



Manufactured Housing Consensus Committee

NFPA 1 Batterymarch Park Quincy, MA 02169

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TO: Manufactured Housing Consensus Committee Members

FROM: Robert E. Solomon

DATE: September 21, 2009

SUBJECT: Final Results for Letter Ballot – PIA RULE COMMENTS TO HUD

The September 11, 2009 ballot deadline has yielded the following vote:

19 Members Eligible to Vote

1 Affirmative

10 Affirmative with Comments

8 Negative

0 Abstentions

AFFIRMATIVE

Randy Vogt

AFFIRMATIVE WITH COMMENTS

Karl Braun	William Farish
Kevin Jewell	Michael Lubliner
Terry Nelson	Timothy Sheahan
Michael Wade	Frank Walter
Richard Weinert	Michael Zieman

NEGATIVE

Susan Brenton	Jack Berger
Theresa Desfosses	Danny Ghorbani
Douglas Gorman	William Lagano
Mark Luttich	William Stamer

ABSTENTION

None

William Lagano changed his vote from Abstention to Negative on Circulation.

Karl Braun changed his vote from Affirmative to Affirmative with Comment on Circulation.

The MHCC requires a letter ballot or an equivalent formal recorded vote with approval of two-thirds of the *MHCC*. This letter ballot did not achieve the required vote to be submitted to HUD as a formal recommendation. The 2/3 rds vote was based on the following calculation (19 eligible to vote – minus 0 abstentions, - 0 not returned = $19 \times 0.66 = 13$)

RES/smp



Manufactured Housing Consensus Committee

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Phone: +1(617) 984-7507 Fax: +1 (617) 984-7110 www.nfpa.org

TO: Manufactured Housing Consensus Committee Members

FROM: Robert E. Solomon

DATE: September 11, 2009

SUBJECT: Circulation of Votes for "PIA RULE" Letter Ballot

The September 9, 2009 ballot deadline has yielded the following vote:

19 Members Eligible to Vote
2 Affirmative
9 Affirmative with Comments
7 Negative
1 Abstention

AFFIRMATIVE WITH COMMENTS

William Farish	Kevin Jewell
Michael Lubliner	Terry Nelson
Timothy Sheahan	Michael Wade
Frank Walter	Richard Weinert
Michael Zieman	

AFFIRMATIVE

Karl Braun
Randy Vogt

NEGATIVE

Susan Brenton	Jack Berger
Theresa Desfosses	Danny Ghorbani
Douglas Gorman	Mark Luttich
William Stamer	

ABSTENTION

William Lagano

Copies of the Affirmative with Comments, Negatives and Abstention are enclosed. Please review them. If you wish to change your vote, please do so **by September 16, 2009.**



Submit any changes to:

Suzanne Pereira
NFPA
1 Batterymarch Park – PO Box 9101
Quincy, MA 02169-9101
mhccaoffice@nfpa.org
Fax: (617) 984-7110
Phone: (617) 984-7507

Enclosure

RES/smp



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative

* Affirmative with comment

*Negative

*Abstain

* A Reason must accompany any vote in this category

Reason:

SEE ATTACHED

NAME: BILL FARISH

DATE: SEPT. 8, 2009

SIGNATURE: Bill Farish

Return ballot to:
Suzanne Pereira
Email: mbccaoffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507

Reasons for "My Affirmative with Comment" vote
Bill Farish – Clayton

I am voting in the affirmative on this proposed PIA rule because I feel that all of the time that HUD and the MHCC spent together making suggestions to the original HUD revision have resulted in improvements. But there still are troubling aspects of the revised rule that I hope will be addressed some time in the future, possibly even before this becomes an Advanced Notice of Proposed Rule Making (ANPRM). Some of my biggest remaining concerns are as follows:

- Cost Estimates – The most important missing information for proper evaluation of this rule is the cost impact estimate. I can understand the difficulty of making estimates to a document in the midst of revision, but that work still needs to be done. Without such estimates it is impossible to fully evaluate the possible benefits of these revisions for consumers. I trust such estimates will be provided by the time the ANPRM is offered for public review.
- Plant Certification [.362(b)] – There are too many specifics spelled out for plant certification in some areas, and vague, subjective language in others. As to specifics - why is the approved training program that has its details listed in .203(c)(6) repeated again step-by-step in .362(b)(1)(iv)? As to vague terms, there is "comprehensive", "sustainable", "sufficient personnel", and "functioning effectively". It seems this entire section could be reworded providing simpler direction to the concerned parties.
- Subpart I Involvement [351(b)(5), .362(a)(1)(i), .552] – There are too many added responsibilities for the PIA's in the area of Subpart I. This only adds complexity and confusion to an already laborious program. It is also difficult to understand if such changes are needed without seeing the final version of Subpart I. It is my hope that all of these new responsibilities will be removed from this document and reinserted, if needed, into the Subpart I final rule.
- Increased Oversight [.362(c)(2)] – There seems to be little justification for all the direct involvement of the Department on fairly routine activities, such as the initiation and later revocation of increased frequency inspections in a plant. It is a concern that the Department will be tempted to micro-manage such activities rather than let the IPIA perform the oversight dictated, and let the Department rely on the periodic monitoring already part of the Regulations to review the larger trends.

MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

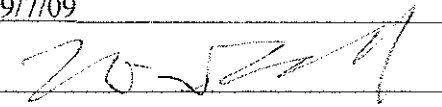
* A Reason must accompany any vote in this category

Reason:

While the specific language in this document reflects the discussion of the MHCC members, I do not believe it always reflect the best possible language for the public interest. (see discussion of various provisions and votes in minutes of the MHCC deliberations) I encourage HUD to use these comments in conjunction with their knowledge and mission to construct the best language for publication.

NAME: Kevin G. Jewell

DATE: 9/7/09

SIGNATURE: 

Return ballot to:
Suzanne Pereira
Email: mhccaoffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507

**MHCC****LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)****BALLOT DUE - Wednesday, September 9, 2009**Please record my vote as follows: **Affirmative with comment**

Reasons:

- 1) The new PIA proposed rules are just "words on paper" unless HUD can acquire higher levels of stable funding to support QA efforts.
- 2) HUD must use their limited current resources to focus on more "boots on ground" QA at plant facilities. Putting HUD's limited "eggs in the QA basket" will help the consumer
- 3) The QA must be expanded to better focus on energy efficiency, durability and indoor air quality issues that I have presented to MHCC, especially the attached two related QA proposals (e.g. infiltration and insulation) AND implementation of new duct leakage testing requirements approved by MHCC.

NAME: Michael Lubliner

DATE: September 8, 2009

SIGNATURE: (see FAX)

A handwritten signature in black ink, appearing to read "ML", written over a horizontal line.

Return ballot to:

Suzanne Pereira

Email: mhccaooffice@nfpa.org

Fax: 617-984-7110

Phone: 617-984-7507



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

These rules need to be updated
to address the change in this
housing market.

NAME: Terry Nelson

DATE: Sept 8, 2009

SIGNATURE: Terry Nelson

Return ballot to:
Suzanne Pereira
Email: mhccaoffice@nfpa.org
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Phone: 617-984-7507



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

Generally in favor but would like to reserve the opportunity to post a comment

NAME: Tim Sheahan

DATE: 9/09/09

SIGNATURE: 

Return ballot to:
Suzanne Pereira
Email: mhccaooffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

Four horizontal lines for writing a reason.

NAME: MICHAEL WADE

DATE: 9-9-09

SIGNATURE: [Handwritten Signature]

Return ballot to:
Suzanne Pereira
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Comments supplied by Michael Wade, Cavalier Homes

While the scope and purpose identified in 3282.201(b) states that "Such approvals and inspections are intended to protect the health and safety of consumers and advance the **affordability** and quality of manufactured housing", it appears that the proposed changes to 3282 will ultimately increase the cost of manufactured homes to the consumer.

That being said, I want to clarify that I am actually voting affirmative on the proposed PIA rule. While some within our Industry may disagree with this position, it appears to be the best choice when considering our industry from a long term standpoint. HUD has been busy communicating with PIAs & IPIAs over the last year in regards to placing additional emphasis on improving the overall effectiveness of each manufacturer's quality control program. It appears quite clear that change in this area is coming (regardless of whether manufacturers choose to embrace these changes not) and thus seems logical that we should partake in positively tweaking this process as it proceeds, rather than sit back and wait on something to be implemented that we have absolutely no input in.

Before we judge HUD too harshly we should consider that while each manufacturer is directly responsible for their operations, HUD is responsible for regulating the industry as a whole and their desire to keep an eye on the "pulse of the industry" is reflected accordingly through what they have presented. The language within the PIA rule appears to be a genuine effort to increase communication between HUD, PIAs, IPIAs and SAAs while at the same time establishing the "level playing field" of monitoring that the industry has desired for many years. Historically the industry has dealt with the "Cops and Robbers" method of monitoring, rather than a clear and open communication process where the objectives are discussed, agreed upon and implemented. Having all entities that are involved finally being on the same page regarding expectations should yield positive results.

The question regarding a true cost of implementation and an actual cost that will be passed along to the consumer simply cannot be determined. There are far too many variables that exist for a specific cost to be captured or established. These variables include:

- Private PIAs create their own pricing schedules for services that vary depending upon production rates, frequency of DAPIA and plan approval submittals, etc.
- Some private PIA services are billed hourly, while others provide services on a label fee basis.
- Even if all incurred costs to the manufacturers via the PIA rule were identical, the final cost to the consumer will vary by manufacturer due to that cost being divided among the homes produced (with larger volume producers passing along a smaller price increase).

