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NAHASDA REAUTHORIZATION ACT OF 2008

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NEGOTIATED RULEMAKING SESSION  
VOLUME I of III

May 11, 2010

1 P R O C E E D I N G S

2 (Proceedings convened at 8:47 a.m.)

3 (Opening prayer.)

4 MR. COYLE: First off, we've got some new people  
5 on the board at this time, and I'd like to read a letter.  
6 It shows how much interest HUD has in this time, NegReg.

7 Mr. Larry Coyle, Mr. Leon Jacobs, Co-Chair:

8 With this letter I regret to inform you that I  
9 will be unable to attend the negotiated rulemaking session  
10 on the NAHASDA Reauthorization Act of 2008, held May 11 to  
11 13, 2010, in Westminster, Colorado.

12 My designated alternate is Jennifer Jones,  
13 Special Assistant to the Assistant Secretary for Public  
14 and Indian Housing. Mrs. Jones attended the first  
15 negotiated rulemaking session and is familiar with key  
16 provisions of the Act.

17 I hope much progress is made next week. I look  
18 forward to participating in the June negotiate rulemaking  
19 session.

20 If I can be of further assistance, please let me  
21 know.

22 Sincerely, Sandra Henriquez, Assistant Secretary  
23 of Public and Indian Affairs.

24 This -- this more or less shows the interest that  
25 HUD has in what we're trying to come up with here. And at

1 this time I'd like to introduce our new designate,  
2 Ms. Jones. Have a word for us?

3 MRS. JONES: Well, thanks everyone. I -- as  
4 Sandy said, I was actually here in March for the first  
5 session in Scottsdale. I've worked with her for the past  
6 year, with a particular focus on sort of Indian housing  
7 programs and HUD.

8 I know that she would want me to send her regards  
9 and love to each and every one of you. She was incredibly  
10 disappointed not to be able to be here. She is actually  
11 in California right now and has to be back in Washington  
12 for some meetings that are taking place both Wednesday and  
13 Thursday. She actually considered, when she found out  
14 that she needed to be back in Washington, flying from sort  
15 of San Francisco to Denver just to be here to kick off the  
16 meeting and then catching a flight that would put her back  
17 in Washington some time tonight.

18 She's been on the road for the past three or four  
19 days but really has committed to being here for every  
20 single one of the sessions. So it was a tough decision  
21 for her to make.

22 I want to thank you all for allowing me to sit  
23 here and be the designate. I know we have a lot of work  
24 to do, but I'm really confident that we will make  
25 significant progress this week. So thank you very, very

1 much. I appreciate it.

2 MR. COYLE: I'd like to go -- start right here  
3 next to me and go around the table and state your name and  
4 where you're from so the new people will know who they are  
5 talking to and the old people will know who they don't  
6 want to talk to, so . . .

7 MR. JACOBS: Good morning. Leon Jacobs, Lumbee  
8 Tribe, North Carolina, but I live in Connecticut  
9 recognizing most of the state-recognized tribes. And it's  
10 good to be here.

11 MR. BOYD: Good morning. Roger Boyd, Deputy  
12 Assistant Secretary for the Office of Native American  
13 Programs in Washington.

14 MS. JONES: Jennifer Jones from the Office of the  
15 Assistant Secretary for Public and Indian Housing,  
16 Washington.

17 MR. HAUGEN: Lafe Haugen representing Northern  
18 Cheyenne and Montana.

19 MS. HERNE: Retha Herne, Akwesasne Mohawk,  
20 (inaudible), from the Akwesasne Housing Authority.

21 MS. WICKER: Susan Wicker representing Poarch  
22 Band of Creek Indians, Alabama.

23 MS. McDADE: Good morning. Sharol McDade,  
24 Executive Director of Fallon Paiute-Shoshone Housing  
25 Authority, representing Honorable Alvin Moyle, Chairman of

1 the Fallon Paiute-Shoshone Tribe.

2 MR. JONES: Marvin Jones, Cherokee Nation,  
3 Oklahoma.

4 MS. PICKUP: Shawna Pickup, Eastern Shawnee Tribe  
5 of Oklahoma.

6 MR. McGEISEY: Tom McGeisey, Seminole Nation of  
7 Oklahoma.

8 MR. SHURAVLOFF: Marty Shuravloff, Kodiak Island  
9 Housing Authority.

10 MR. ADAMS: Good morning. Jason Adams, Salish  
11 Kootenai Housing Authority, Montana.

12 MR. SAWYERS: Jack Sawyers, Paiute Housing; Phil  
13 Bush's dad.

14 MS. PHELPS: Rebecca Phelps, Turtle Mountain,  
15 Chippewa, North Dakota.

16 MR. TELLER: Leonard Teller, the Navajo Nation.

17 MR. KAZAMA: Blake Kazama, Tlingit-Haida Regional  
18 Housing.

19 MS. GORE: Carol Gore, Cook Inlet Housing out of  
20 Anchorage, Alaska, representing Alaska. A warm welcome to  
21 you, Jennifer.

22 MR. BUSH: Good morning. Phil Bush, (inaudible)  
23 Indian Housing Authority, here for Darlene Tooley. Jack,  
24 where in the heck have you been?

25 MS. FOSTER: Karin Foster, Yakama Nation Housing

1 Authority.

2 MS. PHAIR: Diana Phair, Executive Director of  
3 the Lummi Housing Authority representing Chairman Henry  
4 Cagey.

5 MS. BECENTI: Good morning. Marguarite Becenti  
6 with the Umatilla tribes, Pendleton, Oregon.

7 MS. MARASCO: Judith Marasco with the Yurok  
8 Indian Housing Authority, Northern California.

9 MR. COYLE: Welcome, Phil Bush. And thank you,  
10 Jack. Excuse me too. I thought I was too old to have a  
11 wisdom tooth, but I've got one coming in now, so excuse my  
12 sideways jaw here.

13 We want to start out with a review of the  
14 March 30th meeting and administrative activities.  
15 Do you have -- is there any comment on anything so far?  
16 Marvin? We got to get this started out right on that side  
17 of the table too.

18 MR. JONES: I need a microphone.

19 MR. COYLE: Yours works. We're going to break  
20 out right away into the three sections that we had before.  
21 That seemed to work real good. Do you have any qualms  
22 with that? Yes, Marvin.

23 MR. JONES: I do have one problem. In the  
24 amendments on page -- page 7, this says that I was named  
25 the co-chair, and I didn't know this.

1 MR. COYLE: We tried.

2 MR. JONES: So I'm calling this meeting to order.

3 MR. COYLE: Good. I -- I relinquish my -- my  
4 side of it then. Marvin, you're the new co-chair. For  
5 you that weren't here before --

6 (Discussion off the record.)

7 MR. COYLE: We've got a new reporter over here.  
8 So please remember to give your name, address and phone  
9 number, Marvin. And let's go back to the meetings -- to  
10 the minutes. Is there any other comments on the minutes?  
11 Do we have a motion? Approved as read?

12 (Inaudible.)

13 MR. COYLE: Is that okay, Marvin? Okay. Let's  
14 accept these meetings (sic). I read them the other day,  
15 and I -- I noticed the co-chair too, Marvin, so -- and I  
16 think it pretty well describes. I did have quite a few  
17 comments from my area that they couldn't find the material  
18 on the website.

19 I've talked to HUD. And if you -- anybody has  
20 any problems with it, let us know and we'll get them a  
21 little more plainer out there. But they are on the  
22 website, everything.

23 THE FACILITATOR: If I can make a comment about  
24 the website. The -- there is a -- one issue we need to --  
25 the committee needs to deal with regarding putting

1 materials on the website. In our protocol -- and this was  
2 brought to our attention by a HUD attorney. In our  
3 protocol, it says that anything that has met the approval  
4 of the committee can be put forward and published like  
5 that.

6 Technically, some of the things that you all have  
7 been submitting have not been approved by the committee.  
8 And the -- HUD was willing to put it up there, but they  
9 didn't want to cross that line. And so the -- one of the  
10 recommendations that was made was that in the interest of  
11 getting as much material available to people -- like  
12 some -- one of the folks had put a position forward or  
13 something like this.

14 Well, if you put a position forward, you want  
15 everybody to see it, but it's not approved by the  
16 committee. So I think we need to have the committee's  
17 approval to say that if anything -- any official document  
18 is submitted from any of the tribes or any of the  
19 committee -- it would have to be from the committee  
20 members.

21 If any materials submitted from the committee  
22 members that they would like everybody else to see, that  
23 they would send that and the -- they can send that to HUD,  
24 and we could have it given to Kiana, and it will be  
25 recorded -- its number will be recorded, it will be



1 classified, and it will be put up there.

2 I think we need a little -- kind of a special  
3 permission from us as a committee to do that. So would  
4 there -- would there be any objection that if any  
5 committee member has anything that they would like to  
6 officially submit to the rest of the committee and have  
7 posted on the website it doesn't need pool committee  
8 approval, it can just be done, so we can share information  
9 with each other? Is there any objection to that or any  
10 question about that? Any objection?

11 Okay. Then I think -- then thank you. That was  
12 just a point that only a lawyer would -- would find out  
13 and raise, so . . .

14 MR. COYLE: Is there a consensus on approval of  
15 the minutes as read?

16 (Inaudible discussion.)

17 (Proceedings recessed from 9:10 to 9:32 a.m.)

18 MR. COYLE: We have a plan.

19 THE FACILITATOR: I've been asked to share this  
20 idea with you guys. I think we're trying to get agreement  
21 about the agenda and how to move forward and use our time  
22 constructively for the next three days. Okay?

23 So here's a thought. The -- the four work  
24 groups, A, B -- Work Group A, Work Group B and E, Work  
25 Group C and Work Group F, they were put together, if you

1 recall, not just to pick the low-hanging fruit, but really  
2 as -- as working groups to go through our whole process  
3 here.

4 It doesn't mean that anybody is stuck on one  
5 group. You can always move back and forth as you wish.  
6 Marvin, let me finish, please. I just want to go through  
7 this thing, and then I'll take your question.

8 But the -- we'll be -- I just want to review  
9 where we're at. Because what we did last time was we  
10 picked the low-hanging fruit. We approved ten of those  
11 items by consensus. So there's really no need to go back  
12 and review those except for to make sure that the Drafting  
13 Committee got it right. And if we have questions about  
14 that, we need to address those.

15 But the -- what we have to do today and what we  
16 have to do for the next -- for the rest of this session is  
17 really move on from there. Have the work groups review  
18 what they have left and see -- prioritize; what can you  
19 work on in these next three days to kind of push through  
20 the content of your work group area.

21 The -- there's some things that I think, you  
22 know, we'll be able to work on and make -- develop product  
23 on in the next couple of days. There are other things  
24 that may be a little bit more complicated where you may  
25 want to postpone it until the Seattle meeting.

1 But I think the priorities of the work groups at  
2 this point would be to take that -- would be to review  
3 the -- review this -- this chart that was made and to see  
4 if this is what -- and to prioritize within your work  
5 group, what are the -- the items that you want to work on,  
6 and then bring that back for committee approval.

7 The -- okay. This -- now I'll take your  
8 question, Marvin.

9 MR. JONES: Marvin Jones, Cherokee Nation. The  
10 idea of the work groups was originally mine. And I'm not  
11 sure if it's reflected throughout the minutes where I was  
12 continually saying that these are just temporary to do the  
13 low-hanging -- what we're referring to as low-hanging  
14 fruit.

15 Even at the end of the last committee session,  
16 the last one, I asked the same question: Have those  
17 committees done that work now and are they finished so we  
18 can go to the next set now? That is all taken care of.  
19 Then we can identify the major issues. Because there's  
20 been a number of people here -- Carol, Jack, Jason, and a  
21 number of other people -- who were concerned that we  
22 weren't going to have enough time. We didn't know how  
23 many issues we had. And the whole idea of the temporary  
24 work groups was to get the easy stuff off the table and  
25 then see what we have remaining.

1           So the anticipation -- I talked to several people  
2     here in the break -- was, I think, similar to that in  
3     thinking that we were going to take this morning to  
4     confirm that those easy issues are now taken care of, then  
5     turn to identifying and addressing the major issues that  
6     we now have to resolve, and then we'll be organizing --  
7     reorganizing ourselves, if that's what needs to happen --  
8     subcommittees, different work groups, whatever the case  
9     is -- once we've done that, so . . .

10           THE FACILITATOR: Okay. Then there must be some  
11    confusion among the committee, because I've heard  
12    different things from people. Can somebody else share  
13    their view of whether these were supposed to be  
14    semi-permanent or -- or just very temporary groups that we  
15    have to reassemble now.

16           MR. SAWYERS: I think Marvin is right. I think  
17    we talked about these committees were not permanent. My  
18    suggestion is we -- we go ahead and take -- because I  
19    think all of the groups have identified what we call the  
20    number 1's that need -- just need to be passed basically,  
21    maybe tweaked a little teeny bit.

22           And so my suggestion, and I think Marvin's was  
23    also, is that we -- we deal with that. And then if we  
24    decide to go back to the groups and identify the 2's that  
25    just take a little bit of -- of tweaking and work on

1 those.

2 And then that will leave us -- instead of 85,  
3 that will leave us 20. And then we -- we can go from --  
4 from there on the 20. But I think that we need to really  
5 get through the very easy, not quite so easy, and then get  
6 after the -- the 20 that really need to be worked on.

7 And so I agree with -- with Marvin. I think we  
8 can get through these -- all of the what we identify as  
9 the 1's. Karin, would you agree? We could do those  
10 pretty -- pretty rapidly.

11 THE FACILITATOR: Carol.

12 MS. GORE: Maybe just a suggestion so we don't  
13 just get locked up on what we don't collectively agree on.  
14 I think it would be helpful if the work groups, as they're  
15 established right now, had an hour, and they could quickly  
16 go through those items that are 1's and 2's and confirm  
17 within the work group that they have completed that task  
18 and bring it back to the committee.

19 Also identify -- I can speak for Subgroup A.  
20 There are five issues that are number 3's. Maybe that  
21 work group could also be tasked with identifying the broad  
22 issue that those five things are intended to address so  
23 that committee members could decide if the same format  
24 will continue to work or if they want to switch committees  
25 because they are interested in a certain subject.

1 But I -- I think there's -- there isn't stark  
2 clarity over what's been accepted by this committee and  
3 what has not. It would be helpful, whoever has taken  
4 charge of this worksheet, if they could maybe color or  
5 shade the items that are already done.

6 THE FACILITATOR: Yes. Yeah.

7 MS. GORE: Because we're revisiting things and  
8 unnecessarily taking time because we're a little confused  
9 about where to start. That's just a suggestion.

10 THE FACILITATOR: Thank you, Carol. Valencia  
11 said she would have the full worksheet with the shaded  
12 areas for all the items that -- where a consensus was  
13 reached. Okay. Thank you. Jason.

14 MR. ADAMS: Yeah. I want to address the issue  
15 that Carol touched on there just at the end as far as the  
16 documents that we're using. I -- you know, in the first  
17 meeting, I made sure that we had a system that tracked  
18 this process so that we all, you know, can reference a  
19 number that -- because there is going to be and already  
20 starting to be several drafts of similar documents.

21 I'm concerned because, as I sit here today, I  
22 have two documents. One was emailed to me as a committee  
23 member, and it's -- it's the overall list, and it has some  
24 color coding to it and it has a Comment column.

25 THE FACILITATOR: Yeah.

1 MR. ADAMS: And it's got a lot of good  
2 information dated April 15. And then what was put on the  
3 desk before me this morning when I arrived was a similar  
4 document. It's got the same document number, but it's  
5 missing a column. It's -- it's a previous version of what  
6 I'm seeing of this document.

7 And then I heard John making some comments this  
8 morning on -- on the document we should be working off of.  
9 So I asked him -- compared documents with him, and he's  
10 got a whole different version of that document. So right  
11 now we've got three similar documents that we're looking  
12 at. And I don't know if we can move forward here, you  
13 know, based on this information before us, because it's  
14 not the same.

15 THE FACILITATOR: There's some problems in the  
16 classification then of the documents you're saying.

17 MR. ADAMS: Yeah.

18 THE FACILITATOR: Okay.

19 MR. ADAMS: And so I don't know how we solve  
20 that. But that's a big piece of whatever we do as far as  
21 breaking out and going to work groups or staying here. We  
22 have to operate off the same information.

23 THE FACILITATOR: Okay. Point well taken. I  
24 think we have to -- we'll -- we'll have our -- our folks  
25 be more careful about how they document these things.

1 Yes.

2 UNIDENTIFIED SPEAKER: Jason and the Committee,  
3 we -- we are going to try to work through the version that  
4 you were emailed. There was some miscommunication about  
5 having hard copies ready this morning, but they are in the  
6 process of finishing up those hard copies now.

7 And I'm going to ask that members of the Drafting  
8 Committee who worked on this spend the first part of each  
9 work group orienting everybody to what the changes were  
10 because most of these changes were made and the  
11 information was added at the request of the committee.  
12 That's where we ended last time.

13 We promised we'd have it ready for you. In fact,  
14 electronically it's there. You received it by email. And  
15 I think that Jason's right. In order to move forward, we  
16 need to be working with a consistent document. The  
17 Drafting Committee is ready to explain that consistent  
18 document as we go into work groups. And each work group  
19 can then evaluate where it is from here, and we can speak  
20 to having one source of information to work from this  
21 week.

22 THE FACILITATOR: Okay. Thank you for bringing  
23 that to our attention, Jason. So Carol is suggesting that  
24 we have the work groups meet for an hour to identify and  
25 prioritize their 1's, 2's and 3's; and 4's, or 5's,



1 depending on how far it goes. And you think with  
2 everybody -- do you think that's enough time for everybody  
3 to do that? And then we can see at that point what we  
4 have left to do, if we need to reconfigure any work  
5 groups, if people want to shift work groups and that kind  
6 of thing, so they'll have a better idea of what our work  
7 will be.

8                   How about Work Group B? Does that -- is  
9 one hour enough time for you guys to do what Carol is  
10 suggesting?

11               MR. KAZAMA: Yeah. I chaired Subgroup B, and I  
12 think we did a pretty good job the last time. So for us,  
13 it would be pretty simple.

14               THE FACILITATOR: Okay. Yes, Karin.

15               MR. KAZAMA: Of course, we got Phil here.

16               MS. FOSTER: I heard Carol make reference to  
17 maybe the work groups being able to identify things in  
18 terms of issues, and I think that would be really helpful.  
19 Because just kind of listening to Marvin's comments too,  
20 it's possible that we can deal with these things in terms  
21 of issues rather than just, you know, specific sections  
22 under specific subparts, and even be more efficient.

23               I mean, the one thing that we all share is a  
24 desire to be as efficient as possible with this process.  
25 And sometimes when you overthink it, you know, it takes

1 more time. But on other hand, it might actually be more  
2 productive to be dealing in terms of issues than in terms  
3 of, you know, little individual regs.

4 THE FACILITATOR: Jack.

5 MR. SAWYERS: I suggest we don't go to that  
6 meeting until we have this document in our hands because  
7 there is some confusion, and -- and it will make it a lot  
8 easier. And I think that's coming really fast, isn't it?

9 THE FACILITATOR: Yeah. Valencia said another  
10 five minutes. Yes, Lafe.

11 MR. HAUGEN: So, Jason, is the consensus that we  
12 want to use this document that was emailed on the 15th?  
13 Is that what you're saying?

14 MR. ADAMS: I don't believe that document that's  
15 on a letter-size paper is -- is the one that we want to be  
16 using. Because all the information fits on the legal-size  
17 paper, and I think that's what's being copied, and the  
18 date on the legal-size document is dated April 15th.

19 I mean, that's the only thing I can see that's  
20 consistent on that document that's different from the rest  
21 is -- is that revised date or updated date of April 15th.

22 MR. HAUGEN: Jason, this is the one that we just  
23 had minimized into 8 and a half by 11, so --

24 MR. ADAMS: Okay.

25 MR. HAUGEN: Can we take it into consensus and

1 basically kick the one out that was set on the table this  
2 morning?

3 MR. ADAMS: Well, again, it's -- it was the hope  
4 that there would be a document number that would be  
5 distinguishable to just that document, and that isn't the  
6 case. If you'll notice what was handed out this morning  
7 and what I'm working off of, the document number on the  
8 bottom is the same.

9 MR. HAUGEN: Okay. I see what you're saying.

10 MR. ADAMS: So I don't know if that number is  
11 going to be changed so that we have a specific number just  
12 specific to that document. I don't know.

13 THE FACILITATOR: Okay. Let's see. Valencia is  
14 handing out something which is --

15 (Discussion off the record.)

16 MR. SAWYERS: It's dated April 15th on the second  
17 page. That's the one we're going to work with; is that  
18 right?

19 THE FACILITATOR: Yeah. Valencia, is this -- is  
20 what you're handing out now the same as this one dated  
21 April 15th but in a different -- slightly different  
22 format?

23 MS. BARBER: Yes.

24 THE FACILITATOR: And it's color-coded to  
25 indicate all the items that have been reached -- where

1 consensus has been reached.

2 UNIDENTIFIED SPEAKER: Not really. It's black  
3 and white.

4 THE FACILITATOR: Oh, okay. It's black and white  
5 then. But it's shaded, right? Are the ten issues shaded?  
6 Okay. Is there any difference between this document --  
7 Valencia, is there any -- between this document and what  
8 you're handing out there?

9 MS. BARBER: Say that again. I'm sorry.

10 UNIDENTIFIED SPEAKER: So that's also the  
11 April 15th document?

12 MS. BARBER: Yes, it is. It's the April 15th  
13 document.

14 THE FACILITATOR: Okay. And what's the number on  
15 it?

16 MR. SAWYERS: Do you have enough copies for  
17 everyone --

18 MS. BARBER: Yes, I do.

19 MR. SAWYERS: -- in the room?

20 MS. BARBER: Yes.

21 (Discussion off the record.)

22 THE FACILITATOR: Okay. Jason, this one is  
23 numbered -- oh, okay. Okay. Rodger is pointing out to me  
24 that on this long sheet, which is the same content as this  
25 one, there's a typo on the -- on the number. It should be

1 62, but it says -- I mean, excuse me, 72, but it says 62.  
2 But it's only on the first page.

3 Okay. So, anyway, now we all have the most  
4 recent items to work off of. Okay.

5 MR. TILLINGHAST: You were asking whether an hour  
6 was enough for the remaining areas we're working with.  
7 All of the issues that we have remaining are more  
8 difficult, and they're all interrelated. How you resolve  
9 one is going to have fallout as to how you resolve  
10 several. And so that's probably our biggest -- one of our  
11 biggest challenges is to -- oh, I'm sorry.

