



ICC Is Positioning Itself To Replace the HUD Code With ICC Codes

This report should be read with the following companion papers: **Conflicts of Interest, Vertical Integration, and Regulatory Capture Concerns in HUD's Offsite Construction Research Program; Is the Chassis Removal of a Manufactured Home a Win for the Manufactured Home Industry or a Stepping Stone for ICC to Replace the HUD Code?**; [Building Research at the National Bureau of Standards: 1968-1974 • NBS Building Science Series 75](#) ; and **How the International Code Council Is Weaponizing Certification.**

It should also be viewed alongside two HUD publications concerning off-site construction:

[Offsite Construction for Housing: Research Roadmap \(2023\)](#)

[HUD's Past, Present, and Future Role in Accelerating U.S. Offsite Construction for Housing \(2026\) Action Plan](#)

This paper has a **narrow focus on a quote from Cindy Davis**. It also provides supporting information for readers who may not be familiar with the relevant terminology, definitions, or the HUD Code that applies to manufactured homes.

HUD Offsite Construction for Housing: Research Roadmap

“With the ANSI industry consensus standard by ICC and MBI now available, it seems that HUD could streamline the manufactured home industry, remove unnecessary regulatory barriers, and increase consumer confidence by adopting these standards for all offsite construction. States could ease their workload with reliance on accredited third-party inspection and labeling organizations.”

-Cindy Davis International Code Council President

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Why the quote is so crucial is because the ICC/MBI standards do NOT apply to manufactured homes. That is stated in the forward of the standards, so there is an obvious power grab being promoted to HUD from ICC that the standards would include all types of off-site housing for inspection and accreditation, but here's the rub, manufactured homes have a federal program for third party agencies that are known as IPIA and DAPIA agencies that are approved by HUD.

It is the modular industry that has a patchwork of different regulations.



What Standards Are Cindy Referring To?

International Code Council (ICC) and Modular Building Institute (MBI), ICC/MBI Standards 1200 and 1205 are a coordinated set of standards that cover the entire off-site construction process, capturing best practices and supporting a consistent approach to verifying compliance. [ICC/MBI Standard 1200-2021: Standard for Planning, Design, Fabrication, and Assembly in Off-Site Construction](#) provides requirements for designers, manufacturers, transporters and assemblers to assure that off-site construction components are produced under a quality assurance/quality control process and that they can demonstrate compliance with building code requirements. While [ICC/MBI Standard 1205-2021: Standard for Inspection and Regulatory Compliance in Off-Site Construction](#) addresses the compliance verification process including permitting, in-plant and on-site final inspections, third party inspections, the role of Industrialized Building Departments, state modular programs and the authority having jurisdiction. ICC/MBI 1210 and ICC G5-2019 are also referenced in the HUD publication.

Manufactured Homes Cannot Be Lumped In With The Barriers Of Modular Homes



Note: Manufactured housing cannot be lumped in with the barriers of modular homes that are built off-site to the IRC and IBC. The HUD Code preempts building codes, and there is nationwide harmonization already for manufactured homes.

The quote becomes more alarming because of these two recommendations in the HUD Roadmap research paper.

Specific Recommendations to HUD Cited: Offsite Construction for Housing: Research Roadmap (2023)

- **HUD Code** — Investigate the relative merits of the HUD Code versus ICC codes for potential regulation of manufactured housing.
- **New Products** — Research obstacles in the current ICC-Evaluation Service (ES) process to develop mechanisms fostering new product development in offsite construction for housing.

Now Hold On Partner : We Need To Set The Record Straight



Manufactured housing follows a different regulatory path than site-built or modular homes built in a factory. Congress passed the National Manufactured Housing Construction and Safety Standards Act of 1974. The law directed HUD to establish national standards for the design and construction of manufactured houses. These standards, commonly referred to as the HUD Code, took effect in 1976.

The HUD Code sets requirements for the structural strength, fire safety, electrical systems, plumbing, heating, and overall durability of manufactured housing (exhibit 1). Unlike local building codes, which are enforced through permits and inspections at the construction site, the HUD Code is applied at the factory. Manufacturers must build houses that meet the federal standards and are subject to inspection by third-party agencies approved by HUD.

