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of our families and our investments
into our manufactured homes'

June 15, 2005

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Office of General Counsel
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16

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Re: 24 CFR parts 3280 and 3285
Model Manufactured Home Installation Standards; Proposed Rule
Docket No. FR-4928-P-01 HUD-2005-0006
RIN 2502-A125

Twin Valley Manufactured Homeowners Association, Inc. wishes to submit the following
attached comments of our review ... Model Manufactured Home Installation Standards,
proposed rule.

Respectfully submitted,

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NHCLF

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Federal Register - 24 CFR parts 3280 and 3285

[Docket No. FR-4928-P-01; HUD-2005-0006]

RIN 2502-AI25

Model Manufactured Home Installation Standards, Proposed Rule

Page #	Section / Title / Paragraph	Comments
21499	I. Summary of HUD's Model Manufactured Home Installation Standards (first paragraph - first column)	<p>'HUD proposes to codify the Model Installation Standards in a new part 3285 of title 24 of the Code of Federal Regulations (CFR). HUD has chosen not to codify these installation standards as part of the Construction and Safety Standards (24 CFR part 3280), to avoid confusion between construction and installation and to assist in assigning clear lines of responsibility among the parties involved for construction versus installation issues.'</p> <p>Fully concur with the Department's position of separation into two standards to avoid confusion between that of construction (24CFR3280) and installation (24CFR3285)</p>
21499	I. Summary of HUD's Model Manufactured Home Installation Standards (first paragraph - third column) ... answer to question	<p>'Since close-up consists of the work and activities for completing the assembly of the home, is it consistent with the rest of the Act to consider such work as construction and therefore the responsibility of the manufacturer? Or is it too difficult for manufacturers to control and monitor the close-up done by installers so that it would be more appropriate to classify close up as part of installation? Will consumers be adequately protected if close-up is classified as part of installation?'</p> <p>A clear delineation between construction (24CFR3280) ... the manufacturing process and installation (24CFR3285) ... the work activities facilitating the placement of the home for occupancy by the consumer must be clearly maintain. It is unreasonable to expect and/or hold the manufacturers totally responsible for the close-up work performed by others outside of their control and/or monitoring except for those parties that are duly authorized and/or licensed agents thereof. Thus due to the numerous possible scenarios of parties that could be involved between the two processes, close-up which is an integral part of the installation, should be maintained in the installation standard. Consumers should be adequately protected as long as the balance of the installation program ... the inspection process is fully implemented.</p>
21500	Summary - Part 3285 Model Manufactured Home Installation Standards Subpart B - Pre-Installation Considerations (third column) ... answer to question	<p>'Should the Model Installation Standards attempt to set forth minimum installation requirements or pre-installation considerations to address seismic safety? If so, how should HUD establish seismic zones and what minimum requirements would be included in the Model Installation Standards?'</p> <p>Most a surely the Model Installation Standards should establish some minimum requirements / pre-installation considerations to address seismic safety. However I do not believe that HUD should re-create the wheel by establishing seismic zones that are already defined creating further confusion.</p>

