Draft Minutes
HUD Manufactured Housing Consensus Committee
Radisson Hotel, Alexandria, VA
February 24-26, 2004

1. Chairman Roberts called the meeting to order at 8:00 a.m. Mr. Toner called the roll; a quorum was present. Mr. Roberts noted that Ms. Cocke was acting DFO for this meeting. Ms. Cocke expressed best wishes from Mr. Matchneer. She noted that he has "been working full time" and has shaped the materials for this meeting.

   Mr. Roberts reviewed the agenda. He noted that Dr Weicher's remarks would be made at the end of the day to accommodate the Commissioner's schedule. The agenda was approved.

   Mr. Farish noted that the attendance list for the December meeting was incorrect; he was present for all three days of the meeting. That change being noted the minutes were approved.

   Mr. Solomon reported that the bylaw change voted on at the December meeting has been approved by HUD. The Subcommittee appointments recommended at that meeting were also approved. Mr. Roberts asked that members review the makeup of the Subcommittee for any concerns regarding size or balance of interests. He noted that his interest category is changing from general interest/public official to user; Ms. Brenton's category is changing from user to general interest. Mr. Lagano has been reinstated in the general interest category. Ms. Rogers has resigned creating a vacancy in the general interest category. Ms. Cocke noted that the MHCC is a FACA committee and that all appointments go from Commissioner Weicher to the HUD Secretary and then to the White House for approval.

   He noted that an MHCC task tracking chart has also been distributed which will be considered as part of the discussion of the MHIA 2000 implementation later in the agenda.

   As a "heads-up" for the discussion of future meetings later in the agenda, Mr. Roberts reported that HUD has asked that the MHCC consider meeting only three times per year. He noted that the "committee year" begins in June. He noted that it seems likely that there will be HUD proposals to consider in the fall so a meeting in the November-December timeframe would seem timely.

   Mr. Berger reported that the letter to Acting Secretary Jackson regarding the MHCC's review of procedural and enforcement regulations Section 604(b)(3) was sent on February 17, 2004. (Copy distributed at the meeting).

The Committee recessed for Subcommittee meetings.

2. The Committee reconvened for presentations on Subpart I by Mr. Kessler, as a producer, and by Mr. McIver, as a state regulator.

   Mr. Kessler highlighted many issues affecting a producer with the implementation of Subpart I. At the conclusion of Mr. Kessler's presentation, Messrs. Ghorbani and Stinebert noted that industry is not asking the Subpart I be eliminated, only that it be revised to be less burdensome while still protecting consumers' interests.

   Mr. McIver reviewed the procedures Virginia uses to implement Subpart I. He noted that the Department of Licenses and Contractors handle installation complaints. He pointed out the differences in time limits between Subpart I and state law on warranties. He pointed out the need for recordkeeping as a means for manufacturers to identify and correct manufacturing problems. He agreed that SAAs do need training on implementing Subpart I. He distributed copies a flow charts for SAAs and for manufacturers under Subpart I.

   During the ensuing discussion Mr. Kessler noted that he was not suggesting that a record of complaints should not be kept. However, Mr. Ghorbani indicated that the recordkeeping system needs to be fixed. Mr. Roberts noted that as a regulator he wanted to see records of problems and service records. Mr. Vogt noted that the "magic number of 10 before and 10 after" should be dropped. He also noted that better descriptions of the problem would help identify and correct any systemic manufacturing problem. Ms. Cocke noted that 80%-90% of the complaints occur in the first year during the warranty period.

   Ms. Cocke noted that the review of Subpart I should consider four levels - general principles, the statutory language, regulatory requirements, and administration. She noted that the first two levels cannot be changed. Mr. Stinebert noted that there is a great range of possible problems from "imminent hazard" to "things happen" and the current scheme goes far beyond what is reasonable.

   Mr. Roberts noted that the Regulatory Enforcement Subcommittee has three sessions scheduled over the three days to discuss Subpart I. He thanked Messrs. Kessler and McIver for their presentations.