Local governments still play a role in code enforcement after the house leaves the factory. They regulate the home's installation, site preparation, and utility connections through local ordinances and permitting processes. This process results in a split system in which construction is regulated at the federal level, whereas placement and installation are regulated at the state and local level.

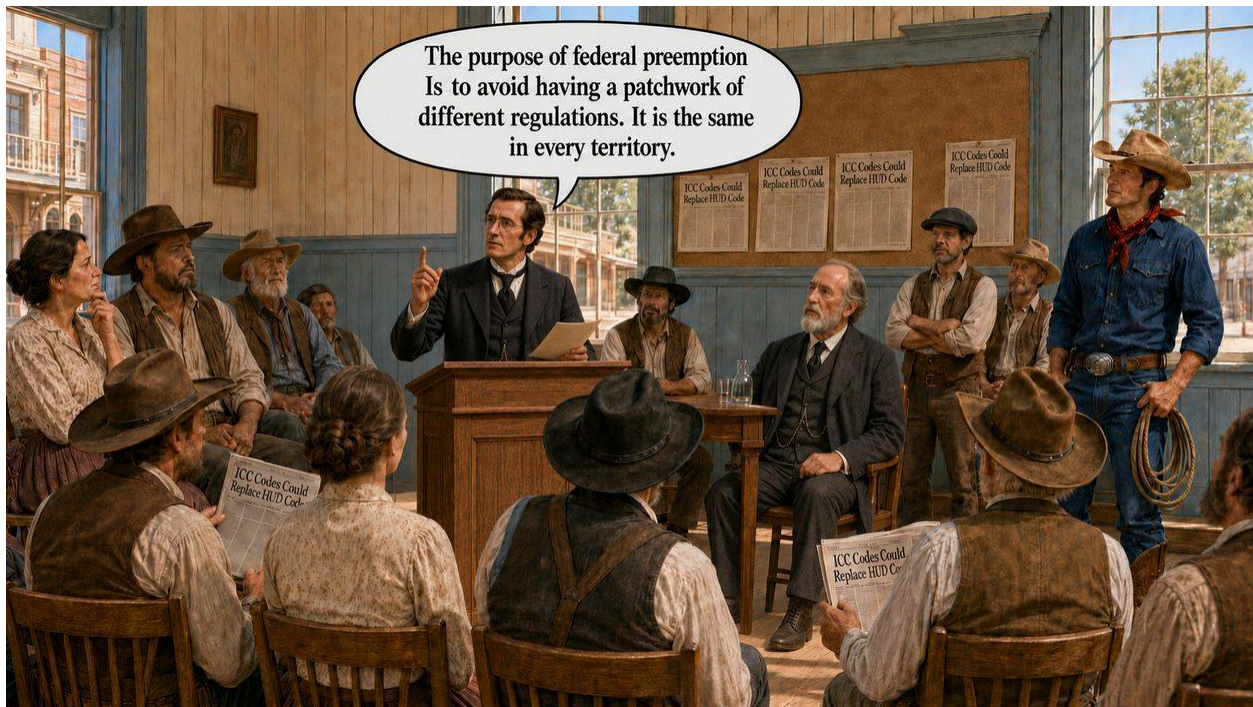
We Are Being Rustled



Each manufactured house that complies with the HUD Code receives a certification label, known as a HUD tag, that is attached to the house. This label indicates that the house meets federal construction and safety standards and allows it to be sold and installed in multiple states without needing to meet separate local construction codes.

Local governments still play a role in code enforcement after the house leaves the factory. They regulate the home's installation, site preparation, and utility connections through local ordinances and permitting processes. This process results in a split system in which construction is regulated at the federal level, whereas placement and installation are regulated at the state and local level.

The Purpose Of Preemption Is To Prevent A Patchwork Of Different Regulations



Federal Preemption

When state law and federal law conflict, federal law displaces, or preempts, state law, due to the Supremacy Clause of the Constitution. U.S. Const. Art. VI., § 2. Preemption applies regardless of whether the conflicting laws come from legislatures, courts, administrative agencies, or constitutions.

Told Ya, We Know A Cattle Re-Brand When We See One



So the story they are selling is that by adopting the **ICC/MBI standards**, it will “ease the state's workload with reliance on accredited third-party inspection and labeling organizations.”

