

June 21, 2005

Regulations Division
Office of General Council
Room 10276
Department of Housing and Urban Development
451 Seventh Street, SW
Washington, D.C., 20410-0500

**Re: Federal Register of April 26, 2005
Volume 70, Number 79,
Pages 21497-21559
Model Manufactured Home Installation Standards; Proposed Rule**

To whom it may concern:

The International Code Council, Inc. (ICC) appreciates the opportunity to submit comments to HUD on the proposed rule that would establish new Model Manufactured Home Installation Standards for the installation of new manufactured homes and would include standards for the completion of certain aspects necessary to join all sections of multi-section homes.

ICC is a private, not-for-profit organization whose mission is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment. The members of ICC include building and fire code officials and inspectors, and others intimately involved in the development and enforcement of building construction regulations at the federal, state and local levels of government, as well as those affected by the codes such as the trades. With committees of volunteers and a staff of more than 300, the ICC, a 40,000-member association dedicated to building safety, develops the codes used to construct residential and commercial buildings, including homes and schools. The majority of U.S. cities, counties, states and federal agencies that adopt codes choose building safety and fire prevention codes developed by the ICC. Currently, the International Residential Code (IRC) is used in 45 states, the International Building Code (IBC) is used in 45 states and by most federal agencies that enforce building codes. Federal agencies such as the U.S. General Services Administration, U.S. Department of State, U.S. Department of Defense, National Park Service, U.S. Forest Service, Architect of the Capitol and the U.S. Veterans Administration have found it desirable to use the IBC in order to accomplish their agency mission with excellent results. Following are our comments on the proposed rule:

We urge HUD to consider the following questions when it issues the proposed rules for the manufactured homes installation program and associated inspections:

- Who decides if a state or local code meets or exceeds the MIS and what is the basis for the comparison?
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section on HUD recommendations for manufacturer's installation instructions.

- 21505 third column, again mentions HUD's installation program. How can one logically and appropriately comment on the technical standards without knowing the other details associated with the program and intended implementation of the MIS? It is also mentioned

- 21514, second column, HUD notes that fuel oil supply tanks and systems installed at the site are not within the scope of HUD's authority. Why not and what makes fuel oil different from propane, site installed air conditioning systems, etc.? This further reinforces the "cloudy" nature of determining what is within HUD's authority, what is not, and what remains under the control of state and local officials. Without a clear and logical delineation for all home installations, not just new ones, it will likely be more difficult to explain to residents, regulators, installers, manufacturers, dealers, etc. who is responsible for what not only as to installation but with respect to liability if and when something goes wrong with an installation.
- 21515, first column, refers to manufacturer installation instructions with respect to utilities. If, as HUD says, these are generally covered by the LAHJ, and assuming LAHJ requirements vary, how can any meaningful installation instruction cover the installation with respect to utilities? At best the installation instruction will say "for utility connection requirements consult with the serving utilities". Do we really need a HUD regulation on home installations and associated processes and procedures to convey this message to installers and residents?
- 21516, first column, HUD requests comments on the effort associated with checking installation instructions. It is assumed that installation instructions would vary by manufacturer and specific model. As such the suggested number of respondents (which is assumed to be manufacturers) and responses per respondent (which is assumed to be models) seems very low. The hours per response (which is assumed to be to review each set of installation instructions seems high unless it considers back and forth communication, review and review of issues between HUD and the manufacturer). Certainly the collection of installation instructions will have practical utility but HUD's estimate of level of effort to collect and assess the information is likely low. It is important to point out that if HUD does not intend to take action to ensure the installation instructions conform to the MIS and are effectively satisfied in the field then there is no real need to collect

what is the process, will HUD do that even if a locality has a program for installations, etc.?

- 3285.1 (d), indicates that homes on permanent site-built foundations with certain manufacturer certification are not subject to the proposed rule. So a home installation in a locality with an installation standard will be preempted and covered by the MIS rule but the provisions in that locality applicable to a site-built “permanent” foundation would still apply. This apparently recognizes that site-built permanent foundations under state and local codes are OK (this assumes all localities have such codes) and those same state and local codes for non-permanent foundations are not getting the job done and HUD needs to step in. This does not make sense unless there is a significant difference between permanent and non-permanent foundation requirements and their administration and enforcement.
- 3285.2, requires installers to follow the DAPIA approved manufacturers installation instructions for aspects covered by the MIS. This assumes that in spite of the instructions, which are assumed to track with the MIS, that state or local codes in “non-applicable states” would apply regardless of the installation instructions. This kind of renders the instructions moot in such states and raises the issue – how will 035 Tc Onfoundat-k.5s t5

definition also refers to local responsibilities in such a way that if they are within the coverage of the MIS then they no longer have authority and if outside the coverage of the MIS they do. LAHJ also includes states. This seems to conflict with other provisions in the rule and means that a state or local that does not have said requirements, even though they may be identical to the MIS would not be considered a LAHJ.

