November 22, 2021

VIA ELECTRONIC SUBMISSION

Hon. Jennifer Granholm
Secretary
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0121

Re: Energy Conservation Program: Energy Conservation Standards for Manufactured Housing (EERE-2009-BT-BC-0021/RIN 1904-AC11)

Dear Secretary Granholm:

The following supplemental comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a Washington, D.C.-based national trade organization representing the views and interests of producers of manufactured housing regulated by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000 (2000 Reform Law).[1] MHARR was founded in 1985. Its members include independent manufactured housing producers from all regions of the United States.

I. INTRODUCTION

On August 26, 2021, the U.S. Department of Energy (DOE) published a Supplemental Notice of Proposed Rulemaking (SNPR) in the Federal Register to establish "Energy Conservation Standards for Manufactured Housing" pursuant to section 413 of the Energy Independence and Security Act of 2007 (EISA).[2] The original deadline set forth in the SNPR for written comments concerning the proposed standards was October 25, 2021.[3] By letter dated September 24, 2021, MHARR requested an extension of the SNPR comment deadline, insofar as the rulemaking initiated by the SNPR "involves complex and multi-faceted issues relating to technical matters as well as cost-impact and market exclusion considerations affecting manufactured homes" which are "specifically identified and protected under federal law as 'affordable' housing."[4]Among other

[1] See, 42 U.S.C. 5401, et seq.
[2] See, 42 U.S.C. 17071.
[3] See, 86 Federal Register, No. 164 (August 26, 2021), "Energy Conservation Standards for Manufactured Housing," pp. 47744, et seq. at p. 47744.
[4] See, Attachment 1, hereto.

things, MHARR noted in its September 24, 2021 comment deadline extension request, that DOE had not considered, in connection with its August 26, 2021 SNPR, "the latest cost-impact and financing impact data contained in either the 2020 U.S. Census Bureau Manufactured Housing Survey (2020 MHS), or a May 2021 Consumer Financial Protection Bureau report titled "Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data" (2021 CFPB Report).[5]

Subsequently, through a notice conveyed electronically to affected stakeholders on October 20, 2021 and published in the Federal Register on October 26, 2021,[6] DOE extended the deadline for comments on its August 26, 2021 SNPR to November 26, 2021, and simultaneously published (and made available for comment subject to the same November 26, 2021 deadline) a Notice of Data Availability (NODA) including, among other things, purported "analyses" of selected aspects of both the 2020 MHS data and the 2021 CFPB Report.[7]

While MHARR filed written comments in this docket on October 25, 2021, based on the originally-published comment deadline, it now submits these supplemental comments in order to address further and additional aspects of both the August 26, 2021 SNPR and the October 26, 2021 NODA. As with its initial October 25, 2021 comments, MHARR continues to strenuously oppose the proposed rule as a discriminatory and baseless attack on homeownership, the affordable mainstream manufactured housing market, and lower and moderate-income American families who rely on manufactured housing for affordable homeownership.

II. COMMENTS

A. THE NODA DOES NOT INDICATE WHETHER DOE WILL AMEND ITS PROPOSED RULE BASED ON THE LATEST PRICE IMPACT DATA

As a threshold matter, the October 26, 2021 NODA does not specifically state or indicate whether DOE is amending (or will amend) its August 26, 2021 SNPR proposed rule to provide for a different price threshold between "Tier1" and "Tier 2" of its allegedly "primary" tiered standards proposal. Under that proposal, as set forth in the August 26, 2021 SNPR, manufactured homes with a manufacturer's retail list price of $55,000 and below would be subject to allegedly less stringent and less costly DOE energy standards based on the 2021 International Energy Conservation Code (IECC), while manufactured homes with a manufacturer's retail list price above $55,000 would be subject to more stringent and significantly more costly energy standards, again based on the 2021 IECC.[8] As MHARR emphasized in its initial October 25, 2021 comments, however, the $55,000 dividing line between "Tier 1" and "Tier 2" standards selected by DOE is fundamentally arbitrary and capricious, and – in light of current inflationary and raw materials price trends – would limit the applicability of the proposed "Tier 1" standards to a mere 17.3% of

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[5] Id.