Once again- manufactured homes and modular homes have separate regulations. Third-party inspection and labeling requirements for manufactured homes have a uniform nationwide system already in place.

Each manufactured house that complies with the HUD Code receives a certification label, known as a **HUD tag**, that is attached to the house.

What is a HUD Label?

The Certification Label (also known as a HUD tag) is a metal plate that is affixed to the outside of the manufactured home. Section 3280.11(b) states, “The label shall be approximately 2 in. by 4 in. in size and shall be permanently attached to the manufactured home by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without defacing it. It shall be etched on 0.32 in. thick aluminum plate. The label number shall be etched or stamped with a 3 letter designation which identifies the production inspection primary inspection agency and which the Secretary shall assign. Each label shall be marked with a 6 digit number which the label supplier shall furnish. The labels shall be stamped with numbers sequentially.”

This label indicates that the house meets federal construction and safety standards and allows it to be sold and installed in multiple states without needing to meet separate local construction codes.

Read The Fine Print

[ICC/MBI Standard 1205-2021: Standard for Inspection and Regulatory Compliance in Off-Site Construction](#) addresses the compliance verification process including permitting, in-plant and on-site final

inspections, third party inspections, the role of Industrialized Building Departments, **state modular programs** and the authority having jurisdiction within an ISO accreditation framework.

ICC rebranded factory built housing to off-site construction so they could rebrand the industry, co-branded the standards with MBI to corner the market and eliminate competition, including ASTM E541 that they are trying to replace with ICC/MBI 1205.

HUD Code Preemption Prevents a Patchwork of Regulations

We'll Stick To The HUD Code



Federal Preemption

When state law and federal law conflict, federal law displaces, or preempts, state law, due to the Supremacy Clause of the Constitution. U.S. Const. Art. VI., § 2. Preemption applies regardless of whether the conflicting laws come from legislatures, courts, administrative agencies, or constitutions.

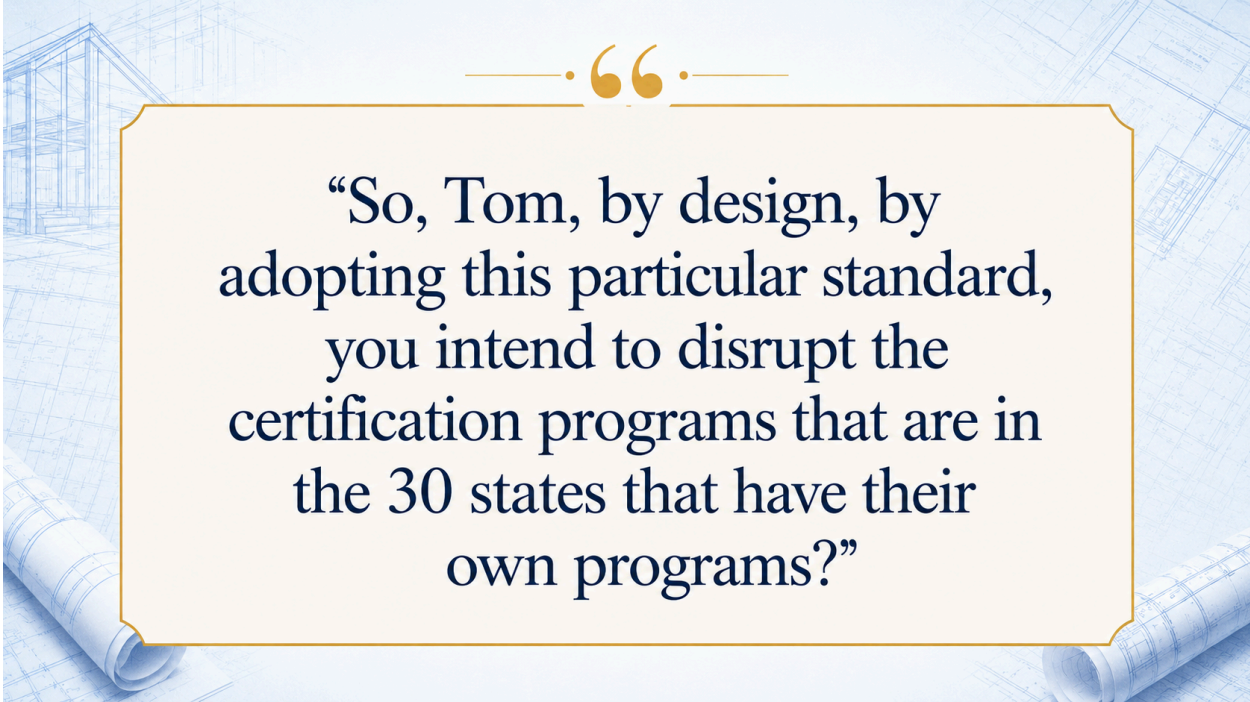


FOREWORD Of The ICC/MBI 1200 And 1205 Standards

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.

