

Findings Regarding ICC/THIA 1215 Foreword Statements on HUD Code Applicability

Conflict With HUD's 2018 Final Rule and Federal Regulatory Elections

I. Source of the Statement and Express Disclaimer

The following statements appear in the **Foreword** of *ICC/THIA 1215-202x, Design, Construction and Regulation of Small Residential Units and Tiny Houses for Permanent Occupancy*, issued by the International Code Council (ICC) and the Tiny Home Industry Association (THIA) as a **First Draft for ANSI Public Comment**:

“The information contained in this foreword is not part of this American National Standard (ANS) and has not been processed in accordance with ANSI’s requirements for an ANS. As such, this foreword may contain material that has not been subjected to public review or a consensus process. In addition, it does not contain requirements necessary for conformance to this standard.”

Immediately following that disclaimer, ICC states:

“In the U.S., off-site constructed units with a permanent chassis and over 320 sq ft may be subject to requirements under the HUD code. If the Authority Having Jurisdiction adopts this standard as part of its building code, the tiny house may qualify for an exemption.”

These statements were **not issued by HUD**, were **not adopted through HUD rulemaking**, and were **not reviewed or approved by ANSI**. They are unilateral representations made by ICC in a section it expressly acknowledges is outside the ANSI consensus and public review process.

II. What HUD's 2018 Final Rule Actually Did — and Did Not Do

In its **2018 Final Rule** clarifying the Recreational Vehicle (RV) exemption, HUD reaffirmed the statutory definition of “manufactured home” and **explicitly declined to expand or alter that definition**. HUD stated that it would *not* revise the regulatory definition of manufactured home in order to keep it aligned with the statute.

Critically, HUD made clear that **statutory jurisdiction does not mandate universal regulation**. HUD expressly stated:

“HUD maintains statutory jurisdiction over the manufacture and installation of all structures falling within the statutory definition of ‘manufactured home,’ but it elects not to regulate all structures that qualify for the RV exemption.”
83 Fed. Reg. 57677 (Nov. 16, 2018)

This statement is central. It establishes that:

- HUD’s authority flows from **federal statute**, not local adoption.
- HUD may have jurisdiction over certain structures **yet deliberately chooses not to regulate them**.
- That election is a **federal regulatory decision**, not one delegated to states, localities, or private standards bodies.

Statutory Definition Of A Manufactured Home

“manufactured home” means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle.

ICC Inconsistent Interpretation Of The 320 Square Feet Footprint

From The Forward Of ICC 1215

*“In the U.S., off-site constructed units with a permanent chassis and over 320 sq ft may be subject to requirements under the HUD code. **If the Authority Having Jurisdiction adopts this standard as part of its building code, the tiny house may qualify for an exemption.**”*

You will notice that it states ” may be subject to”.

From The ICCTHIA Model Legislation For Tiny Houses

¹ Tiny houses on wheels with a permanent chassis over 320 square feet are subject to the Manufactured Home Construction and Safety Standards administered by the U.S. Department of Housing and Urban Development. Where these requirements apply, a manufacturer may opt-out if they then follow requirements equivalent to those contained in a model building code.

You will notice it states ”are subject to”.

From ICC Publication: Tiny House Building It Right

*The publication states ” Manufactured Homes (once called ”mobile homes”) are constructed in a factory in accordance with the U.S. Department Of Housing and Urban Development (HUD) Manufactured Housing Program. Home homes **are over 320 square feet and over 8 feet wide.***

The program currently does not define a tiny house.

A true statement. It is an excellent publication written by Steve Van Note.

III. How the RV Exemption Evolved to 400 Square Feet

HUD’s RV exemption did not originate with ICC or ANSI standards. It evolved through **HUD rulemaking**, beginning in the early 1980s.

In **1982**, HUD codified the RV exemption and identified the **400 square foot limit** as a principal substantive element of that exemption. HUD expressly stated that it was **limiting the availability of the exemption to units of 400 square feet or less**, along with other criteria such as single chassis, towability, and non-permanent dwelling design intent.