<p>21501</p>	<p>Summary - Part 3285 Model Manufactured Home Installation Standards Subpart C - Site Preparation (second paragraph - first column) ... answer to question</p>	<p>'The Model Installation Standards would also provide for minimum vapor barrier material requirements and proper installation techniques. The requirements for vapor barrier installation permit minor voids and tears without repair. However, HUD is concerned that the excessive voids and numerous tears can defeat the purpose of the requirement. Therefore, should limitations be placed on the number and size of voids and tears? if so, what specific limitations would be recommended?' Allowing any tears and/or voids in the vapor barrier installation would defeat the purpose of the requirement and hence NO special limitations should either be recommended or allowed. An effective vapor barrier must be fully sealed to maintain its integrity and functionality.</p>
<p>21501</p>	<p>Summary - Part 3285 Model Manufactured Home Installation Standards Subpart D -- Foundations (second paragraph - second column) ... answer to question</p>	<p>'Do the Model Installation Standards need to include clearer performance equivalents so that alternative installation methods may be developed and subsequently approved or certified by Design Approval Primary Inspection Agencies (DAPIAs) or registered engineers or architects, as applicable?' Yes.</p>
<p>21518</p>	<p>Subpart A - General § 3285.1 Administration. (d) Applicability.</p>	<p>'(d) Applicability. The manufactured homes covered by this standard must comply with requirements of the U.S. Department of Housing and Urban Development's (HUD's) Federal Manufactured Home Construction and Safety Standards (MHCSS) Program, as set forth in 24 CFR part 3280, Manufactured Home Construction and Safety Standards, and 24 CFR part 3282, Manufactured Home Procedural and Enforcement Regulations. The requirements of this part do not apply to homes installed on site-built permanent foundations when the manufacturer certifies the home in accordance with § 3282.12 of this chapter.' The applicability of many parts of the standard should still apply even to site-built permanent foundation installations. The only portion that could be considered waived would be that of § 3285.203 Drainage, § 3285.204 Ground moisture control, and Subpart D -- Foundations, except for § 3285.314 Permanent foundations.</p>
<p>21518</p>	<p>Subpart A - General § 3285.2 Manufacturer installation instructions. (the last sentence of the paragraph)</p>	<p>'... Installers must follow the DAPIA-approved manufacturer's installation instructions for those aspects covered by these Model Installation Standards.' Is this statement to mean that the manufacturer's installation instructions are to supercede either state and/or local installation instructions and / or rules?</p>

<p>21518</p>	<p>Subpart A - General § 3285.3 Alterations during initial installation. (the first sentence of the paragraph)</p>	<p>'Additions, modifications, or replacement or removal of any equipment that affects the installation of the home, made by the manufacturer, retailer or installer prior to completion of the installation by an installer must equal or exceed the protections and requirements of these Model Installation Standards, the MHCSS (24 CFR part 3280) and the Manufactured Home Procedural and Enforcement Regulations (24 CFR part 3282).' While theoretically, on paper this emerges to be good. Who exactly will be insuring that this requirement is met and sustained? Is this to be expected of the LAHJ during inspection of the installation of the home? Who will insure that LAHJ or other parties will be fully trained upon the Model Installation Standards, the MHCSS (24 CFR part 3280) and the Manufactured Home Procedural and Enforcement Regulations (23 CFR part 3282) ... especially in locations where there is no SAA or a HUD approved state program?</p>
<p>21520</p>	<p>Subpart B - Pre-Installation Considerations § 3285.102 Design zone maps.</p>	<p>'The design zone maps are those identified in part 3280 of this chapter. (a) Wind zone. ... (b) Roof load zone. ... (c) Thermal zone. ...' Should not the referenced design zone maps identified in part 3280 also be included within this document as well? Since installer might be required to follow specifics of this document in absence of the manufacturer's installation manual or the absence of state and/or local rules / regulations governing the installation.</p>
<p>21520</p>	<p>Subpart C - Site Preparation § 3285.201 Soil conditions.</p>	<p>'... All organic material subject to decay, such as grass, roots, twigs, and wood scraps must be removed in areas where footings are to be placed.' All organic materials should be removed from the entire area underneath the proposed home site. Any organic materials left can result and cause other determinable effects to support systems and anchorage of the home.</p>
<p>21523</p>	<p>Subpart C - Site Preparation § 3285.204 Ground moisture control. (c) Proper installation.</p>	<p>'(1) The entire area under the home, except for areas under open decks, porches, or recessed entries, must be covered with the vapor retarder as noted in § 3285.204(a) and must be overlapped at least 12 inches at all joints.' While overlapping of all joints is a good best trade practice to follow ... the joint should also be sealed as well to ensure closure of the vapor barrier preventing the infiltration of moisture in to the underneath area. '(3) Minor voids or tears in the vapor retarder do not require repair.' All voids and tears must to be sealed (repaired) to prevent moisture penetration into the area underneath the home. Allowing any voids and tears would virtually render the vapor barrier useless.</p>

