nonmanufacturer rule for this NAICS code.

Linda G. Williams,

Associate Administrator for Government Contracting.

[FR Doc. 03–18986 Filed 7–24–03; 8:45 am]

BILLING CODE 8025–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1275

[Notice 03–083]

RIN 2700–AC50

Investigation of Research Misconduct

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Aeronautics and Space Administration (NASA) proposes this rule to implement the ''Federal Policy on Research Misconduct'' (the Federal Policy). This proposed rule sets out the definition of research misconduct, procedure for investigating allegations of research misconduct and recommending findings, and procedure for adjudicating and appealing such findings. Findings of research misconduct must be accompanied by recommendations for administrative action by NASA to discourage such behavior and ensure the integrity of research funded or supported by NASA.

DATES: Comments must be received on or before September 23, 2003.

ADDRESSES: Send comments to: NASA Policy on Research Misconduct (NPRM) Comments, Office of the Chief Scientist, Code AS, National Aeronautics and Space Administration, 300 E Street SW., Washington, DC 20546–0001. NASA will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mayra N. Montrose, (202) 358–1492 (voice), (202) 358–3931 (fax).

SUPPLEMENTARY INFORMATION: The objective of the Federal Policy is to create a uniform policy framework for Federal agencies for the handling of allegations of misconduct in Federally funded or supported research. Within this framework, each Federal agency funding or supporting research is expected to fashion its own regulations to accommodate the various types of research transactions in which it is engaged.

In keeping with these objectives, the proposed NASA rule incorporates key aspects of the Federal policy, including the definition of research misconduct as fabrication, falsification or plagiarism, and the definitions of each of these sub-components; the requirements for a finding of research misconduct; and the four-stage process for determining research misconduct; *i.e.*, inquiry, investigation, adjudication, and appeal.

NASA's research mission involves the advancement of research in the fields of aeronautics, space science, earth science, biomedicine, biology, engineering, and physical sciences (physics and chemistry). NASA fulfills this objective through intramural research performed by NASA researchers and through extramural contracts, cooperative agreements, grants, and Space Act agreements with the private sector, and with other governmental entities. Because of this multiplicity of research arrangements, allegations of research misconduct could arise in any number of ways.

In addition, the core principle of the Federal Policy is that while research institutions have the primary responsibility for the inquiry, investigation, and adjudication of allegations of research misconduct, Federal agencies have ultimate oversight authority for the research it funds or supports. While there is some overlap in the actions that may be pursued by Federal agencies and research institutions, the proposed rule is designed to provide procedures and criteria for the interaction of NASA with its research partners in dealing with the various contingencies that could arise in the processing of research misconduct allegations.

For example, an allegation of research misconduct might first be submitted to NASA through the NASA Office of Inspector General (OIG). If the research in question is conducted by NASA researchers, NASA shall conduct the inquiry, investigation, adjudication, and appeal stages. If the research is conducted by a research institution, the OIG shall ordinarily forward the allegation to that institution for inquiry and investigation and decide whether NASA shall conduct a parallel inquiry or investigation or defer its procedures pending completion of the investigative proceedings of the institution. The criteria for these decisions are set forth in the proposed rule.

On the other hand, if the allegation is received by the institution, the institution must inform the OIG if its inquiry determines that an investigation is warranted at which time, the OIG determines whether the OIG should conduct a parallel investigation.

In all cases, the investigation report and supporting evidence must be forwarded to NASA for adjudication and possible remedial administrative action. If the OIG deferred NASA's procedures pending review of the results of the research institution's investigative process, the OIG shall decide whether to recommend to the NASA Adjudication Official acceptance of the research institution's investigation report and final determination, in whole or in part. If the OIG makes such a recommendation, the OIG shall provide copies of the investigation report, evidentiary record, and final determination to the NASA Adjudication Official. If not, the OIG can initiate its own investigation or remand to the institution for further investigation.

With regard to any investigation conducted by the OIG, the OIG shall forward the copies of the investigation report and evidentiary record to the NASA Adjudication Official. All cases involving NASA-funded or -supported research that have gone through the investigation stage must receive an independent decision by the NASA Adjudication Official, which may be appealed.

