

Final Minutes
HUD Manufactured Housing Consensus Committee
Radisson Hotel, Alexandria, VA
August 10 - 12, 2004

Tuesday, August 10, 2004

1. Chairman Roberts called the meeting to order at 8:00 a.m. Mr. Toner called the roll; a quorum was present.

Mr. Matchneer introduced Mr. Gary Cunningham, Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing. Mr. Cunningham expressed his interest in and support for the activities and processes of the MHCC. He indicated that the written HUD updates provided to the MHCC were intended to provide a status report and to share HUD's thinking on the issues before the MHCC.

Mr. Roberts reviewed the agenda. He indicated that Mr. Bryan Applegate, Director of the HUD Regulatory Barriers Initiative, would make a presentation at 3:30 p.m. He distributed a list of potential issues needing MHCC action for discussion later in the meeting.

The minutes of the April 5, 2005 conference call were approved. The minutes of the June 7, 2004, conference call are still being reviewed by HUD.

2. Mr. McJury reviewed the status of the proposed Installation Standard. He noted that the draft is currently under internal HUD review in the Office of Regulations. After it is cleared through HUD, it will be sent to the Office of Management and Budget (OMB). After OMB review and clearance, there is a fifteen-day Congressional review period and then it will be published in the Federal Register for public comment.

Mr. McJury reviewed the draft standard. The standard is proposed to be a new part 3285. The draft has four sections – A summary, an outline of the modifications HUD has made to the proposal submitted by the MHCC, findings and certifications, and the proposed rule. A new Subpart K to 3280 is proposed to contain recommendations made by the MHCC that HUD considers to be construction standards rather than installation standards. He indicated that the modifications made by HUD to the MHCC proposal can be categorized as:

- Changes made to make the standard consistent with 3280, 3282 and MHIA 2000,
- Relocation of sections,
- Editorial,
- Changing "should" and "shall" to "must"
- Renumbering,
- Elimination of areas in which HUD does not have authority,
- Construction related issues,
- Procedural issues, and
- Technical and legal issues

Mr. McJury noted that the preamble also will contain specific questions on which HUD would like

to receive additional guidance.

Mr. Tomasbi asked whether it would be possible for the MHCC to see the changes being made by HUD. Mr. Cunningham indicated that since the document has not been forwarded to OMB it is possible that MHCC review could be considered part of the Department internal review. Mr. Tomasbi indicated, that he was particularly concerned with sections that are proposed to be moved into a new Subpart K in 3280.

Mr. Weinert asked whether all states must meet the standard. Mr. McJury indicated, that the standard is a minimum standard, however, states could be more restrictive. Mr. Roberts expressed a concern that an Local Authority Having Jurisdiction (LAHJ) could be more restrictive than the state. Mr. Berger noted that allowing an LAHJ to be more restrictive than the state regulations would be opening a can of worms.

Messrs. Bryant, Farish and Ghorbani also asked whether the MHCC could review the draft proposed standard. Mr. Bryant also asked when the proposal might be published. Mr. Roberts indicated that it could be 3-4 months until it was published in the Federal Register. Mr. Youse indicated he would like to see the criteria that HUD used to cut and paste sections from the MHCC proposal. Mr. Cunningham noted that there is a deadline for establishing the installation standard and the MHCC will still have the 60-day public comment period. Mr. Zieman asked if the 120-day review period would apply; Mr. Cunningham replied that it would not. Mr. Lagano suggested that a short time limit be set for an MHCC review.

Mr. Walter moved, Mr. Gorman seconding, that the MHCC be given a 30-day review period. Mr. Matchneer noted that HUD has a statutory deadline to establish the standard. Mr. Berger indicated appreciation for the deadline but noted the effort the Installation Subcommittee went through to make the proposal and now it appears that it has been radically changed.

Referring to the new Subpart I, Mr. Roberts noted that it is better for an installer to have one comprehensive standard rather than to have to refer to another document for guidance. Ms. Cocke indicated that the idea that the installation standard would be used as a checklist or handbook for installers was new. HUD considers the standard to be a regulation rather than a guidance document. Mr. Roberts noted that there seems to be a disconnect between the vision of the MHCC and HUD on this issue. Mr. Weinert asked for a fuller explanation of the separation of parts of the MHCC proposal into installation and to construction. He stated that when the new standard is published, it should contain all the elements, even if some were in an appendix. Mr. Roberts indicated that the disconnect is between an installation manual and a regulation. Mr. McJury noted that it is the responsibility of the manufacturer to provide installation instructions. Mr. Porter noted that installers need a complete installation program and not have to “enforce” 3280. Mr. Race suggested that the MHCC should wait to see the HUD proposal for on-site construction. Mr. Zieman indicated that would be too late to change the installation standard.