The cost to implement these processes will potentially present an initial burden to smaller manufacturers that are limited in staffing. The possibility exists that manufacturers may see some 'return of investment' via long term savings in warranty expense through improved quality. While manufactures that have a strong effective QC program currently in place may not benefit substantially from implementing the changes proposed in the PIA rule, manufacturers that currently struggle with quality issues will be forced to improve and thus will ultimately recognize a long term benefit.

The edits to various sections of 3282 resulting from the face-to-face meeting and numerous conference calls on behalf of the MHCC are indeed improvements to the proposed language of the PIA rule and should be retained in the final version.

Changes/edits still required include:

- 3282.210(b), we should un-strike the word "in" and strike the word "the", so that it results in: "The monitoring fee is to be paid in a form acceptable and payable to the Secretary or the Secretary's agent".
- 3282.351(b)(5), we need to remove the comma that follows the period after safety standards (which ends the first sentence), which will result in the second sentence not beginning with a comma in front of the word IPIAs.
- 3282.360(b)(3), pending recommendation for language specific to existing designs.
- 3282.362(b), pending HUD to reword paragraph.
- 3282.362(c) (1), pending request for HUD to add referenced language to Red Tag section.
- 3282.362(c) (2), pending suggestion for HUD to reword the paragraph.



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

See attached proposed revision to
THE DRAFT PIA Rule of 9-01-09

NAME: FRANK WALTER

DATE: 09-03-09

SIGNATURE: Frank Walter

Return ballot to:
Suzanne Pereira
Email: mhccaoffice@nfpa.org
Fax: 617-984-7110
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By

PROPOSED REVISION

On Page 34 of the 9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS (The PIA Rule)

Proposed Revision to 3282.362(c)(5)(i)(C): (A friendly amendment, to propose the use of terms found in 3280 and 3282):

The lead-in sentence reads: "The data plate must contain the following information:"

*

*

(C) "The HUD label number(s)". Strike these words. In their place, insert: "A list of the certification label(s) number(s) that are affixed to each transportable manufactured section"

*

*

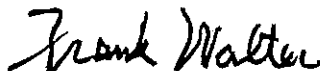
*

Justification:

The words to be inserted are identical to those found in the MHCSS, at 24 CFR 3280.5(d), a part of required **data plate** information.

In addition, a footnote should be added at the end of the proposed 3282.362(c)(5)(i)(C), to recommend to HUD that 3280.5(d) should be amended to place a period after "section", and delete the words, "under 3280.8"

With these proposed changes to 3280 and 3282, The MHCSS and MIIPER will both require that all **data plates** shall include the certification label(s) numbers(s).



Frank Walter

09-03-09



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

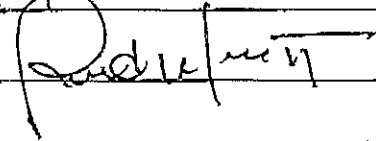
* A Reason must accompany any vote in this category

Reason:

see attached list of comments, proposed
changes to PIA rule.

NAME: Richard Weinert

DATE: 9-9-2009

SIGNATURE: 

Return ballot to:
Suzanne Pereira
Email: mhccaooffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507

ATTACHMENT: MHCC LETTER BALLOT ON 24 CFR PART 3282 – PIA RULE

From: Richard Weinert, September 9, 2009

Vote: AFFIRMATIVE WITH COMMENT:

In regard to my vote on Part 3282, PIA Rule I have the following comments, edits, corrections as follows, with my edits, additions marked in either **bold** or ~~double-strikeout~~ format:

1. 3282.212.

The leading paragraph of this section should read: *Manufacturers must maintain records regarding each home, **or section thereof in readily accessible individual files or an equivalently accessible format.***

Reason: It is possible that a single section would be built as replacement. Readily accessible is a commonly used term, and applicable to this part in order to assist the auditor in completing his/her duty to review all records. It is also necessary to inform the manufacturer of the need to keep books and records in a central location accessible to the auditor.

2. 3282.361(a).

Last sentence of this subsection should be edited for grammar, to read as follows: *"The DAPIA is responsible for evaluating manufacturer's installation instructions to verify ~~they~~ **it** ~~are~~ **is** equal to or exceeds the model installation standards..."*

Reason: A DAPIA is an "it" – an organization, not a pronoun.

3. 3282.362(a)(2).

The last part of this section should be revised for clarity as follows: *"...the two may operate in the facility simultaneously for a limited period of time to the extent necessary to ensure ~~a smooth transition~~ **compliance with this subpart during the transition.**"*

Reason: Just what is a "smooth" transition? -very subjective term.

