



MANUFACTURED HOUSING CONSENSUS COMMITTEE

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DRAFT MINUTES MHCC REGULATORY ENFORCEMENT SUBCOMMITTEE MEETING

November 19, 2020

DRAFT MINUTES

MANUFACTURED HOUSING CONSENSUS COMMITTEE (MHCC) REGULATORY ENFORCEMENT SUBCOMMITTEE MEETING

November 19, 2020

Call to Order

The Manufactured Housing Consensus Committee (MHCC) Regulatory Enforcement Subcommittee meeting was held on Thursday, November 19, 2020 via Zoom teleconference. Subcommittee Chair, Michael Moglia, called the meeting to order at 10:05 a.m. Kevin Kauffman, Administering Organization (AO) Home Innovation Research Labs, called the roll and announced that a quorum was present. See [Appendix A](#) for a list of meeting participants.

Introduction and Opening Remarks

Teresa Payne, Administrator of the Office of Manufactured Housing Programs, and Designated Federal Officer (DFO), welcomed the MHCC members to the teleconference. DFO Payne informed the MHCC members about a presentation that time permitting would be occurring at the end of the teleconference on the recently published Advance Notice of Proposed Rulemaking (ANPR) on Revised Minimum Payments for State Oversight Programs that was not originally on the agenda.

DFO Payne thanked the Manufactured Housing Institute (MHI) and Manufactured Housing Association for Regulatory Reform (MHARR) for their written public comments. See [Appendix B](#).

Approval of the Minutes

Motion to approve the January 14, 2020 MHCC Regulatory Enforcement Subcommittee meeting minutes.

Maker: Michael Moglia

Second: Mitchel Baker

The motion carried unanimously.

Public Comments Period

The public comments during this period focused on the work the Log Items assigned to the Subcommittee.

Leslie Gooch, MHI, thanked HUD and the Subcommittee for the opportunity to provide feedback for this teleconference and through written comments. Ms. Gooch explained MHI's position on the three Log Items. For Log 218, Ms. Gooch encouraged the Subcommittee to review the NFPA reference update and ensure the update is not costly for the manufactured housing industry. Ms. Gooch requested the HUD Code to be regularly updated. Ms. Gooch encouraged the Subcommittee to review and answer questions within the ANPR Notice.

Mark Weiss, MHARR, submitted written comments prior to the meeting as well. For Log 218, MHARR wanted to ensure the changes do not indirectly impact other areas of the code and is not too costly. For Log 214, Mr. Weiss stated that the reforms are necessary with these requirements.

Log Items Assigned to Regulatory Enforcement Subcommittee

The Subcommittee worked on the assigned Log Items. The Subcommittee Chair introduced each Log Item and opened the floor for discussion.

LOG 209: § 3282.16(b)(1) Incorporation by reference

Subcommittee Motion: Approve

Maker: Mitchel Baker Second: Alan Spencer

The motion carried unanimously via voice vote.

Subcommittee Chair Moglia provided some background on the item. The RV Industry Association provided adequate reasoning in the substantiating documents for approval of the change.

LOG 214: 24 CFR Part 3286 Inspection Requirements

Subcommittee Motion: Disapprove

Maker: Alan Spencer Second: Catherine Yielding

The motion carried via voice vote with one opposed.

The Subcommittee noted that it is a statutory requirement to have inspections. However, the Subcommittee was in general agreement that the inspection system/process potentially needs to be addressed. The homeowners represented on the teleconference supported the additional inspections and their cost, due to the additional layer of security/safety provided.

LOG 218: § 3285 NFPA 501A Chp 6 2003 Edition

Subcommittee Motion: Disapprove

Maker: Michael Moglia Second: Mitchel Baker

The motion carried unanimously via voice vote.

The Subcommittee concluded that insufficient information was provided for this Log Item. The Subcommittee members agree that there was more to the NFPA standard than just fire separation.

Public Comments Period

Ms. Gooch thanked the Subcommittee members for their time and effort. Mr. Weiss requested modification to the Log 214 reason statement to ensure that there is room for future debate on these inspection requirements.

