

# Implementation of MHIA 2000

(10-12-07)

## Activity

- Appointment by HUD of an administering organization (AO) to oversee consensus standards development process
- Appointment by HUD of non-career administrator within the Department to run the MH Program.
- Appointment of 21 members to the Manufactured Housing Consensus Committee (MHCC)
- MHCC meetings

## Status

- National Fire Protection Association (NFPA) appointed by HUD. NFPA's five year contract expired in June 2006. NFPA was re-appointed as the MHCC AO in February 2007.
- William Matchneer appointed as non-career administrator in May 2002. In 2005, Mr. Matchneer moved from non-career to career employee.
- Deputy Assistant Secretary Gary Cunningham is an experienced real estate attorney who worked at the Department of Justice.
- Completed. As of May 2007, three vacancies exist on the MHCC (two producers and one general interest).
- MHI President Chris Stinebert was appointed to fill the open seat on the MHCC in June 2006. HUD took over one year to fill this important MHCC seat. Due to Chris Stinebert's resignation in November 2006, MHI is in the process of endorsing a replacement.
- At the May 2007 meeting, term limits for MHCC members were determined. Newly appointed members can serve only two terms (term equals three years). Seven MHCC members will be replaced every year and members can serve past two 3-year terms until their replacement is named. A letter was forwarded to Secretary Jackson by the Administering Organization for approval of the suggested term limit scheduling recommended by the MHCC.
- Ongoing. The last meeting took place on May 22 – 25, 2007. Dana Roberts (former Oregon SAA) stepped down as chairman in August 2007. The MHCC structure has changed with the naming of five subcommittees: 1) prioritization and planning; 2) regulatory enforcement; 3) general; 4) Technical – Structural Design; and, 5) Technical - Systems. New bylaws changes to reflect the reorganization

will be voted on at the July 25, 2007 MHCC conference call. The bylaws were reviewed during the conference call, minor revisions were made and approved with the recommendation that they be forwarded to the Secretary for approval. The AO transmitted the revised bylaws to the Secretary on 9/14/07. Two members had expressed an interest in the appointment to Chairman, Brenton and Major. One member express an interest in the appointment for Vice Chairman, Lagano. At this time, HUD has not acknowledged the members or given any direction to MHCC members about voting for these positions.

- HUD Standards Update

- To date, the MHCC has accepted by written ballot over 200 updates to the HUD Code, which are formatted into proposed rule by a contractor to the administering organization and sent to HUD. The first segmental ballot (containing 20 high-priority items) was published as a final rule on November 30, 2005 (effective May 30, 2006). In the weeks leading up to the effective date, several issues arose that caused problems and HUD addressed each issue by letter/email. This issues included: 1) lag screw pre-drilling; 2) luminaries in wet/damp locations; 3) first stage of production; 4) water heater drain pan penetrations for fuel burning equipment; 5) window/door labeling; 6) exterior receptacle outlet covers; and 7) drainage for PT valves.
- The second segmental ballot (116 items) received MHCC approval and has been sent to HUD in proposed rule format. The Subcommittee/Standards addressed the outstanding issues questioned by HUD during its December 15, 2004 conference call. HUD released a draft proposed rule for the second set of HUD Code changes for MHCC review on November 18, 2005. The MHCC Subcommittee/Standards has reviewed this draft rulemaking and made its recommendations to HUD.
- The MHCC approved a motion at its April 2005 meeting that HUD move forward with a proposed rule on the second ballot for those items in which HUD and the MHCC achieve consensus. Any outstanding issues left from the second ballot will be taken up by future rulemaking.
- The Subcommittee/Standards addressed HUD's recommended actions of the third set of HUD Code

changes during the August 9, 2006 conference call. These changes stem from the NFPA 501-2003 edition. Continued discussion on the third set of standards changes was held on November 13, 2006. The MHCC sent proposed revisions on the third set of standards changes to HUD on December 4, 2006.

