

NOT FOR PUBLICATION**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT****FILED**

DEC 20 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**KAREN MARIE ISAACSON,****No. 20-35442****Plaintiff-Appellant,****D.C. No. 2:20-cv-00588-RAJ****v.****MEMORANDUM*****MARCIA L. FUDGE, Secretary, United
States Department of Housing and Urban
Development; et al.,****Defendants-Appellees.**

**Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding**

Submitted December 14, 2021**

Before: WALLACE, CLIFTON, and HURWITZ, Circuit Judges.

Karen Marie Isaacson appeals pro se from the district court's judgment dismissing for lack of standing her action alleging claims related to a Department of Housing and Urban Development rule. We have jurisdiction under 28 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2).*

APPENDIX A

§ 1291. We review de novo. *Gingery v. City of Glendale*, 831 F.3d 1222, 1226 (9th Cir. 2016) (dismissal for lack of standing); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal as frivolous under 28 U.S.C. 1915(e)(2)(B)(i)). We affirm.

The district court properly dismissed Isaacson’s action because Isaacson failed to allege facts sufficient to establish Article III standing. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992) (constitutional standing requires an “injury in fact,” causation, and redressability, and “the injury has to be fairly . . . trace[able] to the challenged action of the defendant” as opposed to “the independent action of some third party not before the court” (internal quotation marks omitted)).

Appellees’ motion for summary affirmance (Docket Entry No. 17) is denied.

AFFIRMED.

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAREN ISAACSON,

Plaintiff,

v.

BEN CARSON,

Defendant.

Civil Action No. 2:20-cv-00588-RAJ

DISMISSAL ORDER

This matter is before the Court *sua sponte*. On April 21, 2020, the Honorable Brian A. Tsuchida, United States Magistrate Judge, granted *pro se* Plaintiff Karen Isaacson's application to proceed *in forma pauperis* while recommending review under 28 U.S.C. § 1915(e)(2)(B). *See* Dkt. # 4. For following reasons, the Court **DISMISSES** Plaintiff's complaint as frivolous under § 1915(e)(2)(B)(i).

I. BACKGROUND

Under 28 U.S.C. § 1915, a court is required to dismiss an *in forma pauperis* plaintiff's case if the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) ("[S]ection 1915(e) applies to all *in forma pauperis* complaints, not just those filed by prisoners."). A complaint is frivolous if it lacks a basis in law or fact. *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005).

ORDER - 1

APPENDIX B

1 The following is taken Plaintiff's complaint, which is assumed to be true for the
2 purposes of this motion to dismiss. *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007).
3 In May 2016, Plaintiff visited Guild Mortgage to seek advice about obtaining a home
4 equity conversion mortgage (or "reverse mortgage") for her manufactured home. Dkt. #
5 at ¶ 25. During the visit, a loan officer allegedly told Plaintiff that "HUD has a rule that
6 if you move your house you can't get a reverse mortgage." Dkt. # 5 at ¶ 26. Plaintiff
7 subsequently contacted HUD seeking a reinterpretation or waiver of the rule, but HUD
8 reiterated the requirement and confirmed there were no exceptions. Dkt. # 25 at ¶¶ 29-30.

9 On April 17, 2020, Plaintiff sued the Department of Housing and Urban
10 Development ("HUD"), the Secretary of HUD, and the Assistant Secretary of HUD and
11 the Fair Housing Administration (collectively "Defendants"). Plaintiff's complaint
12 alleges: (1) Fifth Amendment due process violations, (2) Fifth Amendment equal
13 protection violations, (3) intentional interference with a prospective business expectancy,
14 (4) willful misconduct, (5) intentional infliction of extreme emotional distress, (6)
15 violation of the Fair Housing Act, (7) violation of the Administrative Procedure Act, and
16 (8) unconstitutional pattern or practice. *See generally* Dkt. # 5. Each of Plaintiff's claims
17 is based on her allegation that she was denied a reverse mortgage because of HUD's
18 allegedly unlawful rules and regulations, 24 C.F.R. § 203.43f(d)(iii) and HUD Handbook
19 4235.1 REV-1 § 3-4(B)(4).

20 This is Plaintiff's fourth action arising from her interactions with Guild Mortgage
21 and HUD.¹ This Court dismissed Plaintiff's three prior complaints for lack of subject
22 matter jurisdiction after determining that she lacked Article III standing to sue.² Most
23

24 ¹ See *Isaacson v. Sec'y of Hous. & Urban Dev.*, No. 16-cv-1254-JLR; *Isaacson v. Sec'y of*

25 *Hous. & Urban Dev.*, No. 17-cv-1449-RSL; *Isaacson v. Carson, et. al.*, No. 19-cv-2059-
26 RSL (dismissed as frivolous).

2 ² See *Isaacson*, No. 16-CV-1254-JLR (Dkt. #26); *Isaacson*, No. 17-CV-1449-RSL (Dkt.
#23), *Isaacson*, No. 19-cv-2059-RSL (Dkt. # 8).

1 recently, in an order dismissing Plaintiff's third complaint, the Honorable Robert S.
2 Lasnik cautioned Plaintiff that "future actions involving these factual and legal
3 allegations, which again fail to establish Article III standing, may be dismissed with
4 prejudice." Dkt. # 8 at 3. Notwithstanding this warning, Plaintiff filed the instant action.
5 For the reasons previously articulated to Plaintiff on several prior occasions, Plaintiff still
6 lacks standing to pursue this action.

7 **II. DISCUSSION**

8 Under Rule 12(h)(3), "[i]f the court determines at any time that it lacks subject-
9 matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3).
10 Constitutional standing is a "necessary element of federal-court jurisdiction." *Thomas v.*
11 *Mundell*, 572 F.3d 756, 760 (9th Cir. 2009). To establish Article III standing, a plaintiff
12 must show that (1) she suffered an injury in fact, (2) there is a causal connection between
13 the injury and the defendants' conduct, and (3) the injury will likely be redressed by a
14 favorable decision from the Court. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61
15 (1992).

16 An injury in fact is "an invasion of a legally protected interest which is
17 (a) concrete and particularized . . . and (b) actual or imminent, not conjectural or
18 hypothetical." *Lujan*, 504 U.S. at 560 (citations and internal quotation marks omitted).
19 Here, Plaintiff again fails to allege "an invasion of a legally protected interest which
20 is . . . concrete and particularized and . . . actual or imminent, not conjectural or
21 hypothetical." *Id.* at 560 (internal quotation marks and citations omitted). Plaintiff does
22 not allege that she applied for a reverse mortgage with Guild Mortgage (or any other
23 lender), nor does she allege that HUD reviewed her application and declined to insure the
24 loan. Plaintiff's speculation that she will be unable to obtain a reverse mortgage from
25 any lender as a result of HUD's allegedly unlawful rule and regulation, does not create a
26 concrete injury in fact. *Id.* at 560 (internal quotation marks and citations omitted).

ORDER - 3

1 Plaintiff also fails to show how her alleged injury is “fairly traceable” to
2 Defendants rather than the independent actions of a third party. *Virginia Sur. Co. v.*
3 *Northrop Grumman Corp.*, 144 F.3d 1243, 1246 (9th Cir. 1998). “[W]here the causal
4 chain involves [a] third part[y] whose independent decisions collectively have a
5 significant effect on plaintiffs’ injuries . . . the causal chain is too weak to support
6 standing.” *Native Vill. Of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849, 867 (9th Cir.
7 2012). HUD is not in the business of issuing reverse mortgage contracts. Instead, such
8 contracts are extended to applicants by third-party lenders and HUD provides optional
9 insurance to lenders of qualifying reverse mortgages. U.S.C. § 1715z-20(c). This is fatal
10 to Plaintiff’s complaint because even if she could establish an injury in fact, it would be
11 traceable to the lender, not HUD. Accordingly, Plaintiff lacks constitutional standing to
12 bring this action.

13 III. CONCLUSION

14 This is Plaintiff’s fourth bite at the apple. There will not be a fifth. Plaintiff was
15 informed on three prior occasions that she lacks standing, yet she continues to file
16 complaints without remedying this underlying defect. And while a *pro se* litigant
17 ordinarily must be given leave to amend his or her complaint, it is abundantly clear to the
18 Court that further amendment in this case would be futile. *See* 28 U.S.C. §
19 1915(e)(2)(B)(i); *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (dismissal
20 without leave to amend is proper where “it is absolutely clear that no amendment can
21 cure the defect”). Therefore, Plaintiff’s complaint is **DISMISSED** with prejudice under
22 28 U.S.C. § 1915(e)(2)(B)(i). *See, e.g., Neitzke v. Williams*, 490 U.S. 319, 325 (1989).
23 All remaining motions are **TERMINATED**.

24 Finally, as noted above, Plaintiff has a history of filing repetitive and frivolous
25 lawsuits in this Court. *See Isaacson v. Sec’y of Hous. & Urban Dev.*, No. 16-cv-1254-
26 JLR (dismissed without leave to amend); *Isaacson v. Sec’y of Hous. & Urban Dev.*, No.

1 17-cv-1449-RSL (dismissed without leave to amend); *Isaacson v. Carson, et. al.*, No. 19-
2 cv-2059-RSL (dismissed as frivolous, without leave to amend). Federal district courts
3 have the inherent power to enter pre-filing orders against vexatious litigants. *Molski v.*
4 *Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007); 28 U.S.C. § 1651(a).
5 While rare, pre-filing orders may be imposed to “regulate the activities of abusive
6 litigants by imposing carefully tailored restrictions under the appropriate circumstances.”
7 *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990). Although such an extreme
8 remedy is not appropriate at this point, the Court will strongly consider a pre-filing order
9 if Plaintiff continues to file frivolous actions.

10 DATED this 23rd day of April, 2020.

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14 The Honorable Richard A. Jones
15 United States District Judge
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UNITED STATES COURT OF APPEALS

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KAREN MARIE ISAACSON,

No. 20-35442

Plaintiff-Appellant,

D.C. No. 2:20-cv-00588-RAJ
Western District of Washington,
Seattle

v.

MARCIA L. FUDGE, Secretary, United
States Department of Housing and Urban
Development; et al.,

ORDER

Defendants-Appellees.

Before: WALLACE, CLIFTON, and HURWITZ, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no
judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R.
App. P. 35.

Isaacson's petition for panel rehearing and petition for rehearing en banc
(Docket Entry No. 21) are denied.

No further filings will be entertained in this closed case.

APPENDIX C

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAREN ISAACSON,

Plaintiff,

CASE NO. 2:20-cv-00588-RAJ

1

BEN CARSON, et al.,

Defendants.

**ORDER GRANTING
APPLICATION TO PROCEED IN
FORMA PAUPERIS**

Plaintiff's application to proceed in forma pauperis (Dkt. 1) is **GRANTED** under 28 U.S.C. § 1915(a)(1). The Court recommends the complaint be reviewed under 28 U.S.C. § 1915(e)(2)(B) before issuance of summons. *See* Plaintiff's previous three complaints challenging reverse-mortgage provisions developed by the Department of Housing and Urban Development ("HUD"), which were dismissed for lack of subject matter jurisdiction and failure to state a claim (No. 16-cv-1254-JLR (Dkt. 26); No. 17-cv-1449-RSL (Dkt. 23); No. 19-cv-2059-RSL (Dkt. 8) (dismissed as frivolous)).

