-L of part 3282, and is especially interested in receiving suggestions for proposed changes to subparts E-L.

The Department is not limited to reviewing changes within the present structure of the manufactured housing program. Recommendations for structural changes within the statutory limitations of the program are also being solicited.

II. Solicitation of Public Comments—Changes To Be Considered

In developing and submitting suggestions for changes in all subparts of part 3282, respondents are asked by HUD to identify elements of the monitoring and enforcement process and proposals that have, or appear to have, a potential conflict of interest. The Department welcomes recommendations for minimizing or eliminating any real or apparent conflicts of interest.

Continuing the Administration's efforts to streamline regulations, the Department is also interested in identifying and reorganizing overlapping provisions within Part 3282.

Subpart E of the regulations covers manufacturer inspection and certification requirements. In reviewing subpart E, the Department is interested in receiving recommendations for updating and enhancing the information required to be submitted by manufacturers to validate their designs and quality assurance plans, and for developing a more effective and efficient system for reviewing and approving designs for manufactured housing.

Subpart F of the regulations covers dealer and distributor responsibilities. In reviewing subpart F, the Department is interested in receiving recommendations on defining dealer responsibilities; better identifying the dealer's role in handling complaints and ensuring that homes are placed in the wind, snow and weather zones for which the home was constructed; and

the procedures to be followed if there is transportation damage.

Subpart G of the regulations covers requirements applicable to State Administrative Agencies. In reviewing subpart G, the Department is interested in receiving recommendations for developing a more effective and efficient role for State Administrative Agencies, and better delineating their responsibilities.

Subpart H of the regulations covers general requirements for primary inspection agencies, both Production Inspection Primary Inspection Agencies (IPIAs) and Design Inspection Primary Inspection Agencies (DAPIAs). In reviewing subpart H, the Department is interested in receiving recommendations for improving accountability of PIAs and plants, and in developing more effective and efficient quality control in the design and construction of manufactured housing. This would include measurements of quality, penalties, and

the future role of American Society for Quality Control (ASQC/ISO) 9000 series standards, a management system used to document and certify quality assurance by a manufacturer.

Subpart I of the regulations covers the handling of consumer complaints and remedial actions. In reviewing subpart I, the Department is especially interested in receiving recommendations for ensuring the level of consumer protection intended by the statute. In particular, HUD seeks comments addressed to the question: are there alternative procedures or more effective methods of protecting consumer interests that should be considered, while also reducing the compliance burden? Suggestions on simplification of subpart I procedures would be appropriate.

Subpart J of the regulations covers the monitoring of PIAs. In reviewing subpart J, the Department is especially interested in receiving recommendations for developing a more

effective and efficient system for monitoring PIAs, and for developing an incentive system for IPIAs based on performance. Such a system could possibly include the development and administration of a national consumer satisfaction rating system for manufactured homes, similar to the annual consumer satisfaction system used in the automotive industry.

HUD will use public comments received in response to this advance notice of proposed rulemaking in the development of a proposed rule intended to provide a more effective and efficient process of monitoring the design and production of manufactured housing in a way that would better serve the public interest.

Dated: September 25, 1998.

Ira G. Peppercorn,

General Deputy Assistant Secretary for Housing.

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