Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AJ79

Prevailing Rate Systems; Change in Federal Wage System Survey Job

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule that would change a Federal Wage System appropriated fund optional survey job, Industrial Electronic Controls Repairer, so that its grade level and title would better reflect the level of work and occupational title that private industry typically uses. This change would enable the Department of Defense to collect more wage data when conducting local wage surveys to set pay levels for the Government's blue-collar workforce.

DATES: Comments must be received on or before September 11, 2003.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *payleave@opm.gov*; or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Mark A. Allen, (202) 606–2848; e-mail *maallen@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising the Office of Personnel Management (OPM) on matters concerning the pay of Federal Wage System (FWS) employees, established a Survey Job Work Group (SJWG) to review the survey job descriptions the Department of Defense (DOD) uses during FWS local wage surveys to determine prevailing rates of pay for FWS employees. DOD contacts private sector employers annually in each of the 132 appropriated fund FWS wage areas to determine prevailing rates of pay.

The SJWG has recommended that OPM change the title of the optional survey job, ''Industrial Electronic Controls Repairer'' to ''Electronic Industrial Controls Mechanic,'' and the grade level of the survey job from WG–10 to WG–11. The change in job title is proposed so that it would conform to the title of the FWS job grading standards for the occupation, a title now also more commonly used in private industry. The change in grade would better reflect the grade level of the work that Federal employees are currently doing. When the job is surveyed in the future, it is anticipated that DOD would be able to collect more private sector wage data for the occupation. FPRAC agreed with the Work Group's recommendations.

Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities because it would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Claims, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.217 [Amended]

2. In § 532.217, paragraph (c) table is amended by removing the job title entry ''Industrial Electronic Controls Repairer'', and its corresponding job grade ''10'', and adding in its place ''Electronic Industrial Controls Mechanic'', grade ''11''.

[FR Doc. 03–20445 Filed 8–11–03; 8:45 am]
BILLING CODE 6325–39–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960–AF78

Entitlement and Termination Requirements for Stepchildren

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Social Security Administration (SSA) proposes to amend its regulations to incorporate the changes to the entitlement and termination requirements for stepchild's benefits introduced by the Contract with America Advancement Act of 1996. Under the changes, a stepchild is considered dependent upon a stepparent for Social Security benefit purposes only if he or she receives at least one-half support from the stepparent. The fact that a stepchild may be living with a stepparent is no longer a basis for a dependency determination. The changes also require benefit termination when the stepchild's natural parent and stepparent divorce (unless the stepchild has been adopted by the stepparent and can qualify for benefits as his or her adopted child). We propose to extend the termination requirement to include: A divorce that ends the marriage between a stepchild's *adoptive* parent and stepparent; and a *prospective annulment* that ends the marriage between a stepchild's natural or adoptive parent and stepparent. We also propose to include in the regulations our longstanding practice of terminating a stepchild's benefits when the marriage between the stepchild's parent and the stepparent is annulled from the beginning (*ab initio*). These rules would reflect enacted legislation and provide accurate and complete guidelines for determining entitlement to benefits.

DATES: In order for your comments to be considered, you must submit them on or before October 14, 2003.

ADDRESSES: You may give us your comments by using: our Internet site facility (*i.e., Social Security Online*) at *http://policy.ssa.gov/pnpublic.nsf/*

LawsRegs, e-mail to *regulations@ssa.gov;* telefax to (410) 966–2830; or by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, Room 100 Altmeyer, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: *http://www.gpoaccess.gov/fr/index.html.* It is also available on the Internet site for SSA (*i.e., Social Security Online*) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs.*

FOR FURTHER INFORMATION CONTACT: Sherry Pollack, Social Insurance Specialist, Office of Income Security Programs, Social Security Administration, #153 RRCC, 6401 Security Boulevard, Baltimore, MD 21235–6401, *regulations@ssa.gov,* (410) 965–7915 or TTY (410) 966–5609 for information about these proposed rules.