The possible administrative actions that may be taken by NASA after research misconduct is determined to have occurred are set out in the proposed rule. The rule cannot prescribe the manner in which such action will be taken, however, as that will depend on whether the research is intramural or extramural, and if the latter, on the type of transaction being used to fund or support the research.

For example, Federal law prescribes different procedural frameworks for adverse contract actions, adverse grant actions, suspensions, or debarments from competing for Federal procurement or grant awards, and for adverse personnel actions against Federal civil service employees. In the latter instance, the OIG may proceed under its previously existing administrative investigation process when misconduct is alleged against Federal civil service employees. The proposed rule provides that the recommendations for administrative action, which must be included with a determination of research misconduct, shall be forwarded to the relevant NASA officials for their consideration. Nevertheless, a final determination of research misconduct can serve as the basis for correcting the research record and for notifying the relevant scientific review groups.

NASA shall amend 14 CFR part 1260 (Grants Handbook), 14 CFR 1274 (Commercial agreements with cost sharing), and 48 CFR Chapter 18 (NASA

FAR Supplement), to reflect the implementation of this policy.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order.

Small Entities

As required by the Regulatory Flexibility Act (5 U.S.C. 601–612), NASA has considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. NASA certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on small business entities.

Collection of Information

This proposed rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. NASA has analyzed this proposed rule under that Order and has determined that it does not have implications for federalism.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Action and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure in any 1 year of $100 million or more by a State, local, and tribal government in the aggregate, or by the private sector.

NASA certifies that this regulation will not compel the expenditure in any 1 year of $100 million or more by State, local, and tribal governments in the aggregate, or by the private sector. Therefore, the detailed statement under section 202 of the Unfunded Mandates Reform Act is not required.

List of Subjects in 14 CFR Part 1275

Administrative practice and procedure, Grant programs, Human research subjects, Research, Science and technology, Scientists.

For the reasons discussed in the preamble, the National Aeronautics and Space Administration proposes to amend 14 CFR Chapter V by adding part 1275 to read as follows:

PART 1275—RESEARCH MISCONDUCT

Sec.

1275.100 Purpose and scope.
1275.101 Definitions.
1275.102 OIG handling of research misconduct matters.
1275.103 Role of awardee institutions.
1275.104 Conduct of the OIG inquiry.
1275.105 Conduct of the OIG research misconduct investigation.
1275.106 Administrative actions.
1275.107 Adjudication.
1275.108 Appeals.

Appendix to Part 1275—NASA Research Disciplines and its Associated Enterprises

Authority: The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473).

§1275.100 Purpose and scope.

(a) The purpose of this part is to establish procedures to be used by the National Aeronautics and Space Administration (NASA) for the handling of allegations of research misconduct. Specifically, the procedures contained in this part are designed to result in:

(1) Findings as to whether research misconduct by a person or institution has occurred in proposing, performing, reviewing, or reporting results from research activities funded or supported by NASA; and

(2) Recommendations on appropriate administrative actions that may be undertaken by NASA in response to research misconduct determined to have occurred.

(b) This part applies to all research wholly or partially funded or supported by NASA. This includes any research conducted by a NASA installation and any research conducted by a public or private entity receiving NASA funds or using NASA facilities, equipment or personnel, under a contract, grant, cooperative agreement, Space Act agreement, or other transaction with NASA.

(c) NASA shall make a determination of research misconduct only after careful inquiry and investigation by an awardee institution, another Federal agency, or NASA, and an adjudication conducted by NASA. NASA shall afford the accused individual or institution a chance to comment on the investigation report and a chance to appeal the decision resulting from the adjudication. In structuring procedures in individual cases, NASA may take into account procedures already followed by other entities investigating the same allegation of research misconduct. Investigation of allegations which, if true, would constitute criminal offenses, are not covered by this part.

(d) A determination that research misconduct has occurred must be accompanied by recommendations on appropriate administrative actions. However, the administrative actions themselves may be imposed only after further procedures described in applicable NASA regulations concerning contracts, cooperative agreements, grants, Space Act agreements, or other transactions, depending on the type of agreement used to fund or support the research in question. Administrative actions involving NASA civil service employees may be imposed only in compliance with all relevant Federal laws and policies.