12 (Microphone handed to Mr. Tillinghast.)

13 MR. TILLINGHAST: How we prioritize the order in  
14 which we take up the issues is going to affect how  
15 productive we're going to be in the long run. And so I'm  
16 afraid it's going to take more than an hour.

17 I would -- what's left of the morning -- if we  
18 were to leave right now, maybe we could do it by the -- by  
19 noon. Certainly I would think two or three hours would be  
20 necessary for us to do our job.

21 THE FACILITATOR: Work Group F. Okay. So at  
22 this point I think the committee needs to make a decision,  
23 what you think we should -- how we should proceed on this.  
24 I think everybody seems to be in favor of going ahead with  
25 the work groups to -- to classify and prioritize their

1 materials. Rodger? Okay. And it will take anywhere from  
2 one to two or three hours. Any comments?

3 MR. BOYD: Well, my suggestion, if we go back to  
4 the way the agenda was set out today, the committee was  
5 going to meet anyway until -- until noon, take a -- a  
6 break for lunch.

7 I would think, you know, by noon you should have  
8 a fairly good sense of where you are on all this. And  
9 those that have done -- done theirs by noon can maybe  
10 begin to report out. Those that needed a little bit more  
11 time, you know, give that kind of flexibility. If they  
12 needed another hour, you know, so be it.

13 But I think, you know -- I would hope that in  
14 about two hours we could -- we could have a better sense  
15 of where you are.

16 THE FACILITATOR: Yes, Jason.

17 MR. ADAMS: Jan, I just wanted to point out in  
18 this document there is a typo, and it will affect Work  
19 Group C, but for everyone's information.

20 On page 3, item number 8 under the Comments, it  
21 says: Same as comment in item number 8 above.

22 I mean, that is comment number 8, so it should be  
23 7.

24 THE FACILITATOR: Ah. Okay. Thank you. On page  
25 3?

1 MR. ADAMS: On page 3, item number 8 in the  
2 Comments column, that -- that item number should be 7, not  
3 8.

4 THE FACILITATOR: You're right. Thank you. All  
5 right. So -- yes, Carol.

6 MS. GORE: I just want to make sure that a member  
7 of the Drafting Committee comes to each of the committees.  
8 Because I know that Work Group A brought a lot more issues  
9 than the ones I'm counting in the shaded areas. So that  
10 would be really helpful to get us off on the right foot.  
11 Thank you.

12 THE FACILITATOR: The Drafting Committee has  
13 already told us that they will send somebody to each of  
14 the subcommittees to kind of do a quick review and catch  
15 up everybody before you get started. There will be a  
16 resource person for you. Okay. Any other comments before  
17 we -- yes, Marvin.

18 MR. JONES: I think by and large I agree that  
19 this draft within this -- what we've simply done, with the  
20 exception that Carol had mentioned. She wanted an hour, I  
21 think, to go back into the subcommittee or committee,  
22 whatever we're calling this. And is that still the case?

23 MS. GORE: I think I just threw out a time  
24 period. If there are work groups that need more time, I'm  
25 okay with that. The idea of working until noon seems to

1 make some sense, if that works for you, Marvin.

2 MR. JONES: I guess it -- Marvin Jones, Cherokee  
3 Nation. I guess it depends on what is -- what is expected  
4 of these subcommittees now. In one case, when I first  
5 proposed it, I reiterated all along it was to do the  
6 so-called low-hanging fruit, period. Determine those,  
7 bring those back. Let's get all those off the table, we  
8 don't have to ever deal with those again, and then move to  
9 the next set.

10 Now I'm hearing that maybe we're going back to  
11 consider the -- you know, the -- the additional issues.

12 THE FACILITATOR: The latter-hanging fruit.

13 MR. JONES: Yeah, the higher-hanging fruit. I  
14 guess we're going to the top of the tree now. And if --  
15 if you're going to do that, then that throws off the time  
16 frame, you know. If -- if you're going to do that, it may  
17 be, okay, let's take two days to do that then, if that's  
18 what we're going to be doing, you know.

19 But that isn't what this draft agenda appears to  
20 be saying. The draft agenda appeared to be saying, okay,  
21 this morning we'll consolidate, figure out if we -- if we  
22 addressed all of those issues, and then move to the -- to  
23 the more substantial issues.

24 So I'm not sure right now what is being proposed  
25 as far as what these subcommittees are supposed to do.



1 THE FACILITATOR: Carol.

2 MS. GORE: I'm happy to share what my  
3 understanding is. My understanding is in the -- in the  
4 work committees we're going to get stark clarity between  
5 those items that have already -- the low-hanging fruit --  
6 those things that have already been offered for consensus,  
7 those things that have been sent to the Drafting  
8 Committee, and then identify those harder items and bring  
9 back to this committee -- just say: We have five harder  
10 items. These are the general areas those five changes are  
11 intended to address.

12 And it -- in my view, it's up to the committee  
13 how they want to handle it from that point. I don't see  
14 the committee as jumping into the number 3 items unless  
15 the committee agrees.

16 I also -- maybe as a suggestion, when we come  
17 back after lunch, I think the committee has the power to  
18 change the agenda if they so wish. I think that's within  
19 our authority as a committee. So maybe it's in draft  
20 today, and we may change our minds after lunch if we have  
21 some more efficient way to deal with the issues in front  
22 of us. That's just an idea. Are we okay, Marvin?

23 MR. JONES: Yeah. Marvin Jones, Cherokee Nation.  
24 So -- so you're talking in regard to the -- the -- the  
25 tougher issues, you're talking about basically a few

1 minutes to figure those out, not starting to discuss  
2 some -- as was heard from the audience a while ago, one of  
3 the committees, apparently, is thinking that that means  
4 they're going to start, apparently, negotiating or  
5 something. I'm not sure what. So -- but you're talking  
6 about something that can all be accomplished this morning.

7 MS. GORE: I'm talking about just identifying  
8 those items that are harder items so that people can  
9 figure out how the structure should move forward and who  
10 might want to participate on which issues. That's my  
11 understanding. But that's -- I'm just talking about my  
12 committee, not any other.

13 THE FACILITATOR: Yes. I think -- I think in  
14 addition to that, Carol, it would be very helpful if the  
15 committees could come back with some recommendations and  
16 say, well, we think our committee should stay together and  
17 continue to work on these, these, these items. Here are  
18 some other items that we think that are beyond the scope  
19 of our committee, they should maybe be joined in with some  
20 other group, something like that. That would be also  
21 helpful because you're focusing on certain areas, each of  
22 the committees. Yes, Blake.

23 MR. KAZAMA: Yeah. I know Subpart B, we -- we  
24 did those preliminary things the last time we met. We  
25 came back with the low-hanging fruit. We want to start

1 exploring some of the maybe 2's and 3's, in terms of  
2 seeing what people are thinking about that possibly, and  
3 then maybe come back with some ideas, recommendations.

4 But, I mean, I can't see us just sitting there --  
5 because it'll go through -- we'll go through it pretty  
6 fast, so . . .

7 THE FACILITATOR: Okay. Thank you. Yes, Jason.

8 MR. ADAMS: I guess I just want to make a  
9 comment. Then if that's what we agreed to do, then we  
10 need to have -- have a consensus to that, because that's a  
11 deviation from what we agreed to originally. And I guess  
12 that was Marvin's point that he's trying to make. We  
13 agreed that we would break into these work groups to take  
14 care of the low-hanging fruit.

15 What I haven't understood -- what I'm questioning  
16 now is: Have we completed that task? If we haven't, then  
17 we should go back into our work groups for an hour,  
18 complete that task, and then come back and decide how we  
19 will carry out the next step, because we haven't agreed to  
20 take the next step yet. That -- that's my concern.

21 THE FACILITATOR: Okay. Gotcha. Larry.

22 MR. COYLE: Jason, you're referring to amendments  
23 to categories, aren't you, number 1 on through; is that --  
24 Marvin, is that your take on it, that we haven't completed  
25 these number 1 "no rule change needed" items by consensus

1 on them?

2 MR. JONES: Marvin Jones, Cherokee Nation. That  
3 was what my understanding was, that this spreadsheet, or  
4 whatever we're calling it, was supposed to be finished by  
5 now and tell us what had been done. And then if we needed  
6 to -- if there were some -- some of those kind of issues  
7 left undone, then we would finish them this morning. And  
8 hopefully by the end of this morning, all of that would be  
9 taken care of, gone away, done with, and then we could  
10 turn to those -- those tougher issues, and then figure out  
11 how we're going to organize that work.

12 And -- and it's getting to the point where a  
13 number of people have raised the issue. You know, we have  
14 all these issues. We got X amount of time. And at this  
15 point in time we can't really tell, you know, whether  
16 we're going to have enough time to deal with all the  
17 issues and how much time we can devote to them, whether  
18 the parking lot issues are -- are going to be addressed or  
19 not.

20 And the whole process was to get to that point.  
21 And if we can just finish what we started, you know,  
22 hopefully by this morning, and clear all of that off, then  
23 we'll --

24 THE FACILITATOR: Karin.

25 MS. FOSTER: I would just like to ask or request

1     that the subgroups that we had last time let us know if  
2     they've completed that task. Can we confirm that we've  
3     completed the low-hanging fruit or have we not? I think  
4     in our group we did, and I've heard others say we have.  
5     But if we could just get a sense of that, that would be  
6     helpful for me.

7             THE FACILITATOR: I see nods of heads. Is there  
8     any group that has not completed the low-hanging fruit?  
9     Okay. Well, that answers that question. Yes, Jack.  
10    Okay. So since all the group has -- we have all the  
11    low-hanging fruit -- okay. Yes, Marvin.

12            MR. JONES: Marvin Jones. Now, I guess, the next  
13    question then: Has all of that been adopted now by the  
14    full committee? And if that hasn't, then we need to clean  
15    that up and completely get it off the table so those  
16    issues are all gone away.

17            THE FACILITATOR: I believe it has, but let's ask  
18    the committee. Are there any low-hanging fruit that has  
19    not been approved by the committee at the last meeting?  
20    Yes.

21            UNIDENTIFIED SPEAKER: There was one late  
22    amendment on the (inaudible) loan guarantees that the  
23    committee can bring up some time today. It would be  
24    simply as another conforming regulation. Early on in the  
25    decision -- early on in the discussion, it was a question

1 of whether it needed to be there or not. After further  
2 discussion with Tom Wright in our subgroup, people decided  
3 to go ahead and draft the language. So it's the issue of  
4 one sentence, and it would be the last piece of  
5 low-hanging fruit.

6 The committee has gone ahead and discussed it.  
7 We have the language to review. But I think that is the  
8 only piece that hasn't actually been formally adopted by  
9 consensus.

10 THE FACILITATOR: Yes, Carol.

11 MS. GORE: There were also a couple of issues in  
12 Subgroup A that were sent to the Drafting Committee. I  
13 think they're very simple low-hanging fruit, but they have  
14 not come back to the committee. At least that's my  
15 understanding. It's -- I would also say that this  
16 worksheet does not reflect what this committee believes to  
17 be correct, and I support that. But the worksheet doesn't  
18 reflect that we have consensus on most of the 1's and 2's.

19 THE FACILITATOR: Okay. Perhaps in the  
20 subcommittee you can just correct -- all the work groups  
21 can correct anything that was -- that they see in this.  
22 Okay. Well, Carol had put forward a proposal earlier.  
23 Since we now -- I think we've done -- we know where we are  
24 with the low-hanging fruit. Do you put forward a proposal  
25 that the subcommittees meet this morning to define what

1 would be the remaining higher-hanging fruit or stuff that  
2 we have to deal with and prioritize and -- as a way of  
3 taking another step towards organizing our work rather --  
4 and not just to jump into negotiation but actually to come  
5 back to the full committee this afternoon with  
6 recommendations? Yes, Marvin.

7 MR. JONES: Marvin Jones. Again, back to Carol's  
8 point. She was -- she just mentioned that -- that -- a  
9 couple of things were sent to the Drafting Committee that,  
10 apparently, haven't come back and haven't been done. So  
11 we're not finished with that, you know.

12 And so -- and if I could ask Carol a question.  
13 So that was the kind of thing that you wanted to get  
14 cleaned up in the hour or so, wasn't it?

15 MS. GORE: That's correct, Marvin. Thank you.

16 MR. JONES: And so it may be useful to go back to  
17 those committees for an hour or so, whatever it is, to  
18 make sure that this document reflects everything, if  
19 there's anything missing to get it added or find the  
20 status of it, and then to get all of that stuff completely  
21 off the table; we don't have to address it anymore.

22 THE FACILITATOR: Okay. I'm with you, Marvin.  
23 So we're all in favor of doing that? Okay. Everybody  
24 understand their jobs? Any opposition? Okay. The -- let  
25 me give you your room assignments. If you go back down

1 the hall toward the lobby, the last -- you'll see an aisle  
2 to the right. The last aisle to the right there are  
3 Meadowbrook rooms 1, 2 and 3.

4 So just randomly I'm going to assign Work Group A  
5 to Meadowbrook 1, Work Group B and E to Meadowbrook 2 --

6 UNIDENTIFIED SPEAKER: Hey, Jan. It's Windsor is  
7 the third one.

8 THE FACILITATOR: And the third one is Windsor is  
9 for Work Group F. And I guess Work Group C can divide  
10 itself into whatever group they want, because you guys are  
11 finished, right? No. Oh, it's still a working committee?  
12 I'm sorry. Okay. C can stay here then. Okay. All  
13 right. Any questions?

14 And then we'll reconvene after lunch at 1:30.  
15 Okay. The room assignments are: Work Group A is in  
16 Meadowbrook 1, Work Group B is in Meadowbrook 2, Work  
17 Group C is in this room, and Work Group F will be in the  
18 Windsor. Is the Windsor also down that same hallway?

19 UNIDENTIFIED SPEAKER: Same hallway.

20 THE FACILITATOR: Okay. The last hallway as you  
21 go towards the lobby.

22 MR. ADAMS: Now, we're -- Jan, we're breaking for  
23 one hour to do this, right? Correct, one hour? It's  
24 10:05 now, 10:10.

25 THE FACILITATOR: I think we're breaking until



1 lunch because some of the groups said they needed more  
2 time.

3 MR. SAWYERS: I think we're the ones that needed  
4 more time, and we can do that in an hour. Let's -- let's  
5 get this over with in an hour and get this -- this done  
6 this morning. We can -- we can have this whole thing  
7 taken care of this morning if we work at it.

8 THE FACILITATOR: Okay. We'll get back here at  
9 11:15. Yes.

10 MR. TILLINGHAST: I was going to say -- John  
11 Tillinghast. The reason Work Group F needed more time was  
12 if we were going to be getting at all into the more  
13 difficult issues. Since we're not allowed to do that, we  
14 don't need more than an hour.

15 THE FACILITATOR: Okay. Good. We'll see  
16 everybody back here at 11:15 then.

17 (Proceedings recessed from 10:05 to 11:25 a.m.)

18 THE FACILITATOR: Thank you. All right.  
19 Let's -- let's get our work group reports from different  
20 work groups. And -- yeah, Carol. Do you want to start,  
21 and then do you have anything -- yeah, just go ahead and  
22 give the committee a report.

23 MS. GORE: Sure. Thank you. I want to thank the  
24 work group members that participated for their engagement.  
25 You know, sometimes hard work is getting the boring things

1 out of the way.

2 So I'd like to give my report, first of all, in a  
3 very broad overview to let you know how we as a work group  
4 are recommending to the Negotiated Rulemaking Committee  
5 how things should be categorized, and then I'm happy to go  
6 over those low-hanging fruit, 1 and 2. I think that was  
7 our assignment. We did move some items that were  
8 classified as 2's into 3's, and I will cover that in my  
9 report.

10 So I'd like to begin by taking the first item  
11 that we addressed the last time. And just for  
12 clarification, issue number 2 on your worksheet. Just to  
13 make sure, I'm going to be referring to the issue numbers  
14 that are on the far left-hand column of this worksheet  
15 that was passed out. So issue number 2 was sent to the  
16 Drafting Committee. I just want to confirm -- the work  
17 group did confirm that we sent that item to the Drafting  
18 Committee.

19 Let me restart. Sorry. Issue number 32 is a  
20 number 2 that we have referred to the Drafting Committee.

21 MR. BOYD: Carol, when you say 32, could you  
22 state exactly what 32 is? Because some of us -- you know,  
23 some of us have a legal-size piece of paper, and the way  
24 that's printed may be a little bit differently than the 8  
25 and a half by 11.

1 MS. GORE: Absolutely. Okay. Issue number 32.  
2 It's on the short version on page 10, and it refers to --  
3 I can -- I don't have my reading glasses -- 106-568,  
4 104(b)(3). Refers to 106-59. We have referred that to  
5 the Drafting Committee. Lafe.

6 MR. HAUGEN: (Inaudible.)

7 MS. GORE: No. That is a number 2 issue,  
8 low-hanging fruit, that we have referred to the Drafting  
9 Committee.

10 THE FACILITATOR: Marvin.

11 MS. GORE: Yes, Marvin.

12 MR. JONES: Marvin Jones. Can you tell me when  
13 you got that done?

14 MS. GORE: We did that in the last Negotiated  
15 Rulemaking Committee meeting. I don't recall the date,  
16 Marvin.

17 MR. JONES: Okay.

18 MS. GORE: But I reconfirmed that with the work  
19 group this morning.

20 MR. JONES: Okay. And you haven't got the  
21 language back yet?

22 MS. GORE: No.

23 MR. JONES: Okay. Thank you.

24 MS. GORE: We're ready to move on. Those items  
25 that we classified as number 1's, there are 14 of them.

1 We did also tackle a couple of issues that said "A or F."  
2 I will identify them as we go through.

3 We felt as a work group we would make our  
4 recommendation to the Negotiated Rulemaking Committee that  
5 they be number 1's. If Work Group F has a difference of  
6 opinion, we'll respect that. But we thought it would be  
7 better to try to get some of the work behind us.

8 So let me just quick, for the note taking, give  
9 the numbers of -- the issue number for those number 1  
10 issues for note taking, and then I'm happy to go page by  
11 page. So don't feel compelled to write them down, but  
12 just for those that are taking notes.

13 The issues that are number 1's are issue number  
14 2, 3, 4, 12, 13, 27, 28, 31, 33, 38, 39, 82, 92, and 93.  
15 That's 14 items. Let's celebrate if we can send these off  
16 with consensus. And we are recommending them for  
17 consensus. So I'm happy to go through them now very  
18 quickly.

19 I think you'll find most of them are a  
20 cross-reference or just simple clerical changes, and they  
21 should be very easy for the Negotiated Rulemaking  
22 Committee to pass on. I feel pretty confident of the work  
23 group's work. Yes, Karin.

24 MS. FOSTER: Karin Foster again, Yakama Nation.  
25 Can I suggest that we get the statute up on the screen

1     when you go through those, and that way we'll be able to  
2     see that no regulations are needed as you go through, kind  
3     of become self-evident?

4             MS. GORE: I'm not in control of that, but that  
5     works for me.

6             THE FACILITATOR: Yeah, we can do that. Are you  
7     going to go through the 1's right now, Carol?

8             MS. GORE: Yes.

9             MS. FOSTER: The document is entitled "NAHASDA As  
10    Amended 2008."

11            THE FACILITATOR: Karin, you wanted to see the  
12    regulations that accompanied these?

13            MS. FOSTER: No. No. The statute -- the  
14    document -- the document from the disk that we were  
15    supplied this morning. It's entitled "NAHASDA As Amended  
16    2008." And it's the one that's multi-colored, and it  
17    shows all the amendments to the statute.

18            Because the issue, as I understand it, is there  
19    have been some amendments to the statute that we don't  
20    believe need regulation or the work group believes, you  
21    know. And so if we can see those as we go through, it  
22    will help me to understand what the work group is looking  
23    at.

24            THE FACILITATOR: Karin, this document here is  
25    what you're talking about?

1 MS. FOSTER: Yes.

2 MS. GORE: With the permission of the committee,  
3 what I'd also like to do is engage Gabe Layman who walked  
4 the work group through these number 1 issues very quickly.  
5 So with your permission, I would just let him walk through  
6 the recommendation with the very specific language.

7 I've given the numbers. Once he gets through the  
8 number 1's, then I'd like to come back to this committee  
9 again and further report on the number 3's. And we did  
10 have a couple of issues that were questions from our  
11 committee. So with that, I'd like to hand this over to  
12 Gabe, and we'll start with issue number 2.

13 MR. LAYMAN: Mr. Chair, Members of the Committee,  
14 thank you very much. My name is Gabe Layman. I'm an  
15 attorney. I work for Cook Inlet Housing Authority in  
16 Anchorage.

17 Basically, just so you know what our work group  
18 is proposing here, as Carol pointed out, is to go through  
19 those number 1 issues, the issues that we believe require  
20 no additional regulatory language, and we can just glide  
21 on through here.

22 So to look at them, the first issue is -- if  
23 you'll look at that initial left-hand column on your  
24 charts, we're talking about issue number 2. And this is  
25 an issue that was a technical issue and, really, no

1 additional regulatory language was required.

2 Basically, to describe this, you're talking about  
3 a 1998 amendment that tweaks the definition of Indian area  
4 within section 4 of NAHASDA. And this change was really  
5 clean-up only. If we can pull that language up. And  
6 we're looking at section 4.11 towards the front of the  
7 document. You're going to go way up to the initial  
8 definition section.

9 Okay. As you'll see, section 4 is the section  
10 that deals with definitions. And up toward the top of the  
11 screen here, you'll see it was previously section 10  
12 crossed out; it's now section 11.

13 And, essentially, the change here is we added the  
14 language "an Indian tribe or a tribally designated housing  
15 entity as authorized by 1 or more Indian tribes."

16 So this was a little bit of additional clean-up  
17 language that essentially recognized that Indian areas  
18 should include an Indian area within which an Indian tribe  
19 or a TDHE, as authorized by one or more Indian tribes,  
20 provides assistance under NAHASDA for affordable housing.

21 MS. GORE: To the co-chairs, I'd like to seek  
22 consensus on an item-by-item basis so we can get them  
23 behind us. Thank you.