The Clerk shall provide a copy of this Order to plaintiff and to the Honorable Richard A. Jones.

DATED this 21st day of April, 2020.

BRIAN A. TSUCHIDA
Chief United States Magistrate Judge

**ORDER GRANTING APPLICATION TO
PROCEED IN FORMA PAUPERIS - 1**

APPENDIX C.1

12 U.S. Code § 1703 - Insurance of financial institutions

(a) Authority to insure financial institutions

The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them for the purpose of (i) financing alterations, repairs, and improvements upon or in connection with existing structures or manufactured homes, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a manufactured home to be used by the owner as his principal residence or financing the purchase of a lot on which to place such home and paying expenses reasonably necessary for the appropriate preparation of such lot, including the installation of utility connections, sanitary facilities, and

paving, and the construction of a suitable pad, or financing only the acquisition of such a lot either with or without such preparation by an owner of a manufactured home; and for the purpose of financing the preservation of historic structures, and, as used in this section, the term "historic structures" means residential structures which are registered in the National Register of Historic Places or which are certified by the Secretary of the Interior to conform to National Register criteria; and the term "preservation" means restoration or rehabilitation undertaken for such purposes as are approved by the Secretary in regulations issued by him, after consulting with the Secretary of the Interior. Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes exceed 10 per centum of the total amount of such loans, advances of credit, and purchases. With respect to any loan, advance of credit, or purchase, the amount of any claim for loss on any such individual loan, advance of credit or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.

After August 2, 1954, (i) the Secretary shall not enter into contracts for insurance pursuant to this section except with lending institutions which are subject to the inspection and supervision of a governmental agency required

by law to make periodic examinations of their books and accounts, and which the Secretary finds to be qualified by experience or facilities to make and service such loans, advances or purchases, and with such other lending institutions which the Secretary approves as eligible for insurance pursuant to this section on the basis of their credit and their experience or facilities to make and service such loans, advances or purchases; (ii) only such items as substantially protect or improve the basic livability or utility of properties shall be eligible for financing under this section, and therefore the Secretary shall from time to time declare ineligible for financing under this section any item, product, alteration, repair, improvement, or class thereof which he determines would not substantially protect or improve the basic livability or utility of such properties, and he may also declare ineligible for financing under this section any item which he determines is especially subject to selling abuses; and (iii) the Secretary is authorized and directed, by such regulations or procedures as he shall deem advisable, to prevent the use of any financial assistance under this section (1) with respect to new residential structures (other than manufactured homes) that have not been completed and occupied for at least six months, or (2) which would, through multiple loans, result in an outstanding aggregate loan balance with respect to the same structure exceeding the dollar amount limitation prescribed in this subsection for the type of loan involved: Provided, That this clause (iii) may in the discretion of the Secretary be waived with respect to the period of

occupancy or completion of any such new residential structures. The Secretary is hereby authorized and directed, with respect to manufactured homes to be financed under this section, to (i) prescribe minimum property standards to assure the livability and durability of the manufactured home and the suitability of the site on which the manufactured home is to be located; and (ii) obtain assurances from the borrower that the manufactured home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

The insurance authority provided under this section may be made available with respect to any existing manufactured home that has not been insured under this section if such home was constructed in accordance with the standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 [42 U.S.C. 5401 et seq.] and it meets standards similar to the minimum property standards applicable to existing homes insured under subchapter II.

RCW 46.44.170

Mobile home or park model trailer movement special permit and decal—

Responsibility for taxes—License plates—Rules.

(1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and must pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the department of commerce signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of

property taxes is not valid until the county treasurer of the county in which the mobile home or park model trailer is located must endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section must display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

- (a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;
- (b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer and title has been lawfully transferred to the landlord. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or
- (c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same must be removed from the tax rolls and

upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer must be removed by the county treasurer.

(3) Except as provided in RCW 84.56.335(1), if the landlord of a manufactured/mobile home park takes ownership of a manufactured/mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the manufactured/mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the manufactured/mobile home or park model trailer and title has been lawfully transferred to the landlord, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates may not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation must adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. The department of labor and industries must adopt

procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections.

[2013 c 198 § 2; 2010 c 161 § 1118; 2005 c 399 § 1; 2004 c 79 § 4; 2003 c 61 § 1; 2002 c 168 § 6; 1986 c 211 § 4. Prior: 1985 c 395 § 1; 1985 c 22 § 1; 1980 c 152 § 1; 1977 ex.s. c 22 § 2.]

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(2) Insignia are not required on mobile homes, commercial coaches and/or recreational vehicles manufactured within this state for sale outside this state which are sold to persons outside this state.

Passed the Senate March 17, 1977.

Passed the House April 28, 1977.

Approved by the Governor May 6, 1977.

Filed in Office of Secretary of State May 6, 1977.

CHAPTER 22

[Substitute Senate Bill No. 2052]

MOBILE HOMES—MOVEMENT PERMITS—TAXATION

AN ACT Relating to mobile homes; amending section 4, chapter 231, Laws of 1971 ex. sess. and RCW 46.04.302; amending section 46.16.160, chapter 12, Laws of 1961 as last amended by section 6, chapter 64, Laws of 1973-76 2nd ex. sess. and RCW 46.16.160; amending section 82.50.010, chapter 15, Laws of 1961 as last amended by section 35, chapter 299, Laws of 1971 ex. sess. and RCW 82.50.010; amending section 84.60.020, chapter 15, Laws of 1961 and RCW 84.60.020; adding a new section to chapter 36.21 RCW; adding new sections to chapter 46.44 RCW; repealing section 20, chapter 231, Laws of 1971 ex. sess., section 6, chapter 103, Laws of 1973 and RCW 46.16.104; repealing section 21, chapter 231, Laws of 1971 ex. sess. and RCW 46.16.105; repealing section 22, chapter 231, Laws of 1971 ex. sess., section 7, chapter 103, Laws of 1973 and RCW 46.16.106; repealing section 73, chapter 299, Laws of 1971 ex. sess., section 5, chapter 103, Laws of 1973 and RCW 82.50.902; defining crimes; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 4, chapter 231, Laws of 1971 ex. sess. and RCW 46.04.302 are each amended to read as follows:

"Mobile home" means ((all trailers of the type designed as facilities for human habitation and which are capable of being moved upon the public streets and highways and which are more than thirty-five feet in length or more than eight feet in width)) a structure, transportable in one or more sections, which is thirty-two body feet or more in length and is eight body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes.

NEW SECTION. Sec. 2. There is added to chapter 46.44 RCW a new section to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 upon public highways of the state must obtain a special permit from the highway commission and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home shall not be valid until the county treasurer of the county in which the mobile home is located shall endorse or attach thereto his certificate that all property taxes due upon the mobile home being moved have been satisfied: PROVIDED, That endorsement or certification by the county treasurer is not required when a mobile home is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets. It shall be the responsibility

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of the owner of the mobile home or his agent to obtain such endorsement from the county treasurer.

(3) Nothing herein should be construed as prohibiting the issuance of vehicle license plates for a mobile home, but no such plates shall be issued unless the mobile home for which such plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for such license has been paid.

(4) The state highway commission and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section.

NEW SECTION. Sec. 3. There is added to chapter 46.44 RCW a new section to read as follows:

(1) Upon validation of a special permit as provided in section 2 of this 1977 amendatory act, the county treasurer shall forward notice of movement of the mobile home to the treasurer's own county assessor and to the county assessor of the county in which the mobile home will be located.

(2) When a single trip special permit not requiring tax certification is issued, the highway commission or local authority shall notify the assessor of the county in which the mobile home is to be located and when a continuous trip special permit is used to transport a mobile home not requiring tax certification, the transporter shall notify the assessor of the county in which the mobile home is to be located: PROVIDED, That notification shall not be necessary when the destination of a mobile home is a manufacturer, distributor, retailer, or location outside the state.

(3) A notification under this section shall state the specific, residential destination of the mobile home.

NEW SECTION. Sec. 4. There is added to chapter 46.44 RCW a new section to read as follows:

Any person or agent acting for a person who causes to be moved or moves a mobile home as defined in RCW 46.04.302 upon public highways of this state and who fails to comply with any of the provisions of sections 2 and 3 of this 1977 amendatory act is guilty of a misdemeanor and shall be fined not less than fifty dollars or more than one hundred dollars. In addition to the above fine, the highway commission or local authority may withhold issuance of a special permit or suspend a continuous special permit as provided by RCW 46.44.090 and 46.44.093 for a period of not less than thirty days.

Any person or agent who is denied a special permit or whose special permit is suspended may upon request receive a hearing before the highway commission or local authority having jurisdiction. The commission or local authority after such hearing may revise its previous action.

Sec. 5. Section 46.16.160, chapter 12, Laws of 1961 as last amended by section 6, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.16.160 are each amended to read as follows:

Any commercial vehicle bearing valid license plates and a registration certificate of another state or territory and not registered in this state and which under reciprocal relations with that state would be required to obtain a full or proportional motor vehicle license in this state may, in lieu of a certificate of ownership

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and license registration, be issued a permit. Such permit shall be valid for the conduct of interstate operations only and shall be issued in such form and under such conditions as the director shall prescribe. Application for the permit shall be made to the director or his designated agent on forms provided by the director. On receiving such application, together with fees as provided herein, a permit may be issued for a period of not to exceed two hundred forty consecutive hours: PROVIDED, HOWEVER, That no permit shall be issued for any period less than twenty-four consecutive hours.

The director, or his designated agent, shall be authorized to issue a further permit on the same vehicle or combination of vehicles upon the expiration of any permit issued for a period less than two hundred forty consecutive hours: PROVIDED, Such further permit does not extend the duration thereof to exceed two hundred forty consecutive hours on any series of consecutive permits issued for such vehicle or combination of vehicles: PROVIDED, FURTHER, That no permit, or series of permits, shall be issued for any period exceeding two hundred forty consecutive hours within any period of thirty days.

When any vehicle subject to license is to be moved upon the public highways of this state from one point to another, the department may issue a special permit therefor upon an application presented in such form as shall be approved by the department. Such permit shall be for one transit only as set forth in the application: PROVIDED, That a special permit or one transit permit shall be issued for movement of a mobile home as defined in RCW 46.04.302 as now or hereafter amended, pursuant to ((RCW 46.16.105)) section 2 of this 1977 amendatory act.

For each permit issued to a vehicle or a combination of vehicles the director, or his designated agent, shall assess an administrative charge of five dollars per permit plus the following fees for each period of twenty-four consecutive hours covered by such permit:

Vehicles or combinations of vehicles with gross weights as declared by applicant of:

0	9,999 lbs.	\$0.50
10,000	19,999 lbs.	\$1.00
20,000	29,999 lbs.	\$1.50
30,000	35,999 lbs.	\$2.00
36,000	45,999 lbs.	\$2.50
46,000	59,999 lbs.	\$3.00
60,000	71,999 lbs.	\$4.00
72,000	75,999 lbs.	\$6.00
76,000	80,000 lbs.	\$8.00

These fees shall not be subject to quarterly reduction as provided in RCW 46.16.130. Such vehicles will be subject to all of the laws, rules, and regulations affecting the operation of like motor vehicles in this state. The permit shall be displayed at all times in a prominent place on the vehicle, or if the vehicle is a trailer, then the permit shall be at all times in vehicle operator's possession.

