



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

OCT 15 2009

Richard Weinert
Administrator
Dept. of Housing & Community Development
Manufactured Housing Section
P. O. Box 31
1800 Third Street, Suite 260
Sacramento, CA 95814-6900

Dear Mr. Weinert:

The Department has been asked by a plumbing supplier for Skyline Homes if a new California plumbing law is applicable to manufactured homes produced or shipped into the State of California. Specifically, this new requirement would allow the use of low lead pipes in the construction of homes. As a reminder, 24 CFR Part 3280.609(d)(ii)(3) covers water distribution systems and states that *all water piping shall be lead-free*. If enforced, this new California requirement would be in conflict with HUD's National Manufactured Housing Construction and Safety Standards Act of 1974.

In 1975, pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, the Department issued the Manufactured Home Construction and Safety Standards. Section 604(d) of the Act, 42 U.S.C. Section 5403(d), states:

Whenever a Federal manufactured home construction and safety standard established under [the Act] is in effect, no State or political subdivision of a State shall have any authority... to establish... with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

In 2000, Congress added the following language to Section 604(a):

Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this title. . . . (42 U.S.C. §5403(d)).

In addition, the Manufactured Home Procedural and Enforcement Regulations (Regulations), 24 C.F.R. Section 3282.11(d), prohibit any State or locality from establishing and enforcing rules or taking any action that impairs Federal superintendence of the manufactured home industry as established by the Act.

Section 603(6) of the Act, 42 U.S.C. Section 5402(6), defines a manufactured home as:

A structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation....

Not all state laws that seek to regulate manufactured homes are subject to preemption by the Act. However, a State may not regulate structures that meet the Federal definition of a manufactured home based solely on a construction and safety code with requirements different than those prescribed by the standards established under National Manufactured Housing Construction and Safety Standards Act of 1974.

I hope this information will assist you. Should you have any questions, please contact the Office of Manufactured Housing Programs at (202) 708-6423.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Matchneer III', with a stylized flourish at the end.

William W. Matchneer III
Associate Deputy Assistant Secretary for Regulatory
Affairs and Manufactured Housing