

**Final Minutes**  
HUD Manufactured Housing Consensus Committee  
Holiday Inn Select  
Chantilly, VA  
April 26 –28, 2005

Tuesday, April 26, 2005

1. Chairman Roberts called the meeting to order at 8:00 a.m. Mr. Solomon called the roll; a quorum was present. Mr. Roberts welcomed new Committee members Terry Nelson and Archie Major. He noted that Catherine Downs has been appointed as a General Interest member but could not attend this meeting.

Mr. Roberts opened the meeting by announcing that the proposed model installation standard has been published in today's Federal Register (copies subsequently distributed by Ms. Draughn). There is a 60-day comment period (comment period ends June 27, 2005). A broadbrush discussion of the document and how the MHCC should respond will be added to the agenda for Wednesday afternoon.

Mr. Roberts noted that Subcommittee membership and the NFPA MHCC website would be reviewed this afternoon.

Mr. Farish noted the late distribution of the agenda and the change in time of the Thursday meeting. It was moved, seconded and carried that the agenda be distributed to MHCC members four weeks in advance of meetings. The agenda should indicate what documents would be discussed at the meeting. It was requested that hotels be sought with wireless access in the meeting rooms. Ms. Cocke noted that the hotel selection was limited to those that have government rates.

Mr. Matchneer reported that Commissioner Weicher will be leaving HUD on Friday, April 29, 2005. He noted that the Commissioner has been a great supporter of the MHCC. Mr. Cunningham reported that Commissioner Weicher sends his best wishes and is pleased with the progress made by the MHCC. Mr. Cunningham noted that manufactured housing has been a priority for the Commissioner. A successor has been nominated by the President. The timing for the confirmation process has not been set. In the meantime, the Department will continue to be able to move projects along. Ms. Brenton and Mr. McHale were assigned to draft a resolution thanking Commissioner Weicher for his support of the MHCC.

Mr. Roberts indicated that the following subjects have been assigned to Subcommittees: ground anchor test protocol – Installation Subcommittee; service records definition – Regulatory Enforcement Subcommittee; microwave oven air gap, and, decking repairs – Standards Subcommittee.

Approval of the minutes of the November/December meeting and January conference call was deferred until the Thursday session.

2. Mr. Matchneer noted that the proposed model installation standard has been published for comment in today's Federal Register. Mr. Matchneer noted that public comments can be submitted and also viewed during the comment period on the

[www.regulations.gov](http://www.regulations.gov) website. He noted that HUD will review all the comments received and respond to them in the Federal Register along with the final rule.

Mr. Matchneer reported that the program office has nearly completed a draft of the proposed installation program. Helpful suggestions were received at the COSAA meeting in March. It is expected that it will be ready to go to OMB in the next few months.

Mr. Matchneer reported that the comment period on the first set of construction and safety standards closed on January 31, 2005. Twenty-nine comments were received. HUD has provided the comments to the MHCC and they have been posted on the MHCC website. Ms. Kayagil noted that the Construction and Safety Standards would become effective 180 days after the final standards are published.

Mr. Matchneer reported that the proposed dispute resolution rule is in the final stages of the clearance process at the Department. Once cleared it will be submitted to OMB. He indicated that comments were received at the COSAA meeting. He noted that some states have drafted legislation knowing that the rule is coming. Consumers have been added as equal parties. Mr. Cunningham noted that there is an "opt-out" provision that permits resolution of the dispute without the consumer if all parties agree.

Mr. Matchneer reported that the proposed on-site completion rule would be ready to enter the Department clearance process shortly. At the COSAA meeting concern was expressed about the inability to send personnel out of state. Ms. Cocke indicated that feedback on this question would be appreciated. Mr. Roberts indicated that review of the on-site completion rule would be assigned to the Standards Subcommittee.

Mr. Cunningham noted that the Department has been subject to a hiring ceiling for over a year. It is moving projects along as fast as it can. He indicated that the dispute resolution rule is next in the queue followed by the installation program, the final rule in the construction and safety standards, and, the second set of construction and safety standards. Mr. Roberts agreed that the priority sequence is correct.

