U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

August 5, 2004

Robert E. Solomon, PE
Project Manager
National Fire Protection Association
1 Batterymarch Park
Quincy, MA 02269-7422

Re: Update on the Proposed Rule for the Manufactured Home Installation Program

Dear Mr. Solomon:

Please accept this letter on behalf of the Department as an update to the Manufactured Housing Consensus Committee (MHCC) on the proposed rule for the establishment of the Manufactured Home Installation Program required by section 605 of the National Manufactured Housing Construction and Safety Standards Act, as amended, (42 U.S.C. § 5404).

The program office has carefully considered the MHCC's Outline of Model Installation Program, as well as the comments received from the Advance Notice of Proposed Rulemaking in its development of the proposed rule. I would like to thank the Committee on behalf of Secretary Jackson, Commissioner Weicher, and the Department, for the Outline of Model Installation Program that helped shape our thinking.

Following is an outline of the program office's current thoughts for the Installation Program. We look forward to presenting and discussing the proposed program with the Committee at its meeting next week, and to receiving the Committee's further views regarding this important program.

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Outline of Program

Licensing and Training

Installation Standards

A separate letter has been sent to the MHCC that discusses the Installation Standards which would be enforced under the Department's Installation Program.

License Application and Renewal

The program office believes it would be impractical to recognize multiple licensing agencies, and therefore the proposed rule would provide for centralized licensing by the Department in Federal program states for three-year periods. License applications and renewals would be processed by a contractor under a contract that would be funded, in whole or part, by fees charged to license applicants.

Testing

The proposed rule would require installers to successfully complete a standardized test as a condition of licensing. The test would be administered by a contractor. Fees charged to license applicants would fund the contract. An applicant would be required to submit proof of a passing grade with the license application.

Bonding/Insurance

The proposed rule would also require installers to provide proof of bonding or insurance. Such proof would be provided with the initial application and when licenses are renewed. The Department itself would not administer a bonding program. Public comment would be sought regarding the best method to implement this requirement.

Initial Training and Continuing Education

The proposed rule would recommend 12 classroom hours of initial training, and proof of training completion would be required with a license application. The proposed rule would also recommend 8 classroom hours of continuing education over each three-year license term, and require proof of completion of this continuing education with each renewal application.

Training Providers

The proposed rule would allow a broad range of providers to conduct training, including private trainers, state and local governments, manufacturers, industry and trade associations, manufacturers, colleges and universities, as well as the Department and its contractors. The

MHCC recommendation for reciprocity between state and Federal training programs would be included on an optional rather than mandatory basis in the proposed rule, as the program office does not want to dictate what training programs the states would be required to accept.

The proposed rule would establish minimum competency requirements for training providers, though the program office, due to cost and other factors, anticipates performing limited oversight of such providers. The rule would require registration of training providers, and a list of registered providers would be maintained on a website. Training providers would self-certify that they are qualified to offer the course and provide the Department with limited information on course content. It is expected that a contractor would receive and maintain training provider registration information.

Web-Based Training

The proposed rule would allow for the development of web-based training. However, due to its limited ability to oversee training providers, the program office would not recommend self-certification of Internet providers. Therefore, the proposed rule would provide that each web-based program be certified by the Department or its contractor, who would evaluate equivalency.

Certification of Proper Installation and Inspection

Tracking of Homes

The Department must have a timely and accurate method of determining which homes are shipped to states in which the Installation Program is administered by the Department. The proposed rule would provide for a web-based system to track home shipments. The manufacturer would first enter the retailer destination to which the home is shipped. Once the home is sold, the retailer would enter the home's installation location. If the retailer identifies a location where a state runs the program, the tracking of the home by the Department would stop. If the home is being sited in a state where the Department runs the Installation Program, the retailer would be responsible for assigning the home to a licensed installer.

Installer Certification

The proposed rule would require the installer to provide certification that the home has been installed in accordance with the Installation Standards. The certification would be made through a web-based system, which would require the installer to identify the third-party inspector who reviewed and approved the installation, and indicate the type of foundation system used. After certification is complete, the system would assign a unique completion number and allow the installer or retailer to print out a completion certificate. This would eliminate the need to send paper copies to the Department, as well as the need for seals and creation of a burdensome system to issue and track seals.

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Inspection: Cost and Scheduling

The proposed rule would require the installer, rather than the Department or its contractor, to arrange and pay for inspections. It would also be the installer's responsibility to ensure that inspectors meet minimum qualifications specified by the regulations, and that they are otherwise competent to inspect manufactured home installations as discussed in the next paragraph.

Third-Party Inspectors

The proposed rule would require that every initial installation of a manufactured home be inspected. Inspectors would have to meet qualifications specified in the regulations. If the inspector were from a local authority having jurisdiction (LAHJ), that LAHJ would be required to have a residential code enforcement program. Independent inspectors could be professional engineers, registered architects, or persons working under the direct supervision of professional engineers and registered architects. They would be qualified as inspectors by virtue of their professional status without further training or licensing. The proposed rule would not provide for direct Departmental oversight of third-party inspectors, but would allow for monitoring by the Department based on a review of consumer complaints or installation records.

Enforcement

General Enforcement

The proposed rule would establish the criteria and process for the denial, suspension, or revocation of an installer's license. Under the Act, failure to comply with program requirements is subject to civil and criminal penalties and injunctive actions. The Department is considering denial or suspension of installation licenses as a means of requiring installers to correct any improper installations, and would appreciate the Committee's views on this issue.

HUD Oversight and Investigation

The proposed rule would focus enforcement resources on potential problem areas rather than on a routine audit program for all installations. Consumer complaints would be one of the primary triggers for oversight investigations. Unusual data trends observed in HUD installation records may also trigger investigations.

State Run Installation Programs

The proposed rule would provide that the Federal program would operate in a state unless that state certifies that it has its own qualifying program. A state would be required to certify that the state's program meets the statutory requirements for a qualifying program: that it has

installation standards that equal or exceed the level of protection provided by the Federal Installation Standards, and that its program includes adequate training and licensing of installers, and inspection of installations.

Re-certification would be required at specified intervals, or whenever there is a significant revision to a state's installation standards or program elements, or revisions to the Federal Installation Program. If the Department rejects a state's certification, the state would be given an opportunity to cure the inadequacy. If the state fails to cure, the Department would notify the state that the Federal Installation Program would apply in that state. The state would then have a right to a hearing on the disapproval in accordance with a procedure similar to the current provision for rejection of state plans.

Again, the Department appreciates the dedication and insight of the MHCC in providing us with the Outline of Model Installation Program. We look forward to your further thoughts.

Sincerely,

William W. Matchneer III
FOR Administrator
Office of Manufactured Housing Programs