<p>21540 thru 21543</p>	<p>Subpart E - Anchorage Against Wind § 3285.402 Ground anchor installations. <i>Figures and Illustrations</i></p>	<p>Following Figure A to § 3285.402 on page 21540 ... there needs to be a figure illustrating the longitudinal anchors and tie-down straps. Following the illustration on page 21543 ... there should to be a blown-up illustration showing the correct and in-correct methods of attachment of the tie-down straps to the chassis beams as noted in note #2. Further illustrations should be included that shows the correct and/or in-correct methods of ground anchor installations, stabilizer plates, strap attachment (swivel strap, frame tie w/ hook, frame tie w/ buckle), proper strap tensioning, concrete slab anchors, etc. COMMENT ... Anchorage is perhaps the least properly understood and installed element of the installation process for manufactured homes along with that of piers and footings.</p>
<p>21547</p>	<p>Subpart F - Optional Features § 3285.503 Optional appliances.</p>	<p>'Figure to § 3285.503 - Dryer Exhaust System.' Unfortunately the illustration to the left shows a reverse slope that is contradictory of note #2.</p>
<p>21547</p>	<p>Subpart F - Optional Features § 3285.505 Crawlspace ventilation.</p>	<p>'(a) A crawlspace with skirting must be provided with ventilation openings. The minimum net area of ventilation openings must not be less than one square foot (ft2) for every 150 square feet (ft2) of the home's floor area. The total area of ventilation openings may be reduced to one square foot (ft2) for every 1,500 square feet (ft2) of the home's floor area where a uniform 6-mil polyethylene sheet material or other acceptable vapor retarder is installed according to § 3285.204, on the ground surface beneath the entire floor area of the home.' Acceptable industry standards for crawlspace ventilation are 1 SqFt for every 150 SqFt over non-vapor barrier protected soils. Ventilation requirements over a vapor barrier protected soils is typically reduced to 1 SqFt for every 300 SqFt and when on concrete slabs or permanent foundations the requirements are further reduced to 1 SqFt of ventilation for every 600 SqFt of floor space. Allowing 1 SqFt for every 1,500 SqFt (when a vapor retarder [barrier] is installed) could theoretically allow only a single vent to be installed (in reality two vents ... since most 8x16 vents provide only approximately 0.67 SqFt of free flow open area), thus producing non-acceptable, non-functional ventilation of the crawlspace area. Best trade practices require at least no less than four vents, near the ends to provide for proper air-flow (circulation) to promote necessary cross-ventilation of the space. The purpose and reason for the ventilation requirements is to promote humidity control for management of mold / mildew as well as temperature handling. Further, requiring automatic vents that are self-regulating would provide for a better solution than that of manual vents for the ventilation of the crawlspace, eliminating the human interaction factor. '(e) Access opening(s) not less than 18 inches in any dimension and not less than three square feet (ft2) in area must be provided and must be located so that any utility connections located under the home are accessible.' A minimum access opening such as that used else where in the building codes would be an opening of not less than 24" by 30" or five square feet (ft2). A not less than 18 inch in any dimension is typically not large enough for service personal to access the underneath side of the home.</p>

21547	Subpart I - Exterior and Interior Close Up § 3285.801 Exterior close-up. (f) Hinged roofs and eaves.	'(2) The completed hinged roof pitch is less than 7 on 12, and' Believe the roof pitch statement should be 7 in 12 verses 7 on 12
21554	Subpart I - Exterior and Interior Close Up § 3285.802 Structural interconnection of multi-section homes.	'(c) Gaps between the structural elements being interconnected along the mate-line of multi-section homes must not exceed 1 1/2 inches and must be shimmed with dimensional lumber.' Believe 1 1/2 inch gap between structural elements far exceeds an acceptable tolerance. These homes are built in a factory environment that should be under controlled conditions, which should be able to maintain tighter tolerances. Believe this should be reduced to no more than 3/4 inch gap between structural elements.
21554	Subpart I - Exterior and Interior Close Up § 3285.803 Interior close-up.	'(c) At a minimum, all shipped-loose wall paneling, necessary for the joining of all sections of the home, must be installed by using polyvinyl acetate (PVA) adhesive on all framing members and fastened with minimum one-inch long staples or nails at 6 inches on center panel edges and 12 inches on center in the field (Refer to Figure to § 3285.803). The usage of PVA on wall paneling used to close up the marriage line presents issues with damage to the wall panels if the home is ever to be taken apart for relocation and reinstallation. This requirement at the marriage line should be a site-specific determination. Additionally, due in part to potential alignments of walls, floors, ceilings in multi-section homes; sometimes shimming becomes necessary to maintain square and plumb; and the attachment of trims and moldings ... thus staples and/or nails need to be at least 1 1/2 inches long at a minimum typically.
21556	Subpart I - Exterior and Interior Close Up § 3285.804 Bottom board repair	<u>Addition provision to this section ...</u> All crossover connection and other access panel portals must be checked for proper insulation and closure of the underbelly cavity.
21557 and 21558	Subpart J—Recommendations for Manufacturer Installation Instructions § 3285.905 Utility system connections.	<u>Addition provision to this section ...</u> Reference to other applicable recognized standards should be integrated ... such as that of Article 550 — Mobile Homes, Manufactured Homes, and Mobile Home Parks of the NEC (NFPA 70 – National Electrical Code) and another recognized standards for plumbing (water / sewer) and LP gas systems as germane to utility system connections.
21559	Subpart J—Recommendations for Manufacturer Installation Instructions § 3285.907 Telephone and cable TV.	<u>Addition provision to this section ...</u> While this section does not specifically address telephone and cable TV connections ... reference, however, to the applicable sections of the NEC (NFPA 70 – National Electrical Code) should be incorporated.