Mr. Matchneer reported that the second set of 100+ construction and safety standards is being prepared. Some additional substantiation has been requested for some of the proposed standards. He was asked what additional information is needed on the formaldehyde proposal. Mr. Cunningham indicated that the Department would look more fully at the issue and give the MHCC guidance. He noted that the current requirement is not something that HUD thinks should remain forever. Mr. Matchneer noted that scientific data supported the current requirement so sufficient data will be required to withdraw the requirement. Mr. Roberts noted that the issue is posting the notice, site-built construction does not have such a requirement.

Mr. Matchneer reported that the rule increasing payment to states is ready to move within the Department.

Mr. Lagano asked if there would be another COSAA meeting this year. Mr. Matchneer replied it would be next year if funds are available.

The HUD priorities for the projects were reviewed. The installation standard will be followed by dispute resolution, the installation program, first set of construction and safety standards, on-site completion, ground anchor protocol (could be rolled into the installation standard), payment to states, and the second set of construction and safety standards. Mr. Cunningham noted that some parts of projects could be worked on concurrently so the activity is not necessarily sequential. He noted for example that OGC is relied on for rule preamble development. Mr. Matchneer noted that HUD is waiting for the MHCC proposed Subpart I.

Mr. Matchneer reported that the FY2005 budget is \$9.5 million compared to the \$9.0 million spent last FY. He noted that although \$13 million had been appropriated last FY, only \$9.0 million had been collected in fees. Significant cutbacks were made in contracted services for monitoring PIAs. This year a 10% increase in production has been seen so far so there is cautious optimism regarding the budget.

Mr. Stinebert asked whether the current overpayment to states would continue until the payment to states rule is finalized. Mr. Matchneer replied that it would. Mr. Vogt suggested that all outside work be handled in a single contract.

Mr. Zieman asked whether some activities could be funded by fees. Mr. Matchneer indicated that a fee for service option is being debated within the Department. Ms. Cocke noted that there are two types of costs for programs such as the installation program and the dispute resolution program. Setting up the programs would be funded from the Department appropriation, costs for program administration is being considered for a fee for service basis. She noted that it is unclear whether the fee for service option, if approved, would fall within the Department's appropriation umbrella. Mr. Stinebert noted that some costs are one-time, others are continuing costs. Mr. Ghorbani noted that fees would only apply in those states in which HUD administered the manufactured housing program. He noted that the Department has done an excellent job at putting the budget together.

Ms Cocke distributed a table indicating the status of state installation and dispute resolution programs. It was noted that there were still some holes in the status.

3. Mr. Matchneer introduced Mr. Jay Crandall, a consultant hired by IBTS, to conduct an assessment of damage to manufactured homes caused by Hurricane Charlie. Mr. Crandall presented and distributed a summary of his assessment. Ms. Cocke thanked Mr. Crandall for conducting the assessment "on short notice". She noted that the assessment is one of the most scientific studies done on the effects of hurricane damage to HUD-code manufactured homes. She indicated that the report would be published by PD and R.

The Committee recessed for Subcommittee meetings at 12:00 p.m.

The Committee reconvened at 4:00 p.m.

4. Mr. Roberts reviewed the membership of the MHCC and the Subcommittees. He noted that the MHCC had openings for one producer (replacing Frank Walter) and

one user (replacing Chuck Leven). He also noted that a new Vice-Chair needs to be appointed and asked members to consider recommendations to be forwarded to the HUD Secretary. Ms Brenton asked whether only users and general interest members should be considered. It was so noted.

Mr. Roberts recommended that Ms. Nelson and Mr. Major sit in on the Subcommittee meetings and indicate their interest in serving on Subcommittees at the Thursday session.

Mr. Braun recommended that, in the future, the Thursday sessions begin at 7:00 a.m. and end at 10:00 a.m. to accommodate members' cross country travel.

Mr. Weinert requested that a status report of issues and projects be maintained and published so that members could track issues.

Mr. Lagano recommended that the just published proposed installation standard be considered by the full MHCC rather than by the Installation Subcommittee and then the full MHCC. For this meeting, members should give a general impression of the proposal and consider how the MHCC should respond.

The Committee recessed at 5:00 p.m.

Wednesday, April 27, 2005

The Committee reconvened at 8:00 a.m.