24 MR. COYLE: Any objections to this change? Any  
25 objections? Consensus on --

1 MS. GORE: Thank you.

2 MS. FOSTER: Just for clarification. You said  
3 "any objections to the change," but this is consensus on  
4 there not needing to be any regulation on this particular  
5 amendment, correct, just for the -- for what we're having  
6 consensus on?

7 (Nodding.)

8 MS. FOSTER: Okay.

9 MR. LAYMAN: Thank you very much. We'll move on  
10 to the next issue, which is issue number 3 at the top of  
11 page 2 on the -- I'm sorry.

12 MR. JONES: Marvin Jones. Just an issue. How  
13 are we now going to note that -- you know, that this has  
14 been disposed of -- it's kind of a technical issue -- so  
15 that we can, you know, update this based on what we just  
16 did?

17 UNIDENTIFIED SPEAKER: (Inaudible.)

18 (Laughter.)

19 MR. BOYD: Maybe we go back to the working chart,  
20 April 15 chart. And there is a Comments section in the  
21 far right section. So I think that that's a way of  
22 updating it. We may be able to update them on the screen.

23 MR. JONES: I know we have been saving some of  
24 them. So I'm not sure what they're saving and, you know,  
25 whether -- and I'm fine with the Comments saying done,



1 finished, you know, whatever.

2 MR. LAYMAN: Okay. Then I guess we'll move on to  
3 the next issue which is, again, item number 3 at the top  
4 of page 2 on this version of the chart. And this is a  
5 simple technical change. There was a 1998 amendment that  
6 changed the cross-reference in the definition of state  
7 recognized tribe in section (inaudible) -- from section  
8 107 to section 705. So if we can -- yeah. Right up here  
9 you'll see the red language that's crossed out on the --  
10 was crossed out on the screen.

11 UNIDENTIFIED SPEAKER: I was trying to make it a  
12 little bigger for you guys to see.

13 MR. LAYMAN: Right there. So if you look at that  
14 red language, that's the only change that we're talking  
15 about right now. That is item number 3.

16 MS. GORE: To the chairs, we recommend consensus.

17 MR. COYLE: That will be item number 3, and it  
18 deals with -- 3 in (C) on page 5 of your statute. Any  
19 objections? So passed.

20 MR. LAYMAN: All right. We're ready to move on  
21 to the next issue. The next issue is going to be item  
22 number 4, and that is just below the issue we addressed on  
23 page 2. This is a little bit of a tricky one here because  
24 we're actually talking about the amendment that was then  
25 repealed by a subsequent amendment.

1           So in that circumstance, there's really not much  
2   you can do because this is really obsolete and, therefore,  
3   not even applicable. It's not even a category 1 issue.

4           MS. GORE: Just for purposes of making sure we're  
5   really clear, I move for a consensus on issue number 4.  
6   Thank you.

7           MR. COYLE: Any objections? That is item number  
8   4. No regs needed. Repealed by the subsequent amendment.  
9   Now section 4(8). Is that still the same?

10          MR. LAYMAN: Yes. We're not dealing with section  
11   4(8) right now, just that obsolete former section of  
12   4(22).

13          MR. COYLE: 4(8) is not included then.

14          MR. LAYMAN: Correct. They're related, but this  
15   is an amendment that was simply changed by that and later  
16   moved to section 4(8).

17          MR. COYLE: With no objection, that's a  
18   consensus.

19          MR. LAYMAN: Okay. Moving on then, the next item  
20   is going to be item number 12 at the bottom of page 3.  
21   This was a very simple clerical revision to Section  
22   101(a). And, essentially, you'll see the Reauthorization  
23   Act divided 101(a) into two paragraphs and clarified: The  
24   Secretary is to make arrangements to carry out the  
25   self-determined housing activities for tribal communities

1 programs, which is commonly referred to as the new  
2 subtitle B.

3 So this is really, essentially, a cross-reference  
4 that says, you know, there's authority to make grants and  
5 carry out the new subtitle B.

6 MS. GORE: To the chairs, we recommend consensus.

7 MR. COYLE: Any objections? That's a consensus.

8 MR. LAYMAN: Moving on to the next issue, we are  
9 looking at item 13, and that's at the top of page 4. And  
10 if you look at Section 101(g) of NAHASDA, which is at the  
11 top of the screen now, you'll see the orange language.

12 Basically, this is, again, a cross-reference to  
13 the new subtitle B and essentially explains that amounts  
14 provided under a grant may be used only for affordable  
15 housing activities under title II consistent with an  
16 Indian housing plan and that that language applies not  
17 just to your typical Indian housing block grant  
18 activities, but also those activities under subtitle B.

19 MS. GORE: To the chairs, we recommend consensus.

20 MR. COYLE: Any objections? We have a consensus  
21 on number 13.

22 MR. LAYMAN: Okay. Correct me if I'm wrong,  
23 Carol, but I believe we're moving on now to issue numbers  
24 27 and 28. And these are two items that were labeled "A,  
25 then F." Two of these, however, were pretty clearly

1 category 1 issues. And our work group decided it would  
2 make sense to simply refer those to the full committee  
3 with the recommendation of consensus that no additional  
4 regulatory language is necessary.

5 And in my conversations with John Tillinghast,  
6 who chaired Work Group F, I believe Work Group F reached  
7 the same consensus on those two issues.

8 So if you'll look at sections 104(a)(2)(B) and  
9 104(a)(2)(C) -- basically, this is very simple. You'll  
10 see where that new sub -- that new provision (D) was  
11 included. Because we have that additional provision, the  
12 word "or" had to be moved from after subsection (B) to  
13 after subsection (C). And in a nutshell, that's what  
14 you're looking at for items 27 and 28.

15 MR. COYLE: Excuse me a minute. How about 14,  
16 number 14, was that addressed by you folks? Item 14.

17 MR. LAYMAN: Very good question, Mr. Chair. Item  
18 number 14 is one that the committee -- or that the work  
19 group, excuse me, did discuss and determined there was  
20 enough room for debate there to move it to a category 3.

21 MS. GORE: With the permission of this committee,  
22 we're going to deal with the issue number 1's first, and  
23 then I'll come back and talk about those that we proposed  
24 to reclassify as 3's. So if they're listed or noted as a  
25 3 on your worksheet, if you would let us move on, and then

1 we'll come back and address those. Thank you.

2 MR. COYLE: Okay. Thank you.

3 MS. GORE: So before I ask for consensus, I'd  
4 just like for John Tillinghast to confirm that Subgroup F  
5 had the same opinion of items 27 and 28.

6 MR. TILLINGHAST: (Inaudible).

7 MR. HAUGEN: Lafe Haugen, Northern Cheyenne. We  
8 basically came to the same conclusion. We appreciate the  
9 work of Work Group A.

10 MS. GORE: Thank you. And move for consensus on  
11 item numbers 27 and 28.

12 MR. COYLE: Okay. Any objections? Also keep  
13 informed that that is concurred by A and F at this time.  
14 27 and 28 are a consensus.

15 MR. LAYMAN: Thank you, Mr. Chairman and  
16 Committee. I believe our next issue then is issue 31, and  
17 it's at the top of page 10. This deals with section  
18 104(b)(1) of NAHASDA, and this was a clerical change.  
19 This -- in a nutshell, this change did nothing more than  
20 update the proper legal reference to what's commonly known  
21 as the Davis-Bacon Act.

22 MS. GORE: To the chairs, we move for a  
23 consensus.

24 MR. COYLE: Any objections? Consensus on 31.  
25 Excuse me.

1 MS. FOSTER: I just -- I just had a clarification  
2 question. I don't see any reason not to agree to  
3 consensus on (1). But does that still leave (3) open for  
4 negotiation -- or section -- subsection (3)? Because I  
5 see in the matrix it's referred to as potentially needing  
6 some -- if you go down the screen a little bit so we can  
7 see number (3). Are we taking consensus that subparagraph  
8 (1) doesn't need a regulation, but is subparagraph (3)  
9 still on the table then?

10 MR. LAYMAN: (Nods.)

11 MS. FOSTER: Okay. I have no objection.

12 MR. COYLE: Any objections? Consensus on 31.

13 MR. LAYMAN: Thank you, Mr. Chairman, Members of  
14 the Committee. We are now onto Item 33, which is just two  
15 items down. This is the amendment that simply excluded  
16 low income housing tax credit developers' fees from  
17 program income. We are looking at section 104 once again.

18 And, basically, this is one in which the work  
19 group again found no reason for additional language.  
20 Section 104(a)(4) excludes regular developers' fees from  
21 low-income housing tax credit projects from program  
22 income, and the exclusion applies to regular and customary  
23 developers' fees that are initially funded using NAHASDA.

24 MS. GORE: For clarification, it was listed as a  
25 number 2 on the worksheet, and the committee sees it as a

1 number 1 and are recommending it for consensus as a number  
2 1 issue. Thank you.

3 MR. COYLE: Any objections? Consensus on -- yes,  
4 Jason.

5 MR. ADAMS: I just have a question then. Because  
6 the Comments box says "to be referred to Drafting  
7 Committee." So there's no referral to the Drafting  
8 Committee?

9 MS. GORE: We don't know where that came from.  
10 It didn't come from our work group that we recall. There  
11 are several references like that in the Comments column.  
12 But thanks for the clarification.

13 MR. COYLE: Consensus? 33 is a consensus.

14 MR. LAYMAN: Thank you, Mr. Chairman and Members  
15 of the Committee. We're moving on then to item number 38  
16 on page 11. And both items 38 and 39 -- they're  
17 interrelated, so I'll actually address them  
18 simultaneously. These are very simple changes that deal  
19 with changing dates to reflect subsequent reauthorizations  
20 of NAHASDA.

21 Section 108 authorizes appropriations for given  
22 fiscal years. And when you have a reauthorization of  
23 NAHASDA, those dates need to be updated to conform with  
24 that reauthorization period. That's happened twice. So  
25 if you'll take a look up on the screen here, you'll see

1 that these changes to section 108 are nothing more than  
2 technical in nature and really require no revisions to the  
3 regulations.

4 MS. GORE: To the chairs, we recommend consensus.

5  
6 MR. COYLE: Any objections? Consensus on 38 and  
7 39.

8 MS. GORE: We're moving on to number 82, if you  
9 want to start flipping.

10 MR. LAYMAN: 82 is on page 24, Mr. Chairman and  
11 Members of the Committee. This deals with a revision of  
12 section 509 of NAHASDA, which simply clarifies and  
13 confirms that tribes are eligible to receive HOME funds  
14 through the Home Investment Partnership Act.

15 MR. COYLE: That was item what again? 84? 82?

16 MS. GORE: 82.

17 MR. LAYMAN: 82.

18 MR. COYLE: Alrighty. Any objections on number  
19 item 82? Consensus? We have a consensus.

20 MR. LAYMAN: Thank you again, Mr. Chair and  
21 Members of the Committee. We are now moving on, I  
22 believe, to issues 92 and 93, and those are on page 26.  
23 Both of these issues again involve simple conforming  
24 changes to the statute that were made by Congress to  
25 authorize appropriations for the period conforming with



1 the Reauthorization Act of NAHASDA. You'll see that  
2 language, again, reflected on the screen.

3 MS. GORE: To the chairs, we recommend consensus  
4 for 92 and 93.

5 MR. COYLE: Okay. Tom, with your group on this,  
6 he was the only one, I think, that had a problem or a  
7 sentence or something. Was there any --

8 MS. GORE: Not that we're aware of with the  
9 committee.

10 MR. COYLE: Okay. Any objections? We have a  
11 consensus then.

12 MS. GORE: Congratulations. That's 14 items.  
13 We've made progress today before noon.

14 (Applause.)

15 MS. GORE: Great work. If I may continue. And  
16 I'll be done in very short order. There are some items --  
17 issues number 35, 36 and 37 are categorized as 2's and a  
18 3. They are not assigned to any committee. They sort of  
19 look vaguely like they belong to Work Group A, but they  
20 have not been assigned. So I just want to point that out.  
21 I'm not suggesting that you need to make a decision right  
22 now, but we don't want to miss them.

23 I propose to move on to at least listing the  
24 items that we are categorizing and recommending as number  
25 3's as requiring more diligent debate than the 1's and

1 2's.

2 There are four items that were previously  
3 categorized as number 2's that the committee felt should  
4 be number 3's, and I'll list those first. Those are issue  
5 numbers 14, 15, 30, and 51.

6 There are three other items that are listed as  
7 number 3's that we concur are number 3's. Those are  
8 number 24, 25, and number 34. For clarification, they are  
9 currently assigned to Subgroup A. We did not negotiate or  
10 debate those items and have brought nothing further to the  
11 committee without some direction from this committee.

12 MS. MARASCO: Can you list the ones you changed  
13 from 2 to 3 again, and don't go so fast.

14 MS. GORE: Yes, Judith. They are -- would you  
15 like me to reference the page number too? Would that be  
16 helpful?

17 MS. MARASCO: No, just the item.

18 MS. GORE: All right. Issue number 14, issue  
19 number 15, number 30. Okay. Sorry. Number 30 is the  
20 third item. And lastly, if you're ready, number 51.

21 MS. MARASCO: Thank you.

22 MS. GORE: You're welcome. That completes our  
23 report.

24 MR. COYLE: Section B.

25 MR. KAZAMA: Our group had similar kinds of

1 journeys, I guess. We looked at things that had no  
2 regulations required. We also looked at -- I think we're  
3 trying to clarify what Marvin's statements were in terms  
4 of titles of some of the things we have to deal with as  
5 they might relate to the statute so in future discussions  
6 in our work group that those who might be interested in  
7 those particular areas could come.

8 So we -- we did both in terms of we -- we've  
9 identified areas that have no regulations needed and, you  
10 know, the recommendation, since it's up on the board, is  
11 to go through some of those kinds of things. But let's  
12 see. I'm going to try to begin. Maybe that's a good  
13 place to begin, just start there.

14 So Shawna has the list. So maybe you can just  
15 sort of name off the -- the numbers so -- like Carol did,  
16 so people know which items required no regulations.

17 MS. PICKUP: (Inaudible.)

18 MR. KAZAMA: Yeah, both of them are our speakers.  
19 So maybe Dave, if you --

20 MS. PICKUP: (Inaudible.)

21 MR. KAZAMA: Yeah, he can explain the legal  
22 aspects. You want to come here, Dave?

23 MR. HEISTERKAMP: Okay. I will read them as a  
24 list. And then at the committee's pleasure, we can run  
25 through what the changes actually are. We came up with

1 the following items from subpart B for which it will be  
2 the committee's -- work group's recommendation to the  
3 committee that no regulation is needed. So that -- that  
4 would begin with item numbers 48, 49, 56, 57, 58, 59, and  
5 61.

6 We also adopted an orphan issue as to Carol's  
7 work group, issue number 55, which affects section 206 of  
8 the statute. And the work group is going to take it on  
9 their own initiative to recommend, again, no regulation  
10 for issue number 55.

11 For subpart E, which is also being reviewed by  
12 our work group, the work group wants to recommend that no  
13 regulations are necessary for issues 85, 86, 88, 89, or  
14 90.

15 MS. MARASCO: So, Dave, can we go back -- I like  
16 Carol's format -- and just take them one at a time and ask  
17 for consensus. I like that format much better. Thank  
18 you.

19 MS. GORE: I agree.

20 MR. HEISTERKAMP: Okay. Issue number 48, which  
21 is at the bottom of page 13, affects section 202 of the  
22 statute, and I'm going to group that with issue 49 because  
23 they're completely interrelated. There were two studies  
24 in the green lighting in section 7 and section 8 up  
25 there -- you can scroll back down just a little bit so we

1 can see some of 7 -- that were authorized by amendments in  
2 the year 2002. In fact, those studies were conducted and  
3 concluded long since. No need to write a regulation about  
4 them.

5 MR. KAZAMA: Mr. Chair, I ask for consensus on 48  
6 and 49.

7 MR. COYLE: Any objection? 48 and 49, consensus.

8 MR. HEISTERKAMP: The next issues are 56 and 57  
9 which changed paragraph 207(b) regarding the tenant and  
10 homebuyer selection, to add some language to specify that  
11 both tenants and homebuyers are affected by selection  
12 policies. And 58 as well. So 56, 57 and 58 added those  
13 changes to section 207.

14 MR. KAZAMA: Mr. Chairman, I ask for consensus on  
15 56, 57 and 58.

16 MR. COYLE: Any objections? Have a consensus on  
17 56, 57 and 58.

18 MR. HEISTERKAMP: The next item is number 59  
19 which changed the paragraph numbering right below that,  
20 section 208. Instead of referencing paragraph (2), it  
21 references subsection (b).

22 MR. KAZAMA: It's a simple change. Ask for  
23 consensus to 59.

24 MR. COYLE: Any objections? Consensus on number  
25 59.

1 MR. HEISTERKAMP: The next item is also in 208.  
2 It changed, again, the reference to paragraph (1) and  
3 turned it into subsection (a), item number 60 -- 61, I'm  
4 sorry. 61. It just changed the reference from paragraph  
5 (1) to subsection (a).

6 MR. KAZAMA: I ask for consensus on 61.

7 MR. COYLE: Any objections? We have a consensus  
8 on 61.

9 MR. HEISTERKAMP: The next item is number 85.  
10 Oh, sorry. I'm sorry, 55. And that simply referenced  
11 section -- former section 206 of the statute which dealt  
12 with subsidy layering requirements. There was never a  
13 regulation that any former committee felt necessary to  
14 draft for this part of the statute. So by striking -- by  
15 having it amended and taken out of the Act all together,  
16 there's no regulatory change required either.

17 MR. KAZAMA: Mr. Chair, as you can see, it's  
18 crossed out on the board there. So we ask for consensus  
19 on this item. It is number 55.

20 MR. COYLE: Any objections? We have a consensus  
21 on 55.

22 MR. HEISTERKAMP: The next items which go in  
23 conjunction are 85 and 86 which affects section 601 of the  
24 statute and simply redesignate some paragraph lettering.  
25 601(d) became (c) and 601(c) became (b) because some

1 language was removed.

2 MR. KAZAMA: Again, Mr. Chair, ask for consensus  
3 on items 85 and 86.

4 MR. COYLE: Any objections? Consensus on 85 and  
5 86.

6 MR. HEISTERKAMP: The text items taken together  
7 are 88 and 89 which changed section 605(a) and 605(b).  
8 And, again, this was authorization language to change the  
9 authorization years for guarantees under the Act.

10 MR. KAZAMA: Mr. Chairman, I ask for consensus on  
11 88 and 89.

12 MR. COYLE: Any objections? 88 and 89,  
13 consensus.

14 MR. HEISTERKAMP: And I believe the same is true  
15 of issue number 90. Again, it was a change to section 605  
16 on the authorization year.

17 MR. KAZAMA: Mr. Chairman, I ask for a consensus  
18 on item 90.

19 MR. COYLE: Any objections? Consensus on 90.  
20 Thank you, gentlemen and ladies and all concerned.

21 MR. HEISTERKAMP: Those are the items for which  
22 the work group had identified no regulations were  
23 necessary. For the remaining issues in both subpart (b)  
24 and (e), they went ahead and grouped those into issues.  
25 And I think uniformly, if I'm not mistaken, those were all

1 categorized as 3, and the work group didn't spend any time  
2 trying to recategorize those issues, but they fall into  
3 groups as follows:

4 Issue numbers 40 through 46 deal with income and  
5 eligible families provisions. 40 through 46 are income  
6 and eligible families activities.

7 Item number 47 are eligible housing activity  
8 issues. 47, eligible housing activities. Issue numbers  
9 52 through 54 are the useful life and binding commitment  
10 issues. Useful life and binding commitment issues, 52  
11 through 54.

12 Issues 63 through 68 are the housing activity  
13 demonstration program. And the work group did receive a  
14 draft PIH notice to review, and copies of the draft PIH  
15 notice will be available to the full committee for review  
16 as well. So this is one of those items last time that HUD  
17 notified us there was a draft PIH notice comment. We have  
18 that notice today and will begin review later.

19 Finally, issue number 91, which is the  
20 demonstration program for loan guarantee, and there's a  
21 good possibility we'll have a draft PIH notice on that  
22 issue as well later this week.

23 MR. COYLE: You're advocating, Dave, that we set  
24 those all as number 3?

25 MR. KAZAMA: Yes, Mr. Chair.



1 MS. FOSTER: I just wanted to say -- a quick note  
2 on the committee's handling of those areas where there are  
3 going to be PIH notices issued. And the approach that our  
4 committee took on that -- our work group took on that was  
5 that we were going to reserve recommendation of whether  
6 there needed to be regulation or not until we've actually  
7 had a chance to review the draft PIH notice. And I think  
8 that there may be at least one other PIH notice in another  
9 group, you know, where I would suggest or hope that maybe  
10 we'll be able to do the same thing there, with -- with  
11 copies of the draft PIH notices to the full committee and  
12 not only just to the work groups that are dealing with  
13 those issues since the committee is going to have to make  
14 that decision. Thank you.

15 MR. KAZAMA: Mr. Chairman, that concludes our  
16 report.

17 MR. COYLE: Thank you, ladies and gentlemen. We  
18 are going through these really fast. Do we have one other  
19 group ready, or shall we break for lunch?

20 UNIDENTIFIED SPEAKER: Can we break for lunch?

21 MR. COYLE: Okay. Be back here at 1:30.

22 (Lunch recess from 12:11 p.m. to 1:31 p.m.)

23 MR. JACOBS: Your attention, please. If we could  
24 have the committee members occupy your seats, we'll get  
25 started for the afternoon session. It's 1:35 almost, so

1 we're a little late.

2 MR. KAZAMA: You might announce that, not  
3 everyone knows that it will be in Seattle, the next  
4 meeting.

5 MR. JACOBS: Okay. I think we're ready to start.  
6 I think we have a quorum, don't we? I'd like to welcome  
7 Ray. He got his wardrobe right. Okay. I want to thank  
8 the -- Group A and B for a great, great job this morning  
9 and setting the pace. And, hopefully, we will continue  
10 this with Group C and F.

11 So with that, I will call on Group C to make the  
12 presentation. Jason, are you ready?

13 MR. ADAMS: I sure am ready, Mr. Chairman. I can  
14 proceed here as need be. Work Group C -- Sub Work Group  
15 C, or however we want to refer to ourselves -- did meet.  
16 We went over all of the items in the low-hanging fruit.  
17 I'm reviewing them again, making sure -- well, we actually  
18 went over everything. Due to the time limitations and the  
19 amount of work that we've already completed in our work  
20 group, we just reviewed everything that we've accomplished  
21 so far.

