

Legal Action Filed on DOE's Manufactured Housing Energy Rule, per Manufactured Housing Association for Regulatory Reform

Two Manufactured Housing Associations filed Case No. 23-cv-00174 in the U.S. District Court for the Western District of Texas re: DOE's pending MH energy rule.

WASHINGTON, D.C., U.S.A. , February 17, 2023 /EINPresswire.com/ -- Just three months prior to the scheduled May 31, 2023 implementation date for the destructive U.S. Department of Energy (DOE) final manufactured housing "energy conservation" standards rule, the Manufactured Housing Institute (MHI) and the Texas Manufactured Housing Association (TMHA) have filed a court action

against the DOE final rule in the U.S. District Court for the Western District of Texas. The lawsuit, filed on February 14, 2023, seeks a stay of the impending implementation of the DOE final rule and other related relief. In both substance and approach, this court action tracks steps specifically urged by MHARR in August 2022.

“

MHARR called for a court action under the federal Administrative Procedure Act, based on DOE's failure to fully and properly calculate...and consider all of the anticipated costs of the rule.”

Mark Weiss, J.D., President and CEO of MHARR.



The graphic features a green header with the U.S. Department of Energy logo and the text "Energy Efficiency & Renewable Energy". To the right, "LEGAL ACTION" is written in red. Below the header is a photo of a manufactured home with a sign for MHARR. To the right of the photo, "FILED ON DOE'S MANUFACTURED HOUSING ENERGY RULE" is written in large blue letters.

A Legal Action has been Filed on the Department of Energy (DOE) Manufactured Housing Energy Rule. This suit has been encouraged by the Manufactured Housing Association for Regulatory Reform (MHARR)

In the August 2022 MHARR Issues and Perspectives column, entitled "[Why the DOE Energy Rule Should be DOA](#)", MHARR called on MHI to use its resources to file a court action against DOE seeking an injunction against the May 31, 2023 implementation of the DOE final rule. In that article and analysis, MHARR set forth, in detail, both the legal basis and practical rationale for such an action, as well as various claims and arguments, including substantive and procedural defects inherent in the DOE rule (addressed in multiple sets of [MHARR comments to DOE and the Manufactured Housing Consensus](#)

[Committee](#)), that could be asserted in such an action. It also stressed the urgent need for timely action in order to secure relief well in advance of the implementation date.

Among other things, MHARR called for (and offered to assist with) a court action under the federal Administrative Procedure Act, based on DOE's failure to fully and properly calculate, account for, and consider all of the anticipated costs of the rule. This included and encompassed DOE's failure to propose and estimate the costs of testing, compliance and enforcement of the final standards, its use of artificially low inflation indices for the wholly-deficient cost "analysis" that it did perform, and its failure to consider other related factors that would result in costs substantially exceeding anticipated benefits. MHARR also urged litigation based on DOE's failure to fully and properly consult with HUD and the Manufactured Housing Consensus Committee (MHCC) as envisaged by the

rule's authorizing legislation – the Energy Independence and Security Act of 2007 – and, just as importantly, DOE's thoroughly corrupted "negotiated rulemaking" process, which irretrievably tainted the final rule from step-one (and against which MHARR cast the only "no" vote at every step).

As set out by MHARR, the objective of such a court action was to invalidate the DOE final rule – and the entirety of the rulemaking process which led to that rule, beginning in 2008 – and to compel DOE to go back to "square one" with respect to manufactured housing energy standards in full and proper consultation with both HUD and the MHCC, from the start, as expected and authorized by Congress.

The MHI filing, which apparently follows the failure of other legislative and Executive Branch approaches pursued by that organization – the futility of which MHARR anticipated and explained in its August 2022 analysis — thus appears to be a last resort, rather than the first step toward obtaining meaningful relief that MHARR urged in its detailed blueprint some six months ago. Consequently, while MHARR gives MHI due credit for taking the necessary step of initiating this litigation, it should have been instituted months ago in order to avoid the type of chaos



National Manufactured Housing Construction and Safety Standards Act of 1974

Amended by the Manufactured Housing Improvement Act of 2000

Manufactured Housing Consensus Committee | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

U.S. DEPARTMENT OF ENERGY

Statutory Manufactured Housing Consensus Committee (MHCC) Recommends HUD Rejection of DOE Manufactured Housing Energy Rule

MHARR
Manufactured Housing Association for Regulatory Reform
Preserving the American Dream of Home Ownership Through Regulatory Reform

"The 'Woke' War On Affordable Housing." MHARR – Issues and Perspectives, by Mark Weiss, JD, Manufactured Housing Association for Regulatory Reform.

which has now begun to engulf the industry with, among other things:

(1) Uncertainty among manufacturers as to whether they must prepare for compliance with the DOE standards as of May 31, 2023;

(2) Corresponding uncertainty among IPIAs and DAPIAs regarding enforcement of the DOE standards and the scope of their authority (if any) in the absence of corresponding HUD standards (with at least one IPIA/DAPIA stating in a communication to manufacturers that it will not require compliance with DOE standards not incorporated within the HUD Code);

(3) A lack of any specific, valid action by HUD; and

(4) The absence of any type of testing, enforcement or other regulatory mechanism in advance of the May 31, 2023 implementation date.

In view of the foregoing, the pending lawsuit must be about more than just delaying the implementation of the final DOE standards rule. Rather, it must be about vacating that rule, based on its inherent and multiple fatal defects, and sending the entire rulemaking process back to the very start, so that there can be proper consultation with HUD and the MHCC, and complete elimination of the inherent and fundamental taint that DOE's phony "negotiated rulemaking" process infused into the process leading to the May 2022 DOE final standard.

