



# Manufactured Housing Association for Regulatory Reform

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February 2, 2016

VIA FEDERAL EXPRESS

Ms. Pamela Danner  
Administrator  
Office of Manufactured Housing Programs  
U.S. Department of Housing and Urban Development  
Room 9166  
451 7<sup>th</sup> Street, S.W.  
Washington, D.C. 20410

Re: Corrections and Extended Transition Period for On-Site Construction Rule

Dear Ms. Danner:

We are writing in support of the resolutions adopted by the Manufactured Housing Consensus Committee (MHCC) at its meeting in Louisville, Kentucky on January 20 and 21, 2016 calling on HUD to: (1) extend to 12 months the current six-month transition period for implementation of the final HUD manufactured home on-site construction rule published September 8, 2015; and (2) defer enforcement of the on-site rule during that 12-month transition period while the MHCC Regulatory Enforcement Subcommittee and full MHCC consider, evaluate, develop and propose further recommendations for HUD concerning serious issues identified by the Committee, including but not limited to the scope of the rule, treatment of existing Alternate Construction (AC) approvals, proper inspection parameters, “attic”-related requirements and definitions, regulatory compliance costs and potential conflicts with other federal law(s).

If enforced by HUD in its current state, as was emphasized by the MHCC and other participants at the Louisville meeting, the September 8, 2015 rule would further depress manufactured housing production -- already at historically low levels -- would unnecessarily increase costs borne by consumers, and would cripple an important and expanding HUD Code market. Consequently, deferred enforcement, pending necessary and fundamental corrections, is clearly warranted. HUD, moreover, to help both the industry and consumers, should allow existing AC approvals and the existing AC system for on-site construction to continue indefinitely pending correction of the September 8, 2015 rule.

As the on-site rule discussion with the MHCC indicated, the September 8, 2015 HUD rule -- contrary to the original intent of the MHCC and the purposes of the 2000 reform law -- would

subject a significant number of typically routine finishing matters to extensive design, documentation, reporting and inspection requirements without any consideration of the objective need for such extensive procedures and/or their cost impact(s) on consumers, as acknowledged by HUD at the meeting. As multiple MHCC members noted, the HUD rule manages to combine nearly all of the burdens associated with the current AC system with additional on-site procedures and mandates so extensive and costly that they would destroy the ability of manufacturers and retailers to affordably provide consumers with features and amenities they clearly want, leading to defections among manufacturers and consumers from HUD Code to modular (or other) construction and/or to HUD Code homes so plain and costly that they would not be market-competitive.

In particular, there has never been any showing of the need for 100% on-site IPIA inspections and MHARR, as a result, has consistently objected to such inspections as entailing needless costs and delays for homebuyers. Indeed, in its regulatory comments, MHARR called – and still calls -- for a more flexible on-site inspection system, that would allow manufacturers to elect between: (1) 100% on-site IPIA inspections instead of in-plant inspections of site-completed homes; or (2) “on-site IPIA inspections of a reasonable percentage of homes completed on-site, subject to an increased frequency of on-site inspections (potentially up to one hundred percent) in the event that systemic non-compliances or defects were shown.”

Moreover, the rule would impose significant new dead-load requirements for truss bottom cords used in “attics” without properly defining what is – or is not – an “attic” and without any opportunity for prior comment by the public or interested parties contrary to both the 2000 reform law and the federal Administrative Procedure Act (APA), insofar as the new “attic” mandate (24 C.F.R. 3280.305(k)) was not published in advance as part of the proposed on-site rule. Given this fundamental defect and the extremely serious concerns raised at the meeting regarding this provision, we ask that HUD, in addition to deferring enforcement of this provision in its current form, specifically confirm in writing its willingness to clarify and correct this section, as expressed verbally at the MHCC meeting.

Given the extent of the major defects and errors contained in the September 8, 2015 rule, HUD should allow the current AC approval system to continue in place while the Department defers enforcement of the September 8, 2015 on-site rule and cooperates with the MHCC in the urgent development and adoption of essential corrections consistent with the purposes and objectives of the 2000 reform law.

Sincerely,



Mark Weiss  
President & CEO

cc: Manufactured Housing Consensus Committee Members  
MHARR Manufacturers  
Other Interested HUD Code Industry Members