*This Standard includes componentized, panelized and modularized elements and will **not apply to HUD Manufactured Housing**.*

In 2021, the ICC/MBI 1200 1205 were turned down at the 2024 IBC at the hearing, and one of the first comments that was made was;



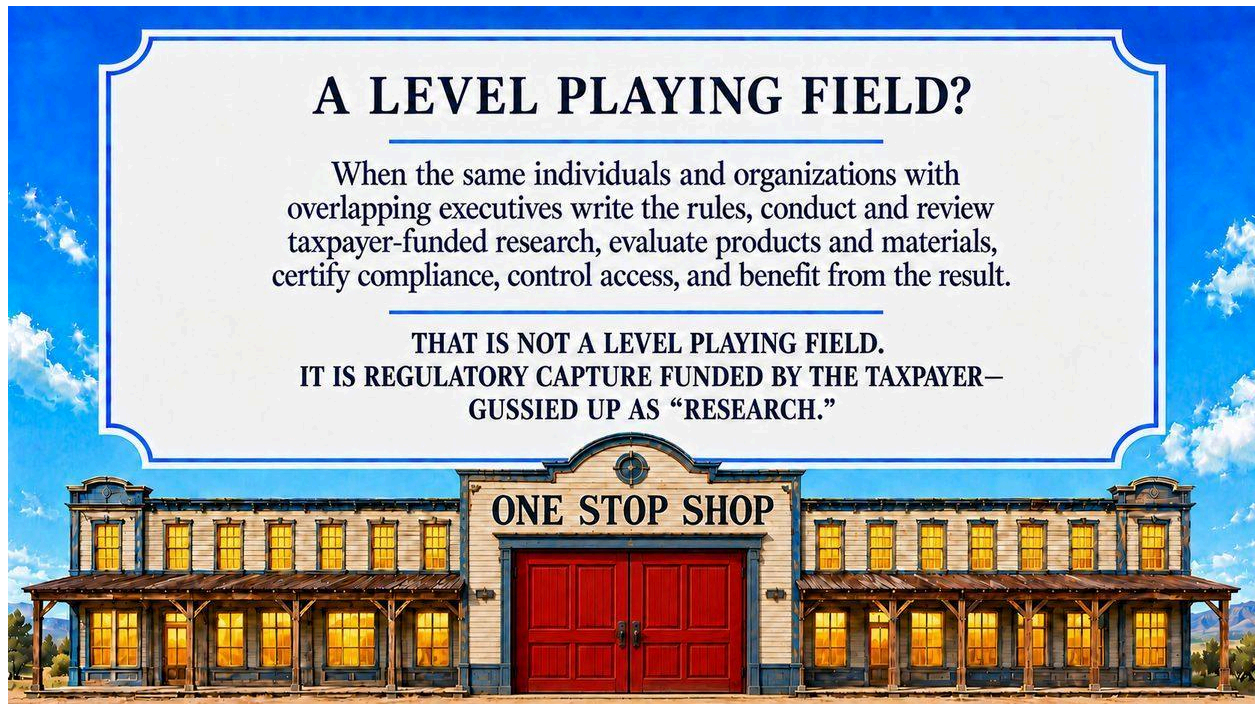
“So, Tom, by design, by adopting this particular standard, you intend to disrupt the certification programs that are in the 30 states that have their own programs?”

“So, Tom, by design, by adopting this particular standard, you intend to disrupt the certification programs that are in the 30 states that have their own programs?”

Federal Regulated HUD Code Housing Is Not Included (Manufactured Homes)

This does not include federally regulated HUD code housing, but does include tiny homes, accessory dwelling units, modified containers, and panelized homes. This proposal will help facilitate greater use of these construction processes, which are desperately needed today given the lack of labor available, the lack of affordable housing, as well as our country’s other infrastructure needs.