Mr. Bryant moved to call the question; motion seconded and carried. Mr. Walter’s motion to request a 30-day review carried, 13 aye, 4 no.

3. Mr. Matchneer introduced Ms. Deborah Kant, U.S. Dept of Justice, Office of Dispute Resolution,

Ms. Kant noted that she has advised and consulted with many federal agencies regarding dispute resolution programs and has provided training on such programs. She noted that the most widely used dispute resolution technique is mediation and that sometimes non-binding arbitration is used. The Administrative Dispute Resolution Act governs such programs and provides a great deal of flexibility.

Ms. Kant and Ms. Yvonne Jones, HUD, presented an overview of a proposed dispute resolution program. Ms. Jones indicated that the draft program contains four phases – screening the complaint; contacting the parties; mediation; and non-binding arbitration. In the latter, the arbitrator would make a recommendation to the Secretary as to disposition of the complaint. States that have programs, would have to self-certify compliance with the Act. Mr. Weinert asked how contractors would be paid. Ms. Jones indicated that there would be user fees. Mr. Ghorbani asked whether the draft could be shared with the MHCC.

Mr. Vogt indicated a concern if a state has a dispute resolution program that does not provide for mediation or arbitration. Ms. Kant indicated that the Act does not require mediation or arbitration as long as it meets the goals of dispute resolution. Mr. Gorman expressed a concern regarding the general approach that appears to focus on the installer and the retailer. He indicated that there needs to be an expert evaluation to identify who is responsible for the problem and must fix it. Ms. Kant indicated that a technical expert that is agreed upon by the parties could make the evaluation. Mr. Gorman noted that the expert should make the determination not mediate the complaint. Mr. Roberts indicated that the intent is to obtain voluntary agreement on the responsibilities. Mr. Stinebert noted that in the construction industry more direction is given by the mediator. Ms. Kant noted that the discussion is favoring evaluative mediation. Mr. Gorman noted that the industry has tried to stay away from the terms “mediation” and “arbitration” so as to focus on correction of problems. Ms. Brenton suggested that the resolution be binding if both parties agree to the evaluation.

Mr. Gearan asked what procedures would be established to challenge a decision in the screening phase that the complaint was not credible. Ms. Cocke indicated that HUD would provide guidance on making that determination. Mr. Roberts indicated that the first question to be asked is whether the dealer had been contacted; the next question is whether the dealer has contacted the manufacturer. He noted that at that point, many complaints are resolved.

Mr. Roberts proposed that the Dispute Resolution Program be paid for by a \$10 increase in label fees for both default states and non-default states. He distributed draft changes to part 3284 on program fees. He stated that charging a fee for the Dispute Resolution Program would be a disincentive to consumers. He suggested that a portion of the increased label fee also be used to support standards development. Mr. Stinebert suggested that increasing fees for all manufacturers would be rewarding the “bad guys”. He indicated that industry would not be willing to pay an increase in fees. He also suggested that it may be disincentive for states to have a program. Mr. Vogt stated that any payment to states should clearly define what the fees pay for. Mr. Gorman noted that the focus should be on the distinction between the responsibilities of the manufacturer and those of the retailer. Any program should not be viewed as denying the consumer the option of initiating a complaint. Mr. Cunningham indicated that HUD is considering a nominal filing fee for consumers.

Mr. Roberts questioned how the Dispute Resolution Program would tie into the Subpart I decision regarding fixing a home. It was noted that Subpart I only deals with correcting a serious defect or imminent safety hazard. Mr. Weiss noted that the Dispute Resolution Program is independent of Subpart I.

4. Mr. Quigley reported on the status of the Installation Program. He noted that HUD has looked at state programs and where HUD operates the program. He noted that some non-SAA states run their own program. Regarding licensing, HUD is considering initial training requirements, an exam and a license fee. He would welcome feedback on the question of bonding.

Regarding training, open issues are who is to provide training and how training programs are approved. He noted that HUD may not have the resources to manage a national certification/approval program for training providers. In addition, to identify which homes will come under HUD's program, there needs to be a database to track where homes are installed, and such a database should provide for accurate and timely reporting of both installed homes and those homes for which installation is pending. Consideration has been given to having local building inspectors conduct the installations inspection, in those jurisdictions that maintain active building code enforcement programs. Ms. Comejo indicated that HUD is considering incorporating as many of the MHCC comments as possible, including 12 hours of initial instruction and 8 hours of continuing education for installer licensing.

