

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Parts 3282 and 3285

[Docket No. FR-5295-P-01]

RIN 2502-A183

### On-Site Completion of Construction of Manufactured Homes

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish a procedure whereby construction of new manufactured housing can be completed at the installation site, rather than in the factory. Under current HUD regulations, a manufacturer must obtain HUD approval for on-site completion of each of its designs. This rule would simplify the process, by establishing uniform procedures by which manufacturers could complete construction of their homes at the installation site without obtaining advance approval from HUD. This rule would apply only to the completion of homes subject to the Manufactured Home Construction and Safety Standards, not to the installation of homes subject to the Model Manufactured Home Installation Standards. Additionally, the proposed rule would not apply when a major section of a manufactured home is to be constructed on-site.

**DATES:** *Comments Due Date:* August 23, 2010.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments

allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** William W. Matchneer III, Associate Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9156, Washington, DC 20410, phone number 202-708-6409 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 *et seq.*) (Act), as amended, authorizes HUD to establish and amend the Manufactured Home Construction and Safety Standards (construction and safety standards). The construction and safety standards established by HUD are codified in 24 CFR part 3280. The Act also authorizes HUD to conduct inspections and investigations necessary to enforce the

standards, to determine that a manufactured home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification of such failure, defect, or hazard, and, in some cases, to remedy the defect or imminent safety hazard through established procedures necessary to ensure compliance with the construction and safety standards and the related enforcement and monitoring provisions of the Act. These procedures are codified in 24 CFR part 3282. As stated in § 3282.1(b), HUD's policy is to work in partnership, especially with state agencies, in the enforcement of the construction and safety standards, consistent with the public interest.

This proposed rule would establish procedures to permit completion of new manufactured housing at the installation site, rather than in the factory, under certain circumstances. Currently, § 3282.14(b) requires that manufacturers request and obtain HUD approval to permit alternative construction (AC) for each model of home that it wants to complete construction at the home site, rather than in the production facility. In general, this proposed rule would obviate the need for HUD approval in certain circumstances and permit construction on-site, rather than in the factory, that, upon completion, meets the construction safety standards. The on-site work that would be covered by this proposed rule would be limited to work required to bring the home into conformance with these standards. This rule would simplify on-site construction, by establishing uniform procedures to permit manufacturers to construct homes at the installation site without seeking advance approval. In developing this proposed rule, HUD provided a draft version to the Manufactured Housing Consensus Committee (MHCC) and incorporated many of the committee's comments. MHCC is a Federal Advisory Committee authorized by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106-569) (2000 Act). This consensus committee was established to provide HUD with periodic recommendations regarding Federal manufactured housing construction and safety standards and related procedural and enforcement regulations. MHCC is composed of 21 voting members representing manufacturers and retailers, consumers, organizations with a general interest in manufactured housing, and public officials.

The MHCC considered the new on-site completion process to be an improvement on the existing AC process. As recommended by MHCC,

HUD has modified the text of its original draft of this proposed rule to recognize that some aspects of joining sections of multiple section homes constitutes installation, rather than construction. HUD has been careful to make this distinction in other recent rules it has promulgated. On October 19, 2007 (73 FR 59338), HUD published a final rule that establishes model installation standards in 24 CFR part 3285. In that final rule, several subparts identify particular kinds of work done on-site to join section homes as being within the scope of these installation requirements.

In addition to seeking general comments on this rule, HUD requests comments on a number of specific questions regarding how to define the scope of work that may be permitted under this proposed rule (see Section III of this preamble). Commenters are encouraged to consider these distinctions as they prepare their submissions on this proposed rule.

## II. This Proposed Rule

Section 3282.14 of HUD's Manufactured Home Procedural and Enforcement Regulations permits the sale or lease of manufactured homes that are not in compliance with the construction and safety standards in circumstances where the public interest is not compromised. That section establishes specific AC procedures that allow HUD to approve such homes to encourage innovation and the use of new technology. The procedure expressly applies when manufacturers seek to use innovative designs or techniques that are not in conformance with the construction and safety standards. In order to obtain an AC approval, the manufacturer must show that the construction it proposes provides performance that is equivalent or superior to that required by the construction and safety standards.

The AC process is limited to specific circumstances and requires the manufacturer to submit a formal request to HUD. This procedure can be lengthy, and, when originally implemented, was not intended to address the sophistication of the current modern manufactured housing construction techniques. Manufactured homes now include home design features, such as stucco or brick, that cannot reasonably be completed in the factory, and which are currently being completed on-site under the AC process. HUD also recognizes that many parts of modern manufactured homes, such as components of smoke alarm, heating, ventilation, air conditioning, and plumbing systems, are typically shipped loose with the home. It is only when

these systems are completed that the homes comply with the construction and safety standards. HUD believes that the individual application and approvals required by the AC process limit the availability of safe, durable, and affordable manufactured housing.

This proposed rule would authorize HUD's approved Design Approval Primary Inspection Agencies (DAPIAs) and Production Inspection Primary Inspection Agencies (PIPIAs) (collectively known as PIAs) to approve and inspect manufactured homes designed to be completed on-site. The proposal is consistent with HUD's policy to expand regulatory flexibility and encourage innovation in the construction of manufactured homes, and facilitate the timely completion of manufactured homes on-site. This proposed rule would also allow HUD to better use its existing resources to ensure that manufactured housing is durable and safe. This proposed rule would apply only to completion of home construction, and thus not apply to the installation of the home. Construction of a manufactured home and installation of a manufactured home are subject to two separate standards. As noted earlier, the HUD standards for the installation of manufactured homes are codified at 24 CFR 3285.

For HUD to allow this variance from the current requirements relating to the construction of manufactured housing in the factory, manufacturers must establish an adequate quality control and inspection process, and must provide for good recordkeeping, in order to ensure protection for consumers and the public. In reviewing comments, HUD will be responsive to the needs of manufacturers, private inspection agencies, state officials, and consumers. HUD emphasizes that the procedures that would be permitted under this proposed rule would apply only to aspects of construction subject to Federal construction and safety standards. Thus, approval of construction completed on-site under this new process cannot be extended to requirements imposed under state or local authority that are not subject to Federal construction and safety standards.

The Federal manufactured housing program is based upon national construction and safety standards that are enforced through the manufacturer's quality control systems, in-plant compliance inspections by HUD-approved third-party agencies, and performance monitoring of those agencies in the plant. Given the objective of the Federal manufactured housing program, this rule does not

propose to permit major portions of a home to be completed beyond the plant, as that would avoid the normal inspection and certification process, and may frustrate legitimate local and state code enforcement efforts. In Section III of this preamble ("Specific Issues for Comment"), commenters are invited to respond to a number of questions aimed at defining the limits for proposed procedures.

HUD submits that allowing selected completion of construction after the manufactured home is transported to the site, without requiring prior AC approval, will encourage the use of designs and techniques that will demonstrate the adaptability and versatility of manufactured housing. Manufacturers continue to make significant improvements to both the quality and the aesthetics of such homes. Easing the process for on-site construction could lead to increased recognition of manufactured homes as a viable source of unsubsidized affordable housing and could encourage zoning policies that do not discriminate against manufactured housing.

### *A. Incorporation of Manufactured Housing Consensus Committee Recommendations*

This proposed rule has a lengthy history involving collaboration with MHCC during the very beginning stages when the actual objectives and the concept of on-site completion were being developed. Starting in March 2003, MHCC was first provided with the Department's initial proposal concerning on-site completion. The concept evolved beginning with the MHCC's response in May 2003 and comments in August 2003. Additional discussions with MHCC took place in December 2003. From 2004 through 2007, the HUD continued to update MHCC on the status of the proposed rule, and drafts were exchanged. In February 2008, HUD provided MHCC with a prepublication draft and spent several hours discussing the draft with MHCC in April, July, and August of 2008. Additional changes were made as a result of those discussions, and MHCC was provided with its last prepublication draft in April 2009.

As a result of the comments received from MHCC on HUD's draft proposal, HUD modified the text of the draft proposed rule and accompanying preamble in several fundamental and substantial ways. One significant change recommended by MHCC, which HUD incorporated into the model installation standards and installation program, was to include several specific aspects of the

close-up work<sup>1</sup> done on multiple section homes under the scope of installation standards, rather than under the scope of the construction and safety standards. While HUD does not propose to subject this work to the requirements of this proposed rule, such work would be subject to all applicable Federal and state installation requirements. Further, as a result of being considered installation rather than construction, different procedural and remedial requirements would apply to this work.

Through this rule, HUD seeks to establish a clear basis for determining the party responsible for the various activities relating to producing and siting a manufactured home. By including the close-up of multiple section homes within installation standards, rather than construction and safety standards, those limited and specifically defined aspects of the placement of a manufactured home at a site would not be subject to either the on-site completion or AC processes. For example, the final work on Wind Zone I low-pitch hinged roofs that are not penetrated would generally be governed by state or Federal installation standards. HUD stipulates wind loads and design requirements at 24 CFR 3280.305(c)(1) and (2). Each manufactured home must be designed according to according to these standards; the home must be designed and constructed to conform to one of three wind load zones.<sup>2</sup> The appropriate wind zone used in design is dependent upon where the home will initially be installed.

Even when close-up work is governed by the installation standards, the manufacturer remains responsible for assuring that the sections of a multiple section home can be joined in a way that will bring the home into conformance with the construction and safety standards. The model installation standards require manufacturers to provide instructions for close-up in

their installation instructions (*see* § 3285.801). Therefore, while the installer is responsible for completing the close-up work, the manufacturer continues to be responsible for providing instructions that are acceptable under the construction and safety standards.

*Under this proposed rule, work done to complete the home to the construction and safety standards would fall within three categories:* (1) Work done in the factory in accordance with the construction and safety standards and an approved quality assurance manual; (2) work done that does not comply with the construction and safety standards, but has been approved through the AC process; and (3) work done in accordance with procedures proposed to be established by this rule, which would cover work done beyond that done in the factory to complete certain aspects of the home to the construction and safety standards. The designs for construction work to be done on-site in accordance with the procedures proposed by this rule would be subject only to Federal construction and safety standards; state and local jurisdictions are preempted from establishing their own design requirements for these aspects of the home, unless the requirements are identical to the Federal construction and safety standards.