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Re: Docket No. FR-4929-p-01
HUD -2005-0006
RIN 2502-A125
Model Manufactured Home Installation Standards

Dear Sir or Madam:

I am submitting the following comments for your consideration. I am a member of the Manufactured Housing Consensus Committee (MHCC) where I represent consumer interests and serve as Chairman. I am also the former Administrator of the Oregon Manufactured Housing Program until my retirement in January 2004. I currently have the support of the Oregon Manufactured Homeowners Association to continue serving on the Manufactured Housing Consensus Committee representing consumers.

My comments are broken down into two categories: Broad Procedural / Legal Comments and Technical Comments:

I. PROCEDURAL AND LEGAL COMMENTS

A. GENERAL COMMENT: The Installation Standards should be considered manufactured home construction and safety standards and be included as a subpart of 24 CFR 3280, Manufactured Housing Construction and Safety Standards. The Installation Standards should not be adopted as a separate part – (i.e. 3285) and should not be considered separate from the manufactured housing construction and safety standards as contained in the proposed rule.

RATIONALE: The Manufactured Housing Improvement Act of 2000 (MHIA 2000) defines a federal manufactured home construction and safety standard as “a reasonable standard for the construction, design and performance of a manufactured home which meets the needs of the public for quality, durability, and safety.”

The proposed installation standards definitely affect the home’s performance in meeting the homeowner’s needs for housing. Poor home installation on its foundation, which is regulated under the installation standards, could definitely cause safety problems for the home owner.

Additionally, all other housing construction codes include foundations as part of the construction standards for the home. Manufactured housing should treat installation of the home on its

17
foundation in the same manner and have the installation standards be considered part of the manufactured home construction and safety standards.

If the installation standards were considered a type of manufactured home construction and safety standard, a number of problems that are currently in the proposed rules would be alleviated. Major problems with the proposed rules that would be alleviated include:

First and foremost, preemption of installation standards would apply in default states and the manufacturer's instructions that comply with these installation standards would be the typical way a home would be installed.

The proposed rule considers installation standards separate and distinct from the Manufactured Housing Construction and Safety Standards-24 CFR Part 3280 and consequently preemption would not apply.

The unintended consequence of this would permit individual jurisdictions in default states to impose additional regulations, over and above those specified in these federal installation standards. This can easily result in multiple levels of quality, design features and safety being provided in multiple jurisdictions (town, city, county) in a default state.

Local jurisdictions could use their regulations to discriminate against manufactured housing by imposing standards that could not be met.

Further, it would then be incumbent on HUD to determine how to monitor these individual levels of performance. Realistically, human resource limitations and financial resource limitations imposed on HUD simply would not allow these multiple levels of performance to be adequately scrutinized by the HUD Program Staff.

Second, by having installation standards considered as a type of manufactured home construction and safety standard, the full enforcement and administrative authority under the MHIA of 2000 that is contained through out the MHIA of 2000 would apply to installation standards.

And third, the MHIA of 2000 requires the manufacturer in Section 605 (a) to provide design and instructions for installing the manufactured home that have been approved by a design approval agency which has determined the manufacturer's design and instructions provide equal or greater protection than the protections provided under the installation standards. Preemption would then allow the manufacturers installation instructions to be used and not subject to rejection by local jurisdictions as suggested in the proposed rule.