ANPR Presentation and Discussion

DFO Payne and Jason McJury went through a presentation on the ANPR with MHCC members to explain the purpose behind the ANPR and that HUD was seeking comments/feedback from the MHCC members. See [Appendix C](#) for the presentation.

DFO Payne explained that HUD is considering streamlining and enhancing the minimum payment formula to provide more equitable payments to State Administrative Agencies (SAAs) that more appropriately reflect the responsibility of the corresponding state and to encourage states to participate

to the maximum extent possible in the Federal-State manufactured housing partnership program. HUD is considering this change to reinforce HUD's commitments to HUD-state partnerships while incentivizing states to maintain current partnerships and consider additional partnerships and participation in all aspects of the program.

HUD seeks feedback on any elements of this ANPR. In particular, HUD seeks information and recommendations on the following issues:

1. Should HUD change from a minimum annual payment structure to a payment structure that is based on an eligible state's participation in the federal program? Are the activities proposed by HUD for incorporation into the payment structure appropriate? Are there activities that should be added to or removed from that list?
2. Should HUD provide a uniform annual funding amount associated with each partnership element? Is the range of funding proposed by HUD for each partnership element appropriate? What amounts within the ranges proposed by HUD are appropriate:
 - a. For incenting existing SAA states to continue participation in each partnership element?
 - b. For incenting existing SAA states to implement additional partnership elements?
3. Can a state determine its budgeting needs and establish and implement additional partnership elements to retain maximum compensation within a 5 or 10-year sunset period? Would another time frame be more appropriate? By what means, if any, should the remaining supplemental payment be phased out during the sunset period? For example, should the supplemental payment (calculated after subtracting payments for production and state participation) be reduced by a particular percentage each year (20% in year 2, 40% in year 3, and so on)?
4. Will states that are not currently SAAs be incentivized to become SAAs? If so, will those states also be incentivized to become active participants to the maximum extent possible in each aspect of the manufactured housing program?
5. Should HUD consider payments to states that are not SAAs? If so, what instrument needs to be implemented to enable such payments?
6. Should HUD augment the per-unit formula to account for each transportable section with a manufacturer-reported first destination in a state that administers a HUD-approved installation program? What are states' costs of overseeing installation, and if HUD were to help offset those costs, what amount of payment per transportable unit would help to meaningfully offset those costs?

DFO Payne thanked MHCC members for their work so far and HUD is looking forward to the future MHCC meeting to discuss the ANPR. Subcommittee Chair Moglia thanked the MHCC members for their time and participation.

The MHCC Regulatory Enforcement Subcommittee adjourned at 11:50 a.m.

Appendix A: Subcommittee Attendees

Regulatory Enforcement		
3282, 3285, 3286, 3288		
	Name	Attendance
Users	Stacey Epperson	Y
	Loretta Dibble	
	Catherine Yielding	Y
	Dave Anderson	Y
Producers	Alan Spencer	Y
	Manuel Santana	Y
	Michael Wade	Y
	Cameron Tomasbi	Y
General Interest / Public Official	Aaron Howard	Y
	Michael Moglia	Y
	David Tompos	
	Mitchel Baker	Y

HUD Staff

Teresa Payne, DFO
 Jason McJury
 Barton Shapiro
 Demetress Stringfield
 Angelo Wallace
 Charles Ekiert
 Alan Field
 Leo Houtt
 Christina Foutz
 Danny Hanks
 Glorianna Peng

AO Staff, Home Innovation Research Labs

Kevin Kauffman
 Nay Shah

MHCC Members

Robert Parks
 Jim Husom
 Russell Watson
 Rita Diienno

Public

Shannon Corcoran
 William Sherman
 Kara Beigay
 Leslie Gooch
 Mark Weiss
 Benjamin Brantley
 Devin Leary-Hanebrink



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Appendix B: Written Public Comments



November 11, 2020

The Honorable Ben Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

RE: Notice of a Federal Advisory Committee Meeting; Manufactured Housing Consensus Committee: Regulatory Enforcement Subcommittee (Docket No. FR-6237-N-01)

Dear Secretary Carson,

The Manufactured Housing Institute (MHI) is pleased to provide feedback to the U.S. Department of Housing and Urban Development (HUD) and the Manufactured Housing Consensus Committee (MHCC) in response to the request for public comments in preparation for the MHCC's upcoming Regulatory Enforcement Subcommittee (the Subcommittee) teleconference.