Examples of the types of work to which the rule would apply include:

- (a) Completion of dormer windows;
- (b) Addition of stucco, stone, or other siding that is subject to transit damage;
- (c) Retailer changes to the home on-site (such as add-ons subject to requirements established by the local authority having jurisdiction), when the home is taken out of compliance with the construction and safety standards and then is brought back into compliance with those standards;
- (d) Assembly of any multistory design that conforms to the construction and safety standards when finished; and
- (e) Certain types of hinged roof and eave construction that are not exempted as installation by § 3285.801(f). This exemption would include certain roof peak cap construction and peak flip construction associated with completing the peak/ridge area of the roof.

Conforming changes to this regulatory section of the Model Manufactured Home Installation Standards are also being proposed to clarify that certain design elements, including those examples listed above, are to be considered construction and, as such, are also not exempted as installation regardless of the roof pitch of the hinged roof.

On-site completion as proposed by this rule would apply to the completion of any high-pitch (*i.e.*, roof pitch equals or exceeds 7:12) hinged roof construction that conforms to the construction and safety standards when finished. Completion of lower-pitched hinged roofs that are not penetrated above the hinge and are designed for Wind Zone I would be considered installation, and are not proposed to be covered by this rule.

However, HUD is seeking comments on whether different treatment for high pitch roofs with slopes 7:12 or greater is needed because for higher roof slopes, a portion of the attic meets the ceiling height/living space requirements of the construction and safety standards and, as such, will require the attic floor to be designed for the floor live loads of 40 pounds per square foot (psf), in accordance with § 3280.305(g) of the construction and safety standards. HUD is concerned that under the on-site completion process, these floor live loads may not be considered, as is the current practice with the AC process. For roof slopes of less than 7:12, the ceiling height of the entire attic space will be less than 6'-0" and, as such, does not meet the minimum requirements for living space in § 3280.104 of the construction and safety standards.

Further, the reference standard of the American Society of Civil Engineers (ASCE), ASCE 7-88, provides that any uninhabitable attic space which can be used for storage be designed for a storage live load of 20 psf. Manufacturers should note that they remain responsible for assuring that a home with a high-pitch hinged roof complies with all applicable construction and safety standards if the home is sold with indications that the additional space provided under the roof when fully erected is suitable for living space. Therefore, when fixed stairway access is provided to the attic space, the floor of the attic must comply with structural design requirements for floors, either to be used as living space or to withstand a 40 psf live load (rather than a storage load). The manufacturer must also provide either insulation requirements for the floor of the upper living space area or an insulated and, where appropriate, weather-tight attic access panel or hatch.

In the final rule that will follow this proposed rule, HUD may further clarify these requirements through conforming amendments to the design requirements in the construction and safety standards that must be met for high-slope hinged roofs below which living space is likely to be created when the roof is fully raised.

<sup>1</sup> Close-up consists of the work and activities for completing the assembly of the manufactured home. It is the work of joining up of all sections of a multi-section manufactured home. (*See* 24 CFR part 3285, subpart I.)

<sup>2</sup> In order to ensure that manufactured homes survive the threats of hurricanes and other storms, HUD developed Wind Zone construction standards. Manufactured homes may be installed only in counties where they meet the Wind Zone construction standards that apply to that county. Wind Zone I homes have the least stringent construction standards and Wind Zone III homes have the most stringent construction standards. Homes designed and constructed to a higher Wind Zone can be installed in a lower Wind Zone (a Wind Zone III home can be installed in a Wind Zone I or II location). However, a Wind Zone I home cannot be installed in either a Wind Zone II or III area.

*Examples of designs in which the completed home does not comply with the construction and safety standards when finished and would therefore require an AC approval include:*

- (a) Single-family attached construction;
- (b) Multi-story homes that do not comply with the standards because of egress or other requirements; and
- (c) A home installed without floor insulation over a basement; *i.e.*, the existence of a basement will not substitute for insulation under the construction and safety standards. (However, when the floor is properly insulated at the factory, it may be installed over a basement without having to use either the on-site or AC approval processes.)

Another change recommended by MHCC and adopted by HUD in this proposed rule concerns the labeling system for homes completed under the on-site process. Based on MHCC recommendations, HUD has fashioned an on-site labeling system that requires only one permanent label, rather than both a temporary, preliminary and a permanent final label, as HUD had originally drafted.

HUD did not incorporate several changes the MHCC recommended to the consumer notice required as part of this rule, because the recommendations were not consistent with the responsibilities otherwise established for all parties in this proposed rule. The text of the consumer notice and special permanent label were revised to simplify the content, while assuring adequate consumer understanding of the construction procedure applicable to any manufactured home completed on-site under this special approval process.

This proposed rule also provides that, as part of the on-site completion process, the DAPIA will approve a quality control checklist provided by the manufacturer. This checklist will then be used in verifying that the required on-site work has been completed to the construction and safety standards, and may also be used by the IPIA to ensure the effectiveness of the manufacturer's quality control system.

Another significant change recommended by MHCC that HUD incorporated was to limit the performance of the on-site inspections required by this rule to the IPIA. HUD's draft proposal included a section entitled "State Agency Inspection." This section permitted a state to elect to conduct the on-site inspections set forth in this rule if the state met certain criteria necessary to become an Accepted State Agency.

There was considerable disagreement about whether such a state should conduct on-site inspections "on behalf of the IPIA." MHCC's recommendation proposed that even though the IPIA was not performing the on-site inspection, the IPIA would still retain the responsibility of determining whether or not a manufacturer was performing adequately. MHCC's proposal also only permitted the IPIA to require red tagging and re-inspection when such a determination was made. MHCC's recommendation closely tracked the arrangement that is currently used by IPIAs to conduct AC inspections whereby IPIAs contract with third parties to conduct the final on-site inspection. However, unlike the AC arrangement proposed by this rule, the IPIA was not expected to enter a contractual arrangement with state governments; rather, HUD would authorize state on-site inspections. HUD suggested that any state that met the requirements to perform on-site inspections in the state should also be responsible for reviewing each manufacturer's final on-site inspection report and determining whether to accept that inspection report. For the purposes of this proposed rule, the State Agency Inspection section was omitted in its entirety.

HUD nevertheless remains highly interested in this issue and is seeking additional comments on the topic, and, based on comments, will further consider the appropriateness of its possible inclusion in this section in HUD's regulations.

MHCC also suggested that the requirement for the DAPIAs to retain copies of on-site approvals in their permanent records be limited to 5 years. Because this suggestion is consistent with the current 5-year requirement for DAPIA retention of approved designs and design changes, HUD has incorporated the MHCC suggestion into the proposed rule.

#### *B. Procedure for Approval of Completion of Non-Compliant Designs (Alternative Construction)*

The proposed procedure to allow limited on-site completion of manufactured homes would complement the AC procedure by which HUD now approves construction using designs and techniques that do not comply with the construction and safety standards. These two procedures (HUD's proposed procedure and the existing AC procedure) will address different aspects of the final product, though both may be utilized on the same home. The on-site completion process proposed by this rule is for

homes that comply with the requirements of the construction and safety standards and would eliminate further use of the AC process for this same purpose. The AC process would be reserved for homes with use of new designs or techniques that do not comply with the construction and safety standards.

*The procedures proposed to be established by this rule for on-site completion would differ from the AC process in that:*

(a) On-site completion would apply only to homes that can be certified as substantially meeting the requirements of the construction and safety standards when labeled in the factory and that comply fully with those standards when completed on-site;<sup>3</sup>

(b) On-site completion would allow a manufacturer to work directly with the DAPIA and IPIA for approval to complete aspects of construction at the final home site and avoid submissions for approval by HUD. The on-site completion process would also eliminate the direct HUD review and approval currently required under the AC process; and

(c) On-site completion would require the manufacturer's quality control manual to extend to the on-site work. The process would require the IPIA to concur with the manufacturer's quality control manual and to accept responsibility for assuring that the system is working and that on-site construction is completed in conformance with the construction and safety standards and approved designs. Only persons authorized by the manufacturer would complete the construction work on-site, and only the IPIA in the factory of origin, or another qualified independent inspector acceptable to and acting on behalf of the IPIA (including, possibly, an IPIA in the state where the home is sited), would perform oversight tasks, including inspections.

The process proposed by this rule would eliminate much of the reporting for site inspections of completed homes currently required under the AC process. The manufacturer would need only report to HUD or its agent the location of the home, its serial number,

<sup>3</sup> (Later in this preamble, HUD raises a question about whether this proposed process for completion on-site also could apply to inspection of transportation damaged homes to which substantial repairs are performed outside of the factory. In such a case, the manufactured home would have been labeled in the factory, but because of damage sustained before sale to the purchaser, or alterations made as part of the sale, could not be sold by the retailer until significant repairs are made under the authority of the manufacturer, as provided in 24 CFR 3282.253.)

and a brief description of the work done on-site. This information is proposed to be included on a modified production form that is based on the current HUD Manufactured Home Monthly Production Report (Form 302), on which each manufacturer already reports to its IPIA and to HUD (or its monitoring contractor) certain completion and shipping information on labeled units.

The on-site completion process does not alter in any manner the overriding requirement to construct or complete a home in compliance with the construction and safety standards. Taking a home out of compliance with these standards, regardless of where completion takes place, is a violation of the Act. For example, if a retailer agrees to make any major change to the home on-site, the home must meet the construction and safety standards when that work is completed. The retailer continues to be prohibited from selling a home that does not comply with the construction and safety standards, and the manufacturer continues to be responsible for assuring correction of a nonconforming home before sale. To the extent that the alteration involves an aspect of the home that is governed by the construction and safety standards, the work must be performed in accordance with a DAPIA-approved design and must be inspected in accordance with the on-site completion requirements that would be established in this rulemaking. State and local jurisdictions continue to be permitted to inspect add-ons and, as currently provided in § 3282.303(b) of the regulations, to inspect retailer alterations.

### C. Discussion of Proposed Regulations

1. *Purpose and applicability* (§ 3282.601). This rule proposes a procedure that would allow manufacturers to deviate from existing completion requirements when an aspect of construction cannot reasonably be completed in the manufacturer's production facility. For example, it might not be possible to completely assemble a dormer window until the home arrives on-site. In general, the proposed rule permits on-site completion under some circumstances, without requiring an AC approval from HUD. These special procedures would be available only when the manufacturer, its DAPIA, and its IPIA agree to follow them, and can only be used if all affected homes are substantially completed in the factory, as defined.

