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Regarding: Amended Conflicting Statements Regarding Tiny Houses And HUD, ICC 1215 Forward, HUD, And Motor Vehicle Preemption And [ICC Policy #49](#)
April 11, 2026

Greetings,

I am respectfully requesting that the ICC board review this preemption inquiry at the April 2026 meeting.

I am adding on to my Feb. 2, 2026 complaint that was never answered. I am adding a preemption complaint as well. I am including Karl because it is regarding the forward statement in the ICC 1215 standard.

I am asking for the ICC board to strike the information in the forward of the standard that discusses HUD and the 320 footprint. This is vital to the industry and does not belong in the forward of the standard. It must be discussed, go through consensus, and through the ANSI process.

The forward statement is false and misleading. All structures that meet the definition of a manufactured home, must (**Not May**) follow the requirements to receive the RV exemption if they build to the RV standards, or if it is built as a modular, it must follow the steps found in **§ 3282.12 Excluded Structures—Modular Homes.**

This standard is directing manufacturers away from federal law by avoiding motor vehicle preemption and HUD preemption to made up provisions and David Tompos Sr. is leading this, and he is the one that should know them best.

A manufacturer cannot both be excluded from HUD code requirements and build to select HUD provisions which he is currently suggesting.

The standard as written is unenforceable by a state and is setting the manufacturer up for failure.

(d) No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the Federal superintendence of the manufactured home industry as established by the Act.

§ 3282.11 - Preemption and reciprocity.

(a) No State manufactured home standard regarding manufactured home construction and safety which covers aspects of the manufactured home governed by the Federal standards shall be established or continue in effect with respect to manufactured homes subject to the Federal standards and these regulations unless it is identical to the Federal standards.

(b) No State may require, as a condition of entry into or sale in the State, a manufactured home certified (by the application of the label required by § 3282.362(c)(2)(i)) as in conformance with the Federal standards to be subject to State inspection to determine compliance with any standard covering any aspect of the manufactured home covered by the Federal standards. Nor may any State require that a State label be placed on the manufactured home certifying conformance to the Federal standard or an identical standard. Certain actions that States are permitted to take are set out in § 3282.303.

(c) States may participate in the enforcement of the Federal standards enforcement program under these regulations either as SAAs or PIAs or both. These regulations establish the exclusive system for enforcement of the Federal standards. No State may establish or keep in effect through a building code enforcement system or otherwise, procedures or requirements which constitute systems for enforcement of the Federal standards or of identical State standards which are outside the system established in these regulations or which go beyond this system to require remedial actions which are not required by the Act and these regulations. A State may establish or continue in force consumer protections, such as warranty or warranty performance requirements, which respond to individual consumer complaints and so do not constitute systems of enforcement of the Federal standards, regardless of whether the State qualifies as an SAA or PIA.

(d) No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the Federal superintendence of the manufactured home industry as established by the Act.

I am also writing to formally request review and correction of multiple ICC publications that address the applicability of the HUD Manufactured Housing Construction and Safety Standards (HUD Code) to tiny houses on wheels and other chassis-based dwellings. When read together, these publications present conflicting statements that exceed ICC's authority and misstate federal law.

For clarity, I have set the relevant statements out below **under separate headings**, exactly as they appear in their respective sources.

ICC Statement — “Tiny House Model Legislation” (as written)

*“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.”*

This statement acknowledges HUD jurisdiction, then asserts a manufacturer “opt-out” mechanism based on compliance with a model building code. **No such opt-out authority exists in statute or regulation. It is also a mandatory statement that ICC has no authority to mandate. There is a modular exclusion, but they are not referencing it, or including all the steps required by HUD.**

ICC Statement — Forward to ICC/THIA 1215 (as written)

*“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.”*

Breaking Down The False And Misleading Statement Above

- 1) *Misleading statement. This is partially taken from the Modular Exclusion.*
- 2) *False- they **ARE subject to**, NOT may be subject to*
- 3) *Misleading -If the Authority Having Jurisdiction adopts this standard as part of its building code, the tiny house may qualify for an exemption. How it is misleading is that it is written in a manner that at first glance, you think it means that the standard has to be adopted first to qualify for a tiny house to qualify for an exemption.*

Not true. False- the modular exclusion does NOT call it an exemption, it is referred to as an exclusion, and the steps are available right NOW for a manufacturer to be excluded from HUD regulation with a **voluntary certification** process and following exact steps so the unit can be built to building codes that include all the state and

local requirements, all steps must be followed. [The standard is not needed for the exclusion.](#)

4) The Modular Exclusion is the path that a manufacturer needs to take that will address the 320 issue of HUD preemption if the builder wants to build a tiny house 320 or larger.

