

Manufactured Housing Consensus Committee Membership Application

INFORMATION SHEET FOR MANUFACTURED HOUSING CONSENSUS COMMITTEE APPLICANTS

The Manufactured Housing Consensus Committee

The Manufactured Housing Consensus Committee was created by the Manufactured Housing Improvement Act of 2000. The committee, through the Administering Organization, NFPA, will work to provide recommendations to the HUD Secretary to develop, maintain and revise as necessary, the Federal Manufactured Home Construction and Safety Standards, and the related procedural and enforcement regulations. The Manufactured Housing Consensus Committee shall develop and define its role through the submission of changes to the HUD Secretary with consideration of the quality, safety, durability, and affordability of manufactured homes, and the other purposes of the National Manufactured Housing Construction and Safety Standards Act of 1974. The committee will operate under the guidelines of the American National Standards Institute (ANSI) procedures for development of standards.

Manufactured Housing Consensus Committee Membership

The Manufactured Housing Consensus Committee will be composed of members from a range of interests and backgrounds. The diverse nature of the Committee will allow for the broadest participation and conveyance of diverse points of view to be discussed during any meetings.

As a committee member, you have the privilege of taking an active role in the development of standards for the manufactured home environment. Before applying for membership, please familiarize yourself with the ANSI standards development system as well as the responsibilities and obligations you would undertake as member.

Operation of Manufactured Housing Consensus Committee as a Federal Advisory Committee

The Manufactured Housing Consensus Committee is an advisory committee not composed of Federal employees but subject to the requirements of the Federal Advisory Committee Act. An early responsibility of the Committee, with the assistance of NFPA, will be to develop a committee charter.

Financial Disclosure

Applicant who are applying for a User or General Interest/Public Official position shall review and declare what, if any financial interest, they may have in any segment of the Manufactured Housing industry. Applicants who wish to maintain such financial interest at the time of appointment to the committee cannot be considered for a user position. No more than 3 of the General Interest/Public Official positions shall be permitted to maintain direct or indirect financial interests at the time of appointment. To determine evidence of conflicts of interest, NFPA will follow the criteria in 5 Code of Federal Regulations 2635.402 and 5 Code of Federal Regulations 2635.403. (Attached)

Recommendation of appointment to the Manufactured Housing Consensus Committee shall be based on the following:

- *qualifications of the applicant*
- *limiting the size of **Manufactured Housing Consensus Committee** to not more than 21 members as defined by the statute*
- *maintaining a balance of interests within the membership of each category.*

In order for your application to be considered, please reply by:

Each application will be reviewed by NFPA. Subsequent to this review, recommendation for committee membership will be forwarded to the HUD Secretary. The Secretary will review the recommendations and will make final appointments to the Manufactured Housing Consensus Committee. Upon appointment by the Secretary, NFPA and/or HUD will notify appointees and HUD will publish the list of appointees in the Federal Register.

The Manufactured Housing Consensus Committee will be composed of 21 voting members who represent three basic interest categories. These categories and their descriptions are:

PRODUCER (7 members to be selected) This category consists of those who produce or retail manufactured housing.

USER (7 members to be selected) This category consists of those who have consumer interests (consumer organizations), recognized consumer leaders, and owners who reside in manufactured housing.

GENERAL INTEREST AND PUBLIC OFFICIALS (7 Members to be selected) This category consists of those with general (peripheral) interests as well as those who enforce the provisions of the MHCCS standards.

In accordance with the Manufactured Housing Improvement Act of 2000, NFPA has been selected through a competitive procurement process to administer the consensus rulemaking process and to recommend to the Secretary of HUD the initial members of the Manufactured Housing Consensus Committee. The Secretary will make appointments to the Committee after considering the NFPA recommendations.

In making its recommendations of the initial members of the Manufactured Housing Consensus Committee, NFPA will use information provided by any person seeking a recommendation of membership. Information that would be helpful to NFPA in making membership recommendations includes the topics covered in this application. Please provide any information that you believe would be helpful to NFPA in reaching a decision concerning your participation on the Consensus Committee. Although completion of all parts of this application is not required to be considered for recommendation to membership, complete information will help NFPA to substantiate its recommendations to the Secretary of HUD.

4. ADDITIONAL COMMENTS

Please indicate in which format you wish to receive your Manufactured Housing Consensus Committee Materials:

- CD Rom Paper Download

(Note: In choosing the download option you intend to view the information from the NFPA Website. No copy will be sent to you.)

