

(iii) If the Secretary determines that a certification is false or inaccurate, the manufacturer will be given written notice and the reasons for this determination by certified mail.

(2) The Secretary may seek civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410, if the party in question in the exercise of due care has reason to know that such certification is false or misleading as to any material fact.

[44 FR 68733, Nov. 29, 1979, as amended at 49 FR 10666, Mar. 22, 1984]

#### § 3282.13 Voluntary certification.

(a) The purpose of this section is to provide a procedure for voluntary certification of non-conforming manufactured homes as required by 42 U.S.C. 5402(6) as amended by section 308(d)(B) of the Housing and Community Development Act of 1980.

(b) Structures which meet all of the requirements of a *manufactured home* as set out in § 3282.7(u), except the size requirements, shall be *manufactured homes* if the manufacturer files with the Secretary a certification in the following form:

[Name of manufacturer and address where structures are to be manufactured] certifies that it intends to manufacture structures that meet all of the requirements of manufactured homes set forth at 42 U.S.C. 5402(6) except the size requirements. Such structures are to be treated as manufactured homes for the purposes of the National Manufactured Housing Construction and Safety Standards Act of 1974 and the regulations promulgated pursuant thereto. Such structures will be built in conformance with the Standards. [Name of manufacturer] further certifies that if, at any time it manufactures structures which are not manufactured homes, it will identify each such structure by a permanent serial number placed on the structure during the first stage of production and that the series of serial numbers for such structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes.

(c) Whenever a manufacturer which has filed a certification pursuant to § 3282.13(b) produces structures which are not manufactured homes, it must identify each such structure by placing a permanent serial number on the structure during the first stage of pro-

duction. The series of serial numbers placed on these structures shall be distinguishable on the structure and in the manufacturer's records from the series of serial numbers used for manufactured homes.

(d) A manufacturer may certify a structure as a manufactured home after having applied a serial number identifying it as a structure which is not a manufactured home. To do so, the manufacturer must secure the written consent of the IPIA. This consent may only be given after a DAPIA has approved the manufacturer's design and quality assistance manual in accordance with § 3282.361, and after the IPIA has thoroughly inspected the structure in at least one stage of production and after such removal of equipment, components or materials as the IPIA may require to assure that the structure conforms to the standards. After certification as a manufactured home has been approved, the manufacturer shall remove the original serial number and add the serial number required by § 3280.6.

(e) Once a manufacturer has certified under § 3282.13(b) that it intends to build structures which are manufactured homes in all respects except size, the manufacturer must then, with respect to those structures, comply with all of the requirements of the Act and its regulations. The structures may not thereafter be exempted under any other section of these regulations.

[47 FR 28093, June 29, 1982]

#### § 3282.14 Alternative construction of manufactured homes.

(a) *Policy.* In order to promote the purposes of the Act, the Department will permit the sale or lease of one or more manufactured homes not in compliance with the Standards under circumstances wherein no affirmative action is needed to protect the public interest. The Department encourages innovation and the use of new technology in manufactured homes. Accordingly, HUD will permit manufacturers to utilize new designs or techniques not in compliance with the Standards in cases:

(1) Where a manufacturer proposes to utilize construction that would be prohibited by the Standards;

(2) Where such construction would provide performance that is equivalent to or superior to that required by the Standards; and

(3) Where (i) compliance with the Standards would be unreasonable because of the circumstances of the particular case, or (ii) the alternative construction would be for purposes of research, testing or development of new techniques or designs. If a request for alternative construction is submitted and the facts are consistent with these principles, the Secretary may issue a letter under paragraph (c) of this section stating that no action will be taken under the Act based upon specific failures to conform to the Standards or these regulations, provided that certain conditions are met. The issuance of a letter under paragraph (c) of this section will not affect any right that any purchaser may have under the Act or other applicable law and will not preclude any further agency action that may become necessary.

(b) *Request for alternative construction.* A manufacturer may submit a request for alternative construction of a manufactured home. The request should be sent to the U.S. Department of Housing and Urban Development, Manufactured Housing Standards Division, 451 Seventh Street, SW., Washington, DC 20410. The request must include:

(1) A copy of the manufactured design or plan for each nonconforming model which a manufacturer plans to build;

(2) An explanation of the manner in which the design fails to conform with the Standards, including a list of the specific standards involved;

(3) An explanation of how the design will result in homes that provide the same level of performance, quality, durability and safety as would be provided under the Standards;

(4) A copy of data adequate to support the request, including applicable test data, engineering calculations or certifications from nationally recognized laboratories;

(5) An estimate of the maximum number of manufactured home units affected and the location, if known, to which the units will be shipped;

(6) An indication of the period of time during which the manufacturer

proposes to engage in the manufacture, sale or lease of the nonconforming homes;

(7) A copy of the proposed notice to be provided to home purchasers;

(8) A list of the names and addresses of any dealers that would be selling the nonconforming homes; and

(9) A letter from the manufacturer's DAPIA indicating that the design(s) to which any nonconforming homes would be built meet the Standards in all other respects.

