

February 26, 2018

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW
Room 10276
Washington, DC 20410-0500

Re: Request for Comments on FR-6075-N-01 Regulatory Review of Manufactured Housing Rules

Docket ID: HUD-2018-0006

To Whom It May Concern:

On behalf of its Innovations in Manufactured Homes (I'M HOME) Network, Prosperity Now (formerly CFED) is pleased to submit comments to the U.S. Department of Housing and Urban Development on its proposed review of existing and planned manufactured housing regulatory actions.

Prosperity Now is a national, nonpartisan nonprofit organization based in Washington, D.C. that works to expand economic opportunity for all Americans by promoting and advocating asset-building policies and programs. Since 2005, Prosperity Now has convened the I'M HOME Network, a nationwide coalition of service providers, lenders, intermediaries and advocates working together to improve access to high-quality and energy-efficient manufactured homes, access to mortgage financing for manufactured homes, ensure fair chattel financing, promote resident ownership of manufactured home communities and provide a voice for manufactured homeowners on policy issues.

The Request for Comments cites specific regulatory actions that HUD has proposed or finalized, as well as possible updates to its Manufactured Homes Construction and Safety Standards, known as the HUD Code.

Fundamentally, the purpose of National Manufactured Housing Construction and Safety Standards Act is to ensure that this national code provides uniform, safe and reliable affordable rental and homeownership opportunities. The Act also explicitly ensures "uniform and effective enforcement of Federal construction and safety standards for manufactured homes."

Consistent standards across the United States will encourage wider acceptance of manufactured homes by consumers, local land use officials, lenders and secondary market participants. For example, Fannie Mae, Freddie Mac and the USDA are working to expand their loan products for manufactured homebuyers. HUD should not simply devolve oversight to industry, a practice that would jeopardize progress in home loan access.

Recent and proposed rules and guidance from the HUD Office of Manufactured Housing Programs (OMHP) aim to improve quality for buyers and communities, and though they may benefit from adjustments based on field evidence, data and other factors, HUD should

cautiously approach delaying or repealing any guidance or rule simply to meet an arbitrary target on the number of regulations.

Highlighting best practices by industry or the states, as trade groups propose, is in direct conflict with the Act's intent and language, and is no substitute for HUD compliance with the law through Federal rulemaking and enforcement.

Alternative Construction/ Site Built Add-On Requirements

This guidance, in effect since 2014, clarifies the existing rules found at 24 CFR 3282, which govern the provision of amenities such as enclosed porches, carports and other structures added to a manufactured home. If such features increase the living or storage areas of the home, they are subject to the Alternative Construction process and approval, as per the regulations. A carport, for example, clearly expands storage. The rules state that manufacturers must seek approval from HUD to proceed with such construction. A HUD [memorandum](#) dated June 12, 2014 clarified that attached garages are also subject to this process.

HUD should ensure that the promulgation of guidance and rules comply with Department standards on notice and input. It is clear, however, that attached carports and garages are [add-ons](#) as per 24 CFR 3282.7, and are subject to the regulation's approval process. If HUD chose to suspend this guidance or modify the regulation in order to lessen oversight, it may lead to compromised homes, reduced home values and resales, and possible safety hazards.

For example, in a 2008 training manual the Appraisal Institute (AI) notes that such additions to manufactured homes can detach due to the unique construction of manufactured homes. AI adds that the state of California requires additional approval for such add-ons, and Freddie requires specific inspections to verify integrity. In addition, an Insurance Institute for Business and Home Safety [report](#) details problems with connecting carports to manufactured homes. Finally, HUD issued its own [report](#) in 2005 on the failures of add-ons in storms. HUD must ensure that engineering, science and evidence drive the approval process for the modification of HUD Code homes.

Finally, HUD should incorporate many of the amenities that now require Alternative Construction letters into the third revision of the HUD Code. Such features should be subject to the On-Site Completion of Construction rule (24 CFR 3282.601).

Proposed Interpretive Bulletin on Frost-Free Installation Standards

General Installation Issues

In general, HUD and its contractors have reported numerous failures of installed foundations for manufactured homes, justifying a rigorous, though cooperative approach to the issue. HUD should not prescribe a specific foundation system, and reviewing successful frost-free designs in colder climates would benefit the field.

HUD should continue its process on the development of the Interpretive Bulletin (IB). The Manufactured Housing Consensus Committee approved, with comments, the IB, and HUD should respond to these and other inputs. That said, it is reasonable that the Department should

proceed cautiously, with the safety of residents and the soundness of the foundations as its primary concerns.

In a September 2017 presentation on its installation inspections in some of the 14 states covered by the federal program, HUD's contractor found 83% of the installations had foundation issues. Overall, the contractor reported a 98% failure rate of the installations. While these vary in severity, the findings underscore the need for a comprehensive approach to foundation installations.