Over time, HUD issued interpretive guidance (including the 1988 Interpretive Bulletin and later memoranda) to clarify how square footage should be measured, but **the 400 square foot ceiling remained the anchor** of the exemption.

In the 2018 Final Rule, HUD reaffirmed this structure and explained that:

- Size continues to be a factor because **ANSI A119.5 sets a maximum of 400 square feet**, excluding porches.
- The purpose of the rule was to **reinforce the distinction** between manufactured housing (regulated) and recreational vehicles (exempt).
- HUD was clarifying and broadening the exemption **for purposes of its own regulatory activities**, not inviting reclassification by private standards.

IV. Direct Conflict Between ICC’s Foreword Statement and HUD’s Position

The ICC Foreword statement conflicts with HUD’s framework in several material ways:

1. **Local adoption cannot create a HUD exemption**
HUD exemptions arise solely from federal law and federal regulation. An Authority Having Jurisdiction cannot cause a unit to “qualify for an exemption” by adopting an ICC standard.
2. **HUD expressly elects not to regulate certain qualifying structures**
ICC’s statement ignores HUD’s explicit declaration that it does *not* regulate all structures that may fall within the statutory manufactured home definition when the RV exemption applies.
3. **ICC collapses federal distinctions HUD deliberately preserved**
HUD carefully distinguishes among:
 - statutory jurisdiction,
 - regulatory election,

- and exemption criteria (including size and design intent).
4. ICC's language collapses these into a misleading implication that HUD regulation — or exemption — turns on ICC standard adoption.
 5. **ICC's statement is placed outside ANSI review by ICC's own admission**
ICC chose to make this legal representation in a Foreword it expressly states:
 - is not part of the ANSI process
 - has not been processed under ANSI requirements, and
 - may not reflect consensus or public review.
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V. Overreach and Substitution of Federal Authority

By asserting that adoption of ICC/THIA 1215 could affect HUD Code applicability or exemptions, ICC exceeds its role as a private standards developer and improperly substitutes itself for HUD.

This overreach is amplified by ICC's institutional position and influence through:

- ICC-NTA (an ICC subsidiary acting as a conformity assessment body),
- IPIAs and DAPIAs operating within the federally regulated manufactured housing system, and
- ICC's role in inspection, certification, and regulatory pathways for off-site construction.

Through ICC/THIA 1215, ICC advances a **permanent-occupancy standard** while implying consequences under federal HUD law that ICC has no authority to determine — all while disclaiming ANSI review and responsibility for the Foreword's content.

VI. Finding

HUD has expressly stated that it elects not to regulate all structures that qualify for the RV exemption and has reaffirmed a federal framework anchored at the 400 square foot limit and design intent. ICC/THIA 1215 disregards that federal election and improperly suggests that adoption of a private standard can influence HUD Code applicability or exemptions. Presented

in a Foreword ICC admits is outside ANSI review, this is not clarification of federal law; it is substitution of private judgment for federal regulatory authority.

[HUD Final Rule 2018](#)

HUD Final Rule: 2018

“HUD is not regulating use of manufactured homes or RVs. More specifically, how individuals decide to use their manufactured home or RV unit after purchase ... is beyond the scope of this final rule. The regulation of use and occupancy of RVs is the purview of state and local authorities, not HUD.”

What HUD Is Explicitly Saying — and What It Is Not

*HUD’s statement is not explanatory commentary. It is a **jurisdictional boundary**.*

HUD is making three things unmistakably clear:

- **HUD regulates manufacture — not occupancy**
- **HUD does not regulate duration of use, permanence, or how long someone lives in a unit**
- **HUD does not condition federal status on “permanent occupancy”**

*Once a unit leaves production, **HUD’s authority stops**. Use, occupancy, zoning, siting, and duration of habitation are **not federal questions** under the HUD Code or the RV exemption framework.*

This is not a gap.

