

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.

[FR Doc. 03-18982 Filed 7-24-03; 8:45 am]

BILLING CODE 7510-01-P

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

first year after a manufactured home is installed.

The MHCC proposal does not adequately implement the provision in section 615(h) of the Act (43 U.S.C. 5414(h)), which requires manufactures to submit a notification and correction plan to the Secretary for approval before the plan is implemented. Under the MHCC proposal, a party would be permitted to correct a home without first having a plan of correction approved.

The MHCC proposal seeks to establish time limits for a manufacturer's responsibilities under section 615 (42 U.S.C. 5414) that are not consistent with the Act. Section 615 contemplates enforcement authority over certain defects about which the consumer would not have knowledge unless notified or until his or her safety is compromised. While the Act places affirmative notification and correction requirements on manufacturers for defects as a protective measure even if an affected consumers has not yet complained, the MHCC proposal would limit a manufacturer's responsibility to act until after a consumer complains. Further, the MHCC proposal would limit the responsibility of manufacturers and retailers to those defects discovered within 5 years from the date of the first sale. An even shorter period of 2 years would be established for defects that could be attributed to other parties. Section 615 includes no such limits.

The MHCC proposal raises further questions relating to section 623 of the act (42 U.S.C. 5422). Section 623 requires HUD to implement a dispute resolution program by December 2005, which would be used to resolve disputes among manufacturers, retailers, and installers about responsibilities for the correction of defects reported in the first year after a manufactured home is installed. The MHCC proposal is not in agreement with the section 623 process because the proposal; adds potentially responsible parties (e.g., landscapers, contractors, product suppliers); creates the limits that are inconsistent with section 623; and fails to provide for a forum in which the disputes are to be resolved.

Text of MHCC Proposal

The text of the rejected proposal submitted by the MHCC is published as Appendix A.

Dated: July 17, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

Appendix A—Manufactured Housing Consensus Committee Proposal To Amend Manufactured Housing Home Procedural and Enforcement Regulations 24 CFR Part 3282

March 26, 2003.

§ 3282.7 Definitions.

(i) *Dealer*—See *Retailer*.

(j) *Defect* means a failure to comply, or the failure of a component used to comply with an applicable Federal Manufactured home safety and construction standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home. See related definitions of imminent safety hazard (definition q), non-compliance (definition x), and serious defect (definition ff).

(dd) *Retailer* means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons whom in good faith purchase or lease a manufactured home for purposes other than resale.

(ee) *Responsible party* means any of the following: manufactured home manufacturers, retailers, distributors, contractors, product suppliers, product distributors, installers, transporters, developers, landscapers, and/or homeowners.

Subpart—Consumer Complaint Handling and Remedial Actions

§ 3282.401 Purpose and scope.

(a) The purpose of this subpart is to establish a system under which the protections of the Act are provided with a minimum of formality and delay, but in which the rights of all parties are protected.

(b) This subpart sets out the procedures to be followed by responsible parties, State Administrative Agencies, primary inspection agencies, and the Secretary to assure proper notification and/or correction with respect to manufactured homes as required by the Act. Notification and correction may be required to be provided with respect to manufactured homes that have been sold or otherwise released by the manufacturer to another party when the responsible party, an SAA or the Secretary determines that an imminent safety hazard, serious defect, or defect may exist in those manufactured homes as set out herein. For non-compliances, correction shall be required to the single home it's reported in.

(c) This subject sets out the rights of retailers under section 613 of the Act, 42 U.S.C. 5412, to obtain remedies from manufacturers in certain circumstances.

§ 3282.402 General principles.

(a) Nothing in this subpart or in these regulations shall limit the rights of the

purchaser under any contract or applicable law.

(b) The liability of manufactured home manufacturers to provide remedial actions under this subpart is limited by the principle that manufacturers are not responsible for failures that occur in manufactured homes or parts thereof as the result of the actions of other responsible parties, normal wear and aging, gross and unforeseeable consumer abuse, or unforeseeable neglect of maintenance.

(c) Responsibility for remedial actions under this subpart may also be assessed to responsible parties to the extent that they have contributed to or caused the failure.

(d) The extent of a responsible party's responsibility for providing notification and/or correction depends upon the seriousness of problems for which they may be responsible under this subpart.

(e) It is the policy of these regulations that all consumer complaints or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or non-compliance should be referred to the manufacturer and/or retailer and/or other responsible party of the potentially affected manufactured home as early as possible so that the manufacturer or other responsible party can begin to timely respond to the consumer and take any necessary remedial actions. If the responsible party receiving the notice believes the issue is the responsibility of another responsible party, the information may be forwarded to that party.

§ 3282.403 Limitations

This shall limit the requirements under this subpart for notification or correction to the time frames listed below;

(a) By a manufactured home manufacturer or retailer, to a period of five (5) years from the date of first sale and completion of set-up of the manufactured home to the first purchaser. Any home over five (5) years in age from the date of sale and delivery to the first purchaser is exempt from these regulations or requirements for notification or correction by a manufactured home manufacturer or retailer;

(b) By an installer, contractor, product supplier, product distributor, transporter, developer, or landscaper for work completed and/or product supplied, to a period of two (2) years from the date such work is completed or such product is supplied. Any home over two (2) years after the date of completion of such work is exempt from these regulations by an installer, contractor, product supplier, product distributor, transporter, developer, or landscaper.