22 What I will go over, as has been the practice  
23 from the previous two work groups, is a process for the  
24 items that -- that we would propose for consensus here  
25 today. We have six items. And the first of those items

1 is item number 9 on the work group -- on the work  
2 spreadsheet. And it is -- and I keep -- I was holding off  
3 because -- there he is. I was going to have Tim Foster  
4 (sic) walk through the sections of the regulation or the  
5 statute that these address. Just, again, following  
6 previous practice, so . . .

7 MR. HUMPHREY: It's Karin Foster and Tim  
8 Humphrey.

9 MR. ADAMS: What did I say? Tim Foster? I  
10 apologize for that, Mr. Humphrey. Tim Humphrey. Somebody  
11 just talked to me about Tim Foster. I apologize, Tim.

12 MR. JACOBS: Jason, while he's getting ready, you  
13 want to --

14 MR. ADAMS: I can get started. I'll go ahead and  
15 begin. It's section 101(d)(1), and it's the section -- if  
16 you want to bring that up. It's just additional language  
17 that was -- restated that section, I believe, (d)(1). As  
18 you can see, it was Exemption From Taxation. Number (1)  
19 originally was stricken and restated below. And we don't  
20 believe that there's any -- it was a technical correction.  
21 No action required for that language. And it has no --  
22 there is a regulation. Item number 9, for those that have  
23 just entered the room, that's where we're at. That's the  
24 first number (1) that the Work Group C addressed. And  
25 I'll turn it over to Tim Humphrey.

1 MR. HUMPHREY: Okay. As Jason said, number 9  
2 will be asked for consensus on whether or not the  
3 suggestion from the subcommittee -- whether what the work  
4 group did is acceptable. Do you want to go through all of  
5 them first and then go back and explain them?

6 Okay. We have item number 9, 10 -- I had a sheet  
7 that had markings on it, and it got lost.

8 MR. ADAMS: 16.

9 MR. HUMPHREY: Yes, 16.

10 MR. ADAMS: 17 and 18.

11 MR. HUMPHREY: 17, 18.

12 MR. ADAMS: And 21.

13 MR. HUMPHREY: Yeah, and 21. And that's all that  
14 we had to look at. The majority of those are technical  
15 corrections or amendments that have been subsequently  
16 deleted from the statute. So we did have number 9 to look  
17 at. It's section 101(d)(1). If you look at the statute,  
18 as Jason did, 101(d)(1) is a simple correction, and it  
19 just basically clarified the issues. There was no need  
20 for any rulemaking.

21 MR. JACOBS: Excuse me. I think there was a  
22 question raised on this. You want to mention this?

23 MR. BROOKS: The question I raised -- I sent an  
24 email to the Drafting Committee, and I think Tim and I  
25 even talked about it. The question we had is what I'm

1 facing locally with the Lumbee is that all of our  
2 properties are fee land. And because -- while fee land,  
3 we don't have any federal protection for administrative  
4 buildings that we put on fee land, and the states and  
5 local governments are trying to tax the -- the  
6 administrative buildings. And the language they're  
7 relying on is in 101(d) where it says, the second line:  
8 Indian tribe may not be used -- I'm sorry. Grant amounts  
9 provided under this Act on behalf of an Indian tribe may  
10 not be used for affordable housing activities under this  
11 Act for rental or lease-purchase dwelling units developed  
12 under the '37 Housing Act.

13 So what they're relying -- then they're relying  
14 on the first three words under subsection (1), "such  
15 dwelling units." They're saying that the Act only intends  
16 to exempt dwelling units which doesn't address community  
17 buildings, administrative buildings, or any building  
18 that's used to support those dwelling units.

19 And if we don't have a regulation changed, then  
20 we're going to -- those of us that are not on federally  
21 protected or trust lands are always going to face the  
22 issue as to whether our administrative buildings are going  
23 to be taxed by local municipalities.

24 MR. HUMPHREY: And I think you also raised the  
25 question about lands being purchased for development.

1 They're also looking at and taxing those.

2 Like Ed said -- we've conversed a little bit on  
3 this back and forth. And I think one of the issues --  
4 first of all, this was raised as a possible parking lot  
5 issue because it really didn't have anything to do with  
6 the change in the statute. But it also is an issue of  
7 possible statutory clarification, I believe. Is that the  
8 way -- the way the statute is written, it can easily be  
9 interpreted as only dealing with residential units.

10 And -- I mean, I agree with Ed that there's some  
11 serious problems here, and it's really impacting in a lot  
12 of areas. We've got houses in California in some of the  
13 tribes that I've worked for that are off reservation where  
14 they're taxing the land and saying we're not taxing the  
15 building. But when you look at the tax rolls, the lands  
16 with buildings are taxed higher than lands without  
17 buildings.

18 So there's some real issues here that need  
19 clarification. I just don't know whether or not it is a  
20 regulatory issue.

21 MR. BROOKS: I'm concerned that if we don't  
22 address that -- I don't think there's any intention by HUD  
23 or anybody else who's implementing these rules and  
24 statutes that we're creating classifications of property  
25 supported by IHBG funds. If we don't address it in a

1 regulation or attempt to address it in a regulation, I  
2 think we may be, you know, years out --

3 UNIDENTIFIED SPEAKER: A statutory --

4 MR. BROOKS: A statutory change that would  
5 address this.

6 UNIDENTIFIED SPEAKER: Mr. Chairman, if we're  
7 going to look at the regulation, the regulation -- the  
8 relevant regulation is section 1000.242. Are you then,  
9 Ed, going to suggest some language to that regulation?  
10 And if so, then this doesn't constitute low-hanging fruit,  
11 I don't guess, because we're going to negotiate that.

12 MR. BROOKS: And that's what -- that's what I was  
13 asking. If we could just at least negotiate it to talk  
14 about it further rather than going forward with a  
15 consensus on this issue now.

16 UNIDENTIFIED SPEAKER: Okay. We're fine with  
17 that, to not move forward as a consensus item at this  
18 time.

19 MR. HUMPHREY: Excuse me, Jason. I think there's  
20 two issues here. One is: Is this a -- the change here  
21 was a technical change. What Ed's talking about is an  
22 interpretation -- a different interpretation of the  
23 statute, which is a parking lot issue.

24 And so I think that the -- the committee has got  
25 to look at it and see how they want to deal with it.

1 Because what we're looking at strictly is the amendment,  
2 the purpose of the amendment itself, which was a technical  
3 correction.

4 So -- I mean, it could be added as a parking lot  
5 issue or looked at something else, but it's got to be a  
6 decision of the committee.

7 MR. ADAMS: I think that again goes back to not  
8 being low-hanging fruit regardless.

9 MR. JACOBS: Karin.

10 MS. FOSTER: I'd like to suggest that we leave  
11 that one open and not decide that it's going to be, you  
12 know, not dealt with. And then if it's going to be a  
13 parking lot issue or it's going to be a work group issue,  
14 we'll be able to do that, be responsive to this member  
15 here of the public. I don't think we should -- we should  
16 just call it a consensus off the table at this point.

17 MR. JACOBS: Larry.

18 MR. GOODWIN: I wanted to second what Karin was  
19 saying. This is Ed Goodwin. I work with Larry Coyle. I  
20 think, though, it's a technical amendment change, what  
21 it -- the change that has been incorporated has some  
22 ambiguity in it. Because the first part of that section  
23 appears to be in conflict with the second. And part of  
24 what you do when you're adopting a regulation as an agency  
25 is addressing to resolve those ambiguities. And so I



1 think it would be an appropriate part of addressing the  
2 amendment, even though it's a technical amendment, to go  
3 forward with it as a nonconsensus item and negotiate out a  
4 resolution on it.

5 MR. COYLE: Also on that, Washington State just  
6 passed a tax fee for housing authority under Indian  
7 control here back in '02. And before that we had to pay  
8 tax on fee land. Our tribe right now has no reservation.  
9 They pay tax. There's no way you can get away with it.  
10 That's -- the feds can say one thing, but the state can  
11 say another.

12 MR. ADAMS: Mr. Chairman, for purposes of the  
13 report, we will make this a nonconsensus item and move on  
14 to the next item -- as purposes of the report.

15 MR. JACOBS: Any other comments?

16 MR. ADAMS: It won't be a consensus item.

17 MR. HUMPHREY: That will also make the number 10  
18 because it deals with the same issue; it's part of that  
19 regulation.

20 MR. JACOBS: (Inaudible.)

21 MR. HUMPHREY: Yeah, it would be a 3 as well.

22 MR. ADAMS: Are you -- is that what you're  
23 suggesting, Tim? Again, we didn't talk to this level.  
24 Because 10 is just the change in 2 there for the tribe.

25 MR. HUMPHREY: But it's still dealing with the

1 same issue.

2 MR. ADAMS: It is. I mean, is that -- is that  
3 what the dissenters are in agreement with? I guess I'm  
4 asking from a perspective of the committee.

5 MR. JACOBS: Karin.

6 MS. FOSTER: No, I was just -- if Jason was  
7 looking at me -- I'm not sure he meant me. But if -- if  
8 we're -- if there's enough to talk about that we're  
9 getting into substance, then I think that takes it off the  
10 table as a matter of definition. I mean, because we're  
11 talking -- we're identifying things where there isn't  
12 anything to talk about, and there seems to be a lot to  
13 talk about with this one, so . . .

14 MR. JACOBS: Okay. Let's make sure we're  
15 covering the same numbers. 9 and 10; is that correct?  
16 Okay. And we have consensus to move it over. Okay. Move  
17 it forward. Okay.

18 MR. HUMPHREY: Okay. The next number was 16.  
19 And this is one of those interesting ones. There was a  
20 change made in 1998 that added a section or modified a  
21 section which has now been stricken. So 2 -- excuse me.  
22 102(a) has been superseded by the 2008 amendment. So the  
23 working group agreed with HUD in that there's no  
24 regulation necessary.

25 MR. JACOBS: Okay. Do we have consensus on this

1 one? Let's use a thumb so we'll know. Okay. All right.  
2 Consensus.

3 MR. HUMPHREY: The next one is number 17, the  
4 amendment added a subsection (6), the entire section (c)  
5 has been deleted; therefore, no change to the regulations  
6 are necessary.

7 MR. JACOBS: Okay. Any -- do we have consensus  
8 on this one? Okay. Consensus.

9 MR. HUMPHREY: Number 18. This stuff gets rather  
10 confusing at times, but it's pretty much the same thing.  
11 In an earlier amendment (g) became (f), and now (f) is  
12 part of the section that has been stricken. So, again, no  
13 regulation is necessary.

14 MR. JACOBS: Okay. Do we have consensus on this  
15 one? Any questions? Consensus? Okay.

16 MR. HUMPHREY: Number 20 has some -- some 1's and  
17 2's in there, but I'm going to let Jason discuss what  
18 happened with 20. And the last one is number twenty -- I  
19 think it was 21. This was section 103(c)(3). It actually  
20 conforms the statute to the regulation. The word "not" or  
21 "no" was added to the regulation to make it make sense.  
22 So no amendment is necessary.

23 MR. JACOBS: Okay. Do we have consensus? All  
24 right.

25 MR. HUMPHREY: Jason, you want to explain what

1 we've done with number 20?

2 MR. ADAMS: As -- as part of the work group  
3 product of our time together, we did go through those  
4 items that were -- were just addressed and we reached  
5 consensus on. Then we talked about -- there was some  
6 outstanding items. If you'll look at item number 20, it  
7 is all shaded gray, which means that we reached consensus  
8 on that.

9 But there's parts and pieces of this that -- that  
10 need to be taken out and moved down to 22. And that is  
11 the -- in the potential relevant regulations section  
12 there, it shows on number 20 -- there's an asterisk by  
13 three pieces of regulation there. In the work group in  
14 our previous meeting, we talked about those items  
15 continuing on, that they weren't low-hanging fruit  
16 essentially.

17 And so we are proposing that that be moved to 22.  
18 And we'll ask for the drafters of the chart to move those  
19 items down to item number 22. Also, in the Comments  
20 section, it talks about all references to five-year plan  
21 be deleted from the regulations. And that is just a note  
22 that we wanted to point out, once again, for the Drafting  
23 Committee as their work progresses through the whole  
24 regulation -- or the regulations and statute. Or, I  
25 guess, the regulations, excuse me.

1           And then the last piece that we talked about  
2           was -- was an item that -- that we feel needs to move on  
3           as a parking lot item is the last item on page 6 in the  
4           Comments, top of page 7, the definition of jurisdiction.  
5           And so that's something, again, that's not low-hanging  
6           fruit and, essentially, is a parking lot item that needs  
7           to be addressed.

8           From that then, all the rest of the items that  
9           are listed as C we do feel are still 2's and 3's that need  
10          negotiations. That ends our report.

11          MR. JACOBS: Karin.

12          MS. FOSTER: Jason, I'm probably dense that I  
13          didn't get this. But which parts of number 19 then do you  
14          consider should be shaded? Because some of it you said  
15          you didn't think should be or should be moved. What --

16          MR. ADAMS: It was number 20. Item number 20.  
17          And there is -- just the items in 20 that are the  
18          regulation changes there at 1000.10(d), 1000.238 and  
19          1000.552(b). Those items need to be moved down to 22 and  
20          negotiated on.

21          MS. FOSTER: So it's everything in 20. Okay.  
22          Thank you.

23          MR. ADAMS: No. There's still other parts of the  
24          regulation in 20 that were agreed to -- you'll see in the  
25          Comments section that have already been agreed to, adopted

1 by the committee.

2 Jack just raised a good question, Mr. Chairman.  
3 I don't know if we need consensus of the group to move  
4 those down because they were -- or if that was -- it could  
5 be just handled like a technical correction.

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 MR. ADAMS: But those sections weren't agreed to  
8 yet, the language in those sections. That's the problem.

9 MR. JACOBS: What is the feeling of the  
10 committee? Do you want the Draft Committee to go ahead  
11 and move those forward and we take a consensus on them  
12 there, or now?

13 MR. SAWYERS: Our policy has been that we do it  
14 now. So if we're going to make -- we've already approved  
15 all this. And even though it wasn't -- it was  
16 inadvertently approved, it's still been approved. So we  
17 need to -- we need to have consensus in order to move it  
18 down.

19 MR. JACOBS: Okay. Is everybody on board with  
20 this to move it to item 22? Okay. Group C, any more  
21 comments?

22 MR. ADAMS: Mr. Chairman, that ends our report.

23 MR. JACOBS: Thank you. Any questions of Group  
24 C?

25 MR. ADAMS: I apologize, Mr. Chairman. There was

1 one other item we did talk about, and I wanted to mention  
2 it briefly. We were handed out a -- a draft of the PIH  
3 notice that HUD is working -- that our work group is  
4 taking a look at. It's in regards to the Indian Housing  
5 Plan and Annual Performance Report form.

6 And so our -- our work group took a look at that  
7 draft notice that was -- that was presented to us here  
8 just this morning. And so we walked through that draft  
9 notice.

10 I don't know if any of the work group members  
11 want to make any comments as to the content of that draft  
12 notice. But we did have a discussion about that and a  
13 subsequent discussion, because it's related, to the new  
14 IHP and APR forms that were presented at the last meeting.  
15 So just wanted to wrap up our report with that.

16 MR. JACOBS: Okay. Thank you very much. Does  
17 everyone have a copy of this notice -- draft notice?  
18 Okay. Larry.

19 MR. COYLE: Jason, what is your idea on your  
20 notice then, put it on as an item at the tail end of this,  
21 or how do you -- how would you suggest we work that?

22 MR. ADAMS: I guess we had some -- some folks  
23 that were proposing that there's sections of the IHP --  
24 the new APR and IHP form that they would suggest should  
25 come to the full committee. And I don't know. Marvin,

1 you want to talk to that issue? There was another lady,  
2 Linda I believe it was, raised some points in -- in the  
3 form itself as to areas that -- essentially, what's  
4 happening is -- is the IHP and the APR, as it was  
5 proposed, is -- is making some additional recommendations  
6 that aren't based in statute. And so there's several  
7 discussions on that point alone.

8 MR. JACOBS: Okay. Other comments? Jack.

9 MR. SAWYERS: I'm only pointing it out because I  
10 don't think everybody has a copy of this.

11 THE FACILITATOR: Who needs a copy of this?  
12 We'll make some copies.

13 MR. SAWYERS: Thank you.

14 MR. JACOBS: Marvin.

15 MR. JONES: Marvin Jones, Cherokee Nation.  
16 Essentially, I think -- at least I want the overall  
17 IHP/APR issue to become one of the issues that we need  
18 continuing negotiation on. Now, whether it's a parking  
19 lot or whether it's -- you know, it remains a major issue.  
20 I'm not sure how we're going to define that. But just  
21 because we arrived at consensus on some of this language  
22 in the law doesn't mean that -- I don't -- we have adopted  
23 the whole PIH notice, et cetera. Just to make that point.

24 MR. JACOBS: Okay. Good point. Karin.

25 MS. FOSTER: Our work group also received a draft



1     PIH notice.  Actually, do we just have one, or do we have  
2     two?  And what we were going to do is to go through that  
3     and see if it answered the questions that, you know, would  
4     otherwise need to be answered in the regulations or if we  
5     really needed a regulation.  So we're sort of in that  
6     place too and would ask that that be sent around to the  
7     whole committee.

8             So it would seem to me that this would be kind of  
9     the same.  We'd be trying -- we -- a decision hasn't been  
10    made yet whether there will need to be regulations in this  
11    area or whether there would be comments back to HUD  
12    that -- you know, on their PIH notice itself.  So -- and  
13    can I just ask a quick question?  This is wrapped up into  
14    your item 20, correct?  Is that where it is?  Where is it?

15            MR. ADAMS:  Not necessarily.  It's kind of  
16    encompassing of all the changes.  It's included in -- in  
17    the Indian Housing Plan and APR.  I mean, several of the  
18    changes that are made in statute affect these -- these  
19    documents.

20            MS. FOSTER:  I just wondered if it was  
21    specifically referenced somewhere.

22            MR. ADAMS:  No, it's not.

23            MS. FOSTER:  Okay.  All right.

24            MR. ADAMS:  It's kind of an overarching issue  
25    that touched on several changes in the statute.  And --

1 and as far as process, Mr. Chairman, I don't know --  
2 our -- our work group doesn't have a recommendation on how  
3 to solve this issue other than we reviewed the PIH notice.  
4 I can't say that we have a position on the PIH notice.  
5 But if we're going to ask for that then -- because we have  
6 one -- one member that's -- that's pretty vocal that they  
7 want it to be negotiated as to the Indian Housing Plan  
8 form and the APR form and the language contained in the  
9 PIH notice. And I don't know how we proceed. I put that  
10 back to the committee.

11 MR. JACOBS: Okay. Anyone else? Any questions  
12 or comments that you'd like to share at this time? Carol.

13 MS. GORE: I just want to make sure I'm -- I'm  
14 clear. And I'm looking at you, Marvin, so you can help  
15 me. I don't think this particular PIH notice is on our  
16 agenda. But what you're suggesting is that it's a parking  
17 lot issue that's related to some items that are within our  
18 agenda. Am I clear about that?

19 I'm just trying to be clear about -- is this  
20 something that we've been tasked to respond to, or are you  
21 asking us to make time to respond to it?

22 MR. JONES: Marvin Jones. Obviously, the law  
23 changed the whole process of our IHP/APR, so we dealt with  
24 some technical things, literal changes. But the  
25 overarching how are we going to do an Indian Housing Plan

1 and what the requirements are going to be is an issue --  
2 comprehensive issue above and beyond that. Whether we  
3 categorize that certainly is not, to some of us, a  
4 low-hanging fruit. It's an issue that we need further  
5 discussion because -- and just to be quite frank, this  
6 putting in requirements that are not found in the law and  
7 regulation.

8 And so whether we can classify that as a parking  
9 lot issue or whether or not it's an issue number 3  
10 somehow -- I'm not sure how to categorize it other than we  
11 shouldn't leave here with it unresolved, wherever it's  
12 categorized, however we decide that we might want to  
13 address it. So I'm really not sure how to categorize it.

14 MR. ADAMS: If I could, Carol, just to add to  
15 Marvin's point. The problem comes in, as I see it, is  
16 because the Indian Housing Plan and the APR -- in the  
17 statute it states in a -- in a -- "in a method or a format  
18 prescribed by the Secretary." And the Secretary utilized  
19 a work group of folks to help reformat this process that  
20 led to the statutory changes that needed to be made to  
21 make this process happen.

22 So it's, you know, kind of the chicken or the egg  
23 kind of a thing. You know, it's something that we worked  
24 on and everybody wants changed to the Indian Housing Plan  
25 and the APR. But at what point does NegReg have a say in

1     that? Because the statute does say "prescribed by the  
2     Secretary."

3             MR. JACOBS: Okay, Karin.

4             MS. FOSTER: I'd like to respond to that idea.  
5     The Secretary prescribes through regulations, not only  
6     just through PIH notices. The Secretary will adopt the  
7     regulations that we -- you know, that are a product of our  
8     work.

9             So I don't think that just because the Secretary  
10    chooses to issue a PIH notice or thinks that that would be  
11    a better way to do it -- I don't think that takes it out  
12    of the purview of this committee. I think the committee  
13    still has the decision to make whether the committee's  
14    happy with the PIH notice of dealing with these -- these  
15    matters, or whether these matters are -- are something  
16    that should be regulated and negotiated.

17            And so it doesn't, to me, seem like it -- it --  
18    otherwise -- otherwise HUD could issue PIH notices on  
19    everything and say, Well, it's a PIH notice and so, you  
20    know, it's no longer a part of this process. And I don't  
21    think that's doing that. I think HUD's, you know,  
22    bringing us a draft PIH, which I think is great. Maybe  
23    handling it through a PIH makes absolute sense.

24            But I sure think this committee -- it's within  
25    this committee's purview to decide if it's going to be --

1 if it's necessary to push through with any regulations on  
2 this or not. I don't think that -- I'm not sure I  
3 understand what a parking lot issue is. I remember there  
4 were parking lot issues identified in the last rulemaking.  
5 And as I remember discussing parking lot, it was: Do we  
6 go back and pick up some of those old parking lot issues?

7 I guess I would hesitate to refer to things as  
8 parking lot issues that are not strictly responsive to  
9 technical amendments or board amendments. I mean, I don't  
10 know if we have parking lot issues here. I think we have  
11 old parking lot issues that we might decide to take up. I  
12 wouldn't -- I wouldn't call anything a parking lot issue  
13 at this point from this process.