[Listen To The Hearing Video: G102-21](#)



Conclusion

Specific Recommendations To HUD Cited HUD Code: “Investigate the relative merits of the HUD Code versus ICC codes for potential regulation of manufactured housing.”

New Products: “Research obstacles in the current ICC-Evaluation Service (ES) process to develop mechanisms fostering new product development in offsite construction for housing.” Cindy Davis stated that the ICC/MBI standards would help “level the playing field.” But the players promoting those standards are not merely partners—they include the same individuals and organizations with overlapping executives who are writing the rules, conducting and reviewing taxpayer-funded research, evaluating products and materials, certifying compliance, and shaping the outcome. They are promoting their own proprietary pathway through ICC/MBI standards, ICC-ES evaluation reports, and an ICC-centered Housing Certification System, while advancing a narrative that the HUD Code must be “modernized.”

At the same time, HUD-funded research recommends comparing the HUD Code with ICC codes for the potential regulation of manufactured housing and researching obstacles within ICC’s own evaluation-service process. The same interconnected interests are therefore positioned to define the problem, shape the research, promote the remedy, evaluate products and materials, certify compliance, control access, eliminate competing pathways, increase costs, and benefit from the result—all while eyeing a federally preemptive HUD Code that does not face the same state-by-state barriers as modular housing.

That is not a level playing field. It is regulatory capture funded by the taxpayer—Gussied Up as “Research.”

Cindy Davis’s Recommendation Should Not Be Viewed in Isolation

Cindy Davis’s recommendation that HUD consider ICC/MBI standards is not an isolated statement about improving off-site construction. It appears within a broader federal research program that repeatedly points toward an exclusive ICC-centered system framework.

The HUD Publications Promote the ICC Framework

The 2023 *Offsite Construction for Housing: Research Roadmap* and the 2026 *Action Plan: HUD's Past, Present, and Future Role in Accelerating U.S. Offsite Construction for Housing* promote a Housing Certification System, ICC/MBI 1200-series standards, and ICC-ES evaluation reports. They do not present ASTM E541 or competing third-party approaches as parallel alternatives. The framework promoted in the HUD publications is the ICC framework.

The publications also include the recommendation to “Investigate the relative merits of the HUD Code versus ICC codes for potential regulation of manufactured housing,” together with the potential for the HUD Code to be replaced by ICC codes. Cindy Davis’s recommendation therefore appears within publications that are already directing federal attention toward ICC codes, ICC standards, ICC evaluation reports, and an ICC-centered certification structure.

The NIBS/MOD X Housing Certification System

The Housing Certification System is part of the NIBS/MOD X off-site construction program and is being piloted in cities through authorities having jurisdiction and system providers. It is not merely a research concept. The pilot is intended to test a system for approving housing systems and products across jurisdictions and to create a repeatable certification pathway.

Because the promoted pathway relies on ICC/MBI standards, ICC-ES evaluation reports, and an ICC-centered compliance framework, its adoption would benefit ICC by expanding reliance on ICC standards, evaluation services, conformity-assessment infrastructure, and regulatory approval pathways. The same organizations and individuals may help define the problem, review the research, shape the remedy, and potentially benefit from its implementation.

The 21st Century ROAD to Housing removed the permanent-chassis requirement from the federal definition of a manufactured home by recognizing manufactured homes built with or without a permanent chassis.

21st Century ROAD to Housing: Requires states to treat manufactured homes without a permanent chassis in parity with manufactured homes built on a permanent chassis across financing, title, insurance, manufacture, sale, taxes, transportation, installation, and other areas, and also requires states to certify that their laws and regulations provide that parity.

Section 302, “Modular Housing Production Act,” addresses FHA construction-financing barriers and authorizes a grant to study the design and feasibility of a standardized uniform commercial code for modular homes. That study includes a standardized coding system for serializing and securing modules, streamlining design and construction, improving modular-home innovation, and coordinating the standardized code with financing incentives.

These provisions matter to this report because the removal of the permanent-chassis requirement, state parity mandates, standardized modular serialization, financing incentives, the ICC-centered framework promoted in HUD’s publications, and the NIBS/MOD X Housing Certification System are all moving at the same time. Together, they are blurring the regulatory lines between HUD Code manufactured homes and modular homes, while expanding the role of private certification and compliance systems in both sectors.

