

ICC Board Of Directors
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ICC 1215 Committee
International Code Council
200 Massachusetts Ave NW
Washington, DC 20001
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Response to ICC's July 13, 2026 Preemption Determination Regarding ICC/THIA 1215

I am responding to ICC's July 13, 2026 letter addressing my communications of May 8, May 28, May 31, and June 1 concerning ICC/THIA 1215. ICC's response addresses distinct HUD preemption, transportation, enforceability, stakeholder, and motor-vehicle classification issues. My replies are provided below in the same general order.

1. ICC's Response to My May 8, 2026 HUD Preemption Inquiry

ICC's Answer

ICC stated that my May 8 communication challenged language in the ICC/THIA 1215 Foreword and the Tiny House Model Legislation suggesting that a manufacturer may "opt out" of HUD requirements or that local adoption of an ICC standard may create an "exemption" from HUD requirements.

ICC responded that I had not identified a substantive provision of the draft standard that conflicts with or is preempted by federal law. The Board therefore forwarded my concerns to the committee Secretariat for consideration within the standards-development process.

My Reply

My May 8 letter was intentionally limited to HUD preemption and ICC statements concerning structures that meet the federal definition of a manufactured home. It identified specific ICC language stating that a manufacturer may "opt out" of HUD requirements by following a model building code and that adoption of ICC/THIA 1215 by an Authority Having Jurisdiction may allow a tiny house to "qualify for an exemption."

Those statements communicate a legal pathway that manufacturers, code officials, and jurisdictions may rely upon when determining whether federal manufactured-housing requirements apply.

The federal modular exclusion already exists under **24 C.F.R. § 3282.12, Excluded structures—modular homes**. That provision is available now to qualifying manufacturers.

ICC/THIA 1215 is not needed to create that exclusion, and local adoption of ICC/THIA 1215 cannot replace, expand, or independently establish eligibility under the federal exclusion.

Because ICC/THIA 1215 is intended for adoption into state modular programs, it should have been aligned with the existing provisions of § 3282.12. Instead, ICC publications suggest that compliance with a model building code or local adoption of ICC/THIA 1215 may allow a manufacturer to opt out of HUD requirements or qualify for an exemption.

The public and manufacturers are therefore being misled into believing that ICC/THIA 1215 provides a separate route out of HUD jurisdiction. Manufacturers relying upon those representations may be exposed to civil or criminal liability under applicable federal law, and ICC/THIA 1215 will not protect them from those consequences.

The Manufactured Housing Improvement Act of 2000 provided that federal preemption is to be broadly and liberally construed to ensure that disparate state and local requirements or standards do not affect the uniformity and comprehensiveness of the federal standards. The Foreword of ICC/THIA 1215 stands as an obstacle to that federal preemption framework because it suggests that local adoption of the standard may affect federal applicability.

2. ICC's Response to My May 28, 2026 Letter

ICC's Answer

ICC characterized my May 28, 2026 letter as raising two principal concerns:

1. The transportation provisions of ICC/THIA 1215 are not cohesive with transportation terminology and requirements used in other ICC standards; and
2. The standard's silence regarding temporary carrier systems creates ambiguity and possible enforceability problems.

ICC replied that Council Policy 49 does not authorize the Board to address cohesiveness between ICC standards or ambiguity in drafting. ICC further stated that I had not identified a federal law that preempts a provision in the transportation chapter and that I had not identified any provision lacking mandatory and enforceable language.

My Reply

My May 28 letter did more than raise a general drafting or correlation concern. It identified the direct relationship between ICC/THIA 1215's mandatory transportation provisions, its newly created "independent carrier system" terminology, and the federal transportation framework governing highway transportation.

ICC/MBI 1200 expressly recognizes:

- Transportation vehicles;

- Transportation permitting;
- Transportation routes;
- Gross transportation weight;
- Integrated chassis systems; and
- Separate trailers.