- HUD Advanced Notice of Proposed Rulemaking (ANPR) – Soliciting Proposed Changes to 24 CFR 3280 and 24 CFR 3282.
- HUD made a call for proposals from the general public to revise the HUD code and the procedural and enforcement regulations on May 4, 2007. At the May 2007 meeting, the MHCC suggested a two-year code cycle revision process be set in motion. The MHCC has suggested that the first revision cycle require any proposed changes to be submitted by December 1, 2007. Changes will be submitted to MHCC AO and forwarded to the respective MHCC subcommittee for review. One meeting will occur where code change proponents address their issue. If the MHCC approves the change, it is sent to HUD for rulemaking. If the MHCC rejects the change, the proponent will need to resubmit during the next 2-year revision cycle.
- MHCC appointed a Ground Anchor Task Force to develop a national test protocol for ground anchor assembly certification.
- Completed. When approved by HUD, this test protocol, the first such established for industry, is anticipated to be used unilaterally in all states for classification of ground anchors in various soil classifications. The task force finalized and presented the test protocol to the MHCC Subcommittee/Standards at the MHCC November/December 2004 meeting. The task force was formed as a result of a ground anchor test protocol MHI submitted to the MHCC (originally submitted to COSAA for consideration in 2002).
- The Subcommittee/Installation had the responsibility of reviewing the task force draft test protocol. The test protocol was presented to the full MHCC at its Nov/Dec 2005 meeting. The full MHCC has yet to approve the HUD submission of the ground anchor assembly test protocol.
- HUD's consultant on foundations system research updated the MHCC on the progress of the ground anchor research effort. This is part of a three pronged research effort funded by HUD's Policy, Development and Research Department. Testing will begin in Maryland in the summer 2007 to verify the MHCC test protocol. Testing to compare the HUD consultant's new test rig to existing anchor

test methods will be performed in Georgia in fall 2007. A special MHCC task force has reviewed the proposed ground anchor test protocol stemming from this research effort and offered suggestions for HUD consideration. A draft report of the research effort is expected at the next MHCC meeting.

- States adopt laws for installation program including: an installation standard, training and licensing of installers, and an inspection program for homes.
- HUD Installation Program under development based on an MHCC program outline. This installation program consists of training and licensing/certification of installers, and inspection of home installations.
- Industry white paper dated 11/24/03
- Ongoing. The deadline for adoption of state-based programs will be the effective date of the installation program final rule (expected to be published in December 2007). Many states that do not have installation programs that would qualify under the MHIA requirements are attempting to meet this deadline. However, legislative priorities and budget considerations have hindered progress in selective states. MHI continues to assist states in adoption of installation requirements. MHI has developed a matrix of current state activities for MHIA implementation. The latest matrix is dated March 22, 2007. MHI has identified eight states that will become default states.
- The MHCC installation subcommittee completed work on developing an installation program outline containing suggested requirements for training/licensing of installers and inspection of home installations for HUD's consideration. The basis of the installation program outline was developed by MHI through its NRC and MHEC groups. The installation program outline was approved and forwarded to HUD in March 2004 for developing its installation program for default states.
- HUD issued a proposed rule for the installation program on June 14, 2006. The original comment deadline was extended to September 14, 2006. MHI developed a summary of the rulemaking, a critical issues list and a draft letter that members could use to develop their own comments. MHI submitted its installation program comment letter to HUD on August 31, 2006.
- Deadline for complete implementation of 2000 Act: December 27, 2005 (**HUD unsuccessful in meeting deadline.**)
- To "go on record" with both HUD and Congress, MHI and MHARR jointly developed an industry white paper back in 2003. The purpose was to publish the industry's perspective regarding HUD's

failure to properly implement the MHIA in certain key areas, specifically: the program budget; HUD staff; activities of the consensus committee; federal preemption; consumer assistance / subpart I; installation and dispute resolution programs; use of outside contractors; and standards research.

