

Final Minutes
HUD Manufactured Housing Consensus Committee
Conference Call
April 10, 2007

1. Chairman Roberts called the meeting to order at 11:00 a.m. Mr. Toner called the roll; a quorum was present. Mr. Roberts asked the guests to introduce themselves.

Mr. Roberts noted that the main purpose of this teleconference is to discuss the HUD Model Manufactured Home Installation Program draft final rule. The agenda for the call is:

- Opening Remarks
- Public Comments
- Review of the draft final rule
- Future meetings
- Adjournment

The agenda was approved.

2. Mr. Roberts noted that the MHCC currently has 19 members. There is an opening for an industry representative and a general interest representative. Mr. Matchneer indicated that applications are in progress and that he expected the vacancies to be filled by the May meeting.
3. Mr. Matchneer noted that previous drafts had been reviewed by the Committee and that this draft is moving towards Department clearance. He hoped to finalize the draft after this call. Mr. Ghorbani asked whether there was any possibility of changes being made at this late date. Mr. Cunningham indicated that HUD would consider today's discussions. He suggested that only those actions of significance be discussed.

Mr. Farish asked what the schedule is for publishing the final rule. Mr. Matchneer indicated that the preamble and the required administrative certifications are nearly finished. Then the rule goes to OMB for review, which could take 90 days; then there is a short final review at HUD and it goes to Congress for a 15-day review. He hopes to see it published late summer.

4. Mr. Roberts led a review of the HUD actions that rejected the MHCC response to the proposed Model Installation Program. He noted that the MHCC action on any issue is to accept the HUD action or to reaffirm the Committee's previous position.

Title – Mr. Ghorbani noted that all the arguments are known that this rule should be part of the Construction and Safety Standards. He recommended that the discussion move on. Mr. Matchneer noted that the intent is to keep separate the Installation Standards and the Installation Program for purposes of enforcement.

3286.2

FEMA units – Mr. Matchneer indicated the regulation of FEMA units is unenforceable. Mr. Roberts noted that the issue is if FEMA units are sold. Mr. Matchneer stated that the rule does not apply to used units or units after first siting. If FEMA has stored the units and then sold them the rule would apply.

Lease/lessee – Mr. Matchneer noted that Sec. 610 includes “lease”. Mr. Weiss noted that 605(c)(3) refers to “protection of residents”. Mr. Matchneer indicated that he would take the comment under advisement. Mr. Bryant recommended that the MHCC reaffirm its position. MHCC reaffirmed its comment.

Federal lands – Mr. Matchneer indicated that not all federal lands should be exempt, e.g., military housing. However, Indian reservations are subject to treaties so that exemption is appropriate. Mr. Cunningham noted that some federal lands may or may not be exempted by law.

3286.3

Defect – Mr. Matchneer indicated that HUD is considering changing the term to “Installation Defect”. It was recommended that “For the purposes of this subpart” be added to the definition. With that modification the definition was accepted.

Design – Mr. McKee noted that “design” is used in several different ways in the document. He indicated that HUD would look at using the term “Installation design” and including “For the purposes of this subpart”.

Assemble – Mr. Matchneer noted that “assemble” connotes more of a construction activity. Messrs. Zieman, Weinert and Berger stated that “assemble” is more inclusive. “Close-up” could be added to the definition. It could be cross referenced to 3286.505. Mr. Matchneer indicated that it would be taken under advisement.

Installation instructions – Mr. Matchneer stated that the standards control and that HUD could not enforce beyond the standards. After discussion the MHCC strongly reaffirmed its position. Mr. Cunningham indicated that, in light of the extensive discussion, HUD will have further internal discussions.

Purchaser – the Committee reaffirmed its position that “purchaser” should be replaced by “resident”.

3286.9(b) – Mr. McKee noted that this provision will be clarified to indicate that it only applies to default states.

3286.103(a) – Mr. McKee noted that this does not apply if the retailer is not responsible for installation. Mr. Matchneer noted that the home owner can’t be restrained from doing his own installation. Mr. Weinert indicated that California requires a disclosure to home owner prior to sale. He will send a copy to HUD.

3286.107(a)(4) – Mr. Roberts questioned the inclusion of the manufacturer in this provision. Mr. Matchneer indicated that a manufacturer may have some responsibility through the “law of agency”. He suggested that the sentence could be rewritten to clarify the installer’s responsibility and a new (5) could be added for those situations where a retailer and a manufacturer share responsibility.

3286.109 – Mr. Nunn raised a concern about the cost implications of 100% inspection and the potential delay in permitting the home owner to occupy the home. He noted that less than 100% inspection works OK in state program states. Mr.

Ghorbani concurred. Mr. Matchneer indicated that HUD has no experience with less than 100% inspection. The provision can be rewritten after experience is gained. 3286.111(a)(1)(MHCC recommendation) – HUD thought the provision was redundant.

3286.205(d) – Mr. Matchneer indicated that “Surety bond” was added at the recommendation of Mr. Lagano. Mr. Nunn noted that a surety bond is not required by the Act. Mr. Matchneer indicated that HUD wanted some assurance that an installer has sufficient financial resources.

3286.503(a) – Mr. Roberts reported that Mr. Vogt submitted a comment that inspections must be staged so the work can be inspected before it becomes concealed. Mr. Roberts noted that the way the provision is written the inspection can't be done until all the work is completed. It was suggested that inspections be arranged 10 business days prior completion of the work.

3286.505 – Mr. Zieman stated that the checklist include assurance that “all permits... have been obtained” is a local jurisdiction issue and recommended deletion of that clause. Mr. Matchneer agreed that it was overreaching.

3286.803(b) – Mr. Matchneer indicated that this provision is on HUD's list to be reviewed. 100% inspection may also be reviewed in this review.

3286.803(c)(MHCC recommendation) – Mr. Matchneer indicated that the MHCC recommendation encouraging inspection of used homes may be added.

3286.807 – There is a difference in time limits for between conditional and full certification. Mr. Matchneer will look at the authority for the 5 year requirement.

3286.811 – Mr. Roberts reiterated the MHCC position that a state should have the authority to preempt local requirements if it chose to do so. Mr. Ghorbani concurred. Mr. Matchneer indicated that HUD would include such a provision.

5. Mr. Cunningham reported that the Dispute Resolution rule is soon to be published. It has been cleared by OMB. Mr. Montgomery is expected to sign off on it and it will be published before the May meeting. The final Installation Standard is now in Department clearance, then it will go to OMB. Mr. Roberts asked whether the MHCC would get to review the Installation Standard. Mr. Cunningham indicated that has not been discussed. He noted that the implementation date will be nine months after publication so there is time to fix any glitches. The Installation Program will follow.
6. Mr. Roberts thanked the Department for the opportunity to review the final draft of the Model Installation Program. He thanked the Committee for its participation.

The call concluded at 2:55 p.m.

Attendance

MHCC members

Dana Roberts

Jack Berger

Karl Braun

Susan Brenton

Ed Bryant

Catherine Downs

Bill Farish

Danny Ghorbani

Ron LaMont

Mike Lubliner

Archie Major

Jerry McHale

Terry Nelson

Nader Tomasbi

Richard Weinert

Mike Zieman

Bill Matchneer

Pat Toner

HUD Staff

Gary Cunningham

Shawn McKee

Rick Mendlen

Liz Cocke

Peter Race

Rhonda Dickerson

Elinor _____

Guests

Mark Weiss

Mark Nunn

Tim Guerin

Susan _____ (AARP)

Frank Walter