4. 3282.362(b)(4)(ii)

The second (new) sentence should read as follows: *"After verifying that the required improvements have been successfully implemented, the IPIA ~~may~~ **must** file a supplemental report with HUD's Office of Manufactured Housing..."*

Reason: This act should not / cannot be left to IPIA as an option. If the IPIA does not notify HUD of this fact, it may delay or impede enforcement action, or conversely delay the end of an enforcement action, continuing increase costs of manufacturing.

5. 3282.362(c)(1).

The fifth sentence of this section needs to be revised as follows: *"The frequency of subsequent visits to the facility ~~must~~ **must** be sufficient to assure the Department that every manufactured home is inspected **in at some least one stage in its production.**"*

Reason: This provides clarity for code user, using same language used previously (.362(c)(1) that accurately describes inspection frequency.

6. 3282.362(c)(3)(C). The second sentence of this section should be revised as follows: *"For a period of five years minimum, the IPIA must keep..."*
Reason: If the IPIA chooses to purge records on year 6, 7, 8, etc., it should be allowed to do so.

7. 3282.362(c)(3)(F)(aa). (!!!!-do we really have to have so many subsections??- madding!)

Please reword the first sentence of this section as follows: *When an IPIA or its authorized agent determines that a manufactured home or section thereof has sustained damage that renders it ~~not habitable~~ uninhabitable.*

Reason: Correction-grammar.

8. 3282.362(c)(4)(ii)

The second paragraph of (4)(ii) "Red Tag" should be modified for grammatical reasons as follows:

"The IPIA or its designee must only rescind a red tag when the IPIA or its designee has determined that the affected manufactured homes or sections thereof conform to the construction and safety standards or no longer contain ~~the~~ an imminent safety hazard, as applicable."

9. 3282.364.

At the end of the second sentence, suggest revision as follows:

"The DAPIA may be required to reexamine the designs in question or the quality assurance manual under which the manufactured homes were produced, or be required by the Secretary to perform a DAPIA audit to assess compliance within the facility."

Reason: While this was not discussed in committee, it is common with sight-built projects that engineer of record reviews construction to assure compliance with the approved engineering/designs.



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason: See attached

NAME: MICHEL ZIEMAN

DATE: 9/9/2009

SIGNATURE: M Ziemann

Return ballot to:
Suzanne Pereira
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Phone: 617-984-7507

General Comments.

1. It is critical that the MHCC formally comment on HUD's proposed PIA rule, thus I hope we obtain the two-thirds vote necessary. HUD WILL issue a PIA rule with or without formal comment from the MHCC. Though HUD is never required to follow the suggestions and comments of the MHCC history shows that HUD usually does. Without formal comment HUD will have much greater freedom to ignore the suggested revisions we have all work so hard to develop. Certain interests frequently complain that HUD should seek the input of the MHCC more often and assert that HUD is violating the Act when it fails to do so. That may or may not be the case depending on the circumstances. However it is ironic, if not hypocritical, that those very same interests would have us to be silent and say nothing now that HUD IS earnestly seeking our input on this proposed rule.

2. I reject the comments of some that HUD should have provided the committee with cost impact information with the proposed rule. As Mr. Matchneer explained they never do so at this stage (he is right) and this is consistent with prior proposals that HUD has given the MHCC for comment. The MHCC DID consider cost as it looked at each issue and often we deleted items which we believed had so little benefit as to not justify the associated cost increase. Thus, the MHCC has fulfilled its duty to consider cost. The truth is the MHCC as a group had a better idea of what the cost impacts would have been on any given proposed change than any estimate HUD could have given us. Now if HUD had given us a cost estimates then it is highly probably some would have complained that it was not accurate or that they had not consulted with the stake holders in developing their cost estimate. It can be seen that those who would carry this argument forward appear to paint HUD into a damned if they do and damned if they don't corner. This simply is not fair and not right.

3. Some have opined that the MHCC should not send HUD comments because in the past HUD has ignored comments from the MHCC. I also reject this logic or line of thought. HUD is not required to accept or follow every comment they receive from the MHCC. The record is clearly that HUD often has accepted and followed our input making the argument invalid on its face.

4. All references to state exclusive IPIAs should be deleted by HUD. In the way of background the carve out for state exclusive IPIAs was originally created to placate certain states with MH code programs who a) wanted to protect their turf and did not want to loss their monopoly and/or b) feared that HUD would not have a viable enforcement mechanism. The Act itself does not require or even mention the creation of state exclusive IPIAs. Thus state exclusive IPIAs were created by HUD when it wrote its regulations not by the Act. HUD's enforcement mechanism has operated successfully for 33 years and has proven its veracity which thus eliminates the only viable justification or argument for keeping state exclusive IPIAs. HUD should not give monopolistic powers to states when justification to do so does not exist.