(c) The homeowner has a continuing obligation for providing adequate upkeep and maintenance of their manufactured home.

(d) Manufacturers and/or other responsible parties are not liable for the notification and correction of work done by others.

§ 3282.404 Consumer complaint and information referral.

When a consumer complaint or other information indicating the likely existence of a non-compliance, defect, serious defect, or imminent safety hazard is received by a State

Administrative Agency or the Secretary, the SAA or the Secretary shall forward the complaint or other information to the responsible party. The responsibility to assure proper investigation and assignment of responsible party belongs to the SAA in the state in which the home is located. The SAA or the Secretary may, when it appears from the complaint or other information that more than one manufactured home may be involved, simultaneously send a copy of the complaint or other information to the SAA of the state where the manufactured home was manufactured or to the Secretary if there is no such SAA. When it appears that an imminent safety hazard or serious defect may be involved, the SAA shall send a copy to the Secretary. The SAA in the state of production of the manufactured home shall assist the SAA in the state in possession of the manufactured home as needed. The SAA in the state of production shall be responsible to assure the manufacturer's records reflect the proper investigation, record keeping, corrective action, and responses of manufacturer actions.

§ 3282.405 Investigation, determination, repair and notification by responsible parties.

(a) The manufacturer shall review its records to determine whether or not a defect, serious defect, or imminent safety hazard is indicated as set out in this subpart with respect to all manufactured homes produced by the manufacturer within five (5) years of the date of sale to the first purchaser, in which there likely exists an imminent safety hazard, serious defect, or defect.

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POSTAL SERVICE

39 CFR Part 111

Merchandise Return Service Label Changes

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes revisions to the *Domestic Mail Manual* that would require a Postal routing barcode on all Merchandise Return Service labels.

DATES: Submit comments on or before August 25, 2003.

ADDRESSES: Mail or deliver written comments to the Manager, Mail Preparation and Standards, U. S. Postal Service, 1735 N. Lynn Street, Room 3025, Arlington, VA 22209-6038. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at Postal Service Headquarters Library, 475 L'Enfant Plaza SW, 11 Floor N, Washington, DC 20260. Comments may

be submitted via fax to 703-292-4058, ATTN: Obataiye B. Akinwole or via email to obataiye.b.akinwole@usps.gov.

FOR FURTHER INFORMATION CONTACT: Obataiye B. Akinwole, (703) 292-3643.

SUPPLEMENTARY INFORMATION:

Background

Under current Postal Service standards, there is no requirement for barcodes on Merchandise Return Service (MRS) labels with the exception of those using Delivery Confirmation Service.

The Postal Service is concerned that optimum service may not be realized when MRS labels are not barcoded. As a result, the Postal Service will, upon publication of a final rule, require a Postal routing barcode that represents the correct 5-digit ZIP Code information for the delivery address of the MRS label. This is in line with the Postal Service's obligation to ensure prompt, efficient service for all product lines.

Effective Date

The Postal Service is proposing that the following revisions become effective January 5, 2004. Mailers are permitted to prepare labels under the revised standards immediately upon publication of the final rule. Effective with required compliance on June 2, 2005 nonbarcoded labels will not be accepted.

Proposed Changes

Under this proposal, all MRS labels must include a properly prepared barcode that represents the correct ZIP Code information for the delivery address on the MRS label plus the appropriate verifier character suffix or application identifier prefix characters appropriate for the barcode symbology as described in *Domestic Mail Manual (DMM)* C850 for machinable parcels. Effective January 10, 2004, only the UCC/EAN Code 128 symbology may be used for all parcel barcodes. All mailable hazardous materials sent at First-Class Mail, Priority Mail, or Express rates are exempt from this standard.

The Postal Service is replacing the Small Parcel and Bundle Sorter (SPBS) with the new Automated Parcel Processing System (APPS). The APPS machine is capable of processing small parcels that would normally be processed by Bulk Mail Center (BMC) operations, at more than twice the efficiency of the SBPS machine. This machine is capable of reading a variety of barcode symbologies. As a result, customers distributing labels for parcels that will bypass the BMC environment must use the standards in this notice.

Mailers using Delivery Confirmation Service (DelCon) must use a single concatenated barcode that combines the postal routing code and Delivery Confirmation using the symbologies in DMM C850. Delivery Confirmation Service is not mandatory; however, customers using the service option must use the label format in this notice.

Mailers will be required to submit 10 samples of new labels to the office where the permit was originally issued no later than the next anniversary date of the permit, or within six months of the effective date of this notice, whichever occurs last. Although customers will not be required to provide samples when MRS labels are reprinted, it is recommended that they work with their local office to ensure pieces meet postal standards.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment of the following proposed revisions to the DMM, incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401,403,404,414,3001-3011,3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the following sections of the *Domestic Mail Manual (DMM)* as set forth below:

Domestic Mail Manual (DMM)

* * * * *

S Special Services

S900 Special Postal Services

* * * * *

S920 Convenience

* * * * *

S923 Merchandise Return Service

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5.0 FORMAT

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5.6 Format Elements

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[Add new item j to read as follows:]

j. Every MRS label must include a properly prepared barcode that represents the correct ZIP Code