2. *Qualifying Construction* (§ 3282.602). The on-site approval process will be available for work to

complete a partial structural assembly or system that cannot reasonably be done in the factory. The reasons for this difficulty may result from, for example, transportation limitations, design requirements, or delivery of an appliance ordered by a homeowner. This proposed rule would clarify when work on certain hinged roofs could be completed under the installation standards, rather than through the on-site process under the construction and safety standards.

3. *DAPIA Approval* (§ 3282.603). The proposed rule provides that the manufacturer must request and obtain DAPIA approval to complete, on-site, the final, limited aspects of construction of a manufactured home that would be substantially completed in the factory (*i.e.*, the home leaving the factory must include: (1) A complete chassis; and (2) structural assemblies and plumbing, heating, and air conditioning systems that are complete except for limited construction that cannot reasonably be completed in the manufacturer's production facility and that the DAPIA has approved for completion on-site). Among other things, in the approval, the DAPIA will identify what work will be completed on-site and will authorize a notice that includes a description of this work, identify instructions authorized for completing the work on-site (including any special conditions and requirements), and list all models for which the DAPIA approval is applicable.<sup>4</sup> As part of its approval, the DAPIA will stamp or sign each page of any set of designs accepted for completion on-site, and will include an "SC" designation on each page that includes an element of construction that is to be completed on-site.

In addition, the DAPIA must approve the part of the manufacturer's written quality assurance manual that is applicable to completing the manufactured homes on-site under the construction and safety standards. When the part of the quality assurance manual applicable to the on-site completion also has received the concurrence of the IPIA, the system may be approved as part of the manufacturer's quality assurance manual. If this approval is not done as part of the initial approval of the entire quality assurance manual, the pertinent part of the manufacturer's manual will be deemed a change to be incorporated into the manual in accordance with established procedures (see

<sup>4</sup> As with the AC process, an approval for on-site completion may be made more flexible when the IPIAs and manufacturer agree that the approval is not model-specific, but may be extended to additional models. See § 3282.14(c)(3).

§§ 3282.203(e) and 3282.361(c)(4)). The approval will also include other requirements, such as use of an inspection checklist developed by the manufacturer and approved by the DAPIA, in the manufacturer's and IPIA's final inspections. As with the procedures followed under an approval for AC, the manufacturer's IPIA will then be responsible for assuring that the homes the IPIA inspects under the new procedures proposed by this rule comply with the changes in the quality assurance manual, as provided in § 3282.362(a) of the existing regulations, and with the approved design or, where the design is not specific, to the construction and safety standards.

4. *DAPIA Responsibilities* (§ 3282.604). In addition to the DAPIA's regular duties under § 3282.361, the DAPIA would be responsible for:

(a) Verifying that the manufacturer submits all required information, when a manufacturer seeks a DAPIA's approval to complete any aspect of construction under on-site under § 3282.603;

(b) Reviewing and approving the manufacturer's designs, site completion instructions, and quality assurance manuals for the site work to be performed;

(c) Determining whether there is complex work involved that requires special testing or inspections for IPIA inspectors to perform the on-site inspections; and

(d) Revoking or amending its approvals for on-site construction, as provided in § 282.609, after determining that the manufacturer is: (1) Not complying with the terms of the approval or the requirements of § 3282.611; (2) the approval was not issued in conformance with the requirements of § 3282.603; (3) a home produced under the approval fails to comply with the Federal construction and safety standards or contains an imminent safety hazard; or (4) the manufacturer failed to make arrangements for one or more manufactured homes to be inspected by the IPIA prior to occupancy. Upon revocation or amendment of a DAPIA approval, the DAPIA must immediately notify the manufacturer, the IPIA, and HUD.

5. *Requirements Applicable to Completion of Construction* (§ 3282.605). After an acceptable final inspection of work completed on-site, the manufacturer must report to HUD or its agent the serial number and a brief description of the work done on-site for each home produced under the these procedures. This report must be consistent with the DAPIA approval and

is to be submitted, in part, on the modified production Form 302. A copy of this report also must be submitted to the State Administrative Agencies (SAAs) of the states where the home is substantially completed in the factory and where the home is sited, as applicable. The serial numbers as provided by the manufacturer must contain the prefix "SC", for site construction.

A home will be shipped from the factory with a special on-site completion certification label. This on-site completion certification label is in lieu of the traditional manufacturer's certification label (see 24 CFR 3280.5 and 3282.362(c)(2)) and will indicate that the manufacturer must complete and inspect the authorized on-site work. The on-site completion certification label will be a different color, but will be the same size as the traditional certification label and will be located and affixed in the same manner as required for the traditional certification label (see 24 CFR 3280.11). The color green has been specified as a requirement for the on-site completion label, in order to distinguish it clearly from the traditional red manufacturer's label for certification of completion in the factory in accordance with the construction and safety standards.

HUD seeks comment on whether this color distinction between the traditional label and the on-site completion label would be helpful to state and local regulators or to consumers who might purchase homes completed under the on-site completion process.

Approved designs for completion of aspects of construction outside of the manufacturer's plant must be marked with the identification code for the appropriate approved set of designs, and must be included as a separate part of the manufacturer's approved design package.

All aspects of construction that are completed on the final home site remain the responsibility of the manufacturer, which must ensure that the home is properly labeled and, as part of its final on-site inspection report provided to the IPIA, certify that the work is consistent with DAPIA-approved instructions and conforms with approved designs or, as appropriate under § 3282.362(a)(1)(iii), conforms to the construction and safety standards. The IPIA would be required to review all of the manufacturer's final on-site inspection reports and to inspect all on-site work completed pursuant to an approval under this new process. If the IPIA determines that the manufacturer is not performing adequately in conformance with the approval, the IPIA may require

reinspections, until it is satisfied that the manufacturer is conforming to the conditions included in the approval.

6. *Consumer Information (§ 3282.606)*. In addition to the on-site completion certification label, the home must be shipped with a "NOTICE" that explains that the home will comply with the requirements of the construction and safety standards only after all of the limited site work has been completed in accordance with detailed instructions provided by the manufacturer, and the home has been inspected. The "NOTICE" is to be displayed in a prominent and highly visible location within the home (e.g., a kitchen countertop or front door), and includes information instructions for those aspects of construction to be completed on-site and provided with the home. The notice may be removed only after the final inspection report is completed and the purchaser or lessor is provided with a copy of the report.

The sale or lease of the manufactured home to the purchaser will not be considered complete (see § 3282.252(b)) until the purchaser has been provided with a copy of the manufacturer's final site inspection report, including the certification of completion that has been reviewed and accepted by the IPIA. The manufacturer must maintain in its labeling records an indication that the final on-site inspection report and certification of completion has been provided to the purchaser and the retailer.

7. *Responsibilities of the IPIA (§ 3282.607)*. The responsibilities of the IPIA will include, in addition to the IPIA's regular duties under § 3282.362:

(a) Working with the manufacturer and the manufacturer's DAPIA to ensure that the manufacturer's quality control system has the proper procedures and controls to assure that the on-site construction work will conform to DAPIA-approved designs and HUD's construction and safety standards;

(b) Providing the special on-site completion certification labels that the manufacturer may use to label a home that has been substantially completed in the factory;

(c) Monitoring the manufacturer's proposed system for tracking the status of homes built under the approval until the on-site work and necessary inspections have been completed, to assure that the work is being performed properly on all applicable homes;

(d) Performing the required inspections of the manufacturer's reports and site work, to verify compliance with the manufacturer's quality control system, the approved designs, and, as appropriate, the

construction and safety standards. Only the IPIA, or other qualified independent inspector acceptable to and acting on behalf of the IPIA, may perform these inspections. The inspector must be free of any conflict of interest (see § 3282.359) and not be involved in the sale or site completion of the home. When the DAPIA deems it appropriate, the DAPIA may establish minimum qualifications for the inspector who is to perform the final site inspection responsibilities of the IPIA (e.g., inspector must be an engineer); and

(e) Maintaining a copy of each final site inspection report submitted by a manufacturer and each inspection report prepared or accepted by the IPIA.

8. *Manufacturer's Responsibilities (§ 3282.608)*. The manufacturer's responsibilities will include:

(a) Certifying the home as required and as evidenced by affixing the on-site completion certification label;

(b) Completing all work performed on a home that is necessary to assure compliance with the construction and safety standards, regardless of who does the work or where it is completed. Such responsibility would not extend to any limited close-up work for multiple section homes as would be defined as installation work in a final rule establishing model installation standards;

(c) Working with the DAPIA and IPIA to obtain approval and concurrence on the quality control system the manufacturer will use to assure that the on-site work is performed according to DAPIA-approved designs, and to incorporate this system into the manufacturer's quality assurance manual;

(d) Working with the DAPIA to develop an approved checklist, providing the IPIA with the checklist to be used when the IPIA inspects the home after completion on-site, and notifying the IPIA that the home is ready to be inspected;

(e) Maintaining a system for tracking the status of homes built under the approval, to ensure that each home installed on a building lot has the on-site work and necessary inspections completed;

(f) Paying IPIA costs for performing on-site inspections;

(g) Providing a copy of the instructions for completing the work on-site, inside the home and to the IPIA, for monitoring/inspection purposes (the copy provided in the home may be provided with the installation instructions in the home). Either before, or at the time on-site work commences, the manufacturer must provide the IPIA with a copy of any applicable DAPIA-

approved quality assurance manual for on-site completion changes, the approved instructions for completing the construction work on-site, and the approved inspection checklist.

HUD invites commenters to address whether manufacturers should be required to comply with this requirement by maintaining these documents at the job site;

(h) Providing a copy of the final site inspection report and certificate of completion to the first purchaser or lessor of the home prior to occupancy;

(i) Maintaining a copy of the site inspection report and the notification of the IPIA's approval or acceptance of this report; and

(j) Notifying the appropriate state or local jurisdiction of any add-on to the home, as referenced in § 3282.8(j), that is not covered by the manufacturer's inspection and certification of completion, but about which the manufacturer knows or reasonably should have known. The manufacturer is not required to provide this notification if the manufacturer knows that the state or local jurisdiction has already inspected the add-on.