[§ 3282.12 Excluded structures—modular homes](#)

These Statements Conflict With One Another.

The statement in *ICC Tiny House Model Legislation* uses mandatory language (“**are subject to**”), while the statement in the *ICC/THIA 1215 Forward* uses permissive language (“**may**”) suggesting discretion. Taken together, the publications are internally inconsistent in how they describe HUD Code applicability.

From ICC Publication: Tiny House Building It Right

It 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.**

Finally a true statement, though it conflicts with the other ICC statements. It is an excellent publication written by Steve Van Note.

Federal Statute — Definition of “Manufactured Home” (42 U.S.C. § 5402(6))

“[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;

From The HUD Final Rule RV Exemption 2018

HUD Response: As stated above, HUD currently regulates as manufactured housing only those structures that are built on a permanent chassis and that “in traveling mode, [are] eight body feet or more in width or forty body feet or more in length or, when erected on site, [are] three hundred twenty or more square feet.” Accordingly, HUD lacks jurisdiction to regulate any tiny home that is less than eight body feet in width, 40 body feet in length, or 320 square feet, or any tiny home that is built on a foundation without a permanent chassis. While this statutorily precludes HUD from regulating many tiny homes, manufacturers can **voluntarily opt-in to regulation by HUD** (See [42 U.S.C. 5402\(6\)](#)).

This statute authorizes only a voluntary **submission into** HUD regulation for certain sub-threshold structures. It does not authorize a voluntary opt-out from HUD jurisdiction once the statutory definition is met.

HUD Regulation — Modular Home Exclusion (24 CFR § 3282.12)

(a) The purpose of this section is to provide the certification procedure authorized by section 604(h) of the National Manufactured Housing Construction and Safety Standards Act under which modular homes may be excluded from coverage of the Act if the manufacturer of the structure elects to have them excluded.

If a manufacturer wishes to construct a structure that is both a manufactured home and a modular home, the manufacturer need not make the certification provided for by this section and may meet both the Federal manufactured home requirements and any modular housing requirements.

When the certification is not made, all provisions of the Federal requirements shall be met.

(b) Any structure that meets the definition of *manufactured home* at [24 CFR 3282.7\(u\)](#) is excluded from the coverage of the National Manufactured Housing Construction and Safety Standards Act, [42 U.S.C. 5401 et seq.](#), if the manufacturer certifies as prescribed in [paragraph \(c\)](#) of this section that:

(1) The structure is designed only for erection or installation on a site-built permanent foundation;

(i) A structure meets this criterion if all written materials and communications relating to installation of the structure, including but not limited to designs, drawings, and installation or erection instructions, indicate that the structure is to be installed on a permanent foundation.

(ii) A site-built permanent foundation is a system of supports, including piers, either partially or entirely below grade which is:

(A) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure,

(B) Placed at an adequate depth below grade to prevent frost damage, and

(C) Constructed of concrete, metal, treated lumber or wood, or grouted masonry; and

(2) The structure is not designed to be moved once erected or installed on a site-built permanent foundation;

(i) A structure meets this criterion if all written materials and communications relating to erection or installation of the structure, including but not limited to designs, drawings, calculations, and installation or erection instructions, indicate that the structure is not intended to be moved after it is erected or installed and if the towing hitch or running gear, which includes axles, brakes, wheels and other parts of the chassis that operate only during transportation, are removable and designed to be removed prior to erection or installation on a site-built permanent foundation; and

(3) The structure is designed and manufactured to comply with the currently effective version of one of the following:

(i) One of the following nationally recognized building codes:

(A) That published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA) and made up of the following:

(1) BOCA Basic Building Code,

(2) BOCA Basic Industrialized Dwelling Code,

(3) BOCA Basic Plumbing Code,

(4) BOCA Basic Mechanical Code, and

(5) National Electrical Code, or

(B) That published by the Southern Building Code Congress (SBCC) and the NFPA and made up of the following:

- (1) Standard Building Code,**
- (2) Standard Gas Code,**
- (3) Standard Mechanical Code,**
- (4) Standard Plumbing Code, and**
- (5) National Electrical Code, or**

(C) That published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAPMO), and the NFPA and made up of the following:

- (1) Uniform Building Code,**
- (2) Uniform Mechanical Code,**
- (3) Uniform Plumbing Code, and**
- (4) National Electrical Code or**

(D) The codes included in paragraphs (b)(3)(i)(A), (B), or (C) in connection with the One- and Two-Family Dwelling Code, or

(E) Any combination of the codes included in paragraphs (b)(3)(i)(A), (B), (C), and (D), that is approved by the Secretary, including combinations using the National Standard Plumbing Code published by the National Association of Plumbing, Heating and Cooling Contractors (PHCC), or

(F) Any other building code accepted by the Secretary as a nationally recognized model building code, or

(ii) Any local code or State or local modular building code accepted as generally equivalent to the codes included under paragraph (b)(3)(i), (the Secretary will consider the manufacturer's certification under [paragraph \(c\)](#) of this section to constitute a certification that the code to which the structure is built is generally

equivalent to the referenced codes. This certification of equivalency is subject to the provisions of [paragraph \(f\)](#) of this section) or

(iii) The minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

(4) To the manufacturer's knowledge, the structure is not intended to be used other than on a site-built permanent foundation.

(c) When a manufacturer makes a certification provided for under [paragraph \(b\)](#) of this section, the certification shall state as follows:

The manufacturer of this structure, Name _____ Address _____ (location where structure was manufactured).

Certifies that this structure (Ser. No. _____) is not a manufactured home subject to the provisions of the National Manufactured Housing Construction and Safety Standards Act and is—

(1) designed only for erection or installation on a site-built permanent foundation,

(2) not designed to be moved once so erected or installed,

(3) designed and manufactured to comply with _____ (Here state which code included in [paragraph \(b\)\(3\)](#) of this section has been followed), and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

(d) This certification shall be affixed in a permanent manner near the electrical panel, on the inside of a kitchen cabinet door, or in any other readily accessible and visible location.

(e) As part of this certification, the manufacturer shall identify each certified structure by a permanent serial number placed on the structure during the first stage of production. If the manufacturer also manufactures manufactured homes that are certified under [§§ 3282.205](#) and [3282.362\(c\)](#), the series of serial numbers for structures certified under this section shall be distinguishable on the structures and in the manufacturer's records from the series of serial numbers for the manufactured homes that are certified under [§§ 3282.205](#) and [3282.362\(c\)](#).

(1) If a manufacturer wishes to certify a structure as a manufactured home under §§ 3282.205 and 3282.362(c) after having applied a serial number identifying it as exempted under this section, the manufacturer may do so only with the written consent of the Production Inspection Primary Inspection Agency (IPIA) after thorough inspection of the structure by the IPIA at at least one stage of production and such removal or equipment, components, or materials as the IPIA may require to perform inspections to assure that the structure conforms to the Federal manufactured home standards. The manufacturer shall remove the original serial number and add the serial number required by § 3280.6.

(2) A manufacturer may not certify a structure under this section after having applied the manufactured home serial number under § 3280.6.

(f) All certifications made under this section are subject to investigation by the Secretary to determine their accuracy. If a certification is false or inaccurate, the certification for purposes of this section is invalid and the structures that have been or may be the subject of the certification are not excluded from the coverage of the Act, the Federal Manufactured Home Construction and Safety Standards, or these Regulations.

(1) If the Secretary has information that a certification may be false or inaccurate, the manufacturer will be given written notice of the nature of this information by certified mail and the procedure of this subparagraph will be followed.

(i) The manufacturer must investigate this matter and report its findings in writing as to the validity of this information to the Secretary within 15 days from the receipt of the Secretary's notice.