[6] See, 86 Federal Register, No. 204 (October 26, 2021), "Energy Conservation Standards for Manufactured Housing: Availability of Provisional Analysis," pp. 59042, et seq.

[7] DOE's failure to address the data contained in both of these reports was addressed in MHARR's initial October 25, 2021 comments in this docket (MHARR October 25, 2021 comments), incorporated herein by reference.

[8] See, 86 Federal Register, No. 164, supra at p. 47746.

the total HUD Code manufactured housing market notwithstanding the fact that all manufactured housing is identified and protected as "affordable" housing under applicable federal law.[9]

Apparently in response to MHARR's assertion, as set forth in its previous comments in this docket, that the $55,000 threshold set forth in the August 26, 2021 SNPR proposed rule: (1) falls below the 2020 "average" sales price of a single-section manufactured home, as reported by the U.S. Census Bureau; (2) fails to consider, incorporate or apply the most recent cost data; and (3) is, therefore, arbitrary, capricious and an abuse of discretion in violation of the federal Administrative Procedure Act (APA), the October 26, 2021 NODA addresses the most recent manufactured housing price information contained in the Census Bureau's 2020 Manufactured Housing Survey (MHS). Based on that information and supposedly applying the same analytical framework as utilized by the August 26, 2021 SNPR, DOE has now concluded that the "2020 data yields a sales price of approximately $63,000 (in real 2020$)." It then refers to that amount as an "updated tier threshold."[10]

While it thus appears that DOE has recalculated its tier threshold based on the 2020 MHS data, the NODA does not specifically state whether DOE is amending, has amended, or will amend its August 26, 2021 proposed rule to incorporate this new data and revised tier threshold. Consequently, MHARR continues to object to DOE's originally-stated (and as yet un-amended) tier threshold.

Moreover, even if DOE, through the October 26, 2021 NODA or otherwise, is amending, or will amend the tier threshold to its newly-calculated $63,000 amount, MHARR would still object to any threshold set so low. First, as already noted above, all manufactured homes under applicable federal law are deemed to be – and are protected as – affordable housing and an inherently affordable source of non-subsidized homeownership.[11]Thus, a threshold that would still subject a significant majority of all manufactured homes and all manufactured homeowners to prohibitively costly energy standards,[12]remains fundamentally arbitrary and unacceptable. Second, given the extent to which current retail price trends are being impacted by inflationary pressures, supply chain disruptions and (both related and unrelated) increases in the cost of raw and processed construction materials, this supposed threshold would be rapidly eclipsed, if it has not been eclipsed already. Thus, even assuming that $63,000 (as calculated by DOE) represents (or is close to) the current average retail sales price of a single-section manufactured home, a price increase rate of 7.7% (as calculated by MHARR based on the Census Bureau MHS data),[13]would increase that threshold amount to nearly 68,000 (i.e., $67,851) by the time that any final standard is published in this docket in 2022, and to more than $73,000 ($73,075) by the time of the

[9] See, MHARR October 25, 2021 comments at pp. 24-25.

[10] See, 86 Federal Register, No. 204, supra at p. 59045, col. 2-3.

[11] See, e.g., 42 U.S.C. 5401(a)(2): "Congress finds that – Manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans." See also, 42 U.S.C. 5401(b)(2): "The purposes of this title are – to facilitate the availability of affordable manufactured homes and to increase homeownership for all Americans."

[12] Regarding the purchase price and market impacts of DOE's proposed standards, see, MHARR October 25, 2021 comments, hereto at pp. 18-25.