Mr. Conte asked, "who is the installer?" Mr. Quigley indicated that the definition has yet to be established. He noted that there is sometimes a fine line between the retailer and the contractor who installs the home. It was noted that the MHCC recommended that one licensed person be responsible for the job-site, although not necessarily on the site at all times. Mr. Quigley indicated that the program would contain a provision for self-certification. Mr. Roberts indicated that the retailer should contract with the inspector rather than the installer. Mr. Zieman expressed a concern about too close a relationship between an installer and an inspector. He recommended that the inspector certify the installation rather than the installer. Mr. Walter noted that the program should contain provisions for reasonable timeliness. Mr. Stinebert indicated that he was impressed with what has been presented. He prefers 100% inspection and is interested in a way to accommodate 100% inspection with self-certification; perhaps an installer could self-certify after demonstrating the capability to do proper installations. Mr. Quigley noted that in some instances, it would be impossible for an inspector to get to an installation in a timely period. Mr. Conte noted that West Virginia does inspections after a home has been installed.

Mr. Weinert asked how tracking of homes would be accomplished. Mr. Quigley indicated that the program would be web-based. It was noted that the installer would be required to register the installation in the database. Mr. Zieman questioned the need for a tracking system. Mr. Vogt noted that it provides a way to schedule inspections. Some committee members suggested that the retailer should arrange for the inspection. It was noted, that the inspectors need to be credentialed, such as a registered professional engineer, registered architect or an LAHJ.

Ms. Kayagil noted that the non-default states could self-certify that their programs meet the statutory requirements. Re-certification would be required every 2-3 years or after a significant

change in their program. Mr. Roberts questioned the need for re-certification if nothing has changed. Mr. Lagano asked, what is the definition of a default state – one that only has two elements of the program? Ms. Kayagil indicated that there is consideration being given to “conditional approvals”. Mr. Roberts asked how states that don’t have the authority for the entire state would be considered. Ms Kayagil indicated that HUD is looking for a model for self-certification. Mr. Stinebert noted that some states do not have licensing and never will.

The discussion of the Installation Program was suspended for a presentation on HUD's Affordable Communities Initiative and a discussion with Commissioner Weicher.

5. Commissioner Weicher introduced Mr. Bryant Applegate, Director of HUD's Affordable Communities Initiative. Mr. Applegate addressed the MHCC regarding HUD's America's Affordable Communities Initiative. The America's Affordable Communities Initiative was launched by HUD to focus on regulatory issues that impact affordable housing such as: out-of-date building codes and restrictive or exclusionary zoning. HUD's philosophy is that state and local governments should look at their regulations for opportunities to eliminate unnecessary restrictions. He noted that Secretary Jackson has made this initiative a high priority for HUD and encouraged the Department to think out of the box.

Mr. Applegate distributed copies of the HUD brochure “HUD Helping Communities Expand Affordable Housing Through Regulatory Reform” and the notice announcing HUD's intention to establish, in FY 2004, notices of funding availability (NOFAs), including HUD's SuperNOFA, a policy priority for increasing the supply of affordable housing through the removal of regulatory barriers to affordable housing. He noted that Secretary Jackson has directed that, as part of the Department's pre-clearance procedures, proposals are to be reviewed by Mr. Applegate's Office. He noted that a national conference was held to determine research needs. The Partnership for Advancing Technology in Housing (PATH), has funded about \$1.5 million in research and several in-house roundtables have been held. He noted that the initiative has a website.

Mr. Lagano applauded the initiative, noting that zoning has been a long-standing issue. Ms. Cocke supported the concern about exclusionary zoning. Mr. Walter noted that state manufactured housing organizations have had to deal with issues between the building code and the HUD code. Mr. McHale asked whether there was any influence with Fannie Mae or Freddie Mac. Dr. Weicher replied, that there are none - there is a legislatively mandated firewall. Dr. Weicher thanked Mr. Applegate for his remarks. He noted that Mr. Cunningham is on Mr. Applegate's Task Force.

6. Commissioner Weicher noted the results of the American Housing Survey indicated that there are approximately 8 million manufactured homes in the U.S., 2 million of which were built before the HUD code was published. He noted that this is the second anniversary of the first meeting of the MHCC. During that time there have been eight meetings and 39 conference calls. A great deal of progress has been made. He noted that HUD is committed to the MHCC process. He reported that, he has signed the reappointments to the Subcommittees.