B. P. 21499 SUMMARY – Column 1 last paragraph: HUD is soliciting comments on the distinction between construction and assembly of Manufactured Homes and the installation of Manufactured Homes and specifically how close-up of multi-wide manufactured homes should be treated.

COMMENTS: The concept of “close-up” for multi-wide manufactured homes needs to be considered as part of the Installation Standards that should be a subpart under the Construction

17
Standards covering the process of installing the home on its foundation. Another subpart should cover producing the home in the factory.

A clear delineation between the manufacturing process and the installation process covering work activities facilitating the placement of the home for use and occupancy by the consumer must be clearly maintained. It is unreasonable to expect and/or hold the manufacturer totally responsible for the close-up work that will be performed by another entity that is not under the control of, or have a contractual relationship with, the manufacturer.

The exception would be for those circumstances where the manufacturer authorizes or licenses an agent to serve in a role on behalf of the manufacturer to complete work that normally would have been done in the factory except for the real possibility of transportation damage to the home when it travels to the building lot.

It is not practicable to hold the manufacturer responsible – either in a control or monitoring role for what happens during the installation of the home when the manufacturer has no contractual relationship with the installer. The installer should carry the burden to be held accountable for the work the installer performs; thus it is appropriate for the installation standards to address the close-up issues.

C. P. 21518 Subpart A General. 3285.1 Administration. The following concepts recommended by the MHCC should be added back into the proposed rule as follow:

“The manufacturer’s installation instructions shall apply under any of the following conditions where they do not take the home out of compliance with the federal Manufactured Housing Construction and Safety Standards:

- (1) To items not covered by this standard;
- (2) Where the manufacturer’s approved installation instructions provide a specific method of performing a specific operation or assembly;
- (3) Where the manufacturers approved installation instructions exceed this standard.”

RATIONALE: This concept is embedded in Section 605(a) of the MHIA of 2000 that states in part: “A manufacturer shall provide with each manufactured home, design and instructions for the installation of the manufactured home that have been approved by a design approval primary inspection agency... a design approval agency may not give such approval unless a design and instructions provides equal or greater protection than the protection provided under such model standards.”

As currently proposed by the Department, it would appear that an installer could have their hands tied if any of the three conditions noted above are present. Further, local jurisdictions could reject the manufacturer’s design and installation instructions in the default states and substitute their own requirements.

The draft installation standard submitted by the MHCC to the Department on 18 December 2003 contained such scoping language. (See MHCC Draft Standard at § 1.1, Scope) The MHCC wanted to address issues such as home specific, or installation specific procedures or circumstances that would necessitate some level of over-ride to the model installation standards. Such departures from the proposed standard could only be applied if one or more of the limited conditions were present.

While the proposed installation standard is very comprehensive it is also performance based and the manufacturer needs to have the flexibility to cover field installation circumstances that were not contemplated by the standard or to require specific designs and instructions providing the same or greater level of performance as that contemplated in the installation standards. As required by the law, a DAPIA approved set of design and installation instructions must still be filed and made available to the homeowner and installer.

Without the proposed language, the installer could potentially just follow the criteria of the installation standards even if the manufacturer had specified a different method. I do not believe that that was the intent of the law. Likewise, if the manufacturer has a proprietary method for completing the on site installation, the language of the installation standard should not preclude using that approach.

D.	P. 21523	3285.301 (d) (2).
	P. 21523	3285.301(d)(2)
	P. 21529	3285.306 (c)
	P. 21533	3285.310 (c)
	P. 21536	3285.312(c)(1)
	P. 21536	3285.312(c)(2)
	P. 21538	3285.314 (b)
	P. 21539	3285.401(b)
	P. 21540	3285.402(b)(2)
	P. 21543	3285.402(c)

In all of the noted Sections above revise the language to read: "... Must be prepared by the manufacturer or by a registered professional engineer or a registered architect in accordance with the manufacture's home design and the Manufactured Home Construction and Safety Standards (3280)."

RATIONALE: As proposed by the department, "acceptable engineering practice" can be broadly interpreted. This might range from techniques that are appropriate for site built homes, modular homes or even small footprint commercial buildings. Designs intended for the proper installation of a manufactured home should be based on specific, manufactured home criteria and the manufacturer's design for that home.