9. *Enforcement (§§ 3282.609, 3282.610, and 3282.611).* A manufacturer or IPIA found to be in violation of the requirements for this procedure may lose the discretion to utilize the on-site completion procedure in the future. HUD or the DAPIA also may withdraw or amend an approval for on-site construction if the manufacturer does not comply with the requirements for the approval or produces a home that does not comply with the Federal construction and safety standards. Other remedies provided separately under the Act and HUD's regulations will also continue to be available, as applicable, but HUD would consider a manufacturer or IPIA that complies with the requirements for on-site completion to be in compliance with the certification requirements of the Act and regulations for aspects of construction that are covered by the on-site completion approval.

#### *D. Comparison of Current and Proposed On-Site Construction Approvals*

1. *Current Process vs. On-Site Completion.* HUD has allowed certain details of manufactured homes to be finalized on-site as an extension of the siting process, but without imposing specific requirements for the on-site inspection of the work. This work has included, to some extent: (1) Final framing and decking of certain hinged roofs that are not penetrated for windows or connections, including connections for heat-producing

appliances and plumbing equipment; (2) close-up details for multiple sections; and (3) close-up details for single sections (e.g., exterior roof coverings and siding for expandable rooms).

Under this proposed rule, HUD would continue to allow this type of work to be finalized at the home site, but would require the work to be subject to better quality control processes, either as part of installation, AC, or on-site completion. Other details also could be finished on-site under this proposed rule or under the AC process in § 3282.14. For example, areas that could not be completed in the factory because of transportation height restrictions (e.g., incomplete flue pipe installations for high roof slope conditions) would require approval to be completed on-site.

2. *Activities Qualifying for On-Site Approval.* Construction activities that could qualify for approval under the procedures set out in this proposed rule are the partial completion of structural assemblies or systems (e.g., electrical, plumbing, heating, cooling, fuel burning, and fire safety systems) and components built as an integral part of the home, to the extent warranted because:

(a) Any hinged roof that is not considered part of the installation of the home (*See* § 3285.801(f));

(b) The home design involves work that cannot reasonably be completed in the factory (e.g., fireplaces at marriage lines and designs that involve such finishing aspects as stucco, brick, or tile). This could include work that would be performed by a retailer in providing an add-on for the home when that work takes the home out of conformance with the construction and safety standards and then brings it back into conformance; or

(c) The homeowner is providing a required appliance, such as a furnace, water heater, or cooking range.

3. *Activities Not Qualified for On-Site Approval.* The manufacturing of the following items would not qualify as limited site completion, and therefore would not qualify under the procedures set out in this proposed rule for approval outside the certified production facility and quality assurance program:

(a) Complete or substantial construction of structural assemblies of a home, except pursuant to an approval received by the manufacturer under AC (§ 3282.14). Examples of structural assemblies include the roof, walls, and the floor. An example of construction that would be substantial and, therefore, would not qualify for the on-site

completion process, is single family attached construction;

(b) Complete or substantial assembly of systems (e.g., electrical; plumbing; heating, cooling, and fuel burning systems; transportation; and fire safety) and components that are built as an integral part of the home during the manufacturing process and are usually completed in the factory, except pursuant to an approval received by the manufacturer under § 3282.14 or as allowed to be finalized at the site as part of installation; and

(c) Construction that when completed on-site would not conform to the manufactured home construction and safety standards. An example of this type of construction would be a multi-story home that did not comply with the construction and safety standards because of distance requirements to reach an exterior door for egress from a bedroom.

#### *E. Conforming Changes*

The proposed rule includes conforming changes to two other sections of 24 CFR part 3282. A conforming amendment is made to § 3282.552 to specify the information that is included on the reports currently submitted under 24 CFR part 3282.

HUD is also using this rulemaking to make a technical correction to the heading of § 3282.8(a), which would be updated from *Mobile homes* to *Manufactured homes*.

#### **III. Specific Issues for Comment**

HUD continues to encourage suggestions to improve its responsiveness to technological advancements and innovation that foster the use of manufactured housing for affordable housing and to enhance affordable homeownership opportunities. To assist in HUD's development of this proposed rule, HUD has focused and solicited comments on certain features of its proposed on-site completion procedure. Further, HUD is very interested in the views of manufacturers, retailers, consumers, private inspection agencies, installers, and state and local governments on the usefulness and practical aspects of such a procedure. Therefore, in addition to commenting on the specific provisions of this proposed rule, HUD invites comment on the following questions and any other related matters or suggestions:

(1) How should the rule define the limits of the construction work that may be completed on-site? Should the definition of a manufactured home that is "substantially completed" in the factory be clarified? If so, how?



(2) Should the proposed requirements applicable to on-site completion in accordance with the construction and safety standards be extended to repairs of homes in the hands of retailers or distributors or to work proposed to be defined as installation, especially close-up details for multiple and single sections? How can home purchasers be assured that this work conforms to the Federal construction and safety standards or does not take the home out of compliance? Should other special requirements be attached to any of these construction aspects; *e.g.*, should hinged roofs be required to be completed by factory-certified installers?

(3) Has HUD drawn the proper lines between aspects of work on the home to be finalized as part of installation (and, therefore, under the responsibility of the installer, rather than the manufacturer) and those aspects that would be considered completion of construction under a special approval for either on-site or AC?

(4) Until recently, few on-site inspections were being conducted prior to occupancy under the current AC practice. What is the best method for assuring that the on-site construction work is inspected for compliance with the construction and safety standards prior to occupancy? Is it adequate protection to require the manufacturer to prepare a final site inspection report that includes a certification of completion as required in this proposed rule? Would using a temporary, preliminary and a permanent final label instead of the on-site completion certification label be a better way of assuring that the inspections are performed? With respect to the financing of manufactured homes, HUD seeks comments from lenders on better ways to ensure that adequate on-site inspections are conducted prior to occupancy.

(5) Should the IPIA be the only entity permitted to conduct the on-site inspections required under this rule or should the rule be amended to permit a state to conduct the on-site inspections? If yes, what criteria should such a state meet in order to perform this function? Assuming established criteria were in place, should a state that meets the criteria have an exclusive right to perform these on-site inspections in its state? If a state were permitted to conduct the on-site inspections, should the state also review the manufacturer's final on-site inspection report and determine whether to accept that inspection report, or should the IPIA be responsible for this task? If the state is permitted to conduct the on-site inspection, would it conduct the

inspection independently or on behalf of the IPIA? Is it appropriate for a state to be working for an IPIA? Under these circumstances should the ability to require red-tagging and re-inspection of homes rest solely with the IPIA or extend to the state performing the on-site inspection?

(6) Should the IPIA inspect all homes completed on-site, or should the IPIA undertake inspections for only a certain number or percentage of homes completed on-site? Should there be an initial inspection of a certain number of homes and then a random number thereafter? What percentage of homes should be inspected to ensure compliance with the Federal construction and safety standards for homes completed on-site?

(7) Should authorized inspectors be limited to state and local inspection officials, rather than permitting IPIAs to choose some other qualified independent inspector? How should a "qualified independent inspector" be defined, and should a provision be included to prohibit use of inspectors who have been identified as performing inspections inadequately?

(8) Does HUD need to identify those aspects of completion of the home that are not subject to Federal construction and safety standards (*e.g.*, stairs and handrails) and inform local inspectors that they may inspect those aspects? For example, in its request for approval to complete construction on-site, should a manufacturer be required to identify those design aspects that are not covered by the construction and safety standards and, therefore, are subject to local or state building codes? Should these design aspects also be listed individually on the Notice required to be displayed in the home?

(9) Section 3282.604 sets forth the DAPIA's responsibilities. In addition to determining if there is complex work involved requiring special instructions, should the DAPIA be permitted to determine whether the complex work also requires special criteria or qualifications for the IPIA inspector in order to perform the on-site inspections?

(10) Should the rule establish, or provide that the DAPIA establish in its approval, a deadline for completion of the work on-site and final inspection? Should protections, in addition to section 622 of the Act (42 U.S.C. 5421), be defined for the consumer who has entered into an arrangement to purchase a manufactured home that is to be completed to the construction and safety standards on-site? How can HUD ensure that a purchaser can occupy the home at the earliest time possible, consistent with the completion of

acceptable inspections? Should regulatory protections be defined for a manufacturer or retailer that has entered into a contract in which the construction of the home is to be completed on-site by a certain date, but where delays have occurred outside of the manufacturer's or retailer's control in the construction or final inspection?

(11) Should HUD specify requirements for the retailer to notify the manufacturer that a home subject to the on-site completion process is ready for the manufacturer's final inspection, or should the requirements be left to private arrangements?

(12) Under subpart F of HUD's regulations in 24 CFR part 3282, a retailer that makes alterations of correction on a home before its sale to the first purchaser is acting on behalf of the manufacturer. Should the regulations in subpart F be extended to provide that some or all of the procedures for manufacturer and IPIA inspection of the work on-site also apply to repairs, on-site or in retailer lots, of manufactured homes that are completed and labeled in the factory, but that are substantially damaged before being sold by a retailer? Should the regulations in subpart F be extended to provide that some or all of the procedures for inspection apply whenever a retailer, in the process of providing alterations or add-ons to a new home, takes the home out of compliance with the construction and safety standards? If HUD extends the on-site construction approval process to retailer corrections, should the required inspections apply to only certain kinds of corrections? If so, to which?

(13) Should the rule address more explicitly what happens if the manufactured home does not pass the on-site inspection? If so, what additional details would be helpful? For example, should the rule require that such a home be removed, repaired, or red-tagged?

(14) Is the proposed labeling procedure, in which a home to be completed using the new procedures is labeled with a special label and includes a consumer notice referencing the procedures, workable? Would additional protections be necessary if, instead of following the proposed process for on-site completion, the IPIA would red-tag the labeled home at the factory, and would then itself remove the red tag at the site when all work is completed and found satisfactory?

(15) What mechanism can be used to assure that the prospective purchaser is provided with the Consumer Information Notice?



(16) Should the rule clarify what is the “date of manufacture” for units completed under this procedure, for purposes of the information required to be included on the data plate? If so, what should the clarification say? Without such clarification, what date would manufacturers use on the data plate?

