

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4233-N-01]

## Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Notice Requesting Statements of Interest From Private Organizations to Administer a Voluntary Process for the Development of Suggested Manufactured Housing Standards

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

**ACTION:** Notice requesting statements of interest.

**SUMMARY:** The Department is committed to full notice-and-comment rulemaking in proposing or changing any of the Federal Manufactured Home Construction and Safety Standards (FMHCSS). To improve the Department's ability to pursue effective rulemaking on any of the FMHCSS, however, the Department is interested in working with a private sector standards body to develop recommendations in updating the FMHCSS, consistent with longstanding Federal Government policy and recent codification of that policy. Any organization that is interested in coordinating and developing suggestions for changes to the FMHCSS is invited to advise the Department of its interest, in accordance with the terms of this notice.

In addition to regular notice-and-comment rulemaking, as required by statute the Department will continue to consult with the National Manufactured Home Advisory Council before adopting, in a final rule, any changes to the FMHCSS that are suggested to the Department.

**DATES:** Organizations wishing to indicate interest in administering a voluntary process for developing suggested revisions of the FMHCSS must do so by September 22, 1997.

**ADDRESSES:** Responses should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title.

**FOR FURTHER INFORMATION CONTACT:** David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone (202) 708-6409. (This is not a toll-free

number.) For hearing and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 604 of the National Manufactured Construction and Safety Standards Act of 1974 (the Act), 42 U.S.C. 5403, requires the Secretary to establish preemptive FMHCSS (codified in 24 CFR part 3280) for all manufactured homes. In 1990, Congress established a National Commission on Manufactured Housing to develop recommendations for modernizing the Act. The Commission could not reach consensus on all aspects of its work, but did agree on the need for the establishment and maintenance of the standards through a consensus process. To this end, the Department joined much of the Manufactured Housing industry and consumer groups in supporting bipartisan legislation last year, which would have targeted funding for and created an independent consensus committee to develop and revise the standards. The amendment was attached to the public housing bill that was not enacted.

#### II. Federal Preference for a Consensus Process

The periodic review and updating of manufactured housing construction and safety standards has been difficult due to strong differences of opinion among manufacturers, consumer groups, and other interested parties. President Clinton has encouraged agencies to reform the current way that the Federal government develops and implements regulations. (See Executive Order 12866.) A primary purpose of the reform is to develop cooperative, consultative means of producing sensible and effective regulations. This effort furthers a long-standing Federal Government policy, articulated in OMB Circular A-119, to rely on voluntary standards whenever feasible, and to participate in voluntary standards-making bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources. This policy was adopted as law last year, when Congress passed the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113, 110 Stat. 783, approved March 7, 1996) which states, with several exceptions:

\* \* \* All Federal agencies and departments shall use technical standards that are developed or adopted by voluntary

consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.

#### III. Federal Advisory Committee Act Considerations

At this time, the Department expects that the voluntary standards body for updating the FMHCSS will not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C., App.) (FACA). If the Department determines that this solicitation of statements of interest does not result in a response that will be helpful to the Department, the Department may choose to take the steps necessary under the FACA to establish and manage a formal advisory committee.

#### IV. Rulemaking Procedures for Issuance of Any New Standards

The Department intends to review and accept, modify, or reject standards developed, packaged, and submitted to it by the designated voluntary standards body. If accepted or modified, the Department will publish in the **Federal Register** for comment the proposed standards or modifications, in accordance with the procedures for notice-and-comment rulemaking set out in the Administrative Procedure Act (5 U.S.C. 553). After considering public comments on the proposed revised standards and consulting with the National Manufactured Home Advisory Council in accordance with section 605 of the Act (42 U.S.C. 5304), the Department will then issue final standards in a final rule.

The Department will not, by use of this standards development process, relinquish its responsibility and authority under the Act to establish and enforce the FMHCSS, but the Department intends and hopes that standards developed by this voluntary standards body will, under most circumstances, be accepted as submitted to the Department for publication as a proposed rule. In addition, the Department will continue to consider standards developed and submitted by other organizations or persons for incorporation into the FMHCSS, as required by law. Only those standards that are deemed appropriate by the Department will be incorporated into the FMHCSS.

#### V. Selecting a Voluntary Standards Body

The Department wishes to select a private organization, or a combination of private organizations, that is qualified, interested in, and capable of developing and maintaining model

standards that can revise or supplement standards in the FMHCSS. The Department will look more favorably upon any statement of interest providing assurances that the submitting organization will seek to ensure that its suggestions for changes to the FMHCSS reflect a balance of interests and that the submitting organization is willing to give priority consideration to developing suggestions for standards identified by the Department as requiring prompt attention. At the present time, the Department does not anticipate providing the applicant with funding for the expenses incurred in the operation of the voluntary standards body, including travel and per diem expenses. Applicants must address in their statements of interest how they will meet this responsibility.

#### *A. Content of Statements of Interest*

Respondents must describe in detail how they would accomplish the development and maintenance of revised model standards pertaining to the construction and safety of manufactured housing by:

1. Identifying the technical capabilities of staff and other entities to be used for examining and developing changes and such additional standards

as may be appropriate for inclusion in the FMHCSS;

2. Defining how the proposed changes to the FMHCSS would be evaluated in accordance with the purpose of the Act to promote the safety, durability, and quality of manufactured housing;

3. Identifying the methodology to be used in developing, updating, removing, or withdrawing standards, and stating the frequency that recommendations resulting from these actions would be submitted to the Department;

4. Stating proposed procedures to be used to balance the views of divergent interest groups (manufacturers and suppliers, consumers, and State and local regulatory officials);

5. Stating whether the applicant is willing to provide travel and per diem for the consumer and State government representatives who would be unable to attend the meetings of the voluntary standards body without such travel and expense reimbursement.

6. Stating whether the applicant is willing, upon a showing of need, to furnish technical support to any interest category of the voluntary standards committee.

7. Providing the policies and procedures to be used for the identification and appointment of voluntary standards body members, and for managing, coordinating, voting on,

processing, and submitting the proposed changes in the FMHCSS to the Department.

#### *B. Criteria To Be Used in Reviewing Statements of Interest*

In reviewing the statements of interest, the Department will consider the demonstrated knowledge, experience, and qualifications of each applicant in the following areas:

1. Building codes and standards, their function, development and scope;

2. The development, review, approval and publication of model standards with respect to building codes and standards;

3. Organizing and coordinating efforts that develop standards for structural, testing, fire safety, plumbing, mechanical, ventilation and electrical systems pertaining to residential building; and

4. Qualifications, time commitments, and assignments of managerial, administrative and technical personnel, whether primarily involved or referred to on an as-needed basis.

Dated: July 31, 1997

**Nicolas P. Retsinas,**

*Assistant Secretary for Housing—Federal Housing Commissioner*

[FR Doc. 97-20673 Filed 8-5-97; 8:45 am]

BILLING CODE 4210-27-P