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include home builders, suppliers, retail sellers, lenders, installers, community owners, community operators, and others who serve the industry, as well as 49 affiliated state organizations. In 2019, our industry produced nearly 95,000 homes, accounting for approximately 10 percent of new single-family home starts. These homes are produced by 32 U.S. corporations in 129 plants located across the country. MHI's members are responsible for close to 85 percent of the manufactured homes produced each year.

Ensuring that the HUD Code is regularly updated is critically important to our industry. If the HUD Code is not updated on a consistent basis, our members cannot continue to provide millions of Americans with access to safe, affordable manufactured homes that include the latest innovations, technologies and features that consumers demand. Our industry has also launched a new class of homes known as CrossMod™ that are indistinguishable from site-built homes, and any delay in updating the HUD Code to support this potential solution for providing more attainable homeownership opportunities only hurts prospective homebuyers.

As the Subcommittee reviews the proposed changes for the 2020-2021 HUD Code development cycle, below are MHI's recommendations for the Log Items on the Subcommittee's agenda.

1) Log 209 – 24 C.F.R. § 3282.16(b)(1) – Incorporation by reference (Samantha Rocci, RV Industry Association)

This Log Item requests that the HUD Code incorporate by reference the most recent edition of the NFPA 1192 Standard on Recreational Vehicles. Currently, this section references the NFPA 1192 Standard on Recreational Vehicles, 2015 Edition, which is now outdated as the 2018 edition has been released. MHI encourages the Subcommittee to support this change.

2) Log 214– 24 C.F.R. § 3286 – Manufactured Home Installation Program (Michael Moglia, PA Dept. of Community and Economic Development)

This Log Item suggests repealing various sections of 24 CFR Part 3286 which focuses on the installation of manufactured homes in HUD-Administered States. The proper installation and support of a home is critical. Although MHI supports efforts to combine and reduce the number of inspections, we believe a final installation inspection is valuable to ensure the homes are properly installed. Such inspections are designed to safeguard the homeowner and the home manufacturer, while providing a quality control and training opportunity for licensed site contractors which is valuable and should be maintained. MHI recommends the Subcommittee reject this proposal.

3) Log 218 – 24 C.F.R. § 3285.101 - Fire Separation (Katherine Murphy)

This Log Item requests that the HUD Code be updated to reflect the NFPA 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities, 2017 edition. Currently, the HUD Code reflects the 2003 edition. While MHI encourages HUD to update the standards in a timely manner to keep it current with building practices and national standards, updates cannot be done carelessly or haphazardly. Updates should not come at the expense of thorough economic and cost-benefit analyses, which is required by statute. To maintain housing affordability, the HUD Code should only be amended when there is a clear justification that revisions will lead to improvements that are in the best interest of consumers and other industry stakeholders. Because of this, MHI recommends that a task group be formed to review any significant changes within the NFPA 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities, 2017 edition, that could impact manufactured housing, and consumers who wish to purchase manufactured homes, and report back to the Subcommittee with a recommendation about any needed changes to the HUD Code.

When the HUD Code is not regularly updated, it places an inordinate burden on manufacturers, forcing them to navigate an outdated regulatory landscape to simply provide consumers with the latest innovations, technologies, and features they demand. MHI urges HUD and the MHCC to finalize proposed updates to the HUD Code with our suggested enhancements and for the Department to move forward with finalizing the subsequent sets of updates that have been approved by the MHCC but are still pending HUD action. MHI thanks the MHCC for their continuing efforts to update the HUD Code and we look forward to working with HUD and the Committee to implement these changes.

Sincerely,

A handwritten signature in black ink that reads "Lesli Gooch". The signature is stylized with a large, flowing "L" and a cursive "Gooch".