14 MR. JACOBS: As I recall, at one of our meetings  
15 in Scottsdale we did put a number of items on a flip chart  
16 and identified those as parking lot. Is that correct?  
17 Yeah. Was this one item on that list? It is not. Would  
18 it be feasible to put it on that list in the event that we  
19 have time to address it?

20 MR. COYLE: I personally think it's a negotiated  
21 item that's going to help us as well as HUD. And the  
22 faster we can get it negotiated out, the better off we're  
23 going to be. And I would strongly advise putting it on as  
24 an item, a numbered item, rather than parking lots. You  
25 don't get (inaudible) in a parking lot.

1 MR. JACOBS: Marvin.

2 MR. JONES: Marvin Jones, Cherokee Nation. I  
3 tried to avoid getting into any kind of substantive  
4 discussion right now, but I guess I have to a little bit.  
5 Just be brief. I wanted to delay the further discussion  
6 until we get through all these and then we decide, okay,  
7 what are the major issues, and then perhaps discuss it a  
8 bit more.

9 But just briefly, what the regulation -- what the  
10 law actually says is that the Secretary can prescribe the  
11 form, not -- it doesn't say the content. And thus far  
12 somehow the form and the content are one and the same.  
13 And so that's what I wanted to further discuss when we  
14 have a more substantive discussion.

15 So if we could address it, you know, here after  
16 we get through these issues, then we can figure out  
17 whether we want to call it a parking lot issue or -- or --  
18 or something else.

19 MR. JACOBS: All right. And I guess, Jan, if you  
20 will identify items like this. This is Marvin's issue.  
21 At some point we will make sure that we get into a  
22 discussion on it.

23 MR. ADAMS: It's not just Marvin's issue. It's  
24 all of our issue.

25 MR. JACOBS: Right.

1 MR. ADAMS: It's important to all of us.  
2 Because, I mean, our tribes asked for a change in the  
3 Indian Housing Plan and the APR process several years ago.

4 MR. JACOBS: Okay.

5 MR. ADAMS: This is a result of that request. So  
6 with that, I'll end the Work Group C report. Thank you.

7 MR. JACOBS: Thank you very much. Okay. The  
8 next group is the F drafting group. Does anyone have  
9 any -- excuse me. Okay.

10 MR. HAUGEN: Are you done, Leon?

11 MR. JACOBS: Yeah.

12 MR. HAUGEN: Okay. Lafe Haugen, Northern  
13 Cheyenne. And I was selected as the only -- only member  
14 of this committee in Work Group F. And "F" stands for  
15 fabulous, naturally, and fantastic.

16 But we had a -- some issues that we felt were  
17 low-hanging fruit as well. And with that, I'll call up  
18 John Tillinghast to kind of review some of the items that  
19 we discussed in our work group.

20 MR. TILLINGHAST: Yeah, John Tillinghast here.  
21 Is my mike on?

22 MR. HAUGEN: Yes.

23 MR. TILLINGHAST: In light of the fact that our  
24 list is shorter than A and B, let me preface my  
25 presentation by saying: In addition to the matters that

1 we brought forth at the last meeting and we reached  
2 consensus, we found some additional low-hanging fruit.

3           Unfortunately, Working Group A found the same  
4 fruit, and they got that fruit. And so the only fruit  
5 that we found was (inaudible.) But we do have a couple of  
6 things that we'd like to bring to the committee's  
7 attention. There are four issues that fall within split  
8 jurisdictions, our working group, that went under the  
9 table. And I'd like to go through what our thoughts are  
10 on how they should be handled. And then I want to just  
11 list briefly some of the major class 3 issues that we  
12 still have to deal with.

13           With respect to the shared issues, if you can  
14 scroll down to section 209 of NAHASDA, you'll find an  
15 enforcement section that simply says that HUD can take  
16 enforcement action against you if you violate the useful  
17 life requirements of section 205 of the Act. So you might  
18 want to take a look at 209. That's the enforcement  
19 statute. That's under our -- our group. Yes, sir. Yes,  
20 Mr. Chairman.

21           MR. JACOBS: Can you identify the item --

22           MR. TILLINGHAST: Oh, the issue?

23           MR. JACOBS: -- on the matrix?

24           MR. TILLINGHAST: The issue is 62. Was that your  
25 question?



1 MR. JACOBS: Item 62.

2 MR. TILLINGHAST: Yes, it's item 62, and it  
3 involves section 209 of NAHASDA. As you can see, that's  
4 an important exception. It's enforcing the useful life  
5 requirements. That will be the subject of Group B's  
6 discussions pursuant to issues 52 through 54. And what  
7 they'll be discussing are the 1998 and 2008 changes to  
8 section 205(a) of NAHASDA.

9 And we felt that the -- that -- we'd like to take  
10 a look at what sub -- subgroup B recommends to the  
11 committee and what the committee decides to do with  
12 respect to the substance of the useful life requirement  
13 before we can make an intelligent recommendation on what  
14 the enforcement remedy ought to be.

15 So we're asking -- Blake, you go first, and we'll  
16 go second. And so the same effect -- now I'm switching  
17 gears here. There's a very similar situation with respect  
18 to the program income and what you can spend program  
19 income on.

20 If you go to issues 26, 29 and 30, you'll see  
21 that they implicate section 104 of NAHASDA. Why don't we  
22 scroll up to 104. And, again -- yeah, keep going. A  
23 little higher than that. Keep going. That's 26, 29 and  
24 30. You'll see (a)(2) is an enforcement provision.  
25 That's something for us to look at. (a)(1) is the

1 substantive provision, and it's likely -- certainly going  
2 to be a class 3 issue. Again, we'd like to see how the  
3 substance gets resolved by this committee after A has made  
4 their recommendation before we're able to make a  
5 recommendation with respect to the enforcement provision  
6 which is 104(a)(2).

7 And Mr. Chairman, I don't know whether this sort  
8 of procedural issue is something that you want a consensus  
9 called on, or you just want to take it as information for  
10 the committee.

11 MR. JACOBS: Okay. Let's get input from the  
12 committee. What is your preference? Karin.

13 MS. FOSTER: This isn't an issue I'm as  
14 intimately familiar with, of course, because it's not my  
15 work group. But it kind of sounds to me like what we're  
16 saying is that we have an issue that overlaps two  
17 different subpart work groups, essentially, and that that  
18 needs to be coordinated.

19 So I guess at some point we're going to need to  
20 decide as a committee how we're going to organize  
21 addressing the remaining issues that we have, whether it's  
22 going to be through the subpart work groups or -- or  
23 through, you know, more of a subject area kind of thing as  
24 Marvin was suggesting, or what. It kind of seems to raise  
25 that issue.

1 MR. JACOBS: Okay. Marvin.

2 MR. JONES: Marvin Jones, Cherokee Nation. I  
3 think once we got through these issues then we were going  
4 to set aside time to address those exact kind of things  
5 some time this afternoon.

6 MR. JACOBS: Right.

7 MR. TILLINGHAST: Okay. So unless our work group  
8 chairman wants to move for consensus on this issue, I'll  
9 move on to the last topic, which is -- we don't have a  
10 huge laundry list of issues, but the ones -- the remaining  
11 ones that we have are currently classified as class 3, and  
12 we feel they're likely to be class 3. And I'll give you  
13 just a thumbnail of what the major ones are.

14 The first is whether or not to combine the two  
15 enforcement provisions of the NAHASDA regulations. This  
16 is not with respect to any particular issue, but it's with  
17 respect to, generally, the issues that fall within our  
18 review, which is starting with issue number -- starting  
19 with issue number 74 and onwards through issue number 79.

20 Some people feel that by having two enforcement  
21 provisions, that's confusing and it implies that there  
22 really are two enforcement provisions and not one.

23 The second issue, which comes up in issue 79 and  
24 also to an extent in issue 76, is when must HUD provide an  
25 opportunity for a formal hearing before reducing or

1 eliminating your grant.

2 Issue 76 also raises the issue of what  
3 constitutes substantial noncompliance, which is a ground  
4 for taking enforcement action.

5 One of the issues brought up by issue 79 is that  
6 the statute used to provide that if you've already spent  
7 your money on affordable housing activities, HUD cannot  
8 come and take that money back from you. That statutory  
9 provision has been repealed, but there's still a  
10 regulation that has that restriction in it. The question  
11 is: Does the regulation have to go now or not?

12 And then, finally, the last issue, which appears  
13 in two different places in the 74 through 79 category, is:  
14 What constitutes an appropriate level of inspection? The  
15 statute used to require that inspections be annual. They  
16 now require they only be appropriate. What does that  
17 mean?

18 Those are the main class 3's that we still have  
19 to look at if in fact we're still around. There are  
20 certainly more controversial issues that you all are going  
21 to face. Our anticipation is that our recommendations may  
22 not be a consensus recommendation. It may be as the  
23 protocols allow, which is that our work group would bring  
24 to you opposing points of view to inform the committee and  
25 provide a factual -- a legal/factual backdrop to enlighten

1 and inform the committee's discussion on that issue  
2 (inaudible) reach a final decision.

3 Finally, a clerical housekeeping issue. A lot of  
4 you have a matrix that for some reason has article -- I'm  
5 sorry, items 74 through 78 crossed off -- cross-hatched  
6 over as though somebody has gotten rid of it. Nobody's  
7 gotten rid of it. They're still there. Ignore those  
8 cross-hatches, if you would.

9 That -- that, Mr. Chairman, is all I had.

10 MR. HAUGEN: Are there any questions? I know  
11 that the ladies here were mixed up, John, because you  
12 jumped from 104 to 401. John, let's start from the -- the  
13 very first one, the 26.

14 MR. TILLINGHAST: 26, 29 and 30?

15 MR. HAUGEN: Yes.

16 MR. TILLINGHAST: Okay. That's up on -- let's go  
17 to the board. And so take us back on NAHASDA to section  
18 104. Okay. Again, this is an issue of sharing of  
19 responsibility between two different work groups.

20 If you look at subsection (a)(2), it actually  
21 restricts the enforcement authority of HUD with respect to  
22 people who became -- program income. That's something we  
23 were asked to deal with.

24 Immediately above it are amendments that talk  
25 about what you should do with program income. And our

1 working group's feeling is we would like to see what  
2 Working Group A recommends and the committee decides with  
3 respect to subsection (a)(1) before we can make an  
4 intelligent recommendation on whether any regulation is  
5 needed with respect to the enforcement section, which is  
6 subsection (a)(2). And if I didn't answer the question,  
7 I'll be happy to try it in a different way.

8 MR. HAUGEN: Jason, you're scratching your head.  
9 Is that a good thing?

10 MR. SAWYERS: What did he say?

11 UNIDENTIFIED SPEAKER: He wants to wait for Work  
12 Group A.

13 MR. HAUGEN: Yes. Correct. One sentence. Work  
14 Group A make a determination, and then we'll pick up the  
15 remainder on what they recommend and possibly have a joint  
16 working session with them to clarify 26, 29 and 30, since  
17 Working Group A already stoled 27 and 28 so -- just for  
18 your sake, Carol.

19 UNIDENTIFIED SPEAKER: "A" is at the beginning of  
20 the alphabet.

21 MR. HAUGEN: Does that answer the question?  
22 Okay, John.

23 MS. GORE: I think, just a point of order, the  
24 three items that John pointed out are not low-hanging  
25 fruit; they are 2 and 3. So they may or may not be kicked

1 back to Work Group A, depending on how we choose to move  
2 forward. But I understand the relationship between the  
3 two work groups, just to clarify. Thanks.

4 MR. JACOBS: Okay. Any other comments? Yes,  
5 Marvin.

6 MR. JONES: Marvin Jones. I just want to  
7 clarify. So you're not asking for any issues -- consensus  
8 issues at this point? Have they already been done or --  
9 or what?

10 MR. TILLINGHAST: Three were done at the last  
11 meeting. Two more would have been done today if we would  
12 have done them in reverse alphabetical order.

13 MR. HAUGEN: Okay. If there are no other  
14 questions, then that concludes. And just for point of  
15 clarification one more time, as John noted, there was some  
16 items scratched -- or, excuse me, crossed out -- crossed  
17 through from 74 to 78 that shouldn't be. Some of you have  
18 the matrix that is not crossed out, and those of us in  
19 Work Group F had them crossed out. So we made a note that  
20 those will need to be noted as not being crossed out.

21 MR. JACOBS: I have a question on item 62. I  
22 think you made a recommendation to place it on -- in B. I  
23 think we need consensus on that to move that item -- any  
24 comments -- to be consistent. Am I correct?

25 MR. HAUGEN: Yes, you are, Leon.

1 MR. JACOBS: Okay. Do we have consensus then to  
2 the recommendation?

3 The mike keeps turning off. Okay. Is everyone  
4 on board with this? Item 62, the recommendation was to  
5 move it to place it with B. Right? Okay. Do we have  
6 consensus on this? Okay. Any other --

7 MR. HAUGEN: That concludes our report.

8 MR. JACOBS: Okay. Thank you very much.

9 THE FACILITATOR: I just want to mention to  
10 everybody, just so you don't have any concern about it,  
11 all the corrections that you guys have given us today  
12 about things being crossed out, they will all be put into  
13 one master copy, and all the things that we have reached a  
14 consensus on today, they will be shaded, and we'll give  
15 you fresh copies of that tomorrow -- tomorrow morning.

16 MR. ADAMS: Jan, can I make a request? Can we --  
17 I mean, it would be great to have that kind of a document.  
18 But just for ease of flipping through and having less  
19 pages, can we get a document to work off of that has  
20 everything we've had consensus on removed and just have  
21 the items that we have left to work on?

22 THE FACILITATOR: Removed?

23 MR. ADAMS: Yeah. Well, I'm just saying, then  
24 this document becomes about 8 pages instead of 25. Just  
25 throwing it out there.



1 MR. JACOBS: Judy.

2 MS. MARASCO: I think I'd like to track all the  
3 documents. But in the Comments column, if you could just  
4 add a comment that says if we reached consensus and on  
5 which date, I think that would clarify some of them.

6 MR. ADAMS: What I'm saying, Judith, is I  
7 don't -- I think we can still have that kind of a document  
8 out there. I'd like to have that document myself, what he  
9 mentioned. But just as we work forward, just to see the  
10 items that are -- still need to be worked on and not  
11 everything. A separate document that has just that, I  
12 guess, is what I'm asking for.

13 THE FACILITATOR: Two documents out there then.

14 MS. MARASCO: You've still got just as much  
15 paperwork with two documents.

16 MR. ADAMS: Just asking.

17 MS. MARASCO: This thing keeps turning off  
18 because it doesn't want me talking to you. I'd rather  
19 keep them like 1 through -- the way we are now and just  
20 track them on one master document. My mind doesn't split  
21 like yours does.

22 MR. JACOBS: Okay. I'd like to thank the  
23 audience and the HUD staff for your participation in the  
24 working groups. There was a lot of good information  
25 shared from all of you, along with the committee, and

1     thank you very much. And you will have an opportunity  
2     later in the session to make comments and so forth.

3             Okay. I think we're at a point where we need to  
4     relax for a few minutes, and let's decide where we want to  
5     go from here. Okay? And Marvin has the floor.

6             MR. JONES: Marvin Jones. Going along with what  
7     Jason said, I think that would be good. If you don't want  
8     the document, you don't have to take it, you know; but if  
9     you could make that available to us.

10            But I have a question as to when could we get  
11    that document, because that document now serves to go to  
12    the next step, what do we have left. And so I'm inquiring  
13    about when could we get that.

14            THE FACILITATOR: Let me check.

15            MR. JACOBS: Okay. While he is checking this out  
16    for us -- Dave.

17            MR. HEISTERKAMP: Actually, we're trying to keep  
18    one master document to keep -- right now. And we're  
19    planning -- if we have changes, as many changes as we got  
20    today -- to produce a new version each day of the meeting.  
21    If we don't have very many changes tomorrow, we may not  
22    produce another version for Thursday. Obviously, today we  
23    changed a lot of stuff.

24            We want to make sure, because of the various  
25    versions that floated around this morning, that the

1 Drafting Committee puts eyes on the one master document  
2 and makes sure it all compares to our notes, and then  
3 we'll turn it over to the contractors to reproduce to the  
4 committee in time for the start of tomorrow morning's  
5 meetings or work groups or whatever else is out there.

6 So that's what the Drafting Committee is  
7 anticipating right now. We've all been trying to keep  
8 track of changes and make sure that we're  
9 cross-referencing each other's notes, the work groups'  
10 notes, so that we're accurately reflecting everything  
11 happening here right now so that you have that complete  
12 list in front of you tomorrow morning when you reconvene.

13 MR. JACOBS: Can I ask that you have it ready by  
14 tonight so that we could look at it before we go to sleep  
15 tonight? Is that possible?

16 MR. HEISTERKAMP: If you want it by email  
17 tonight -- I think we can probably commit to emailing it  
18 to everybody tonight. I don't know what the schedule is,  
19 and that would include the contractors. We certainly  
20 intended to have it out by email and available to the  
21 Drafting Committee and the contracting group, if -- I  
22 think that may be the most practical way, to distribute it  
23 after hours, to make sure each committee member has access  
24 to a copy. Unless you have some other way to cure your  
25 insomnia.

1 MR. JACOBS: Okay. What is the pleasure of the  
2 committee? Karin.

3 MS. FOSTER: One of the things we talked about in  
4 our work group, and it came really from Marvin's framing,  
5 was: What are the overall issues that we still have to  
6 deal with within this subpart? And we, I think, listed  
7 about five of them that we thought were implicated by some  
8 of the regulations, you know, some of the areas that we  
9 need to look at.

10 I don't know whether we have -- I guess -- I  
11 think we've heard a little bit of that from the other  
12 groups also. And if we -- if we aren't able right now to  
13 have a document that shows us what all we still have on  
14 the table, would it be helpful to at least have a list of  
15 those issues that we still have on the table?

16 MR. JACOBS: Marvin.

17 MR. JONES: Marvin Jones. I think that's what  
18 Jason was essentially asking for. And I think it's the  
19 best way to proceed, if we have that, so that we can then  
20 figure out how many main issues do we have, and -- and  
21 then see how we might want to organize that work, and then  
22 get into some of these discussions that we were having  
23 earlier about, you know, how complicated are some of the  
24 issues, how to categorize them, and then, eventually, how  
25 to get onto whatever kind of subgroups/subcommittees that

1 we think we need to form.

2 MR. JACOBS: Dave.

3 MR. HEISTERKAMP: To follow up on what Karin had  
4 suggested. In our work group we have a format, the way we  
5 presented it for Work Group B. The numbers remaining and  
6 the general issue that they relate to would probably be a  
7 simple document to produce if each work group can identify  
8 which issues they haven't got consensus on either because  
9 no regulation is needed or because we drafted a  
10 regulation. Just list those, and then next to it put the  
11 heading of the issue. And I think for most groups it's  
12 going to be three, maybe four items max, probably less  
13 than that. And we can consolidate that into a one-pager  
14 that then you can go to that range of issues and see -- or  
15 range of issue numbers and correspond to the issue.  
16 Rather than recreating two whole documents, just create  
17 that short index of issues. Would that be acceptable for  
18 the committee?

19 MR. JACOBS: Okay. Marvin.

20 MR. JONES: Marvin Jones. Just how -- how long  
21 would that take, do you think? Just --

22 MR. HEISTERKAMP: Our part of the work group  
23 meeting was already presented. It's four lines long. And  
24 if each work group, whether this afternoon or a Drafting  
25 Committee representative from each work group can get that

1 list -- if they want to see what Work Group B did, we can  
2 show you that format. And that would be not very  
3 difficult. And that would also eliminate the problem of  
4 going between, again, multiple documents. You'd still be  
5 keying to the one in front of you, but you'd have an index  
6 to go right to those remaining numbers, if that's what you  
7 wanted to do.

8 MR. JACOBS: Okay. Karin.

9 MS. FOSTER: Is that something that we can just  
10 take a recess and do and then bring back?

11 MR. JACOBS: Okay. Carol.

12 MS. GORE: I was taking pretty good notes, and I  
13 think, if my math is right, we have a collection of 34  
14 issues that are number 3's.

15 And subgroup -- or the Work Group B already  
16 reported their items. They have 17 items, and they put  
17 them into a handy category. We have seven in Work Group  
18 A. I'm prepared right now to tell you what those items  
19 are and what the general categories are.

20 I'm not prepared to discuss them in depth, but  
21 I'm prepared to put that into the minutes for someone to  
22 collect. And then that leaves Work Group C with four  
23 items and Work Group F with six. So -- and there might be  
24 some related issues. I think it's pretty simple. I'm  
25 prepared to go on the record now, if that would be

1 helpful.

2 MR. JACOBS: Okay. What's the pleasure of the  
3 committee? Do you want to go through those? Consensus?  
4 Okay. All right. You've got the floor.

5 MS. GORE: Okay. Karin has made a good  
6 suggestion, that if we have good note takers, maybe they  
7 could actually take the notes and make sure they get on  
8 the screen for everyone to follow.

9 MR. JACOBS: Okay.

10 MS. GORE: I will say for the record I don't  
11 intend to be lengthy. So it's going to be a pretty simple  
12 explanation. Yes.

13 UNIDENTIFIED SPEAKER: (Inaudible.)

14 MS. GORE: Work Group A, we start with number 14  
15 on your issues.

16 MR. HEISTERKAMP: Do you want a blank on the  
17 screen?

18 MS. GORE: Yeah, that would be great. Are we  
19 ready? Okay. Number 14 is definition of affordable  
20 housing activities and reserve accounts. It's in section  
21 202. Okay. I've got a reference problem in my personal  
22 notes. Number 14 is about federal supply sources. I  
23 apologize to the note taker. Sorry. Thanks for your  
24 patience. The first one in gets to hit all the bumps in  
25 the road, right?

1           Number 15 could be related, but let's list it  
2       separately for those that might think differently. Number  
3       15 is related to tribal preference in employment and  
4       contracting.

5           I hope someone will correct me if I'm wrong about  
6       this, but number 24 is the next one on my list. Gabe, I  
7       hope you're standing with me. My notes say that's related  
8       to the demonstration program. No? You want to help me.  
9       Program income.

10          There are several things in our work group that  
11       are related to program income, so we're going to be able  
12       to group some of them together. That would be 24 and 25  
13       on program income. For the note takers, that's 24 and 25  
14       together, program income.