[13] See, MHARR October 25, 2021 comments hereto at p. 24, note 94.

implementation of any such standard.[14] And even those amounts do not include additional purchase price impacts due to costs related to enforcement, testing and regulatory compliance that have not been calculated or estimated to date by DOE, or the full impact of current inflation and further likely increases in inflationary pressures (see, section C, below).

B. THE NODA IGNORES THE MOST CRUCIAL ASPECTS OF THE 2021 CFPB CONSUMER FINANCING REPORT

DOE, as previously emphasized by MHARR comments in this rulemaking, failed, in its original August 26, 2021 SNPR, to consider sharply negative impacts on the availability of mainstream manufactured housing arising from its proposed rule, including impacts delineated in a May 2021 Consumer Financial Protection Bureau (CFPB) report titled "Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act" (2021 CFPB Report).[15] Apparently in response to this glaring failure, the October 26, 2021 DOE NODA purports to "analyze" and incorporate data from the 2021 CFPB Report, including information pertaining to the purported proportion of personal property or "chattel" loans among all manufactured housing consumer loans, and the median term for such loans.[16] The NODA analysis, however, fails to consider or even acknowledge the most damning negative impacts on the manufactured housing consumer market, as exposed by the 2021 CFPB Report, that would inevitably follow from its proposed rule.

Specifically, neither the NODA nor the original DOE SNPR considers, or accounts in any way, for the impact that regulatory-driven purchase price increases, attributable both directly and indirectly to the proposed rule,[17] would have on the ability of lower and moderate-income consumers – who constitute the core of the mainstream manufactured housing market – to access financing for, and purchase, mainstream manufactured homes. Those impacts, as MHARR noted in its October 25, 2021 comments in this docket, are fully detailed and analyzed by the 2021 CFPB Report. Among other things, that report shows that already, at current purchase price levels, the vast majority of applications for manufactured home consumer purchase loans are denied. The Report thus states that only "a minority (27 percent) of consumers who applied for a loan to buy a manufactured home succeeded in obtaining financing. Of those who did not obtain financing, a majority were denied…. An estimated 42 percent of all manufactured home purchase applications were denied, including 50 percent of chattel [loan] applications…. In comparison, only 7 percent of site-built [loan] applications were denied.[18] By exponentially increasing purchase price levels and corresponding cost burdens for those consumers who would not otherwise be totally excluded from the HUD Code manufactured housing market, the CFPB Report shows that the proposed rule

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[14] I.e., based on an implementation date one year following publication of a final rule in this docket as previously indicated by DOE. See, 86 Federal Register, No. 163 at p. 47746, col. 3.

[15] See, Attachment 6 to MHARR's October 25, 2021 comments in this docket.

[16] See, 86 Federal Register, No. 204 at p. 59044

[17] Direct purchase price impacts attributable to the rule would include primarily increased construction costs, including raw materials, processed goods, assembly-line changes and increased labor costs. Indirect purchase price impacts would include, among other things, increased costs attributable to regulatory enforcement, testing and compliance, increased transportation costs, increased costs related to successive IECC updates and changes, which would be further compounded by inflationary pressures, none of which have been addressed by DOE.

[18] See, 2021 CFPB Report at pp. 4, 15.

would reduce even further – to unsustainable levels – the number of potential manufactured housing purchasers who would be able to qualify for purchase-money financing. Yet, this crucial aspect of the 2021 CFPB Report is totally ignored by DOE in the present rulemaking.

Further, and directly related to the preceding point, is the fact that the higher level of purchase-money consumer loan rejection rates within the chattel or personal property loan sector – which will be significantly exacerbated by the high-cost DOE-proposed energy standards – will disproportionately impact and harm "Hispanic white, Black and African-American and American Indian and Alaska Native borrowers" who "make up larger shares of chattel loan borrowers than among … site-built loan borrowers."[19]This will especially be the case for "Black and African American borrowers," who are "overrepresented in [manufactured home] chattel lending compared to site-built" home lending. Further, as MHARR has previously noted, such a flagrantly discriminatory policy with indisputable racially-disproportionate impact, would directly contravene the racial equity policies enunciated in President Biden's January 26, 2021 "Memorandum on Redressing our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies."[20]That Memorandum staters, in relevant part: "During the 20th century, Federal, State and local governments systematically implemented racially discriminatory housing policies that contributed to segregated neighborhoods and inhibited equal opportunity and the chance to build wealth for Black, Latino, Asian American and Pacific Islander and Native American families…. Accordingly, it is the policy of my Administration that the federal government shall work with communities to end housing discrimination [and] to eliminate racial bias and other forms of discrimination in all stages of home-buying."[21]