Specific Comments.

The comments below fall into three categories.

1. Grammatical correction which should be made.
2. Correcting what is shown in the 9-1-09 Draft to what the MHCC actually approved. Assuming the committee approves sending these comments, the comments sent should be revised to reflect these corrections I have indicated below.
3. Additional revisions which I believe HUD should make when publishing the proposal rule in the

Federal Register. In some cases these items were overlooked and not discussed by the committee and in other cases the committee did not agree to make the comment. However, in all case HUD should carefully consider these comments as a "minority report" coming from the single member of the committee, a private PIA, which is probably most directly affected by the "PIA Rule" changes.

8282.202(d)(1). The first sentence of what is shown in the 9-1-09 Draft is not grammatically correct and does not reflect what my notes show as the MHCC action. Per my notes the MHCC approved revision the first sentence to read as follows:

"Within ten (10) days of the effective date of discontinuance of services the outgoing PIA must transmit to HUD a written notice of the discontinuance."

Also, in the second sentence the word "termination" should be changed to "discontinuance."

3282.203(a). The last sentence should be revised as follows: (underline is added text)

"A manufacturer may also obtain approval for the same or other design(s) and/or Quality assurance manual(s) from more than one DAPIA."

3282.210(b). Several grammatical corrections are needed. The first sentence should read:

"... paid in a form acceptable ..."

The second sentence should read:

".... labels until it has evidence that...."

3282.351(a)(3). In the first sentence change the word "certification" to "approval." As discussed in our meetings' IPIAs do not certify they approve. Also making this change will bring consistence with 3282.351(b)(5) below where the word "approval" is properly used.

3282.351(a)(5).

Delete the phrase at the start of the first sentence which reads: "Having the ability to." Having ability is NOT a "function" performed but rather a characteristic or qualification.

Delete the phrase in the first sentence "imminent safety hazard." In the first place this is the manufacturer's responsibility not the IPIAs. Also, identification of all and any ISH would require super-hero type foreknowledge. This is simply more than should responsibly be expected of IPIA personnel.

3282.353. HUD should delete this section. See item four under general comments above as to why state exclusive IPIAs should be eliminated.

3282.361(a)(1). Grammatical correction. In the first sentence delete the blue underlined word "and."

3282.361(a)(2). As indicated in the blue underline comment the original wording was to be retained. What is shown is NOT the original wording.

3282.362(b)(1). From the last sentence delete the last two words "and sustainable." Sustainability of the manufacturer's QC program is the manufacturer's responsibility not the IPIAs. The IPIAs responsibility is to initially approve and then to monitor the manufacturer's QC program. Humanly speaking no one has the foreknowledge to verify sustainability into the future.

3282.362(b)(1)(x). This section should be deleted. In the first place no one can assure that

conformance will "continue" indefinitely into the future. How far into the future? Infinity? In the second place this section duplicates of 3282.362(b)(6)(iv) which properly identifies the IPIAs function in this regard.

3282.362(c)(2). **This section needs major revisions** for the following reasons:

- a) As written this section makes no allowance for partial increased inspection frequency, such as at one production station. This is a common tool used by IPIAs. Increasing inspection frequency in the entire facility when the problem is only with one station does not make sense.
- b) Having the IPIA reclaim labels because of any increased inspection frequency (partial or full) is overkill. Also, this section requires the IPIA to label houses "itself" during increased frequency. As previously agreed the IPIA does not label houses but authorizes the manufacturer to label.
- c) The proposed requirement to notify and consult with the Department will add unjustified cost which will be passed to the manufacturer who in turn will pass it onto the consumer. Notification and consultation with HUD only need occur when initial IPIA attempts to work with the manufacturer to correct a problem have not worked.

3282.362(c)(3)(ii)(D). **This section needs revisions**. The IPIA should NOT be responsible for maintaining control of labels AFTER they have been issued to the manufacturer. The IPIA does have the right to withdraw labels from a manufacturer when necessary but having to maintain control after issuance is an entirely different matter. As written this section implies that IPIAs should never issue a supply of labels to a manufacturer but only hand over labels on a daily basis as the units are complete and ready to be labeled.

3282.362(c)(4)(ii). This section should be deleted. In the first place the IPIA has no way of knowing when a house released (shipped) by the manufacturer has been sold by the retailer. In the second place other sections already require the IPIA to notify the manufacturer when it is aware of failures to conform which are not isolated to the facility. At that point the manufacturer has the responsibility to make corrections if a released (shipped) house has not yet sold.