5. Mr. Solomon reviewed the ballot process on the letter ballot on Subpart I. He noted a Task group had been appointed to review the draft prepared by HUD. The Task Group noted six places where the HUD draft differed from what their notes indicated. Messrs. Solomon and Toner reviewed their notes, which agreed with two of the Task Group notes. Those changes were made in the document balloted.

The Committee reviewed the changes not included in the ballot. The Committee agreed that the additional changes should have been included. After discussion, It was moved, seconded and carried that the ballot should proceed. Members should include a comment to restore the excluded items.

The Committee recessed at 9:00 a.m. for Subcommittee meetings.

The Committee reconvened at 2:30 p.m.

6. For the Committee's information, Mr. Matchneer reported that HUD has several concerns about the MHCC recommendation on Subpart I. The statute may only permit HUD to "accept" or "reject" the proposal rather than allow HUD to modify the proposal. He feels the proposal may be 99% acceptable, however, in its internal review, some areas have raised a concern. Mr. Cunningham noted that there is continued discussion within the Department and no decision has been made.

The issues of concern are the limitation on the manufacturer's responsibilities and the assignment of responsibilities to a retailer. HUD believes that the Act does not allow such limitations or assignment of responsibilities to a retailer. Mr. Ghorbani

noted that this has been a continuing difference of opinion between HUD and industry. He stated that HUD should state its position in the written response to the Committee proposal so that industry could formally respond. Mr. Roberts indicated that he had difficulty understanding what the Act lacks or what is needed in Section 615 to resolve the issue. Mr. Race indicated that a concern is who is responsible for notifying the homeowner if the defect was not caused by the manufacturer. Mr. Vogt suggested that the issue could be clarified in the installation program.

After further discussion, it was again moved, seconded and carried, Mr. Weinert abstaining, that the ballot on Subpart I should proceed.

Mr. Cunningham again indicated that these were open issues at HUD. Mr. Roberts noted that he appreciated HUD's good intent in giving the Committee a heads-up about these issues.

7. Mr. Andy Kochera made a presentation on the AARP view of universal design. He noted that AARP has been active on the issue since 1961. The overarching interest of older people is to stay in their home as long as possible. Visitability is a key component of the AARP position. He encouraged manufacturers to produce accessible homes. Mr. McHale, as Chair of the Accessibility Task Group, thanked Mr. Kochera for his informative presentation.
8. Mr. Kessler presented the issue regarding air gaps for microwave ovens. Mr. Matchneer suggested that HUD could write a waiver letter to each manufacturer based on equal protection being afforded. To issue a generally applicable interpretation or change would require rule making. Mr. Mendlen noted that when an interpretation was issued in 2000, there was not as much information available as there is today. The UL standard has addressed fires from below. Mr. Cunningham indicated that HUD would reconsider the issue and advise the MHCC on the best path forward. It was moved, seconded and carried to proceed as Mr. Cunningham suggested.
9. Mr. Roberts invited discussion or comments about the website. It was noted that an indication of the date something was posted would be helpful. Mr. Solomon indicated that is NFPA's intent. Mr. Major indicated that as a new member he found the website very helpful. Mr. Nunn suggested that documents circulated by email should be posted. Mr. Braun indicated that he found the website easy to navigate.

Ms. Cocke indicated that HUD had made some suggestions on how the information could be organized or listed, e.g., by subheadings, date, title, and author. Mr. Solomon suggested that information could be organized by headings such as administrative, statute, programs, Subcommittees, ballots, agendas, minutes, general reference material, etc.

Mr. Ghorbani asked who approves what is posted on the site. He noted that there is a difference between Committee documents and information or presentations given to the committee. Ms. Draughn noted that FACA requires all information submitted to the Committee be on file and available. It was recommended that the Department and the AO determine whether something should be posted.

10. Mr. Roberts invited broadbrush discussion or comment on the proposed Installation Standard. Mr. Ghorbani asked what "dead load" referred to in the Design Requirements paragraph in the preamble. Mr. McKee indicated that it meant the weight of the home. Mr. Ghorbani asked where the Tables came from. Mr. McJury indicated that they were provided by the MHCC. The shading can be better seen on the web version of the proposed standard. He noted that the footnotes contain certain design limitations. Mr. Nunn noted the reference to ASCE 32 in the footings section. Mr. Porter noted the acceptable performance of frost protected foundations. He also noted that a pocket penetrometer is a useful tool in the field for determining soil classification. Mr. Matchneer noted that a penetrometer could be considered generally accepted engineering practice. Mr. Vogt noted that penetrometers are used for site built houses.