15          MR. HEISTERKAMP: Do you want to work from here  
16       so you can be reading over their shoulder?

17          MS. GORE: Whichever is easier for them. I'm  
18       flexible. What would you prefer? I think -- I wasn't  
19       intending to add all the legal references. I was just  
20       intending to have some just short crib notes so we could  
21       figure out --

22          MR. HEISTERKAMP: That's what they need is just  
23       the short titles for the issues.

24          MS. GORE: Yeah. And I'm not giving you those  
25       references. So if you'd like to go back to 14, I think



1 that's exactly what I'd propose, federal supply sources.  
2 Number 15, I would just say tribal preference in  
3 employment and contracting. I'm just trying to give you  
4 general categories so that we can be smart about how we  
5 set up the work group and any subgroups that might come  
6 about. Yup.

7 Number 24 and number 25 are both program income.  
8 What I'm hoping is that if we break into work groups,  
9 people will be able to decide where they want to  
10 participate. That's my goal here. I hope that's in  
11 agreement with the committee. Okay.

12 Number 30 is to add energy efficiency as an  
13 eligible activity. And that's number 30. Sorry, I've got  
14 the wrong script here, wrong number system. 30 also deals  
15 with program income. Gabe, you may as well stand right  
16 here with me since I've got the wrong tie-out list.  
17 Sorry. I thought this would be faster. I have only two  
18 more.

19 So number 30 is program income. You can delete  
20 the first, energy efficiency, that whole first phrase, if  
21 you would. Thank you. Number 34 is the environmental  
22 compliance waiver. Number 51 is my last item; it's de  
23 minimus procurement exemption.

24 MR. JACOBS: What was the number?

25 MS. GORE: 51. And those were the only number 3

1 issues that were identified in Subgroup A or Work Group A.

2 MR. JACOBS: Okay. Any questions on any of these  
3 so far?

4 MS. FOSTER: I just have a question. Does that  
5 represent all of the issues then that Work Group A still  
6 feels are on the table; not only just 3's, but 2's or  
7 anything we haven't dispensed with? I think it would be  
8 good to know what the -- what the remaining issues are  
9 by subject.

10 MR. JACOBS: Jason.

11 MR. ADAMS: I'm asking basically the same  
12 question. Because I don't have any notes on number 32,  
13 and it's a number 2 for Work Group A. And so I'm just  
14 kind of wondering, is it -- is it still an issue on the  
15 table, or was it taken care of?

16 MS. GORE: Number 32 was sent to the Drafting  
17 Committee. I reported that in my report.

18 MR. ADAMS: I understand that. But is it a  
19 consensus item that we've dealt with yet or not? It  
20 hasn't, so --

21 MS. GORE: No, we don't have the language yet.

22 MR. ADAMS: So it's still on the table.

23 MS. GORE: Correct.

24 UNIDENTIFIED SPEAKER: (Inaudible.)

25 MS. GORE: I believe that's the only number 2.

1 MR. JACOBS: 35, 36 and 37 are unidentified.  
2 Someone mentioned the 32. Didn't we have a consensus on  
3 that one this morning? No?

4 MS. FOSTER: Mr. Chairman -- Karin Foster,  
5 Yakama. Can we go ahead and put up and include on the  
6 board those issues that we're talking about that maybe  
7 have been referred to the Drafting Committee but are still  
8 live issues so we can see the subject matter? I believe  
9 that one is the tribal prevailing wage issue. So that  
10 would be like number 32, tribal prevailing wage, or  
11 something like that.

12 MR. JACOBS: Marvin.

13 MR. JONES: Marvin Jones, Cherokee Nation. Now,  
14 I agree with that because I want to know: What is the  
15 process by which those are going to be completed? You  
16 know, if they've already been given to the Drafting  
17 Committee, when are they going to be done? So if we can  
18 not only have them on a list but then ask the questions  
19 and figure out when are these going to be done so that we  
20 can get those off of our list too.

21 MR. JACOBS: That's a good question. So what is  
22 the pleasure? David.

23 MR. HEISTERKAMP: Just in terms of having  
24 language available for the committee's review is what the  
25 Drafting Committee -- if stuff was referred to today, you

1     probably have to give us overnight to get the language  
2     back to look at. There is one issue that's before Group  
3     B/E for which there is language available that was already  
4     prepared and distributed in work groups this morning.  
5     It's the last of the low-hanging fruit on the loan  
6     guarantee issue.

7             So the only thing the Drafting Committee needs is  
8     some time to put it together, depending on which member of  
9     the Drafting Committee is working through a work group to  
10    get that together. And some -- some folks have been --  
11    depending on how complex that language is, may have  
12    something ready tonight, but probably available overnight  
13    before -- before it's ready for distribution to the  
14    committee, or if you wanted to go straight to the  
15    committee and back to the work groups. So that's the only  
16    constraint the Drafting Committee is looking at.

17            MR. JACOBS: Okay. Does that satisfy everyone?  
18    That means that we'll have another document that we can  
19    use tomorrow? Okay. Jack.

20            MR. SAWYERS: Went we list those, even if they're  
21    in the Drafting Committee, like 34 -- thirty -- well,  
22    let's look at 35 and 36. I guess there are areas that,  
23    kind of, we thought would fit in. It's not really  
24    assigned to us. But there are two areas that somebody has  
25    to take. So we need to also list those, I think, because

1     they have gone to the -- or have they not gone to the  
2     Drafting Committee? Have they not been -- 35 and 36, they  
3     have, right? So -- and 37 also.

4             I think that they kind of fit in our category.  
5     We're just saying that we don't care, but we need --  
6     they've gone to the Drafting Committee, so they need to be  
7     listed. Is that right?

8             MS. FOSTER: Karin Foster, Yakama. Yeah, I'd  
9     appreciate that. Because in our subgroup we didn't really  
10    decide what was going to be referred to the Drafting  
11    Committee or what wasn't yet, you know. So, I mean, we  
12    haven't really taken that step. So, yeah, I think it  
13    would be helpful to have that. I don't know. Is there a  
14    general subject matter that those three items deal with so  
15    that it could be put up on the board?

16            MR. JACOBS: Jack, you're talking about items 35  
17    and 36, right?

18            MR. SAWYERS: And 37.

19            MR. JACOBS: And 37, okay.

20            MS. GORE: I'm prepared to offer some simple  
21    category language that deals with how to -- how to conduct  
22    negotiated rulemaking. So I vote that we make Marvin in  
23    charge of that. Let's have another committee.

24            MR. JACOBS: And Marvin, you accept, right?

25            MR. JONES: No, because of my co-chair duties

1     that I have.

2                 MR. JACOBS:   Okay.   How does the committee want  
3     to handle these three items?   You said they're referred to  
4     the Drafting Committee, so . . .

5                 MR. ADAMS:   But that doesn't finish the item.

6                 MR. JACOBS:   Right.

7                 MR. ADAMS:   I think if Work Group A is willing to  
8     take them on, we assign them to them.   Work Group A, I  
9     think, should deal with them.

10                MS. GORE:    Sure.

11                MR. ADAMS:   That's my recommendation.

12                MS. GORE:    Okay.

13                MR. JACOBS:   All right.   Do you accept?

14                MS. GORE:    We'll come back to this group if we  
15     run out of time.

16                MR. JACOBS:   All right.   Okay.   Let's mark them  
17     Group A.   Marvin.

18                MR. JONES:   Marvin Jones, Cherokee Nation.   Maybe  
19     we can just set aside some time tomorrow and say Drafting  
20     Committee had this -- these done, and then we can take  
21     care of all of those -- these kinds of things at one time  
22     and have a set time as to when we're going to take care of  
23     them and get them off the list.   Does that make sense?

24                MR. JACOBS:   Okay.   Any comments on Marvin's  
25     recommendation?   Karin.

1 MS. FOSTER: Can I just suggest that even though  
2 Work Group A may not be tasked with this that we maybe  
3 view this list as, you know, what has come out of Work  
4 Group A or what has come out of Work Group B, just so that  
5 we can get that up on the board so that the typist can put  
6 in, you know, 35, 36, 37, negotiated rulemaking. And then  
7 we can kind of move -- move on our process. Just to get  
8 it up on the board somehow so that we can move to the next  
9 Subpart C group.

10 MR. JACOBS: Okay. Carol.

11 MS. GORE: There's three items that were sort of  
12 shared and assigned by Work Group F that are not on the  
13 list. I just want to make sure they get captured. And  
14 that's issue Numbers 26, 27 and 30. Am I right?

15 UNIDENTIFIED SPEAKER: 26, 29.

16 MS. GORE: 26, 29 and 30. They deal with both  
17 program income and compliance. That's why they sort of  
18 ride -- bridge both work groups. Thank you. I think I'm  
19 done.

20 UNIDENTIFIED SPEAKER: Are those going under A  
21 then, 26, 29 and 30?

22 MR. JACOBS: Group F, did you address those at  
23 all?

24 MR. ADAMS: I think those were reported by F, but  
25 they wouldn't -- didn't address them and just -- they just

1 kind of left them out there. So I think if A is willing  
2 to take them, then that categorizes them and gets them off  
3 the table -- on the list, excuse me.

4 MR. JACOBS: The F group has not finished their  
5 work then, huh? I'm kidding.

6 MR. ADAMS: Does "F" stand for fail or . . .

7 MR. JACOBS: All right. Okay. How do you want  
8 to list those?

9 MR. SAWYERS: Put them under A, and then F will  
10 take care of it after that. First of all, they have to --  
11 I think A has to look at them first. So let's list those  
12 under A right now. Right, Carol?

13 MR. JACOBS: Did you hear that recommendation  
14 from Jack? You want to repeat it.

15 MR. SAWYERS: Let's -- let's list 26, 29 and 30  
16 under A. Then I think F would be working on them maybe  
17 perhaps after that. But we have to list it somewhere.  
18 Let's do it under A.

19 MR. JACOBS: Okay. Do we have consensus on this?  
20 All right. Okay. Carol, consensus? Okay. Are there any  
21 others that have not been addressed?

22 MR. HAUGEN: Didn't we say we were going to move  
23 62 to B as well? Carol, do you know? Did you note that?

24 MS. GORE: (Nods.)

25 MR. JACOBS: All right, Blake.



1 MR. KAZAMA: Dave, maybe while you're up there,  
2 63-68, can you put like parenthesis subtitle B, just for  
3 demonstration? Demonstration program for housing  
4 activities, put subtitle B because that whole thing deals  
5 with it. Okay. Thanks.

6 MR. JACOBS: Okay. We wanted to spend this time  
7 on where we go from here. So we've identified a lot of  
8 things. Anything else that you want to put on the plate  
9 today?

10 MR. KAZAMA: Mr. Chair, just the concern I've  
11 had, I guess, is -- and I -- it's maybe for the Drafting  
12 Committee. But early on we had talked about preamble  
13 working simultaneously with what we are deciding here at  
14 the table so at the end of this session, the entire  
15 session, we don't have to come back to writing the  
16 preamble that is being written as we go along.

17 And I just want to check to make sure that it is  
18 in fact being written up because we've had a lot of  
19 consensus issues of the last session and then this morning  
20 and so forth. So there's a lot of activity already. And  
21 I want to just make sure that the preamble committee --  
22 or, first of all, is there a preamble committee?  
23 Secondly, is it doing its job? Thanks.

24 MR. JACOBS: Okay. Dave.

25 MR. HEISTERKAMP: When the Drafting Committee

1 gets a chance to meet today, we hope to be able to discuss  
2 that. I think last time, as we ended up, we were able to  
3 get consensus on a couple of items at the end of the day,  
4 and that was the conclusion of the last meeting. So to  
5 answer your question, somewhere out there, there is a  
6 group of the Drafting Committee that also composed the  
7 preamble committee. Have they had a chance to do much  
8 work yet? Not yet. We would appreciate in that case --  
9 now, this is always -- as Blake knows, this is the master  
10 preamble maker. We can, again, create all kinds of  
11 language for the committee to review.

12 But if there are specific issues with specific  
13 ways that the committee feels very strongly about, it is  
14 going to be more important for that language to come to  
15 the Drafting Committee for incorporation into the  
16 preamble.

17 We can -- we can probably create a very cut and  
18 dry paste from the minutes type of a preamble for you that  
19 says: And then the committee did this, and then the  
20 committee did this, and then the committee did this,  
21 because this is how they wanted to proceed.

22 But if there are certain issues that the  
23 committee members really feel strongly about capturing,  
24 that's usually the case with the preamble. The Drafting  
25 Committee isn't going to know those issues unless the

1 committee communicates them to us. So present handwritten  
2 language, typed language, or sit in with the preamble  
3 committee if they choose to hold a small work session.  
4 That would be very helpful and it would probably save  
5 time.

6 Obviously, the preamble will be reviewable by the  
7 full committee eventually anyway. But those that have  
8 very strong feelings about the whole preamble or  
9 individual issues as they should be reflected in the  
10 preamble, that's going to be harder for the Drafting  
11 Committee to create without some participation from the  
12 committee members.

13 MR. JACOBS: Okay. Karin.

14 MS. FOSTER: Were there no Subpart C issues still  
15 remaining? Because I don't see a complete list up here  
16 unless, Subpart C, there aren't any more issues.

17 MR. ADAMS: No, Subpart C -- Work Group C has  
18 issues.

19 MS. FOSTER: I was wondering if we could finish  
20 our list so that we have it. Okay.

21 MR. ADAMS: Yeah, I'm prepared to do that.  
22 There's -- there's also a couple of items, I think in  
23 Subgroup E, at least from my notes, and F that we need to  
24 get up there. Our work is not done, I don't believe. So  
25 if -- Mr. Chairman, do you want me to cover those items

1 remaining in C?

2 MR. JACOBS: Please. Yeah.

3 MR. ADAMS: What I have is eight items remaining  
4 in C. And I -- what I don't have is -- is the short --  
5 short information columns for those. Maybe Tim can get  
6 those for you. But the items themselves are numbers 6, 7,  
7 8, 9, 10, 11, 22, and 23.

8 MR. JACOBS: Jason, did you say 19?

9 MR. ADAMS: 19 was finished. It's shaded in on  
10 the document.

11 MR. JACOBS: Jason, is that a complete list?

12 MR. ADAMS: As complete as we can make it. There  
13 still is that issue that I want to point out as far as the  
14 Indian Housing Plan and the APR and the PIH notice.

15 MR. JACOBS: Okay. Any other questions? I think  
16 it would be helpful if -- before we take the break if we  
17 just use this document and we just go over each item to  
18 make sure that we are all on the same wavelength again.  
19 Karin, would you like to go over this with us?

20 MS. FOSTER: Sure. I'd be happy to do that.

21 MR. JACOBS: Okay. Everyone, do you have your  
22 matrix -- your list? Make sure that we've got all of the  
23 items listed -- or identified, rather.

24 MS. FOSTER: You just want me to lead us through  
25 the document?

1 MR. JACOBS: I'm sorry?

2 MS. FOSTER: You just want me to lead us through  
3 the document?

4 MR. JACOBS: Yes, please.

5 MS. FOSTER: Okay. Item 1, regulation adopted by  
6 committee at the last meeting. Item 2, no regulation  
7 needed, and I have in my notes that we have consensus on  
8 that. Item 3, again, no regulation needed, and we reached  
9 a consensus.

10 Item number 4, no regulation needed, and we  
11 reached a consensus. Item number 5, regulation adopted by  
12 the committee last -- at the last meeting. Okay. Now  
13 we're in title I. Item 6 is -- do we have that up on our  
14 list, the waiver of IHP issue?

15 MR. JACOBS: Right.

16 MS. FOSTER: Okay. So that's one of the issues  
17 on the list for Work Group C.

18 MR. JACOBS: Right.

19 MS. FOSTER: Item 7, also on local cooperative  
20 agreements, we still have that one to deal with. Item 8  
21 likewise. Also would open item -- let's see, item 9. Are  
22 those -- 9 is consensus? I didn't think so.

23 UNIDENTIFIED SPEAKER: (Inaudible.)

24 MS. FOSTER: Oh, but 9 and 10 are still live  
25 issues, aren't they? Are they up there? I don't see

1     them.

2                 MR. ADAMS: On Work Group C I listed them in  
3     my -- 9 and 10 should be listed there. 6, 7, 8, 9, 10,  
4     11, 22, and 23 should be in C, work left to be done.

5                 MS. FOSTER: Okay. So 9 and 10 need to go up on  
6     the board. 11 also is up on the board, housing and  
7     community development. Number 12 -- item 12, no  
8     regulation needed, we have consensus on that item.

9                 Item 13, also no regulation needed. We reached  
10     consensus. Item number 14, I believe, is still open, was  
11     changed to a 3, I think, by the work group. Is that up on  
12     the board, number 14? Okay. I guess I'm just not seeing  
13     it. Thank you. Thank you. All right.

14                Number 15, also still a live issue. Number 16,  
15     no regulation needed, consensus reached. Item 17, no  
16     regulation needed, consensus. Item 18, no regulation  
17     required, also a consensus item. Number 19, regulation  
18     adopted by committee at our last meeting.

19                And then number 20 -- I guess part of this --  
20     number 20 has been moved, correct? There are some  
21     consensus items in here. So I guess if we're following  
22     along, everything -- I think everything below where it  
23     starts asterisk Work Group C, that all moves to number 22.  
24     Is that right, Jason? Are you looking at that? I'm on  
25     item 20.

1 MR. ADAMS: I'm doing something else. Sorry.  
2 I'm trying to keep up here.

3 MS. FOSTER: Just wanted to make sure I got that  
4 right. That everything -- on page 6, item 20, everything  
5 beginning with asterisk Work Group C, does that move?

6 MR. ADAMS: Correct.

7 MS. FOSTER: That all moves down to item 22.

8 MR. ADAMS: 22, correct.

9 MS. FOSTER: That becomes 22, okay. There are --  
10 after that, though, there's a regulation that was adopted  
11 last -- at the last meeting. There are also two consensus  
12 items listed at the end of 20.

13 Let's see. Number 21, consensus item. Number 22  
14 is open and up on the board, I believe. Should be under  
15 C. Is it? Yeah. That's one of the Subpart C or Work  
16 Group C items. Tribal Program Year, it says. 23, still  
17 on the table. Oh, okay. We may need to come back to  
18 that.

19 Shall we come back to -- I'll finish the list,  
20 and we can talk about whether that stays there. It should  
21 stay there? Okay. We'll come up with a title then.

22 24. Rulemaking is required on -- on 24, and it's  
23 under Subgroup A. Likewise, 25, also rulemaking required.  
24 26, rulemaking required. Should be under Subpart A. Is  
25 that right? Okay. I didn't have that on my list.

1           27 we reached consensus on. 28 we reached  
2 consensus on. 29 and 30 -- oh, program income, okay.  
3 That's right. 26, 29 and 30 were program income and  
4 compliance. 31 -- 31 is a consensus item. So we reached  
5 consensus on that one.

6           32 is up on the board as tribal wage rates. 33  
7 we reached consensus. 34 is up on the board,  
8 environmental compliance waiver. 35 and 36 and 37 are up  
9 on the board as negotiated rulemaking.

10           38 we reached consensus. 39 we reached  
11 consensus. Item 40 requires regulations. I'm not sure  
12 which subgroup that is under there. Oh, okay. I see it.  
13 Ours. Thank you.

14           41, 42, 43, 44, 45, 46, that's all there under  
15 Work Group B, income and eligible families. 47, eligible  
16 activities, also needs negotiation. Number 48 is a  
17 consensus item. Number 49, also consensus; no regulation  
18 needed.

19           Number 50, regulations adopted at our last  
20 meeting on April 1st. Number 51, it's been raised to a 3  
21 issue, and it's -- where is it on the board? It should be  
22 under Subgroup A on the de minimus procurement exemption.  
23 Okay. 52 and -- 52 through 54 are useful life and binding  
24 commitments; still need negotiation.

25           55, consensus was reached that there's no



1 regulation required for that one. 56, again, consensus  
2 item; no regulation required. Same with 57 and 58, no  
3 regulation required. 59, no regulation required.

4 Item 60, regulations adopted by committee  
5 April 1st. 61, consensus, no regulation needed. 62,  
6 still under consideration. 63, that's also on -- should  
7 be on this Subpart B list, I guess, isn't it? Yeah,  
8 demonstration program for the housing activities.

9 And we continue onto page 18, item number 64.  
10 Again, the work group is awaiting a review of the PIH  
11 notice; 64, 65, 66, 67 and 68. 69 -- I don't have notes  
12 on 69. Was 69 a consensus item? Because I don't have  
13 notes on mine. Previously consensus? Okay.

14 Item 70 is -- is item 70 on the board? 69 is --  
15 Okay, 69 is -- oh, okay. Oh, I see. Okay. These are all  
16 subpart (d) items, so they're off the table. I understand  
17 now. Okay. So 70, 71, 72, 73, are stricken for that  
18 reason, because they're not a part of our charter. So  
19 we're on number 74.

20 MR. JACOBS: Right.

21 MS. FOSTER: And that's on the board under Work  
22 Group F, 74A, 74B, 75, 76, 77, all still on our list for  
23 rulemaking.

24 78 adopted -- right, last meeting. 79 is on the  
25 board. 80, self-executing. Must have been consensus on

1 that item, on 80. I don't have a note on my --

2 UNIDENTIFIED SPEAKER: (Inaudible.)

3 MS. FOSTER: I don't know whether we -- what the  
4 status is of 80. It looks -- it's probably a simple one,  
5 but I don't have a note on that one.

6 MR. JACOBS: On 80?

7 MS. FOSTER: Yeah.

8 MR. JACOBS: Okay. What does everybody else have  
9 on 80? Jack.

10 MR. SAWYERS: We adopted it last time; did we  
11 not?

12 MR. JACOBS: We did? We didn't? Okay.  
13 Difference of opinion here. Someone says that it was a --  
14 we acted on this at the last meeting. Yeah, we got the  
15 minutes. We'll come back and review the minutes on that  
16 one. Okay. Okay. Go ahead with 81.

17 MS. FOSTER: Okay. We're on number 81. I don't  
18 have any notes on that one, so I guess it's still a live  
19 issue. I'm not sure where it appears on our board. Has  
20 it been assigned? I'm sorry.