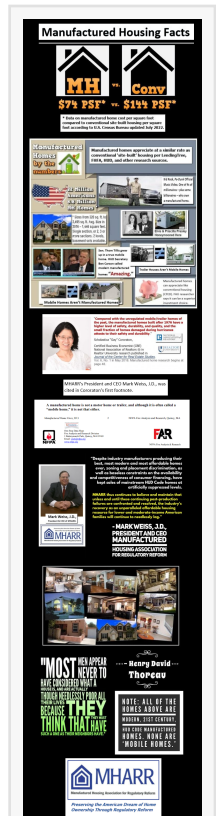
MHARR, as it has done since the outset of this matter, will continuously evaluate this litigation for further steps that may be needed and will consult with members at the upcoming MHARR Board of Directors meeting.

cc: Other Interested HUD Code Manufactured Housing Industry Members
Manufactured Housing Association for Regulatory Reform (MHARR)

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The full press release and attachments are found at the link below on the MHARR website.

<https://manufacturedhousingassociationregulatoryreform.org/legal-action-filed-on-does->



Click the image and follow the prompts to expand. Manufactured Housing Facts - Manufactured Housing Association for Regulatory Reform (MHARR) Infographic. Manufactured Home Facts, Insights, Photos.

[manufactured-housing-energy-rule/](#)

The primary case pleadings in Case No. 23-cv-00174, request for a [temporary restraining order \(TRO\)](#), and related are linked [here](#).

Related Note: as the DOE manufactured housing energy standards implementation date has approached, production of new manufactured housing reversed its prior trend of steadily increased volume. New manufactured home production has since slid into its third month of downturn, per data from HUD. See the facts at this link below.

<https://manufacturedhousingassociationregulatoryreform.org/hud-code-manufactured-housing-production-declines-sharply-in-december-2022-year-end-totals-for-manufactured-homes-revealed/>

About MHARR

The Manufactured Housing Association for Regulatory Reform is a Washington, D.C.-based national trade association representing the views and interests of independent producers of federally-regulated manufactured housing.

Additional Related Information from MHARR

The most complete known monthly reporting resource made publicly available by a national manufactured housing trade organization is found at this link below. Years of monthly reports, statistics and data are available free to the media and public via this link.

<https://manufacturedhousingassociationregulatoryreform.org/category/manufactured-home-shipments/>

Reprints of MHARR Interviews Conducted by MHPNews

Interview with Mark Weiss, J.D., President and CEO of MHARR is linked below.

<https://manufacturedhousingassociationregulatoryreform.org/mark-weiss-addresses-the-manufactured-housing-industrys-twin-crises-an-mhpronews-interview-with-mharr-president->

MHARR's Mark Weiss, J.D., on Key Manufactured Housing Issues

... Freddie Mac's analysis concludes that the "main driver" of the entry-level housing supply/demand gap, is a "long-term decline in the ... supply of entry-level single-family homes, or 'starter homes.'" (Emphasis added).

"The analysis thus notes that in the 1970s, "the construction of new, entry-level homes averaged 418,000 units per year."
During the 1980s, however, that figure fell to an average of 214,000 units per year.
The trend of reduced supply continued through the 1990s, with an average of 207,000 entry-level units, and in the 2000s, with an average of 150,000 units per year.
Subsequently, during the 2010s, average entry-level housing supply according to Freddie Mac, declined even further, to an average of 55,000 units per year.
"In the span of five decades," then, the report concludes, "entry-level home construction fell from 418,000 units per year in the late 1970s to 45,000 in 2020."
- Mark Weiss, J.D., President and CEO, MHARR in "Freddie Mac Unwittingly Proves Its Own Failure" May 4, 2021.

"Thirteen years after the enactment of the DTS mandate, however, the vast bulk of the mainstream manufactured home consumer lending market represented by personal property (or 'chattel') loans remains completely unserved under DTS."

- Mark Weiss, J.D., CEO MHARR FHFA Listening Session Comments as prepared 3.25.2021.

"And lest there be any doubt about what this enhanced preemption means and what it was designed to do, leading members of Congress in a November 2003 letter to HUD made it quite clear, stating that the 2000 changes to the federal manufactured housing law give HUD "the legal authority to preempt local requirements or restrictions which discriminate against the siting of manufactured homes (compared to other single-family housing) simply because they are HUD Code homes."

- Mark Weiss, J.D., President and CEO, Manufactured Housing Association for Regulatory Reform (MHARR), Washington, D.C. On 2/9/2021

Mark Weiss, J.D.,
President and CEO
of the Manufactured
Housing Association
for Regulatory
Reform (MHARR)
quotes on Key
Manufactured
Housing Industry
Issues.

[and-ceo-mark-weiss-j-d/](#)

Interviews of MHARR's senior advisor and founding president and CEO, Danny Ghorbani, conducted by industry-leading MHPProNews.com, are found at this link here.

<https://manufacturedhousingassociationregulatoryreform.org/mhpronews-qa-with-danny-ghorbani/duty-to-serve-mh/>

MHARR Articles Focused on Proper Implementation of the Manufactured Housing Improvement Act of 2000 (MHIA or 2000 Reform Law) and its "enhanced preemption" provisions are found at the link below

<https://manufacturedhousingassociationregulatoryreform.org/exclusive-insights-on-controversies-interview-with-25-year-industry-leader-mark-weiss-president-ceo-of-the-manufactured-housing-association-for-regulatory-reform-mharr/>

MHARR Accomplishments

<https://manufacturedhousingassociationregulatoryreform.org/major-and-continuing-mharr-accomplishments-for-the-hud-code-manufactured-housing-industry-and-consumers-of-affordable-housing/>

MHARR's History and Objectives

<https://manufacturedhousingassociationregulatoryreform.org/brief-history-and-objectives-of-the-manufactured-housing-association-for-regulatory-reform-mharr/>

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