

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3280

[Docket No. FR-4552-C-03]

RIN 2502-AH48

Manufactured Home Construction and Safety Standards: Smoke Alarms; Amendments

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

ACTION: Final rule; amendments.

SUMMARY: This document makes certain amendments to the final rule that was recently published in the **Federal Register** that revised the Federal Manufactured Home Construction and Safety Standards requirements for the location and placement of smoke alarms. The amendments are made to correct certain technical errors and to include an omission, referenced in the preamble, but not included in the regulatory text.

EFFECTIVE DATE: September 16, 2002.

FOR FURTHER INFORMATION CONTACT:

William W. Matchneer III, Administrator, Manufactured Housing Program, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-6401 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: On March 19, 2002, the Department published a final rule in the **Federal Register** (67 FR 12812) to amend the Federal Manufactured Home Construction and Safety Standards to revise the requirements for location and placement of smoke alarms. The final rule stated that "The amendments will improve the effectiveness and performance of smoke alarms in early warning detection of manufactured home fires and, as a result, reduce the rate of fire fatalities in new manufactured housing." (67 FR 12812). Since publication of the final rule, HUD has discovered the following errors and omission in the regulations that this document remedies:

In §§ 3280.208(c)(1), (c)(2), and (c)(3), language was omitted that described the minimum slope of sloping ceilings. This document remedies that omission, along with making other corrections to paragraphs (c)(2) and (c)(3). The corrected paragraphs are set forth below.

—Paragraph (c)(1) now reads as follows:

(c) Mounting requirements. (1) Except in rooms with peaked sloping or shed sloping ceilings with a slope of more than 1.5/12 or as permitted pursuant to paragraph (e) of this section, smoke alarms must be mounted either: * * *

—In § 3280.208(c)(2), the second reference to a horizontal measurement is incorrect; the reference should be to a vertical measurement. This is consistent with the method for determining the comparable measurement set out for non-sloped ceilings. As corrected, paragraph (c)(2) now reads as follows:

(2) Except as permitted pursuant to paragraph (e) of this section, in rooms with peaked sloping ceilings with a slope of more than 1.5/12, smoke alarms must be mounted on the ceiling within 3 feet, measured horizontally, from the peak of the ceiling; at least 4 inches, measured vertically, below the peak of the ceiling; and at least 4 inches from any projecting structural element.

In § 3280.208(c)(3), the phrase "on the ceiling" and the method of measurement were inadvertently omitted. The preamble of the final rule indicated that specification of locations for smoke alarms on peaked sloping or shed sloping ceilings is important for proper operation of the alarms. (See 67 FR 12813 and 12815.) Additionally, the preambles of both the proposed and final rules stated that the Department's rule was largely based on the provisions of the National Fire Protection Association 501 Standard. (See, respectively 65 FR 31778 and 67 FR 12813 and 12815.) With the inclusion of this language, which is consistent with the proposed rule, paragraph (c)(3) now reads as follows:

(3) Except as permitted pursuant to paragraph (e) of this section, in rooms with shed sloping ceilings with a slope of more than 1.5/12, smoke alarms must be mounted on the ceiling within 3 feet, measured horizontally, of the high side of the ceiling, and not closer than 4 inches from any adjoining wall surface and from any projecting structural element.

Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with HUD's regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide in § 10.1 for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is "impracticable, unnecessary or contrary to the public interest."

The Department finds that good cause exists to publish this rule for effect without soliciting public comment in that prior public procedure is contrary to the public interest. This final rule corrects technical errors and includes language discussed in the preamble of the proposed rule but inadvertently omitted from the regulatory text.

Findings and Certifications

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is limited to addressing technical errors and omissions.

Environmental Impact

This rule does not involve a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under HUD's regulations in 24 CFR part 50, this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 3280 as follows:

**PART 3280—MANUFACTURED HOME
CONSTRUCTION AND SAFETY
STANDARDS**

1. The authority citation for 24 CFR part 3280 continues as follows:

Authority: 42 U.S.C. 3535(d), 5403, and 5424.

2. Section 3280.208 is amended by revising paragraphs (c)(1) introductory text, (c)(2) and (c)(3) to read as follows:

§ 3280.208 Smoke alarm requirements.

* * * * *

(c) *Mounting requirements.* (1) Except in rooms with peaked sloping or shed sloping ceilings with a slope of more

than 1.5/12 or as permitted pursuant to paragraph (e) of this section, smoke alarms must be mounted either:

* * * * *

(2) Except as permitted pursuant to paragraph (e) of this section, in rooms with peaked sloping ceilings with a slope of more than 1.5/12, smoke alarms must be mounted on the ceiling within 3 feet, measured horizontally, from the peak of the ceiling; at least 4 inches, measured vertically, below the peak of the ceiling; and at least 4 inches from any projecting structural element.

(3) Except as permitted pursuant to paragraph (e) of this section, in rooms

with shed sloping ceilings with a slope of more than 1.5/12, smoke alarms must be mounted on the ceiling within 3 feet, measured horizontally, of the high side of the ceiling, and not closer than 4 inches from any adjoining wall surface and from any projecting structural element.

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Dated: July 24, 2002.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

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