



Manufactured Housing Association for Regulatory Reform

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June 29, 2017

VIA FEDERAL EXPRESS

Hon. Dr. Benjamin Carson
Secretary
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Re: HUD Manufactured Housing Program -- Proposed Interpretive Bulletin I-1-17

Dear Secretary Carson:

In an order issued on January 20, 2017, White House Chief of Staff Reince Priebus directed the heads of all federal agencies to “send no regulation” to the Federal Register for publication “until a department or agency head appointed or designated by the President after noon on January 20, 2017 reviews and approves the regulation.” By its express terms, this regulatory “freeze” directive applies not only to proposed and final agency rules, but also to “any agency statement” that constitutes “an interpretation of a statutory or regulatory issue.” (Emphasis added).

On June 21, 2017, the HUD manufactured housing program published a proposed “Interpretive Bulletin” (IB) in the Federal Register (copy attached), concerning requirements for the use of “frost-free” and “frost-protected” foundations in “freezing climates” under section 3285.312(b) of HUD’s federal manufactured home installation standards for states without a HUD-approved state-law installation program. This “Interpretive Bulletin” -- which is expressly subject to notice and comment rulemaking procedures under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000 and is clearly covered by the Administration’s order of January 20, 2017 -- was issued over the signature of HUD “General Deputy Assistant Secretary for Housing, Genger Charles,” who, our research indicates, has held that position since 2016 and is, apparently, an Obama Administration holdover, still serving at HUD (as is the current Administrator of the HUD manufactured housing program, Ms. Pamela Danner).

The proposed IB, as published, is fatally-flawed and unacceptable to the industry on multiple grounds, including, but not limited to the following:

1. It constitutes a flagrant abuse of the “Interpretive Bulletin” process, in that it substantively and significantly alters, changes and amends the existing standard (24 C.F.R. 3285.312(b)), which it purports to “interpret;”
2. It rejects key substantive recommendations of the Manufactured Housing Consensus Committee (MHCC) a committee of HUD manufactured housing program stakeholders established by Congress as a central reform of the Manufactured Housing Improvement Act of 2000; and
3. The program (through the program Administrator) has stated its intent to impose this major substantive change to an existing standard -- by fiat -- on states with state-law installation standards and programs that have already been approved as compliant by HUD. This position -- that HUD can impose installation requirements on states with existing state-law manufactured housing installation standards by the simple expedient of changing the program’s “interpretation” of parallel federal installation standards -- has never been previously asserted by HUD in the 17 years since the enactment of the 2000 reform law, and would crucially undermine the role and authority of those compliant states in violation of the 2000 reform law.

In short, the proposed IB represents a major substantive change to the HUD installation standards, that: (1) has not been shown to be justified or warranted; (2) will significantly and needlessly increase costs borne by consumers; and (3) will substantively alter, damage, and ultimately undermine the fundamental relationship between HUD and the states, with no indication whatsoever that this major action has ever been reviewed or approved by a Trump Administration official or appropriate designee, as required by the regulatory “freeze” order of January 20, 2017.

Accordingly, we ask that HUD disclose: (1) whether the proposed IB was reviewed and approved by a Trump Administration official or designee appointed after Noon on January 20, 2017, as required by the regulatory “freeze” order; (2) if, so which official(s) or designee(s) reviewed and approved the proposed IB; and (3) whether any such official(s) or appointee(s) was aware of the issues identified in paragraphs (1) - (3), above.

Absent such (informed) approval, in accordance with President Trump’s order of January 20, 2017, we ask that HUD withdraw the proposed IB in toto, until the responsible appointee or designee can be fully informed by MHARR (and other affected stakeholders) on the dire implications of this proposal for consumers, the states, and the industry, and any resulting proposed IB can be reviewed and approved in full accordance with the President’s order of January 20, 2017.

Sincerely,



Mark Weiss
President and CEO

cc: Hon. Mick Mulvaney
Hon. Tim Scott
Hon. Robert Menendez
Hon. Sean Duffy
Hon. Emanuel Cleaver
Mr. Rick Dearborn
Ms. Maren Kasper
HUD Code Industry Manufacturers, Retailers and Communities