



Manufactured Housing Association for Regulatory Reform

1331 Pennsylvania Avenue, NW • Suite 512 • Washington, DC 20004 • 202-783-4087 • Fax 202-783-4075 • mharrdg@aol.com

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VIA ELECTRONIC FILING AND U.S. MAIL

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
Room 10276
451 Seventh Street, S.W.
Washington, D.C. 20410-0500

Re: Model Manufactured Housing Installation Standards
Ground Anchor Installations
Docket No. FR-5631-P-01; RIN 2502-AJ15

Dear Sir or Madam:

The following comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a national trade association representing the views and interests of producers of manufactured housing regulated by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq., as amended (Act).

On July 26, 2013, the Department of Housing and Urban Development published a proposed rule in the Federal Register (see, 78 Federal Register, No. 144 at pp. 45104-45111) regarding ground anchor installations for manufactured homes pursuant to the HUD Model Manufactured Home Installation Standards codified at 24 C.F.R. 3285. Among other things, the proposed rule would revise existing requirements for the installation of manufactured home ground anchors and establish test methods and criteria to determine ground anchor performance. Significantly, as proposed by HUD, compliance with the new testing and certification criteria (and the costs associated therewith) would be the responsibility of ground anchor manufacturers, who would then supply appropriately-certified ground anchors to end users, including installers and/or homeowners.

As is noted in the preamble to the proposed rule, the standards and methodologies proposed by HUD were recommended by the Manufactured Housing Consensus Committee (MHCC) and developed through the MHCC consensus process starting in 2003, initially as an

aspect of MHCC consideration and formulation of the federal manufactured home installation standards published by HUD on October 19, 2007. Because of questions raised by a related draft Ground Anchor Assembly Test Protocol, however, and at the request of MHARR and other commenters, this entire issue was separated from the main body of the final installation standards rule promulgated by HUD. Subsequently, based on further study and analysis, the MHCC developed modifications to its initial ground anchor standards and testing proposals, which were approved by the full Committee on March 9, 2011 and submitted to HUD.

In relevant part, HUD states in its Federal Register preamble that it “has reviewed the ... proposal from the MHCC and other than formatting and other editorial changes, is in agreement with those recommendations.” Thus, and to the extent that the HUD proposed rule is consistent with the said recommendations of the MHCC, which the MHCC Technical Structure and Design Subcommittee -- with input from ground anchor manufacturers -- concluded would not result in significant cost increases or major departures from current practices (*see*, Technical Structure and Design Subcommittee meeting minutes dated March 8, 2011), MHARR does not oppose the proposed rule. MHARR, does, however, reserve its right to object to any subsequent revision to the proposed rule that departs from the recommendations of the MHCC. Moreover, in any final rule, HUD should address and minimize – to the maximum extent possible -- any potential additional costs attributable to the new standards that have not previously been brought to, or considered by, the MHCC as part of its consensus process (*see*, 42 U.S.C. 5403(e)(4)). In addition, any final rule should permit the continued use – after the date of implementation of the new standards – of existing ground anchors produced and certified prior to that implementation date.

While MHARR does not object to HUD’s acceptance and promulgation of the final recommendation of the MHCC on this matter, MHARR continues to maintain: (1) that the federal manufactured home installation standards should not have been re-codified separately from the Federal Manufactured Housing Construction and Safety Standards (FMHCSS) codified at 24 C.F.R. 3280; (2) that HUD should re-consider that action; and (3) that HUD should incorporate the federal installation standards, in their entirety, including the proposed ground anchor standards and testing procedures, within the FMHCSS standards.

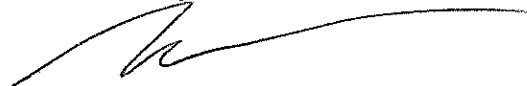
Congress, in establishing the federal installation program as part of the Manufactured Housing Improvement Act of 2000 (2000 law), was following a recommendation of the National Commission on Manufactured Housing (National Commission), that federal installation standards be adopted and included within the existing Part 3280 construction and safety standards. Recommendation 5.1 of the National Commission’s Final Report thus states: “The Commission recommends that the consensus committee shall develop and maintain minimum installation standards as part of the national manufactured home construction and safety standards.” (*See*, Final Report of the National Commission on Manufactured Housing, August 1, 1994, at p. 57 (Emphasis added). HUD, however, citing the “structure” of the 2000 law, has re-codified installation outside of the Part 3280 FMHCSS as a separate Part 3285 (*i.e.*, 24 C.F.R. 3285). MHARR has – and continues to – oppose this action as set forth below and as more fully explained in its original comments on the HUD-proposed installation standards rule filed on June 24, 2005 and the HUD proposed installation program rule, filed on August 1, 2006.

HUD has claimed that because installation is addressed in section 605 of the 2000 law, separately from the development of Part 3280 construction and safety standards in section 604, that it is appropriate to codify the installation standards outside of the Part 3280 construction and safety standards. But this ignores the specific recommendation of the National Commission, as well as the simple reality that when Congress disbanded the National Manufactured Housing Advisory Council, section 605 was left without any content and, in order to avoid a renumbering of the law, Congress simply inserted the new installation mandate as the new section 605, without intending that the resulting installation standards would be anything other than Part 3280 standards.

This re-codification of installation outside of the Part 3280 FMHCSS standards has not yet caused major difficulty and confusion simply because the federal installation program and standards have not been fully implemented. Once they are, however, the problems resulting from re-codification will predictably become much worse. First, the re-codification of these new programs strips the MHCC of statutory authority under the 20000 reform law to review those standards or propose changes. Second, and more importantly, the re-codified installation standards, because they are outside of the HUD Code, are not preemptive, thus giving carte blanche to state and/or local officials to discriminate against manufactured housing and manufactured homebuyers with "installation" standards that are actually designed either to restrict placement or eliminate it altogether, while exposing consumers to varying local installation standards (in states without compliant installation programs) that will unnecessarily increase the cost of manufactured homes. All of this will bring about needless disputes and confusion that will negatively impact the affordability, availability and utilization of manufactured housing.

Thus, insofar as the proposed standards were developed and recommended by the MHCC and subjected to notice and comment rulemaking by HUD in accordance with the requirements of the 2000 reform law, and insofar as their justification and potential cost have been considered in accordance with 42 U.S.C. 5403(e), MHARR does not object to the proposed criteria. MHARR, however, does maintain and re-assert its fundamental objection to the re-codification of the entirety of the Model Manufactured Home Installation Standards – including the sections impacted by the proposed rule – as a new part of the Code of Federal Regulations (i.e., 24 C.F.R. 3285), rather than as part of the existing Federal Manufactured Home Construction and Safety Standards.

Sincerely,



Mark Weiss
Senior Vice President

cc: MHARR Manufacturers
MHCC Members