

Preliminary Performance Review

**Manufactured Housing
Construction and Safety Board**

**The Manufactured Housing Construction
and Safety Board Protects the Citizens of
West Virginia**

**The Board Has Shown Improvement in
Completing the Consumer Complaint Process
Within the Required 90 Days**

**The Board is Conducting Dealer Lot and
Installation Audits as Required In Its Agreement
With The United States Department of Housing
and Urban Development (HUD)**



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OFFICE OF THE LEGISLATIVE AUDITOR

Aaron Allred
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John Sylvia
Director

Denny Rhodes
Research Manager

Lee Cassis
Research Analyst

Performance Evaluation and Research Division

Building 1, Room W-314

State Capitol Complex

Charleston, West Virginia 25305

(304) 347-4890

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

November 7, 2004

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Preliminary Performance Review of the *Manufactured Housing Construction and Safety Board*, which will be presented to the Joint Committee on Government Operations on Sunday, November 7, 2004. The issues covered herein are "The Manufactured Housing Construction and Safety Board Protects the Citizens of West Virginia;" "The Board Has Shown Improvement in Completing the Consumer Complaint Process Within the Required 90 Days;" and "The Board is Conducting Dealer Lot and Installation Audits as Required In Its Agreement With The United States Department of Housing and Urban Development (HUD)."

We transmitted a draft copy of the report to the Manufactured Housing Construction and Safety Board on October 21, 2004. The Manufactured Housing Construction and Safety Board opted not to have an exit conference. We received the agency response on October 27, 2004.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

The West Virginia Manufactured Housing Construction and Safety Board was created in 1988 under §21-9-1 in the West Virginia Code. The board consists of six members, with the commissioner of the Division of Labor serving as chairman. The board meets quarterly on dates set at its discretion. The board provides for the safety and protection of consumers purchasing manufactured homes by enforcing the code of federal regulations written in the National Manufactured Housing Construction and Safety Standards Act of 1974.

Issue 1 The Manufactured Housing Construction and Safety Board Protects the Citizens of West Virginia

As of October 15, 2004, West Virginia licensees included 57 manufacturers, 155 dealers, and 133 contractors.

The West Virginia Manufactured Housing Construction and Safety Board provides three main services to the consumers of manufactured homes: 1) License all manufactured housing manufacturers, dealers, and contractors in West Virginia; 2) Site inspections of consumers' homes to determine compliance with standards and regulations; 3) Conduct licensee disciplinary hearings to ensure effective recourse for consumers. As of October 15, 2004, West Virginia licensees included 57 manufacturers, 155 dealers, and 133 contractors. During FY 2004, the board received 137 consumer complaints. After investigations and inspections, 176 violations were discovered by the board and action was taken. The board performs dealer lot and installation audits to ensure that licensees are building and constructing manufactured homes according to standards and regulations. When violations are found and the licensee fails to make repairs as ordered by the board, the board utilizes the Trust Recovery Fund. The fund was used 38 times in FY 2004 with disbursements totaling \$241,286. The fund's balance at the end of FY 2004 was \$1,301,858. The Legislative Auditor recommends that the Manufactured Housing Construction and Safety Board be continued.

Issue 2 The Board Has Shown Improvement in Completing the Consumer Complaint Process Within the Required 90 Days

In a report issued in May 2002, the Legislative Auditor discovered that the board was not within statutorily mandated limits for investigating consumer complaints and if warranted, taking appropriate administrative action. West Virginia Code requires that administrative action be taken by the board within 90 days from the receipt of the consumer complaint. In the aforementioned report, it was found that the board was averaging 119 days per complaint. This review found that the board has gone from averaging 119 days to 48

days per complaint. This is an improvement of 71 days.

Issue 3 The Board is Conducting Dealer Lot and Installation Audits as Required In Its Agreement With The United States Department of Housing and Urban Development (HUD)

The board has gone from zero dealer lot audits in FY 2001 to performing 18 thus far in calendar year 2004, and from 2 installation audits in FY 2001 to 24 thus far in calendar year 2004.

In the May 2002 report, the Legislative Auditor discovered that the board was not conducting dealer lot audits, as required by its agreement with HUD. In addition, there was a sharp decline in the number of installation audits being performed. The report noted that from FY 1999 to FY 2001, the board conducted no dealer lot audits and installation audits had declined from 48 in FY 1999 to 2 in FY 2001. At the time, the board attributed the lack of dealer lot and installation audits to a shortage of compliance officers and funds. Now the board has a field supervisor and three inspectors and the result has been an increase in both dealer lot and installation audits. The board has gone from zero dealer lot audits in FY 2001 to performing 18 thus far in calendar year 2004, and from 2 installation audits in FY 2001 to 24 thus far in calendar year 2004. It is the opinion of the Legislative Auditor that the board should further increase the number of dealer lot and installation audits performed to better serve consumers of manufactured housing.