The director shall have the authority to adopt rules and regulations whereby such permits can be issued to qualifying operators in advance of use and paid for as used.

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All fees collected under the provisions of this chapter shall be forwarded by the director with a proper identifying detailed report to the state treasurer who shall deposit such fees to the credit of the motor vehicle fund.

Sec. 6. Section 82.50.010, chapter 15, Laws of 1961 as last amended by section 35, chapter 299, Laws of 1971 ex. sess. and RCW 82.50.010 are each amended to read as follows:

"Mobile home" means ((all trailers of the type designed as facilities for human habitation and which are capable of being moved upon the public streets and highways and which are more than thirty-five feet in length or more than eight feet in width)) a structure, transportable in one or more sections, which is thirty-two body feet or more in length and is eight body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes as defined below.

"Travel trailer" means all trailers of the type designed to be used upon the public streets and highways which are capable of being used as facilities for human habitation and which are ((thirty-five feet or)) less than thirty-two body feet in length and eight body feet or less in width, except as may be hereinafter specifically excluded.

"Modular home" means any factory-built housing designed primarily for residential occupancy by human beings which does not contain a permanent frame and must be mounted on a permanent foundation.

"Camper" means a structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in this section.

"Motor homes" means motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation.

"Commission" means the department of revenue of the state.

"Director" means the director of motor vehicles of the state.

NEW SECTION. Sec. 7. There is added to chapter 36.21 RCW a new section to read as follows:

When any mobile home first becomes subject to assessment for property taxes in this state, the county assessor is authorized to place the mobile home on the assessment rolls for purposes of tax levy up to May 31st of each year. The assessed valuation of the mobile home shall be considered as of the April 30th immediately preceding the date that the mobile home is placed on the assessment roll.

Sec. 8. Section 84.60.020, chapter 15, Laws of 1961 and RCW 84.60.020 are each amended to read as follows:

The taxes assessed upon real property and mobile homes as defined in RCW 82.50.010 shall be a lien thereon from and including the first day of January in the year in which they are levied until the same are paid, but as between the grantor or vendor and the grantee or purchaser of any real property((, and as between the

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~~vendor and the purchaser of any real property) or any such mobile home, when there is no express agreement as to payment of the taxes thereon due and payable in the calendar year of the sale or the contract to sell, the grantor or vendor shall be liable for the same proportion of such taxes as the part of the calendar year prior to the day of the sale or the contract to sell bears to the whole of such calendar year, and the grantee or purchaser shall be liable for the remainder of such taxes and subsequent taxes. The lien for the property taxes assessed on a mobile home shall be terminated and absolved for the year subsequent to the year of its removal from the state, when notice is given to the county treasurer describing the mobile home, if all property taxes due at the time of removal are satisfied. The taxes assessed upon each item of personal property assessed shall be a lien upon such personal property except mobile homes as above provided from and after the date upon which the same is listed with and valued by the county assessor, and no sale or transfer of such personal property shall in any way affect the lien for such taxes upon such property. The taxes assessed upon personal property shall be a lien upon each item of personal property of the person assessed, distrained by the treasurer as provided in RCW 84.56.070, from and after the date of the distraint and no sale or transfer of such personal property so distrained shall in any way affect the lien for such taxes upon such property. The taxes assessed upon personal property shall be a lien upon the real property of the person assessed, selected by the county treasurer and designated and charged upon the tax rolls as provided in RCW 84.60.040, from and after the date of such selection and charge and no sale or transfer of such real property so selected and charged shall in any way affect the lien for such personal property taxes upon such property.~~

NEW SECTION. Sec. 9. The following acts or parts of acts are each hereby repealed:

- (1) Section 20, chapter 231, Laws of 1971 ex. sess., section 6, chapter 103, Laws of 1973 and RCW 46.16.104;
- (2) Section 21, chapter 231, Laws of 1971 ex. sess. and RCW 46.16.105;
- (3) Section 22, chapter 231, Laws of 1971 ex. sess., section 7, chapter 103, Laws of 1973 and RCW 46.16.106; and
- (4) Section 73, chapter 299, Laws of 1971 ex. sess., section 5, chapter 103, Laws of 1973 and RCW 82.50.902.

NEW SECTION. Sec. 10. If any section or provision of this 1977 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the section or provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 29, 1977.

Passed the House April 26, 1977.

Approved by the Governor May 6, 1977.

Filed in Office of Secretary of State May 6, 1977.

767C). Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1821 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of September 29, 1982 (47 FR 42805) that announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had filed feed additive petition 8H5181 for residues of the pesticide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion), derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation), in or on spent mint hay at 3.0 ppm when present therein as a result of the application to growing peppermint or spearmint.

No comments or request for referral to an advisory committee were received by the Agency in response to this notice of filing.

A related document (PP 8E2048/9E2229/0E2345/2E2611/R515) establishing tolerances for residues of paraquat in or on various raw agricultural commodities, including mint hay (40 CFR 180.205), appears elsewhere in this issue of the Federal Register.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking for PP 8E2048 (47 FR 57975, December 29, 1982). The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (88 Stat. 973, 80 Stat. 751; 7 U.S.C. 136(a) *et seq.*). Therefore, 21 CFR 581.289 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1184, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additives, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945). Effective on: February 24, 1983.

[Sec. 409(c)(1), 72 Stat. 1788 (21 U.S.C. 348(c)(1))]

List of Subjects in 21 CFR Part 581

Feed additives, Pesticides and pests.

Dated: February 11, 1983.

Edwin L. Johnson

Director, Office of Pesticide Programs.

PART 581—(AMENDED)

Therefore, 21 CFR 581.289 is revised to read as follows:

§ 581.289 Paraquat

Tolerances are established for residues of the defoliant, desiccant, and herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) derived from the application of either the bis(methyl sulfate) or dichloride salt (both calculated as the cation) in the following processed feeds when present therein as a result of application of paraquat to the growing crops:

Feeds	Parts per million
Mint, hay, spent	3.0
Sunflower, seed hulls	8.0

[PR Doc. 83-4579 Filed 2-23-83: 8:45 am]

BILLING CODE 6560-00-0

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200 and 203

[Docket No. R-83-1013]

Eligibility of Manufactured Homes for Mortgage Insurance

AGENCY: Office of Assistant Secretary

for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: HUD is extending eligibility for mortgage insurance pursuant to Title II of the National Housing Act to manufactured homes constructed in conformance with the Manufactured Home Construction and Safety Standards when permanently attached to a site-built permanent foundation which meets HUD's Minimum Property Standards. Under existing practice, manufactured homes are not eligible for Title II mortgage insurance when the manufactured home itself does not meet HUD's Minimum Property Standards.

DATES: Effective Date: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver. Further notice of the effective date of this interim rule will be published in the Federal Register. Comment Due Date: April 25, 1983.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentator's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9270, Washington, D.C. 20410, (202) 755-6720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401 *et seq.*), the Department issues Manufactured Home Construction and Safety Standards to improve the quality and durability of manufactured homes. The Standards, which apply to all manufactured homes manufactured after June 15, 1976, take into consideration existing State and local laws but preempt those which are not identical to the Federal standards. The Standards appear at 24 CFR Part 3280.

The Department also facilitates the financing of manufactured home purchases by insuring manufactured home loans made by private lending institutions pursuant to Title I of the

National Housing Act (12 U.S.C. 1703). The Department insures loans for the purchase of a manufactured home pursuant to 24 CFR Part 201, Subpart B, and for the purchase of a manufactured home and lot ("combination loans") pursuant to 24 CFR Part 201, Subpart D. Under Title I loans, the manufactured home is treated as a chattel and, therefore, the loan insured is comparable to a consumer loan. The rate ordinarily is 1 to 2 percentage points higher than a real estate mortgage loan, and the maturities average only about 15 years. The present Title I loan limits are \$22,500 for 20 years on single-module units, \$35,000 for 20 years on double-module units, and up to \$47,500 for 25 years for combination loans.

Loans for the purchase of manufactured homes and altes have not generally been eligible for mortgage insurance pursuant to Title II of the National Housing Act for several reasons. Loans insured pursuant to Title II must be secured by mortgages on real property, so that chattel mortgages are not eligible. Further, properties subject to loans insured pursuant to Title II generally must meet HUD's Minimum Property Standards in all respects. The Manufactured Home Construction and Safety Standards promulgated by HUD are not the same as the Minimum Property Standards, which are compiled in contemplation of site-built "stick" housing.

In time, however, the differences between manufactured homes and site-built homes have become blurred. Improvements in the design and construction of manufactured homes have enhanced their durability and acceptability in residential neighborhoods. Communities and some States have revised their zoning policies which previously relegated manufactured homes to mobile home parks. Permanently placed manufactured homes may now appreciate in value as do comparable site-built houses, rather than being considered to depreciate as they have in the past. This has resulted in jurisdictions reclassifying manufactured homes from chattels to real property status. Manufacturers are beginning to sell their manufactured homes through real estate developers rather than through dealers, and some private lenders offer mortgages on manufactured homes if they are permanently placed on the borrower's lot.

Current housing trends indicate that

with certain exceptions, manufactured homes permanently placed on acceptable sites can provide less expensive housing than comparable site-built housing. The inherent economies of production line assembly, relatively immune from delaying weather conditions, make a manufactured home less expensive than a comparable site-built home.

Extension of FHA mortgage insurance to manufactured housing further expands the availability of affordable housing that may fulfill the needs of many households. With a real estate mortgage loan, the prospective buyer of a manufactured home gains the advantages of the lower interest rate on a real property mortgage as compared with a personal property loan and the lower amortization requirements resulting from a longer loan term. A buyer can, in essence, finance a larger amount for the same monthly payment.

The Department previously has recognized the suitability of certain existing (as distinguished from newly constructed) manufactured houses for Title II mortgage insurance. By Notice H-80-65 (August 28, 1980), the Department advised that existing permanently sited double-wide manufactured homes would be treated as any other existing property for insurance eligibility purposes. Subsequently, by Notice H-81-6 (January 12, 1981), the Department further advised concerning the eligibility of proposed construction involving double-wide manufactured homes conforming to Minimum Property Standards requirements for Title II insurance.

The President's Commission on Housing has also taken note of evolutionary development in the manufactured housing industry, stating:

Manufactured housing is a significant source of affordable housing for American families, particularly first-time homebuyers, the elderly, and low- and moderate-income families. Manufactured homes accounted for almost 38 percent of all single-family homes sold in the United States in 1981, and for the vast majority of those sold for under \$50,000.

Manufactured housing has competed effectively in a national housing market characterized by a vast array of Federal credit programs, institutional financing facilities, and regulations that favor conventional housing competitors. However, special limitations on the financing of manufactured housing continue to place serious inhibitions on what could be a valuable and affordable source of housing for millions of Americans. The Commission believes that the disincentives that now

characterize the manufactured housing sector should be removed in order to make full use of this resource.