As proposed, the language suggested by the Department has 4 problems:

1. First, the statement seems to require manufacturer's staff to be registered PE' s or architects for all aspects of the design;

2. Unless the PE or Architect is familiar with the design and construction of manufactured homes they may apply "acceptable engineering criteria for site built residential construction" to manufactured homes;

3. Registered in what state? State of manufacture or installation?; and

4. Requiring PE' s or architects to do as much as the proposed installation standards seems to require for every installation rather than having the manufacturer provide this information drives up the cost of the installation significantly with no obvious benefit.

E. P. 21536 3285.312 (c) (1) Revise the section to use similar language as used to address flood damage in the proposed rule such as: "Footings placed in freezing climates must be designed and installed using methods and practices that prevent the effects of frost heaves in accordance with the manufactured home design and the requirements of the Manufactured Home Construction and Safety Standards (3280)."

RATIONALE: Footings placed in freezing climates must be designed and installed using methods and practices that prevent the effects of frost heaves in accordance with the manufactured home design and the requirements of the Manufactured Home Construction and Safety Standards (3280).

The proposed language in this comment provides a better description of the intended performance level of the particular feature and is in keeping with other Construction and Safety Standards that are performance based. In this case, the overall performance objective is to integrate a design that will not result in frost heave. Frost heave is the mostly likely condition that would cause damage. This approach for this particular design element is consistent with HUD's proposed language with respect to flood hazards (See Proposed Section 3285.101 (d)). I would recommend a similar approach for all related environmental design loads that the Department decides to include in the Installation standards such as seismic, flood, frost and wind.

F. P. 21538. 3285.314(a). Delete (a) in its entirety and replace with: "The placement of a manufactured home on a permanent foundation must be in accordance with state requirements, installed in accordance with their listing by a national recognized testing agency based on a nationally recognized testing protocol or installed in accordance with the manufacturer's approved permanent foundation installation instructions and in all cases, based on the home's design and the load requirements of the Manufactured Home Construction and Safety Standards (3280)."

RATIONALE: The changes recommended in this Section will help to insure that the default states set a criterion for all jurisdictions in that state that will establish minimum performance levels for permanent foundation systems. As noted in an earlier comment, allowing all manner of locally controlled and regulated permanent foundation systems will lead to myriad of options. A state specified regulation will preclude such potential issues.

17
In addition, the change also offers precise guidance to both the manufacturer and the installer. Specifically, the permanent foundation must be one that has been evaluated by a nationally recognized testing laboratory or one that has been specifically engineered by the manufacturer. Further, the language imposes a condition that will be specific to the actual home design and that relates to the design load requirements of the installation standards.

The proposed language in these comments would delete the language in the proposed rule concerning what lenders may or may not accept. What lenders do is really up to the lenders and should not be a part of the Installation Standards being adopted by the Department as required by the MHLA of 2000.

II. TECHNICAL COMMENTS:

A. pg. 21506 Applicability: The proposed rule removed references to recreational vehicles and park trailers that were in the model installation standards that was submitted to the Department by the MHCC and the references should be added back into the proposed rules.

COMMENTS: Park trailers that are a type of recreational vehicle can be built to both manufactured home construction standards and recreational vehicle standards. Consequently, the proposed installation standards need to recognize this occurrence and indicate how the home should be installed. The MHCC proposed model installation standards submitted to the Department recognized this and indicated the installation standards do not apply to RV's but do apply to park trailers built to park trailer standards and MHCC construction standards. Also references to NFPA 1192 (RV's) and ANSI Park Trailer needs to be added to the references on pg. 21518.

B. pg. 21506: The proposed rule dropped out provisions for finishing the home such as the need to use vapor barrier paint if required by the manufacturer and / or how to finish tape and texture.

COMMENTS: The proposed description of close up is too narrow and leaves out the reality that more goes on as part of close up of the home than just the connection of utilities and sealing of the units at the mate line. The model proposed installation standards submitted by the MHCC to the Department understood this and offered the proposed language that needs to be added to these rules.

C. pg. 21518, third column under 3285.3: After "or its foundation delete: without design by a registered professional engineer or registered architect or being and insert "and must be" in front of expressly.

