

MINUTES - DRAFT

Rules Development Committee

Wednesday, July 21, 2004

Herndon, Virginia

Chairman Rothman convened a meeting of the Rules Development Committee on Wednesday, July 21, 2004, at 8:50 a.m. at the Days Hotel Conference Center in Herndon, Virginia. A quorum was present and the meeting was called to order and attendance taken as noted below:

Members Present: Mark D. Blanke, State of New York
Ujval K. Dave, State of Maryland
Mike English, Haven Homes
Eric Leatherby, Commonwealth of Virginia
Paul N. Moss, Miller Building Systems
Jim Rothman, PFS Corporation
Scott Zweifel, Resun Leasing

Others Present: Debbie Becker, NCSBCS
Ken A. Brower, NTA, Inc.
Bob Blatchford, Dynamic Homes
Pete Blaser, NCSBCS
Jerry Brosius, Modular Code Consultants, Inc.
Dan DeDentro, State of Rhode Island
N. Kevin Egilmez, NCSBCS
Bob Gorleski, PFS Corporation
Rich Gray, State of North Dakota
Tom Hardiman, Modular Building Institute
William R. Heiden, III, Progressive Engineering, Inc.
Stephen Hernick, State of Minnesota
Richard Osworth, State of New Jersey
Bob Tanger, T. R. Arnold & Associates
Robert Wible, NCSBCS

Approval of Minutes

On a motion by Eric Leatherby, seconded by Mike English, the Committee approved the minutes of the July 16, 2003, meeting as submitted.

Correspondence

The secretariat noted that a list of correspondence received since the last meeting was available.

Old Business

There were no advisory reports given.

New Business

Chairman Rothman noted that there are currently five RDC representatives whose terms are up for renewal and one vacancy in the residential-industry representative position. He requested the Committee members to submit nominations in writing to the Secretariat. A motion was made by Eric Leatherby and seconded by Mike English to reelect the following RDC members for three-year years: Terry Slade, Mark Blanke, Michael English, Craig Simpson, and Scott Zweifel. The motion was approved unanimously.

The Committee discussed submission of “as-built” floor plans for those manufacturers that use building systems. Jim Rothman and Bob Tanger noted that the third parties and manufacturers are required to retain documents for a minimum of ten years and that IBC could request them when needed. Kevin Egilmez indicated that would be a problem if a manufacturer has gone out of business and suggested the plans could be submitted with the manufacturer’s monthly production report. The Committee decided not to take any action at this time.

Draft language to the UAP, Part VIII, Section 2, Requirements for Plant Approval, regarding expiration of plant approval (as a follow-up to last year’s recommendation to require manufacturers to register with the Commission) was reviewed (see Attachment A). Some members maintained that a manufacturer may still be active under other state programs but not IBC. They suggested that those manufacturers should not have to have their plants reapproved. The Committee directed staff to develop language which would allow an inspection agency to reinstate a manufacturer by certifying that the plant has been regularly monitored and by submitting amendments, if any, to make the plant approval report current. The Committee agreed to vote on the revised amendment by letter ballot.

A motion was made by Eric Leatherby, seconded by Mike English, to amend Part IV of the UAP, Section 2, by adding a new subsection (C), Expiration of Compliance Assurance Documents after inserting the word “this” so that the last line read “. . . with this section.”(see Attachment A). The motion was approved unanimously.

Kevin Egilmez commented that the model designations being provided on monthly production reports are ambiguous. Manufacturers are providing generic descriptions such as two-story, ranch, cape cod or referencing model numbers that cannot be traced to approved plans on file with the Commission. This has hindered the Commission’s ability to assist in the investigation of consumer

complaints. Robert Tanger indicated it would be hard for an inspection agency to verify the accuracy of the information being provided by the manufacturer. The Committee agreed that the Commission should send out a notice to manufacturers describing how to document model numbers. It also suggested that the monthly production report be revised to incorporate a check box to indicate if a model was designed under a building system.

Requests for certification waivers were discussed next. An analysis of applications since September 2000 -- when the process was adopted -- shows that 40 percent of the applicants have requested waivers. Kevin Egilmez reported that applicants automatically request a waiver whenever their applications are rejected. Chairman Rothman stated that, since it is a certification rather than a license, it should not be as stringent. Richard Osworth emphasized that future requests for waivers will be scrutinized much more closely by the Commission and stressed that it is the applicants' responsibility to demonstrate that they are clearly qualified to perform the duties even though they do not meet the certification requirements. He also requested that the secretariat staff provide its opinion on any future requests for waivers.

Rich Gray reported that the lack of certified inspectors in rural areas of North Dakota is resulting in a costly program for manufacturers. One manufacturer alleged that it cost \$1500 to have one home inspected and felt that a state-run program would not have been as expensive. Kevin Egilmez said that designated agencies could use inspector-trainees instead of sending certified inspectors from Minnesota. Bob Tanger pointed out the trainee would still need to be supervised by a certified inspector. Rich Gray urged designated agencies to advertise for inspectors in North Dakota.

