

FREQUENTLY ASKED QUESTIONS (FAQs)



MANUFACTURER RESPONSIBILITIES

Under
Subpart I, Consumer Complaint Handling
and Remedial Actions

HUD MANUFACTURED HOME
PROCEDURAL AND ENFORCEMENT
REGULATIONS
(24 CFR Part 3282)

Q. Am I responsible for correcting failures to conform or imminent safety hazards created solely by retailer alterations, set-up, or secondary transportation by the retailer?

A. The manufacturer is responsible for correcting any failures to conform and imminent safety hazards that exist in manufactured homes that have been sold or otherwise released to a distributor or retailer but which have not yet been sold to a purchaser. This responsibility generally does not extend to failures to conform or imminent safety hazards that result solely from transit damage that occurs after the manufactured home leaves the control of the manufacturer, unless such transit damage is reasonably foreseeable by the manufacturer when the manufacturer releases the home. Regardless of whether the manufacturer is responsible for repairing a manufactured home, no retailer or distributor may sell a manufactured home if it contains a failure to conform or an imminent safety hazard. [3282.414]

Q. Does Subpart I require me to investigate consumer complaints, even if the warranty on the home has expired?

A. YES. The Regulations do not set time limits on your responsibility for investigation, notification, and correction under Subpart I. [3282.404] State and manufacturer warranties are not addressed in the Regulations.

Q. What records of these investigations and determinations am I required to maintain and for how long?

A. All records of the investigations and the determinations made in accordance with Subpart I—including who made the determination, what the determination was, and the basis for the determination—must be maintained for at least five years. [3282.404(b)]

Q. Is there a specific format in which the records of investigations must be maintained?

A. NO. However, the records must be in a form that will allow the Secretary or an SAA to easily discern who made the determination with respect to a particular piece of information, what the determination was, and the basis for the determination. [3282.404(b)]

Q. Who has the authority to review my manufactured home records?

A. Your State SAA has the authority and responsibility to monitor your records for Subpart I compliance. [3282.405(a)] HUD also has the authority to review records and to conduct inspections and investigations as necessary, and may designate a representative to carry out those responsibilities. [42 USC 5413 and 3282.501(b)]

Q. Must I notify all homeowners who may own homes belonging to the class in question?

A. YES, unless you receive a waiver of notification from HUD and agree to correct all affected homes. You do not have to notify the homeowners about a problem that is just a noncompliance unless specifically required to do so by the SAA or HUD. [3282.404(a)]

Q. What are the penalties that an SAA or HUD can impose for not complying with Subpart I?

A. In general, whoever violates a requirement of the Act or any regulation is liable for a civil penalty not to exceed \$1,100 for each violation for each home and not to exceed \$1,100,000 in total. An individual or a director, officer, or agent of a corporation who knowingly and willfully violates requirements in a manner that threatens the health or safety of any purchaser can be fined not more than \$1,100 or imprisoned not more than one year, or both. [3282.10] Additionally, any person other than an officer or employee of the United States, or a person exercising inspection functions under a State plan, who knowingly or willfully fails to report a violation of any construction or safety standard may be fined up to \$1,100 or imprisoned for up to a year or both. [42 USC 5420]

Q. What recourse do I have if I disagree with a preliminary or final determination made by an SAA or HUD that requires remedial action?

A. The Procedural and Enforcement Regulations provide for a process in which manufacturers may request a hearing to present their views. [3282.407] All parties involved in proceedings (also see 24 CFR 3800.60) may propose settlement at any time. This process is governed by Subpart D of 24 CFR part 3282 of the Regulations. A final SAA determination may be appealed to HUD.

Q. Whom do I contact if I have a question about Subpart I requirements?

A. The local SAA, your IPIA, or HUD's monitoring contractor may be able to provide assistance. Contact information is available on HUD's website (see below).

Department of Housing & Urban Development, Room 9164,
451 7th Street, SW, Washington, DC 20410, (202) 708-6423
www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm

Copies of this brochure may be obtained from:

Institute for Building Technology and Safety, 505 Huntmar Park
Drive, Suite 250, Herndon, VA 20170, (703) 481-2000, www.ibts.org

Prepared under contract with the Department of Housing and Urban
Development

Re-Printed 11/10/10

*This brochure assists in answering the most frequently asked questions (FAQs) regarding **manufacturer responsibilities** under Subpart I of the Manufactured Home Procedural and Enforcement Regulations (24 CFR 3282) that implement the National Manufactured Housing Construction and Safety Standards Act (Part 42 USC 5401-5426). **NOTE: This brochure is not intended to establish new regulatory requirements. All users of this brochure must refer to the Act, Regulations and Interpretative Bulletins in determining their responsibilities. Also refer to your individual States for any additional responsibilities under State law.***

The Procedural and Enforcement Regulations contain requirements to protect the rights of all parties and establish a system by which the protections of the Act are provided.