The true import of the 2021 CFPB Report, accordingly – which, again, is totally ignored by DOE -- is that it shows how the significant manufactured home purchase price increases which would necessarily follow from the DOE proposed rule, would disproportionately and

[19] Id. at p. 31.

[20] See, 86 Federal Register, No. 18 (January 29, 2021) "Memorandum on Redressing our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies," p. 7487.

[21] Id. at p. 7488. This is also highly relevant to the misleading and disingenuous claim being asserted in boilerplate fashion by multiple commenters to date in the current docket. Those commenters state that they "support a single-tier standard for energy conservation based on the 2021 IECC standard as required by the Energy Independence and Security Act of 2007." In support of this position, these commenters uniformly state: "Homebuyers purchasing homes costing less than $55,000 should not be subjected to pitfalls of lower quality, inefficient homes. *** Those who can least afford to pay high energy bills would continue to needlessly waste thousands of dollars on energy costs and live in draftier, less safe, and less comfortable homes for decades to come." See, e.g., Attachment 3, hereto, comments of the Network for Oregon Affordable Housing, filed in connection with DOE's August 26, 2021 SNPR. The fallacy inherent in all such comments is that those "who can least afford to pay high energy bills," are also those who can least afford to buy a more costly house and overpay for excessive "energy" measures. Excessively energy standards as proposed by DOE for the vast majority of all heretofore "affordable" manufactured homes, would only result in "equity" in only one very limited sense – an "equitable" level and degree of exclusion from all of the benefits of homeownership for millions of Americans who can otherwise afford a non-subsidized manufactured home today. While MHARR does not and will not support a bifurcated (i.e., "tiered") standard for the reasons cited in its October 25, 2021 comments, the comments of self-appointed "affordable" housing groups seeking a stringent, single-tiered standard, reflect a degree of utter economic ignorance that is genuinely remarkable.

discriminatory harm not only minority communities, but all lower and moderate-income Americans in violation of law and Biden Administration policy.[22]As a result, the proposed rule (and NODA) should be withdrawn.

C. THE NODA PROJECTS *LOWER* INFLATION CONTRARY TO ALL AVAILABLE EVIDENCE

DOE's August 26, 2021 SNPR, in calculating the alleged purchase price impact of its proposed rule on manufactured homes, assumed an annual inflation rate of 2.33%. Projected inflation is a key metric affecting the purchase price impact and cost-benefit calculation pertaining to the proposed rule. In an inflationary market, the purchase price impacts of the proposed rule – which involve an already extreme baseline as demonstrated by MHARR in its October 25, 2021 comments – would be exacerbated, thus: (1) compounding and increasing the purchase price impact; (2) increasing the numbers of potential homebuyers that would be excluded from the market; and (3) increasing monthly home loan payments for those purchasers who are not otherwise excluded from the market and are able to obtain purchase-money financing. Now, though, in its October 26, 2021 NODA, the inflation rate, based on the 2021 Energy Information Administration "Annual Energy Outlook" (AEO), is incongruously reduced to 2.28%.[23]The NODA thus assumes a lower inflation rate going forward than the SNPR, published just two months ago.