(e) Allegations of research misconduct concerning NASA research may be transmitted to NASA in one of the following ways: by mail addressed to Office of Inspector General (OIG), Code W, National Aeronautics and Space Administration, 300 E Street, SW, Washington, DC 20546–0001; via the NASA OIG Hotline at 1–800–424–9183, or the NASA OIG cyber hotline at *www.hq.nasa.gov/office/oig/hq/hotline.html.*

(f) To the extent permitted by law, the identity of the Complainant, witnesses, or other sources of information who wish to remain anonymous shall be kept confidential. To the extent permitted by law, NASA shall protect the research misconduct inquiry, investigation, adjudication, and appeal records maintained by NASA as exempt from mandatory disclosure under 5 U.S.C. 552, the Freedom of Information Act, as amended, and 5 U.S.C. 552a, the Privacy Act, as amended.

§ 1275.101 Definitions.

(a) *Research misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion. Research as used in this part includes all basic, applied, and demonstration research in all fields of science, engineering, and mathematics, such as research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals.

(b) *Fabrication* means making up data or results and recording or reporting them.

(c) *Falsification* means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

(d) *Plagiarism* means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

(e) *Awardee institution* means any public or private entity or organization (including a Federal, State, or local agency) that is a party to a NASA contract, grant, cooperative agreement, Space Act agreement, or to any other transaction with NASA, whose purpose includes the conduct of research.

(f) *NASA research* means research wholly or partially funded or supported by NASA involving an awardee institution or a NASA installation. This definition includes research wholly or partially funded by NASA appropriated funds, or research involving the use of NASA facilities, equipment, or personnel.

(g) *NASA research discipline* means one of the following areas of research that together comprise NASA's research mission for aeronautics, space science, earth science, biomedicine, biology, engineering and physical sciences (physics and chemistry).

(h) *Inquiry* means the assessment of whether an allegation of research misconduct has substance and warrants an investigation.

(i) *Investigation* means the formal development of a factual record and the examination of that record leading to recommended findings on whether research misconduct has occurred, and if the recommended findings are that such conduct has occurred, to include recommendations on appropriate administrative actions.

(j) *Complainant* is the individual bringing an allegation of research misconduct related to NASA research.

(k) *Respondent* is the individual or institution who is the subject of an allegation of research misconduct related to NASA research.

(l) *Adjudication* means the formal procedure for reviewing and evaluating the investigation report and the accompanying evidentiary record and for determining whether to accept the recommended findings and any recommendations for administrative actions resulting from the investigation.

(m) *NASA Adjudication Official* is the NASA Associate Administrator for the Enterprise with the greatest expertise in the NASA research discipline involved in the research misconduct allegation. The appendix to this part contains the list of NASA research disciplines and their associated Enterprises.

(n) *Appeal* means the formal procedure initiated at the request of the Respondent for review of a determination resulting from the adjudication and for affirming, overturning, or modifying it.

(o) *NASA Appeals Official* is the NASA Deputy Administrator or other official designated by the NASA Administrator.

§ 1275.102 OIG handling of research misconduct matters.

(a) When an allegation is made to the OIG, rather than to the awardee institution, the OIG shall determine whether the allegation concerns NASA research and whether the allegation, if true, falls within the definition of research misconduct in § 1275.101(a). Investigation of allegations which, if true, would constitute criminal offenses, are not covered by this part. If these criteria are met and the research in question is being conducted by NASA researchers, the OIG shall proceed in accordance with § 1275.104. If the research in question is being conducted at an awardee institution, another Federal agency, or is a collaboration between NASA researchers and coinvestigators at either academia or industry, the OIG must refer the allegation that meets the definition of research misconduct to the entities involved and determine whether to—

(1) Defer its inquiry or investigation pending review of the results of an inquiry or investigation conducted at the awardee institution or at the Federal agency (referred to for purposes of this part as external investigations); or

(2) Commence its own inquiry or investigation.

(b) The OIG must inform the NASA Office of the Chief Scientist of all allegations that meet the definition of research misconduct received by the OIG and of the determinations of the OIG required by § 1275.101. The NASA Office of the Chief Scientist shall notify the NASA Office of the Chief Engineer or the NASA Office of the Chief Technologist when the research is either engineering or technology research.