ICC/THIA 1215, by contrast, replaces the recognized term “separate trailer” with “independent carrier system” and then excludes that carrier system from the transportation requirements of Chapter 7.

The relevant exception states:

“A chassis used as an independent carrier system to transport the SRU where no portion of that system is a permanent component of the building.”

At the same time, ICC/THIA 1215 regulates or relies upon:

- Highway movement;
- Transportation loading;
- Chassis systems;
- In-transit structural conditions;
- Transportation-dependent structural design; and
- Documentation of compliance with unspecified “DOT requirements.”

The concern is therefore not simply that the standard is silent. The concern is that the standard uses mandatory transportation-related provisions while excluding the carrier system responsible for the actual highway movement and without identifying the governing transportation compliance framework.

My May 28 letter also cited federal regulations recognizing transported dwelling and commercial structures, including “mobile structure trailers,” and FMCSA guidance treating the movement of mobile homes and house trailers as driveaway-towaway operations.

Accordingly, the transportation issue cannot be resolved merely by stating that ICC/THIA 1215 is silent regarding temporary carrier systems. Silence does not eliminate the existing federal transportation framework, nor can it be used to place an otherwise regulated highway transportation system outside that framework.

3. ICC’s Response to My June 1, 2026 Communication

ICC’s Answer

ICC stated:

“Once again, your June 1 email did not specify any provision of the draft standard that you believe is preempted by federal law.”

ICC then characterized the authorities I supplied as applying only to motor vehicles and driveaway-towaway operations.

My Reply

To be clear, my preemption concern is not limited to one isolated sentence or provision. **The transportation section of ICC/THIA 1215 in its entirety is subject to preemption because it regulates or relies upon highway transportation, transportation equipment, chassis systems, transportation loading, in-transit structural conditions, and carrier systems in an area already governed by federal motor-vehicle and motor-carrier law.**

Separately, the Foreword of ICC/THIA 1215 stands as an obstacle to HUD preemption because it suggests that local adoption of the standard may allow a structure to qualify for an exemption from federal manufactured-housing requirements.

My position is therefore specific:

- **Chapter 7 in its entirety conflicts with the federal transportation framework; and**
- **The Foreword conflicts with and stands as an obstacle to the uniform application of HUD preemption.**

4. NHTSA Interpretation Concerning Modular-Home Transportation

NHTSA Interpretation No. **aia0571** directly distinguishes the modular home from the equipment used to transport it.

The interpretation states:

“Modular homes are not motor vehicles under the National Traffic and Motor Vehicle Safety Act (15 U.S.C. S1381 *et seq.*) and accordingly there are no requirements that they be certified or labeled.”

NHTSA then separately states:

“Trailers are motor vehicles under the National Traffic and Motor Vehicle Safety Act and are required to comply with applicable standards. They are also required to be certified by the manufacturer in accordance with the Certification regulations (Part 567), and as a manufacturer of trailers you are required to submit the information specified in Part 566.”

This interpretation addresses the transportation of modular homes precisely. The modular home is not itself the motor vehicle, but the low-bed trailer used to transport it is a motor vehicle subject to applicable federal standards and certification requirements.

5. ICC's Response Concerning the Motor-Vehicle Definition

ICC's Answer

ICC stated:

"The Board has repeatedly explained to you that modular homes with an integrated chassis, which are the only modular homes addressed in the transportation section of the draft 1215 standard, do not fall within the legal definition of 'motor vehicle,' which must be manufactured primarily for use on public streets and highways. 49 U.S.C. § 30102(a)(7). As a result, the provisions in the transportation section cannot be preempted by federal law that relates to motor vehicles."

ICC also requested that I refrain from submitting additional preemption claims relying upon federal statutes or regulations applying only to motor vehicles and stated that the Board would not provide a written response to such claims.

My Reply

Respectfully, ICC's response does not address the distinction between:

- The building or structure being transported;
- An integrated chassis, running gear, or transportation system; and
- A separate or temporary carrier used to transport the structure on public highways.

