

Executive Summary

A Study of the HUD
Minimum Property Standards for One- and Two- Family Dwellings
and Technical Suitability of Products Programs



Prepared for the
U.S. Department of Housing and Urban Development
Office of Policy Development and Research

by the
National Institute of Building Sciences

March 2003

Acknowledgments

The principal investigator for this study was William Brenner of the National Institute of Building Sciences. Background research was performed by Building Technology Inc. and Steven Spector. The Institute is grateful for the help and guidance of William Freeborne and David Engel of HUD's Affordable Housing Research and Technology Division; Elizabeth Cocke, Rick Mendlen, Vincent Tang, and Jason McJury of HUD's Office of Manufactured Housing Programs; and retired HUD employees Mark Holman, Robert Fuller, Sam Hakopian, and Leslie Breden.

The Institute thanks the following reviewers for their thoughtful comments and insights: Liza Bowles, Newport Partners LLC; Ron Burton, BOMA International; David Conover; Rosemarie Geier Grant, State Farm Insurance Companies; Paul Heilstedt, BOCA International; Ron Nickson, National Multi Housing Council; Ed Sutton, National Association of Home Builders; and Gene Zeller, City of Long Beach, California.

The National Institute of Building Sciences appreciates the opportunity to study these long-standing HUD programs and hopes the findings and recommendations herein will be helpful in addressing the needs the programs have traditionally served.

Disclaimer

The study's findings are solely those of the National Institute of Building Sciences and do not reflect the views of the U.S. Department of Housing and Urban Development, the study's participants, or its reviewers. The Institute has made every effort to verify the accuracy of the study's content, but no guarantee of the accuracy or completeness of the information is either offered or implied.

EXECUTIVE SUMMARY

The Department of Housing and Urban Development (HUD), through various regulatory requirements within its insurance programs, has had a great influence on the design and construction of much of the nations' housing stock. Through its predecessor agency, the Federal Housing Administration (FHA), the Department, as early as the 1930's, established various construction standards to assure that the housing it insured met minimum requirements for construction quality, safety, and durability. Over time, the *Minimum Property Standards* (MPS) gained influence far beyond its originally intended role of reducing risks for FHA-insured properties. The MPS has been included in numerous HUD programs and has been a significant factor in the development of national model building codes and their subsequent adoption by thousands of local communities. A related HUD program on the Technical Suitability of Products (TSP) provides acceptances for new products and systems for FHA-insured housing.

Over the past twenty years, the Department, through a series of regulatory reforms, has significantly reduced the role and importance of the MPS and TSP programs, especially for single-family housing. However, many outdated regulations remain "on the books," as do various vestigial administrative requirements. This study examines the history of both the MPS and TSP programs, assesses their continued, albeit reduced, impact on the single-family operations of the Department as well as on the larger housing industry, and makes a series of recommendations for legislative, regulatory, and administrative reforms. The study does not address the need for, or continued relevance of, the MPS and related programs in the multi-family operations of the Department.

Minimum Property Standards for One- and Two-Family Dwellings

The origin of the HUD *Minimum Property Standards* dates to the 1935 publication of *Property Standards* by HUD's predecessor, the Federal Housing Administration. The intent of the 16-page *Property Standards*, issued just a year after FHA's creation by the National Housing Act of 1934, was to reduce mortgage risks for FHA-insured properties and to improve housing standards and conditions.

Property Standards and a companion publication published shortly thereafter, *Minimum Construction Requirements*, were modified to fit local construction practices by the FHA state insuring offices and were issued on a state- or district-wide basis. In 1942, FHA combined the two publications to form *Minimum Property Requirements*, and, after World War II, began modifying and issuing the combined publication on a multi-state basis.

Working with the housing industry, FHA overhauled and expanded *Minimum Property Requirements* in the mid-1950s, renaming it *Minimum Property Standards for One and Two Living Units* and reissuing it in a single national edition in 1958. By 1973, the MPS had grown to four volumes, addressing one- and two-family housing, multifamily housing, care-type housing, and acceptable building practices. No longer a default standard for deficiencies in local code enforcement, the MPS had become a defacto, and largely prescriptive, construction code.

In August 1980, the National Association of Home Builders Research Foundation issued a report praising the MPS program but noting that its time had passed. The report summarized the findings of a 1978 HUD Task Force on Housing Costs that called the requirements of the MPS excessive and inflexible and recommended that HUD “immediately remove unjustifiable cost-increasing technical and design requirements.” The report closed by stating that HUD had arbitrarily raised many MPS requirements to the point where they impeded the production of affordable housing, and it recommended adoption of the *CABO One and Two Family Dwelling Code* in lieu of the MPS.¹ The following year, a task force of the National Institute of Building Sciences similarly recommended that HUD “initiate a comprehensive and rational process to phase out the MPS for HUD-insured housing and rely on the nationally recognized model codes.”