The reality, however, is that current inflation easily exceeds both numbers cited by DOE and is increasing at a rapid pace, with no end in sight. According to published statistics, the current inflation rate, for the twelve months ending in September 2021, is 5.39%.[24]Actual inflation, accordingly, is more than two times the rate estimated by DOE and has increased drastically since the beginning of 2021.[25]This, combined with rapidly escalating prices for raw and processed construction materials, together with supply and supply chain disruptions, could mean manufactured home price increases – even without high-cost DOE energy standards – that would

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[22] Moreover, the primary data point from the 2021 CFPB Report that is emphasized by DOE, is readily refuted by other data sources. Specifically, DOE cites the 2021 CFPB Report for the proposition that "42 percent of all manufactured home loans are chattel loans." See, 86 Federal Register, No. 204, supra at p. 59044, col. 2. The most recent Census Bureau data, however, shows that 78% of new manufactured homes in 2020 were titled as personal property or chattel, with the rate of chattel placements having remained consistent between 76% and 80% of all manufactured home placements between 2014 and 2020. See, Attachment 12 to MHARR's October 25, 2021 comments in this docket. CFPB itself addresses this discrepancy in its report, noting that the Census Bureau data addresses new manufactured homes only, while the Home Mortgage Disclosure Act (HDMA) utilized by CFPB tracks both new and used homes. "New" manufactured homes, however, which are the only subset of manufactured homes that would be impacted by a DOE energy standard, are "far more likely than used homes to be financed with chattel loans." See, 2021 CFPB Report at p. 13. Consequently, the 78% number reported by the Census Bureau for the proportion of chattel loans, is the only relevant number for this rulemaking.

[23] See, 86 Federal Register, No. 204, supra at p. 59046, col. 1: "To forecast the nominal price increase of manufactured homes, DOE used the inflation forecast rate built into the AEO 2021 at 2.28 percent, compared to the August 2021 MH SNOPR inflation based on AEO 2020 at 2.33 percent."

[24] See, InflationData.com, Current Annual Inflation Table. The general inflation rate, moreover, is trailing the rate of price increases within the housing market as a whole. The median price for all housing types in September 2021 was 13.3% higher than in September 2020, as reported by the National Association of Realtors. The median price for single-family homes, meanwhile, increased by 13.8% over the same period.

[25] Id. The annual inflation rate in January 2021 was 1.40%.

exceed the rate of inflation.[26]High-cost DOE energy standards would exacerbate those price increases even further, and would lead to the exclusion of millions more lower and moderate-income Americans from the manufactured housing market and from homeownership altogether, contrary to applicable federal law.

The latest cost data, therefore, shows that the purchase price impact of the high-cost DOE proposed rule would be even greater going forward than projected by the NOPR, and would undermine the inherent affordability of manufactured housing contrary to law, while excluding millions of lower and moderate-income Americans from the benefits of homeownership. Based on these extreme impacts, the DOE-proposed rule should be withdrawn.

D. THE SNPR AND NODA DRASTICALLY AND ARBITRARILY UNDERSTATES THE COST IMPACT OF THE PROPOSED RULE

According to DOE's alleged cost-benefit analysis, its un-tiered SNPR proposed standard would result in an immediate national average purchase price increase of $3,914.00 for single-section manufactured homes, and $5,289.00 for multi-section manufactured homes. As MHARR has previously observed, however, these amounts, even if assumed to be accurate on their face (which they are not) would still be necessarily partial and incomplete in that they do not include estimated costs for: (1) testing, enforcement and regulatory compliance; (2) costs related to regular changes to the IECC (on a three-year code cycle); or (3) disproportionate impacts on smaller producers and a likely contraction of competition within the manufactured housing market, as are detailed and analyzed in MHARR's October 25, 2021 comments in this docket. Such impacts, moreover, will be exacerbated to a degree not anticipated and not calculated or even considered by DOE, due to current and steadily-worsening inflationary pressures on the cost of construction materials and components, as examined above, as well as ongoing supply-chain disruptions which show no sign of abating and, in fact, could worsen significantly going forward.