21 MR. JACOBS: We haven't addressed it, have we?

22 MS. FOSTER: Okay. Shall we put it on the board?

23 MR. JACOBS: Yeah.

24 MS. FOSTER: What shall we call it? Somebody  
25 have a suggestion?

1 MR. JACOBS: Okay. Where do you -- C? Okay, C.

2 MS. FOSTER: Okay. We'll come up with a title  
3 for that one, it sounds like, so I'll keep moving. 82 is  
4 a consensus item. 83, regulations adopted last meeting.  
5 84, consensus. 85, consensus. 86, consensus. 87, still  
6 on the -- on the board up there somewhere. It's probably  
7 down below and I can't see it. 88 and 89 are consensus  
8 items. 90 is a consensus item. 91 is also -- is also  
9 still an issue under negotiation, I believe; although I'm  
10 not sure where it is on the board.

11 MR. ADAMS: Sorry, Karin. I was interrupted.  
12 What did you say on 87? Because I'm unclear on my notes  
13 on 87.

14 MS. FOSTER: On 87 I said I imagine it's up  
15 there. I couldn't see the board, but I don't have it as a  
16 consensus issue. Is it on the board, 87?

17 MR. ADAMS: I don't believe so. I think it's not  
18 addressed yet. And it should be under B and E, I think.

19 MS. FOSTER: So we have 81 and then 87 also isn't  
20 on the board. Okay. I'll keep moving and come up with a  
21 title for that one. 88, consensus. 89, consensus. Let's  
22 see. 90, consensus. 91 was the other one. Okay, it's up  
23 there -- up there now.

24 UNIDENTIFIED SPEAKER: On B, yeah.

25 MS. FOSTER: Okay. 92, consensus. 93, I have

1 consensus. 94, miscellaneous provisions that weren't  
2 assigned to any particular group. So I don't think any of  
3 those are up on our board yet. I'll have to take a look  
4 at those and see.

5 MR. JACOBS: Where would you like to place it?  
6 Which group? 94. How about C?

7 MR. SAWYERS: C would be good.

8 MR. ADAMS: We don't want to give them to F,  
9 because we see how -- what they did.

10 MR. HAUGEN: Or we don't want to give them to M  
11 for Marvin.

12 MR. ADAMS: C will gladly take them.

13 MR. JACOBS: We had consensus on that, right?  
14 Okay. Karin.

15 MS. FOSTER: Well, that's items -- the  
16 miscellaneous items are numbers 94 through 97, and I guess  
17 those go under C. I'm not sure what our titles are for  
18 those, but those have not yet been reviewed by any work  
19 group, so they are not consensus items.

20 MR. JACOBS: We need to go ahead and attach --  
21 put those on C, I think. Jason.

22 MR. ADAMS: Mr. Chairman, just -- just in  
23 thinking and looking this over, we have these items here  
24 that aren't -- that haven't been categorized or given to a  
25 work group. And so 94, 95, 96, 97, just looking at them

1 in the matrix here, we claim that those are easy or, for  
2 lack of a better term, low-hanging fruit, but nobody's  
3 looked at them.

4 And so, essentially, we've tried to address all  
5 our low-hanging fruit items, and now we've got four more.  
6 Do we want to address those before we move forward?

7 MR. JACOBS: That's why I felt we better go over  
8 the whole list, to make sure we covered everything. So  
9 what is the pleasure of the committee? Where would you  
10 like to place them, or do you want to have the committee  
11 go back and review these, or do you want to do them right  
12 here in a group setting? Jason.

13 MR. ADAMS: If we wanted to handle them now, I  
14 think that would be time well spent. That shouldn't take  
15 that long, I don't think. I might be wrong, but I don't  
16 think there's anything really too controversial here. Far  
17 be it for me to define controversial.

18 MR. JACOBS: All right. Do you want to take a  
19 break and come back and address these immediately?

20 MR. ADAMS: I do want to point out one -- one  
21 additional item that happened during Karin's review.  
22 There was some work in the -- with -- with the members of  
23 the work groups. And item 23 was determined to be moved  
24 over to Group B from Group C.

25 MR. JACOBS: Right.

1 MR. ADAMS: So I just wanted to point that out.  
2 23. There's some of us on this side of the room that did  
3 not have that knowledge, so . . .

4 MR. JACOBS: Thank you, Karin, for leading this  
5 session. What is the pleasure? Do you want to take a  
6 break and come back and address Title VIII:  
7 Miscellaneous, 94, 95, 96, and 97? What is the consensus?  
8 Okay. 15-minute break, and then we'll resume.

9 (Proceedings recessed from 3:21 to 3:41 p.m.)

10 MR. JACOBS: Okay. We're ready to start. Okay.  
11 We'll go back in session. Okay. We're going to -- going  
12 to call on Rodger to address the miscellaneous items here.  
13 Rodger.

14 MR. BOYD: Thank you. It's been brought to my  
15 attention that under the miscellaneous items, Title VIII,  
16 really have nothing to do with NAHASDA. So there really  
17 isn't even any reason for us to think about negotiating  
18 these things, unless you want to talk about the freedmen  
19 situation on 94 and 95. A citizenship issue that they  
20 always put into the legislation has nothing to do with  
21 NAHASDA. And 97 is a GAO study that. That also has  
22 nothing to do with NAHASDA.

23 I'd also like to point out that it was also  
24 called to my attention that item number 81 was also -- was  
25 already negotiated. Section 8 was already negotiated

1 under the formula NegReg. So I think that -- I don't  
2 think there's a reason to assign this to a subcommittee.  
3 And I think, as I recall, this committee also said they  
4 were not going to discuss formula issues in this -- in  
5 this committee.

6 MR. ADAMS: Mr. Chairman, if I could, those five  
7 items that Rodger just addressed were given to the Work  
8 Group C. And in looking at those, from the work  
9 group's -- chairman of the work group perspective, I was  
10 going to say basically the same thing, hoping that we  
11 could just set those issues aside because they're not  
12 germane to this -- to this NegReg committee.

13 MR. JACOBS: Okay. Any other questions?

14 MR. KAZAMA: Yup. Mr. Chair, however, I think we  
15 should get it under consensus, just because it was listed  
16 on here, that we dealt with it in this manner as Rodger  
17 has described, that we didn't do anything.

18 MR. ADAMS: So what's your call for consensus  
19 specifically?

20 MR. KAZAMA: Right.

21 MR. ADAMS: What is it though? Consensus to just  
22 remove them?

23 MR. KAZAMA: Remove them.

24 MR. JACOBS: Okay. Recommendation to remove  
25 items 94, 95, 96, 97, and also 81. Is that the consensus

1 of the committee? All right. Very good. We have  
2 consensus. They will be removed.

3 Okay. Was this -- was this helpful with Karin  
4 going over all of the items and so forth? Any other  
5 questions on that process?

6 Okay. Now that we have more work, what is the  
7 pleasure of the committee? When do you working groups  
8 want to reassemble and start addressing these? Marvin.

9 MR. JONES: Marvin Jones, Cherokee Nation.  
10 Before we get to that question, I'd like to bring up again  
11 the IHP/APR issue. I think it's -- I haven't pushed the  
12 issue yet because of our process of going through the  
13 spreadsheet and literally going through the law and  
14 addressing those and wanted to get that out of the way.

15 But I think it's so tied to -- the -- the law has  
16 changed so that we have to have a new IHP and APR process.  
17 So I would like to discuss the whole process as an issue.

18 MR. JACOBS: Okay. What is the pleasure of the  
19 committee? Okay. Question?

20 MR. BOYD: Marvin, maybe you could help us out.  
21 It's not clear to me what you want to discuss.

22 MR. JONES: Specifically the PIH notice. And  
23 every discussion we've had is that: Okay, HUD is going to  
24 require things that appear on its face not to be required  
25 by the law or the regulations.



1           MR. BOYD: Well, I'd also like to clarify one  
2     thing. And as you may recall, it was, what, two years  
3     ago, maybe three years ago, at a -- well, I can't remember  
4     if it was at the last negotiated rulemaking meeting we  
5     had, or we went around the country, I think, doing a --  
6     some -- that's what it was. We were doing a consensus  
7     meeting.

8           And it really became very clear to us that one of  
9     the big issues out there that tribes were very concerned  
10    about was the IHP and the APR process and how cumbersome  
11    it was, how it was not working. And we totally agreed,  
12    because it was -- it had become a cumbersome process for  
13    us as well.

14          So what we wanted to do was create a process for  
15    both the IHP and the APR, maybe to marry them a little bit  
16    better to help them become really good working documents  
17    that would help you conduct your businesses -- your  
18    respective businesses and also, I think, getting to a  
19    point where we really need to develop a more concise  
20    process that would be more accurate with regard to  
21    collecting data.

22          And I can tell you that in some ways this is a  
23    very timely thing because the new administration, and in  
24    particular our new boss, the secretary, and the assistant  
25    secretary, are really drilling down much, much deeper on

1 collecting and getting good data.

2 And where you're going to start seeing this  
3 happen very quickly, and I would -- and that's already  
4 happening, and you're going to see it probably happening  
5 more in the fiscal years to come, is what we are going  
6 through now with regard to the Recovery Act and the  
7 systems that are being developed for the Recovery Act  
8 which really have an emphasis on transparency.

9 And so, you know -- so in a way -- although this  
10 process started a couple of years ago, it's sort of  
11 interesting that it's also coinciding now with what the  
12 administration is requiring and will require more of our  
13 programs. Not only -- not only the Indian Housing Block  
14 Grant, or ICDBG, but it's across the board, public housing  
15 and all the respective agencies within HUD.

16 So I just want you to keep this in mind as we're  
17 going through this process. Because one way or the other,  
18 you know, the collection of data is going to become even  
19 more and more -- well, it's going to become required. And  
20 I would rather us be on the forefront of that and to  
21 really think about how we can -- can maybe do this without  
22 it totally being required of us to do it. In other words,  
23 if we take a more offense -- take the offense on this.

24 And I think that that's what this -- and that's  
25 why I say this is maybe sort of a coincidence, but that's

1     what we were trying to do. That's one point I wanted to  
2     make.

3             The other point I wanted to make was that this  
4     was really done by a working committee of some of you who  
5     are on this committee today. So it wasn't just HUD that  
6     put this together. I want to make that very clear, that  
7     some of you sitting at this table were on the committee.  
8     Maybe some folks in the audience, for all I know, were on  
9     this committee.

10            So it was done, you know, with your input and --  
11     and you were included in the process, as -- as, actually,  
12     was requested. So as we go into this discussion, I just  
13     wanted you to keep this in mind as -- as -- as we proceed  
14     on this.

15            MR. JACOBS: Okay. Marvin.

16            MR. JONES: Marvin Jones, Cherokee Nation. I  
17     guess I'll start out talking about -- since you talked  
18     about some of the new requirements the HUD boss has laid  
19     upon the department, I'll talk about the boss of the  
20     executive branch, which is the president and tribal  
21     consultation. And we're involved in negotiated  
22     rulemaking.

23            We have a number -- a committee right here that  
24     can adopt regulations that if tribes see the concern,  
25     which is a -- obviously a legitimate concern about data

1 collection, I think that if the tribes here see that, that  
2 they have the opportunity now to negotiate those rules  
3 about what kind of information should be collected.  
4 Doesn't preclude, in the meantime, HUD adopting a position  
5 saying, okay, because it's not in regulation right now, we  
6 want to make it voluntary until the information that is  
7 not required by the law or existing regulation -- be able  
8 to proceed with the IHP/APR process.

9 By the way, a process which I've said from the  
10 beginning of NAHASDA, that's the way it should have been  
11 implemented, what we're just around -- getting around to  
12 right now. So it -- we could easily work out the issues  
13 by respecting tribal self-governance, self-determination,  
14 negotiated rulemaking, plus also accomplish the -- the  
15 very legitimate HUD issues that were just raised which we  
16 certainly feel are legitimate issues too.

17 But what we don't want -- speaking of Cherokee  
18 Nation right now -- is a substitution of a process of --  
19 where we have negotiated rulemakers right now. And I  
20 don't think that anybody will deny that the IHP/APR  
21 process has been changed due to a change in law in  
22 NAHASDA.

23 So why would we not be establishing/negotiating  
24 regulations in regard to the information that's  
25 required -- that is currently not specifically required in

1 the -- in the law and regulations? And so that's what I'm  
2 asking, is that we are able to negotiate those -- those  
3 issues.

4 And perhaps we can't come to a consensus, and  
5 perhaps HUD does issue this despite using the current  
6 process. But at least want to have the opportunity to  
7 utilize the negotiated rulemakers here to try to establish  
8 some regulations in regard to the whole process which,  
9 again, was changed by the law. That was our charge. The  
10 law has changed the APR and IHP process, and it appears  
11 like we're, in one sense, trying to bypass that.

12 MR. JACOBS: Okay. Marvin has made a request  
13 that we put the IHP on the table. Do you want to place it  
14 under one of the working groups to address and come back,  
15 or what are your thoughts? I need input. Okay, Carol.

16 MS. GORE: With all due respect to the  
17 significance of this issue and my dear friend, we have a  
18 charter and protocol. And I -- as a committee member, I  
19 want to make sure that we don't unintentionally sway from  
20 the good progress we've made.

21 We have issues to address. I think there are a  
22 number of issues that are very important to certain  
23 regions, and they'd love to bring them to this committee.  
24 We may in fact have the time, and we may in fact want to  
25 embrace them. But I hope this committee will get through

1 the issues at hand first. And we will have some  
2 motivation to get through them because we all want to get  
3 to issues like Marvin just brought up.

4 And I don't know, Marvin. My question for you  
5 is: Is it your intention for the committee to have that  
6 discussion today as a -- right now as a full committee?  
7 Are you seeking to add it to the list? And if so, then we  
8 have opened the door to a process for others to do the  
9 same thing. And I just want to be very clear about that.  
10 I don't want to get distracted from our mission. Thank  
11 you.

12 MR. JACOBS: Okay. Jason, you had your hand up.

13 MR. ADAMS: Well, I just wanted to reiterate the  
14 issue. I did serve on that committee with HUD as they  
15 moved through this process. And there were several times  
16 during those meetings that -- that the tribal folks on  
17 that work group stated that they were -- they were -- had  
18 a real issue with the process being called consultation  
19 and the process product not going through negotiated  
20 rulemaking. And so I just wanted to report that.

21 I mean, Jennifer, you wouldn't argue with that  
22 point, would you, that that's -- that those discussions  
23 happened over -- you know, in our work group?

24 And so I share in Marvin's concern. But I also  
25 wanted to report that as we worked through this process,

1 we talked about the benefit of this -- these additional --  
2 there's a couple additional pages to the plan in the APR  
3 process, which is all one now. You report at the  
4 beginning part of the spreadsheet for the APR, and then  
5 you report on the back end of the spreadsheet for the IHP  
6 and then the APR. It carries through. It's a very --  
7 very efficient process, I think.

8 But I don't want us to essentially throw the baby  
9 out with the bath water because, you know, we did a lot of  
10 work here to get a product. And we've taken it around the  
11 country. We've had meetings across the country. We've  
12 shared the product. We've taken comments since the  
13 product was essentially in draft form in 2005.

14 And so there's been a lot of good work behind  
15 this. But I do share Marvin's concern that, you know,  
16 there is a piece of this that is, in my opinion, necessary  
17 information, but it's not backed up by statute. And so  
18 how do we handle that? It's -- it's -- to answer your  
19 question, Leon, it's a -- I mean, Sub-Work Group C is a  
20 sub-work group of -- the regulation -- C is Indian Housing  
21 Plan. So if it belongs anywhere, it belongs with our work  
22 group.

23 But how do we -- how do we come to some agreement  
24 that this group either reaches consensus on the product or  
25 not? And if it's not reached, HUD can still issue the PIH

1 notice and still go with this product.

2 MR. JACOBS: Okay. Marvin had his hand up.  
3 Okay.

4 MR. JONES: Marvin Jones, Cherokee Nation. I'm  
5 kind of a little bit stunned that -- at the response.  
6 Somebody correct me. Did NAHASDA change the IHP/APR  
7 process? And the second question is: Are we here to  
8 negotiate the changes in NAHASDA? Maybe not.

9 But the part that really kind of stuns me is just  
10 a few minutes ago we started talking about a payment in  
11 lieu of tax. And I didn't object to it, but it's not  
12 relevant to the change in the law. The change in the law  
13 was just a technical change, but we allowed the  
14 discussion. Rightfully so, and I think we ought to be  
15 discussing that issue because it's a good issue. But that  
16 issue is far removed -- I mean, this is directly tying to  
17 a change in the law, the thing that we agreed to just a  
18 little while ago.

19 Nobody objected. Nobody said, oh, we're getting  
20 way off target here and we're now allowing the payment in  
21 lieu of tax agreement or on administrative buildings.

22 Well, that should have been a parking lot issue  
23 that I think we ought to address. It's an important  
24 issue. But this is so much tied to -- it's a change in  
25 the law. And that's what I'm asking, that we are able to



1 discuss it in this broader context. So I'm really kind  
2 of -- I'm not knowing what you -- I'm not knowing what the  
3 thinking is as to why this is not, you know, a change in  
4 the law and it just flows naturally.

5 What it doesn't do is fit this particular format  
6 that some people developed and that we agreed to follow.  
7 And I'm also thinking there may be some other issues that  
8 might come up that because it doesn't specifically follow  
9 this format, we're maybe missing what we're supposed to be  
10 doing which -- primarily which was made -- initially made  
11 at the beginning of these meetings was we're supposed to  
12 be negotiating the changes that were brought about in the  
13 law.

14 And my contention is the IP -- that the IHP and  
15 the APR was a change in the law. And so I'm asking --  
16 well, let's discuss the change in the law and how we can  
17 best implement that, is what I'm asking.

18 And, oh -- and, by the way, the questions was do  
19 I want to discuss -- no, not right now. It just goes back  
20 to the where -- whatever process, and it's one of those  
21 issues.

22 I just wanted to broaden this a little bit  
23 because we're going technically literally through this,  
24 which is fine. And I'm glad that that process has got us  
25 to where we're at. Now I'm wanting to go back and look at

1 those issues and just broaden it a little bit because it's  
2 tied so directly to the change in the law.

3 MR. JACOBS: Okay. Dave, could I ask, when we  
4 addressed section 102 on -- did we not address anything  
5 pertinent to the IHP?

6 MR. ADAMS: Who are you asking?

7 MR. JACOBS: Dave.

8 MR. ADAMS: Oh, I'm -- if I could --

9 MR. JACOBS: But if you have it, Jason.

10 MR. ADAMS: Every item under section 102 on our  
11 list -- items 16, 17, 18, 19, and 20 -- have all been  
12 resolved by this committee and a consensus reached on  
13 those items.

14 MR. JACOBS: Right. But on -- item 19, on  
15 April 1st we came up with a regulation adoption. I guess  
16 nothing was -- we didn't include anything on the IHP in  
17 that. Okay. Yes. Larry, you had your hand up.

18 MR. COYLE: I would like to make the  
19 recommendation that we kind of parking lot this until  
20 maybe our next meeting in Seattle or the meeting after  
21 that. That will give us a chance to go through these  
22 PIH's and also the new APR and get more input on it, and  
23 then we'll be able to voice our opinion if we have the  
24 time.

25 We want to go through what we already have and do

1 a thorough job on that, so I -- I would like to call for a  
2 consensus on putting this on hold until our next meeting  
3 or so.

4 UNIDENTIFIED SPEAKER: Mr. Chairman, I agree with  
5 Marvin. I think this is an issue that we probably need to  
6 deal with at this meeting and not postpone. So I'll need  
7 to make that comment. But more than that, I wanted to ask  
8 Marvin in particular how he wants to address that.

9 MR. JACOBS: Karin.

10 MS. FOSTER: I was listening to Marvin say we  
11 agreed to use this chart. I'm not sure he meant that we  
12 had agreed to use only this chart. I don't remember  
13 coming to consensus that this was all the items that we  
14 had.

15 I remember when we developed the charter that we  
16 specifically agreed to language that says the charter  
17 establishes a committee to negotiate changes to the  
18 regulations covering the implementation of NAHASDA. We  
19 didn't even adopt a charter that said to negotiate changes  
20 to the statute.

21 I mean, we're talking about whether there need to  
22 be changes to the regulations. So I don't think that  
23 we've adopted a consensus to anything that we'd have to  
24 reopen in order to consider Marvin's issue.

25 MR. JACOBS: Carol, you had your hand up. No?

1 Blake.

2 MR. KAZAMA: I kind of look like Carol. But we  
3 just received the PIH notice regarding the IHP. We need  
4 an opportunity to look at it, determine whether or not --  
5 what it says, where it's going in terms of needing to  
6 develop regulations if need be, just where we stand on  
7 that.

8 And I agree with Marvin in part that that's  
9 negotiated rulemaking. But I need an opportunity to  
10 review what we have so we can make some intelligent  
11 decisions on what this is. Also, not having read that --  
12 I know that in the past several years, that I know of,  
13 there has been a committee that Jason and others and  
14 people on my staff have worked on in helping to develop  
15 the IHP/APR new format. And there was a lot of discussion  
16 that went into that to refine it.

17 So from my perspective, I just want the  
18 opportunity to see: What did they decide? Where did they  
19 go with that? And how is that improving what we had in  
20 the past?

21 And if it makes sense then, you know -- I guess  
22 at some point maybe there -- we need to develop  
23 regulations. I'm not sure about that, because I haven't  
24 read it yet, but --

25 MR. JACOBS: Okay. Mr. Boyd.

1 MR. BOYD: I just want to pick up on something  
2 that Blake mentioned, is that there are no regulations on  
3 this. As you recall, the IHP and the APR were forms put  
4 together by HUD, and then it became a working process.

5 So it really, as far as being germane to any --  
6 any regs, it's just not there, or statute. So, also, I  
7 just want to point out that -- and I think as I stated --  
8 I think Jason made a comment about this, and that is that  
9 this is -- we've been working on this since 2005, and  
10 the -- our window is beginning to close on this.

11 If we don't create some action on this -- and  
12 this is what this -- this notice is all about. If we  
13 don't create some action on this and let it proceed, then  
14 nothing is really going to happen until probably 2012, if  
15 not later. And as -- as Jennifer said, at the earliest.

16 One of the things that we might want to  
17 consider -- again, I realize this is just a discussion --  
18 is to let this proceed. And -- and if there are changes  
19 that we need to make, then they will be amended. Because,  
20 again -- again, it's not in rules and regulations. It's  
21 not in the statute. It's just a notice. Notices are  
22 pretty easy to amend and to change in the out years.