If appointed as a consensus committee member, I agree to undertake the statutory responsibilities required by the committee by the National Manufactured Housing Construction and Safety Standards Act. In addition, I agree to notify the NFPA (or successor Administering Organization) and the HUD Secretary of a change in status, including change of employment, organization represented, potential conflicts of interest, and funding source.

I am interested in appointment to the consensus committee in one of the following categories and agree to the requirements indicated (check all that apply):

- Producers.
 Users.

If I am selected as a member of the User category, I hereby certify that I do not have a significant financial interest in any segment of the manufactured housing industry or a significant relationship to any person engaged in the manufactured housing industry. Further, I acknowledge and accept that I am banned from receiving compensation from the manufactured housing industry during the period of, and during the 1 year following, my membership on the committee.

- General Interest and Public Officials.

I understand that at least three committee members serving in the General Interest and Public Officials category are not permitted to have a significant financial interest in any segment of the manufactured housing industry or a significant relationship to any person engaged in the manufactured housing industry, and are banned from receiving compensation from the manufactured housing industry during the period of, and during the 1 year following, their membership on the committee.

Please check one of the following:

- If I am selected as a member of the General Interest and Public Official category, I agree to abide by the conflicts of interest requirements. Accordingly, I certify that I do not have a significant financial interest in any segment of the manufactured housing industry or a significant relationship to any person engaged in the manufactured housing industry. Further, I acknowledge and accept that I am banned from receiving compensation from the manufactured housing industry during the period of, and during the 1 year following, my membership on the committee.
- If I am selected as a member of the General Interest and Public Official category, I do not agree to abide by the above-described conflicts of interest requirements. However, I would be willing to abide by the above-described conflicts of interest requirements and will provide a certification, if necessary.

If I am selected as a member of the General Interest and Public Official category, I do not agree to abide by the above-described conflicts of interest requirements. I attest that all of the information on this application is true and accurate.

Signature _____ Date _____

**Mail to: Robert Solomon, Project Manager, National Fire Protection Association
1 Batterymarch Park, PO Box 9101, Quincy, MA 02269-9101**

NFPA Fax (617) 984-7110

TITLE 5--ADMINISTRATIVE PERSONNEL

CHAPTER XVI--OFFICE OF GOVERNMENT ETHICS

PART 2635--STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH--Table of Contents

Subpart D--Conflicting Financial Interests

Sec. 2635.402 Disqualifying financial interests.

(a) Statutory prohibition. An employee is prohibited by criminal statute, 18 U.S.C. 208(a), from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him under this statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

Note: Standards applicable when seeking non-Federal employment are contained in subpart F of this part and, if followed, will ensure that an employee does not violate 18 U.S.C. 208(a) or this section when he is negotiating for or has an arrangement concerning future employment. In all other cases where the employee's participation would violate 18 U.S.C. 208(a), an employee shall disqualify himself from participation in the matter in accordance with paragraph (c) of this section or obtain a waiver or determine that an exemption applies, as described in paragraph (d) of this section.

(b) Definitions. For purposes of this section, the following definitions shall apply:

(1) Direct and predictable effect. (i) A particular matter will have a direct effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest, however, if the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter that has an effect on a financial interest only as a consequence of its effects on the general economy does not have a direct effect within the meaning of this subpart.

(ii) A particular matter will have a predictable effect if there is a real, as opposed to a speculative possibility that the matter will affect the financial interest. It is not necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the

gain or loss is immaterial.

Note: If a particular matter involves a specific party or parties, generally the matter will at most only have a direct and predictable effect, for purposes of this subpart, on a financial interest of the employee in or with a party, such as the employee's interest by virtue of owning stock. There may, however, be some situations in which, under the above standards, a particular matter will have a direct and predictable effect on an employee's financial interests in or with a nonparty. For example, if a party is a corporation, a particular matter may also have a direct and predictable effect on an employee's financial interests through ownership of stock in an affiliate, parent, or subsidiary of that party. Similarly, the disposition of a protest against the award of a contract to a particular company may also have a direct and predictable effect on an employee's financial interest in another company listed as a subcontractor in the proposal of one of the competing offerors.

Example 1: An employee of the National Library of Medicine at the National Institutes of Health has just been asked to serve on the technical evaluation panel to review proposals for a new library computer search system. DEF Computer Corporation, a closely held company in which he and his wife own a majority of the stock, has submitted a proposal. Because award of the systems contract to DEF or to any other offeror will have a direct and predictable effect on both his and his wife's financial interests, the employee cannot participate on the technical evaluation team unless his disqualification has been waived.