In 1983, Congress passed Public Law 98-181, permitting compliance with model and local building codes as a means of satisfying HUD mortgage insurance requirements. This virtually eliminated the need for the one- and two-family portion of the MPS, and, in 1984, it was reduced to a small appendix. The hundreds of durability and livability requirements that had previously applied to all HUD-insured properties were retained for multifamily housing but were removed for one- and two-family housing.

The ties between the one- and two-family program and the larger MPS program were not severed, however, and the statutes, regulations, and administrative documents and procedures that had accumulated over the long history of the MPS were never adequately revised to accommodate the 1984 changes. The result has been confusion about the MPS among homebuilders, members of Congress, consumers, product manufacturers, and policy makers. HUD headquarters and field personnel have kept the program functioning over the past two decades largely by working around increasingly antiquated program requirements.

These difficulties may be readily resolved by realigning HUD regulations and administrative documents with present HUD practices. There is no explicit provision in federal law mandating the MPS, so the following changes can be made administratively:

¹ The *CABO One and Two Family Dwelling Code*, a distillation of model building code requirements applying specifically to housing, was first published in 1971 as a joint effort of four model code groups—BOCA, ICBO, SBCCI, and the American Insurance Association. It was well received by home builders and code officials and adopted in many areas of the country by 1980.

- Eliminate the one- and two-family portion of the MPS (Appendix K).
- Formalize the one- and two-family mortgage approval process now in use. The process works well in everyday practice and its requirements are similar to those used by the rest of the mortgage industry.
- Completely separate the one- and two-family mortgage program from the multifamily MPS program and give it a separate identity, thereby drawing a clear line between the two.
- Remove all one- and two-family references from the MPS program and its related administrative documents and procedures; revise these documents and procedures as appropriate; and eliminate or revise outmoded MPS regulations.

These actions will rationalize and clarify the one- and two-family mortgage approval process, provide greater certainty to homebuilders and more transparency to consumers, and help manage expectations among members of Congress, policy makers, and product manufacturers about the uses and capabilities of HUD's one- and two-family mortgage insurance program.²

Technical Suitability of Products Program

The Technical Suitability of Products (TSP) Program has its roots in the early "Technical Circulars" issued in 1937 by the Federal Housing Administration to supplement its *Property Standards* and *Minimum Construction Requirements for New Dwellings*. After World War II, FHA introduced "Engineering Bulletins" and "Use of Materials Bulletins," which, along with the Technical Circulars, focused on building products used in housing. Congress expanded this effort in 1965 when it mandated the development of a formal acceptance program for new and innovative housing materials, components, and systems. This became the TSP Program that exists today. Since 1965, the program has accepted about 2500 products and systems for use in HUD-insured housing.

But the once-vigorous TSP Program has been overtaken by progress within the building products industry, which has developed suitable standards and warranty provisions for most of its products, and by the International Code Council's Evaluation Services, Inc, or ICC-ES,³ which issues product evaluation reports that are much preferred to TSP acceptances within the building industry.

² Reviewers of this study from BOMA and the National Multi Housing Council suggested that HUD also discontinue the MPS for multifamily housing. Discontinuing the entire MPS program, of course, would greatly simplify the revision process (as noted, however, this study does not address the multifamily portion of the MPS).

³ Prior to February 2003, ICC-ES was called the National Evaluation Service, or NES.

Industry participation in the TSP Program has dropped significantly over the years; it is now minimal and largely unenthusiastic. The program is underfunded and understaffed. Its product acceptances are outdated—some seriously so—and are largely redundant to ICC-ES product evaluation reports. Its warranty provisions are arbitrary and duplicative of existing product warranties. The few renewing industry participants remain in the program primarily for marketing purposes or to protect their products from possible (but, unbeknownst to them, unlikely) rejection by HUD.

The outdated TSP Program should be ended, but only after consulting with participating manufacturers and establishing an adequate transition period. A few carpet manufacturers, and perhaps one or two other producers, may require time to develop substitute standards or approval mechanisms. If so, continuance of a small portion of the program for a period of time may be justified.

Ending the TSP Program will have no effect on HUD-insured one- and two-family housing, since checking for TSP acceptances is no longer performed or required. Nor will HUD-insured multifamily housing be affected, provided ICC-ES evaluation reports and other appropriate certifications are permitted by HUD in lieu of TSP acceptances.