For information on eligibility or filing for benefits, call our national toll-free numbers, 1–800–772–1213 or TTY 1–800–325–0778 or visit our Internet Web site, *Social Security Online*, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 104 of the Contract with America Advancement Act of 1996 (Pub. L. 104–121) changed the entitlement and termination requirements for stepchild's benefits under the Social Security Act (the Act).

Under prior law:

- The stepparent's divorce from the stepchild's parent did not terminate the stepchild's entitlement to child's benefits; and
- A stepchild was considered dependent upon the stepparent if the child was either living with or receiving at least one-half support from the stepparent at the applicable time under the statute.

Under the statutory changes:

- A stepchild's entitlement to child's benefits on a stepparent's record ends with the month the divorce between the child's natural parent and stepparent becomes final (unless the stepchild has been adopted by the stepparent and can qualify for benefits as his or her adopted child); and
- To be entitled to child's benefits based on a stepparent's record, a child is considered dependent upon the stepparent only if the stepparent was providing at least one-half of the child's support at the applicable time. ''Living with'' the stepparent is no longer a factor in determining stepchild dependency.

One-Half Support as the Sole Basis for a Stepchild's Dependency on a Stepparent

Under section 202(d)(1)(C) of the Act, a stepchild's dependency upon the stepparent at a statutorily specified time is a requirement for entitlement to benefits on the stepparent's Social Security earnings record. Prior to the Contract with America Advancement Act of 1996, under section 202(d)(4) of the Social Security Act, a stepchild was considered dependent upon a stepparent if the stepchild was either living with or receiving at least one-half of his or her support from the stepparent at the applicable time under the statute. Under the legislative amendment to section 202(d)(4) of the Act, in section 104(a) of the Contract with America Advancement Act, a stepchild is considered dependent upon a stepparent only if he or she receives at least one-half support from the stepparent. Living with a stepparent is no longer a basis for a dependency determination. Consequently, we propose to eliminate the reference to the ''living with'' standard from our regulation on stepchild dependency, § 404.363 of our regulations. Under section 104(a)(2) of the Contract with America Advancement Act of 1996, this policy applies to benefits of individuals who become entitled to such benefits for months after June 1996.

Extending the Stepchild Benefit Termination Requirement to a Divorce Between the Stepchild's Adoptive Parent and Stepparent

Section 104(b) of the Contract with America Advancement Act of 1996 amended section 202(d)(1) of the Act to provide for termination of a stepchild's benefits upon the divorce of the stepparent and the stepchild's *natural* parent. Section 104(b) did not, however, explicitly provide for the termination of a stepchild's benefits upon the divorce of the stepparent and the child's *adoptive* parent. We propose to apply the stepchild termination provision upon the divorce of the stepparent and the stepchild's *natural or adoptive parent.* We believe that there is a clear basis for this approach.

A marriage between the child's adoptive parent and the stepparent establishes a stepchild relationship for entitlement purposes. Under § 404.357, an individual can qualify as the insured's stepchild if the child's natural *or* adoptive parent married the insured. This established rule parallels other benefit eligibility provisions of the Act that routinely place natural and adoptive parenting on equal footing. *See, e.g.*, sections 202(d)(1), 202(d)(3), 202(d)(8), and 216(e) of the Act. Once a natural or adopted child establishes a right to Social Security benefits, benefit termination does not normally depend on the child's natural or adopted status. *See* section 202(d)(1) of the Act; *see* also § 404.352(b). A rule ending stepchild's benefits upon divorce only when a natural parent and stepparent divorce therefore represents a departure from policies in surrounding statutory benefit provisions.

Apart from using the term ''natural parent,'' the amendments to the Social Security Act's stepchild benefit provisions in the Contract with America Advancement Act of 1996 similarly reflect the above-described parallel treatment of natural and adopted children. Section 104(b)(2) of the Contract with America Advancement Act added section 202(d)(10) to the Social Security Act. Section 202(d)(10) states that for purposes of the new provision requiring termination of stepchild's benefits upon the parents' divorce, ''each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final'' * * * This provision by its terms affects ''each'' insured stepparent of a stepchild beneficiary. It requires stepparents to inform SSA of ''any divorce,'' and not simply divorces from a child's natural parent, thus indicating that any divorce by a stepparent is significant for stepchild benefit purposes.