The fact that a completed building is intended for residential occupancy after installation does not determine the legal status of the trailer, chassis, running gear, axle system, or other transportation equipment used to move it on public roads.

Trailers do not have "fluidity" in their classification. **There is not a box that can be checked stating "trailer," "chassis," or "other," depending upon which classification is more convenient.**

NHTSA defines a trailer as:

"A motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle."

NHTSA's modular-home transportation interpretation confirms that the modular home and the trailer must be evaluated separately. The modular home is not itself a motor vehicle, but the trailer used to transport it is a motor vehicle and is subject to applicable federal safety and certification requirements.

Renaming a trailer an "independent carrier system," or referring to it as a chassis, does not change its federal classification.

ICC/THIA 1215 itself recognizes that the SRU must withstand the effects of highway movement, requires chassis-related documentation, addresses in-transit conditions, and creates an exception for an independent carrier system. These provisions establish that highway transportation is not incidental to the standard. It is expressly contemplated by it.

My concern is not that every transported building must automatically be classified as a motor vehicle. My concern is that ICC cannot treat the structure, chassis, and carrier as one undifferentiated object and then declare that no federal motor-vehicle or motor-carrier requirements can apply.

6. ICC/THIA 1215's Continuing Enforceability Problem

ICC/THIA 1215 remains an unenforceable standard because it stands as an obstacle to both federal motor-vehicle transportation law and HUD preemption law.

On the transportation side, the standard addresses highway movement, chassis design, transportation loading, in-transit structural support, and purported "DOT requirements," while excluding the independent carrier system from the chapter and leaving the applicable transportation requirements unidentified.

On the HUD side, ICC publications have indicated that manufacturers may "opt out" of federal requirements or that local adoption of the standard may create an exemption. Those representations risk allowing a locally adopted ICC standard to be treated as an alternative to, or pathway around, the federal manufactured-housing framework.

A standard cannot be reliably enforced when it:

- Creates transportation classifications that are not reconciled with the governing federal framework;
- Uses unspecified references to "DOT requirements" without identifying objective compliance criteria;
- Excludes the transportation carrier while regulating the consequences of highway transportation;
- Suggests that a locally adopted standard may affect federal HUD applicability; and
- Risks inconsistent state and local treatment in areas governed by uniform federal requirements.

These are not abstract drafting concerns. They directly affect manufacturers, inspectors, transporters, code officials, enforcement authorities, consumers, and the jurisdictions expected to adopt and administer the standard.

Conclusion

I respectfully request that ICC reconsider the issues raised in my May 8, May 28, and June 1 communications, including:

1. The statements suggesting that manufacturers may opt out of HUD requirements or obtain an exemption through local adoption of ICC/THIA 1215;
2. The existing federal exclusion for qualifying modular homes under 24 C.F.R. § 3282.12;
3. The legal distinction between a modular structure and the trailer or carrier used to transport it;
4. The legal treatment of integrated chassis systems and independent carrier systems used on public highways;
5. The absence of identifiable and enforceable transportation compliance criteria;
6. The conflict between ICC/THIA 1215 and the uniform federal frameworks governing manufactured housing and highway transportation; and
7. Whether the standard, as presently written, creates an obstacle to the accomplishment and execution of federal law.

My position is specific: **the transportation section in its entirety is subject to preemption because it conflicts with the federal motor-vehicle and motor-carrier framework, while the Foreword separately stands as an obstacle to HUD preemption.**

Finally, I respectfully reserve the right to contact ICC regarding preemption matters based upon my rights as an interested party. Nothing in ICC Council Policy 49 states that there is a limitation on the number of times the Chief Executive Officer or the Board may be contacted regarding new, continuing, or unresolved preemption concerns.

I will continue to communicate respectfully and provide specific provisions, authorities, and supporting documentation. I expect substantive federal-preemption concerns affecting public safety, manufacturers, jurisdictions, and the uniform application of federal law to be received and considered on their merits.

Respectfully submitted,

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