COMMENTS: The manufacturer is responsible for the portion of the home's construction that could have been done in the factory. If alterations are being made to that portion of the home, the manufacturer needs to approve those alterations in order to make sure the home still meets the construction standards.

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D. pg 21520 under 3285.202 (a) (1): "After Soil tests." Delete the rest of the sentence and insert MHCC model installation standards recommendation "A pocket penetrometer or method acceptable to the Secretary shall be permitted to be used."

COMMENTS: The MHCC model installation standards presented to the Department proposed the use of pocket penetrometers. Pocket penetrometers are allowed by other construction codes and are in common use through out the United States for determining the soil bearing capacity of residential building lots when the conditions under 3285.202 (1)(b) are not present. Requiring engineering only drives up the cost of installation.

E. pg 21536 under 3285.312(c) (2) and (3) and under 3285.312 (c) (3): Delete and in insert "or".

COMMENTS: For monolithic slab systems and insulated foundations there should be two ways to obtain approval which is what the MHCC proposed in the model installation standards presented to the Department. Use the manufacturer, engineer or architect or follow a recognized national standard; you do not need to do both. To do so would needlessly drive up the cost of installation.

III. CONCLUSION

It is essential that the Department address the Procedural and Legal problems contained in the proposed rules so there is a federal model installation standard that holds installers accountable for the work they perform. To continue with the assumptions in the proposed rules would do tremendous harm to the industry and will not help consumer get the problems with their homes fixed.

Sincerely,

Dana C. Roberts
Member, Oregon Manufactured Homeowners Association
Consumer Representative on the Manufactured Housing Consensus Committee



ARKANSAS MANUFACTURED HOUSING ASSOCIATION

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June 22, 2005

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Re: Docket No. FR-4928-P-01
HUD 2005-0006
RIN 2502-A125
Model Manufactured Home Installation Standards

Dear Sir or Madam:

The following comments are submitted in response to the invitation issued in *The Federal Register* (Volume 70, Number 79 - Tuesday, April 26, 2005) to parties interested in the development of Model Manufactured Home Installation Standards. The comments are submitted on behalf of the members of the Arkansas Manufactured Housing Association (AMHA), a trade association representing the interests of manufacturers, retailers, installers, finance companies, insurers and suppliers of component parts and services to the factory-built housing industry serving the state of Arkansas.

AMHA is dedicated to providing high-quality, affordable housing to the people of the state of Arkansas. We would hope that the Department's efforts to enact Model Installation Standards would keep both of these goals - **quality and affordability** - squarely in mind.

AMHA's concerns with the proposed Model Installation Standard are best described in two basic groups - **1) procedural concerns** and **2) practical concerns**.

The procedural concerns relate primarily to the affect that the proposed Model Installation Standards would have on the continued superintendence of Federal Manufactured Home Construction and Safety Standards Program, the Department's interaction with the Manufactured

Model Manufactured Home Installation Standards Comments
June 22, 2005
Page 2

Housing Consensus Committee (under the provisions of the Manufactured Housing Improvement Act of 2000) and the Department's involvement with State Administrative Agencies (SAAs) that administer both Federal and state-based programs throughout the country.

The practical concerns addressed by comment in this correspondence are primarily related to additional administrative burdens placed on retailers or installers 'in the field' and items in the Model Standards that could unnecessarily increase the cost of home installation to the purchaser.

1) PROCEDURAL CONCERNS

A) Codification of Model Installation Standards @ Part 3285

It is our understanding that the proposal to codify the Model Installation Standards at 24 CFR 3285 would remove the Manufactured Home Consensus Committee from the process of amending or clarifying the standards in the future.

We assert that Congress was clear in the 2000 Act that the Consensus Committee should be directly involved with the development and amendment of such standards, and that any proposed Standards should be codified as an addendum to current rules (Part 3280) - within the clearly defined jurisdiction of the Consensus Committee.