Dr. Weicher noted that the first 20 proposed standards are ready to go to the Secretary, after which there is the required 15-day Congressional review period and then, they will go to the

Federal Register for public comment. The Federal Register notice will indicate where and why the MHCC proposals have been modified. The second set of standards is about 80% completed. He thanked Mr. Zieman and the Standards Subcommittee for their hard work. He reported that the draft proposed Installation Standard has proceeded to the Office of General Counsel and noted that the MHCC will be given 30 days to review the draft. He noted that the Installation Program has a deadline of December 27, 2005. He also noted that Subpart I is undergoing extensive revision and HUD looks forward to useful discussions at this meeting. The On-site Completion Rule is being worked on. He reported that HUD is ready to move on a COSAA conference early next year.

Dr. Weicher noted that a good job has been done all around. He thanked the MHCC Chairs and members and HUD staff for all their hard work. In two years a lot has been accomplished.

Mr. Gearan asked whether the budgets for the Installation Program and the Dispute Resolution Program could be shared. Mr. Roberts asked whether it would be timely for the MHCC to provide suggestions on how to fund the Department's manufactured housing program. Dr. Weicher indicated that it was.

7. Mr. Roberts reviewed the schedule for the next day's meetings.

The Committee recessed at 5:00 p.m.

Wednesday, August 11, 2004

8. Mr. Roberts called the meeting to order at 8:00 a.m. Discussion of the Installation Standard resumed.

Mr. Cunningham reported that the draft Installation Standard will be sent to the MHCC for review the week of the 16th. It may be tweaked somewhat from what was presented yesterday. In addition, HUD is considering returning construction-related items back into the Installation Standard. It was determined that the Installation Subcommittee would have a conference call on August 27, 2004, at 2:00 p.m. EDT, to review the draft. All MHCC members were invited to participate in the call. The full MHCC will have a conference call on September 1, 2004, at 2:00 p.m. EDT, to discuss the Installation Subcommittee recommendations.

Ms. Kayagil indicated that the options for states with existing installation programs which do not have all four elements of the HUD program are "grandfather" those states, grant conditional approval, and, let the state operate those elements it has and have HUD run those that it does not. Mr. Weinert expressed a concern for the latter option. Mr. Ghorbani concurred. He recommended that states be given a timeline to meet the HUD program, failing that, HUD should run the entire program. Mr. Youse favored conditional approval with HUD direction of the steps to be taken. Mr. Zieman asked how many states would not fully comply? Mr. Nunn noted, that the MHI survey indicated that approximately 30 states would have a full program. Mr. Vogt recommended that fast, firm timeframes be given for coming into compliance. He also noted that some states are waiting for the HUD program to determine what they should do. Mr. Conte noted that Pennsylvania will not license installers but would "certify" them and recommended that each

state be considered individually. Ms. Kayagil indicated that some options are being reviewed for states with existing installation programs, which do not have all four elements of the statutory program. Mr. Lagano noted that some states would have to wait for the next legislative session to get authorization to license installers. Mr. Walter suggested that states that have some inspection procedures in place should be given conditional approval with a timeline to develop the other three elements.

Ms. Kayagil thanked the MHCC for the very helpful discussion.

9. Mr. Roberts initiated a discussion on the MHCC's role and responsibilities. Mr. Ghorbani expressed an impression that HUD's view of the role of the MHCC was limited to standards and regulations. He stated that was not the intent of MHIA 2000. Mr. Walter noted the concern was raised in the February 17, 2004, letter from Mr. Roberts to Secretary Jackson. Mr. Ghorbani noted that he was not referring to the current working relationship but rather for future relationships with different leadership at HUD. He expressed a concern that future HUD administrations would use the May 7, 2004, letter from Mr. Cunningham to Mr. Roberts as a basis to limit the role of the MHCC.

Mr. Ghorbani distributed a resolution requesting HUD to withdraw its May 7, 2004, interpretation of the scope of the MHCC's authority and issue a revised interpretation that is consistent with the 2000 Act and Congress' intent regarding the full scope of that authority. He moved that the resolution be passed by the MHCC; Mr. McHale seconded.

Mr. Weinert stated that he didn't think the Committee should take a position but rather that individual members could challenge HUD's interpretation. Mr. Roberts expressed a contrary opinion. He noted that he had volunteered for service on the MHCC expecting a role greater than one limited to standards and regulations, especially in developing an installation program. Mr. Ghorbani indicated that it would be helpful to have the sense of the MHCC on this issue. Mr. Berger noted that he was on the Task Group that drafted the February 17, 2004, letter to HUD and concurred with Mr. Ghorbani regarding the role of the MHCC. Mr. Vogt noted that the MHCC is an advisory committee but he agreed in principle with Mr. Ghorbani's position. Mr. Weinert noted that his concern is the venue for the challenge to HUD's interpretation. Mr. Walter noted that 604(b)(6) is clear in its intent. Mr. Farish noted that the current working relationship is good but is concerned how the MHCC's views might be viewed in five years.