Example 2: Upon assignment to the technical evaluation panel, the employee in the preceding example finds that DEF Computer Corporation has not submitted a proposal. Rather, LMN Corp., with which DEF competes for private sector business, is one of the six offerors. The employee is not disqualified from serving on the technical evaluation panel. Any effect on the employee's financial interests as a result of the agency's decision to award or not award the systems contract to LMN would be at most indirect and speculative.

(2) Imputed interests. For purposes of 18 U.S.C. 208(a) and this subpart, the financial interests of the following persons will serve to disqualify an employee to the same extent as if they were the employee's own interests:

- (i) The employee's spouse;
- (ii) The employee's minor child;
- (iii) The employee's general partner;

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(iv) An organization or entity which the employee serves as officer, director, trustee, general partner or employee; and

(v) A person with whom the employee is negotiating for or has an arrangement concerning prospective employment. (Employees who are seeking other employment should refer to and comply with the standards in subpart F of this part).

Example 1: An employee of the Department of Education serves without compensation on the board of directors of Kinder World, Inc., a

nonprofit corporation that engages in good works. Even though her personal financial interests will not be affected, the employee must disqualify herself from participating in the review of a grant application submitted by Kinder World. Award or denial of the grant will affect the financial interests of Kinder World and its financial interests are imputed to her as a member of its board of directors.

Example 2: The spouse of an employee of the Food and Drug Administration has obtained a position with a well established biomedical research company. The company has developed an artificial limb for which it is seeking FDA approval and the employee would ordinarily be asked to participate in the FDA's review and approval process. The spouse is a salaried employee of the company and has no direct ownership interest in the company. Nor does she have an indirect ownership interest, as would be the case, for example, if she were participating in a pension plan that held stock in the company. Her position with the company is such that the granting or withholding of FDA approval will not have a direct and predictable effect on her salary or on her continued employment with the company. Since the FDA approval process will not affect his spouse's financial interests, the employee is not disqualified under Sec. 2635.402 from participating in that process. Nevertheless, the financial interests of the spouse's employer may be disqualifying under the impartiality principle, as implemented at Sec. 2635.502.

(3) Particular matter. The term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. Such a matter is covered by this subpart even if it does not involve formal parties and may include governmental action such as legislation or policy-making that is narrowly focused on the interests of such a discrete and identifiable class of persons. The term particular matter, however, does not extend to the consideration or adoption of broad policy options that are directed to the interests of a large and diverse group of persons. The particular matters covered by this subpart include a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest.

Example 1: The Internal Revenue Service's amendment of its regulations to change the manner in which depreciation is calculated is not a particular matter, nor is the Social Security Administration's consideration of changes to its appeal procedures for disability claimants.

Example 2: Consideration by the Interstate Commerce Commission of regulations establishing safety standards for trucks on interstate highways involves a particular matter.

(4) Personal and substantial. To participate personally means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory

involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. Personal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter.

(c) Disqualification. Unless the employee is authorized to participate in the particular matter by virtue of a waiver or exemption described in paragraph (d) of this section or because the interest has been divested in accordance with paragraph (e) of this section, an employee shall disqualify himself from participating in a particular matter in which, to his knowledge, he or a

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person whose interests are imputed to him has a financial interest, if the particular matter will have a direct and predictable effect on that interest. Disqualification is accomplished by not participating in the particular matter.

(1) Notification. An employee who becomes aware of the need to disqualify himself from participation in a particular matter to which he has been assigned should notify the person responsible for his assignment. An employee who is responsible for his own assignment should take whatever steps are necessary to ensure that he does not participate in the matter from which he is disqualified. Appropriate oral or written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee is not involved in a matter from which he is disqualified.

(2) Documentation. An employee need not file a written disqualification statement unless he is required by part 2634 of this chapter to file written evidence of compliance with an ethics agreement with the Office of Government Ethics or is asked by an agency ethics official or the person responsible for his assignment to file a written disqualification statement. However, an employee may elect to create a record of his actions by providing written notice to a supervisor or other appropriate official.

Example 1: An Assistant Secretary of the Department of the Interior owns recreational property that borders on land which is being considered for annexation to a national park. Annexation would directly and predictably increase the value of her vacation property and, thus, she is disqualified from participating in any way in the Department's deliberations or decisions regarding the annexation. Because she is responsible for determining which matters she will work on, she may accomplish her disqualification merely by ensuring that she does not participate in the matter. Because of the level of her position, however, the Assistant Secretary might be wise to establish a record that she has acted properly by providing a written disqualification statement to an official superior and by providing written notification

of the disqualification to subordinates to ensure that they do not raise or discuss with her any issues related to the annexation.