(ii) If a written report is received within the time prescribed in paragraph (f)(1)(i) of this section, the Secretary will review this report before determining whether a certification is false or inaccurate. If a report is not received within 15 days from the receipt of the Secretary's notice, the Secretary will make the determination on the basis of the information presented.

(iii) If the Secretary determines that a certification is false or inaccurate, the manufacturer will be given written notice and the reasons for this determination by certified mail.

(2) The Secretary may seek civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410, if the party in question in the exercise of due care has reason to know that such certification is false or misleading as to any material fact.

Code Of Federal Regulations

Authority Having Jurisdiction (AHJ) and Federal Preemption

Several ICC publications state or imply that *“if the Authority Having Jurisdiction adopts this standard as part of its building code, the tiny house may qualify for an exemption.”* This framing is inconsistent with federal law governing the HUD Manufactured Housing Construction and Safety Standards.

Authorities Having Jurisdiction derive their authority from **state and local law**. They do not possess authority to create, expand, or waive exemptions from **federal statutes or federal regulations**. Once a structure meets the statutory definition of a manufactured home under 42 U.S.C. § 5402(6), applicability of the HUD Code is determined **exclusively by Congress and administered solely by HUD**, not by local adoption of model codes.

Neither the National Manufactured Housing Construction and Safety Standards Act nor HUD’s implementing regulations delegate authority to state or local jurisdictions to exempt chassis-based dwellings from federal requirements through local code adoption. Federal preemption operates independently of local building code choices, and local adoption of a voluntary standard cannot alter federal jurisdiction.

Accordingly, statements suggesting that an AHJ may, through adoption of ICC standards, cause a structure to “qualify for an exemption” from the HUD Code misstate the limits of local authority and conflict with HUD’s exclusive role in determining applicability, exemptions, and exclusions under federal law.

HUD Statement — Exclusive Authority to Interpret the HUD Code

“As a reminder, no guidance interpreting HUD’s codes, regulations, or Interpretive Bulletins originating from any entity other than HUD can be relied upon as authoritative.

Additionally, compliance with a voluntary standard such as ANSI A119.5 cannot exempt manufacturers from Federal law, the HUD Code, HUD regulations, or HUD Interpretive Bulletins. Producing units in violation of HUD code, regulations, or interpretative bulletins, even while relying on non-HUD interpretations, does not mitigate or excuse any failure to comply”.

**Statement in full context derived from HUD: Resources Below
RV Exemption Under *Manufactured Housing Act. 2014 And 2015***

[HUD Final Rule RV Exemption 2018](#)

FR-5877-P-01 Manufactured Home Procedural and Enforcement Regulations; Revision of Exemption for Recreational Vehicles

RV Exemption Under Manufactured Housing Act : 2014

RV Exemption Under Manufactured Housing Act : 2015

Conclusion

ICC has no authority to merge these exclusions, extend them to chassis-based dwellings designed for continued mobility, or recast them into a generalized “opt-out” or locally created exemption from the HUD Code. Creating a new regulatory pathway by implication—derived from selective elements of unrelated exemptions—exceeds ICC’s role as a voluntary standards developer and intrudes into an area reserved exclusively to Congress and HUD.

This committee is being manipulated by both the ICC and David Tompos Sr. and Jr, with the full complicity of the building officials who know these processes. David Tompos Jr advised everyone to avoid federal domains including FMVSS, HUD, and motor vehicle law, which are the very legal paths to create legal units. He asked me how I could justify the cost. They are trying to add another layer of steps for their benefit, when the process has been there all along.

Registration with SAE and NHTSA **is free. That is how I justify the cost.**

And now David Tompos Sr. is trying to introduce provisions for more certification requirements when NHTSA requires self-certification. **Adding More cost.**

For these reasons, ICC publications that suggest manufacturer election, local adoption of ICC standards, or equivalency to model codes can displace or override HUD Code applicability represent an overreach beyond ICC’s authority and should be corrected to align with federal law and HUD’s exclusive interpretive role.

ICC’s misinterpretations are setting up manufacturers for noncompliance and possible fines, while excusing their own liability and as written, the standard is unenforceable.

Thank you for the attention to this matter,

Janet Thome President
Tiny House Alliance USA

