



U.S. Department of Energy
Office of Energy Efficiency and Renewable
Energy, Building Technologies Program
Mailstop EE-2J
1000 Independence Avenue, S.W.
Washington, DC 20585-1585

May 29, 2012

Reference: Regulatory Burden RFI

Dear Sir or Madam:

On behalf of the Manufactured Housing Institute (MHI) I am pleased to respond to the Department of Energy's (DOE's) May 15, 2012 request for comments and information regarding regulations that should be modified, streamlined, expanded, or repealed as a part of its implementation of [Executive Order 13563](#), "Improving Regulation and Regulatory Review," issued by the President on January 18, 2011.

MHI is the national trade association representing all segments of the factory-built housing industry including manufacturers, lenders, community owners, retailers, and state associations.

MANUFACTURED HOUSING IS AN IMPORTANT SOURCE OF SHELTER AND A SIGNIFICANT ECONOMIC ENGINE

Manufactured homes serve many housing needs in a wide range of communities—from rural areas where housing alternatives (rental or purchase) are few and construction labor is scarce and/or costly (nearly two-out-of-three manufactured homes are located in rural areas), to higher-cost metropolitan areas as in-fill applications. Without land, the average purchase price of a new manufactured home is \$62,800, versus \$272,900 for a new site-built home (Source: U.S. Census Bureau), which is affordable by almost any measure.

In addition to the valuable role it plays in providing reliable, efficient and affordable housing for 19 million Americans, the manufactured housing industry is an important economic engine. In 2011, the industry produced just over 50,000 new homes, which were produced in more than 120 home-building facilities, operated by 45 different companies, and sold in 4,000 retail home sales centers across the U.S.—generating 75,000 full-time, good-paying, jobs.

Despite its role as a valuable source of affordable housing, a driver of the U.S. economy, and a model of efficiency and sustainability in the larger housing industry, the manufactured housing industry has had ongoing challenges over the past decade. Since 2005, the pace of new manufactured homes sold in the

U.S. has declined by 65 percent (146,881 in 2005 vs. 51,606 in 2011) and there has been a decline of nearly 80 percent since 2000 (when 250,419 new manufactured homes were produced).

ELIMINATE DUPLICATIVE ENFORCEMENT OF MANUFACTURED HOUSING ENERGY EFFICIENCY STANDARDS

The Energy Independence and Security Act of 2007 (EISA; P.L. 110-140) contains provisions requiring the Department of Energy (DOE) to establish and implement energy efficiency standards for manufactured housing (Sec. 413). The legislation moves HUD's statutory responsibility for manufactured home energy standards to DOE.

The law effectively replicates HUD's statutory responsibility for manufactured home energy standards within DOE and establishes a duplicative regulatory standard and system for the manufactured housing industry. A draft proposed DOE rule establishing new energy efficiency standards and regulations for manufactured housing is pending at the Office of Management and Budget.

MHI believes this dual regulation will have the real impact of raising the costs on affordable manufactured housing and costing jobs in an industry already suffering through a significant decline.

The draft proposed DOE Rule imposes overlapping and potentially contradictory regulation

Manufacturers will be subject to building and construction standards, enforcement and oversight by two federal agencies. The proposed rules establish new energy requirements that are currently covered by the HUD Manufactured Housing Construction and Safety Standards (MHCSS). However, the rule also gives DOE broad authority to set, monitor and enforce compliance with new energy efficiency standards. Meanwhile, HUD would continue to oversee compliance and enforcement of its own standards and regulations. This will result in parallel regulation and enforcement by two agencies, creating a duplication of effort and overlap of responsibilities. The draft proposed rule will add cost, blur the lines of accountability and potentially create confusion among industry and regulators.

For example, the draft rule would: result in overlapping or contradictory technical requirements without a clear path to resolution; necessitate a substantial amount of redundant recordkeeping; create the real possibility that each agency may opt to choose separate third-party enforcement agents with potentially overlapping responsibilities and conflicting procedures for verifying compliance; and, provide harsh civil penalties for non-compliance that may conflict with existing HUD regulations.

The draft proposed DOE rule contains onerous and unrealistic testing requirements

Compliance with the draft DOE standards requires homes to be tested in the factory. Separate testing is required to measure duct leakage, whole house (building shell) tightness and air infiltration rates for each window.