(d) Waiver of or exemptions from disqualification. An employee who would otherwise be disqualified by 18 U.S.C. 208(a) may be permitted to participate in a particular matter where the otherwise disqualifying financial interest is the subject of a regulatory exemption or individual waiver described in this paragraph, or results from certain Indian birthrights as described in 18 U.S.C. 208(b)(4).

(1) Regulatory exemptions. Under 18 U.S.C. 208(b)(2), regulatory exemptions of general applicability have been issued by the Office of Government Ethics, based on its determination that particular interests are too remote or too inconsequential to affect the integrity of the services of employees to whom those exemptions apply. See the regulations in subpart B of part 2640 of this chapter, which supersede any preexisting agency regulatory exemptions.

(2) Individual waivers. An individual waiver enabling the employee to participate in one or more particular matters may be issued under 18 U.S.C. 208(b)(1) if, in advance of the employee's participation:

(i) The employee:

(A) Advises the Government official responsible for the employee's appointment (or other Government official to whom authority to issue such a waiver for the employee has been delegated) about the nature and circumstances of the particular matter or matters; and

(B) Makes full disclosure to such official of the nature and extent of the disqualifying financial interest; and

(ii) Such official determines, in writing, that the employee's financial interest in the particular matter or matters is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such employee. See also subpart C of part 2640 of this chapter, for additional guidance.

(3) Federal advisory committee member waivers. An individual waiver may be issued under 18 U.S.C. 208(b)(3) to a special Government employee serving on, or under consideration for appointment to, an advisory committee within the meaning of the Federal Advisory Committee Act if the Government official responsible for the employee's appointment (or other Government official to whom authority to issue such a waiver for the employee has been delegated):

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(i) Reviews the financial disclosure report filed by the special Government employee pursuant to the Ethics in Government Act of 1978; and

(ii) Certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the otherwise disqualifying financial interest. See also subpart C of part 2640 of this chapter, for additional guidance.

(4) Consultation and notification regarding waivers. When practicable, an official is required to consult formally or informally with the Office of Government Ethics prior to granting a waiver referred to in paragraph (d)(2) or (3) of this section. A copy of each such

waiver is to be forwarded to the Director of the Office of Government Ethics.

(e) Divestiture of a disqualifying financial interest. Upon sale or other divestiture of the asset or other interest that causes his disqualification from participation in a particular matter, 18 U.S.C. 208(a) and paragraph (c) of this section will no longer prohibit the employee's participation in the matter.

(1) Voluntary divestiture. An employee who would otherwise be disqualified from participation in a particular matter may voluntarily sell or otherwise divest himself of the interest that causes the disqualification.

(2) Directed divestiture. An employee may be required to sell or otherwise divest himself of the disqualifying financial interest if his continued holding of that interest is prohibited by statute or by agency supplemental regulation issued in accordance with Sec. 2635.403(a), or if the agency determines in accordance with Sec. 2635.403(b) that a substantial conflict exists between the financial interest and the employee's duties or accomplishment of the agency's mission.

(3) Eligibility for special tax treatment. An employee who is directed to divest an interest may be eligible to defer the tax consequences of divestiture under subpart J of part 2634 of this chapter. An employee who divests before obtaining a certificate of divestiture will not be eligible for this special tax treatment.

(f) Official duties that give rise to potential conflicts. Where an employee's official duties create a substantial likelihood that the employee may be assigned to a particular matter from which he is disqualified, the employee should advise his supervisor or other person responsible for his assignments of that potential so that conflicting assignments can be avoided, consistent with the agency's needs.

[57 FR 35042, Aug. 7, 1992, as amended at 62 FR 48747, Sept. 17, 1997]

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Subpart D--Conflicting Financial Interests

Sec. 2635.403 Prohibited financial interests.

An employee shall not acquire or hold any financial interest that he is prohibited from acquiring or holding by statute, by agency regulation issued in accordance with paragraph (a) of this section or by reason of an agency determination of substantial conflict under paragraph (b) of this section.

Note: There is no statute of Governmentwide applicability prohibiting employees from holding or acquiring any financial interest. Statutory restrictions, if any, are contained in agency statutes which, in some cases, may be implemented by agency regulations issued independent of this part.