3. Ms. Cocke reported that HUD has returned the "preview" document on the standards being proposed by the MHCC to the AO on February 20th with the Departments comments and edits. Some of the comments were the use of reference standards, some "Federal Register terminology". Mr. Roberts noted that because this is the first set of standards to be processed a "preview" copy has been sent to HUD for review. The "preview" document

also gives HUD an opportunity to prepare the Department and others for the formal review. Mr. Race noted that typically HUD reviews take 30-45 days, OMB review takes 90 days and Congressional review takes 15 days, all prior to publication in the Federal Register. The MHIA 2000 mandates that the Secretary publish the MHCC proposals within 30 days so the "preview" is helpful in pursuing that tight timeline. Mr. Solomon noted that he has not had a chance to review HUD's comments. Ms. Cocke noted each change had to be referenced to a standard citation and in the future this will be required in the formal submission by the AO. Mr. Solomon noted that this a slow learning curve. Mr. Farish asked what learnings could be gleaned for this first submission that can facilitate the processing of future submissions.

Mr. Solomon noted that Section 604(a)(4)(A)(ii) requires the proposed revised standards to be submitted in the form of a proposed rule. Ms. Cocke noted that a proposed rule or regulation must have a summary, a preamble, the proposed changes, findings and certifications, and address the "considerations" listed in Section 604 (e). She suggested that in the future the MHCC might have to develop some of these elements. She noted that HUD has been working with the contractor to put the proposal in the proper form. Mr. Zieman noted that he has not seen the contractor's work product or HUD comments on it. He asked how "perfect" submissions have to be. Ms. Cocke noted that the process was a "pass/fail" process, for example if the cost analysis did not meet OMB requirements, it would be returned for further work. Mr. McHale noted that he was pleased that a contractor had been secured to do the drafting as the task is beyond the resources of the MHCC.

Mr. Solomon forwarded a copy of the HUD comments to Mr. Zieman for review. Mr. Zieman forwarded copies to the Standards Subcommittee. Ms. Cocke noted that the document is a work product between HUD and the contractor and should be respected as such and not distributed further. Ms. Kayagil noted that the document has not been formally been submitted to HUD so the comments should not be considered as the "official" HUD position.

Mr. Roberts noted that the first set of 20 standards were considered the most significant and it was 12 months since the MHCC approved them for submission to HUD. He noted that they have not yet been submitted to HUD.

Mr. Walter noted that the MHCC proposal form already includes one of the considerations listed in 604(e). He suggested that others could be added. The Committee recessed for Subcommittee meetings.

Wednesday, February 25, 2004

4. Commissioner Weicher thanked HUD staff for their participation and management of the MHCC process. He thanked Mr. Roberts for his

willingness to continue as Chair of the MHCC. He indicated that a lot has been accomplished in two years. He looks forward to receiving the views of the MHCC on Subpart I and preemption. He noted that HUD staff is reviewing the comments on dispute resolution and the installation standard.

Ms. Cocke invited members to share their views on Subpart I with Commissioner Weicher. Mr. Berger noted that Subpart I is definitely in the need of reform. Mr. Roberts noted that Subpart I should focus on getting problems fixed. Ms. Cocke noted that in his presentation Mr. McIver gave some historical perspective and discussed the costs and benefits of the program. Mr. Ghorbani noted that, when written, Subpart I followed the automotive model; MHIA 2000 was a mandate to change the direction of the program. Mr. Roberts noted that most problems are related to installation rather than manufacturing problems. Mr. Vogt noted that Subpart I should help both the consumer and the industry. Commissioner Weicher indicated that staff does not view manufactured housing as the same as trailers or RVs. He noted that a lot of effort is being put into implementing MHIA 2000. Mr. Lagano noted that adding costs for compliance with Subpart I affects the affordability of manufactured housing. Mr. Gorman suggested that lenders should be encouraged to consider foundations. He also noted that not only does recordkeeping need reform but also administration needs to be addressed. Mr. Leven indicated that until the national installation program and dispute resolution program are in place, Subpart I is not relevant.