Discussions of the changes to the stepchild benefit rules in the legislative history of the Contract with America Advancement Act of 1996 similarly reflect a preference for equal treatment of natural and adopted children. The relevant legislative history involves a connection between the dependency test applicable to stepchildren and the requirement for stepchild benefit termination upon parental divorce. The Contract with America Advancement Act of 1996 changed the dependency test in section 202(d)(4) of the Social Security Act by making receipt of at least one-half support the sole basis upon which a stepchild can be considered dependent upon his or her stepparent. It did not, however, change

the universe of stepchildren to whom the dependency test applies. Section 202(d)(4) of the Act applies to all children seeking entitlement to benefits as a stepchild. Our regulations set out at § 404.363 provide, with respect to the dependency requirement as it existed before the enactment of the Contract with America Advancement Act of 1996, that stepchild dependency requirements apply to a stepchild ''as defined in § 404.357 * * *'', *i.e.*, a child whose natural or adopting parent married the insured. The Contract with America Advancement Act of 1996 did not alter the effect of this language. Therefore, under the law as amended by that Act, and as previously, both a natural child and an adopted child of the stepparent's spouse must show that the stepparent provided at least one-half of the stepchild's support at the applicable time.

Reports by the House Ways and Means Committee on the 1996 legislation consistently discuss the above-described stepchild dependency rules in the same context as the new provision mandating benefit termination when the stepchild's parents divorce. For example, a Report on Legislative and Oversight Activity of the Committee on Ways and Means during the 104th Congress discusses the change in the dependency requirement, which is applicable to all stepchildren. It immediately thereafter states, without qualification, that ''[in] cases of a subsequent divorce * * * benefits to stepchildren terminate * * *'' H.R. Rep. 104–872 at 36, 104th Cong., 2nd Sess. 1997, 1996 WL 760037 (Leg. Hist.). The legislative history thereby supports the conclusion that both the dependency requirement and the termination provision apply to the same universe of beneficiaries, *i.e.*, all stepchildren. It suggests an intention to equate natural and adopted children, as under previous law. Significantly, apart from repeating the term ''natural parent'' as found in the statute, it suggests no basis for an uncharacteristic statutory rule terminating benefits of only the natural children of stepparents' spouses. Limiting the termination requirement to situations involving divorces of natural parents therefore is not only an unusual departure from previously existing law, but is incompatible with the logical structure of the relevant 1996 legislative changes as well.

We view section 104(b) of the Contract with America Advancement Act of 1996 in light of the overall changes to stepchild benefit provisions of that Act, the legislative history of that Act, and related portions of the Social Security Act. When so considered, apart from the use of the term ''natural parent,'' the legislation and its legislative history provide no indication of an intention to terminate benefits only of natural children of the spouses of stepparents upon a divorce. Under the most logical reading of the term ''natural parent'' in context, it merely distinguishes the other parent involved in a divorce from the stepparent, and that is how we interpret the term in issuing these regulations.

We, therefore, propose to add a new paragraph (b)(7) to § 404.352 of our regulations to apply this policy and would apply it from the effective date of the corresponding provision of the Contract with America Advancement Act of 1996, section 104(b)(1). Accordingly, under section 104(b)(3) of that Act, we propose to apply the policy to final divorces of stepparents from adoptive parents occurring after June 1996.