These requirements would add significant cost by requiring that the entire home be pre-assembled at the plant for testing purposes, tested following rigorous procedures, then be disassembled for transport to the building site. The testing would slow production, increasing cycle time and adding to production costs. The combined costs to conduct the tests are well in excess of DOE estimates and will add hundreds or possibly thousands of dollars to the cost of each home. High window and shell leakage, in particular, are not issues for new manufactured home construction; homes are routinely produced that are extremely tight. HUD recognized this fact in promulgating standards (subpart §3280) that require

each home be equipped with a whole house ventilation system, assuring sufficient air exchange with the outside. In short, the efficacy of and need for the tests have not been demonstrated by DOE. Evidence from research regarding leakage tests suggest that finding failures (leakage levels that exceed the standard maximum) immediately following plant production is a rare occurrence and, when excess leakage does occur, it is the result of installation of the home in the field (home installation is outside the purview of the proposed DOE standard). Testing every home as stipulated will engender a substantial cost without saving energy.

The proposed DOE draft rule will impact affordability

The vast majority of manufactured homebuyers are low- and moderate-income earners requiring homes that are broadly defined as “affordable.” As a result, even a small increase in home cost has a disproportionately large impact on manufactured homebuyers: on their ability to qualify for a home loan; on the proportion of income that goes toward mortgage payments; and, on their ability to purchase basic amenities. It is vitally important, therefore, that any increase in home cost resulting from new energy standards be cost justified; that is, not burden affordability by increasing costs without yielding compensating value (i.e., reducing energy costs).

The proposed DOE standard includes several provisions (e.g., testing, as noted above, among others) that increase cost without providing corresponding value. Further, DOE’s estimate of the cost impact is based on anecdotal data and incomplete analysis. For example, DOE estimates testing will cost about \$50 per home. The actual figure is likely to be an order of magnitude higher. Other factors that contribute to affordability and reduced purchasing power are not addressed by DOE in quantifying the financial impact of the standard. For example, current lending, appraisal and underwriting practices do not consider energy efficiency. More stringent energy standards, therefore, add an extra financial burden to homebuyers already struggling to qualify for a loan.

DOE’s own estimate of the total cost burden to the industry is \$4.5 million over four years. While MHI believes the actual cost is likely to be far greater, a careful and thorough cost analysis is warranted and necessary to understand how manufactured homebuyers and the industry will be impacted by the proposed standards. Promulgating standards that may adversely impact the ability of homebuyers to purchase and afford a manufactured home is ill-timed, particularly considering that the industry that has not yet begun to recover from a more than 80 percent decline in sales over the last decade resulting in 160 plants and over 7,500 retail home center closures and a loss of 200,000 jobs.

Other concerns regarding the draft proposed DOE rule

The draft rule is in conflict with provisions of the Manufactured Housing Construction and Safety Standards (MHCSS) Act that require the Manufactured Housing Consensus Committee to review and recommend proposed changes to the Manufactured Housing Construction and Safety Standards. Unlike the MHCSS process (and the IECC development process), the proposed DOE standards were not subject to broad review and critique by a broadly representative group of stakeholders and consensus approval.

Requiring more stringent and expensive energy measures (based on the 2012 IECC) creates a competitive disadvantage for the industry vis-a-vis site built homes. Currently only 26 states require site builders to build to the 2009 IRC. Sixteen states are building to the 2006 IECC and one (1) state is in the process of adopting the 2012 IECC. Over the next two years, less than one-half of the country will be building to the 2012 version of the IECC.

Finally, the mission of DOE and HUD are fundamentally different and conflicting. The Department of Energy's mission is to ensure America's security and prosperity by addressing its energy, environmental and nuclear challenges through transformative science and technology solutions. HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. While HUD actively seeks to protect housing affordability, DOE's primary mission is to find ways to save energy. MHI believes that new standards need to strike a balance: minimize energy use and costs for the next generation of manufactured homes while preserving affordability.

Thank you for the opportunity to comment, and please don't hesitate to contact me if you have questions or if I can provide additional information. My e-mail is lstarkey@mfghome.org, and my phone number is (703) 558-0654.

Sincerely,

A handwritten signature in black ink, appearing to read "Lois Starkey". The signature is written in a cursive style with a large, prominent initial "L".

Lois Starkey, Vice President
Regulatory Affairs