This is an intentional limitation of federal authority.

How the 2018 HUD Final Rule Reinforces This Boundary

*In the 2018 Final Rule, HUD went further than clarifying exemptions. It **affirmatively declined to regulate** certain structures even when they technically fall within statutory definitions.*

HUD stated that it:

- **Maintains statutory jurisdiction over some RVs and chassis-based units, but**

- **Elects not to regulate all structures that qualify for the RV exemption**

This is critical.

*HUD did **not** say:*

- *that “permanent occupancy” converts a unit into a manufactured home,*
- *that a private standard can redefine federal classifications, or*
- *that exemption status is contingent on how a state or locality uses the structure.*

*Instead, HUD confirmed that **federal regulation is a choice**, not an inevitability — and that HUD has chosen restraint.*

The Evolution to 400 Square Feet — and Why ICC Gets This Wrong

*HUD’s RV exemption evolved over time to recognize units **up to 400 square feet**, measured according to federal guidance, while still remaining outside HUD Code enforcement when certified to RV standards.*

*That evolution did **not**:*

- *expand HUD authority,*
- *convert RVs into dwellings,*
- *or delegate decision-making power to private standards bodies.*

*The size threshold was adjusted **within HUD’s own regulatory framework**, not outsourced to ICC, not tied to “permanent occupancy,” and not used to redefine land-based housing.*

*ICC’s attempt to treat square footage as a trigger for dwelling status **misstates federal law**.*

Where ICC/THIA 1215 Crosses the Line

Now contrast HUD’s position with ICC/THIA 1215’s Foreword statement:

“In the U.S., off-site constructed units with a permanent chassis and over 320 sq ft may be subject to requirements under the HUD code. If the Authority Having Jurisdiction adopts this standard as part of its building code, the tiny house may qualify for an exemption.”

*This statement is **not issued by HUD.***

*It is issued by ICC, inside a **non-consensus Foreword** that explicitly states:*

“The information contained in this foreword is not part of this American National Standard (ANS) and has not been processed in accordance with ANSI’s requirements for an ANS... and has not been subjected to public review or a consensus process.”

Yet ICC uses this non-reviewed, non-consensus language to:

- *imply HUD regulatory consequences,*
- *suggest exemption authority ICC does not possess,*
- *and blur federal jurisdictional boundaries HUD has expressly drawn.*

*ICC does **not** have authority to declare when a unit is “subject to HUD.”
ICC does **not** have authority to create or confer federal exemptions.
ICC does **not** speak for HUD.*

The Core Conflict

HUD says:

- *Occupancy is **outside federal scope***
- *Exemptions are **federal regulatory choices***
- *Design intent and certification — not permanence — drive classification*

ICC/THIA 1215 does the opposite:

- *Anchors regulation to **permanent occupancy***
- *Recasts chassis-based units as **dwelling at manufacture***

- *Suggests federal consequences flow from **adoption of a private standard***

*That is not clarification.
That is **jurisdictional overreach**.*

HUD drew a line and stepped back. ICC steps over that line — quietly, in a Foreword, without consensus, and without authority.

*When a private standards body implies federal consequences while disclaiming responsibility, enforcement, and liability, it is not filling a regulatory gap — it is **rewriting federal boundaries by Silence and selective omission.***

Janet Thome
Founder and President
Tiny House Alliance USA

Author's Statement and Disclaimer

I was a **proponent who spearheaded the tiny-house effort within ASTM**, working collaboratively to establish the **E06.26 Tiny Houses Subcommittee** under the Committee on Performance of Buildings. I currently serve as **Membership Secretary** for the subcommittee.

Disclaimer: *I do not represent ASTM International, and the views, findings, and conclusions expressed in this document are my own, based on my own experience, experience, public information and independent research. This submission is made in my individual capacity as President of Tiny House Alliance USA, in support of transparency, lawful compliance, and open participation in standards development.*