3282.362(c)(5)(i). In the first sentence the words "the Department" should be deleted as not needed. The second sentence should be totally deleted. Data plate location requirements do not belong in this second on IPIA responsibilities. Also, when relocated the data plate location requirements need to be revised to allow for locations other than "near the main electrical distribution panel."

3282.362(d)(1). Delete this section in its entirety. Records of labels in relation to home serial numbers, etc. are all maintained by the monitoring agent. This is therefore a needless duplication and cost which should be eliminated.

3282.364. In the final sentence of this section the words "failure to conform" should be replaced with "serious defect." Having to make the reports called for on minor nonconformances is a needless cost. ALL design failures to conform to MHCSS are already reported to the manufacturer via deviation reports. Lastly, "designs" do NOT contain ISH or FTC, only "houses" do.

3282.365. In the last sentence the words "identification of the class" should be replaced with "method used to determine the class." This will then be consistent with other section of 3282 not being proposed for revisions.

3282.451. In the first sentence delete the words "an SAA acting under an approved state plan." As written this section allows SAAs to monitor PIAs operating within their state. Any such monitoring will duplicate the monitoring of HUD's monitoring agent. This section would permit every SAA in the country (about 39) to monitor every DAPIA and IPIA thus subjecting these

agencies to overwhelming entanglement of oversight. Such duplicate monitoring by one or more SAAs will be costly to PIAs in administrative terms to all stakeholders. Such duplicate monitoring is simply not justifiable. There would be no consistence between the monitoring carried out by the various SAAs and no consistency with the monitoring performed by HUD's monitoring contractor thus creating mass confusion, a "train wreck" as Bill Matchneer described it. (In the way of background the only reason this was placed in the original 3282 in 1976 was to satisfy some states with code programs which feared HUD's program would not be strong enough. Such fears should no long exist thus eliminating the need for this allowance, if it every existed in the first place.)

3282.453(a). Delete this section in its entirety. See supporting comments immediately above for 3282.451.

3282.453(b)(2). In the end of the last sentence HUD should add the words "as appropriate." If HUD's monitoring contractor is doing the monitoring, it does not need to send copies of the report to itself.

3282.552(b). As written this section fails to recognize that all ISH and FTC found by the IPIA are reported to the manufacturer under other sections of 3282. Therefore, at the very most all this section needs to do is repeat that reporting requirement, if even that. Because the manufacturer is made aware of these defects by the IPIA the manufacture can file his report as required by proposed 3282.522(a). Therefore, this section should be deleted.

– END –



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

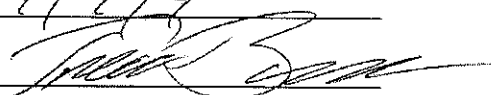
* A Reason must accompany any vote in this category

Reason:

SEE ACCOMPANYING
REASON STATEMENT

NAME: JACK BERGER

DATE: 9/7/9

SIGNATURE: 

Return ballot to:
Suzanne Pereira
Email: mhccaoffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507

Letter Ballot On 24 CFR Part 3282
Reasons for Negative Vote by MHCC Member Jack Berger

I have voted *Negative* as I feel there is currently far too much ambiguity remaining in the proposed rule for the MHCC to endorse at this time. The MHCC has expended a great deal of time, energy and effort in addressing numerous areas of contention (138; many of which are major) with the proposed rule as initially presented by HUD. Although the Department has indicated its intent to fully consider all the comments made by the Committee when editing the document in preparation for final publication as a proposed rule (and there is every reason to believe that they will), an affirmative vote at this point is, in actuality, a vote for a proposed rule that doesn't even formally exist (at the end of the day, HUD is under no obligation to incorporate any of the comments made by the Committee). Furthermore, the Department has yet to present sufficient justification, nor any estimates relative to over all cost to the industry (and subsequently, to consumers) represented by enactment of this rule. An affirmative vote at this time is far too premature. I believe that HUD should approach this as a work in progress; incorporate all the comments made over the past two months, and present a modified proposed rule (complete with cost estimates and full justification) to the MHCC for consideration and affirmation.



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment x*Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

Attached

NAME: Susan Brenton

DATE: 9/08/09

SIGNATURE: Susan Brenton

Return ballot to:
Suzanne Pereira
Email: mhccaoffice@nfpafpa.org
Fax: 617-984-7110
Phone: 617-984-7507



Susan Brenton
2158 N. Gilbert Road, #116
Mesa, AZ 85203
480-966-2446
sbrenton@mhcaz.com

**RE: COMMENTS ON 9-1-09 DRAFT: 24 CFR PART 3282: MANUFACTURED HOME
PROCEDURAL AND ENFORCEMENT REGULATIONS**

First, I would like to thank the Manufactured Housing Consensus Committee (MHCC) for all of their time and commitment to review the March 25, 2009 draft rule presented to it by HUD. I believe the MHCC is an invaluable wealth of information to HUD, industry and consumers.