In and of itself, however, subjecting manufactured homes to DOE-modified 2021 IECC standards will result in purchase price increases that go well beyond those reluctantly conceded by DOE. As was noted by MHARR in its October 25, 2021 comments in this docket, the purchase price impact of the 2021 IECC requirements was calculated on behalf of the National Association of Home Builders (NAHB) by Home Innovation Research Labs (HIRL) in a June 2021 study.[27]The HIRL calculations indicate an extreme purchase price impact consistent with both the $4,601.00 to $5,825.00 retail-level purchase price impact calculated by MHARR with respect to DOE's 2016

[26] See, October 25, 2021 comments filed in this docket by the National Association of Home Builders at p. 2: "Building material costs have increased substantially over the last two years. Current costs must be used in the cost-effectiveness analysis."

[27] See, Attachment 11 to MHARR's October 25, 2021 comments in this docket. HIRL is also the Administering Organization for the statutory Manufactured Housing Consensus Committee, which has submitted comments to HUD (to be provided to DOE) opposing the proposed rule (both "primary" and "alternate"). The HIRL calculations are based on a "reference house" with 2,500 square feet of conditioned floor area (CFA) without a basement. The 2020 average size of all new manufactured homes, as determined by the U.S. Census Bureau, was 1,471 square feet. See, Attachment 12 to MHARR's October 25, 2021 comments in this docket. The 2020 average size of single-section manufactured homes was 1,085 square feet, while the average size of all double-section manufactured homes was 1,760 square feet. The Census Bureau data does not distinguish between conditioned and unconditioned area.

proposed rule based on the 2015 IECC and the $7,958.00 to $12,908.00 purchase price impact estimated by MHARR with respect to DOE's current proposed rule.[28]

Those HIRL numbers, however, are only partial with respect to manufactured housing, because they calculate and reflect only the marginal or "incremental cost" price increase for site-built homes "associated with constructing a house compliant with the 2021 IECC relative to a 2018 IECC baseline…." (Emphasis added).[29]Manufactured homes, however, have never previously been subject to any version of the IECC.[30] Thus, for manufactured homes, the increase in costs entailed in implementing the 2021 IECC (even as modified by DOE), would not be an "incremental" or marginal increase over and above the cost of the 2018 IECC, as reflected in the HIRL report, but the total, cumulative cost of implementing all elements of the IECC incorporated within its 2021 iteration, dating back to the very first version of that code. Thus, the HIRL figures, even when adjusted for the smaller average size of manufactured homes, do not reflect the full purchase price impact of the mandatory adoption of the 2021 IECC (even as modified by DOE) in one cumulative leap. Rather, to more accurately reflect the full purchase price increase to a retail manufactured home purchaser, the HIRL figures would need to be increased by a constant (and significant) factor to represent the fact that IECC 2021-driven purchase price increases for manufactured homes (unlike site-built homes as studied in the HIRL report) would be cumulative over multiple iterations of the IECC and not merely marginal over the last (i.e., 2018) iteration. Again, therefore, in the absence of a valid, legitimate and complete cost-benefit analysis, incorporating all cost elements of the proposed rule – which the August 26, 2021 SNPR and October 26, 2021 NODA do not – the proposed rule published by DOE (and any final rule based on that proposal) is arbitrary and capricious in violation of applicable law.

E. ALLEGED LIFE-CYCLE "SAVINGS" UNDER THE PROPOSED RULE ARE A CONSEQUENCE OF INTENTIONAL ANTI-ENERGY POLICIES

Both the SNPR and NODA attribute alleged "life-cycle" cost savings to the proposed rule based on energy cost and inflation data derived from the 2021 Annual Energy Outlook and Short-Term Energy Outlook.[31]Through this formulation, however, both DOE and its "climate change" and "energy" special interest allies seek to have it "both ways" to the ultimate detriment of lower and moderate-income consumers of affordable housing. Throughout the broader economy, Administration energy policies in 2021 have directly and significantly increased the cost of virtually all major sources of energy. Those higher costs, reflected, among other things, in higher