(c) *Issuance of the letter by the Secretary—(1) Contents of the letter.* If the Secretary issues a letter in response to a request for alternative construction, the letter shall include the specific standards affected, an explanation of the proposed activity or design, an explanation of how the request is consistent with the objectives of the Act, and any conditions that the manufacturer must meet.

(2) *Letter sent to IPIA, DAPIA and SAA.* The Secretary shall forward a copy of the letter to the manufacturer's IPIA and DAPIA along with a letter authorizing the DAPIA to approve plans containing the alternative construction, and authorizing the IPIA to permit use of the alternative construction, provided that the conditions set forth in the letter are met. The Secretary shall also forward a copy of the letter to the SAAs in the State of manufacture and the State(s) in which the homes are to be located, if known.

(3) *Alternative construction in additional models.* In cases where the Secretary grants a letter under this paragraph that is not model-specific, the Secretary may permit the manufacturer to include the alternative construction in additional models. In such cases, the DAPIA shall notify the Department of additional models that incorporate the alternative construction.

(d) *Revocation.* The Secretary may revoke or amend a letter issued under paragraph (c) of this section at any time. Such revocation or amendment will be prospective only. Where manufacturers have requested alternative construction for research, testing or development such alternative construction may not achieve the anticipated results. Therefore, the Secretary may require a manufacturer to bring

those homes into compliance with the standards if, after the alternative construction has been in use for a period of time specified by the Secretary, these homes are not, in the Secretary's judgment, providing the levels of safety, quality and durability which would have been provided had the homes been built in compliance with the Standards.

(e) *Notice to prospective purchasers.* Manufacturers receiving letters under paragraph (c) of this section shall provide notice to prospective purchasers that the home does not conform to the Standards. Such notice shall be delivered to each prospective purchase before he or she enters into an agreement to purchase the home. The notice shall be in the following form or in such other form as may be approved by the Secretary:

NOTICE TO PURCHASERS

The Department of Housing and Urban Development has issued a letter to (Name of Manufacturer) concerning the homes in (location if known). As designed, the homes do not meet Federal Manufactured Home Construction and Safety Standards regarding (brief statement of manufacturer's non-conformance).

HUD has evaluated the alternative construction and believes that it provides an equivalent level of quality, durability and safety to that provided by the Standards.

For further information about the specific Federal Standards involved, a copy of the letter issued pursuant to 24 CFR 3282.14(c) is available from this dealer or manufacturer upon request.

(f) *Serial numbers of homes constructed using alternative construction.* Manufacturers shall provide the Department with the serial numbers assigned to each home produced in conformance with the letter issued under paragraph (c) of this section within 90 days of their date of manufacture. Each serial number shall include the letters "AC" to indicate that the homes was produced under alternative construction procedures.

[49 FR 1967, Jan. 16, 1984]

## Subpart B—Formal Procedures

### § 3282.51 Scope.

This subpart contains rules of procedure generally applicable to the transaction of official business under the National Manufactured Housing Construction and Safety Standards Act, including the rules governing public availability of information.

### § 3282.52 Address of communications.

Unless otherwise specified, communications shall be addressed to the Director, Manufactured Housing Standards Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

### § 3282.53 Service of process on foreign manufacturers and importers.

The designation of an agent required by section 612(e) of the Act, 42 U.S.C. 5411(e), shall be in writing, dated, and signed by the manufacturer and the designated agent.

[61 FR 10860, Mar. 15, 1996]

### § 3282.54 Public information.

(a) *General.* Subject to the provisions of 24 CFR part 15 covering the production or disclosure of material or information and the provisions of 24 CFR part 16 at 40 FR 39729 relating to the Privacy Act, and except as otherwise provided by paragraphs (b), (c), (d), and (e) of this section, the Secretary may make available to the public:

(1) Any information which may indicate the existence of an imminent safety hazard, and

(2) Any information which may indicate the failure of a manufactured home to comply with applicable manufactured home construction and safety standards, and

(3) Such other information as the Secretary determines is necessary to carry out the Secretary's functions under the Act.

(b) *Protected information.* Data and information submitted or otherwise provided to the Secretary or an agent of the Secretary or a PIA or SAA which fall within the definitions of a trade secret or confidential commercial or financial information are exempt from disclosure under this section, only if