B) Federal Preemption

This concern stems from the 'preemptive nature' of the Federal program. The Department has been relatively clear in its interpretation of the preemption of state and local standards governing construction and safety, but has fallen miserably short in its interpretation of preemption as it relates to location, installation and zoning - deferring to Local Authorities Having Jurisdiction over such matters. The Department's unwillingness or inability to "broadly and liberally construe" preemption has resulted in the establishment or continuance of regulatory barriers against the use of manufactured housing as an affordable housing resource in municipalities throughout the country - in direct conflict with the 2000 Act's stated purpose: "to facilitate the availability of affordable manufactured homes and to increase homeownership..."

AMHA contends that any further deference to local areas having jurisdiction in the realm of installation will only further dilute preemption and the federal superintendence of the program - resulting in the establishment of future barriers to the use of manufactured homes due to disparate local standards.

Model Manufactured Home Installation Standards Comments

June 22, 2005

Page 3

C) *State Programs Currently In Place - Federalism*

As a 'fully approved SAA state', Arkansas has developed a state program for the licensing of industry entities, consumer complaint resolution and rules and regulations for the installation of new and used homes sited in the state. Briefly, the Arkansas program calls for new homes to be installed in accordance with the manufacturer's instructions and for used homes to be installed according to the state's rules for installation and anchoring.

It appears in the Summary of the proposed Model Installation Standards - Subpart A - that states choosing to operate an installation program will be subject to 'qualification' under separate provisions to be set forth in subsequent rule making.

The Summary of the proposed Model Installation Standards includes a statement concerning the Federalism implications of the regulation. It would seem clear that the proposed Standard seeks to create a Federal program that could preempt existing state programs established under state law - a right reserved to the states under the 2000 Act.

AMHA is concerned that future requirements for state programs to 'qualify' could make the program unsustainable in non-producing and small-shipment states - resulting in states with currently approved SAA programs to opt for default status, further weakening the Federal superintendence of the program.

2) PRACTICAL CONCERNS

In much more general terms, AMHA is concerned that aspects of the Model Installation Standards are unnecessarily limiting or overly-prescriptive from a practical or technical standpoint for retailers or installers performing the actual installation of the home.

Many of these proposed guidelines will substantially inflate the cost of the installation of the home - without correspondingly improving the value of the home, the integrity or performance of the structure or the safety of the occupant(s).

This group of concerns stems from the proposed Model Installation Standards' provisions including, but not limited to:

- *Anchor Corrosion Protection [3285.402]*
- *Stabilizer Plates [3285.402(b)(3)(ii)]*
- *Footings Below Frost Line [3285.312(c)]*
- *Removal of Organic Material [3285.201]*

10

Model Manufactured Home Installation Standards Comments

June 22, 2005

Page 4

- *Longitudinal Anchoring [3285.402 (b) (2)]*
- *P.E. Required for Site Preparation [3285.2]*
- *'Acceptable Engineering Practices' [Multiple Sections]*
- *Soil Testing (No Penetrometer) [3285.202] and*
- *Compressive Strength of Blocks [3285.312(b)(i)]*

In general, these provisions are not supported with sufficient data or testing results to warrant inclusion as exclusive regulations for manufactured home installation.

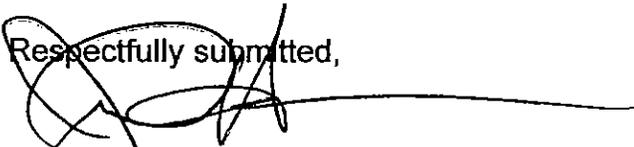
AMHA would recommend that the Department replace these (and other) sections that set prescriptive technical standards with performance-based requirements that provide a balance between the cost of compliance (affordability) and the verifiable benefits of enhanced performance of the home (quality and safety).

The Board of Directors of the Arkansas Manufactured Housing Association believes that the promulgation of Model Installation Standards is an integral part of the reforms included in the Manufactured Housing Improvement Act of 2000. For states with no program, states which choose to be 'default states' or states with only minimal guidelines - the Model Standards will provide needed protection for manufactured homebuyers.

However, the AMHA Board of Directors believes that the proposed Model Installation Standards published in *The Federal Register* create as many problems as they attempt to solve.

It is our sincere hope that the Department will carefully consider the recommendations of the Consensus Committee and all segments of the industry - **and make significant modifications to the proposed Model Installation Standards** - before the adoption of such broad-sweeping reforms.

Respectfully submitted,


J.D. Harper
Executive Director
Arkansas Manufactured Housing Association