(c) The OIG should defer its inquiry or investigation pending review of the results of an external investigation whenever possible. Nevertheless, the OIG retains the right to proceed at any time with a NASA inquiry or investigation. Circumstances in which the OIG may elect not to defer its inquiry or investigation include, but are not limited to, the following:

(1) When the OIG determines that the awardee institution is not prepared to handle the allegation in a manner consistent with this part;

(2) When the OIG determines that NASA involvement is needed to protect the public interest, including public health and safety;

(3) When the OIG determines that the allegation involves an awardee institution of sufficiently small size that it cannot reasonably conduct the investigation itself;

(4) When the OIG determines that a NASA program or project could be jeopardized by the occurrence of research misconduct; or

(5) When the OIG determines that any of the notifications or information required to be given to the OIG by the awardee institution pursuant to § 1275.103(b) requires NASA to cease its deferral to the awardee institution's procedures and to conduct its own inquiry or investigation.

(d) A copy of the investigation report, evidentiary record, and final determination resulting from an external investigation must be transmitted to the OIG. The OIG shall determine whether to recommend to the NASA Adjudication Official acceptance of the investigation report and final determination in whole or in part. The OIG's decision must be made within 45 days of receipt of the investigation report and evidentiary record. This period of time may be extended by the

OIG for good cause. The OIG shall make this decision based on the OIG's assessment of the completeness of the investigation report, and the OIG's assessment of whether the investigating entity followed reasonable procedures, including whether the Respondent had an adequate opportunity to comment on the investigation report and whether these comments were given due consideration. If the OIG decides to recommend acceptance of the results of the external investigation, in whole or in part, the OIG shall transmit a copy of the final determination, the investigation report, and the evidentiary record to the NASA Adjudication Official, and to the NASA Office of the Chief Scientist. When the OIG decides not to recommend acceptance, the OIG must initiate its own investigation.

(e) In the case of an investigation conducted by the OIG, the OIG shall transmit copies of the investigation report, including the Respondent's written comments (if any), the evidentiary record and its recommendations, to the NASA Adjudication Official and to the NASA Office of the Chief Scientist.

(f) Upon learning of alleged research misconduct, the OIG shall identify potentially implicated awards or proposals and, when appropriate, shall ensure that program, grant, or contracting officers handling them are informed. Neither a suspicion nor allegation of research misconduct, nor a pending inquiry or investigation, shall normally delay review of proposals. Subject to paragraph (g) of this section, reviewers or panelists shall not be informed of allegations or of ongoing inquiries or investigations in order to avoid influencing reviews.

(g) If, during the course of an OIG conducted inquiry or investigation, it appears that immediate administrative action, as described in § 1275.106, is necessary to protect public health or safety, Federal resources or interests, or the interests of those involved in the inquiry or investigation, the OIG shall inform the appropriate NASA officials.

§ 1275.103 Role of awardee institutions.

(a) The awardee institutions have the primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institutions, although NASA has ultimate oversight authority for NASA research.

(b) When an allegation of research misconduct related to NASA research is made directly to the OIG and the OIG defers to the awardee institution's inquiry or investigation, or when an allegation of research misconduct related to NASA research is made directly to the awardee institution which commences an inquiry or investigation, the awardee institution is required to:

(1) Notify the OIG immediately of the allegation and inform if an initial inquiry supports a formal investigation as soon as this is determined.

(2) Keep the OIG informed during such an investigation.

(3) Notify the OIG immediately at any time during an inquiry or investigation—

(i) If the seriousness of the apparent research misconduct warrants an investigation;

(ii) If public health or safety is at risk;

(iii) If Federal resources, reputation, or other interests need protecting;

(iv) If research activities should be suspended;

(v) If there is reasonable indication of possible violations of civil or criminal law;

(vi) If Federal action is needed to protect the interests of those involved in the investigation; or

(vii) If the research community or the public should be informed.

(4) Provide the OIG with a copy of the investigation report, including the recommendations made to the awardee institution's adjudication official and the Respondent's written comments (if any), along with a copy of the evidentiary record.

(5) Provide the OIG with the awardee institution's final determination, including any corrective actions taken or planned.

(c) If an awardee institution wishes the OIG to defer its own inquiry or investigation, the awardee institution shall complete any inquiry and decide whether an investigation is warranted within 60 days. It should similarly complete any investigation, adjudication, or other procedure necessary to produce a final determination, within an additional 180 days. If completion of the process is delayed, but the awardee institution wishes NASA's deferral of its own procedures to continue, NASA may require submission of periodic status reports.