Review Objective, Scope and Methodology

This review of the West Virginia Manufactured Housing Construction and Safety Board is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia Code, as amended. The board provides for the safety and protection of consumers purchasing manufactured homes by enforcing the Federal HUD Code Manufactured Housing Construction and Safety Standards and the West Virginia Manufactured Housing Construction and Safety Standards.

Objective

The objective of this review is to determine the board's necessity to the state of West Virginia and to update the board's progress in implementing recommendations from the May 2002 report. These recommendations included: 1) expediting investigations during the complaint process, and 2) performing dealer lot audits and increasing the number of installation audits.

Scope

This review covers the period from July 2000 to October 2004.

Methodology

The methodology of this review includes conversations and correspondence with the director of the Manufactured Housing Construction and Safety Board; relevant statutes from the West Virginia Code and Federal Code; West Virginia legislative rules; information from the United States Department of Housing and Urban Development; and the board's financial information. Every aspect of this review complied with Generally Accepted Government Auditing Standards (GAGAS).

Issue 1

The Manufactured Housing Construction and Safety Board Protects the Citizens of West Virginia

Issue Summary

During FY 2004, the board received 137 consumer complaints. After investigations and inspections, 176 violations were discovered by the board and action was taken.

The board provides for the safety and protection of consumers purchasing manufactured homes by enforcing the code of federal regulations written in the National Manufactured Housing Construction and Safety Standards Act of 1974.

The West Virginia Manufactured Housing Construction and Safety Board provides three main services to the consumers of manufactured homes: 1) License all manufactured housing manufacturers, dealers, and contractors in West Virginia; 2) Site inspections of consumers' homes to determine compliance with standards and regulations; 3) Conduct licensee disciplinary hearings to ensure effective recourse for consumers. As of October 15, 2004, West Virginia licensees included 57 manufacturers, 155 dealers, and 133 contractors. During FY 2004, the board received 137 consumer complaints. After investigations and inspections, 176 violations were discovered by the board and action was taken. The board performs dealer lot and installation audits to ensure that licensees are building and constructing manufactured homes according to standards and regulations. When violations are found and the licensee fails to make repairs as ordered by the board, the board utilizes the Trust Recovery Fund. The fund was used 38 times in FY 2004 with disbursements totaling \$241,286. The fund's balance at the end of FY 2004 was \$1,301,858. The Legislative Auditor recommends that the Manufactured Housing Construction and Safety Board be continued.

West Virginia Manufactured Housing Construction and Safety Board

The West Virginia Manufactured Housing Construction and Safety Board was created by legislation in 1988 under §21-9-1 in the West Virginia Code. The board consists of six members, with the commissioner of the Division of Labor serving as chairman. The board meets quarterly on dates set at its discretion. The board provides for the safety and protection of consumers purchasing manufactured homes by enforcing the code of federal regulations written in the National Manufactured Housing Construction and Safety Standards Act of 1974.

The Board Provides a Necessary Service to the Citizens of West Virginia

The Manufactured Housing Construction and Safety Board is designated as the state administrative agency for the administration and enforcement of the federal standards and is charged with the adoption,

administration, and enforcement of manufactured homes construction and safety standards within the state of West Virginia. Currently, 37 of 50 states are participating in a state and federal partnership with the United States Department of Housing and Urban Development (HUD) to regulate and enforce the federal manufactured housing program in their state. The board's goals and objectives, which are statutorily required both federally and within the state code, are as follows:

Currently, 37 of 50 states are participating in a state and federal partnership with the United States Department of Housing and Urban Development (HUD) to regulate and enforce the federal manufactured housing program in their state.

During FY 2004, the board received 137 complaints, taking an average of 48 days to investigate and, if warranted, take administrative action against the licensee. In total, 176 violations were discovered by the board and action was taken.

- Provide administrative recourse to all consumers of manufactured homes;
- License all manufactured housing manufacturers, dealers, and contractors;
- Collect Recovery Fund Assessments from all licensees;
- Conduct inspections, in a timely manner, of complaints filed by consumers;
- Assure licensee compliance with state standards and regulations by conducting state audits which will include the inspection of consumers' homes (if permitted);
- Conduct dealer lot audits to ensure product compliance with the Federal Standards and Regulations; and
- Conduct licensee disciplinary hearings to ensure consumer effective recourse.