Mr. Cunningham noted that the May 7, 2004, interpretation and subsequent discussions related to when the 120-day MHCC review was mandated by the MHIA 2000. HUD does not agree that it applies to instances other than proposed construction and safety standards. Items such as budget, contracts, etc., traditionally are inherently governmental activities. Mr. Race indicated that the Administrative Procedure Act controls normal rulemaking and the MHIA 2000 acknowledged that in section 625.

After some further discussion, the Committee passed the resolution.

Mr. Matchneer recognized that there is disagreement on this issue but is not sure the Department can do any more than it is currently doing. He noted that the MHCC brings certain expertise to the

process that HUD does want to tap. Mr. Roberts noted that HUD is welcome to ask for MHCC guidance. Mr. Vogt noted that anyone can propose changes. Ms. Cocke noted that HUD looks forward to analysis and discussion of issues by the MHCC. She distributed a list of possible future projects for the MHCC. Timely updating of standards, universal design and multi-story structures were added to the list. Mr. Gearan noted that AARP has offered to make a presentation to the MHCC on universal design. Ms. Cocke suggested that all members submit a list of issues to the Planning and Prioritization Subcommittee and that the list be kept open for additional items. Mr. Roberts noted that suggestions should go through the AO.

10. Ms. Kayagil reported that HUD has been reviewing the MHCC's comments on the proposed On-site Completion Rule to make them consistent with the Installation Standard. She noted that the proposed rule is still being drafted.. Most of the drafting has been completed. She noted that open issues are quality control responsibility, and inspections, but that HUD is adopting the MHCC suggestion for a single label. Mr. Ghorbani noted the importance of having a bright-line between the responsibilities for on-site completion and those for installation. Mr. Matchneer noted that as a practical matter, homes that meet the HUD standards but require on-site completion won't need an AC letter.

Mr. Conte asked whether the On-site Completion Rule would be preemptive. Ms Kayagil expressed HUD's interest in trying to draw a bright-line. Mr. Matchneer noted that it is a question of which "bucket" it falls into. The construction and safety standards are preemptive. He noted that it is an issue that needs to be considered. Mr. Roberts noted that the proposed "Subpart K" needs to be put back into the Installation Standard.

Mr. Roberts noted that the proposals for the Installation Program and the Dispute Resolution Program will follow publication of the proposed Installation Standard. He recommended that On-site Completion be held until after the publication of the Installation Program.

11. It was reported that the first group of proposed construction and safety standards would be published in the Federal Register by the end of the month. Mr. Zieman noted that the question of the formaldehyde notice was still open. Mr. Nunn distributed a copy of a study done by MIRA for MHI. He noted that the study looked at six areas: changes in the market; product formulation changes; health and formaldehyde levels; ventilation; home size; and, current formaldehyde levels. The report concluded that there is no justification for maintaining the formaldehyde health notice. MHI recommends that the health notice be eliminated because it is no longer needed and no other code requires one. Mr. Weinert asked what was HUD's reason for rejecting the MHCC proposal to eliminate the notice. Mr. Nunn noted that the reasons were stated in the May 28, 2004 HUD update on the first group of safety standards. Mr. Stinebert stated that manufacturers felt that there no longer is a formaldehyde emissions problem. Mr. Kessler noted he had had very few instances in the last 4-5 years, all found unrelated to formaldehyde. Mr. Vogt recommended that 3280.309 be eliminated in its entirety. Mr. Walter suggested that a new 309 be drafted that indicates the information is contained in the consumer packet. Mr. Mendlen indicated that the preamble of the proposed standards changes will contain a request for comments on this issue. He noted that the MHI study was on a small sample of homes. Ms. Cocke noted that the latter comment was not an official Department analysis. Mr. Matchneer advised the Committee that notice on the proposed standards changes will contain a rejection of this MHCC proposal. The

rejection is subject to public comment. Mr. Walter moved that the MHCC comment on the proposed rejection and the MHRA report be submitted in support. Motion seconded and passed unanimously.

Mr. Zieman noted that HUD has proposed to modify the MHCC recommendation regarding fireblocking as it pertains to cellulose insulation. Mr. Berger moved that the HUD modification be accepted. Mr. McHale seconded. Mr. Walter moved that the question be tabled to the next meeting; motion seconded and carried.