23 So if -- if -- we could proceed on this, is one  
24 option, in this discussion. Whatever action that this  
25 committee takes, because it is just a notice, it certainly

1 can be amended. But I don't want us to run out of time on  
2 this. I'm afraid if we run out of time on this in getting  
3 this notice through the process, then we go back to square  
4 one and start all over again.

5 And -- and I -- it's just a part of the process.  
6 And I guess what concerns me is that this issue was  
7 brought to us -- not to this committee, but was brought to  
8 HUD as a problem that all of you were very concerned  
9 about. And we were just trying to address that problem  
10 and make it better.

11 If there are things, you know -- and, also -- so,  
12 anyhow, that's really all I have to say.

13 MR. JACOBS: Okay. Rodger. Oh, I'm sorry.  
14 Marvin.

15 MR. JONES: Marvin Jones. If I didn't make it  
16 clear a while ago, I'll try to just from my perspective.  
17 It's possible that we could proceed with this in a matter  
18 of 38 seconds if you just simply go in and change some of  
19 that information being requested from -- being required to  
20 voluntary for now. I mean, then it's done. We go through  
21 with that form, you know. And in the meantime, we try to,  
22 like I said, look through and see if there's regulation.

23 Just because it's not in regulation now -- maybe  
24 it ought to be. Maybe it ought to be because HUD is now  
25 imposing or trying to impose requirements that aren't

1 found in the law and regulations. Isn't that a reason to  
2 look at it?

3 One other thing. And I hope Jason will agree  
4 with me. All throughout our committee I was making the  
5 same point over and over again. I said, Jason, wait a  
6 second. You know, this doesn't mean just by these  
7 consensus items that -- these low-hanging fruit -- that  
8 doesn't mean that we're consenting to the whole entire  
9 process; is that right?

10 And he said, We're addressing only what -- the  
11 issues that we were told to -- or agreed to, the  
12 low-hanging fruit, and we'll have that discussion later.  
13 So my -- I'm having the discussion later, because -- and,  
14 again, hopefully Jason will agree -- it was always at  
15 least my intent that we -- to the extent we possibly can,  
16 we're going through this process because it's an efficient  
17 process.

18 Now that we went through that process and I  
19 haven't tried to -- in fact, I tried to encourage the  
20 process all along by withholding it until we got through  
21 most of those issues until an appropriate time. And I  
22 think now is the appropriate time to now bring it up.

23 MR. JACOBS: Okay. Blake.

24 MR. KAZAMA: Just to move things along, I guess I  
25 agree with Jason that it should be under Subpart C and let

1     them take it on and run with it.

2             MR. JACOBS: Okay. I think a lot of folks are  
3     ready to vote. What you're proposing is, to the question  
4     that I raised where do we place it, we place it in C for  
5     them to address while they're meeting. Okay? Is that  
6     consensus? Marvin.

7             MR. JONES: Marvin Jones. That's assuming we're  
8     keeping all of the subgroups, whether -- we're not going  
9     to change the whole format around? I'm fine with it.

10            MR. JACOBS: Okay. I'm going to ask the staff.  
11     We have the list on the -- could we get a copy of this so  
12     we will all know exactly what -- we've got Group F. We've  
13     got A and B, C. If you could give us a copy of that, I  
14     would appreciate it. Yes, Leonard.

15            MR. TELLER: Good afternoon, Committee Members.  
16     With the action just taken, does that mean that we bring  
17     the whole parking lot issues and place them under C or any  
18     other committees? Because it certainly opens the door for  
19     that. There's nothing that precludes anybody from  
20     bringing any other issues to the table.

21            MR. JACOBS: I don't know that we've ever divined  
22     this as a parking lot issue. This is a major part of the  
23     operation of NAHASDA and so forth. And making a decision  
24     whether or not there needs to be a regulation as part of  
25     this is something that I think has to be addressed at some



1 point. So what is the feeling of the committee? Okay.  
2 Marvin.

3 MR. JONES: Marvin Jones. Again, I don't -- I  
4 don't understand the comment. I thought I said that this  
5 is a change in NAHASDA, a change in the law, which is what  
6 we're charged to do. And as was pointed out, even in our  
7 charter it goes beyond that. But this is so tied to it.

8 So it doesn't bring in -- we -- we're not even  
9 talking about the parking lot issues which aren't subject  
10 to the change in the law, even though we want to get to  
11 those. So the reason that I chose to discuss it at this  
12 point in time is because it's -- it's -- it -- it doesn't  
13 fit this format, but it's awf -- it probably should fit  
14 this format. And it's not the parking lot where those  
15 issues aren't subject to the change in the law. And I  
16 really don't understand the -- the previous comment.  
17 Thank you.

18 MR. JACOBS: Okay. I think we can clarify it.  
19 We had consensus here, and it was placed on the Group C as  
20 an issue, so . . .

21 MR. ADAMS: As chairman of C, I just want to  
22 thank you for that.

23 MR. JACOBS: Okay. Mr. Wagenlander.

24 MR. WAGENLANDER: Mr. Chairman, I think it might  
25 clarify things to look at item 22.

1 MR. JACOBS: Can you grab the mike there, please.

2 MR. WAGENLANDER: If you look -- it might clarify  
3 things if you look at issue 22. That's -- that seems to  
4 be the issue that addresses this -- this particular topic.  
5 It's -- it would appear that this is not a parking lot  
6 issue and, Marvin, not one that isn't on this list. In  
7 fact, in HUD's comments you can see them making reference  
8 that they're not sure a regulation is required. But under  
9 what you have already decided is 22 is still an unresolved  
10 issue. And you have it listed up here under Work Group --  
11 Work Group C. You call it Tribal Program Year, but that  
12 may not be the most accurate description for that work  
13 item. So you have it on your list. You may just want to  
14 change the topic.

15 MR. JACOBS: Okay. That's a good point. Okay.  
16 All right. The issue is resolved for this time because  
17 it's going to be discussed. Yes.

18 MS. BECENTI: Sorry. I won't use that one. I  
19 know that we've -- we've moved this on to Subgroup C. But  
20 will we have the forms available to us even though -- even  
21 if they're in travel form as well? I have the PIH notice,  
22 but I don't have the draft IHP/APR form.

23 MR. JACOBS: That's a good question, and we'll  
24 get an answer here as soon as possible. Okay. Let's see.  
25 Rebecca, did you have a question?

1 MS. PHELPS: No.

2 MR. JACOBS: No, okay. The answer from HUD is  
3 that the form will be available. Okay. Any other issues  
4 or comments from anyone? There was one question that was  
5 raised about the next meeting date and place, I guess.

6 Larry and I participated on two occasions with  
7 conferences with the contractor and also HUD staff trying  
8 to work out a meeting place either in Hollywood, Florida,  
9 or Tampa, Florida, and we were not able to work that out.

10 So the question came to us: Could we have the  
11 June and July meetings in Seattle? Because the facilities  
12 are available the dates that the committee had set, so we  
13 didn't have to change any dates. So we tried to  
14 accommodate hoping that we could do something that would  
15 satisfy you, and we took -- made a decision to tell HUD to  
16 go ahead and set up the meetings in June and July in  
17 Seattle.

18 So if -- if you're not happy with that decision,  
19 you can talk with Larry and I. But you put us in this  
20 position, and we had to make a decision. And I hoped that  
21 you would be happy with the decision. So, hopefully, that  
22 clears my staff.

23 Yeah. Larry pointed out that we also looked at  
24 San Diego, and that was not available either. Okay.  
25 Mark.

1 MR. BUTTERFIELD: Just for clarification, are you  
2 then switching July, which was supposed to be in Seattle,  
3 to June, or are you having both of them in Seattle?

4 MR. COYLE: Both of them, June and July.

5 MR. JACOBS: June and July the meetings will  
6 be -- will meet in Seattle on the dates that we previously  
7 said. Okay. Any other comments? Marvin.

8 MR. JONES: Marvin Jones. You're asking about  
9 any other issues or on that particular issue?

10 MR. JACOBS: Either.

11 MR. JONES: Okay. I did want to mention that we  
12 do have those parking lot issues, if we have enough time  
13 that we can get to them, which is what we're trying to get  
14 to the point of; how many issues do we have left and what  
15 kind of time, and those sorts of things.

16 And I was reminded that -- from people that we  
17 shouldn't forget about those because people have an  
18 interest in those particular issues. At some point that  
19 we -- you know, when -- I think when we get some more  
20 clarification as to how many issues that we have and how  
21 long that's going to take. So I just wanted to bring that  
22 up.

23 And the opportunity, I think that we agreed to,  
24 that people would have a continuing ability to put those  
25 issues up on the board, wherever those issues are. Oh,

1     okay, they're back there. And if there's anybody in the  
2     audience that wasn't here last time that they have that  
3     opportunity to go put those issues and let other people  
4     speak. But then I want to come back to that issue if I  
5     could here in a second. I want to -- yeah.

6             MR. JACOBS: Okay. Okay.

7             MR. HAUGEN: Well, Leon, we got two ladies over  
8     here that have been harping on me all day long about  
9     coming from the east and not having a meeting in their  
10    region. So if you asked them to come and see you, I'm  
11    sure they will.

12            MR. JACOBS: I think they already have.

13            MR. HAUGEN: And I don't think that Hollywood or  
14    Tampa is the only places we could have met. That's just  
15    my opinion.

16            MR. JACOBS: On the point of Hollywood, the only  
17    way that we could have used that facility was changing the  
18    dates in June. And USET has a meeting already set in  
19    Mobile on those dates the following week. So that was one  
20    of our deciding factors in deciding what to do and so  
21    forth. But -- okay. Jason, did you have your hand up?

22            MR. ADAMS: (Inaudible.)

23            MR. JACOBS: Okay. Okay. What is your  
24    preference for the rest of the day? Because it's now  
25    4:30, I think. Do you want to break a little early? Or

1 do you want to go into the working groups this late and --  
2 and so forth? What is your pleasure? Karin.

3 MS. FOSTER: Karin Foster, Yakama. I thought  
4 maybe we might talk a little bit about what the work  
5 groups are doing next, or if we're going to stay with  
6 these work groups. It sounds like maybe folks think we  
7 probably will. I'm not sure we decided that.

8 But then once they get into these issues, you  
9 know -- is -- is the intent just to go through  
10 issue-by-issue in order, or are we going to prioritize?  
11 There's been some discussion of process. I'd like to have  
12 a discussion about that before we just go into work  
13 groups.

14 MR. JACOBS: Okay. Any other comments? I think  
15 if the work groups were to reconvene this afternoon, you  
16 could spend some time for the next 30 minutes prioritizing  
17 the items if you wanted to do something like that. I  
18 don't know if the rooms are available. They are.

19 Is that something that you would like to do this  
20 afternoon and be ready to move tomorrow? And, secondly,  
21 what is the pleasure for tomorrow? What time do you want  
22 to reconvene? Because I understand that we should have  
23 the handouts ready tomorrow, so -- Jack.

24 MR. SAWYERS: I suggest we -- there's several  
25 items that are -- what we categorize as 2. I'd like to

1 see the committees take care of those and do them all  
2 early in the morning. And then from there we, you know,  
3 possibly could go with -- with each group and get a report  
4 from each group on -- on the 3's, and then start hitting  
5 them. Just take one at a time and go through them.

6 And I think the committee should be prepared to  
7 talk about them a little bit and -- but let's get rid of  
8 the 2's early so that -- so that we have that all behind  
9 us and they don't show up again. And then we -- each  
10 group would -- would decide which issue they're going to  
11 take first and which one they're most comfortable in. And  
12 it may not be the order that we -- up on the board. But  
13 take those and then give some time for A to do some --  
14 some work, and B and C, and so on.

15 So let's say we take three or four hours with  
16 each group to try to eliminate as many of those things as  
17 we possibly can, and then come back the next day and do  
18 the same thing.

19 MR. JACOBS: Okay. Carol, I understand that you  
20 have some ideas also. Would you like to articulate those  
21 to the committee?

22 MS. GORE: I think there were a number of us that  
23 were having a discussion. It seems that we're assuming  
24 we're going to stay in the same separated groups. And I  
25 don't know that as a committee we really accepted that.

1 So I just want to set the stage.

2 But I think the process that's been working for  
3 us is to continue to find the low-hanging fruit. And if  
4 we could go back to our work groups and, maybe those items  
5 that are on this list, attach a 1, 2 or 3 to them, and  
6 begin to look at the 1's and the 2's, and we begin to  
7 really push those really sticky issues to the end. It's  
8 just an idea for process.

9 That would allow us within the work groups to  
10 split into subgroups so that we could thoroughly inform  
11 ourselves, not just as committee members, but allowing the  
12 audience to participate in that information flow so that  
13 when it comes to the Negotiated Rulemaking Committee they  
14 have a fully informed set of information, I guess is what  
15 I'm trying to say.

16 So I think it's been working for us, and maybe we  
17 should just keep doing the same thing, assuming we're in  
18 the same work groups. Thank you, Leon.

19 MR. JACOBS: Okay. Thank you.

20 UNIDENTIFIED SPEAKER: Mr. Chairman, in terms of  
21 F group, we -- every work group has a different set of  
22 issues that go together a different way. We may have  
23 packages of issues we may want to take up at one time and  
24 then put off others that have no relationship to the order  
25 in which they appear on the board. So assuming we keep



1 the same work groups -- which, of course, is a committee  
2 discussion -- we'd ask that you give the work groups their  
3 hat in terms of being able to decide among themselves in  
4 what order they want to take up issues that have been  
5 assigned to them.

6 MR. JACOBS: Okay. Do you like the process that  
7 Carol mentioned, that you -- when you go into your group,  
8 you identify the 1's, 2's and 3's?

9 UNIDENTIFIED SPEAKER: Well, what -- what I was  
10 going to suggest with our group -- I don't know, unless  
11 you want to set up a schedule for all the groups -- is  
12 that -- is that we have a short meeting -- the groups have  
13 a short meeting to talk about the issue of prioritizing.

14 People can spend the night thinking about --  
15 because we have a memo circulating among our group that  
16 has all our issues listed -- and talk about what order  
17 they think makes the most sense. And then first thing in  
18 the morning we get together and put together a priority  
19 list of how our group wants to take them up.

20 That would be -- I don't know how that fits in  
21 with the other groups' plans, but that would be our  
22 preference.

23 MS. MARASCO: I just thought I'd open Pandora's  
24 Box and say: Are we going to stay in the same committees?  
25 I'm not opposed to that because I'm comfortable where I

1 am. But since this is an issue Marvin has raised a few  
2 times, maybe the committee needs to come to some consensus  
3 that we're -- that we're going to maintain the same  
4 working groups. And if we aren't, maybe that's the next  
5 issue we need to address.

6 MR. JACOBS: Okay. Marvin.

7 MR. JONES: Marvin Jones. And I agree with that  
8 point. What would really be useful to me, and it's really  
9 working towards Dr. Kazama's point made at a previous  
10 committee where he was analyzing how much -- how many  
11 committee meetings we had left, how much time, and how  
12 many issues.

13 And the idea was to get some of those things off  
14 the table, see what we have left, and then now get to the  
15 point, maybe tomorrow, as to do that analysis, see where  
16 we're at, see how much time that we can then devote to the  
17 particular issues that we have left; how much time, if  
18 any, on the parking lot issues.

19 And so the whole idea of this process was to get  
20 to that point, that a number of you have mentioned that.  
21 You know, where we don't -- we got all these things; we're  
22 not making progress; we don't know where we're at. And I  
23 think we're getting closer to that point. So somehow if  
24 we can get to that point, then that will allow us to know  
25 what we still have to accomplish over the next few

1 committee meetings, and that goes along with the point as  
2 to how we then are effectively organized, you know,  
3 whether we keep the same structure or something different.

4 MR. JACOBS: I think there's been a lot of  
5 discussion earlier today when we talked about the working  
6 groups, whether you wanted to meet -- stay in the same  
7 group or whether you wanted to change. But I don't  
8 know -- I don't know if it's pertinent that you stay in  
9 the same group or what have you. What -- what -- what is  
10 your pleasure? Do you feel that the groups should stay or  
11 they should go to the one that they think is more  
12 important to them and their particular area?

13 MS. MARASCO: I'm not proposing that everybody  
14 that are in the first groups stay in that group. I'm  
15 saying we should keep the groups the way they are and  
16 anybody can join any of them, that we can transition back  
17 and forth between all of them if we want. But that as a  
18 working group, those are the issues that that group is  
19 covering.

20 MR. JACOBS: Right.

21 MS. MARASCO: I'm not saying Marvin has to stay  
22 in his group, although -- although I'm hoping he does. We  
23 love you, Marvin.

24 MR. JACOBS: Well, I think we have the items on  
25 the board here. And I don't know if we've distributed

1 those yet. How soon will we have them?

2 THE FACILITATOR: How soon can we have copies of  
3 the list?

4 MS. FAUCETTE: Five minutes.

5 MR. JACOBS: Okay. So by the time you get into  
6 your work group, we'll get them to you. How is that? Can  
7 we spend 30 minutes this afternoon where you can start  
8 discussing your -- your items? And then do you want to  
9 move into the working groups again first thing tomorrow  
10 morning, or do you want to assemble here first and then go  
11 into -- you have the agenda that was printed that talks  
12 about the committee's working groups. We're supposed to  
13 meet here at 8:10 until 10:15, and then go into the  
14 working groups after the break for the rest of the  
15 morning.

16 Do you want to follow this agenda, or do you want  
17 to make any changes to it? All right. We have one  
18 recommendation, that we open here collectively at 8:10 and  
19 shorten -- we were supposed to meet until 10:15. But  
20 could we work -- have a committee meeting here until 9:00  
21 o'clock, and then at 9:00 o'clock the working groups would  
22 go to your meeting area? What is the pleasure? Okay. So  
23 you want to modify a little. And we'll have a joint  
24 meeting starting at 8:10 tomorrow morning until  
25 9:00 o'clock, and then we'll go into the working groups.

1 Carol.

2 MS. GORE: I just wanted to make sure we didn't  
3 forget Jack's very good recommendation. If the Drafting  
4 Committee has items that are ready for this committee to  
5 consider for consensus, he suggested we deal with them  
6 first thing in the morning. I think that's what I heard.

7 So I -- I don't want us to forget that. That  
8 gets a couple more things off our list, and we can get  
9 back to that. My second comment, because I think -- I  
10 agree with Marvin. We need to know that the clock's  
11 ticking, and we need to know what that means.

12 And it was really helpful to sort of take that  
13 two-hour time frame, count up the number of issues. I  
14 realize this list doesn't include the parking lot. But  
15 if -- it wouldn't take us long to count up how many are  
16 there and add two hours to each issue and figure out what  
17 is that number, and that would give us some place to start  
18 tomorrow.

19 So it's just a suggestion of some very --  
20 two-minute thing we can do tonight to give us something to  
21 think about. Thank you.

22 MR. JACOBS: Okay. Good point. Marvin.

23 MR. JONES: Marvin Jones. And I agree with that.  
24 I think one of the work tasks that these subcommittees  
25 ought to do is estimate -- if they're going to remain a

1 subcommittee -- how long is it going to take you to  
2 resolve those issues? You know, one day? Two days?  
3 Three meetings? And bring that back to us, and then we  
4 compile it and -- and see where we're at.

5 MR. JACOBS: Okay. Yeah. I think Jack's point  
6 was well taken. And if we get the information tonight, we  
7 can look at it before we go to sleep tonight -- but if  
8 not, we'll get it tomorrow morning -- and see how many  
9 items we can address between 8:10 and 9:00 o'clock, or  
10 what have you. If we have to run over a little more and  
11 go to 9:30, fine. Okay. All right. Rodger, any  
12 comments? Okay. You're getting the information now,  
13 so -- Jason, yes.

14 MR. ADAMS: I'm going to ask a question, and  
15 pardon me if I missed something. But I guess my concern  
16 is when we agreed to do the work groups for the  
17 low-hanging fruit, we reached consensus on that issue. I  
18 think I've heard several people around the table suggest  
19 that we continue the work groups for the next phase of  
20 this work. But have we reached consensus on that? If  
21 not, I would call for a consensus on that so that we can  
22 move, so that it's officially done.

23 MR. JACOBS: All right. Okay. You can go to the  
24 work groups and work as long as you want to this evening.  
25 Okay. Yeah, Blake.

1 MR. KAZAMA: Two things. I wanted to have an  
2 Alaska caucus on the IHP issue. The second thing is I  
3 wanted to recognize Marty Shuravloff's birthday today.

4 (Applause.)

5 MR. JONES: Marvin Jones. We had these parking  
6 lot issues, and last meeting we specifically made a point  
7 on an issue, and it covers one page up here. Subsequent  
8 to that, we've had discussions with HUD, and greatly  
9 appreciate those discussions. Have resolved that issue;  
10 not just for us, but for all the tribes. And we greatly  
11 appreciate having to not bring it here. And it was a real  
12 good discussion, and came to a -- you know, a conclusion I  
13 think that everybody is happy with. And so we're taking  
14 that off of the parking lot issue and appreciate --  
15 appreciate you all working with us on it.

16 MR. JACOBS: Thank you.

17 MR. COYLE: Also, I want to make an announcement.  
18 I got a birthday the 25th, and then I'll be older than  
19 Jack.

20 MR. JACOBS: All right. Yes.

21 MR. KAZAMA: One last thought, Mr. Chairman. We  
22 referred to parking lot issues, and I -- I guess my  
23 concern is when we were doing the formally negotiated  
24 rulemaking, parking lot issues were issues that were not  
25 germane to subpart (d).

1           So are we saying now that really parking lot  
2   issues are germane to subpart (d) and will be handled  
3   there, and everything else are not parking lot issues but  
4   are issues? I just needed clarification on that because  
5   people in the -- the work groups are asking some of these  
6   questions. That's why I brought it up before.

7           You know, how are we going to handle issues of  
8   parking lot -- you know, maybe we're misidentifying those  
9   as parking lot issues possibly?

10          MS. MARASCO: (Inaudible).

11          MR. KAZAMA: Yes, I guess we use this term, but  
12   I'm not real clear what we are referring to. Because it  
13   meant something different the last time we had a  
14   negotiated rulemaking.

15          UNIDENTIFIED SPEAKER: (Inaudible.)

16          MR. JACOBS: Do you want to discuss that farther?

17          MR. SAWYERS: No. Let's go to our groups.

18          MR. JACOBS: Okay. We'll give that to Group F to  
19   define. All right. You can go work in the work groups  
20   now. Okay.

21          (Proceedings adjourned at 4:46 p.m.)

22

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24

25



1 C E R T I F I C A T E

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