



# Manufactured Housing Association for Regulatory Reform

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November 25, 2014

VIA FEDERAL EXPRESS

Hon. Ernest Moniz  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Re: Energy Efficiency Standards for Manufactured Housing

Dear Secretary Moniz:

I am writing on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a Washington, D.C.-based national trade organization representing the views and interests of mostly smaller and medium-sized producers of manufactured housing subject to comprehensive federal regulation by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act), as amended by the Manufactured Housing Improvement Act of 2000 (2000 reform law).

On October 31, 2014, a manufactured housing energy conservation standards “Working Group” (MHWG) operating under the auspices of the Department of Energy’s (DOE) Appliance Standards and Rulemaking Advisory Committee (ASRAC) submitted recommendations to ASRAC for manufactured home energy conservation standards pursuant to section 413 of the Energy Independence and Security Act of 2007 (EISA) in the form of a “Term Sheet.” ASRAC is scheduled to meet via telephone conference call on December 1, 2014 to consider that Term Sheet and whether it should be forwarded to you as the basis for proposed and final energy conservation standards for HUD-regulated manufactured homes.

MHARR participated as a member of the MHWG, where it voted against adoption of the Term Sheet -- for reasons fully documented in the MHWG record -- and now respectfully calls on you to reject those proposals, which will undermine the affordability of manufactured housing in violation of federal law and housing policy while providing no meaningful benefits to manufactured housing consumers, and halt any further DOE activity on this matter. By copy of this letter we are also advising the Secretary of HUD of our opposition to any proposed or final

standards based on the MHWG Term Sheet and our call for their rejection by HUD as well pursuant to the DOE-HUD “consultation” mandated by EISA.

The MHWG Term Sheet is the product of a flawed, discriminatory statute and an irretrievably tainted regulatory process at DOE.

The EISA manufactured housing provision would undermine the affordability of manufactured housing enshrined in federal law and federal housing policy under the Act and the 2000 reform law. Census Bureau data from the 2011 American Housing Survey shows that median energy operating costs for manufactured homes are already lower than those for other types of residential construction. EISA – and the specific recommendations of the MHWG -- would result in purchase price increases for manufactured homes that would exclude millions of mostly lower and moderate-income consumers from the manufactured housing market and the housing market altogether. Such devastating impacts are entirely unnecessary, as manufactured home builders already offer multiple enhanced energy packages, on an optional basis, as a matter of consumer choice. EISA, moreover, specifically discriminates against manufactured homebuyers by subjecting manufactured homes to the “most recent” -- and, therefore, most stringent and costly -- version of the International Energy Conservation Code (IECC), while site-built, modular and other types of more expensive homes, that are not specifically designated and protected under federal law as affordable housing, are regulated at the state and local level under earlier, less costly versions of the IECC (indeed, 35 states have not yet adopted even the 2012 IECC).

Furthermore, the DOE regulatory process in this matter is fundamentally flawed and cannot be rehabilitated or remedied by the MHWG or its recommendations. As is demonstrated by documents and testimony included in the MHWG record by MHARR, it is evident that the DOE conventional rulemaking initiated by an Advance Notice of Proposed Rulemaking on February 10, 2010 was irretrievably tainted by the selective leak of a “draft” proposed rule – and selective DOE interaction with – certain parties in interest. This “impermissible” activity led the Office of Management and Budget (OMB), as confirmed by the DOE Office of General Counsel (OGC), to reject the DOE draft rule and instruct DOE to “begin the [rulemaking] process anew.” Instead of starting over, however, ASRAC, acting pursuant to March 14, 2014 and May 28, 2014 requests for “negotiated rulemaking” from recipients of the selectively-leaked “draft” rule rejected by OMB, simply devised a process to allow DOE to circumvent OMB’s directive through an intentionally truncated process that was totally insufficient for the development of a major, complex rule and was designed -- like DOE’s June 25, 2013 “Request for Information” -- to validate the pre-conceived results of the original, “impermissibly” disclosed draft proposed rule.

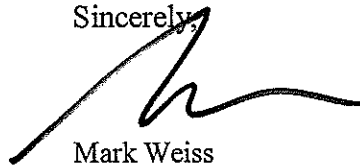
The Term Sheet recommendations resulting from that truncated process, based on non-public, unverified and unverifiable data provided by a party in interest, would increase the consumer purchase price of a single-section manufactured home by an average of \$2,170.00 -- as calculated by the MHWG -- with cost recovery times for some measures ranging from 12-88 years. Even this large increase, however, significantly understates the true consumer-level cost impact of the MHWG proposal, as the MHWG cost information does not include testing, enforcement and regulatory compliance costs – insofar as ASRAC arbitrarily excluded

enforcement and compliance issues from the MHWG charter – and does not reflect supply costs across the full spectrum of the industry, especially for smaller manufacturers that do not receive high-volume discounts for materials and components comparable to larger manufacturers. Indeed, a more realistic assessment of compliance costs shows that the MHWG Term Sheet would require significant design and structural changes in manufactured homes, especially in northern areas, with correspondingly significant price increases. Thus, according to information provided to MHARR, in current HUD thermal Zone 3, the retail-level price increase to transition from the most basic, affordable, single-section current HUD Code home, to a level approximating 2015 IECC thermal zones 4 and 5, would be approximately \$4,700.00 for a single-section home and up to \$6,200.00 for a double-section home.

Based on all of these defects – as fully documented and addressed in the record of the MHWG – the MHWG-proposed Term Sheet for manufactured home energy conservation standards should be withdrawn from any further consideration. We also respectfully request that EISA section 413 be returned to Congress for re-evaluation, reconsideration, hearings and necessary reforms based on full and proper input from all stakeholders, including consumers of affordable housing, the states and the manufactured housing industry. We hope that you will seriously consider these requests to prevent this matter from being tied-up in litigation for years to come.

We will contact your office soon to schedule a meeting to address this crucial matter in much greater detail, with additional information.

Sincerely,



Mark Weiss  
President-Elect

cc: Hon. Julian Castro, Secretary, Department of Housing and Urban Development  
Hon. Shaun Donovan, Director, Office of Management and Budget  
Chairman and Ranking Member, Senate Energy and Natural Resources Committee  
Chairman and Ranking Member, House Natural Resources Committee  
DOE Appliance Standards and Rulemaking Advisory Committee  
HUD Code Industry Members