(d) Each awardee institution must maintain and effectively communicate to its staff, appropriate policies and procedures relating to research misconduct, including the requirements on when and how to notify NASA.

§ 1275.104 Conduct of the OIG inquiry.

(a) When an awardee institution or another Federal agency has promptly initiated its own investigation, the OIG may defer its inquiry or investigation until it receives the results of that external investigation. When the OIG does not receive the results within a reasonable time, the OIG shall ordinarily proceed with its own investigation.

(b) When the OIG decides to initiate a NASA investigation, the OIG must give prompt written notice to the individual or institution to be investigated, unless notice would prejudice the investigation or unless a criminal investigation is underway or under active consideration. If notice is delayed, it must be given as soon as it will no longer prejudice the investigation or contravene requirements of law or Federal law-enforcement policies.

(c) When alleged misconduct may involve a crime, the OIG shall determine whether any criminal investigation is already pending or projected. If not, the OIG shall determine whether the matter should be referred to the Department of Justice.

(d) When a criminal investigation by the Department of Justice or another Federal agency is underway or under active consideration, the OIG shall determine what information, if any, may be disclosed to the Respondent or to NASA employees.

(e) To the extent possible, the identity of sources who wish to remain anonymous shall be kept confidential. To the extent allowed by law, documents and files maintained by the OIG during the course of an inquiry or investigation of misconduct shall be treated as investigative files exempt from mandatory public disclosure upon request under the Freedom of Information Act.

(f) When the OIG proceeds with its own inquiry, it is responsible for ensuring that the inquiry is completed within 60 days after it is commenced. The OIG may extend this period of time for good cause.

(g) On the basis of what the OIG learns from an inquiry, and in consultation as appropriate with other NASA offices, the OIG shall decide whether a formal investigation is warranted.

§ 1275.105 Conduct of the OIG research misconduct investigation.

(a) The OIG shall make every reasonable effort to complete a NASA research misconduct investigation and issue a report within 120 days after initiating the investigation. The OIG may extend this period of time for good cause.

(b) A NASA investigation may include:

(1) Review of award files, reports, and other documents readily available at NASA or in the public domain;

(2) Review of procedures or methods and inspection of laboratory materials, specimens, and records at awardee institutions;

(3) Interviews with parties or witnesses;

(4) Review of any documents or other evidence provided by or properly obtainable from parties, witnesses, or other sources;

(5) Cooperation with other Federal agencies; and

(6) Opportunity for the Respondent to be heard.

(c) The OIG may invite outside consultants or experts to participate in a NASA investigation.

(d) During the course of the investigation, the OIG shall provide a draft of the investigation report to the Respondent, who shall be invited to submit comments. The Respondent must submit any comments within 20 days of receipt of the draft investigation report. This period of time may be extended by the OIG for good cause. Any comments submitted by the Respondent shall receive full consideration before the investigation report is made final.

(e) At the end of the investigation proceedings, an investigation report must be prepared, that shall include recommended findings as to whether research misconduct has occurred. A recommended finding of research misconduct requires that:

(1) There be a significant departure from accepted practices of the relevant research community for maintaining the integrity of the research record;

(2) The research misconduct be committed intentionally, knowingly, or in reckless disregard of accepted practices; and

(3) The allegation be proven by a preponderance of evidence.

(f) The investigation report must also be transmitted with the recommendations for administrative action, when recommended findings of research misconduct are made. Section 1275.106 lists possible recommended administrative actions and considerations for use in determining appropriate recommendations.

(g) NASA OIG may elect to proceed with its administrative investigation processes in lieu of a research misconduct investigation under this part when the allegation is against a civil service employee.

§ 1275.106 Administrative actions.

(a) Listed in paragraphs (a)(1) through (a)(3) of this section are possible administrative actions that may be recommended by the investigation report and adopted by the adjudication process. They are not exhaustive and are in addition to any administrative actions necessary to correct the research record. The administrative actions range from minimal restrictions (Group I Actions) to severe restrictions (Group III Actions), and do not include possible criminal sanctions.