Lesli Gooch, Ph.D.
Chief Executive Officer



Manufactured Housing Association for Regulatory Reform

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November 10, 2020

VIA FEDERAL EXPRESS AND ELECTRONIC SUBMISSION

Manufactured Housing Consensus Committee
C/O Home Innovation Research Labs
Administering Organization
400 Prince George's Boulevard
Upper Marlboro, Maryland 20774

Re: Log Items Scheduled for Review -- November 19, 2020
MHCC Regulatory Enforcement Subcommittee Meeting

Dear Members of the MHCC Regulatory Enforcement Subcommittee:

The Manufactured Housing Association for Regulatory Reform (MHARR) submits the following comments to the Regulatory Enforcement Subcommittee of the Manufactured Housing Consensus Committee (MHCC), regarding the Log Items scheduled for discussion at the Subcommittee's November 19, 2020 meeting, as announced in the Federal Register on October 26, 2020. MHARR is a national trade association representing smaller and medium-sized producers of manufactured housing subject to federal regulation pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000.

I. INTRODUCTION

The Manufactured Housing Consensus Committee (MHCC) was established by Congress as the centerpiece reform of the Manufactured Housing Improvement Act of 2000. Its function, as is made clear both by its composition and by its express statutory duties and responsibilities, is not merely "technical" in nature. While an analysis of the technical merit of any proposal is certainly *part* of the MHCC's statutory function, its duties and functions extend much further, to a consideration of: (1) whether a proposal serves to advance the statutory objectives of the 2000 reform law (42 U.S.C. 5401); (2) an analysis of the probable effect of the proposed standard, regulation or interpretation on the "cost of the manufactured home to the public" (42 U.S.C. 5304(e)(4)); and (3) whether the benefits of any such proposal outweigh its costs and its likely impact on the "availability of affordable manufactured homes." (42 U.S.C. 5401(b)(2)). MHCC consideration of *any* proposal, therefore, involves not just an analysis of technical merit, but also a balancing of whether a proposal, even if technically sound, would produce negative cost impacts that would override its value in connection with a type of housing that, as a matter of federal policy

is – and must remain – inherently affordable for every American and, particularly, lower and moderate-income homebuyers.

Based on this statutory formulation, which is *mandatory* for both the MHCC (including subcommittees) and HUD, MHARR offers the following comments on the Log Items scheduled for review at the November 19, 2020 Regulatory Enforcement Subcommittee meeting.

II. COMMENTS

A. Log Item 209 – 24 C.F.R. 3282.16(b)(1) – Incorporation by Reference

This Log Item would update the reference standard incorporated by this section from the 2015 edition of NFPA 1192, Standard on Recreational Vehicles, to the 2018 edition of NFPA 1192. Insofar as the reference standard relates to an exception to the HUD Code for certain compliant recreational vehicles, this proposal would have no direct cost impact on manufactured housing producers. Accordingly, MHARR has no objection this proposal.

B. Log Item 214 – 24 C.F.R. Part 3286 – Inspection Requirements

This Log Item would repeal duplicative inspection requirements contained in the HUD manufactured housing installation regulations, which impose additional unnecessary costs on homebuyers in HUD administered states. Insofar as this proposal would result in reduced costs for consumers without a negative impact on safety, MHARR has no objection to this proposal.

C. Log Item 218 – 24 C.F.R. Part 3285 – Incorporation by Reference

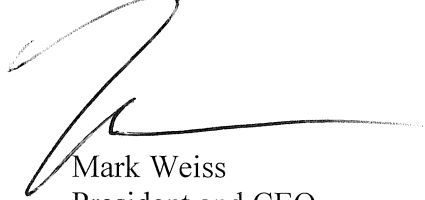
This Log Item would update the installation standards' incorporation by reference of NFPA 501A from the 2003 edition to the 2017 edition, in part to address physical separation concerns. The proponent maintains that the 2017 edition reduces physical separation requirements for manufactured homes from ten feet to five feet. MHARR believes that additional information is needed to: (1) confirm the proponent's representations; (2) ensure that bulk incorporation by reference of the 2017 edition does not result in the *de facto* adoption of other requirements or mandates; and (3) confirm that such incorporation by reference would not result in additional consumer costs over and above compliance with the current 2003 edition incorporated by reference in 24 C.F.R. 3285(h)(3) and 3285.101. Accordingly, MHARR opposes this proposal, as stated, absent such additional information.