- The chairmen and ranking members of both the House and Senate Banking committees share the industry's concerns regarding these issues. MHI and MHARR will continue to work with these key members of Congress and with HUD to encourage HUD to fully and properly implement the MHIA.
- MHCC recommendation to HUD of model manufactured home installation standards. Manufacturer's installation instructions may be accepted by the states, as long as they meet or exceed the Secretary's model standards.
- Completed. The MHCC installation subcommittee completed its development of a proposed installation standard. MHCC approved the letter ballot and the proposed model installation standard was delivered to HUD on December 18, 2003.
- HUD published the proposed rule on April 26, 2005. The comment deadline was June 17, 2005. The MHCC had one conference call on the proposed rule and developed an MHCC position letter to submit to HUD. Comments include 1) codification under 24 CFR 3280; 2) preemption for default states; 3) definition of installer; 4) performance criteria for freezing conditions; and 5) performance requirements for permanent foundation system design. MHI submitted its comments to the HUD rulemaking docket on June 22, 2005. Over 100 individual comments were received by HUD.
- HUD issued a draft final rule on December 8, 2005. The MHCC held two conference calls to provide HUD with additional input into the final rule development. Three critical industry issues were alleviated: 1) revised freezing climate footing requirements; 2) deletion of permanent foundation definitions; and 3) mortar not required in piers over 36" in height unless specified by manual or design. Three other issues still unsettled are: 1) no preemption in default states; 2) codification in 24 CFR 3285; and 3) hinged roof applications still limited.
- A meeting took place January 26, 2006 on Capitol Hill to discuss federal preemption in default states. Participants included MHI and MHARR representatives; senior HUD officials; MHCC

chairman Dana Roberts; and congressional staff.

- States adopt a dispute resolution program for disputes that arise between manufacturers, installers and retailers within the first year after installation.
- HUD indicted at the May 2007 meeting that that final rule for the model installation standard would be published in October 2007.
- Deadline: December 27, 2005 (**HUD unsuccessful in meeting deadline.**)
- HUD issued a Federal Register notice in March 2003 of an Advance Notice of Proposed Rulemaking (ANPRM) for the future default dispute resolution program that the Secretary will administer in those states that do not establish one by December 27, 2005. The public comment period closed on April 24, 2003 with MHI, MHARR and approximately 20 other individuals/groups submitting comment letters, responding to 33 questions.
- The MHCC decided not to propose an entire dispute resolution program to the Secretary, but its dispute resolution subcommittee crafted answers to the 33 questions, outlining the key elements of a program. The full committee approved the subcommittee's work and the Secretary sent the responses to HUD on August 28, 2003 for response.
- HUD updated the MHCC at its Nov/Dec 2004 meeting on the proposed rule development. The rule, in draft form, was expected to be sent through OMB clearance in January 2005.
- HUD issued a March 8, 2005 letter updating the MHCC on the proposed rule. HUD indicated that the consumer will be an active participant in the process, which goes against MHCC and MHI established positions. We believe the consumer should be a party to the process but only as an observer.
- HUD published a dispute resolution proposed rule on October 20, 2005. MHI filed comments on December 14, 2005.
- HUD indicated at the June 2006 MHCC meeting that the dispute resolution final rule will be delayed. This delay is mainly due to HUD including a section that will permit the MHCC to review and comment on any suggested change that might be developed by

HUD. This has been a political concern with codification under 24 CFR 3288, and outside the enforcement regulations (3282). This new provision would help ensure that the MHCC is not removed from the review process for any future changes. With this new provision, the installation standard was required to be subjected to a second OMB review period (90 days).