All of the goals and objectives listed play an important role in protecting the consumers of manufactured homes in West Virginia. The board licenses 57 manufacturers, 155 dealers, and 133 contractors. During FY 2004, the board received 137 complaints, taking an average of 48 days to investigate and, if warranted, take administrative action against the licensee. In total, 176 violations were discovered by the board and action was taken. The Recovery Fund was utilized 38 times in FY 2004 with disbursements totaling \$241,286. **The Legislative Auditor finds that the board is necessary to ensure that manufacturers, contractors, and dealers of manufactured housing are abiding by federal and state regulations, and to give consumers an effective means of recourse in dealing with representatives of the industry.**

Manufactured Housing and Construction Safety Board's Trust Recovery Fund

The Trust Recovery Fund was created so that when a licensee fails to make repairs to a manufactured home as directed by the board, the board may determine fair market value of the cost of obtaining those repairs and contract with a third party licensee to make the repairs. The director of the board stated:

The Trust Recovery Fund receives one-time fees paid by licences and fines paid as a result of disciplinary action. The fees are \$2,500 for manufacturers; \$1,000 for dealers; and \$500 for contractors. The end of the fiscal year balance for the fund in 2004 was \$1,301,858.

The board may approve funding for repairs or reimbursements from the Recovery Fund to benefit consumers for which the licensee is no longer in business, bankrupt, or fails to correct according to an order of the board.

The fund is comprised of one-time fees paid by licensees at the time of their initial licensure and any fines paid to the board as a result of any disciplinary action. The fees are \$2,500 for manufacturers; \$1,000 for dealers; and \$500 for contractors. However, the board is authorized to make special assessments upon all licensees if the fund's balance drops below \$250,000, although this has never happened. As shown in Table 1, \$92,926 was deposited into the fund in FY 2004 with 38 disbursements totaling \$241,286. The end of the fiscal year balance for the fund in 2004 was \$1,301,858. The large balance is maintained to prevent the fund from dropping below the minimum balance requirement of \$250,000. For example, if one or more manufacturers were to go out of business, it would dramatically reduce the balance of the fund. Licensees are also required to pay annual license renewal fees, but those fees are not deposited into the fund. Those fees are \$750 for manufacturers; \$250 for dealers; and \$125 for contractors and are deposited in special revenue under the Manufactured Housing Fee account which is used for everyday operating expenses.

	FY 2003	FY 2004
Deposits	\$147,617	\$92,926
Disbursements	\$107,087	\$241,286
Ending Balance	\$1,450,218	\$1,301,858

Source: Legislative Auditor's Budget Division

Dealer Lot Audits and Installation Audits

Dealer lot audits and installation audits play an integral role in protecting the public. According to legislative rules, the board has the authority to enter any business location maintained by a manufacturer, dealer, or contractor for the purpose of inspecting or otherwise ascertaining whether state and federal standards are being met. In performing dealer lot audits, the board uses a checklist to inspect manufactured homes for product compliance before the homes are handed over to consumers. All items on the checklist are to be in compliance with HUD standards as specified in federal standards and regulations. These items include, but are not limited to: smoke detector location, floor construction, fireplace installation, door and window location, having a heating and cooling certificate, and shingle installation. As of September 1, 2004, the board has performed and recorded 18 dealer lot audits this year.

As of September 1, 2004, the board has performed and recorded 18 dealer lot audits this year.

In performing installation audits, the board's inspectors go to the home sites of manufactured home owners. These audits are a pro-active measure to ensure licensee compliance with such things as the home's foundation and actual construction of the home. In calendar year 2004, as of October 14, the Board performed 24 installation audits. These audits require approval of the manufactured home owner.

In calendar year 2004, as of October 14, the Board performed 24 installation audits.

Conclusion

Manufacturers, dealers, and contractors need to be licensed to ensure they are in compliance with federal and state manufactured housing standards and regulations. By monitoring licensees, the state is protecting its consumers from potential harm. The board gives consumers an effective means of recourse in dealing with corrupt or dishonest representatives of the industry by taking complaints, investigating the complaints, and if warranted, taking administrative action against the licensee. The Legislative Auditor finds that the Manufactured Housing Construction and Safety Board is necessary to protect current and future owners of manufactured homes, and should be continued.

Recommendation

1. *The Legislative Auditor recommends that the Manufactured Housing and Construction Safety Board be continued.*

Issue 2

The Board Has Shown Improvement in Completing the Consumer Complaint Process Within the Required 90 Days

Recommendation 2

The Manufactured Housing and Construction Safety Board should strive to complete the investigation and take appropriate action within the 90 day mandate in West Virginia Code §21-9-11a.

In FY 2001, the board received 151 written complaints and investigated 141 of them. It took the board an average of 119 days to investigate and take administrative action on those complaints.

Level of Compliance: In Compliance

In a report issued in May 2002, the Legislative Auditor discovered that the board was not within statutorily mandated limits for investigating consumer complaints and if warranted, taking appropriate administrative action. West Virginia Code §21-9-11a states:

The Board has a period of ninety days, commencing with the date of filing of the complaint, to investigate and take administrative action to order the correction of any defects in the manufacture or installation of a manufactured home.