(17) Can monthly reporting to HUD of on-site home production be achieved better, such as through the use of individual reports, rather than combining the required extra information with the existing production report (Form 302) information? If so, provide recommendations for how to report production information on homes completed on-site.

(18) Are there special concerns about the ability of a state PIA to conduct out-of-state inspections and about the costs for those state PIA inspections that should be addressed in the rule?

(19) HUD is proposing to allow the final work on certain simple hinged roofs to be completed as part of installation, but would require all other hinged roofs to be completed as part of the construction of the homes. Under the currently effective requirements, hinged roofs that are either penetrated or have slopes of 7:12 or greater must be approved using the AC process, while certain unpenetrated lower-slope hinged roofs remain the responsibility of manufacturers to complete in accordance with the construction and safety standards, but without need for any special approval. HUD is proposing more flexibility in using designs with such roofs because the proposed rule also would require all such work to be inspected and that the manufacturers remain responsible for the work on the most complicated designs. If the inspection requirements for on-site approvals are changed from the levels proposed, should the inspection requirements vary according to the kind of work involved? If so, specify the kinds of work and the inspection requirements that should apply.

(20) Similarly, are there any special processing or inspection requirements that should be included in a final rule if HUD permits completion on-site of multi-story and high-slope roof style homes designed to be located in Wind Zones II and III? To date no multi-story homes, or single-story homes with high-slope hinged roofs, have been approved under AC procedures for installation in high wind areas. In responding to this question, commenters should address the effect of significantly higher wind forces that such structures must resist, and the more complex connections and

construction that is required to complete these designs on-site.

(21) Are there other jurisdictional concerns about the monitoring of the work completed on-site being the continuing responsibility of the manufacturer’s IPIA? Should the rule provide that the IPIA responsible under these procedures may agree to allow any other IPIA to provide the services required of the responsible IPIA? Would such a provision conflict with any state requirements relating to the inspection of manufactured homes?

(22) What procedures should be established if an exclusive state IPIA is unable to conduct out-of-state inspections on homes approved for completion under this new process?

(23) The proposed rule requires the manufacturer to send a copy of identifying information on homes completed under an on-site approval to HUD and to the State Administrative Agency (SAA) in the states where the factory is located and where the home is sited. Should the manufacturer also be required to provide a copy of the final site inspection report, or any other information about the on-site approval, to the SAA of the state in which the home is sited?

(24) The proposed rule authorizes the DAPIA and HUD to revoke or amend, prospectively, an on-site completion approval. Should the rule extend authority to revoke or amend an approval to the SAA in the state where the factory is located, the SAA in the state where the home is sited, both, or neither?

(25) The proposed rule would permit any appliance, including a furnace and water heater, to be installed as part of the on-site completion process. Should the final rule limit the on-site installation of all appliances except furnaces and water heaters due to problems experienced with improper venting and installation of these appliances for use in manufactured homes?

(26) Are the manufacturer’s inspection responsibilities as outlined in § 3282.605(c) sufficiently clear? Should the rule clarify the manufacturer’s inspection responsibilities in relation to those of the IPIA?

#### **IV. Areas of Comment on MHCC Suggestions Not Accepted in Proposed Rule**

MHCC suggested other edits to the draft of this proposed regulation and accompanying preamble that HUD had submitted for MHCC’s review and comments. Earlier in this preamble, HUD identified comments from MHCC

that were accepted and incorporated into this proposal. HUD believes it has incorporated the most significant suggestions made by MHCC. HUD did not, however, incorporate all comments from MHCC. In other instances, HUD has listed specific issues for comment that are related to concepts contained in MHCC’s comments. Nevertheless, HUD invites comment on the following MHCC suggestions and HUD explanations for not adopting the suggestions:

(1) MHCC suggested adding a definition of “completed” to 24 CFR part 3282. The definition was not adopted because HUD determined that it was not necessary, especially with the changes that have been made to include some close-up work under the scope of installation, rather than construction. In addition, the definition suggested by MHCC contained substantive requirements more appropriately included in separate provisions, and was not consistent with the definition of “substantially completed” in the proposed rule or the use of the word “completed” throughout the regulation and preamble.

(2) MHCC suggested changes to the labeling and notification proposals in the draft that HUD believes have been improved by the clear labeling and consumer notification proposals included in this proposed rule. HUD has revised the draft to ensure that the consumer would receive notice that will aid in his or her understanding of the construction process used for the home, including a broad description of the construction work to be done on-site. The consumer notice would be included in transactional paperwork, similar to a requirement established in § 3282.14(e) for notice required under the AC process, and would be placed in a temporary location in the home. HUD also was concerned that language included in the temporary notice suggested by MHCC would be misleading about the nature of HUD’s oversight and the responsibilities and authority of various entities related to the sales transaction and siting of the home. Finally, HUD believes that the use of a permanent label tailored for homes completed using the special on-site approval process could provide subsequent purchasers with information about the home that might also be of interest to them.

(3) HUD also retained a requirement that a copy of the final site inspection report, which would be based on the inspection checklist and approved by the IPIA, be given to the purchaser or lessor, as well as to the retailer. The manufacturer and IPIA are required to

retain a copy of the final inspection report in their files. MHCC had suggested a 5-year record-retention period which, as explained above, HUD has incorporated into the proposed rule for DAPIAs, to which a 5-year requirement currently applies for other records. Similarly, however, manufacturers would be required to retain records relating to on-site approval and completion in the home for the same period of time that applies to retention of other information in the home files, i.e., the life of the home. IPIAs would be required to retain their records of actions applicable to on-site (and AC) approvals as part of their permanent records in accordance with § 3282.362(d).

(4) MHCC recommended adding a requirement that the manufacturer's site inspection report include the name and address of the installer or contractor responsible for performing any on-site work. Because any work done on-site in accordance with this proposed rule to bring the home into compliance with the construction and safety standards is ultimately the responsibility of the manufacturer, HUD has not adopted this recommendation, but will leave contracting and agency matters to private arrangements.

(5) For purposes of public comment, HUD retained a requirement that every manufactured home completed under an on-site approval process be inspected after the construction work performed on-site is completed. Although homes completed on-site might no longer have to follow the more burdensome AC approval process, HUD has proposed that the homes be equally subject to a final compliance review requirement.

MHCC suggested that the IPIA, DAPIA, and manufacturer decide on how the manufacturer's IPIA will review and approve the on-site work after the manufacturer completes its final site inspection report. HUD is concerned that MHCC's approach to assuring the quality of work performed on-site would not verify that on-site workers are capable of following the manufacturer's instructions or quality control procedures for the final stages of production. Therefore, HUD has retained the requirements for IPIA inspection of on-site work. However, HUD would be interested in receiving comments about any circumstances that could permit a reduced level of inspection of homes that are completed under an on-site approval.

(6) Although the proposed rule provides that a final inspection of on-site work is to be done by the IPIA or its independent agents, HUD has also retained a provision that allows the

DAPIA to establish minimal qualifications for an inspector acceptable to the DAPIA. The ability to assure a particular level of inspection may encourage a DAPIA to approve on-site completion requests that may involve unusual circumstances, thus making the process even more flexible.

(7) HUD retained a requirement that MHCC suggested be eliminated; specifically, that the DAPIA include an "SC" designation on each page of the manufacturer's designs that includes an element of construction to be completed on-site. HUD believes that retaining this procedure will facilitate easier oversight of the on-site construction process by the SAAs and HUD.

(8) MHCC had suggested language providing that the retailer must notify the manufacturer that a home subject to the on-site completion approval process is ready for siting at a specific address, or that the completed home is ready for the manufacturer's final inspection. Instead, because the manufacturer is responsible for the on-site completion process under this proposed rule, HUD left the requirements for such notification to private arrangements.

Since the use of private arrangements for notification has not proven successful under current regulatory practices for AC, HUD is seeking comment on whether the rule should expressly address notification to a manufacturer about a retail sale or repair that requires on-site construction work. If so, HUD requests that commenters address how the rule should address such notification, and what would be the ramifications for failure to provide the notification, especially in light of the Act's and this proposed rule's requirements for manufacturer responsibility for production of homes that comply with the construction and safety standards.

(9) MHCC recommended that HUD not include an initial proposal that defined when the responsibilities of the manufacturer and retailer shift under the Act and the regulations in Subparts F (24 CFR 3282.251–3282.256) and I (3282.401–3282.416) of the Manufactured Home Procedural and Enforcement Regulations. HUD did not adopt this recommendation. Instead, HUD has revised the language of § 3282.605(c) and (d) to more clearly establish the purpose of the provision. Because the Act and HUD's regulations establish responsibilities and sanctions that are defined in terms of point of sale, HUD believes it is important for manufacturers and retailers to understand at what point in a transaction their responsibilities will change from pre-sale to post-sale duties.

HUD understands, however, the concern that some purchasers experiencing "buyer's remorse" might try to take inappropriate advantage of such a provision. Therefore, HUD also is retaining language in the provision to establish that the provision is not intended to affect how a contract of sale would be enforced under state law.

(10) MHCC recommended providing additional authority to the manufacturer's IPIA, to revoke or amend an approval for on-site completion work and to oversee the work of installers. HUD believes that neither of these revisions is necessary, and they have not been included in this proposed rule. An IPIA that is concerned about a manufacturer's performance has authority under current regulations (§ 3282.362(c)) to red-tag nonconforming homes, and can request that the DAPIA or HUD revoke the on-site completion approval for future construction. The proposed rule adopts a distinction based on MHCC's recommendations to include within the scope of installation, rather than construction, more work performed on-site to join sections of multiple section homes. As addressed above, the manufacturer continues to be responsible for construction work, regardless of who actually performs the work. Therefore, authority for an IPIA to review manufacturer performance under an on-site construction approval encompasses anyone who performs the work on behalf of the manufacturer.