Mr. Mendlen stated that HUD staff had evaluated the MHCC proposal in good faith and made judgements regarding protection of the consumer. Mr. Roberts noted the MHCC considered protection of the consumer paramount. Mr. Farish noted that HUD has specifically requested comments in several areas. Mr. Ghorbani stated that making the installation standard a part separate from 3280 is a big issue. Mr. Roberts noted that another major issue is allowing local jurisdictions to adopt more stringent regulations. Mr. Cunningham indicated that HUD is not sure preemption is possible.

Mr. Lagano recommended that review of the proposed installation standard be done by the full MHCC. He is not sure there is enough time to have the Installation Subcommittee review it and then have the full MHCC review it. He recommended that the full MHCC have a conference call in about 30 days to review it. Mr. Roberts indicated that individual comments should be sent to the AO by May 13; the AO would then circulate the comments to the full MHCC by May 20. A conference call would be held on May 27 to determine whether the MHCC should file comments and, if so, what the comments should be.

The Committee recessed at 5:00 p.m.

Thursday, April 28, 2005

The Committee reconvened at 7:30 a.m.

11. Mr. Roberts called the meeting to order at 7:30 a.m. He stated that the MHCC conference call to review the proposed Installation Standard would be held on Wednesday, May 25, 2005 at 11:00 a.m. EDT. He noted that this process would also be used as other proposals are published in the Federal Register. Members would send their broadbrush comments to the AO within two weeks of publication of the proposal; the AO would compile and circulate the comments within five days; and, the MHCC would have a conference call approximately two weeks later to review the members' comments and determine a course of action for the MHCC. Mr. Solomon indicated that comments should be emailed to Valaree (hudtemp) at NFPA. Mr. Matchneer asked that copies also be sent to him and Ms. Cocke.

Mr. Roberts indicated that the next physical meeting of the MHCC would be November 8, 9, and 10, 2005. The meeting would adjourn at 10:00 a.m. on the last day.

Subcommittee conference calls were set for:

Standards Subcommittee May 19, 2005, 11:00 a.m.- 3:00 p.m.;

Installation Subcommittee May 24, 2005, 1:00 p.m.- 4:00 p.m.;

Dispute resolution Subcommittee June 8, 2005, 11:00a.m. – 2:00 p.m.

12. Mr. McHale reported that the Dispute Resolution Subcommittee had met on Tuesday, May 26. Mr. Ghorbani presented a resolution regarding the dispute resolution process. Mr. Gorman noted that the resolution was not consistent with what had been submitted.

Mr. Matchneer noted that if the parties elected the "opt out" process, that would be the first step. Mr. Cunningham noted that the process has been discussed with the Department of Justice. He noted that there is a Federal dispute resolution act so HUD does not have complete flexibility. There was discussion of whether the consumer could or would be a party to the process. It was noted that in state-plan states, the state could decide whether the consumer would be part of the process as long as the consumer was protected. Mr. Ghorbani noted that the homeowner was not included as a party in the dispute resolution provision of the act.

Mr. Vogt noted that "expert" was not used in the HUD draft. Mr. Gorman moved that "decision maker" be used rather than "expert". Motion seconded and carried.

Mr. Ghorbani moved that his resolution be adopted. Motion seconded and carried, 13 in favor, 4 opposed.

13. Mr. Roberts asked for suggestions for MHCC Vice-Chair. Ms. Brenton and Mr. Zieman were suggested. Mr. Zieman declined. It was moved, seconded and carried unanimously the Ms Brenton be recommended to the Secretary for Vice-Chair.

14. Mr. Roberts reviewed those items on which HUD is to provide follow-up.

HUD has agreed to look at the microwave air gap issue and indicate to the MHCC whether HUD will handle or the MHCC should submit a proposal.