Extending the Stepchild Benefit Termination Provision to a Prospective Annulment of the Marriage Between the Stepparent and the Child's Parent

Under our proposed regulations, if a voidable marriage between the stepparent and the child's natural or adoptive parent is annulled prospectively, the stepchild's benefits end with the month in which the annulment becomes final. A voidable marriage is flawed at its inception and could be declared invalid at any time after inception. However, the marriage remains valid until a court declares it invalid. If the parties to a voidable marriage do not exercise their legal right to annul the marriage, the marriage is binding. When an annulment operates prospectively, rather than from the beginning (*ab initio*), the annulment is very similar to divorce, since the marriage ceases to exist from the point at which it is annulled. Moreover, if we did not terminate stepchild benefits upon a prospective annulment of the parent and stepparent's marriage, we would be treating cases involving legally flawed marriages ended by annulment more favorably than cases involving legally valid marriages ended by divorce. We, therefore, propose to include this policy in the new paragraph (b)(7) we would add to § 404.352 and to apply it from the effective date of the corresponding provision of the Contract with America Advancement Act of 1996, section 104(b)(1). Accordingly, under section 104(b)(3) of that Act, we propose to apply the policy to prospective annulments occurring after June 1996.

Termination of Stepchild's Benefits Upon Annulment Ab Initio of the Marriage Between the Stepparent and the Child's Parent

We also propose to include in new paragraph (b)(7) of § 404.352 our longstanding position that annulment of a voidable marriage from the beginning, or *ab initio*, terminates stepchild's benefits, and that such benefits end with the month before the month in which the annulment becomes final. There is support for this position and effective date in *Folsom* v. *Pearsall*, 245 F.2d 562 (9th Cir. 1957), which found that when mother's insurance benefits have been terminated due to a voidable remarriage which was later annulled *ab initio,* benefits could be reinstated beginning with the month of the annulment. In addition, under section 202 of the Act, when a benefit-terminating event (such as death or marriage) occurs, benefits generally end with the month before the terminating event. We have always followed this pattern regarding termination of stepchild's benefits in cases involving *ab initio* annulments of the parents' marriage. The provision of the Contract with America Advancement Act of 1996 ending a stepchild's benefits with the month in which the divorce becomes final is an exception to the general rule.

Correction of Cross-Reference in § 404.339(a)

Section 404.339 describes how a person becomes entitled to mother's or father's benefits. Section 404.339(a) currently requires that the person be the widow or widower of the insured and meet the conditions described in § 404.335(a)(1), which refers to a 9-month duration of marriage requirement for a widow or widower. This cross-reference is incorrect, since it does not include the alternatives to the 9-month duration of marriage requirement, which are contained in § 404.335(a)(2), (a)(3), and (a)(4). We therefore propose to correct the cross-reference to refer to § 404.335(a).

Reintroduction of ''Substantially All'' Definition for Dependent Grandchild or Stepgrandchild

Consistent with statutory requirements in section 202(d)(9)(A) of the Act, § 404.364 explains when a child applying for benefits as a grandchild or stepgrandchild is considered ''dependent'' on the insured for benefit purposes. Among the dependency requirements is the rule that a grandchild or stepgrandchild must have been both living with and receiving at least one-half support from the insured

for the one-year period before the insured became entitled to old-age or disability benefits or died. Under section 202(d)(9)(B) of the Act and § 404.364(b) of our regulations, if a grandchild or stepgrandchild was born during this one-year period, the living-with and support requirements must be met for ''substantially all'' of the period beginning on the child's date of birth. Section 404.364(b) refers to § 404.362(b)(1)(iii) for a definition of ''substantially all.'' However, § 404.362(b)(1)(iii) was inadvertently deleted from the regulations. We propose to reintroduce the definition of ''substantially all'' as subparagraph (c) of § 404.364, using the same language that was inadvertently deleted. Under the proposed language, the ''substantially all'' requirement is met if, at the applicable time, the insured was living with the child and providing at least one-half of the child's support; and any period during which the grandparent or stepgrandparent was *not* living with the child and providing at least one-half support did not exceed the lesser of 3 months or one-half of the period beginning with the month of the child's birth.

Revision of Headings

We propose to revise the headings of §§ 404.339, 404.363 and 404.364 to be in plain language format to comply with the provisions of Executive Order 12866, as amended by Executive Order 13258.