The Commission therefore recommended that:

Federal and State government and quasi-government agencies provide the regulatory and legal framework necessary to permit permanent mortgage financing of [manufactured homes permanently attached to the land] on the same basis as other real property loans. (The Report of the President's Commission on Housing 85 (1982).)

Committees of Congress also have proposed the expansion of FHA mortgage insurance eligibility for manufactured housing. Both the Housing and Community Development Amendments of 1982 (S. 2807), as reported by the Senate Committee on Banking, Housing and Urban Affairs, and the Housing and Urban-Rural Recovery Act of 1982 (H.R. 6298), as reported by the House Committee on Banking, Finance and Urban Affairs, contain provisions confirming eligibility of manufactured housing conforming to the Manufactured Home Construction and Safety Standards and affixed to a permanent foundation for mortgage insurance under Title II. The Department views such proposals as intended to encourage the extension of mortgage insurance to such properties without indicating a lack of present authority to do so.

The Department, therefore, is extending the eligibility of Title II mortgage insurance to newly constructed manufactured homes which comply with the Manufactured Home Construction and Safety Standards and are attached permanently to a site-built permanent foundation meeting Minimum Property Standards requirements. The site, site improvements, and all other features of the mortgaged property not addressed by the Manufactured Home Construction and Safety Standards must meet or exceed the applicable requirements of the Minimum Property Standards.

In certain limited respects, the Department proposes to impose certain eligibility requirements for mortgage insurance in areas involving the manufactured structure itself which are addressed by the Manufactured Home Construction and Safety Standards. As insurer, the Department is subject to actuarially unknown risks in extending insurance to mortgages on manufactured housing, and therefore the Department is imposing these additional requirements that are believed to be cost-beneficial to

the buyer and will enhance the adequacy of the property as security for mortgages insured under Title II. The additional requirements provide greater structural durability and resale potential as realty, thus assuring that the loans may be economically sound investments and otherwise acceptable risks for homeowners who qualify for insured single family mortgage loans.

The Department also is confirming the eligibility of existing properties involving a manufactured home for mortgage insurance. This eligibility is not limited, as formerly, to double-wide homes but will include any manufactured home constructed in conformance with the Manufactured Home Construction and Safety Standards having a 400 square foot minimum floor area. Consistent with the Department's single-family mortgage insurance programs, an "existing property" is one where the manufactured home has been permanently affixed to the site for more than one year prior to the application for insurance. The expiration of this minimum life on site permits insurance valuation on the basis of the simpler standards applied for eligibility of existing properties.

Section-by-Section Analysis

24 CFR 200.925, which requires generally that all housing constructed under HUD mortgage insurance and low-rent housing programs shall meet or exceed HUD Minimum Property Standards, is proposed to be amended to limit its applicability to manufactured homes only to the extent provided by new § 203.43f, which is proposed to be added to an existing series of provisions in Part 203, Subpart A, establishing requirements for special situation mortgages. Section 203.43f provides that a mortgage covering a one-family manufactured home (as defined in 24 CFR § 3280.2(a)(16)) which meets the requirements of Part 203, Subpart A, except as modified by the further provisions of the section, shall be eligible for insurance pursuant to Subpart A.

Subsection (a) of § 203.43f states the requirement of compliance with the Manufactured Home Construction and Safety Standards as evidenced by the manufacturer's certification label. It also sets an insurance eligibility requirement of 400 square feet minimum floor area for the manufactured home.

Amendments adopted in 1980 to the National Manufactured Housing Construction and Safety Standards Act altered the size dimensions contained in the definition of manufactured home so as to include units of 320 or more square

feet. However, the conference report on the 1980 amendments directed the Secretary to consider differing, more flexible standards for smaller manufactured homes (such as park models) where square footage is between 320 and 400 square feet. Also, most smaller manufactured homes are designed not for permanent anchoring to a permanent foundation but for frequent transportation. In its recent implementation of the 1980 statutory amendments, the Department noted its intent to address the question of standards for application to smaller units in the near future (47 FR 28091 (June 29, 1982)). In anticipation of this separate treatment of smaller units, the Department believes it appropriate to limit mortgage eligibility to units covered by the full Manufactured Home Construction and Safety Standards.

The Department also notes a related issue regarding what traditionally have been referred to as "modular homes." Prior to enactment of the National Manufactured Housing Construction and Safety Standards Act in 1974, modular housing which satisfied the requirements of HUD's Minimum Property Standards was considered eligible for Title II mortgage insurance. Because more modular homes fell within the definition of "manufactured home" adopted by the statute, the Department, by regulation, exempted from the requirements of the new legislation structures manufactured in accordance with HUD's Minimum Property Standards or, alternatively, with one or another of a specified group of model building codes. The Department's approach was confirmed legislatively by Section 902 of the Housing and Community Development Act of 1977, which added subsection (h) to Section 604 of the National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5403(h)). The amendment authorizes the Secretary to exclude from coverage of the safety and construction standards requirements any structure

* * * which the manufacturer certified, in a form prescribed by the Secretary, to be:

(1) Designed only for erection or installation on a site-built permanent foundation;

(2) Not designed to be moved once so erected or installed;

(3) Designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

(4) To the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation. 42 U.S.C. 5403(h).

The exemption provision is implemented at 24 CFR 3282.12. It provides that exemption will be evidenced by the certification label, affixed in a permanent manner, which, among other things, identifies the qualifying code in compliance with which the structure has been manufactured.

The Department continues to regard modular homes not subject to the Manufactured Housing Construction and Safety Standards Act as eligible for Title II insurance if they meet the Minimum Property Standards. As noted, however, compliance with the Minimum Property Standards is only one of a series of alternative bases considered substantially equivalent to each other for exemption from the construction and safety standards. The Department therefore solicits comment on the question of whether manufactured homes meeting the exemption requirements on the basis of compliance with codes other than the Minimum Property Standards should be equally eligible for Title II mortgage insurance.

Subsection (b) of § 203.43f requires that the insured mortgage covering the manufactured home and site constitute a mortgage on real estate and limits the term of the mortgage to not more than 30 years. 24 CFR 203.17(e), which limits mortgage maturities to not in excess of three-fourths of the remaining economic life of the building improvements, is made inapplicable. The statutory basis of this regulatory requirement was repealed in 1980, and the Department intends to revoke this regulation. However, because of uncertainty regarding the useful economic life of manufactured housing (due to the fact that the Manufactured Home Construction and Safety Standards have been in effect only seven years), the Department has determined that a 30-year maximum term is prudent and, accordingly, that the provisions of § 203.17(d) (i) and (ii), permitting maturities of up to 35 years in certain circumstances, will not apply.

Subsection (c) contains the further requirements applicable to a manufactured home which has not been permanently erected on a site for more than one year.

Clause (i) of subsection (c) requires that the manufactured home be permanently attached to a permanent foundation that meets the Minimum Property Standards. The regulation precludes any intent to move the home to another location and is intended to

make the manufactured home on its foundation a structural entity comparable to a stick-built house on its foundation. Clause (i) further requires that the site itself (which includes utilities) and all site improvements, including but not limited to driveways, walks, patios, porches, carports and garages meet the applicable requirements of the Minimum Property Standards for One- and Two-Family Dwellings. The only deviation from the Minimum Property Standards is the requirement that the finish grade level beneath the dwelling be at or above the 100-year return frequency flood elevation instead of the 50-year return frequency flood elevation currently required by § 311-2 of the Minimum Property Standards. The National Flood Insurance Program damage projections indicate that manufactured housing is more susceptible to flood damage than sitebuilt housing because of the materials used. Therefore, this higher elevation is required to minimize a possible risk to the insurance fund.

Clause (ii) of subsection (c) requires a continuous perimeter enclosure constructed of a material that conforms to the Minimum Property Standards requirements for foundations. This enclosure may or may not be the supporting foundation of the manufactured home, depending upon its structural characteristics. If it is the supporting foundation, as set forth in clause (i), it must meet Minimum Property Standards requirements and be able to resist all design loads identified in § 601 of the Minimum Property Standards. If it is not the supporting foundation, it must resist whatever forces to which it may be subject without transmitting adverse forces to the building superstructure.

Clause (iii) of subsection (c) prescribes thermal requirements that are more energy-conservative than those included in the current Manufactured Home Construction and Safety Standards. They are set at a level which will have a projected five-to-seven year payback in energy cost savings for a typical manufactured home and which the Department believes is currently being met by some manufacturers. Zone I covers the same area as in the present Manufactured Home Construction and Safety Standards. The following States have been removed from Zone II and added to Zone III: Montana, Wyoming, North and South Dakota, Minnesota, Wisconsin, Michigan, Maine, New Hampshire and Vermont.

Clause (iv) of subsection (c) results from a study contracted by HUD which concluded that highway shock and

vibration adversely affected long-term structural durability, shortening the useful economic life of manufactured housing. Unlike a site-built house, by the time a manufactured home is ready for occupancy, it has already lost a percentage of its useful economic life due to stresses on the structure during transportation to its permanent foundation. Tests conducted in the course of the study indicated that this degradation, which can result in loosened joints, poorly fitting windows and doors and leaky roofs, could be significantly reduced if manufactured homes, particularly double-wide manufactured homes, were properly cross-braced and stiffened during transportation. The Department has determined that this requirement is cost-effective for manufactured homes to be insured under Title II. The transportation period is considered to begin when the manufactured home leaves the manufacturer and to continue until the manufactured home is placed upon its permanent foundation.

Clause (v) merely clarifies that the requirement of approval of a dwelling for insurance prior to construction does not apply to the manufactured unit itself but only to site improvements.

Clause (vi) modifies the standard warranty. The additional requirements are the delivery of the manufacturer's warranty which is required when the Department insures the purchase of a manufactured home under Title I, and provisions warranting that no hidden damage was sustained during transportation. In the case of a double-wide manufactured home, the warranty shall also provide that the sections were properly joined and sealed.

Subsection (d) of § 203.43f contains the further requirements applicable to a manufactured home which has been permanently erected on a site for more than one year and is proposed for mortgage insurance as existing housing. The requirements are based on Notice H-80-85, referred to above. Clause (i) requires that the existing manufactured home be permanently anchored to and supported by permanent footings and have permanently installed utilities protected from freezing, and that the space beneath the home be a properly enclosed crawl space. Clause (ii) requires that all features of the mortgaged property not addressed by the Manufactured Home Construction and Safety Standards comply with the abbreviated minimum property standards applicable to existing properties, except for the same deviation discussed above in connection with Clause (i) of Subsection (c).

Requirements for Existing Housing (Handbook 4905.1) only states that the dwelling not be located so as to be subject to damage from flood. For Title II insurance purposes for existing manufactured homes, the finish grade level beneath the manufactured home must also be at or above the 100-year return frequency flood evaluation.

Clause (iii) of subsection (d) states a requirement not contained explicitly in Notice H-80-85. It provides that the manufactured home shall have been occupied only at the location covered by the insured mortgage. The Department believes this requirement to be necessary for acceptability of the insurance risk because of the greater degradation that may be experienced as a result of several transports and which may not be apparent at the time of appraisal. The Department does not believe that this requirement will result in a significant limitation on the availability of mortgage insurance.