In FY 2004, the board took an average of 48 days to complete each investigation and take administrative action.

In FY 2001, the board received 151 written complaints and investigated 141 of them. It took the board an average of 119 days to investigate and take administrative action on those complaints. Since then, the board has made strides in coming into compliance with §21-9-11a. In FY 2004, the board received 137 written complaints. The board took an average of 48 days to complete each investigation and take administrative action. This is an improvement of 71 days and is well below the statutorily mandated 90 days. Table 2 illustrates the progress made by the Board. While the average completion time is below the 90 day timeframe, there are still some complaints that exceed 90 days. However, over FY 2003 and FY 2004, it should be noted that complaints exceeding 90 days only represent one percent of the total 335 complaints.

Table 2		
Improvement in Consumer Complaint Process FY 2001-2004		
Time Period	# of Complaints	Average Completion Time
FY 2001	141	119
FY 2002	207	79
FY 2003	198	52
FY 2004	137	48

Source: PERD May 2002 Preliminary Performance Review and board's complaint log

Investigating consumer complaints and taking the appropriate administrative action is a good indicator to determine how effective and efficient the board is operating. By reducing the average completion time per complaint to 48 days, the board not only comes into compliance with code, but also demonstrates it is working hard to become more effective and efficient.

By reducing the average completion time per complaint to 48 days, the board not only comes into compliance with code, but also demonstrates it is working hard to become more effective and efficient.

Issue 3

The Board is Conducting Dealer Lot and Installation Audits as Required In Its Agreement With The United States Department of Housing and Urban Development (HUD)

Recommendation 3

The Manufactured Housing Section should start conducting dealer lot audits and needs to increase the number of installation audits performed in order to maximize the safety and protection of consumers as well as to abide by HUD requirements.

Level of Compliance: In Compliance

The board has gone from doing zero dealer lot audits in FY 2001 to 18 in calendar year 2004 as of September 1. Regarding installation audits, the board has increased the number from 2 in FY 2001 to 24 so far in calendar year 2004 as of October 14.

In the May 2002 Preliminary Performance Review, the Legislative Auditor discovered that the board was not conducting dealer lot audits, as required by its agreement with HUD. In addition, there was a sharp decline in the number of installation audits being performed. For dealer lot audits, the HUD agreement only requires that manufacturing factories be inspected:

...preferably quarterly, but no less than semi-annually.

As for installation audits, the agreement only specifies that the board conduct

...inspections of the consumer homes as necessary.

At the time, the board attributed the lack of dealer lot and installation audits to a shortage of compliance officers and funds. Since then, the board has hired additional inspectors bringing the total number to three. In addition to the inspectors, there is also a field supervisor who can aid in performing the audits. The additional staff has increased the number of dealer lot and installation audits. The board has gone from doing zero dealer lot audits in FY 2001 to 18 in calendar year 2004 as of September 1. Regarding installation audits, the board has increased the number from 2 in FY 2001 to 24 so far in calendar year 2004 as of October 14. While the board has shown improvement in the number of installation audits performed, it is the opinion of the Legislative Auditor that there is still room for more improvement. However, it should be noted that the owner of the manufactured home must approve the inspection. Therefore, the number of installation audits performed is dependant on approval from home owners.

By conducting dealer lot and installation audits, the board is in compliance with the HUD agreement, and is also meeting its own goals and objectives. It is essential that the board continue to perform these audits to avoid sanctions by HUD, which could include the loss of funding, but more importantly, to protect the citizens of West Virginia.

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

October 21, 2004

Mitch Woodrum, Director
Manufactured Housing Construction and Safety Board
State Capitol Complex
Building 6, Rm. B-749
Charleston, WV 25305

Dear Director Woodrum:

This is to transmit a draft copy of the Preliminary Performance Review of the Manufactured Housing Safety and Construction Board. This report is scheduled to be presented during the November 7-9, 2004 interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to respond to the report and answer any questions the committee may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us between October 22 and October 26 2004. We need your written response by noon on October 27, 2004, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, November 4, 2004 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Joint Committee on Government and Finance

Appendix B: Agency Response

WEST VIRGINIA MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS BOARD

Capitol Complex • Building 6, Room B-749 • Charleston, West Virginia 25305
Telephone: 304-558-7890 FAX: 304-558-2447

October 27, 2004

R E C E I V E D
OCT 27 2004

**PERFORMANCE EVALUATION AND
RESEARCH DIVISION**

Mr. John Sylvia
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
Charleston, WV 25305-0610

Re: Preliminary Performance Review

Dear Mr. Sylvia:

We are in receipt of the draft copy of the Full Performance Audit Evaluation and are in agreement with its contents.

If you have any questions, please contact me at (304) 558-7890 Ext. 237.

Sincerely,



Mitch Woodrum, Director
Manufactured Housing Section

MW:ms