(1) *Group I Actions.* (i) Send a letter of reprimand to the individual or institution.

(ii) Require as a condition of an award that for a specified period of time an individual, department, or institution obtain special prior approval of particular activities from NASA.

(iii) Require for a specified period of time that an institutional official other than those guilty of research misconduct certify the accuracy of reports generated under an award or provide assurance of compliance with particular policies, regulations, guidelines, or special terms and conditions.

(2) *Group II Actions.* (i) Restrict for a specified period of time designated activities or expenditures under an active award.

(ii) Require for a specified period of time special reviews of all requests for funding from an affected individual, department, or institution to ensure that steps have been taken to prevent repetition of the research misconduct.

(3) *Group III Actions.* (i) Immediately suspend or terminate an active award.

(ii) Debar or suspend an individual, department, or institution from participation in NASA programs for a specified period of time.

(iii) Prohibit participation of an individual as a NASA reviewer, advisor, or consultant for a specified period of time.

(b) In deciding what actions are appropriate when research misconduct is found, NASA officials should consider the seriousness of the misconduct, including, but not limited to:

(1) The degree to which the misconduct was knowing, intentional, or reckless;

(2) Whether the misconduct was an isolated event or part of a pattern;

(3) Whether the misconduct had a significant impact on the research record, research subjects, or other researchers, institutions, or the public welfare.

§1275.107 Adjudication.

(a) The NASA Adjudication Official must review and evaluate the investigation report and the evidentiary record required to be transmitted pursuant to §1275.102(d) and (e). The NASA Adjudication Official may initiate further investigations, which may include affording the Respondent another opportunity for comment, before issuing a decision regarding the case. The NASA Adjudication Official may also return the investigation report to the OIG with a request for further fact-finding or analysis.

(b) Based on a preponderance of the evidence, the NASA Adjudication Official shall issue a decision setting forth the Agency's findings as to whether research misconduct has occurred and recommending appropriate administrative actions that may be undertaken by NASA in response to research misconduct determined to have occurred. The NASA Adjudication Official shall render a decision within 30 (thirty) days after receiving the investigation report and evidentiary record, or after completion of any further proceedings. The NASA Adjudication Official may extend this period of time for good cause.

(c) The decision shall be sent to the Respondent and, if appropriate, to the Complainant. If the decision confirms the alleged research misconduct, it must include instructions on how to pursue an appeal to the NASA Appeals Official. The decision shall also be transmitted to the NASA Office of the Chief Scientist and the OIG.

§1275.108 Appeals.

(a) The Respondent may appeal the decision of the NASA Adjudication Official by notifying the NASA Appeals Official in writing of the appeal within 30 days after Respondent's receipt of the decision. If the decision is not appealed within the 30-day period, the decision becomes the final Agency action insofar as the findings are concerned.

(b) The NASA Appeals Official shall inform the Respondent of a final determination within 30 days after receiving the appeal. The NASA Appeals Official may extend this period of time for good cause. The final determination may affirm, overturn, or modify the decision of the NASA Adjudication Official and shall constitute the final Agency action insofar as the findings are concerned. The final determination shall also be transmitted to the NASA Office of the Chief Scientist and the OIG.

(c) Once final Agency action has been taken pursuant to paragraphs (a) or (b)

of this section, the recommendations for administrative action shall be sent to the relevant NASA components for further proceedings in accordance with applicable laws and regulations.

Appendix to Part 1275—NASA Research Disciplines and Respective Associated Enterprises

1. Aeronautics Research—Aerospace Technology Enterprise
2. Space Science Research—Space Science Enterprise
3. Earth Science Research and Applications—Earth Science Enterprise
4. Biomedical Research—Biological and Physical Research Enterprise
5. Fundamental Biology—Biological and Physical Research Enterprise
6. Fundamental Physics—Biological and Physical Research Enterprise
7. Other engineering research not covered by disciplines above—NASA Chief Engineer
8. Other technology research not covered by disciplines above—NASA Chief Technologist

Dated: July 10, 2003.

Sean O'Keefe,

Administrator.

[FR Doc. 03–18982 Filed 7–24–03; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3282

[Docket No. FR–4867–N–02]

Manufactured Housing Consensus Committee—Rejection of Consumer Complaint Handling Proposal

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

ACTION: Denial for recommendation for proposed regulatory changes.