Commissioner Weicher thanked the members for their comments. He concluded by thanking the members for their participation, noting that manufactured housing is an important source of affordable housing.

5. Mr. Roberts presented proposed revisions to the MHCC bylaws submitted by Mr. Weinert. He noted that five of the elements recommended by Mr. Weinert are taken from Section 604(e). Mr. Ghorbani noted that submitters could not be forced to provide all the information. Further he indicated that the proposal should be considered as an operating procedure rather than a bylaw change. Mr. McHale concurred. Mr. Roberts asked Messrs. Lagano and Walter to review the proposal and the MHCC proposal form and bring a recommendation to the Committee for consideration.

6. Ms. Cocke distributed copies of a soon-to-be-published in the Federal Register HUD proposed rule on the minimum payment to states. She also distributed for MHCC review and comment, a HUD proposal to increase in the fees paid to approved or conditionally approved states from $2.50 to $5.00 for each transportable section of new manufactured housing that is produced in the state. The MHCC will have 120 days to comment on the latter proposal. The former has already been submitted for publication. When published there will be a 30-day comment period. Mr. Walter noted that the purpose of Mr. Roberts' letter on MHCC review of proposed procedural and enforcement

regulations was to clarify whether any proposed rules could be published without MHCC review. Mr. Roberts asked the Subcommittee to review the proposals and consider whether there should be a conference call to discuss possible MHCC comments on the first proposed rule. The MHCC must respond on the latter proposal within 120 days as it was formally submitted to the MHCC for comment.

7. The Committee recessed for Subcommittee meetings.

Thursday, February 26, 2004

8. Mr. Roberts asked for public comments. There were no requests to make comments.

   Mr. Roberts asked whether the members wished to make any comments on the balance of the Subcommittees. It was agreed that no changes needed to be made.

   Future meetings were set for August 10-12, 2004 and November 30, December 1-2, 2004 in the Washington, DC area, and February 22-24, 2005 in Los Angeles, CA.

   Mr. Toner was requested to reorganize the task tracking chart by subcommittee and subject and to include milestones.

9. Mr. Lagano reported that he and Mr. Walter have reviewed the MHCC proposal form and Mr. Weinert's proposed bylaw change. He noted that the Prioritization and Planning Subcommittee has procedures to evaluate proposals received. As a result, he moved that three of the elements of Mr. Weinert's proposals be added to the Prioritization and Planning Subcommittee's procedures and that the procedures be posted on the website. He distributed copies of the elements to be added. Motion seconded and passed.

10. Mr. Gorman reported that the Regulatory Enforcement Subcommittee has scheduled a conference call for March 24, 2004 to discuss the HUD proposals on fees and Subpart I. A Task Group was established to develop comments on the proposed rule on increased payments to States. (Editors Note: Mr. Weinert will chair this subcommittee). Mr. Ghorbani will lead the Task Group with Messrs. Walter, Berger, Youse, Weinert and Vogt participating.

    Mr. Gorman reported that Mr. Matchneer had provided a draft policy statement on Federal preemption. The Regulatory Enforcement Subcommittee elected to drop its effort to develop an interpretative bulletin on preemption in favor of improving the draft policy statement. He distributed

copies of the edited statement to which a proposed accompanying statement from the Committee regarding the intent of the policy has been added. Ms. Cocke indicated that she has discussed the Subcommittee work with Mr. Matchneer and he indicated that he would like to work with the draft further. Mr. Roberts recommended that the revised draft be shared with Mr. Matchneer. Mr. Gorman agreed.

Mr. Gorman reported that the Subcommittee has also scheduled a conference call for May 12, 2004 to continue work on Subpart I.

11. Mr. LaMont, for Mr. Zieman, presented for action by the MHCC the following recommendations on proposals reviewed by the Standards subcommittee:

    Log 1a (single handle faucets) to be rejected. The subcommittee noted that such faucets are available as options and should not be mandated. The MHCC approved the recommendation unanimously.