Mr. Zieman noted that HUD has modified the MHCC proposal on vapor retarders. He considered the modification to be an editorial change. It was moved, seconded and carried to accept the modification.

Mr. Zieman note that HUD has modified the note to the design wind pressure table (3280.305) regarding one-piece metal roofing. It was determined that the MHCC respond after it reviews to published proposal.

Mr. Zieman noted that HUD has responded to the second group of proposed standards. Mr. Solomon noted that after receiving HUD's response to the first group of standards, Messrs. Zieman and Roberts reviewed the first group and the proposed changes had to be rewritten. The AO worked with Danner to draft a rule; HUD will do the preamble. The revised proposed changes were submitted to HUD offline for review. It is the offline submission on which HUD has responded. HUD has indicated acceptance of 82 of the proposals and earmarked 22 for further consideration by the MHCC. It was moved, seconded and carried that the AO forward the 82 proposed standards to HUD and the 22 further consideration proposals be referred to the Standards Subcommittee. Mr. Cunningham noted that HUD would work on the proposals as expeditiously as possible. Mr. Roberts noted the MHCC appreciated the collegial working relationship on the standards.

Mr. Zieman noted that Subcommittee recommendations have been made on the changes in the 2003 edition of NFPA 501 for forwarding to HUD. Mr. Solomon indicated that the proposals are ready to be sent to Danner for drafting in regulatory format.

Mr. Weinert recommended that proposals be numbered for tracking purposes. It was noted that new proposals are being numbered by the AO as they are received. This initial group of proposed standards is to update the current 3280 with the changes made in NFPA 501.

Mr. Solomon reported that he has talked to the proponents of the four recommendations that were rejected by the MHCC. The 3 proposals on AFCIs will be resubmitted. The NASFM indicated that it was not pleased with the rejection of its proposal.

12. Mr. Roberts indicated that the report on payment to states would be discussed at the next day. The MHCC recessed at 12:45 p.m. for Subcommittee meetings.

Thursday, August 12, 2004

13. Mr. Roberts opened the meeting by calling for public comments.

Ms. Morris addressed the Committee regarding a proposal she had submitted to the AO that had been rejected because it was not in the proper format. It was recommended that she obtain assistance in formatting the submission and re-submit it to the AO in time for it to be considered for the next meeting.

14. Mr. Roberts reviewed the MHCC Subcommittee membership. He noted that Mr. Gilson has to be replaced in the User category on the Standards Subcommittee. Mr. Berger, noting his reclassification from General Interest to User filled that opening. Mr. Conte was recommended as a Public Official member. Katie Spears and Jake Pauls were dropped for non-participation.

On the Regulatory Enforcement Subcommittee it was noted that the User category and the General Interest category were underrepresented. Messrs. Berger and McHale were recommended in the User category, Messrs. Conte and Weinert were recommended in the General Interest/Public Official category.

Mr. Roberts noted that Mr. Lagano has been recommended as chair of the Installation Subcommittee replacing Mr. Portz who has resigned from the Committee. Messrs. Braun and Berger were recommended for the User category; Mr. Conte was recommended for the General Interest/Public Official category.

On the Dispute Resolution Subcommittee, Mr. Roberts was recommended in the User category, and Mr. Stinebert in the Producer category. The General Interest/Public Official category remained the same.

The Planning and Prioritization Subcommittee is unchanged with Ms. Brenton as chair, and Messrs. Braun and Gorman as members.

The AO will forward these recommendations to HUD. A revised Subcommittee roster will be posted on the website.

Mr. Solomon reported that recommendations have been submitted to HUD to fill the vacancies on the MHCC.

15. Mr. Weinert asked what the procedures are for distribution information within the MHCC. Mr. Solomon stated that all information for distribution to the MHCC and its Subcommittees should go to the AO or to HUD for distribution. In order to allow sufficient time for members to review information being distributed for consideration at a meeting, Mr. Weinert requested that it be sent earlier than it was this time. Mr. Ghorbani thanked HUD for sending the updates prior to the meeting. He noted that there are two types of information – official MHCC documents that must be distributed through the AO or HUD, and, that being distributed for information “among colleagues”. He considers public information being shared among MHARR members to be in the latter category. Mr. Youse recommended that hard copies be distributed overnight by request. Mr. Gearan offered to make CDs of documents for MHCC members.

Mr. Roberts asked HUD to alert the MHCC when proposals are published in the Federal Register.

