

November 12, 2021

VIA FEDERAL EXPRESS AND ELECTRONIC SUBMISSION

Manufactured Housing Consensus Committee
C/O Home Innovation Research Labs
Administering Organization
400 Prince George's Boulevard
Upper Marlboro, Maryland 20774

Re: Proposed Energy Conservation Standards for Manufactured Housing

Dear Members of the Manufactured Housing Consensus Committee:

The following supplemental comments are submitted on behalf of the members of the Manufactured Housing Association for Regulatory Reform (MHARR).

In light of the October 26, 2021 publication of a Notice of Data Availability (NODA) by the U.S. Department of Energy (DOE) in connection with its August 26, 2021 Supplemental Notice of Proposed Rulemaking (SNPR) regarding manufactured housing energy conservation standards, and the concurrent extension of the deadline for written comments on the SNPR (as specifically requested by MHARR) and the NODA until November 26, 2021, MHARR urges the MHCC to specifically consider and address the following points and issues relating to the original SNPR and NODA, and to submit its own supplemental comments to DOE in advance of the extended deadline. MHARR will submit its own supplemental comments pertaining to these issues to DOE following the MHCC's November 19, 2021 meeting.

As MHARR emphasized in its initial comments on this matter, filed October 25, 2021, the proposed manufactured housing energy standards published by DOE in the August 26, 2021 SNPR are fatally defective on multiple grounds, including but not limited to: (1) their extreme impact on the purchase price of manufactured housing contrary to applicable law; (2) their inevitable exclusion of millions of lower and moderate-income Americans from the manufactured housing market (and from homeownership altogether) contrary to applicable law; (3) their failure to provide any benefit(s) whatsoever to those excluded from the market by such price increases contrary to applicable law; (4) their failure to provide any corresponding benefit to those remaining in the market at such higher price levels contrary to applicable law; (5) the inapplicability to manufactured housing due to the fundamental nature of the International Energy Conservation Code (IECC); (6) their inapplicability to manufactured housing based on the discriminatory and "manipulated" IECC 2021 voting process; and (7) the arbitrary and capricious nature of the proposed standards in relation to manufactured housing, contrary to applicable law; among other

things. Significantly, none of these fatal defects are cured by the NODA and data contained therein. Indeed, the NODA data and supposed “analysis,” only exacerbate and underscore the fundamental defects inherent in the SNPR and this entire docket.

Accordingly, and consistent with the points set forth and examined in its October 25, 2021 initial comments in this matter, MHARR urges the MHCC, at its November 19, 2021 meeting, to consider and address the following points:

1. The NODA addresses data related to the manufacturer retail list price threshold separating its supposed “Tier1” standards from its “Tier 2” standards. While the NODA concludes that \$63,000.00 would be a more appropriate threshold than the \$55,000 demarcation set forth in its August 26, 2021 SNPR, it does not specifically state that DOE is proposing to change the demarcation from \$55,000 to \$63,000, or to any amount different from that initially proposed. As a result, the NODA, at a minimum, is vague and ambiguous. Moreover, even if the NODA is intended by DOE to change the proposed Tier 1/Tier 2 threshold, the \$63,000 figure calculated by DOE would still subject the vast majority of manufactured homes to excessive and destructively costly Tier 2 energy mandates in violation of federal law, which recognizes and protects all manufactured homes as “affordable” housing. Consequently, the NODA continues to ignore the most fundamental, basic and fatal flaw of DOE’s proposed rule.
2. The NODA continues to ignore May 2021 data from the Consumer Financial Protection Bureau (CFPB) showing that substantially increased purchase prices for manufactured homes, resulting from the proposed rule, would further undermine the availability of manufactured home purchase loans specifically for minority populations. Among other things, the CFPB report shows that minority communities rely heavily on chattel or personal property loans and are already subject to disproportionately high rejection levels at current price points. Quite obviously, those already disproportionately high rejection levels would be further exacerbated by higher home prices resulting from the proposed standard.
3. The NODA, among other things, projects declining inflation going forward. If correct, this projection could potentially limit the future impact of purchase price increases resulting from the energy conservation measures mandated by the DOE proposed standard. The NODA projection, however, conflicts with all available current evidence, which shows that the rate of inflation is increasing exponentially and could continue increasing longer than previously predicted. A higher – and sustained – level of inflation would compound and exacerbate projected purchase price increases, resulting in even higher levels of exclusion from the mainstream HUD Code market and from homeownership than have been calculated and considered by DOE.
4. The SNPR and NODA drastically understate the purchase price impact of the proposed rule. As MHARR has previously noted in comments to the MHCC, the potential purchase price impact of specific provisions of the 2021 IECC was estimated in a June 2021 report by Home Innovation Research Labs (HIRL). While these prices are estimated based on a site-built reference house with 2,500 square feet of conditioned area, they can be re-

calculated for the smaller average size of manufactured homes. As MHARR will point out in its supplemental NODA comments, however, the HIRL figures are necessarily incomplete and partial in that (aside from not reflecting the cost of testing, enforcement and regulatory compliance) they represent only the marginal purchase price impact of moving from the 2018 IECC to the 2021 IECC, and not the total cost of moving, in one massive leap – as would manufactured housing under the proposed rule -- from absolutely no IECC-based standards to 2021 IECC-based standards that according to the International Code Council (ICC) itself, are only 10% below net-zero energy levels.¹

5. The role and impact of intentional federal anti-American energy policies such as the cancellation of pipelines and oil exploration permits on federal lands on the skyrocketing cost of nearly all existing energy sources (including oil, natural gas and electricity), which costs are then cited as the ostensible basis for DOE’s excessive proposed energy standards. Put differently, the MHCC should consider that the alleged need for DOE’s proposed standard, i.e., supposedly high and increasing “life-cycle” energy costs for manufactured homes are being driven, in substantial part, by intentional federal government policies designed to curb the use of fossil fuels by purposely increasing their cost. For those same intentional, policy-driven cost increases to then be used to legitimate “energy conservation” mandates with massive resulting purchase price increases borne disproportionately by those least able to afford a home of their own, is not only unconscionable and disingenuous, but fundamentally immoral and unlawful, and should be resoundingly rejected by the MHCC representing all stakeholders in the manufactured housing market.

Based on the foregoing, MHARR calls on the MHCC to supplement its previous comments to HUD and DOE regarding this matter to incorporate the above matters.

MHARR thanks the MHCC for its thorough and thoughtful consideration of the DOE proposed energy standards and urges the MHCC to remain fully-engaged in this critical rulemaking.

Sincerely,

Mark Weiss
President and CEO

¹ Such massive purchase price increases, moreover, as MHARR noted in its October 25, 2021 DOE comments, would be further compounded by the fact that loan payments for manufactured homes are already artificially inflated and unnecessarily onerous because of: (1) the failure of mortgage giants Fannie Mae and Freddie Mac to securitize or provide a secondary market for the vast majority of manufactured homes financed as personal property notwithstanding the affirmative mandate of the statutory Duty to Serve Underserved Markets (DTS); and (2) baseless restrictions on lender participation in the Federal Housing Administration’s Title I manufactured home program due to the “10-10” rule adopted and still maintained by the Government National Mortgage Association.