Clarity of These Proposed Rules

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed regulations do not meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866, as amended by E.O. 13258. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

The proposed regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and Recordkeeping Requirements, Social Security.

Dated: August 6, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons stated in the preamble, we propose to amend Subpart D of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 404—FEDERAL OLD–AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart D—[Amended]

1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.339 is amended by revising the heading and paragraph (a) to read as follows:

§ 404.339 How do I become entitled to mother's or father's benefits?

* * * * *

(a) You are the widow or widower of the insured and meet the conditions described in § 404.335(a);

* * * * *

3. Section 404.352 is amended by adding paragraph (b)(7) to read as follows:

§ 404.352 When does my entitlement to child's benefits begin and end?

* * * * *

* * * * *

(b) * * *

(7) With the month in which the divorce between your parent and the insured becomes final, if you are entitled to benefits as a stepchild and the marriage between your parent and the insured ends in divorce. If the marriage between your parent and the insured is annulled prospectively, your entitlement to benefits will end with the month in which the annulment becomes final. If the marriage between your parent and the insured is annulled from the beginning (*ab initio*), your entitlement to benefits will end with the month before the month in which the annulment becomes final.

* * * * *

4. Section 404.363 is revised to read as follows:

§ 404.363 When is a stepchild dependent?

If you are the insured's stepchild, as defined in § 404.357, you are considered dependent upon him or her if you were receiving at least one-half of your support from him or her at one of these times—

(a) When you applied;

(b) When the insured died; or,

(c) If the insured had a period of disability that lasted until his or her death or entitlement to disability or old-age benefits, at the beginning of the period of disability or at the time the insured became entitled to benefits.

5. Section 404.364 is revised to read as follows:

§ 404.364 When is a grandchild or stepgrandchild dependent?

If you are the insured's grandchild or stepgrandchild, as defined in § 404.358(a), you are considered dependent upon the insured if—

(a) You began living with the insured before you became 18 years old; and,

(b) You were living with the insured in the United States and receiving at least one-half of your support from him for the year before he or she became entitled to old-age or disability benefits or died; or if the insured had a period of disability that lasted until he or she became entitled to benefits or died, for the year immediately before the month

in which the period of disability began. If you were born during the 1-year period, the insured must have lived with you and provided at least one-half of your support for *substantially all* of the period that begins on the date of your birth. The term *substantially all* is defined in paragraph (c) of this section.

(c) The *substantially all* requirement will be met if, at one of the times in paragraph (b) of this section, the insured was living with you and providing at least one-half of your support, and any period during which he or she was not living with you and providing one-half of your support did not exceed the lesser of 3 months or one-half of the period beginning with the month of your birth.

[FR Doc. 03–20490 Filed 8–11–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3282

[Docket No. FR–4867–C–03]

Manufactured Housing Consensus Committee—Rejection of Consumer Complaint Handling Proposal; Correction

AGENCY: Office of the General Counsel, HUD.

ACTION: Denial of proposed recommendation for revisions for regulations; correction.

SUMMARY: This document corrects an error in a denial of proposed recommendation for revisions for regulations, concerning how manufacturers are required to handle reports of problems with manufactured homes, that was published in incomplete form on July 25, 2003.

FOR FURTHER INFORMATION CONTACT: Nicholas Hluchyj, Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500, (202) 708–3055 (this is not a toll-free number). Persons with hearing or speech impairments access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On July 25, 2003 (68 FR 35850), HUD published a denial of 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. That document was inadvertently published in incomplete form, and to correct that error, the text is being republished in its entirety for the convenience of the public as Attachment 1.

Dated: August 5, 2003.

Camille E. Acevedo,

Associate General Counsel for Legislation and Regulations.

Attachment 1—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 of proposed recommendation for revisions for regulations.

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 via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

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 Complaint Handling and Remedial Actions (24 CFR 3282.401–416) (Subpart I).

Background

The MHCC was 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 regulations 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 must approve or 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 responsibility 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 of 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