Publication as Interim Rule

The Secretary has determined that delay of the effectiveness of this regulation until after receipt and consideration of public comment is unnecessary and contrary to the public interest. Support for the extension of mortgage insurance to manufactured housing permanently affixed to the land is widespread. The conditions on such eligibility which are stated in the regulation are minimal and, to a significant degree, are based upon existing practice. To the extent that some commentators may believe that even certain of these minimal requirements may be unnecessary, the Department believes that most potentially eligible properties will meet all the requirements and, therefore, that there is no good reason to delay the eligibility of those properties pending refinements that may only further expand eligibility. The Secretary also believes that it will be in the public interest to assure the availability of mortgage insurance for proposed construction involving manufactured homes prior to the Spring 1983 building season. For these reasons, the Secretary has determined that the regulation should be published as an interim rule for early effectiveness, coupled with a solicitation of public comments to be considered in the formulation of a final rule.

Section 7(c) of the Department of HUD Act (42 U.S.C. 3535(c)(3)) provides that any regulation published by the Department may not become effective prior to expiration of the first period of 30 calendar days of continuous session

of Congress occurring after publication, unless such requirement is waived by the Chairman and the Ranking Minority Members of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The current Congressional schedule will not permit satisfaction of this requirement until 30 session days after commencement of the 98th Congress in January 1983, which is likely to occur in late February or early March 1983. In view of the consideration stated above, the Secretary has requested the described waivers in order that the regulation may become effective at an earlier date. At the time of publication of this interim rule, it is not known whether or when such waivers will be granted. Under Section 7(a)(5) of the Department of HUD Act, "Congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved." The foregoing provision refers to inaction on a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, and the principle that such inaction does not imply Congressional approval applies, *a fortiori*, to a waiver of the nature requested by the Secretary.

In any event, notice of the effectiveness of this interim rule will be published in the Federal Register.

Other Findings

Pursuant to the provisions of 5 U.S.C. 605(b) (The Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, since its impact is limited to making mortgage insurance more readily available, on generally more favorable terms, to purchasers of qualifying manufactured homes.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implements Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule was listed as Item H-82-82 in the Department's Semianual Agenda of Regulations published on October 28, 1982, (47 FR 48422, 48445) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, affected by the regulation.

Section 203(b)

- 14.117 Mortgage Insurance—Homes
- 14.118 Mortgage Insurance—Homes for Certified Veterans

Section 213

- 14.128 Mortgage Insurance—Management Type Cooperative Projects

Section 220

- 14.122 Mortgage Insurance—Homes in Urban Renewal Areas

Section 221(d)(2)

- 14.120 Mortgage Insurance—Homes for Low and Moderate Income Families

Section 222

- 14.166 Mortgage Insurance—Servicemen

Section 233

- 14.152 Experimental Housing

Section 234

- 14.133 Mortgage Insurance—Purchase of Units in Condominiums (f)

Section 235

- 14.147 Homeownership for Lower Income Families

Section 237

- 14.140 Special Mortgage Insurance for Low and Moderate Income Families

Section 244

- 14.161 Coinsurance

Section 245(a) and Section 245(b)

- 14.159 Section 245 Graduated Payment Mortgage Program

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards.

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

Accordingly, Subchapter A of Title 24 CFR is amended as follows:

PART 200—INTRODUCTION

1. Section 200.925 is revised as follows:

§ 200.925 Applicability of minimum property standards.

All housing constructed under HUD mortgage insurance and low-rent public housing programs shall meet or exceed HUD Minimum Property Standards, except that this requirement shall be applicable to manufactured homes eligible for insurance pursuant to § 203.43f of this Part only to the extent provided therein.

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

2. Section 203.43f is added, as follows:

§ 203.43f Eligibility of mortgages covering manufactured homes.

A mortgage covering a one-family manufactured home (as defined in 24 CFR 3280.2(e)(16)) that meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance pursuant to this subpart.

(a) The manufactured home, when erected on site, shall have floor space area of not less than four hundred square feet and shall have been constructed in conformance with the National Manufactured Home Construction and Safety Standards as evidenced by a certification label affixed thereto in accordance with 24 CFR 3280.8.

(b) The mortgage shall cover the manufactured home and site, shall constitute a mortgage on a property classified and taxed as real estate, and shall have a term of not more than 30 years from the date of the beginning of amortization. Section 203.17(e) of this subpart shall not be applicable.

(c) In the case of a manufactured home which has not been permanently erected on a site for more than one year prior to the date of the application for mortgage insurance:

(i) The manufactured home shall be erected on a site-built permanent foundation that meets or exceeds applicable requirements of the Minimum Property Standards for One- and Two-Family Dwellings, 4900:1 (see 24 CFR 200.929(b)(1)) (MPS) and shall be

permanently attached thereto by anchoring devices adequate for all loads identified in the MPS. The towing hitch or running gear, which includes axles, brakes, wheels and other parts of the chassis that operate only during transportation, shall have been removed. The finished grade level beneath the manufactured home shall be at or above the 100-year return frequency flood elevation. The site, site improvements, and all other features of the mortgaged property not addressed by the Manufactured Home Construction and Safety Standards shall meet or exceed applicable requirements of the MPS.

(ii) The space beneath the manufactured home shall be enclosed by continuous foundation-type construction designed to resist all forces to which it is subject without transmitting forces to the building superstructure. The enclosure shall be adequately secured to the perimeter of the manufactured home and be constructed of materials that conform to MPS requirements for foundations.

(iii) The manufactured home shall have an overall coefficient of heat transmission ("U," value) calculated in accordance with the procedures of NFPA 501 BM-1978 ("Mobile Home Heating, Cooling Load Calculations") that does not exceed the following for all locations within the following climatic zones:

Zone I.....	.145
Zone II.....	.099
Zone III ¹087

NFPA 501 BM-1978 is incorporated by reference and is issued by and available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(iv) The manufactured home shall be braced and stiffened before it leaves the factory to resist racking and potential damage during transportation.

(v) The conditions of paragraphs (i) and (ii) of § 203.18(a)(2) of this subpart shall not apply to construction of the manufactured home but shall be applicable to improvement of the site, including construction of the site-built foundation.

(vi) Section 203.14 of this subpart is modified to the extent provided in this paragraph. Applications relating to insurance of mortgages under this paragraph (c) must be accompanied by an agreement in form satisfactory to the Commissioner executed by the seller or builder or such other person as the Commissioner may require agreeing that

¹Zone III includes Alaska, Montana, Wyoming, North and South Dakota, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, and Vermont.

in the event of any sale or conveyance of the dwelling within a period of one year beginning with the date of initial occupancy, the seller, builder, or such other person will at the time of such sale or conveyance deliver to the purchaser or owner of such property the manufacturer's warranty on a form prescribed by the Commissioner, which shall provide that the manufacturer's warranty is in addition to and not in derogation of all other rights and remedies the purchaser or owner may have, and a warranty in form satisfactory to the Commissioner warranting that the manufactured home, the foundation, positioning and anchoring of the manufactured home to its permanent foundation, and all site improvements are constructed in substantial conformity with the plans and specifications (including amendments thereof or changes and variations therein which have been approved in writing by the Commissioner) on which the Commissioner has based his valuation of the dwelling. The warranty shall also include provisions that the manufactured home sustained no hidden damage during transportation, and if the manufactured home is a double-wide, that the sections were properly joined and sealed. Such agreement must provide that upon the sale or conveyance of the dwelling and delivery of the warranty, the seller, builder or such other person will promptly furnish the Commissioner with a conformed copy of the warranty establishing by the purchaser's receipt thereon that the original warranty has been delivered to the purchaser in accordance with this section.

(d) In the case of a manufactured home which has been permanently erected on a site for more than one year prior to the date of the application for mortgage insurance:

(i) The manufactured home shall be permanently anchored to and supported by permanent footings and shall have permanently installed utilities that are protected from freezing. The space beneath the manufactured home shall be a properly enclosed crawl space.

(ii) The site, site improvements, and all other features of the mortgaged property not addressed by the Manufactured Home Construction and Safety Standards shall meet or exceed applicable requirements of the Requirements for Existing Housing—One to Four Family Living Units (Handbook 4905.1). The finished grade level beneath the manufactured home shall be at or above the 100-year return frequency flood elevation.

(iii) The manufactured home shall have been occupied only at the location subject to the mortgage sought to be insured.

(Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(c), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: December 16, 1982.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner

[PR Doc 83-4415 Filed 2-23-83, 47 FR 56334]

BILLING CODE 4210-27-04

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Commission is correcting several clerical errors and making several interpretive clarifications to its final rule at 28 CFR 2.20, Paroling Policy Guidelines published on December 16, 1982 at 47 FR 56334. These corrections and clarifications were suggested by staff and Commissioners during staff training sessions.

EFFECTIVE DATE: February 24, 1983.

FOR FURTHER INFORMATION CONTACT: Peter Hoffman, Research Director, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Tel: (301) 492-5980.

SUPPLEMENTARY INFORMATION:

PART 2—[AMENDED]

1. In FR Doc 82-33881, December 16, 1982, page 56336, second column, 28 CFR 2.20(d) is revised to more accurately reflect as part of the statement of policy the terminology of the new offense severity index as follows:

§ 2.20 Paroling policy guidelines; statement of general policy.

• * * * *

(d) The guidelines contain instructions for the rating of certain offense behaviors. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

• * * * *

2. In 28 CFR 2.20, definition 231(b) on page 56337, third column is clarified by substituting the phrase "sexual

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 201 and 203**

[Doc. No. FR-5075-P-01]

RIN 2502-AI45

Federal Housing Administration: Insurance for Manufactured Housing**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.**ACTION:** Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations governing manufactured homes that are to be the security for Federal Housing Administration (FHA) Title I loans and Title II insured mortgages. The proposed rule would permit, as eligible for FHA insurance, mortgages on manufactured homes to be installed in accordance with the Model Installation Standards, which were the subject of notice and rulemaking that resulted in a final rule published on October 19, 2007.

Acceptance of mortgages on these manufactured homes for FHA insurance will provide for greater flexibility of design, thereby permitting additional options for affordable housing. This proposed rule would apply to all newly installed manufactured homes that are to be security for Title I and Title II loans and any manufactured home that has been previously set up and erected at another location and that is to be security for a Title I loan. An existing manufactured home that secures a Title I loan and that has been installed or erected on a homesite in compliance with the manufacturer's requirements for anchoring, support, stability, and maintenance would be exempt from compliance with this proposed rule, unless it is relocated from the site of its original installation after the effective date of this proposed rule.

DATES: *Comment Due Date:* November 14, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of

Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0001.

2. Electronic Submission of

Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available. Comments submitted electronically through the www.regulations.gov Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Peter Gillispie, Home Valuation Policy Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9270, Washington, DC 20410-8000, telephone number (202) 708-2121 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

Section 2 of the National Housing Act (12 U.S.C. 1703) (the NHA) authorizes the Secretary to insure approved lenders

against losses sustained as a result of borrower default on, among other things, manufactured home loans. The regulations implementing the Title I programs are found in 24 CFR part 201. Section 201.21 establishes the eligibility requirements for manufactured home loans. Section 201.21(c)(3) provides, in part, that any permanent foundation shall be constructed in accordance with the current edition of HUD's Permanent Foundations Guide for Manufactured Housing (HUD Handbook 4930.3).