- HUD published the dispute resolution final on May 14, 2007. The effective date is February 8, 2008. MHI developed a summary of the final rule available on the MHI website.
- Deadline: December 27, 2005 (**HUD unsuccessful in meeting deadline.**)
- Enforcement subcommittee deliberations of proposed revisions to 24 CFR 3282.401 - .416 (Subpart I).
- MHARR initially submitted proposed revisions to Subpart I in July 2002. However, these MHARR proposals were tabled as another consumer assistance proposal was developed by the MHCC, approved by letter ballot, and forwarded to HUD in March 2003. HUD rejected this proposal in August 2003. During its December meeting, the enforcement subcommittee brought the original MHARR revisions off the table for discussion. Also during its December meeting, the enforcement subcommittee decided to develop a set of principles that would help direct the suggested Subpart I reforms. After agreeing upon the “principles,” the subcommittee began addressing each of the suggested revisions submitted by MHARR and endorsed by MHI. HUD provided the MHCC with a draft Subpart I on July 30, 2004. Three conference calls were held to discuss reform. HUD staff have been actively involved in both the establishment of the principles and subsequent meetings on reform language
- The subcommittee finished its work on Subpart I during its February 2005 conference call. HUD expressed some concerns with the MHCC version of Subpart I reform. The MHCC expressed a need to attempt to work on a solution that all can agree upon. The MHCC Subpart I proposal was forwarded for HUD’s consideration on June 3, 2005. HUD published a rejection of the MHCC Subpart I proposal on June 14, 2006.
- HUD issued a draft Subpart I proposed rule on

December 9, 2005. Five fundamental MHCC principals have been rejected by HUD: 1) retailer accountability; 2) defects caused by other parties outside manufacturer control; 3) systematic introduction of defects; 4) installation-related defects; and 5) good faith effort. HUD had planned to send their Subpart I proposal to OMB in the latter half of 2006.

- HUD awarding monitoring and inspection contracts to separate and independent contractors.
- MHIA removed restrictions on HUD to hire additional staff to run program internally and to incorporate a better balance between functions performed by HUD personnel and those functions performed by outside contractors.
- Congressional approval of HUD appropriations and future increases in label fees for MH program.
- Creation of MH Trust Fund within U.S. Treasury for MH label fees.
- GSEs (Fannie Mae, Freddie Mac) working with industry to
- The MHCC rejected outright the HUD Subpart I counter proposal of December 9, 2005. The MHCC submitted its comments on HUD's Subpart I version on June 2, 2006. MHCC stressed the need for HUD to publish the entire MHCC comments (includes the MHCC comments, the principles the MHCC used to develop its Subpart I reform, and the entire MHCC Subpart I June 2005 submittal) in any proposed rulemaking so interested parties would be able to review the MHCC's original Subpart I document.
- Industry believes that HUD violated the MHIA when it issued a new, one-year contract, with three additional option years, for the monitoring of the PIAs and the review of SAAs. Industry firmly believes that the law specifically instructed HUD to split these two functions into separate and independent contracts. HUD has promised to review dividing the contracts before exercising its option for the second year of the contract. In the meantime, industry needs to identify and encourage new contractors to compete for HUD contracts.
- HUD initially froze hiring in all offices. MHI believes HUD needs to hire additional staff to process the large volume of consensus committee recommendations being forwarded to the Department for action, as well as performing its other responsibilities under the MHIA.
- HUD has provided the industry with detailed line item expenses for fiscal years 2000 through 2004. Industry has requested HUD to provide the same information in future years.
- Completed.
- Ongoing. Industry members and staff have held

develop securitization programs for MH loans.

meetings over the past several years with Fannie Mae and Freddie Mac to discuss loan performance, loan volume, and other issues. Industry meetings with Fannie and Freddie to continue on a regular basis. Most recent meeting with Fannie Mae, attended by industry leaders, centered on the development of a large-scale pilot program for high-end HUD code homes. Under the proposed pilot program, these homes would receive parity in financing with site-built homes in Fannie Mae's underwriting policies.