(11) HUD also has not accepted two MHCC recommendations concerning the provision of information to state and local governments that might have responsibilities related to manufactured homes when work is performed on those homes on-site. HUD has retained a requirement that the manufacturer provide to the SAAs and HUD, in the production and siting states, the serial number of each home produced under an on-site completion approval and a brief description of the work done on-site for each of these homes. Further, HUD has modified, but retained, a requirement that manufacturers notify the state or local jurisdiction of any addition to the home that is not covered by the manufacturer's final on-site inspection and certification of completion, but about which the manufacturer knew or reasonably should have known. HUD intends this requirement to help the state and local jurisdictions identify work performed during the siting of manufactured homes that might be subject to state and local, rather than HUD, construction and inspection requirements. MHCC had recommended eliminating these requirements.

(12) Finally, MHCC made other comments that were more editorial than substantive in nature. When HUD agreed with those suggestions, they have been incorporated into the proposed rule and preamble, as appropriate.

### Findings and Certifications

#### *Paperwork Reduction Act*

The proposed information collection requirements contained in § 3282 have been submitted to the Office of

Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under that law, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a valid control number. OMB has issued HUD the control number 2502–0253 for the information collection requirements under the current Manufactured Housing Construction and Safety Standards

Program, which requires manufacturer submission AC approvals in 24 CFR part 3282.14.

The public reporting burden for this collection of information is estimated to include the time for reviewing current AC approvals and gathering, developing, and maintaining necessary data identified in the proposed rule and the collection of information. The following table provides information on the estimated public reporting burden:

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
Request for DAPIA approval .....	48	1	48	53	2544
Manufacturer inspection report .....	48	142	6,800	1	6,800
Instructions .....	48	142	6,800	0.25	1,700
Consumer notice .....	48	142	6,800	0.25	1,700
IPIA inspection report .....	15	453.3	6,800	1	6,800
Copy reports .....	48	142	6,800	0.5	3,400
Maintain reports .....	48	142	6,800	0.25	1,700
Report serial numbers .....	48	12	576	0.50	288
Report add-ons .....	48	142	6,800	0.25	1,700
Total hours of all information collections .....	.....	.....	.....	.....	26,632

*In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:*

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, any comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. However, this time frame does not affect the deadline for comments to the agency on the proposed rule. Comments must refer to

the proposal by name and docket number (FR–5295–P–01) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and Reports Liaison Officer, Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9116, Washington, DC 20410–8000.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any state, local, or tribal governments or the private sector within the meaning of UMRA.

#### *Environmental Review*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General

Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service at 800–877–8339.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. It is HUD's position that this proposed rule would not have a significant economic impact on a substantial number of small entities. HUD and MHCC have recognized the benefit of maximizing opportunities for housing manufacturers to complete construction of some homes at the installation site without seeking advance approval from HUD. This proposed rule is intended to promote that shared goal. The manufactured housing industry is rapidly expanding its offerings, and the inclusion of new design elements is viewed as key to the growth of this industry. On-site

installation of innovative design elements will improve the aesthetic quality and overall attractiveness of the manufactured housing product; increasing the appeal of these homes to the public; and improving cost effectiveness for the manufacturers, by allowing them to complete these structures at the construction site by installing these features there.

This rule would alleviate burden for all manufacturers, large and small, because it would make tangible streamlined improvements to the system regulating on-site construction of manufactured homes. This rule would establish procedures whereby manufacturers could complete construction of new manufactured housing on-site without being required to apply for HUD approval for on-site construction. This rule would apply only to work done to complete the manufacturing process required by the Manufactured Home Construction and Safety Standards; it would not affect the installation of homes subject to the model Manufactured Home Installation Standards, or apply in instances where a major portion of the home is to be constructed on site. Additionally, this rule would apply to only a subset of the total number of manufactured housing manufacturers, those that decide to incorporate the new design elements into their products; it is not a requirement that all manufacturers do so.

Further, this proposed rule is intended to have a beneficial effect by reducing the paperwork burden and costs of construction delays on housing manufacturers; these manufacturers currently must apply repeatedly for variances regarding on-site construction utilizing design elements and innovations that are expected to become commonplace over time. Easing the process for on-site construction of manufactured homes supports achievement of the goal of widely available safe, durable, and affordable manufactured housing.

Accordingly, the undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's view that this rule would not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives and the statutory requirements.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled "Federalism") prohibits an agency from

publishing any rule that has Federalism implications if the rule either:

(1) Imposes substantial direct compliance costs on state and local governments and is not required by statute, or (2) the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have Federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

#### List of Subjects

##### 24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Reporting and recordkeeping requirements.

##### 24 CFR Part 3285

Housing standards, Incorporation by reference, Installation, Manufactured homes.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 3282 and 24 CFR part 3285 to read as follows:

#### PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

1. The authority citation for part 3282 continues to read as follows:

**Authority:** 28 U.S.C. 2461 note; 42 U.S.C. 3535(d); 42 U.S.C. 5424.

2. In § 3282.7, redesignate paragraph (kk) as paragraph (ll) and add new paragraph (kk) to read as follows:

##### § 3282.7 Definitions.

(kk) *Substantial completion.* A manufactured home is substantially completed if all aspects of construction that can be reasonably finished in the manufacturer's plant are completed, except as provided in § 3282.603.

3. In § 3282.8, revise the heading to paragraph (a) read as follows:

##### § 3282.8 Applicability.

(a) *Manufactured homes.*

4. In § 3282.203, add a new sentence at the end of paragraph (e) to read as follows:

##### § 3282.203 DAPIA services.

(e) When applicable under § 3282.605, the IPIA must concur in the

change before it can be approved by the DAPIA.

5. In § 3282.252, revise paragraph (b) to read as follows:

##### § 3282.252 Prohibition of sale.

(b) This prohibition applies to any affected manufactured homes until the completion of the entire sales transaction. A sales transaction with a purchaser is considered completed when all the goods and services that the dealer agreed to provide at the time the contract was entered onto have been provided. Completion of a retail sale will be at the time the dealer completes set-up of the manufactured home if the dealer has agreed to provide the set-up, or at the time the dealer delivers the home to a transporter, if the dealer has not agreed to transport or set up the manufactured home. The sale is also complete upon delivery to the site if the dealer has not agreed to provide setup as completion of sale, except that any sale or lease under subpart M of this part and as provided in § 3286.117(a) will not be considered complete until the purchaser or lessor, as applicable, has been provided with a final site inspection report.

6. In § 3282.361, revise the first sentence of paragraph (c)(4) to read as follows:

##### § 3282.361 Design Approval Primary Inspection Agency (DAPIA).

(c) *Manual change approval.* Each change the manufacturer wishes to make in its quality assurance manual must be approved by the DAPIA, and, when subject to § 3282.604, concurred in by the IPIA.

7. Amend § 3282.362, as follows:

a. Revise paragraph (c)(2)(i)(A);  
b. Revise the introductory text of paragraph (c)(2)(i)(C); and  
c. Add a new paragraph (d)(5), to read as follows:

##### § 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

(c) *Labels.*  
(2) *Sequential numbering.*  
(i) *Labels.*

(A) The IPIA is to supply the manufacturer with a 2- to 4-week supply of the labels described in this paragraph and § 3282.607(b)(2). The IPIA is to provide the labels in sequentially numbered series without any duplication of numbers. The IPIA may

obtain labels from HUD or HUD's monitoring contractor or, where the IPIA obtains the prior approval of HUD, from a label manufacturer. No labels may be provided to the manufacturer unless the IPIA reasonably believes that the manufacturing plant is producing manufactured homes that conform to the DAPIA-approved designs and the construction and safety standards. In no event may the IPIA allow a label to be affixed to a manufactured home that it knows fails to conform to the design, or where the design is not specific to the construction and safety standards.

\* \* \* \* \*

(C) Except as provided by § 3282.606, the label must read as follows:

\* \* \* \* \*

(d) \* \* \*

(5) Records of all site inspections made as required under procedures applicable to approval of AC or on-site completion pursuant to §§ 3282.14 or 3282.610.

\* \* \* \* \*

8. Revise § 3282.552 to read as follows:

**§ 3282.552 Manufacturer reports for joint monitoring fees.**

The manufacturer must submit to the IPIA in each of its manufacturing plants, and to HUD or its agent, a monthly production report that includes the serial numbers of each manufactured home manufactured and labeled at that plant during the preceding month. The report must also include the date of completion, state of first location of these manufactured homes after leaving the plant, type of unit, and any other information required under this part. The state of first location is the state of the premises of the retailer or purchaser to whom the manufactured home is first shipped. The monthly report must be submitted by the 10th day of each month and contain information describing the manufacturer's previous month's activities. The manufacturer is encouraged to submit the report electronically, when feasible.

9. Add a new subpart M to read as follows:

**Subpart M—On-Site Completion of Construction of Manufactured Homes**

Sec.

3282.601 Purpose and applicability.

3282.602 Construction qualifying for on-site completion.

3282.603 Request for approval; DAPIA review, notification and approval.

3282.604 DAPIA responsibilities.

3282.605 Requirements applicable to completion of construction.

3282.606 Consumer information.

3282.607 IPIA responsibilities.

3282.608 Manufacturer responsibilities.

3282.609 Revocation or amendment of DAPIA approval.

3282.610 Failure to comply with the procedures of this subpart.

3282.611 Compliance with this subpart.

**Subpart M—On-Site Completion of Construction of Manufactured Homes**

**§ 3282.601 Purpose and applicability.**

(a) *Purpose of section.* This section establishes the procedure for limited on-site completion of some aspects of construction that cannot be completed at the factory.

(b) *Applicability.* This section applies if the manufactured home is substantially completed in the factory. The affected home must meet the requirements of the construction and safety standards upon completion of the site work and must be inspected by the manufacturer's IPIA as provided in this subpart, unless specifically exempted as installation under HUD's Model Installation Standards, 24 CFR part 3285. This section does not apply to Alternative Construction (see § 3282.14) that does not comply with the Manufactured Home Construction and Safety Standards.