Under Title II of the NHA, section 203 authorizes the Secretary to insure mortgages used to finance the purchase of single-family homes. HUD's regulations implementing section 203 of the Act are located at 24 CFR part 203 (entitled "Single Family Mortgage Insurance"). Section 203.43f contains the eligibility criteria for FHA-insured mortgages covering manufactured homes, describing the physical characteristics the home and foundation must possess, as well as required terms and conditions of the mortgage.

Specifically, the requirements currently contained in § 203.43f(c)(i) and (ii) provide that a manufactured home must be erected on a site-built permanent foundation that meets or exceeds the applicable requirements of the Minimum Property Standards (MPS) for One- and Two-Family Dwellings (24 CFR 200.929(b)(1)), among other requirements, and that the space beneath a manufactured home be enclosed by continuous foundation-type construction designed to resist all forces to which it is subjected without transmitting forces to the building superstructure. HUD has determined that satisfying the requirements of these regulations is not the only means of protecting the Mutual Mortgage Insurance Fund (MMIF) and that the regulations should reflect current developments in the installation of manufactured homes.

The Manufactured Housing Improvements Act of 2000 (the Act), which amended the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. 5401-5426), established new requirements pertaining to the installation of manufactured homes. One of the provisions requires HUD to establish Model Manufactured Home Installation Standards.

On October 19, 2007 (72 FR 59338), HUD published its Model Manufactured Home Installation Standards final rule. HUD's final rule codified the Model Manufactured Home Installation Standards (Model Installation Standards) in a new part 3285 of Title 24 of the Code of Federal Regulations

(CFR). The Model Installation Standards contain both minimum acceptable nationwide standards for the installation and set-up of manufactured homes and detailed methods for the design and construction of foundations, based on site conditions and home design features that support manufactured housing. The Model Installation Standards also allow alternative foundation systems or designs that meet or exceed the requirements of the Model Installation Standards, provided the methods are approved by a professional engineer or a registered architect in accordance with acceptable engineering practice.

On June 20, 2008 (73 FR 35270), HUD published a final rule entitled, "Manufactured Home Installation Program," which established a federal manufactured home installation program in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Act of 2000. The installation program final rule is a companion rule to the Model Installation Standards final rule. The installation program sets out manufactured home installation requirements that are applicable in all states, requirements that are applicable in only those states in which HUD is administering the installation program, and requirements for states that choose to administer their own installation programs in lieu of the HUD program. The new elements required by the Manufactured Housing Improvement Act of 2000 to be integrated into an acceptable manufactured home installation program are the establishment of qualified installation standards, licensing and training of installers, and inspection of the installation of manufactured homes. The June 20, 2008, final rule established the HUD-administered installation program that operates in a state, unless that state certifies that it has its own qualifying program.

II. This Proposed Rule

This proposed rule would revise the existing requirements contained in 24 CFR parts 201 and 203, which pertain to eligibility of mortgages on manufactured homes for FHA insurance, by removing all requirements for site-built permanent foundations and perimeter enclosures designed in compliance with the Permanent Foundations Guide for Manufactured Housing (HUD Handbook 4930.3G). In place of the current requirements, the proposed rule would allow FHA insurance for mortgages on

manufactured homes that are installed in a manner that meets or exceeds the requirements set forth in the Model Installation Standards, which HUD has codified at 24 CFR part 3285.

This proposed rule would prevent HUD from having two different foundation standards for the installation of manufactured homes that are security for FHA-insured mortgages. The Model Installation Standards will establish the minimum acceptable standards nationwide for the installation and set up of new manufactured homes and also serve as the basis for qualifying a state's installation program under the Manufactured Home Installation Program. HUD believes that the benefits of this proposed rule significantly outweigh its costs, especially in light of the recently adopted Model Installation Standards and the Manufactured Home Installation Program.

The Model Installation Standards will protect FHA's interest in manufactured homes financed with HUD-insured loans, and the MMIF will not be exposed to any additional risk by the Department's adoption of these standards as the eligibility requirements for FHA-insured financing. In developing the Model Installation Standards, the Department was required to consider proposed standards recommended by a consensus committee. Both the consensus committee and the Department were required to consider relevant data, including research, development, and testing activities by private and government organizations, to determine how to protect the interests of the public, as well as the Department. The resulting Model Installation Standards provide greater clarity, precision, and objectivity for requirements that apply to the set-up of manufactured homes. They require that foundations for manufactured home installations be based on site conditions, home design features, and the loads the home was designed to withstand as evidenced on the home's data plate. The standards have been evaluated by HUD and have been determined to provide adequate resistance to the design loads established by the Manufactured Home Construction and Safety Standards. With these uniform, minimum standards, supported by a rigorous program of licensing and training of installers and inspections of manufactured home installations, HUD believes the result will be a more reliable set of benchmarks and that risk to the MMIF would be reduced, not increased.

Similarly, HUD believes the benefits for homebuyers will also outweigh any

increased costs they face. On June 14, 2006, HUD published estimated costs of compliance with installation program requirements for states in which HUD administers an installation program, as well as for states that choose to administer their own installation programs. (See 71 FR 34483, left column.) The cost of complying with the installation program in states that administer their own programs was estimated at \$17 per manufactured home. In states where HUD administers the installation program, the cost was estimated at \$1,126 per single-wide manufactured home and \$1,176 per double-wide manufactured home. HUD assumes that a portion of these costs would be passed on to the consumer. Nonetheless, by making manufactured homes installed in compliance with the Model Installation Standards eligible for FHA financing, HUD will provide financing alternatives for homeowners whose options might otherwise be limited to the subprime market. Homeowners will also benefit by knowing that their homes have been installed by trained, licensed installers and that installations are subject to inspection. By replacing FHA's current foundation requirements with the Model Installation Standards, HUD would promote affordable housing by reducing set-up costs. Through the same measure, HUD would provide for the quality and safety of manufactured homes by applying minimum nationwide standards and deferring to the states for establishment of additional requirements for the set-up and installation of manufactured homes by licensed installers overseen by inspectors who meet HUD qualifications.

This proposed rule would require all new and existing manufactured homes that are to be security for Title II FHA-insured mortgages and all new manufactured homes that are to be security for Title I loans to be in compliance with the Model Installation Standards. A manufactured home that is to be security for a Title I loan and that has been relocated from the original homesite upon which it had been installed and set-up must be in compliance with the Model Installation Standards. A manufactured home that has been installed or erected on a homesite in compliance with the manufacturer's requirements for anchoring, support, stability, and maintenance would be exempt from compliance with this rule, unless it is relocated from the site of its original installation after the effective date of this proposed rule.

Even with the changes proposed by this rule, in order to qualify for FHA mortgage insurance, manufactured homes in some states may have to be installed or erected in accordance with requirements beyond those in the Model Installation Standards. FHA is authorized to insure loans under Title II of the National Housing Act only if the loan is secured by "real estate." If a manufactured home installed in accordance with the Model Installation Standards would be classified and taxed as personal property under state or local law, then the installation or erection would have to meet such additional requirements as necessary for it to be classified as real property. The determination whether a manufactured home is classified and taxed as real property, and therefore eligible for insurance under Title II, may depend on the foundation and the manner of attachment of the home to the foundation.

Additionally, this proposed rule would revise the eligibility requirements for Title II manufactured homes that are located in areas designated by the Federal Emergency Management Agency (FEMA) as floodplain areas having special flood hazards. Specifically, this proposed rule would require that the elevation of the lowest floor of the manufactured home must be at or above the FEMA-designated base flood elevation and eliminate the requirement that the finished grade level beneath the manufactured home be at or above the base flood elevation. This change will align the flood hazard requirements for manufactured homes with that of stick-built homes.

HUD expects and invites comments in response to this proposed rule on the suitability of using the Model Installation Standards for FHA insurance eligibility purposes. With the Model Installation Standards having now been issued in final form (with an effective date of October 20, 2008), the public has an opportunity to submit comments in response to this proposed rule for HUD's consideration that may result in appropriate changes to the final, effective version of this rule. However, extensive comments on the technical aspects of the Model Installation Standards have already been received and were considered by HUD in the development of the final rule on Model Installation Standards, and such comments do not need to be resubmitted in response to this proposed rule. Comments submitted to HUD on the Model Installation Standards also recommended that any references by HUD in any housing

program only use the Model Installation Standards adopted under part 3285 or a state equivalent, and this proposed rule would be responsive to such comments.

III. Findings and Certifications

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government, or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) generally requires an agency to conduct regulatory flexibility

analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, which are the FHA-approved lenders that are directly affected by this rule. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would remove, from its regulations governing mortgages on manufactured homes that are eligible for FHA insurance, those prescriptive foundation requirements for manufactured homes and would establish the minimum acceptable standards nationwide for the installation and set-up of manufactured homes. The removal of prescriptive requirements eases the burden on FHA-approved lenders of having to ensure that manufactured homes for which homebuyers are seeking FHA insurance for their mortgages meet standards different from the more widely used Model Installation Standards. Therefore, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the finding must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number (CFDA) for Manufactured Home Loan Insurance is 14.110, and the CFDA for Mortgage Insurance (Homes) is 14.117.

List of Subjects**24 CFR Part 201**

Claims, Health facilities, Historic preservation, Home improvement, Loan programs-housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians-lands, Loan programs-housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, HUD proposes to amend 24 CFR parts 201 and 203, as follows:

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 1703 and 3535(d).

2. Revise § 201.21(c)(3), to read as follows:

§ 201.21 Manufactured home loan eligibility.

(c) * * *

(3) Except for an existing manufactured home that has not been relocated from the homesite upon which it was originally erected or installed, the installation or erection of a manufactured home on the homesite must meet or exceed the requirements set forth in 24 CFR part 3285, the Model Manufactured Home Installation Standards, and all applicable state and local requirements governing the installation and construction of the manufactured home foundation system. An existing manufactured home that has not been relocated from the homesite upon which it was originally erected must have been installed in compliance with the manufacturer's requirements for anchoring, support, stability, and maintenance.

* * * * *

3. Revise § 201.26(b)(4)(iii), to read as follows:

§ 201.26 Conditions for loan disbursement.

* * * * *

(b) * * *

(4) * * *
 (iii) Except for an existing manufactured home that has not been relocated from the homesite upon which it was originally erected or installed, the installation or erection of a manufactured home on the homesite meets or exceeds the requirements set forth in 24 CFR part 3285, the Model Installation Standards, and all applicable state and local requirements governing the installation and construction of the manufactured home foundation system. An existing manufactured home that has not been relocated from the homesite upon which it was originally erected has been installed in compliance with the manufacturer's requirements for anchoring, support, stability, and maintenance.

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

2. Amend § 203.43f as follows:

a. Remove paragraph (c)(ii);
 b. Redesignate paragraph (b) as paragraph (b)(1) and add paragraph (b)(2).

c. Redesignate paragraph (c)(i) as paragraph (c)(1) and paragraphs (c)(iii) through (vi) as (c)(2) through (5), and

d. Revise paragraph (a) and newly redesignated paragraphs (c)(1) and (c)(5), and paragraph (d).

The amendments read as follows:

§ 203.43f Eligibility of mortgages covering manufactured homes.