16. Mr. McHale noted the User Group is interested in what type of records states keep on complaints and what authority HUD has to correct problems caused by manufacturers, retailers, or installers?

Regarding records kept, Mr. Weinert indicated California records all codes and standards complaints in a database and the records can be sorted. SAAs keep records of Subpart I complaints. It was noted that Consumers Union has reported on the number of problems compared to the number of homes sold. Mr. Vogt indicated that an SAA could review audit reports. It was noted that there are issues of data privacy, especially until the case is closed. Mr. McHale suggested that the state information would be beneficial if it were collected nationally. Mr. Lagano noted that this type of data collection is important to determine effectiveness. Mr. Berger noted that a central repository of such data would be an excellent tool.

Mr. Roberts noted that the Installation Subcommittee had had a general discussion regarding who was responsible for correcting what problems and what sanctions might be applied such as removal of authority to do work and possible civil penalties. He noted that there would be benefit for additional discussion and feedback.

Mr. Lagano asked about the project tracking system. Mr. Roberts noted that he and Mr. Toner have not had a chance to work on it. They will make a report at the next meeting.

17. Mr. Vogt reviewed possible options for payment to states:
- a) First, conditionally approved states should receive payment on an equal basis with the fully approved states.
 - b) Second, HUD should clearly define to SAAs what the label fees cover for the state plan and what the states need to adopt for fees for services rendered under their state plans.
 - c) Lastly, a minimum payment should be established based on year 2000 production, or, a minimum of \$84,000 per year to cover the cost of one person, or, increase fees to SAAs based on 47.9% of label fees now and in the future.

Mr. Ghorbani noted that the MHIA 2000 did not distinguish between fully approved and conditionally approved states. He also noted that the fees were not to be part of the general fund. He questioned how HUD does the budgeting for the manufactured housing program vis-à-vis MHIA 2000. Mr. Cunningham noted that in April, HUD had met with Appropriations Staff who had indicated that HUD was following MHIA 2000 and the Staff was satisfied with the information HUD provided. Mr. Gearan noted that it was not the intent of Congress that HUD be hamstrung to a fixed amount, HUD may raise fees to meet the program budget requirements. He noted that AARP had requested to be present at the April meeting but had been denied. Mr. Cunningham stated that HUD had been invited to the meeting and had no influence over the invitations.

Mr. Matchneer distributed tables indicating payments to fully approved states and conditionally approved states for 2000 and 2003 and the proposed amounts for 2005.

Mr. Stinebert noted there are practical issues to be recognized, states are being asked to do more with less, there are probably some inequities in the current system, conditionally approved states

and fully approved states should be treated equally, states need to be able to rely on compensation with some consistency, and, state payments need to accurately reflect the states' needs. Mr. Matchneer noted that if there had not been a decline in production, payment to states likely would not be an issue. He noted that HUD is working with about half the fees of several years ago. Mr. Roberts noted that Dr. Weicher had indicated that MHCC feedback on the HUD manufacturing housing program budget and appropriation would be timely and welcome. He also noted that several years ago COSAA had recommended a minimum payment to states of \$50,000 and an increase to \$84,000 would be consistent. He noted that states are the first line of support and it is a disservice to consumers if they are not sufficiently funded to provide that support.

Mr. Vogt noted that new programs are being introduced. He also noted that states "volunteer" to run the programs and could drop out if it became too burdensome. Mr. Stinebert expressed a concern that states might drop out and turn the program back to HUD. Mr. Berger noted that some of the conditionally approved states are likely on the fence regarding the program. Mr. Matchneer noted that any increase in an appropriation to increase payment to states would be politically difficult. Mr. Ghorbani suggested that manufacturers would support a fee increase if it were clear what the increase would pay for.

Mr. Roberts referred to the draft he distributed earlier on changes to Part 3284 on program fees. Ms. Brenton asked whether there was a preference for a payment of \$84,000 or for the 47.9 %. Messrs. Vogt and Weinert indicated a preference for the percentage and suggested rounding it to 50%.

Ms Brenton moved that the MHCC accept the first two options reported by Mr. Vogt and add a third that SAAs be paid 50% of the label fees now and in the future, maintaining the year 2000 as a base; Mr. Weinert seconded. Mr. Stinebert noted that it was the sense of the committee that HUD reallocate its budget to increase payment to states. He indicated that he did not favor a percentage, as it would likely be locked in for the future. Mr. Race noted that the increase in payment to states would take money from somewhere and the MHCC should consider that there is already a proposal to increase fees by \$2.50.