HUD has agreed to advise the MHCC what additional information is needed to support the removal of the formaldehyde notice requirement. Ms. Cocke indicated that HUD would have to compare notes with EPA, CPSC and OMB. Mr. Mendlen noted that the most sensitive individuals would have to be considered. It was noted that the formaldehyde notice would still be in the homeowner's packet. HUD will advise the committee by August 1, 2005

15. Mr. Zieman reported that the second set of standards was discussed with HUD during the Standards Subcommittee meeting. Only 5-8 standards are still under discussion. He noted that the clock has not yet started because the proposed standards have not been formally submitted to HUD. These discussions are part of a pre-submission review process agreed to by HUD and the AO. Mr. Vogt moved that the proposed standards still under discussion be removed from the second set and that the second set be formally submitted to HUD. Motion seconded and carried. Mr. Ghorbani noted that HUD has a lot on its plate so this informal step is appreciated.

16. Mr. Lagano reported that the Installation Subcommittee had not had an opportunity to provide feedback on HUD's March 8, 2005 memos on the installation program and the on-site completion program. He moved that the feedback be incorporated into the conference calls to review the HUD proposals after they are published. Motion seconded and carried.
17. Mr. Ghorbani raised the issue of preemption. He stated that there are two problems regarding preemption – financing and zoning. A HUD statement of policy regarding preemption would be very helpful to industry, however, if HUD cannot use "shall not" or "must not" rather than "should not", it would probably be better not to publish any statement. Mr. Stinebert concurred, he stated that HUD should state the local codes shall not discriminate against manufactured housing. Mr. Matchneer stated that HUD cannot overreach on this issue. It was noted that a requirement for a permanent foundation was not objectionable to the industry, provided it also applied to site built housing. The industry concern is when local codes treat manufactured housing different than other housing.
18. Approval of the minutes of the previous meeting/conference call was deferred until the next conference call.

The meeting adjourned at 9:57 a.m.

**HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE  
ATTENDANCE**

Holiday Inn Select Chantilly Expo Center

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

NAME	STATUS	ORGANIZATION	Tuesday April 26	Wednesday April 27	Thursday April 28
Dana Roberts	M	Oregon Manufactured Homeowners Assoc.	X	X	X
Pat Toner	Sec	NFPA	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
Catherine E. Downs	M	US Dept of Transport	-	-	-
William Farish	M	Fleetwood Homes	X	X	X
Danny Ghorbani	M	MHARR	X	X	X
Doug Gorman	M	Home – Mart, Inc.	X	X	X
William J. Lagano	M	Commonwealth Consulting Corp.	X	X	X
Ronald V. La Mont	M	Alpine Engineering Products	X	X	X
Archie R. Major	M	Consultant	X	X	X
Jerome L. McHale	M	Federation of Manufactured Home Owners of Florida	X	X	X
Terry Nelson	M	MHO Assoc. of IL	X	X	X
Nader Tomasbi	M	Liberty Homes, Inc.	-	-	-
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

**HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE  
ATTENDANCE**

**Holiday Inn Select Chantilly Expo Center**

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Mike Zieman	M	RADCO	X	X	X
William W. Matchneer	DFO	HUD	X	X	X
Robert Solomon	AO	NFPA	X	X	X

**HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE  
GUEST ATTENDANCE**

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<u>NAME</u>	<u>ORGANIZATION</u>	<u>Tuesday</u> <u>04/26/05</u>	<u>Wednesday</u> <u>04/27/05</u>	<u>Thursday</u> <u>04/28/05</u>
Liz Cocke	HUD	X	X	X
Elsie Draughn	HUD	X	X	X
Joan Kayagil	HUD	X	X	-
Rick Mendlen	HUD	X	X	X
Shawn P. McKee	HUD	X	X	X
Peter Race	HUD	X	X	X
Jason McJury	HUD	X	X	X
Lane Pethel	HUD	X	X	-
Angelo Wallace	HUD	-	X	X
Patricia McDuffie	HUD	-	X	-
Vic Ferrante	HUD	X	X	-
Lon Larson	Oliver Tec.	X	X	-
Mark A. Nunn	MHI	X	X	X
Bert Kessler	Palm Harbor Homes	X	X	-
Boone Smith	TieDown Engineering	X	X	X
Chris Stinebert	MHI	X	X	X
George Porter	MHR	X	X	-
Pam Danner	Danner Associates	X	X	-
Andy Kochera	AARP	-	X	-
Jay Crandell	ARES	X	-	-
John Ingargiola	FEMA	X	X	X
Jason Smart	IBHS	X	X	X
Dick Kudnick	ICC	X	-	X