* * * * *

(a) The manufactured home, when erected on site, shall have floor space area of not less than 400 square feet and shall have been constructed in conformance with the National Manufactured Home Construction and Safety Standards, as evidenced by a certification label affixed thereto in accordance with 24 CFR 3280.8. A manufactured home that has been moved from the site upon which it was originally installed is not eligible for insurance.

(b) * * *

(2) In jurisdictions where compliance with the Model Manufactured Home Installation Standards, as set forth at 24 CFR part 3285, does not result in the classification and taxation of the manufactured home as real estate, the foundation of the home and the manner of its attachment to the foundation must be adapted in such a manner as to cause

the home to be classified and taxed as real estate, as well as meet or exceed the requirements of 24 CFR part 3285, in order for the home to be eligible for mortgage insurance.

(c) * * *

(1) The installation or erection of a manufactured home on the homesite must meet or exceed the requirements set forth in 24 CFR part 3285 and all applicable state and local requirements governing the installation and construction of the manufactured home foundation system, as determined by an inspection performed in accordance with 24 CFR part 3286. The requirement for an inspection performed in accordance with 24 CFR part 3286 does not apply to FHA-to-FHA refinancing transactions. The towing hitch or running gear, which includes axles, brakes, wheels, and other parts of the chassis that operate only during transportation, shall have been removed. The elevation of the lowest floor in structures with basements shall be at or above the Federal Emergency Management Agency (FEMA) designated base flood elevation (as defined in 44 CFR 59.1) and meet or exceed the requirements set forth in 44 CFR 60.3(a) through (e). The elevation of the lowest floor structures without basements shall be at or above the FEMA-designated base flood elevation and meet or exceed the requirements set forth in 44 CFR 60.3(a) through (e). Basements or any permanent enclosure of space below the lowest floor of a structure are prohibited for manufactured homes located in FEMA-designated "coastal high hazard areas." For purposes of this rule, the term "coastal high hazard area" has the meaning set forth in FEMA regulations at 44 CFR 59.1. The site, site improvements, and all other features of the mortgaged property not addressed by the Manufactured Home Construction and Safety Standards or the Model Installation Standards shall meet or exceed the Minimum Property Standards (see 24 CFR 200.926 through 200.926d) and applicable state and local government requirements governing the installation and construction of the manufactured home supporting foundation.

* * * * *

(5) Section 203.14 of this subpart is modified to the extent provided in this paragraph. Applications relating to insurance of mortgages under this paragraph (c) must be accompanied by an agreement in form satisfactory to the Commissioner executed by the seller or builder or such other person as the Commissioner may require agreeing that

in the event of any sale or conveyance of the dwelling within a period of one year beginning with the date of initial occupancy, the seller, builder, or such other person will at the time of such sale or conveyance deliver to the purchaser or owner of such property the manufacturer's warranty on a form prescribed by the Commissioner, which shall provide that the manufacturer's warranty is in addition to and not in derogation of all other rights and remedies the purchaser or owner may have, and a warranty in form satisfactory to the Commissioner warranting that the manufactured home, installation, and all site improvements are constructed in substantial conformity with the plans and specifications (including amendments thereof or changes and variations therein that have been approved in writing by the Commissioner) on which the Commissioner has based his valuation of the dwelling. The warranty shall also include provisions that the manufactured home sustained no hidden damage during transportation, and if the manufactured home is a

double-wide, that the sections were properly joined and sealed. Such agreement must provide that upon the sale or conveyance of the dwelling and delivery of the warranty, the seller, builder or such other person will promptly furnish the Commissioner with a conformed copy of the warranty establishing by the purchaser's receipt thereon that the original warranty has been delivered to the purchaser in accordance with this section.

(d) In the case of a manufactured home that has been permanently erected on a site for more than one year prior to the date of the application for mortgage insurance:

(1) The foundation shall meet or exceed the standards set forth in 24 CFR part 3285 and all applicable state and local government requirements.

(2) The site, site improvements, and all other features of the mortgaged property not addressed by the Manufactured Home Construction and Safety Standards or the Model Installation Standards shall meet or exceed applicable requirements of the Requirements for Existing Housing—One to Four Family Living Units (HUD

Handbook 4905.1). The elevation of the lowest floor in structures with basements as defined in FEMA regulations at 44 CFR 59.1 shall be at or above the FEMA-designated base flood elevation and meet or exceed the requirements set forth in 44 CFR 60.3(a) through (e). The elevation of the lowest floor in structures without basements shall be at or above the FEMA-designated base flood elevation and meet or exceed the requirements set forth in 44 CFR 60.3(a) through (e). Basements or any permanent enclosure of space below the lowest floor of a structure are prohibited for manufactured homes located in FEMA-designated "coastal high hazard areas."

(3) The manufactured home shall have been occupied only at the location subject to the mortgage sought to be insured.

Dated: August 14, 2008.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E8-20787 Filed 9-12-08; 8:45 am]

BILLING CODE 4210-67-P

II. ORIGINATION THROUGH POST-CLOSING/ENDORSEMENT

D. Appraiser and Property Requirements for Title II Forward and Reverse Mortgages

5. Property Acceptability Criteria for Manufactured Housing for Title II Insured Mortgages

- “subject to a required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair.”

(H)Signature

(1) Standard

The FHA Roster Appraiser must sign the certification of the appraisal and perform all parts of the analysis and reconciliation. Appraiser trainees or licensees may not sign the appraisal report.

A trainee or licensee may assist in any part of the appraisal, but the opinions and analysis must be performed by the FHA Roster Appraiser. A trainee or licensee may accompany the FHA Roster Appraiser on the observations but may not perform the observations in place of the FHA Roster Appraiser.

The FHA Roster Appraiser must select the comparable properties and perform all critical analyses contained in the appraisal report as well as the Market Conditions Addendum to the appraisal form. The FHA Roster Appraiser must also inspect the subject Property and at least the exterior of the comparable properties.

(2) Required Analysis and Reporting

If another appraiser or trainee appraiser provided assistance or participated in the preparation of the appraisal, the FHA Roster Appraiser must disclose the name of the appraiser or trainee appraiser in the report and their role in developing the appraisal.

5. Property Acceptability Criteria for Manufactured Housing for Title II Insured Mortgages

a. Definitions (09/14/2015)

Manufactured Housing refers to Structures that are transportable in one or more sections. They are designed to be used as a dwelling when connected to the required utilities, which include the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured Housing is designed and constructed to the federal Manufactured Home Construction and Safety Standards (MHCSS) as evidenced by an affixed HUD Certification Label. Manufactured Housing may also be referred to as mobile housing, sectionals, multi-sectionals, double-wide, triple-wide or single-wide.

A Manufactured Home refers to a single dwelling unit of Manufactured Housing.

b. Standard (09/14/2015)

The Appraiser must notify the Mortgagee and report a deficiency of MPR or MPS if a Manufactured Home does not comply with the following:

II. ORIGINATION THROUGH POST-CLOSING/ENDORSEMENT

D. Appraiser and Property Requirements for Title II Forward and Reverse Mortgages

5. Property Acceptability Criteria for Manufactured Housing for Title II Insured Mortgages

- have a floor area of not less than 400 square feet;
- was constructed on or after June 15, 1976, in conformance with the federal MHCSS, as evidenced by an affixed HUD Certification Label in accordance with 24 CFR § 3280.11 (Manufactured Homes produced prior to that date are ineligible for insured financing);
- the Manufactured Home and site exist together as a real estate Entity in accordance with state law (but need not be treated as real estate for taxation purposes);
- was moved from the factory or dealer directly to the site;
- was designed to be used as a dwelling with a permanent foundation built to comply with the PFGMH;
- the finished grade elevation beneath the Manufactured Home or, if a basement is used, the grade beneath the basement floor is at or above the 100-year return frequency flood elevation;
- the Structure is designed for occupancy as a Principal Residence by a single family; or
- the lease meets the requirements of Valuation of Leasehold Interest.

c. Foundation Systems (02/16/2021)

i. New Construction for Manufactured Housing

(A) Definition

New Construction for Manufactured Housing refers to a Manufactured Home that has been permanently erected on a site for less than one year prior to the case number assignment date.

(B) Standard

The space beneath the house must be enclosed by a continuous foundation type construction designed to resist all forces to which it is subject without transmitting forces to the building superstructure. The enclosure must be adequately secured to the perimeter of the house and be constructed of materials that conform, accordingly, to HUD MPS (such as concrete, masonry or treated wood) and the PFGMH for foundations.

(C) Required Analysis and Reporting

If the Manufactured Home foundation does not meet the requirements for New Construction, the Appraiser must notify the Mortgagee and report the deficiency of the MPR or MPS.

II. ORIGINATION THROUGH POST-CLOSING/ENDORSEMENT

D. Appraiser and Property Requirements for Title II Forward and Reverse Mortgages

5. Property Acceptability Criteria for Manufactured Housing for Title II Insured Mortgages

ii. Existing Construction for Manufactured Housing

(A) Definition

Existing Construction for Manufactured Housing refers to a Manufactured Home that has been permanently installed on a site for one year or more prior to the case number assignment date.

(B) Standard

If the perimeter enclosure is non-load bearing skirting comprised of lightweight material, the entire surface area of the skirting must be permanently attached to backing made of concrete, masonry, treated wood or a product with similar strength and durability.

(C) Required Analysis and Reporting

If the Manufactured Home foundation does not meet the requirements for Existing Construction, the Appraiser must notify the Mortgagee and report the deficiency in the MPR.

d. Running Gear (09/14/2015)

i. Definition

Running Gear refers to a mechanical system designed to allow the Manufactured Housing unit to be towed over public roads.

ii. Standard

The towing hitch and Running Gear must be removed.

iii. Required Analysis and Reporting

The Appraiser must notify the Mortgagee and report deficiency of MPR or MPS if the Running Gear or towing hitch are still attached to the Manufactured Housing unit.

e. Perimeter Enclosure (02/16/2021)

i. Definitions

Perimeter Enclosure refers to a continuous wall that is adequately secured to the perimeter of the unit and allows for proper ventilation of the crawl space.

Skirting refers to a nonstructural enclosure of a foundation crawl space intended to ensure the crawl space is free from exposure to the elements and free from vermin, trash, and debris. Typically, but not always, it is a lightweight material such as vinyl or metal

Subject: FW: Manufactured homes and FHA
From: Joyce Hanson <joycehanson@guildmortgage.net>
Date: 5/18/2016, 12:38 PM
To: kareni@terraceweb.com

Sorry Karen, I typed your email address wrong the first time so I am forwarding the information!

Have a little love in your heart and the world will be a better place.



Joyce Hanson
Loan Officer/Reverse Mortgages
WA-MLO-185180 CA-DBO-185180

Guild Mortgage Company
Company NMLS: 3274

150 120th Ave NE Ste 300
Bellevue, WA 98005
Office: 425-818-1835 **Fax:** 425-223-3768
Cell: 425-829-6150

Email: joycehanson@guildmortgage.net
Equal Housing Lender



Apply now ►

From: Joyce Hanson [<mailto:joycehanson@guildmortgage.net>]
Sent: Wednesday, May 18, 2016 12:35 PM
To: 'karini@terraceweb.com'
Subject: FW: Manufactured homes and FHA
Importance: High

Hi Karen, I got an answer to my question about moving manufactured homes from one site to another. Unfortunately it is a HUD requirement. I am forwarding you the information off the HUD website. So sorry!!