Q. What are my primary responsibilities under Subpart I of the Procedural and Enforcement Regulations?

A. The manufacturer's primary responsibilities are to review any information received from any source that indicates the possible existence of a manufactured home problem for which you, as a manufacturer, may be responsible. If the review indicates a possible defect, serious defect, or imminent safety hazard, the manufacturer must investigate to determine whether notification is required. [IB I-1-94] The investigation information must be clearly recorded in your files. You must also complete a written determination that clearly states who made it, what the determination was, and the basis for that determination. [3282.404]

Q. How do I determine if I am responsible for remedial action under Subpart I?

A. Under Subpart I, a manufacturer is responsible for homes and components within that fail to conform. The only exceptions are nonconformances resulting from normal wear and aging, gross and unforeseeable consumer abuse, or consumer failure to perform maintenance. [3282.402(b)] New homes must comply with the Standards before they are sold, regardless of who or what caused the noncompliance, defect, serious defect, or imminent safety hazard.

Q. What are remedial actions?

A. Remedial actions are the required actions resulting from the manufacturer's investigations as defined in Subpart I of the Regulations. They include **notification and correction**, and may also be satisfied through **waiver of notification, settlement, replacement, or repurchase** of a home. The type of remedial action depends on the severity of the problem and whether more than one home has been affected.

Q. I want to be sure I'm taking the correct remedial action per Subpart I. How can I know?

A. Where the investigation finds an imminent safety hazard, serious defect, or defect in a class of homes, a manufacturer must notify the owners about the problem (notification), using the format as described in 3282.410. You are required to provide notification with respect to a noncompliance only if the SAA or HUD has issued a final determination under 3282.407.

The manufacturer may request a **Waiver of Notification** to forgo notification of owners by ensuring that all affected homes have been identified, all homes will be corrected at the manufacturer's expense, and all proposed corrections will remove the failure to conform or imminent safety hazard. [3282.404] If a required correction cannot be made within 60 days, HUD may require the manufacturer to repurchase or replace the home. [3282.413] A manufacturer must correct all homes released to a retailer or distributor that are not yet sold and that contain a failure to conform or imminent safety hazard, regardless of who created the problem. [3282.414] Also, after the sale of the home, a manufacturer must correct serious defects and imminent safety hazards that are related to an error in design or assembly. Your IPIA is required to ensure that you have made all notifications and corrections per 3282.416.

Q. Are failures to conform classified by severity?

A. The extent of a manufacturer's responsibility for providing notification or correction depends upon the seriousness of problems for which the manufacturer is responsible under this subpart. [3282.402] A manufacturer is required to furnish notification to owners of homes with common defects under 3282.404 or 3282.407 and shall correct, at its expense, any imminent safety hazard or serious defect that can be related to an error in design or assembly of the manufactured home by the manufacturer, including an error in design or assembly of any component or system incorporated in the manufactured home by the manufacturer. [3282.406]

Q. Is my responsibility under 3282.405 limited to investigating consumer complaints?

A. NO. You must investigate all information you receive that indicates the possible existence of a problem in a manufactured home for which you may be responsible for providing notification. Examples of this information include: a) consumer complaints; b) design error reports from the DAPIA; c) inspection reports from your quality control personnel, the IPIA, or HUD's monitoring contractor; d) reports of problems from retailers; and e) recall bulletins from product suppliers, component fabricators, etc. [3282.404(b)]

Q. What does a Subpart I investigation involve, and how much time do I have to complete the investigation?

A. Your investigation must determine and classify the severity of the problem (as defined by the Regulations), the number of affected homes, and, usually, the source of the problem. The investigation must produce a readily discernable determination that includes the determination itself, the name of the person making the determination, and the basis for the determination. This determination must be completed within 20 calendar days of receiving the information that indicated the possible problem. [3282.404(b)] Within 20 days of the determination, the manufacturer must submit a notification and correction plan that includes the proposed notice, appropriate information to identify affected homes, and a statement by the IPIA regarding the plan. The contents of the plan are described in 3282.409 and the contents of the proposed notice are described in 3282.410. NOTE: These requirements also may affect what a specific Subpart I investigation may involve.

Q. What is meant by a class of homes and how do I determine a class of homes?

A. A class of homes is a group of homes that share or may share the same failure to conform or imminent safety hazard because these problems were systematically introduced during production. A manufacturer must investigate the existence of a possible class of homes if it even suspects that a defect, serious defect, or imminent safety hazard might exist. This class determination can be based on, but is not limited to, information from any of the following sources: inspections of homes produced before and after the affected home, complaints that can be traced to the same cause, known defects in supplies of components or parts, employee-related information, and quality control process deficiencies. [3282.404 and 3282.407] If you cannot identify the precise affected homes, all homes that may contain the problem must be included in the class. Your IPIA agency must also concur with your method used to define the class of homes or state why the method was inadequate or incorrect.

Q. Who at my plant is required to conduct the investigation?

A. You can select anyone to conduct the investigation, but you must keep records on who made the determination. [3282.404] The manufacturer remains responsible for ensuring that the investigation is conducted and determinations are made in accordance with Subpart I. (NOTE: The investigator should be familiar with the Standards and quality control processes.)