

of this section, the recommendations for administrative action shall be sent to the relevant NASA components for further proceedings in accordance with applicable laws and regulations.

#### **Appendix to Part 1275—NASA Research Disciplines and Respective Associated Enterprises**

1. Aeronautics Research—Aerospace Technology Enterprise
2. Space Science Research—Space Science Enterprise
3. Earth Science Research and Applications—Earth Science Enterprise
4. Biomedical Research—Biological and Physical Research Enterprise
5. Fundamental Biology—Biological and Physical Research Enterprise
6. Fundamental Physics—Biological and Physical Research Enterprise
7. Other engineering research not covered by disciplines above—NASA Chief Engineer
8. Other technology research not covered by disciplines above—NASA Chief Technologist

Dated: July 10, 2003.

**Sean O'Keefe,**  
*Administrator.*

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## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

### **24 CFR Part 3282**

[Docket No. FR-4867-N-02]

#### **Manufactured Housing Consensus Committee—Rejection of Consumer Complaint Handling Proposal**

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

**ACTION:** Denial for recommendation for proposed regulatory changes.

**SUMMARY:** The Secretary has rejected a proposed recommendation by the Manufactured Housing Consensus Committee to revise regulations concerning how manufacturers are required to handle reports of problems with manufactured homes. The Secretary has determined that the proposal conflicts in several ways with the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974.

#### **FOR FURTHER INFORMATION CONTACT:**

William W. Matchneer III,  
Administrator, Manufactured Housing Program, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708\6401 (this is not a toll-free number). Hearing- or speech-impaired individuals may access

this number at TTY by calling the toll-free Federal Information Relay Service at (800) 87-8339.

**SUPPLEMENTARY INFORMATION:** The Manufactured Housing Consensus Committee (MHCC) has transmitted to the Secretary a recommendation dated March 26, 2003 (MHCC proposal), that the Manufactured Home Procedural and Enforcement Regulations, 24 CFR part 3282, be amended by revising Subpart I, Consumer Handling and Remedial Actions (24 CFR 3282.401-416) (Subpart I).

#### **Background**

The MHCC as established by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401-5426 (the Act) for the purpose of providing periodic recommendations to the Secretary to adopt, revise, and interpret the federal manufactured housing construction and safety standards and the procedural and enforcement regulations. 42 U.S.C. 5403(a)(3)(A). It may submit to the Secretary proposed procedural and enforcement regulations and recommendations for the revision of the regulations. 42 U.S.C. 5403(b)(1). To be promulgated by HUD, the regulation and revisions recommended by the MHCC must be consistent with the Act.

Within 120 days from the date on which the Secretary receives a proposed procedural or enforcement regulation from the MHCC, the Secretary approve a reject the proposal. If the Secretary rejects the proposal, HUD must provide to the MHCC a written explanation of the reasons for rejection and publish in the **Federal Register** the rejected proposal and the reasons for the rejection. 42 U.S.C. 5403(b)(4).

#### **Procedural Explanation**

The Secretary recognizes and appreciates that the members of the MHCC are working hard to implement the role of the MHCC in the federal manufactured housing program. Although this proposal is inconsistent with the authority granted to the MHCC under the Act, HUD is publishing this proposal (Appendix A) and the Secretary's reasons for rejecting the proposal, as if the proposal were subject to the procedures in section 604(b).

#### **Decision of the Secretary**

The Secretary rejects the MHCC's proposal for the revision of regulations in Subpart I for the handling of reports of problems in manufactured housing for reasons that include the following:

The MHCC proposal is in direct conflict with parts of the Act. In section 615 of the Act (42 U.S.C. 5414),

Congress placed responsibilities for the correction and notification of defects in manufactured homes on manufacturers, and set guidelines for manufacturers to meet these responsibilities. Section 613 of the Act (42 U.S.C. 5412) imposes additional repair and repurchase requirements on manufacturers. Subpart I, which the MHCC proposal would amend, contains the regulations by which the Department has implemented the intent to Congress with respect to notification and correction requirements.

The MHCC proposal seeks to limit the statutory responsibilities of manufacturers while imposing similar duties on parties on whom Congress did not place these responsibilities, such as retailers, distributors, transporters, and landscapers. HUD does not have authority to shift statutory responsibilities away from manufacturers. The MHCC has not established that HUD has authority to hold these newly identified parties responsible for correction and notification of defects in manufactured homes.

The MHCC proposal adds significantly to the administrative responsibilities of HUD and the states, by making HUD and the State Administrative Agencies (SAA's) the initial arbiters of responsibility on all complaints and information about problems in manufactured homes. The proposal does not take into account the self-policing responsibilities of the manufacturers set out in section 615 of the Act (42 U.S.C. 5414). The concern about additional administrative burdens also applies to the provisions that make SAA's responsible for assuring that all notifications are sent and all concerns are made. In addition, the MHCC proposal may define roles for HUD and the SAAs that require them to interfere in matters that are traditionally settled through private contracts. Further, HUD cannot permit voluntary undertakings by private parties to constitute governmental action for purposes of judicial review.

The MHCC proposal would, in effect, create a warranty for products found in the home, and would then limit the applicable time of the warranty. There is not authority in the Act to create a warranty. In fact, during consideration of the most recent amendments to the Act, Congress heard testimony suggesting a statutory warranty but declined to adopt this approach. Instead, the Act was amended in section 623 (42 U.S.C. 5422) to establish an additional protection for consumers through a dispute resolution program that covers problems reported in the