The Larger Preemption and Certification Context

The larger picture also includes ICC’s disregard of motor-vehicle and HUD preemption, HUD’s failure to address complaints involving ICC and ICCNTA or protect HUD preemption from the misappropriation of the HUD Code, and ICC 1215’s promotion of what I refer to as the “ghost trailer” while denying the need for VINs and certification labels on the trailer.

Why ASTM E541 Matters

Historical Source: [Building Research at the National Bureau of Standards, 1968-1974 • NBS Building Science Series 75](#)

ASTM E541 is not an unrelated historical standard. It is expressly referenced in 24 CFR § 3282.358, where HUD requires the qualifications of personnel performing DAPIA and IPIA functions to be judged in accordance with

ASTM Standard E-541. ASTM E541 is therefore already part of HUD's third-party requirements for the certification of manufactured homes under the HUD Code.

If HUD promotes the NIBS/MOD X Housing Certification System and an ICC-centered framework while ASTM E541 is omitted or pushed out of view, the existing third-party standard could be displaced from the HUD manufactured-housing certification structure itself. The issue concerns certification, inspection, labeling, transportation, preemption, serialization, financing, competition, consumer choice, affordable third-party pathways, and who ultimately controls the regulatory framework for manufactured housing.

Taken together, Cindy Davis's recommendation should be viewed as one part of a coordinated and much broader shift—not as a stand-alone comment. If the distinction between manufactured and modular housing continues to disappear while the ICC-centered Housing Certification System displaces ASTM E541, the question is whether the separate HUD manufactured-housing system will eventually be portrayed as unnecessary.

§ 3282.358 Personnel: References ASTM E541

(a) Each primary inspection agency shall have qualified personnel capable of carrying out all of the functions for which the primary inspection agency is seeking to be approved or disapproved. Where a State intends to act as the exclusive IPIA in the State, it shall show that it has adequate personnel to so act in all plants in the State. (b) Each submission shall indicate the total number of personnel employed by the submitting party, the number of personnel available for this program, and the locations of the activities of the personnel to be used in the program. (c) Each submission shall include the names and qualifications of the administrator and the supervisor who will be directly responsible for the program, and résumés of their experience. (d) Each submission shall contain the information set out in paragraphs (d)(1) through (d)(9) of this section. Depending upon the functions (DAPIA or IPIA) to be undertaken by a particular primary inspection agency, some of the categories of personnel listed may not be required. In such cases, the submission should indicate which of the categories of information are not required and explain why they are not needed. The submission should identify which personnel will carry out each of the functions the party plans to perform. The qualifications of the personnel to perform one or more of the functions will be judged in accordance with the requirements of ASTM Standard E-541 except that the requirement for registration as a professional engineer or architect may be waived for personnel whose qualifications by experience or education equal those of a registered engineer or architect. The categories of personnel to be included in the submission are as follows: (1) The names of engineers practicing structural engineering who will be involved in the evaluation, testing, or followup inspection services, and résumés of their experience. (2) The names of engineers practicing mechanical engineering who will be involved in the evaluation, testing, or followup, inspection services and résumés of their experience. (3) The names of engineers practicing electrical engineering who will be involved in the evaluation, testing, or followup inspection services and résumés of their experience. (4) The names of engineers practicing fire protection engineering who will be involved in the evaluation, testing, or followup inspection services, and résumés of their experience. (5) The names of all other engineers assigned to this program, the capacity in which they will be employed, and résumés of their experience. (6) The names of all full-time and part-time consulting architects and engineers, their registration, and résumés of their experience. (7) The names of inspectors and other technicians along with résumés of experience and a description of the type of work

each will perform. (8) A general outline of the applicant agency's training program for assuring that all inspectors and other technicians are properly trained to do each specific job assigned. (9) The names and qualifications of individuals serving on advisory panels that assist the applicant agency in making its policies conform with the public interest in the field of public health and safety.

(e) All information required by this section shall be kept current. The Secretary shall be notified of any change in personnel or management or change of ownership or State jurisdiction within 30 days of such change.