Furthermore, as noted above, the government-sponsored enterprises and USDA Rural Development (RD) look to expand lending programs. RD, for example, has indicated that HUD's IB would be an acceptable standard for its 502 programs, the expansion of which is fundamental to improve access to mortgage credit for rural Americans.

24 CFR Part 3282, Subpart M- On-Site Completion of Construction Rule

This rule, effective in 2016, regulates the onsite construction of such amenities as solar panels, French doors, dormers and other consumer preferences. HUD has reported that manufacturers were in full compliance. As part of its regulatory review process, HUD should detail challenges that manufacturers have faced in complying with the rule.

Without the rule, it is likely that all such amenities would have to be completed at the factory or through the more comprehensive Alternative Construction process. It is unclear how this would advance expediency in the field. It could, however, limit innovation.

Contrary to trade organization claims, manufacturers have not ceased to offer these amenities due to rule. For example, once large manufacturer recently reported solar panels remain a readily available amenity in their markets. Manufacturers also promote features such as dormers as an option in their marketing materials.

24 CFR Part 3282, Subpart I - Consumer Complaint Handling and Remedial Actions

Trade associations have expressed concerns that this rule is burdensome, especially if there are indications that a class of homes may have a covered defect. It seems reasonable, however, that a manufacturer bears the burden to determine and correct a systemic problem with a class of home. Such practices are common in other mass-produced products and help assure the purchasing public of product integrity.

24 CFR Part 3288 – Manufactured Home Dispute Resolution Program

The dispute resolution program, though small, serves an important purpose in ensuring consumer satisfaction in the 26 states (and Washington, D.C.) in which it operates. The complaints it has addressed range from heating and cooling issues to concerns about the building envelop. The process has mediated complaints, and is an important resource for consumers, advocates, government and industry.

As with the above section, it is reasonable that a national building code have a national program to address complaints. In addition, there is no evidence that this is a regulatory burden for industry.

24 CFR 3280.5 - Data plate

HUD should consider improving the data plate requirements for manufactured homes to improve valuation of energy-efficiency features and other customizations. The data plate should also be made more durable, to ensure effective transfer of information to future buyers.

Energy Conservation Standards for Manufactured Housing

This 2016 proposed rule by the Department of Energy remains in limbo. It remains clear that the rule will benefit new homebuyers by significantly improving energy efficiency of manufactured homes, the standards for which have not been meaningfully updated since 1994. In 2007, Congress moved authority for the standards from HUD to DOE only after HUD failed to act. Department estimates that the new standards will reduce consumer energy use by about 27%, saving approximately \$4,000 over the life of the home. If adopted by DOE, appraisers and lenders will likely improve practices and expand programs to help buyers capture this value, an option long available to site-built home buyers. HUD should work with DOE to ensure effective implementation of a final rule.

We appreciate the opportunity to voice our comments on HUD's proposed review of existing and planned manufactured housing regulatory actions. It is especially important that the Department keep in mind that manufactured housing provides essential housing opportunities for American families. Manufactured homes disproportionately house families with incomes around \$30,000 per year, which is much lower than that of a typical American homeowner. With that in mind, HUD must retain its mission to ensure the construction and installation integrity of homes built under the so-called HUD Code, as due to incomes these homeowners are less likely to handle the financial strain of major repairs that are the result of manufacturing and installation defects, mistakes or failures.

In closing, the key to advancing affordable homeownership in the United States is making high-quality housing stock available to purchase-ready customers. Manufactured housing can play a bigger role in this goal than it currently does. To do so, however, buyers, lenders, advocates and local policy makers must have confidence in the quality of all aspects of the manufactured homes, including the manufacture, installation, foundations and home amenities. A deregulatory process that loses sight of this will only discourage future homebuyers and compromise industry's ability to serve this market.

Sincerely,

Prosperity Now
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Coalition on Human Needs
PathStone Corporation

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Florida Alliance of Community Development Corporations, Inc.
Affordable Housing Education and Development (AHEAD), Inc.
Northcountry Cooperative Foundation
Community Access Center, Inc. (FL)
All Parks Alliance for Change
Native Community Finance (NM)
Kalispel Tribe of Indians Victim Assistance Services
Walden Woods Home Owners Association (FL)
CASA of Oregon
Innovative Changes (OR)
Utah Coalition of Manufactured Homeowners
New Hampshire Community Loan Fund
Opportunity Alliance Nevada
Virginia Housing Alliance
San Luis Obispo County Housing Trust Fund
Community Training Works, Inc.
Federation of Rhode Island Manufactured Home Owners