- 3285.101 (c) suggests a LAHJ use certain studies to determine the BFE. This is permissive. What if a local does not do this? If this is up to local government then it may also be difficult for a state program to show it meets or exceeds the MIS. Can a local show it meets or exceeds the MIS or is that an option only open to state programs covering all installations?
- 3285.102 provides design requirements. What about radon issues and seismic loads. Both impact homes and guidance on establishing appropriate criteria on these issues should be addressed in the MIS.
- 3285.201 uses the term “foundation” but that term is not defined. What is the foundation?
- 3285.202 (a) should be revised to delete “against the wind”. It should not matter what issues are to be addressed for soil classification and bearing capacity. There are certainly other loads like flooding that could be included. The issue is determining type and capacity.
- 3285.203 (a) should be revised to delete all text after “under the home”. The primary message is to provide drainage under the home. The reasons for doing this are not relevant. Also how would one determine for instance if water under the home would or would not create problems with door and window operation, buckling of walls, etc.?
- 3285.204 (a) the purpose of a vapor retarder is to reduce ground moisture transmission to the home. That need not be stated in the rule. Revise to read “...vapor retarder must be installed...”
- 3285.204 (c) (1) should also require the overlapping be sealed with adhesives as in R406.3.2 of the IRC. It should be noted that many of the provisions in the rule are essentially the same as the IRC and as such one wonders why the rule could not simply reference the IRC for those items already covered in the IRC.
- 3285.204 (c) (3) should be deleted as it is subjective and unenforceable.
- 3285.312 (b) (1) (i) should be revised by changing “and” to “or” as (1) refers to either of the following (e.g. (i) or (ii)).
- 3285.312 (b) (3) should be revised to read “...permitted when installed in accordance ...”
- 3285.314 (a) essentially says state and local government authority to impose requirements for homes on permanent foundations is retained as long as those requirements protect the residents in a way that equals or exceeds the MIS. A review of 3285.1 (d) indicates that the

requirements of part 3285 do not apply to homes installed on site built permanent foundations. Who determines if the state and local requirements for homes on permanent foundations meet or exceed the MIS? What is the basis of the comparison? Is the comparison just

equivalent protection. Of interest, if the home were on a site built permanent foundation it would not be covered under the MIS and be subject to state and local code while that same home placed on a non-site built foundation would be covered by the MIS and possibly have lesser protection against wind where the state or local design conditions and FMHCSS differ.

- 3285.402 does not appear to address the capacity of ground anchors in wet or saturated soil. In areas subject to increased moisture and storms it is very likely that a significant wind event will occur when the soil is saturated or when there is a flooding condition around the home. The lack of specific test standards and protocols in the rule increases the probability that while all anchors will be determined to satisfy the load capacity specified in the rule that the actual performance of different anchors under the same conditions will vary greatly. This affects the ground anchor spacing provided in the rule because it is based on an assumed anchor capacity stated in the rule that is verified pursuant to “a nationally recognized protocol”.
- 3285.402 (b) (3) (ii) insert “be” between must and zinc.
- 3285.405 refers to installations of homes in certain wind zones. Are those wind zones readily comparable to the wind loading provided in state and local codes? How will a comparison of the MIS and state and local codes be performed with respect to this issue?
- 3285.406 requires the installation to be capable of resisting the loads associated with the design flood and wind events. It is not clear from the rule if those are to be considered separate events or the associated loads combined. Flooding and wind can and do occur simultaneously and their loading must be considered in the aggregate. For instance scour associated with flooding will affect the forces on the support system and anchors. Flooding, as previously noted, will also change the capacity of the soil and the ability of anchors to resist forces from wind. For these reasons the rule must be clarified to read “...must be capable of resisting the combined loading associated with the ...”
- 3285.503 provides that comfort cooling systems that are not provided and installed by the home manufacturer be installed per the appliance manufacturer installation instructions. This conflicts with other standards and model codes in that they provide additional criteria for safety, accessibility for service and performance. It also sends a message that the permitting and inspection of such installations is not necessary. Where a state or local code has been determined to meet or exceed the MIS this would not be an issue as that state or local code would apply. It is not clear if local government in states without a state code can apply for equivalency and it is assumed only states can apply with respect to state codes. On that basis this provision will create significant confusion and conflict with local codes in states without state codes. For the sake of uniformity, safety, etc. it is

clear line of authority. In states approved by HUD then the state rules apply and in other instances the MIS apply with HUD as the enforcement authority. In this instance HUD is applying the MIS but then automatically deferring to a state or local government or utility (LAHJ) and allowing them to impose additional provisions. Why not do that for the entire rule? Why not simply reference a voluntary sector standard such as the IRC and other relevant standards as a minimum baseline instead of developing an entirely new set of criteria that must be updated and maintained and will likely fall out of sync with voluntary sector documents over time?

- 3285.606 (a) refers to duct sealants. HUD should note that there are now UL standards 181 A and 181 B to cover duct sealing systems and that what is proposed in the rule could not be considered contemporary

- 3285.905 (d) refers to conversion of gas appliances. Why on a new installation would there be a conversion? If this refers to conversion between natural gas and propane because the fuel source is not known at the point of manufacture then where in the rules are the provisions for propane tanks, lines, etc.? Note again the rules refer to the LAHJ. This suggests that HUD will defer to the LAHJ on certain issues; so why not all installation issues? What if there is no LAHJ, how will HUD deal with this? This is an excellent case for simply referring to state or local codes and in the absence of such codes the IRC.
- 3285.906 (a) and (c) refer to NFPA 31 first and then to applicable local regulations. Both statements address the same issues but in potentially different ways. If the MIS is intended to apply where there are no acceptable state or local codes then why refer to local regulations in the MIS? The reference to NFPA 31 is appropriate and would be picked up via the IRC. This is another example of why the rule should simply refer to the IRC and in so doing establish a minimum level of protection to be applied in areas without codes.

Thank you again