III. CONCLUSION

In accordance with the foregoing, MHARR urges the Regulatory Enforcement Subcommittee to reject Log Item 218, as stated, absent additional necessary information. Beyond these proposals, however, MHARR urges the Subcommittee *and the full MHCC* to demand information and an answer from HUD regarding the status of the regulatory reform proposals reviewed and recommended by the MHCC in 2019 (and early 2020). To date, there has been no public action by HUD to follow-up on the extensive and detailed consideration and recommendations provided by the MHCC with respect to those proposals. In accordance with

both the 2000 reform law and Executive Orders 13771 and 13777, HUD is *required* to take action with respect to those MHCC recommendations.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mark Weiss', with a long horizontal flourish extending to the right.

Mark Weiss
President and CEO

cc: Hon. Dana Wade
Members, Manufactured Housing Consensus Committee



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Appendix C: Presentation on Advance Notice of Proposed Rulemaking (ANPR): Revised Minimum Payments for State Oversight Program

Advance Notice of Proposed Rulemaking (ANPR) for Minimum Payments to States

Teresa B. Payne,
Administrator

November 19, 2020




Conceptual Thoughts

Provide	Provide funding to states to help offset state program costs
Partnership	Maintain and support state partnerships
Incentivize	Incentivize states to partner on all main program elements
Encourage	Encourage new state partnerships
Improve	Improve payment distributions to move away from arbitrary dates with high production levels

Key Points

- States would continue to be paid above the fee distribution levels (\$2.50/\$9.00) in place on December 27, 2000.
- Monthly distribution formula would continue at \$14 and \$9 per section
- Supplemental (fiscal year-end) payments would continue through a to-be-determined sunset period
- Supplemental payments would be reduced by program element payments paid to a state (participation-based)
- At the end of the sunset period, the total payment to a state would be comprised of the monthly payment + participation-based program element payments

Program Element	Payments
SAA (Production State)	\$5000 to \$8000
SAA (Location State)	\$5000 to \$8000
Joint Monitoring	\$5000 to \$8000
Dispute Resolution Program	\$3000 to \$5000
Installation Program	\$5000 to \$7000
Installation Oversight	Up to \$2.00 per section



Proposed
Participation-
based Program
Element
Payments

Takeaways

1

Most states would continue receiving funding that meets or exceeds projected payments under the Minimum Payments to State Rule

2

A limited number of states may see some reductions after the sunset period

3

All such analyses are dependent on future production and shipments which are very dynamic and fluid for any individual state

Questions for Public Consideration

1. Should HUD change from a minimum annual payment structure to a payment structure that is based on an eligible state's participation in the federal program? Are the activities proposed by HUD for incorporation into the payment structure appropriate? Are there activities that should be added to or removed from that list? Provide the reasoning for your response.
2. Should HUD provide a uniform annual funding amount associated with each partnership element? Is the range of funding proposed by HUD for each partnership element appropriate? What amounts within the ranges proposed by HUD are appropriate:
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Questions for Public Consideration

4. Will states that are not currently SAAs be incentivized to become SAAs? If so, will those states also be incentivized to become active participants to the maximum extent possible in each aspect of the manufactured housing program? Provide the reasoning for your response.
5. Should HUD consider payments to states that are not SAAs? If so, what instrument needs to be implemented to enable such payments? Provide the reasoning for your response.
6. Should HUD augment the per-unit formula to account for each transportable section with a manufacturer-reported first destination in a state that administers a HUD-approved installation program? What are states' costs of overseeing installation, and if HUD were to help offset those costs, what amount of payment per transportable unit would help to meaningfully offset those costs?