The Committee was provided with the draft copies of the MRR and the UAP (see Attachment B). The documents were reorganized so that the MRR only contained regulations that describe a member state's responsibilities and other state-specific requirements. All regulations deleted from the MRR were incorporated into the UAP. Bob Tanger noted that tests based on ICC codes need to be included under UAP, Part VI, Section 4. Qualifications of Technical Personnel. Kevin Egilmez advised that the UAP would be amended to include tests based on ICC codes.

Richard Osworth briefly described the process for adopting and amending both the MRR and the UAP. Prior to its adoption, it is necessary for the MRR to be modified and customized by a member state. Standard modifications include listing the applicable codes under Part III and inserting the name of the state agency in various sections under Part VII. The customized MRR is then adopted in accordance with that state's procedures. The UAP, on the other hand, is adopted by reference through the MRR. Any amendments to the UAP need to be made through a consensus process and interested parties must be given an opportunity to comment as described in the Commission's bylaws.

As a first step to adopting the reorganized MRR and UAP, all RDC members would be asked to review the documents and provide their comments to the secretariat within 45-60 days. After the review, the documents would be made available for public comment. All states with modular programs and anyone previously involved would be notified and draft documents would be posted on the Commission's web site. Comments received during the sixty-day period would then be presented to the RDC for action which, depending on their extent, may necessitate an additional meeting in late

2004. Around January 2005, the final documents would be forwarded to the Commission for approval -- most likely by letter ballot.

Rich Gray reported that, because most jurisdictions in North Dakota did not have local code officials, no one was responsible for making sure that a modular building was installed properly. He suggested that manufacturers may want to get involved to ensure proper installation of their product and asked if the Commission would consider regulating or overseeing installers. Richard Osworth felt that each state regulated installations based on their needs and available resources. In New Jersey, installation is a local jurisdiction issue. He pointed out that, when justified, consumers have some recourse for involving the manufacturer. Rich Gray said that in North Dakota, the state has very little recourse if the modules are not assembled properly. Steve Hernick added that the lack of detail in installation instructions contribute to the problem and asked if the Commission could look into the level of information. He also asked the RDC to review requirements for providing better details to interconnect modules.

North Dakota has a law which requires a licensed electrician to be present whenever wire is being pulled. Rich Gray asked if the Commission ever considered having such requirements included in CA manuals. Otherwise, North Dakota State Electrical Board would need to enforce the law. The Committee agreed that it was the state's authority to enforce such laws.

Eric Leatherby moved to amend the motion that was adopted to renew Terry Slade's membership in the Committee. It was noted that a member from Kentucky has not attended since 1999. The amended motion was seconded by Mike English and approved unanimously. Richard Osworth announced that the Commission will consider the appointment of Rich Gray from North Dakota as a state member to fill the vacancy.

Jerry Brosius and Tom Hardiman briefed the attendees on Modular Building Institute's efforts in Pennsylvania following the adoption of a statewide code. Approximately one-half of the twenty-five hundred municipalities have opted out of commercial code enforcement which has left that responsibility with the Department of Labor and Industry. MBI met with the Department and suggested that Pennsylvania enter into an interim reciprocity agreement with the IBC to ease the workload. According to the chief counsel, L&I did not have the authority to enter into such an agreement but did not see any problems with introducing interstate compact legislation. As of late July, two senators were still interested in introducing such legislation for commercial buildings.

Recommendations to the Commission

Chairman Rothman reviewed the following motions as RDC recommendations to the Commission:

1. Reappoint Mark Blanke, Michael English, Craig Simpson, and Scott Zweifel to the RDC for three-year terms.
2. Appoint Rich Gray from North Dakota to replace Terry Slade from Kentucky as a state member to the RDC.

3. Adopt the proposed language as amended to add a new subsection (C) to Part IV, Section 2 of the UAP titled “Expiration of Compliance Assurance Documents.”
4. Vote by letter ballot on the revision to the proposed amendment adding a new subsection (D) to Part VIII, Section 2 “Expiration of Plant Approvals.”
5. Issue a notice to manufacturers regarding ambiguous descriptions of models on monthly production reports.

Secretariat’s Assignments

1. Develop language for the proposed amendment to UAP, Part VIII, subsection 2(D), which permits plant approvals to be reinstated if a manufacturer has remained active under other state programs.
2. Forward copies of the reorganized MRR and UAP to RDC members for comment.

Date and Location of Next Meeting

The next RDC meeting was tentatively scheduled for July 20, 2005– the third Wednesday in July. The Committee was informed that an additional meeting may be necessary depending on the extent of the public comments received. A notice would be sent out regarding the meeting’s location.

The motion to adjourn, made by Mike English and seconded by Eric Leatherby, was approved and the meeting adjourned at 12:05 p.m.

Respectfully submitted,

N. Kevin Egilmez
Secretariat Staff

Attachments