**§ 3282.602 Construction qualifying for on-site completion.**

(a) The manufacturer, the manufacturer's DAPIA, and the manufacturer's IPIA may agree to permit certain aspects of construction of a manufactured home to be completed to the construction and safety standards on-site in accordance with the requirements of this subpart. The aspects of construction that may be approved to be completed on-site are the partial completion of structural assemblies or systems (e.g., electrical, plumbing, heating, cooling, fuel burning, and fire safety systems) and components built as an integral part of the home, when the partial completion on-site is warranted because completion of the partial structural assembly or system during the manufacturing process in the factory would not be practicable (e.g., because of the home design or probable result in transportation damage or if precluded because of road restrictions). Examples of construction that may be completed on-site include:

(1) Multi-story designs;

(2) Hinged roof and eave construction, unless exempted as installation by § 3285.801(f) of the Model Manufactured Home Installation Standards and completed and inspected in accordance with the Manufactured Home Installation Program;

(3) The home design involves work that cannot reasonably be completed in

the factory, or when the manufacturer authorizes the retailer to provide an add-on to the home during set-up when that work would take the home out of conformance with the construction and safety standards and then bring it back into conformance; or

(4) The manufacturer, retailer, installer, or homeowner is providing alternative or additional building components or appliances including fireplaces to be installed on site.

(5) Parts shipped loose with the house that will be installed on-site unless exempted as installation by the installation standards;

(6) Exterior applications such as brick siding, stucco, or tile roof systems; and

(7) Other construction such as roof extensions (dormers), site-installed windows in roofs, removable or open floor sections for basement stairs, and sidewall bay windows.

(b) A retailer or licensed contractor with prior authorization from the manufacturer may perform the on-site work in accordance with the DAPIA approvals and site completion instructions after obtaining written concurrence of the acceptance of the quality assurance program from the IPIA. However, the manufacturer must prepare and provide all site inspection reports, as well as the certification of completion, and must fulfill all of its responsibilities and maintain all records at the factory of origin as required by § 3282.609.

**§ 3282.603 Request for approval; DAPIA review, notification, and approval.**

(a) *Manufacturer's request for approval.* The manufacturer must request, in writing, and obtain approval of its DAPIA for any aspect of construction that is to be completed on-site under this subpart. The manufacturer, its IPIA, and its DAPIA must work together to reach agreements necessary to enable the request to be reviewed and approved.

(b) *DAPIA notification.* The DAPIA must notify the manufacturer of the results of the DAPIA's review of the manufacturer's request, and must retain a copy of the notification in the DAPIA's records. The DAPIA shall also forward a copy of the approval to HUD or the Secretary's agent as provided under § 3282.361(a)(4). The notification must either:

(1) Approve the request if it is consistent with this section and the objectives of the Act; or

(2) Deny the proposed on-site completion and set out the reasons for the denial.

(c) *Manner of DAPIA approval.* Notification of DAPIA approval must

include, by incorporation or by listing, the information required by paragraph (d) of this section, and must be indicated by the DAPIA placing its stamp of approval or authorized signature on each page of the manufacturer's designs submitted with its request for approval. The DAPIA must include an "SC" designation on each page that includes an element of construction that is to be completed on-site and must include those pages as part of the approved design package.

(d) *Contents of DAPIA approval.* Any approval by the DAPIA under this section must:

(1) Identify the work to be completed on-site;

(2) List all models to which the approval applies, or indicate that the approval is not model-specific;

(3) Include acceptance by the DAPIA of a quality assurance manual for on-site completion meeting the requirements of paragraph (e) of this section;

(4) Include the IPIA's written agreement to accept responsibility for completion of the necessary on-site inspections and accompanying records.

(5) Identify instructions authorized for completing the work on-site that meet the requirements of paragraph (f) of this section;

(6) Include the manufacturer's system for tracking the status of homes built under the approval until the on-site work and necessary inspections have been completed, to assure that the work is being performed properly;

(7) Include an inspection checklist developed by the IPIA and manufacturer and approved by the DAPIA, that is to be used by the final site inspectors;

(8) Include a Consumer Information Notice developed by the manufacturer and approved by the DAPIA that explains the on-site completion process and identifies the work to be completed on-site; and

(9) Include any other requirements and limitations that the DAPIA deems necessary or appropriate to accomplish the purposes of the Act, such as any special testing procedures or, inspections, for IPIA inspectors performing the on-site inspections.

(e) *Quality Assurance Manual for On-Site Completion Requirements.* The portion of the quality assurance manual for on-site completion required by paragraph (d)(3) of this section must receive the written concurrence of the manufacturer's IPIA with regard to its acceptability and applicability to the on-site completion of the affected manufactured homes. It must include a commitment by the manufacturer to prepare a final site inspection report that will be submitted to the IPIA for its

review. When appropriate, this portion of the quality assurance manual for on-site completion will be deemed a change in the manufacturer's quality assurance manual for the applicable models, in accordance with §§ 3282.203 and 3282.361.

(f) *Instructions for completion on-site.* The DAPIA must include instructions authorized for completing the work on-site as a separate part of the manufacturer's approved design package. The manufacturer must provide a copy of these instructions and the inspection checklist required by paragraph (d)(7) of this section to the IPIA for monitoring and inspection purposes.

#### **§ 3282.604 DAPIA responsibilities.**

The DAPIA for any manufacturer proceeding under this section is responsible for:

(a) Verification that all information required by § 3282.603 has been submitted by the manufacturer;

(b) Review and approval of manufacturer's designs, site completion instructions, and quality assurance manuals for site work to be performed;

(c) Determining if there is complex work involved requiring special testing or inspections that are needed for IPIA inspectors to perform the on-site inspections;

(d) Maintaining all records and approvals for at least 5 years; and

(e) Revoking or amending its approvals in accordance with § 3282.610.

#### **§ 3282.605 Requirements applicable to completion of construction.**

(a) *Serial numbers of homes completed on-site.* The serial number of each home completed in conformance with this section must include the prefix "SC".

(b) *Labeling.* (1) A manufacturer that has received a DAPIA approval under § 3282.604 may certify and label a manufactured home that is substantially completed in the manufacturer's plant at the proper completion of the in-plant production phase, even though some aspects of construction will be completed on-site in accordance with the DAPIA's approval. Any such home must be shipped with an affixed on-site completion certification label and with a Consumer Information Notice that meets the requirements of § 3282.606.

(2) The on-site completion certification label must be green and must meet the same location, size, material, and fastening requirements established for the certification label in § 3280.11 of this chapter. The on-site completion certification label must read as follows:

As evidenced by this ON-SITE COMPLETION CERTIFICATION LABEL No. SC-ABC 000 000 001(P), the manufacturer certifies to the best of the manufacturer's knowledge and belief that this manufactured home has been substantially completed in accordance with an approved design and has been inspected (except for the components specifically identified in the instructions for completion on-site) in accordance with requirements of the Department of Housing and Urban Development (HUD) in effect on the date of manufacture (see data plate affixed to home). This ON-SITE COMPLETION CERTIFICATION LABEL permits the home to be moved to the site where work will be completed. The manufacturer is required to complete construction of the home in accordance with HUD requirements, arrange for inspection of the on-site work, and provide an approved final site inspection report to the lessor or first person to purchase the home for purposes other than resale.

(c) *Site inspection.* Prior to occupancy, the manufacturer shall ensure that each home is inspected on-site. The manufacturer is responsible for inspecting all aspects of construction that are completed on-site as provided in its approved designs and quality assurance manual for on-site completion.

(d) *Site inspection report.* (1) In preparing the site inspection report, the manufacturer must use the inspection checklist approved by the DAPIA in accordance with § 3282.603(d)(7), and must prepare a final site inspection report and provide a copy to the IPIA. Within 10 days after the date that the IPIA notifies the manufacturer of the IPIA's approval of the final site inspection report, the manufacturer must provide a copy of the approved report to the lessor or purchaser prior to occupancy and, as applicable, the appropriate retailer and any person or entity other than the manufacturer that performed the on-site construction work.

(2) Each approved final site inspection report must include:

(i) The name and address of the manufacturer;

(ii) The serial number of the manufactured home;

(iii) The address of the home site;

(iv) The name of the person responsible for the manufacturer's final site inspection;

(v) The name of each person who performs on-site inspections on behalf of the IPIA, the name of the person responsible for acceptance of the manufacturer's final on-site inspection report on behalf of the IPIA, and the IPIA's name, mailing address, and telephone number;

(vi) A description of the work performed on-site and the inspections made;

(vii) When applicable, verification that any problems noted during inspections have been corrected prior to certification of compliance; and

(viii) Certification by the manufacturer of completion in accordance with the DAPIA-approved instructions and that the home conforms with the approved design or, as appropriate under § 3282.362(a)(1)(iii), the construction and safety standards.

(3) The IPIA must review each manufacturer's final on-site inspection report and determine whether to accept that inspection report.

(i) Concurrently with the manufacturer's final site inspection, the IPIA or the IPIA's agent must inspect all of the on-site work for homes completed using an approval under this section. The IPIA must use the inspection checklist approved by the DAPIA in accordance with § 3282.603(d)(7).

(ii) If the IPIA determines that the manufacturer is not performing adequately in conformance with the approval, the IPIA must red-tag and re-inspect until it is satisfied that the manufacturer is conforming to the conditions included in the approval. The home may not be occupied until the manufacturer and the IPIA have provided reports required by this Section confirming compliance with the Manufactured Home Construction and Safety Standards.

(iii) The IPIA must notify the manufacturer of the IPIA's acceptance of the manufacturer's final site inspection report. The IPIA may indicate acceptance by issuing its own final site inspection report or by indicating, in writing, its acceptance of the manufacturer's site inspection report showing that the work completed on-site is in compliance with the DAPIA approval and the construction and safety standards.

(4) Within 10 days of the date of IPIA's notification to the manufacturer of the acceptance of its final site inspection report, the manufacturer must provide to the purchaser or lessor, as applicable, the manufacturer's final site inspection report. For purposes of establishing the manufacturer's and retailer's responsibilities under the Act and subparts F and I of this part, the sale or lease of the manufactured home will not be considered complete until the purchaser or lessor, as applicable, has been provided with the report. HUD does not intend that failure to provide this report within 10 days of the date of the IPIA's notification will constitute a breach of contract.

(e) *Report to HUD.* (1) After an acceptable final inspection of work completed on-site, the manufacturer must report to HUD through its IPIA, on the manufacturer's monthly production report required in accordance with § 3282.552, the serial number of each home produced under an approval issued pursuant to this section. The manufacturer must also provide a brief description of the work done on-site for each of these homes as an attachment to this report.

(2) The report must be consistent with the DAPIA approval issued pursuant to this section.