- HUD reviewing FHA MH loan programs and develop changes where necessary.
- MHCC submits comments to HUD's draft proposed rule for "On-site Completion of Manufactured Homes."
- Representative Barney Frank (D-MA), Chairman of the House Financial Services Committee, has taken a lead role by encouraging both entities to scale back unreasonable underwriting standards, reminding them the important role manufactured housing plays in the affordable housing market.
- GSE reform legislation being considered by Congress contains a new "duty to serve" section relating to manufactured housing. Fannie and Freddie would be required to develop flexible underwriting guidelines and loan products for manufactured housing, and the volume of their manufactured housing loan purchases would be reviewed annually.
- Ongoing. FHA Title I (personal property) insurance program: Bills have been introduced in the House and Senate which contain many suggested reforms including increased loan limits. House passed HR 4804 by a vote of 412-4. S 2123 was adopted by the Senate Banking Committee in September 2007 as part of a broader FHA reform package. This legislation is expected to be voted up by the full Senate later this fall.
- Regarding Title II (real property), HUD has indicated that it has no current plans to implement any changes to MH that could result in less usage of the program.
- Completed. HUD issued the draft on-site proposed rule in March 2003 and gave the MHCC a 120-day comment period. The draft rule would extend the factory production process to the field, with IPIA inspection. MHCC submitted comments to HUD on August 7, 2003.

- HUD development of two proposed rulemakings on Minimum Payments to States and Increasing the In-State home production inspection fee.
- HUD indicated in the June 2006 MHCC meeting that the on-site completion proposed rule has been postponed until HUD completes the requirements contained in the MHIA (installation standard, installation program and dispute resolution program).
- MHI held an Executive Committee conference call on March 16, 2004 to discuss these two issues. It was by unanimous agreement that MHI oppose the Minimum Payment proposed rulemaking. One aspect was that this direct NPRM should have been sent to the MHCC prior to being published in the Federal register. This NPRM would undo the passage in the label fee increase final rule that became effective on 9/12/02, which would pay states a minimum of what they received in HUD funds from the last 12-month period prior to the label fee final rule. In many cases, states would receive less money that could affect their enforcement of the SAA program, and some states may even forfeit their right to do so because of insufficient funds to sustain current SAA programs. Also, the MHCC supports this direction and sent a letter on April 7, 2004 to ask HUD to withdraw the NPRM in favor of MHCC review and comment.
- The second draft NPRM was sent to MHCC for review purposes. It is only an increase in the inspection monies garnered from label fees to pay States for in-state home production. The current \$2.50 per home section would be increased to \$5.00 per home section. The Executive Committee unanimously supports this draft NPRM.
- An MHCC task force was formed to review the HUD proposed rules on payments to States. Three task force recommendations resulted: 1) fully and conditionally approved States be funded based on Year 2000 production; 2) HUD needs to define what label fees cover in State plans; and 3) HUD consider minimum payments to all SAAs in a prescribed fixed amount. The MHCC approved a motion that HUD institute items 1 and 2 in lieu of further rulemaking. A second motion was approved that HUD attempt to estimate the overall costs after December 2005 for implementation of the entire MHIA programs with any associated label fee increases included.

- Subcommittee on Special Projects reviews handicapped-accessible HUD Code home issue
- Ongoing. The subcommittee provided a presentation to the full MHCC at its Nov/Dec 2004 meeting. A task force was established to review the possibility of HUD Code changes that address this issue, but not making it mandatory for all home designs.
- The MHCC subcommittee continues to address several committee concerns that industry is not taking into consideration the senior citizen or aging population aspect “visitability” for HUD code homes in the market place. The subcommittee is currently reviewing all available documentation on the accessibility aspect for HUD Code home design and construction to arrive at possible HUD Code changes. MHI’s view is that any changes (s) should be voluntary practice for producers.
- At the MHCC June 2006 meeting, US Access Board staff gave a review of their dealings with accessible HUD Code homes. A large majority of the discussion focused on the accessible temporary housing for disaster victims. MHI presented the joint MHI Manufacturers Division/Technical Activities Committee recommendations for accessible-typed homes. While these criteria are primarily for accessible homes, these provisions could be used for non-disaster related home designs. The subcommittee will compare MHI’s recommendations with those of the Access Board and attempt to arrive at some needed “voluntary” accessibility requirements for HUD Code homes.
- MHCC Subcommittee/Installation development of alternative (proprietary) foundation system test protocol.
- After completion of the ground anchor test protocol, the subcommittee is pursuing a similar test protocol for alternative foundations systems. The first conference call was held on February 8, 2006. The MHCC Subcommittee/Installation has appointed a special task force to develop the test protocol. At present, the test protocol is in its infancy.
- The task force has reviewed various issues regarding the development of a proprietary foundation system protocol. Three methods are under consideration: 1) testing; 2) engineered design; and, 3) engineered design verified by component testing. The task force has also addressed three support conditions: 1) perimeter support; 2) interior support; and, 3) combined perimeter and interior support. The COSAA Steering Committee was contacted with regard to