For 2009, the State of Arizona adopted a policy that there would be no regulations negatively affecting business unless it was shown that there was a definite need and the needs justify the cost. I agree with the State's policy. Since HUD has not been able to present actual cost data for this proposal and thus, repercussions to the manufactured housing industry and consumers, I cannot vote in favor of these changes. Cost and justification for the proposed rule were established as one of the MHCC's policy issues regarding this proposal.

In addition, it became obvious during MHCC discussions that HUD was not fully aware of the manufacturing and quality assurance policies and the responsibilities of the various parties (i.e., IPIA, DAPIA, manufacturer) that are presently in place. I believe it would be valuable for HUD to further investigate these issues.

A couple of "housekeeping issues" of the September 1, 2009 draft:

§ 3282.210(b): First sentence should read: The monitoring fee is to be paid in a form acceptable...

§ 3282.360: Should read: Add "in which case" after the comma so it reads: In determining whether products to be included in a manufactured home are acceptable under the standard set out in part 3280 of 24 CFR, all PIAs shall accept all product verification programs, labelings, and listings unless the PIA has reason to believe that a particular certification is not acceptable, in which case the PIA must so inform the Secretary...



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment
 *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

Proposal from HUD was incomplete. The requirement for justification and cost was not included.

NAME: __Theresa M. Desfosses

DATE: 9/2/2009

SIGNATURE:

Theresa M Desfosses

Return ballot to:

Suzanne Pereira

Email: mhccaooffice@nfpa.org

Fax: 617-984-7110

Phone: 617-984-7507



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

PLEASE SEE THE REASONS AS ATTACHED TO THIS BALLOT FOR MY NEGATIVE VOTE

NAME: DANNY D. GHORBANI

DATE: SEPTEMBER 3, 2009

SIGNATURE: (SIGNED ON THE FAX COPY)

Return ballot to:
Suzanne Pereira
Email: mhccaooffice@npsa.org
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Phone: 617-984-7507

REASONS FOR MHARR NEGATIVE BALLOT ON MARCH 25, 2009
HUD-PROPOSED PRODUCTION ENFORCEMENT RULE (24 C.F.R. 3282)

1. The HUD March 25, 2009 proposal is incomplete because it lacks estimated cost information. This proposal would result in a major expansion of the current production enforcement system. The new duties and obligations required by the proposal will inevitably bring about higher costs that will be passed to consumers without indication of any corresponding benefit to the quality, well-built homes that are being produced by the industry today.

2. The HUD proposal is incomplete because it lacks justification for the major expansion of production enforcement that it seeks. There is no evidence of systemic failures of the present production enforcement system, or the wide-scale introduction of non-conforming or unsafe homes into the marketplace, that would justify such an elaborate expansion and related cost increase. The only justification that has been provided by HUD is anecdotal information regarding one manufacturing facility in California that does not show a failure of the entire system requiring drastic changes, as proposed.

3. A costly expansion of the production enforcement system, with no showing of a corresponding benefit for consumers, should not be imposed during a severe economic downturn. Manufactured housing production in 2009 will be at an all-time low, while consumers face unprecedented challenges. Under these conditions, MHARR cannot recommend an elaborate expansion of production enforcement that has not been justified or supported with cost information -- particularly as this added cost would further disenfranchise potential manufactured home buyers who are already having difficulty qualifying for loans, as is.

4. Based on the history of the program, HUD has never used recommendations as presented by the MHCC. Instead, it has made major changes to those recommendations without returning to the Committee for further consideration and input in accordance with the Manufactured Housing Improvement Act of 2000 (2000 Act). Given the incomplete HUD proposal in this case, such changes would have a much magnified impact; *i.e.*, MHCC recommendations skewed by the lack of cost and justification information would be skewed even further by HUD changes to its recommendations that are included in the rule ultimately published for rulemaking.

5. Such proposals have been promoted by the monitoring contractor for decades, but have routinely been rejected for lack of justification and cost impact. There is no reason to proceed with such an incomplete and unsupported package now, when the 2000 Act has created a partnership between HUD and the MHCC to fully develop and consider such critical issues and when, as noted above, the industry is building the highest quality

homes that it has ever produced.

For all of these reasons, I am voting negative on this ballot, but would suggest the following approach in the event that HUD's incomplete March 25, 2009 proposal fails to achieve the necessary 2/3 Committee majority (13 or more members in this case). Specifically, the Committee's rejection should be conveyed to HUD by the Administering Organization (AO) without forwarding any attachment (i.e., the Committee's work to date). The AO communication, however, should suggest to HUD that it return to the MHCC with a complete proposal, including justification and cost information, so that the Committee can quickly and easily conclude its work (i.e., make necessary adjustments to the work that it has already done) and submit a complete, well-supported package of recommendations to the Secretary for use in the rulemaking process.