Mr. Roberts noted that there are two proposed rules to address, one on inequity in payment to states and one on a fee increase. Mr. Walter stated that HUD should determine what needs to be done as of December 2005, then decide what the label fees will be. HUD should also explain how it made that determination. Mr. Vogt made a friendly amendment to the motion to drop the third recommendation; accepted by Ms. Brenton and Mr. Weinert.

Mr. Stinebert noted that the more explanation HUD gives of the determination of fees the easier it will be to justify to all parties concerned. Mr. Roberts asked whether HUD can share with the MHCC the budgeted amounts for payment to states. Mr. Cunningham indicated that the budget was still at OMB. Mr. Ghorbani asked why payments to states should be connected to the budget. He suggested that it is better to simply state that a fee increase is needed. Mr. Roberts asked that the Department clarify, to the extent possible, all the costs to operate the manufactured housing program. Mr. Walter moved that the motion be amended to request HUD to forecast the fees necessary to support the services required after 2005; amendment seconded and carried.

After additional discussion the amended motion was carried. The result of the amended motion sets up two conditions:

A. Beginning 1 October 2005 (FY-2006), conditionally approved states should receive an increase in revenue as if they were previously approved.

B. Not later than 29 December 2005, HUD is to outline the costs for these types of services and identify the type of services covered.

Ms. Brenton noted that to ensure the SAAs continue in that capacity, HUD should carefully consider the increased payment to states.

18. Mr. Roberts reviewed the meeting/conference call schedule. The next face- to-face meeting is scheduled for November 30 – December 2, 2004. The full MHCC has a conference call scheduled for September 1, 2004 at 2:00 p.m. EDT. The Installation Subcommittee has a conference call scheduled for August 31 at 11:00 a.m. EDT; the Regulatory Enforcement Subcommittee has conference calls scheduled for September 9, 22, and 29 at 2:00 p.m. EDT.
19. Mr. Roberts thanked the members and guests for their spirited participation and the Department for its spirit of cooperation.

The meeting adjourned at 11:30 a.m.

HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE
ATTENDANCE SHEET
 Radisson Hotel, Alexandria, VA
 August 10-12, 2004

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

NAME	STATUS	ORGANIZATION	Tuesday 8-10-04	Wednesday 8-11-04	Thursday 8-12-04
Dana Roberts	M	Oregon Manufactured Homeowners Assoc.	X	X	X
Charles Leven	M	AARP			
Pat Toner	Sec	NFPA	X	X	X
Jack Berger	M	Berger Reconstruction	X	X	X
Karl Braun	M	NAMH – MHOAA	X	X	X
Susan Brenton	M	Manufactured Housing Communities of Arizona (MHCA)	X	X	X
C. Edgar Bryant	M	Champion Enterprises	X	X	X
Mark Conte	M	State of PA	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		
William J. Lagano	M	Commonwealth Consulting Corp.	X	X	X
Ronald V. LaMont	M	Alpine Engineering Products	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
Richard Weinert	M	State of CA	X	X	X

NAME	STATUS	ORGANIZATION	Tuesday 8-10-04	Wednesday 8-11-04	Thursday 8-12-04
Alan Youse	M	State of Oregon Dept. of Agriculture	X	X	X
Mike Zieman	M	RADCO	X	X	
Robert Solomon	AO	NFPA	X	X	X

HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE
GUEST ATTENDANCE SHEET
Radisson Hotel, Alexandria, VA
August 10-12, 2004

<u>NAME</u>	<u>ORGANIZATION</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>
Liz Cocke	HUD	X	X	X
Eleanora Cornejo	HUD	X		
Gary Cunningham	HUD	X	X	X
Pamela Danner	Danner & Associates	X	X	
Henry DeLima	DeLima Associates	X	X	
Elsie Draughn	HUD	X	X	X
Vic Ferrante	HUD	X	X	
Timothy Gearan	AARP	X	X	X
Nick Hluchyj	HUD	X		
Joan Kayagil	HUD	X	X	X
Bert Kessler	Palm Harbor Homes	X	X	
Andrew Kochera	AARP	X	X	X
Lon Larson	Oliver Tec.	X	X	
Mike Mafi	IBTS	X	X	
Shawn McKee	HUD	X	X	X
Rick Mendlen	HUD	X	X	X
Mark A. Nunn	MHI	X	X	X
Lane Pethel	Huberth Pethel	X	X	X
George Porter	MHR	X		
Frank Quigley	HUD	X	X	X
Peter Race	HUD	X	X	X
Boone Smith Morris	TieDown Engineering	X	X	X
Chris Stephens	State of Georgia	X		