(3) The manufacturer must submit a copy of the report, or a separate listing of all information provided on each report for homes that are completed under an approval issued pursuant to this section, to the SAAs of the states where the home is substantially completed in the factory and where the home is sited, as applicable.

#### **§ 3282.606 Consumer information.**

(a) *Notice.* Any home completed under the procedures established in this section must be shipped with a temporary notice that explains that the home will comply with the requirements of the construction and safety standards only after all of the site work has been completed and inspected. The notice must be legible and typed, using letters at least 1/4 inch high in the text of the notice and 3/4 inch high for the title. The notice must read as follows:

#### **IMPORTANT CONSUMER INFORMATION NOTICE**

**WARNING: DO NOT LIVE IN THIS HOME UNTIL THE ON-SITE WORK HAS BEEN COMPLETED AND THE MANUFACTURER HAS PROVIDED A COPY OF THE INSPECTION REPORT THAT CERTIFIES THAT THE HOME HAS BEEN INSPECTED AND IS CONSTRUCTED IN ACCORDANCE WITH APPROVED INSTRUCTIONS FOR MEETING THE CONSTRUCTION AND SAFETY STANDARDS.**

This home has been substantially completed at the factory and certified as having been constructed in conformance with the Federal Manufactured Home Construction and Safety Standards when specified work is performed and inspected at the home site. This on-site work must be performed in accordance with manufacturer's instructions that have been approved for this purpose. The work to be performed on-site is [insert description of all work to be performed in accordance with the construction and safety standards].

This notice may be removed by the purchaser or lessor when the manufacturer provides the first purchaser or lessor with a copy of the manufacturer's final site inspection report, as required by regulation.

This final report must include the manufacturer's certification of completion. All manufactured homes may also be subject to separate regulations requiring approval of items not covered by the Federal Manufactured Home Construction and Safety Standards, such as installation and utility connections.

(b) *Placement of notice in home.* The notice required by paragraph (a) of this section must be displayed in a conspicuous and prominent location within the manufactured home and in a manner likely to assure that it is not removed until, or under the authorization of, the purchaser or lessor. The notice is to be removed only by the first purchaser or lessor. No retailer, installation or construction contractor, or other person may interfere with the required display of the notice.

(c) *Providing notice before sale.* A manufacturer that receives an on-site construction approval under § 3282.603 also must provide, or assure that the retailer provides, a copy of the Consumer Information Notice to prospective purchasers of any home to which the approval applies before the purchasers enter into an agreement to purchase the home.

(d) *When sale or lease of home is complete.* For purposes of establishing the manufacturer's and retailer's responsibilities for on-site completion under the Act and subparts F and I of this part, the sale or lease of the manufactured home will not be considered complete until the purchaser or lessor, as applicable, has been provided with a copy of the final site inspection report required under § 3282.605(d) and a copy of the manufacturer's certification of completion required under § 3282.609(k) and (l). For 5 years from the date of the sale or lease of each home, the manufacturer must maintain in its records an indication that the final on-site inspection report and certification of completion has been provided to the lessor or purchaser and, as applicable, the appropriate retailer.

#### **§ 3282.607 IPIA responsibilities.**

The IPIA for any manufacturer proceeding under this section is responsible for:

(a) Working with the manufacturer and the manufacturer's DAPIA to incorporate into the DAPIA-approved quality assurance manual for on-site completion any changes that are necessary to ensure that homes completed on-site conform to the requirements of this section;

(b) Providing the manufacturer with a supply of the labels described in this section in accordance with the requirements of § 3282.362(c)(2)(i)(A);



(c) Overseeing the effectiveness of the manufacturer's quality control system for assuring that on-site work is completed to the DAPIA-approved designs, which must include:

(1) Verifying that the manufacturer's quality control manual at the installation site is functioning and being followed;

(2) Monitoring the manufacturer's system for tracking the status of each home built under the approval until the on-site work and necessary inspections have been completed;

(3) Reviewing all of the manufacturer's final on-site inspection reports; and

(4) Inspecting all of the on-site construction work for each home utilizing an IPIA inspector or a qualified third-party inspector, as appropriate.

(i) Prior to close-up, unless access panels are provided to allow the work to be inspected after all work is completed on-site; and

(ii) After all work is completed on-site, except for close-up.

(d) Designating an IPIA inspector or a qualified inspector, as set forth under § 3282.358(d) who is not associated with the manufacturer and is not involved with the site construction or completion of the home and is free of any conflict of interest in accordance with § 3282.359, to inspect the work done on-site for the purpose of determining compliance with:

(1) The approved design or, as appropriate under § 3282.362(a)(1)(iii), the construction and safety standards; and

(2) The DAPIA-approved quality assurance manual for on-site completion applicable to the labeling and completion of the affected manufactured homes;

(e) Notifying the manufacturer of the IPIA's acceptance of the manufacturer's final site inspection report (*see* § 3282.605(d)(3)(iii)); and

(f) Preparing final inspection reports and maintaining such reports and final site inspection reports of the manufacturer for a period of at least 5 years. All reports must be available for HUD and SAA review in the IPIA's central record office as part of the labeling records.

#### **§ 3282.608 Manufacturer responsibilities.**

A manufacturer proceeding under this section is responsible for:

(a) Obtaining DAPIA approval for completion of construction on-site, in accordance with § 3282.603;

(b) Obtaining the IPIA's agreement to perform on-site inspections as necessary under this section and the terms of the DAPIA's approval;

(c) Notifying the IPIA that the home is ready for inspection.

(d) Paying the IPIA's costs for performing on-site inspections of work completed under this section;

(e) Either before or at the time on-site work commences, providing the IPIA with a copy of any applicable DAPIA-approved quality assurance manual for on-site completion, the approved instructions for completing the construction work on-site, and an approved inspection checklist;

(f) Certifying the home by affixing the on-site completion certification label, as provided in § 3282.605(b), unless the IPIA determines that the quality assurance program is not effective.

(g) Ensuring that the consumer notification requirements of § 3282.606 are met for any home completed under this subpart;

(h) Maintaining a system for tracking the status of homes built under the approval until the on-site work and necessary inspections have been completed, such that the system will assure that the work is performed in accordance with the quality control manual and other conditions of the approval;

(i) Ensuring performance of all work as necessary to assure compliance with the construction and safety standards upon completion of the site work, including § 3280.303(b) of this chapter, regardless of who does the work or where the work is completed;

(j) Preparing a site inspection report upon completion of the work on-site, certifying completion in accordance with DAPIA-approved instruction and that the home conforms with the approved design or, as appropriate under § 3282.362(a)(1)(iii), the construction and safety standards;

(k) Providing its final on-site inspection report and certification of completion to the IPIA and, after approval, to the lessor or purchaser and, as applicable, the appropriate retailer;

(l) Maintaining in its records the approval notification from the DAPIA, the manufacturer's final on-site inspection report and certification of completion, and the IPIA's acceptance of the final site inspection report and certification, and making all such records available for review by HUD in the factory of origin;

(m) Reporting to HUD or its agent the serial numbers assigned to each home completed in conformance with this section on Form 302; and

(n) With respect to a home that the manufacturer inspected and certified upon completion of the work on-site, notifying the appropriate state or local jurisdiction of any add-on to the home,

as referenced in § 3282.8(j), that has not been inspected by the state or local jurisdiction and that is not covered by the manufacturer's inspection and certification, but about which the manufacturer knew or reasonably should have known.

(o) Maintaining copies of all records for on-site completion for each home as required by this section in the unit file to be maintained by the manufacturer.

#### **§ 3282.609 Revocation or amendment of DAPIA approval.**

The DAPIA that issued an approval or the Secretary may revoke or amend, prospectively, an approval notification issued under § 3282.603.

(a) The approval may be revoked or amended whenever the DAPIA or HUD determines that:

(1) The manufacturer is not complying with the terms of the approval or the requirements of this section;

(2) The approval was not issued in conformance with the requirements of § 3282.603;

(3) A home produced under the approval fails to comply with the Federal construction and safety standards or contains an imminent safety hazard; or

(4) The manufacturer fails to make arrangements for one or more manufactured homes to be inspected by the IPIA prior to occupancy.

(b) The DAPIA must immediately notify the manufacturer, the IPIA, and HUD of any revocation or amendment of DAPIA approval.

#### **§ 3282.610 Failure to comply with the procedures of this subpart.**

In addition to other sanctions available under the Act and this part, HUD may prohibit any manufacturer or PIA found to be in violation of the requirements of this section from carrying out their functions of this subpart in the future, after providing an opportunity for an informal presentation of views in accordance with § 3282.152(f). Repeated infractions of the requirements of this section may be grounds for the suspension or disqualification of a PIA under §§ 3282.355 and 3282.356.

#### **§ 3282.611 Compliance with this subpart.**

If the manufacturer and IPIA, as applicable, complies with the requirements of this section and the home complies with the construction and safety standards for those aspects of construction covered by the DAPIA approval, then HUD will consider a manufacturer or retailer that has permitted a manufactured home

approved for on-site completion under this section to be sold, leased, offered for sale or lease, introduced, delivered, or imported, to be in compliance with the certification requirements of the Act and the applicable implementing regulations in this part 3282 for those aspects of construction covered by the approval.

PART 3285—MODEL MANUFACTURED HOME INSTALLATION STANDARDS

10. The authority citation for 24 CFR part 3285 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 5403, 5404, and 5424.

11. In § 3285.5, in alphabetic order, add the definitions for “peak cap

construction” and “peak flip construction” to read as follows:

§ 3285.5 Definitions.

Peak cap construction means any roof peak construction that is either shipped loose or site constructed and is site installed to complete the roof ridge/peak of a home.

Peak flip construction means any roof peak construction that requires the joining of two or more cut top chord members on site. The cut top chords must be joined at the factory by straps, hinges, or other means.

12. In § 3285.801, revise paragraph (f)(2) to read as follows:

§ 3285.801 Exterior close-up.  
(f) (2) In which the roof pitch of the hinged roof is less than 7:12 and does not consist of peak cap construction or peak flip construction; and

Dated: May 20, 2010.  
David H. Stevens,  
Assistant Secretary for Housing—Federal Housing Commissioner.  
[FR Doc. 2010–15088 Filed 6–22–10; 8:45 am]  
BILLING CODE 4210–67–P