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

NAME: Doug Gorman

DATE: 9/7/09

SIGNATURE: *Doug Gorman*

Return ballot to:
Suzanne Pereira
Email: mhccaooffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507

Reason for Negative vote on proposed PIA rule changes.

Douglas Gorman
9/7/2009

HUD has presented the Consensus Committee with a proposal regarding PIA rule changes that has unknown cost factors and vague justification factors. HUD has expressed their view that the most important aspect of the proposal is quality enhancement which in HUD's view does not require any rule changes. HUD has also indicated that they have already begun the quality enhancement under those existing rules.

I am voting against the proposed rule changes involving the PIAs. To under take such an endeavor at this point would have the same effect as raising taxes in the middle of a recession. The year 2008 marked the lowest level of shipments for the manufactured housing industry since the beginning of record keeping. The year 2009 is running at about 50% of that record low. We have seen the shuttering of scores of manufacturing plants and the bankruptcy of manufacturing icons such as Fleetwood and Patriot. Several other manufacturers are currently at risk of closing more plants or facing bankruptcy themselves with thousands of jobs at stake.

I believe HUD is well intentioned and not interested in driving what has the potential to be a final stake into the heart of a struggling industry. While the current management at HUD may be willing to restrain themselves in areas that might prove too costly, we have no assurance who will be managing HUD be in four years or so. A new management team may not feel any financial restraints are necessary if this rule has been passed.

HUD has indicated that the quality issues are the most important aspects of the proposed rule. As indicated previously, HUD can move forward on the quality issues without the passage of the proposed PIA rule and in fact is doing so now. I do appreciate HUD's participation in the lengthy evaluation of the proposed rule. HUD has gained invaluable insight into problem areas through their active participation in the review of this proposed rule. Some of these insights can be utilized with the current rules. Others can be utilized at a later date if the proposed rule fails to go forward at this time.



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

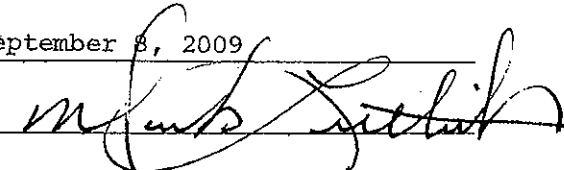
BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

The proposal mandates increased manufacturer quality assurance duties and recording of those duties by the manufacturer. Those additional duties and recording methods of those duties must be PIA reviewed, PIA approved, and PIA monitored, all of which will undoubtedly increase a manufacturer's cost passed onto the consumer. Furthermore, our office, as a PIA, is unable to fund the additional duties required of this proposal. Increasing home prices at this time will hinder the reinstatement of manufactured homes as affordable housing.

NAME: Mark LuttichDATE: September 8, 2009SIGNATURE: 

Return ballot to:
Suzanne Pereira
Email: mhccaoffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507



MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason:

I OPPOSE THIS PROPOSAL BECAUSE IT DOES NOT
PROMOTE QUALITY IN THE PRODUCTION PROCESS OF MANUFACTURED
HOUSES. THIS PROPOSAL INCREASES GOVERNMENT CONTROL
WITH VERY LITTLE BENEFIT TO THE CONSUMER. WITH THE
U.S. INDUSTRY OUTPUT AT IT'S LOWEST POINT IN OVER 50 YEARS
MORE GOVERNMENT CONTROL WITH LITTLE BENEFIT IS NOT JUSTIFIED.

NAME: WILLIAM STAMER P.E.

DATE: 9-9-09

SIGNATURE: W. Stamer P.E.

Return ballot to:
Suzanne Pereira
Email: mhccaooffice@nfpa.org
Fax: 617-984-7110
Phone: 617-984-7507

MHCC

LETTER BALLOT ON 24 CFR Part 3282 (The PIA Rule)

BALLOT DUE - Wednesday, September 9, 2009

Please record my vote as follows:

Affirmative * Affirmative with comment *Negative *Abstain

* A Reason must accompany any vote in this category

Reason: I believe a number of good ideas surfaced during the discussion but I still do not feel that the current PIA procedure required a major overhaul. The overriding aspect of the discussion is the safety of the homes being constructed. I believe the industry has produced homes that more than meet that criteria and may continue to do so with the current procedure.

More importantly, it is difficult to consider the changing of an entire procedure without knowing what costs will be incurred and what percentage, or dollar amount, will be passed on to the consumer.

NAME: William Lagano

DATE: September 2, 2009

SIGNATURE: W. J. Lagano

Return ballot to:
Suzanne Pereira