SUMMARY: The Secretary has rejected a proposed recommendation by the Manufactured Housing Consensus Committee to revise regulations concerning how manufacturers are required to handle reports of problems with manufactured homes. The Secretary has determined that the proposal conflicts in several ways with the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Manufactured Housing Program, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708\6401 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number at TTY by calling the toll-free Federal Information Relay Service at (800) 87–8339.

SUPPLEMENTARY INFORMATION: The Manufactured Housing Consensus Committee (MHCC) has transmitted to the Secretary a recommendation dated March 26, 2003 (MHCC proposal), that the Manufactured Home Procedural and Enforcement Regulations, 24 CFR part 3282, be amended by revising Subpart I, Consumer Handling and Remedial Actions (24 CFR 3282.401–416) (Subpart I).

Background

The MHCC as established by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401–5426 (the Act) for the purpose of providing periodic recommendations to the Secretary to adopt, revise, and interpret the federal manufactured housing construction and safety standards and the procedural and enforcement regulations. 42 U.S.C. 5403(a)(3)(A). It may submit to the Secretary proposed procedural and enforcement regulations and recommendations for the revision of the regulations. 42 U.S.C. 5403(b)(1). To be promulgated by HUD, the regulation and revisions recommended by the MHCC must be consistent with the Act.

Within 120 days from the date on which the Secretary receives a proposed procedural or enforcement regulation from the MHCC, the Secretary approve a reject the proposal. If the Secretary rejects the proposal, HUD must provide to the MHCC a written explanation of the reasons for rejection and publish in the **Federal Register** the rejected proposal and the reasons for the rejection. 42 U.S.C. 5403(b)(4).

Procedural Explanation

The Secretary recognizes and appreciates that the members of the MHCC are working hard to implement the role of the MHCC in the federal manufactured housing program. Although this proposal is inconsistent with the authority granted to the MHCC under the Act, HUD is publishing this proposal (Appendix A) and the Secretary's reasons for rejecting the proposal, as if the proposal were subject to the procedures in section 604(b).

Decision of the Secretary

The Secretary rejects the MHCC's proposal for the revision of regulations in Subpart I for the handling of reports of problems in manufactured housing for reasons that include the following:

The MHCC proposal is in direct conflict with parts of the Act. In section 615 of the Act (42 U.S.C. 5414), Congress placed responsibilities for the correction and notification of defects in manufactured homes on manufacturers, and set guidelines for manufacturers to meet these responsibilities. Section 613 of the Act (42 U.S.C. 5412) imposes additional repair and repurchase requirements on manufacturers. Subpart I, which the MHCC proposal would amend, contains the regulations by which the Department has implemented the intent to Congress with respect to notification and correction requirements.

The MHCC proposal seeks to limit the statutory responsibilities of manufacturers while imposing similar duties on parties on whom Congress did not place these responsibilities, such as retailers, distributors, transporters, and landscapers. HUD does not have authority to shift statutory responsibilities away from manufacturers. The MHCC has not established that HUD has authority to hold these newly identified parties responsible for correction and notification of defects in manufactured homes.

The MHCC proposal adds significantly to the administrative responsibilities of HUD and the states, by making HUD and the State Administrative Agencies (SAA's) the initial arbiters of responsibility on all complaints and information about problems in manufactured homes. The proposal does not take into account the self-policing responsibilities of the manufacturers set out in section 615 of the Act (42 U.S.C. 5414). The concern about additional administrative burdens also applies to the provisions that make SAA's responsible for assuring that all notifications are sent and all concerns are made. In addition, the MHCC proposal may define roles for HUD and the SAAs that require them to interfere in matters that are traditionally settled through private contracts. Further, HUD cannot permit voluntary undertakings by private parties to constitute governmental action for purposes of judicial review.

The MHCC proposal would, in effect, create a warranty for products found in the home, and would then limit the applicable time of the warranty. There is not authority in the Act to create a warranty. In fact, during consideration of the most recent amendments to the Act, Congress heard testimony suggesting a statutory warranty but declined to adopt this approach. Instead, the Act was amended in section 623 (42 U.S.C. 5422) to establish an additional protection for consumers through a dispute resolution program that covers problems reported in the