sending a survey to States for obtaining information. The survey's purpose was to identify whether States use a checklist or guideline for approving such systems.

- The task force met at the May 2007 MHCC meeting and continued the performance-based specification for listing/labeling proprietary foundation systems. The task force addressed typical loads systems would need to resist. The next step is to identify the load criteria for various loading conditions systems would be subjected to.
- The original roof truss test protocol (based on NFPA 501 criteria) was included in the first group of MHCC-approved HUD Standards changes in December 2004. Upon further review, MHI encouraged HUD to withdraw this test protocol due to increased compliance costs and that no apparent truss failures have resulted over the last five years. MHI surveyed three truss suppliers and could not gather any data on truss failures.
- HUD withdrew the test protocol from the November 2005 final rule and sent it back to the MHCC for consideration. Under the Subcommittee/Standards, a task force developed a revised truss test protocol for MHCC consideration. The MHCC was presented the test protocol at its October 4, 2006 conference call. Further discussion on the protocol continued on November 13, 2006 and the MHCC finalized its proposed truss test protocol. The MHCC submitted the protocol to HUD on December 4, 2006.
- The MHCC addressed the recent AC letters regarding ridge roof connections (April 6, 2007) and IPIA inspection being provided prior to occupancy of the home (January 30, 2007). HUD considers this issue to be a home construction aspect therefore; they can require AC letters for completion of this on-site application.
- The MHCC considered this ridge roof aspect an installation concern, similar to other forms of on-site completion permitted by HUD without AC letters, and the IPIA inspection as a policy change with respect to enforcement. The MHCC vigorously asserted that these two issues should have been
- MHCC Truss Test Task Force developing a revised proposal for testing roof truss assemblies.
- MHCC addresses continual HUD email directives on construction/safety standards and policy decisions.

brought to the MHCC for review and recommendation. The MHCC stressed that this type of HUD interpretation and enforcement should cease until the MHCC has an opportunity to review the issue and provide feedback to HUD.

- The MHCC approved five resolutions for HUD consideration on any future issue of this nature. These resolutions were: 1) HUD should have sought MHCC advice on the two AC letter email directives on the IPIA inspection and ridge roof connection prior to issuance; 2) in the future, any directive perceived as interpretations or policy statements should be brought to the MHCC per MHIA sections 604(b)(3) or 604(b)(5); 3) the MHCC supported the revision of timely inspection under AC letter compliance be performed prior to home occupancy by a vote of 16 – 1; 4) the ridge roof cap issue should be treated as a “close up” issue under installation program (would not require an AC letter); and, 5) MHCC should be consulted for advice on future close up or any other construction/standards related issues of this nature prior to departmental action.
- In late September 2007, HUD issued a letter stating that double-hinged roof trusses are part of construction and require an AC letter and IPIA inspection. As a result of an industry meeting with HUD in early October, HUD issued a memo dated October 5<sup>th</sup> with diagrams. The memo stated that certain roof systems not involving life-safety issues could be inspected by the IPIA within 90 days following occupancy, but would still require an AC letter.