1. Organizations

This is a companion report to the Conflicts of Interest, Vertical Integration, and Regulatory Capture Concerns report, which already covers NIBS and MOD X in full. Those organizations are not repeated here; this report is scoped to the preemption/standards record specifically.

The organizations below appear in documented roles across the 2023 Research Roadmap, the 2026 Action Plan, HUD's own regulations (24 CFR Part 3282), and ASTM/state adoption records.

Organization	Role in the Record	Position / Notes
HUD(Office of Policy Development & Research)	Funder and publisher of both the 2023 Research Roadmap and the 2026 Action Plan.	Also the federal agency that administers the HUD Code (24 CFR Part 3280/3282) — the exclusive, preemptive manufactured-housing construction and safety standard system.
International Code Council (ICC) / ICC-ES / ICC NTA / IAS	Cindy Davis (ICC Board President) served on the 2023 Project Technical Committee. Ryan Colker and David Tompos are listed Project Partners and Peer Reviewers on the 2026 Action Plan.	ICC NTA, LLC is a stated subsidiary of ICC and is a HUD-approved DAPIA and IPIA provider. David Tompos oversees ICC NTA, ICC-ES, and IAS as EVP of ICC's Conformity Assessment Group.
Modular Building Institute (MBI)	Co-developed ICC/MBI 1200, 1205, and 1210 offsite-construction standards jointly with ICC. Tom Hardiman listed as Project Partner (2026) and workshop attendee, topic area "Advocacy/Trade" (2023).	Not a listed FY23 NOFO recipient.

2. Individuals

Individual	Documented Role(s)	Source
David A. Tompos	Executive Vice President, ICC Conformity Assessment Group —	Sources: Action Plan Appendix, entry 6.01; ICC/NTA executive

	oversees ICC NTA, ICC-ES, and IAS. President, ICC NTA; formerly President & CEO, NTA (2002–2023). Peer Reviewer, 2026 Action Plan (Project Partner Roles and Contributions matrix, entry 6.01). Formerly Vice-Chairperson, HUD's Manufactured Housing Consensus Committee (MHCC), various terms 2010–2023 (not currently serving). ICC NTA — the entity he oversees — is a HUD-approved DAPIA and IPIA provider.	biography; ICC NTA press release on MHCC reappointment; ICC NTA services page.
Cindy Davis, CBO	President, Board of Directors, International Code Council, at the time of the 2023 Research Roadmap's publication. Served on the Project Technical Committee (Regulatory topic area), 2023 Roadmap.	Sources: Research Roadmap, p. 21 and PTC roster; Virginia DHCD biography (as provided).
	Source pull-quote, Section 3.1 of the Roadmap (see Section 3, below). Separately: recently retired from the position of Deputy Director of Building and Fire Regulations, Virginia Department of Housing and Community Development, after 12 years of service there and over 35 years in the building-safety industry overall.	

3. Definitions: IPIA / DAPIA

DAPIA — Design Approval Primary Inspection Agency

Definition: A DAPIA is a State or private organization, accepted by HUD, that evaluates and approves a manufacturer's home designs and quality assurance manuals for conformance with the federal Construction and Safety Standards, before those homes are built.

Per 24 CFR § 3282.351(c)(1): one of the two types of primary inspection agency is “those which approve designs and quality control programs (Design Approval Primary Inspection Agencies—DAPIAs).”

Per 24 CFR § 3282.361(a)(1): the DAPIA “shall be responsible for evaluating all manufactured home designs submitted to it by the manufacturer and for assuring that they conform to the standards. It shall also be responsible for evaluating all quality control programs submitted to it by the manufacturer.”

Per 24 CFR § 3282.203(a): the manufacturer chooses its own DAPIA (“The manufacturer is free to choose which DAPIA will evaluate and approve its designs and quality assurance materials... The choice of which DAPIA or DAPIAs to employ is left to the manufacturer.”).

Full regulatory text of § 3282.361 and § 3282.203 is reproduced in Section 5, below.

IPIA — In-Plant Inspection Agency / Production Inspection Primary Inspection Agency

Definition: An IPIA is a State or private organization, accepted by HUD, that approves a manufacturer's plant facility and manufacturing process, and performs ongoing in-plant inspections to verify that homes are actually being built to the DAPIA-approved design and quality-control program.