Have a little love in your heart and the world will be a better place.



Joyce Hanson
Loan Officer/Reverse Mortgages
WA-MLO-185180 CA-DBO-185180

Guild Mortgage Company
Company NMLS: 3274

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APPENDIX J



—Attachments:

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HUD Archives_HOC Reference Guide – Manufactured Homes_Site (Page 1-09e).html	7.7 KB



HUD HOC Reference Guide

Manufactured Homes: Site

Chapter 1
Appraisal & Property Requirements
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[A. Eligibility & general requirements - Title II](#) | [B. Special state requirements](#) | [C. Age requirement](#)
[D. Foundation compliance](#) | [E. Site](#) | [F. Tags](#) | [G. Title I](#)

E. Site

The manufactured unit must not have been installed or occupied previously at any other site or location. Manufactured units may be moved only from the manufacturer's or dealer's lot to the site on which the unit will be insured. If a permanent foundation is to be constructed under an existing eligible unit, the unit may be jacked up in order to install a new foundation. (See summary of main requirements in Appendix 11, item 12 of HUD Handbook 4145.1 Rev-2.) (24CFR203.43f)



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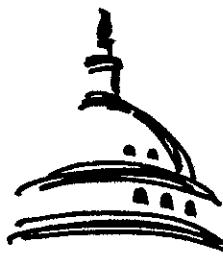
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HUD's Reverse Mortgage Insurance Program: Home Equity Conversion Mortgages

Libby Perl

Specialist in Housing Policy

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Introduction

The Home Equity Conversion Mortgage (HECM) program, administered by the Department of Housing and Urban Development's (HUD's) Federal Housing Administration (FHA), is a reverse mortgage insurance program whereby older homeowners—those age 62 and older—borrow against the equity in their homes and FHA insures lenders against potential losses associated with the loans. Unlike conventional mortgages, HECM borrowers receive payments, either periodically or in a lump sum, and the mortgages are paid off when the home is sold. If a home is sold for less than the balance of the reverse mortgage, FHA will reimburse the lender up to a maximum claim amount. Borrowers pay an up-front fee, or premium, when they enter into HECMs, and pay annual premiums based on a loan's principal balance.

The HECM program came about as a demonstration in 1988. The impetus for creating a program to help older homeowners obtain reverse mortgages was to make home equity available for aging in place—particularly for homeowners with lower incomes who may otherwise have difficulty with maintenance and other expenses. Another idea was that reverse mortgage proceeds could be used to pay for long-term care expenses. Offering government insurance was also a means to encourage private lenders to enter into the reverse mortgage market. The HECM program became permanent in 1998 and has insured nearly 1 million reverse mortgages since its creation.

The HECM program has faced financial difficulties in recent years, particularly since the economic downturn in 2008 and resulting declines in home values. Changes in the way HECMs are used, including increases in borrowers taking up-front lump-sum payments, also contributed to financial difficulties. A number of borrowers, having maximized their loans, faced loan default due to failure to pay property taxes and homeowner's insurance. The financial status of the program resulted in HUD making changes, including imposition of credit requirements for borrowers. In addition, HUD faced legal challenges in its regulatory interpretation of how non-borrowing spouses should be treated after the death of a borrower. As the result of a court decision, HUD has attempted to ensure that non-borrowing spouses are protected from foreclosure.

This report discusses the basics of how the HECM program works, including borrower eligibility, the amount that can be borrowed, and procedures for lender claims ("Basics of the Home Equity Conversion Mortgage (HECM)"); facts about HECMs and borrowers ("What Do We Know About HECMs and Borrowers?"); current issues facing the HECM program ("What Are Current Issues Surrounding HECMs?"); and the legislative history of the HECM program ("How Did the HECM Program Come About?").

Basics of the Home Equity Conversion Mortgage (HECM) Program

What Are Reverse Mortgages?

In a traditional "forward" mortgage, homeowners borrow money against the value of their homes and make monthly payments over time toward principal and interest until the mortgage is paid off. Typically forward mortgages are used to purchase homes, but homeowners may also take out second mortgages or home equity lines of credit (HELOCs) to pay for home improvements or other needs. Reverse mortgages are based on the same concept of using home equity for home

maintenance and other needs, but reverse mortgages differ from forward mortgages primarily in the way that borrowers pay back the amount owed.

As with HELOCs, reverse mortgage borrowers receive money based on the equity in their home, either as a lump sum or through periodic payments. But instead of making monthly payments to repay the loan balance, a borrower is to pay back the reverse mortgage, plus accumulated interest and fees, either when they move out and sell the home or when they die and the home is sold by their estate. As a result, the term of the reverse mortgage is not fixed, unlike a forward mortgage, which extends most often for 15 or 30 years. The way in which the amount of the mortgage is determined also differs. In addition to using the home's value, the borrower's age and the interest rate are used to try to ensure that the loan balance and added interest do not outstrip the home's value.

Why Get a Reverse Mortgage?

Reverse mortgages are targeted to older homeowners and present an option for extra income as borrowers age. The ability to borrow against home equity may appeal to homeowners with lower monthly incomes and little savings. If a home is a borrower's primary asset, accessing home equity can help with everyday expenses, home improvements or modifications, or extraordinary costs that arise. Borrowers who already have home mortgage or other debt may also use reverse mortgages to pay down debt so they have fewer monthly expenses. In some cases reverse mortgages may help seniors who would otherwise not be able to remain in their homes to age in place while they remain physically able.

What Is the HECM Program?

HUD's HECM program offers FHA insurance for lenders that extend reverse mortgages to older homeowners, with borrowers paying the insurance fees. Reverse mortgages are made by private lenders, not the federal government, and for a time there was a market for reverse mortgages that did not involve government insurance. However, particularly since the 2008 economic downturn, nearly all reverse mortgages are insured through the HECM program.¹ In the HECM program, HUD offers insurance to protect lenders against losses on their loans. Lenders must be approved by FHA, and the program statute and regulations determine the amount of the loans that borrowers may enter into. Borrowers pay up-front and annual insurance premiums to HUD, and if the amount of the loan exceeds the sale price at the end of its life, HUD reimburses the lender for the difference up to a maximum claim amount. (For a discussion of the maximum claim amount, see "How Much Can Be Borrowed?")

The HECM program is governed by statute and HUD regulations, but HUD may also make changes to the program via mortgagee letters.² While the HECM statute uses the term "mortgagor" to refer to borrowers and "mortgagee" to refer to lenders, this report uses the terms borrower and lender, respectively.

¹ See, for example, Consumer Financial Protection Bureau, *Reverse Mortgages: Report to Congress*, June 28, 2012, Appendix I, http://files.consumerfinance.gov/a/assets/documents/201206_cfpb_Reverse_Mortgage_Report.pdf ("Today the proprietary market has all but disappeared."); and Donald L. Redfoot, *How Recent Changes in Reverse Mortgages Impact Older Homeowners*, AARP Public Policy Institute, February 2011, <http://assets.aarp.org/rgcenter/ppi/lte/fs211-economic.pdf>.

² The HECM program is codified at 12 U.S.C. §1715z-20, the regulations are at 24 C.F.R. Part 206, and Mortgagee Letters are available on HUD's website, http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hecm/hecmml.

Who Qualifies for HECMs?

The statute governing HECMs sets out eligibility standards for both borrowers and properties.

- **Age of Borrower:** To participate in the HECM program, HUD requires homeowners to be at least 62 years of age or older.³
- **Type of Home:** The home being mortgaged must be a one-to-four family residence, with the homeowner occupying one of the units as their primary residence.⁴ While most borrowers already occupy their homes, HECMs can also be used to purchase property.⁵ In the case of a purchase, a borrower must pay the difference between the HECM and purchase price with cash from sources approved by HUD.⁶
- **Borrower Financial Characteristics:** Until recently, the HECM program did not have income or other financial requirements for borrowers because loans are repaid from home sale proceeds. However, due to the failure of approximately 10% of HECM borrowers (representing about 54,000 loans) to pay property taxes or homeowner's insurance,⁷ Congress gave HUD the authority to set financial requirements via mortgagee letter.⁸ Effective April 27, 2015, lenders must conduct a financial assessment of new HECM borrowers.⁹ Borrowers' credit histories and records in paying property charges are assessed, particularly payment of property taxes and homeowner's insurance.¹⁰ This requirement was made part of final regulations, issued January 19, 2017, with an effective date of September 19, 2017.¹¹

³ The HECM statute defines a homeowner as “any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.” 12 U.S.C. §1715z-20(b)(1). Through regulation, HUD has established that the youngest borrower must be 62 years of age or older. 24 C.F.R. §206.33.

⁴ 12 U.S.C. §1715z-20(d)(3).

⁵ 12 U.S.C. §1715z-20(m).

⁶ HECM for purchase guidelines were originally published in U.S. Department of Housing and Urban Development, *Mortgagee Letter 2009-11, HECM for Purchase Program*, March 27, 2009, http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_14704.doc. They were made part of regulation in a final rule published January 19, 2017, with an effective date of September 19, 2017. See U.S. Department of Housing and Urban Development, “Federal Housing Administration: Strengthening the Home Equity Conversion Mortgage Program,” 82 *Federal Register* 7094-7146, January 19, 2017 (hereinafter, 2017 final HECM rule). The relevant HECM for purchase section is 24 C.F.R. §206.44.

⁷ See Consumer Financial Protection Bureau, *Reverse Mortgages, Report to Congress*, June 28, 2012, p. 132, http://files.consumerfinance.gov/a/assets/documents/201206_cfpb_Reverse_Mortgage_Report.pdf (hereinafter: CFPB *Reverse Mortgages, Report to Congress*). See also U.S. Congress, House Committee on Financial Services, Subcommittee on Housing and Insurance, *Sustainable Housing Finance: The Government's Role in Multifamily and Health Care Facilities Mortgage Insurance and Reverse Mortgages*, 113th Cong., 1st sess., May 16, 2013, p. 11, <http://financialservices.house.gov/uploadedfiles/113-21.pdf>.

⁸ P.L. 113-29 gave HUD the authority to “establish, by notice or mortgagee letter, any additional or alternative requirements that the Secretary, in the Secretary's discretion, determines are necessary to improve the fiscal safety and soundness of the program authorized by this section.”

⁹ U.S. Department of Housing and Urban Development, *Mortgagee Letter 2015-06, Home Equity Conversion Mortgage (HECM) - Delay in Effective Date for Financial Assessment and Property Charge Funding Requirements for the Payment of Certain Property Charges*, February 26, 2015, <http://portal.hud.gov/hudportal/documents/huddoc?id=15-06ml.pdf>.

¹⁰ U.S. Department of Housing and Urban Development, *HECM Financial Assessment and Property Charge Guide*, November 10, 2014, <http://portal.hud.gov/hudportal/documents/huddoc?id=14-22ml-atch2.pdf> (hereinafter *HECM Financial Assessment and Property Charge Guide*).

¹¹ See 2017 final HECM rule, 82 *Federal Register* 7126, 24 C.F.R. §206.37.