    Log 2 (30" hallways) to be rejected. The subcommittee noted that site-built homes do not have such a requirement. Mr. Walter noted that 30" does not provide sufficient turning radius for wheelchairs. Mr. Leven indicated that AARP does not agree with rejecting the proposal. Mr. Gorman noted that increasing hallway widths might preclude the home from being sited in a park, as the home would be too wide. Mr. Farish recommended that the MHCC have a presentation on universal design at the next meeting.

    After further discussion it was moved, seconded and carried that actions on Logs 2 and 3 be tabled pending further discussion on aging-in-place at a future meeting. Log 1a will remain rejected.

    Logs 4, and 5 to be accepted, agreed unanimously.

    Log 6 to be accepted in principle, agreed without negative, Mr. Ghorbani abstaining. Mr. Solomon to develop proposal regarding the reference to NFPA 501.

    Log 7 to be rejected. Proposal exceeds requirements in NEC and would be inconsistent with requirements for site-built and modular homes. Agreed unanimously

    Log 8 to be rejected. Proposal does not indicate where in 3280 change is to be made, some parts already are included in 3280. Agreed without negative, Mr. Braun abstaining.

    Mr. Solomon will notify proponents of the action taken on their proposals.

Messrs. LaMont and Berger requested to be added to the Standards Subcommittee.

12. Mr. Roberts thanked the members for their participation. The meeting adjourned at 10:45 a.m.

HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE
ATTENDANCE SHEET
Radisson Hotel, Alexandria, VA
February 24-26, 2004

STATUS: M=MEMBER; NVM=NON VOTING MEMBER; AO= ADMINISTERING ORGANIZATION; SEC=SECRETARY

NAME	STATUS	ORGANIZATION	Tuesday 2-24-04	Wednesday 2-25-04	Thursday 2-26-04
Dana Roberts	M	Oregon Manufactured Homeowners Assoc.	X	X	X
Charles Leven	M	AARP		X	X
Pat Toner	AO/SEC	NFPA	X	X	X
Jack Berger	M	Berger Reconstruction	X	X	X
Karl Braun	M	NAMH – MHOAA	X	X	X
Ed Bryant	M	Champion Enterprises	X	X	X
William Farish	M	Fleetwood Homes	X	X	X
Danny Ghorbani	M	MHARR	X	X	X
Doug Gorman	M	Home – Mart, Inc.	X		X
William J. Lagano	M	Commonwealth Consulting Corp.	X	X	X
Ronald V. LaMont	M	Alpine Engineering Products	X	X	X
Jerome L. McHale	M	Federation of Manufactured Home Owners of Florida	X	X	X
Nader Tomasbi	M	Liberty Homes, Inc.	X	X	X
Randy E. Vogt	M	State of MN – Dept. of Administration	X	X	X
Frank Walter	M	MHI	X	X	X
Mike Zieman	M	RADCO	X	X	
Robert Solomon	AO	NFPA	X	X	X
Elizabeth Cocke	NVM/DFO	HUD	X	X	X

HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE

GUEST ATTENDANCE SHEET

Radisson Hotel, Alexandria, VA

February 24-26, 2004

NAME	ORGANIZATION
Henry DeLima	DeLima Associates
Elsie Draughn	HUD
Chris Early	U.S. Dept. of Energy
Vic Ferrante	HUD
Timothy Gearan	AARP
John Ingargiola	DHS - FEMA
Ronald Jordan	U.S. CPSC
Joan Kayagil	HUD
Bert Kessler	Palm Harbor Homes
Andrew Kochera	AARP
Lon Larson	Oliver Tec.
Doug Lee	
Mike Mafi	IBTS
Curtis McIver	Virginia SAA
Jason C. McJury	HUD
Shawn McKee	HUD
Rick Mendlen	HUD
Mark A. Nunn	MHI
George Porter	MHR
Frank Quigley	HUD
Peter Race	HUD
Boone Smith Morris	TieDown Engineering
John Stevens	HUD
Chris Stienbert	MHI
Mark Weiss	Weiss & Wilson P.C. Counsel to MHARR