(a) Agency regulation prohibiting certain financial interests. An agency may, by supplemental agency regulation issued after February 3, 1993, prohibit or restrict the acquisition or holding of a financial interest or a class of financial interests by agency employees, or any category of agency employees, and the spouses and minor children of those employees, based on the agency's determination that the acquisition or holding of such financial interests would cause a reasonable person to question the impartiality and objectivity with which agency programs are administered. Where the agency restricts or prohibits the holding of certain financial interests by its employees' spouses or minor children, any such prohibition or restriction shall be based on a determination that there is a direct and appropriate nexus between the prohibition or restriction as applied to spouses and minor children and the efficiency of the service.

(b) Agency determination of substantial conflict. An agency may prohibit or restrict an individual employee from acquiring or holding a financial interest or a class of financial interests based

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upon the agency designee's determination that the holding of such interest or interests will:

(1) Require the employee's disqualification from matters so central or critical to the performance of his official duties that the employee's ability to perform the duties of his position would be materially impaired; or

(2) Adversely affect the efficient accomplishment of the agency's mission because another employee cannot be readily assigned to perform work from which the employee would be disqualified by reason of the financial interest.

Example 1: An Air Force employee who owns stock in a major aircraft engine manufacturer is being considered for promotion to a position that involves responsibility for development of a new fighter airplane. If the agency determined that engineering and other decisions about the Air Force's requirements for the fighter would directly and predictably affect his financial interests, the employee could not, by virtue of 18 U.S.C. 208(a), perform these significant duties of the position while retaining his stock in the company. The agency can require the employee to sell his stock as a condition of being selected for the position rather than allowing him to disqualify himself in particular matters.

(c) Definition of financial interest. For purposes of this section:

(1) Except as provided in paragraph (c)(2) of this section, the term financial interest is limited to financial interests that are owned by the employee or by the employee's spouse or minor children. However, the term is not limited to only those financial interests that would be disqualifying under 18 U.S.C. 208(a) and Sec. 2635.402. The term includes any current or contingent ownership, equity, or security interest in real or personal property or a business and may include an indebtedness or compensated employment relationship. It thus includes, for example, interests in the nature of stocks, bonds, partnership interests, fee and leasehold interests, mineral and other property rights, deeds of trust, and liens, and extends to any right to purchase or acquire any such interest, such as a stock option or commodity future. It does not include a future interest created by someone other than the employee, his spouse, or dependent child or any right as a beneficiary of an estate that has not been settled.

Example 1: A regulatory agency has concluded that ownership by its employees of stock in entities regulated by the agency would significantly diminish public confidence in the agency's performance of its regulatory functions and thereby interfere with the accomplishment of its mission. In its supplemental agency regulations, the agency may prohibit its employees from acquiring or continuing to hold stock in regulated entities.

Example 2: An agency that insures bank deposits may, by supplemental agency regulation, prohibit its employees who are bank examiners from obtaining loans from banks they examine. Examination of a member bank could have no effect on an employee's fixed obligation to repay a loan from that bank and, thus, would not affect an employee's financial interests so as to require disqualification under Sec. 2635.402. Nevertheless, a loan from a member bank is a discrete financial interest within the meaning of Sec. 2635.403(c) that may, when appropriate, be

prohibited by supplemental agency regulation.

(2) The term financial interest includes service, with or without compensation, as an officer, director, trustee, general partner or employee of any person, including a nonprofit entity, whose financial interests are imputed to the employee under Sec. 2635.402(b)(2) (iii) or (iv).

Example 1. The Foundation for the Preservation of Wild Horses maintains herds of horses that graze on public and private lands. Because its costs are affected by Federal policies regarding grazing permits, the Foundation routinely comments on all proposed rules governing use of Federal grasslands issued by the Bureau of Land Management. BLM may require an employee to resign his uncompensated position as Vice President of the Foundation as a condition of his promotion to a policy-level position within the Bureau rather than allowing him to rely on disqualification in particular cases.

(d) Reasonable period to divest or terminate. Whenever an agency directs divestiture of a financial interest under paragraph (a) or (b) of this section, the employee shall be given a reasonable period of time, considering the nature of his particular duties and the nature and marketability of the interest, within which to comply with the agency's direction. Except in cases of unusual hardship, as determined by the agency, a reasonable period shall not exceed 90 days from the date divestiture is first directed. However, as long as the employee continues to hold the

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financial interest, he remains subject to any restrictions imposed by this subpart.

(e) Eligibility for special tax treatment. An employee required to sell or otherwise divest a financial interest may be eligible to defer the tax consequences of divestiture under subpart J of part 2634 of this chapter.

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