[28] Among other things, the HIRL study shows reference house cost increases of $4,970.00 for increasing frame wall insulation; $1,366.00 for increasing ceiling insulation; $417.00 for sealing slabs and vented crawlspaces; $156.00 for sealing narrow framing cavities; $76.00 for reducing window U-values from 0.32 to 0.30; $369.00 to seal electrical and communication outlet boxes; $62.00 to test whole-house ventilation; $49.00 for lighting controls; and $12.00 for attic baffles. Id. at p. 8, Table 6.

[29] Id. at p. 1.

[30] Instead, manufactured homes have been subject to HUD Code energy standards dating to 1994, which are not – and have not been -- based on any of the criteria or requirements of any version of the IECC.

[31] See, 86 Federal Register, No. 204, supra at pp. 59045-59046.

retail prices for fuel oil,[32] natural gas and electricity,[33] in turn, are then posited as the supposed basis for alleged "life-cycle" savings that would supposedly be achieved under the proposed rule. Intentional, policy-based constraints on fuel production, therefore, leading to higher energy costs and related inflation, are then "weaponized" by DOE against the very consumers they harm the most, in order to ostensibly "justify" extreme "energy" conservation measures that will, in turn, drastically increase the purchase price of manufactured homes, thereby excluding millions of potential consumer from that market. Put differently, administration anti-energy policies "manufacture" higher energy prices over time that are then disingenuously cited as the supposed basis for extreme energy conservation measures that will drastically increase the purchase price of the nation's leading source of non-subsidized, affordable housing, to the ultimate and profound detriment of those least able to afford a home of their own. This is reprehensible "self-fulfilling prophecy" should and must be rejected by DOE itself, or by a reviewing court in the event that DOE ultimately proceeds with its baseless proposed rule.

III. CONCLUSION

For all of the foregoing reasons and for those set forth in MHARR's October 25, 2021 comments previously filed in this docket, DOE should and, indeed, must withdraw the proposed manufactured housing energy standards set forth in its August 26, 2021 SNPR and October 26, 2021 NODA as being inappropriate for manufactured housing, excessively costly in violation of applicable law, destructive of the affordable manufactured housing market, not cost-justified and fundamentally arbitrary, capricious and an abuse of discretion in violation of the federal Administrative Procedure Act, federal manufactured housing law and the Energy Independence and Security Act of 2007. Absent such action by DOE, all legal options are – and must remain – on the table for both the industry and consumers who rely on the current affordability of mainstream HUD Code manufactured housing.

Sincerely,

Mark Weiss
President and CEO

[32] See, e.g., Yahoo Finance, January 22, 2021 citing Goldman Sachs commodity analysts: "The Trump administration's efforts to drill on federal land have been walked back, with the Department of the Interior imposing a 60-day moratorium on the sale of oil and gas leases on federal land. Goldman notes that this order is temporary but supportive of Biden's stated policies of halting the drilling on government-owned land. A more long-lasting moratorium could follow. [S]uch actions point to both higher production and financing costs for shale producers in coming years as well as lower recoverable resources," Goldman analysts wrote. All in all, Biden's policies support energy demand while restricting production or the forces that govern production, like financing and drilling, analysts wrote." (Emphasis added).

[33] See, e.g., Climate Change Dispatch, October 19, 2021: "The U.S. Energy Information Administration said Monday that electricity generated by coal-fired plants is expected to jump by 22% in 2021 over last year's levels for the first year-over-year increase since 2014. The reason: the rising cost of natural gas, which began climbing in April and hit a 13-year high this month…." See also, International Energy Agency, October 12, 2021: "Gas, coal and electricity prices have in recent weeks risen to their highest levels in decades."

cc: Hon. Marcia Fudge
Hon. Shalanda Young (OMB)
HUD Code Industry Producers, Retailers and Communities