Per 24 CFR § 3282.351(c)(2): the second type of primary inspection agency is “those which approve plants and perform ongoing inspections in the manufacturing plants (Production Inspection Primary Inspection Agencies—IPIAs).”

Per 24 CFR § 3282.351(b)(3)–(4): IPIA functions include “approval of the manufacturer's plant facility and manufacturing process” and “performance of ongoing inspections of the manufacturing process in each manufacturing plant to assure that the manufacturer is continuing to perform its approved quality control program... and is continuing to produce manufactured homes in performance with its approved designs and in conformance with the standards.”

Full regulatory text of § 3282.362 has not yet been retrieved for this record; the definition above is drawn from § 3282.351, which is reproduced in full in Section 5, below.

The HUD Code

24 CFR Part 3280 — “Manufactured Home Construction and Safety Standards” — is the federal regulation's formal title. It is commonly known as “the HUD Code.”

“The HUD Code Is The Short Name Of HUD Manufactured Housing Construction and Safety Standards.”

“Introduction: In 1974, Congress passed the National Manufactured Housing Construction and Safety Standards Act which authorized the Department of Housing and Urban Development to establish construction standards for manufactured homes. In 2000, Congress updated the 1974 Act.”

(HUD, Manufactured Housing Construction and Safety Standards overview, as provided)

“HUD makes this change today as the Department marks the 50th anniversary of the passage of the Manufactured Home Construction and Safety Standards Act. Effective as federal law on August 22, 1974, the Act authorized HUD to establish nationally preemptive federal standards for the design and construction of all manufactured homes built in the United States. Today the Manufactured Home Construction and Safety Standards, commonly known as the ‘HUD Code,’ is administered by HUD's Office of Manufactured Housing Programs and remains the guiding federal standard for ensuring that manufactured housing — the homes of more than 20 million individuals and families — remain safe, durable, and affordable.” — HUD statement, 50th anniversary of the Manufactured Home Construction and Safety Standards Act (as provided)

“One of the most direct results of Operation Breakthrough was the HUD Code, often referred to as ‘manufactured homes,’ which at its peak in 1998 constituted one out of every three (~33 percent) single-family homes and today constitutes 10 percent of the single-family housing market (MHI, 2021).”

(Research Roadmap, p. 3)

From the Roadmap's construction-type definitions table, “HUD Code (Enclosed Construction)”:

- “Manufactured home” built in a factory to 24 CFR Part 3280 administered by HUD.
- Single-wide or double-wide section on permanent trailer chassis.
- Minimum viable product as low-cost housing solution.
- Zoning restrictions can apply depending on the jurisdiction.
- HUD Code supersedes local building codes.

(Research Roadmap, definitions table, p. 11; Source: MOD X)

24 CFR Part 3280 — Manufactured Home Construction and Safety Standards

The statutory definition, from Part 3280:

“Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 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 in the structure. This term includes all structures that meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to § 3282.13 of this chapter and complies with the construction and safety standards set forth in this part 3280. The term does not include any self-propelled recreational vehicle. Calculations used to determine the number of square feet in a structure will include the total of square feet for each transportable section comprising the completed structure and will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. Nothing in this definition should be interpreted to mean that a manufactured home necessarily meets the requirements of HUD's Minimum Property Standards (HUD Handbook 4900.1) or that it is automatically eligible for financing under 12 U.S.C. 1709(b).”

(24 CFR Part 3280, definitions)

Who Regulates Manufactured Housing?

“The Office of Manufactured Housing Programs (OMHP) protects the health and safety of manufactured home residents through the enforcement of the federal manufactured home construction and safety standards, installation standards, and the administration of dispute resolution between manufacturers, retailers, and installers. As authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974, HUD enforces standards both directly and through state agencies; inspects factories and retailer lots; regulates installation; administers dispute resolution; establishes and collects fees for each home built; authorizes a certification label for each section of a compliant home; pursues civil or criminal penalties for violations of the Act; and oversees the Manufactured Housing Consensus Committee.”

(HUD, Office of Manufactured Housing Programs, as provided)

HUD Code manufactured homes are regulated directly by the U.S. Department of Housing and Urban Development under 24 CFR Part 3280 (construction and safety standards) and Part 3282 (procedural and enforcement regulations). Per 24 CFR § 3282.11(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.”

States and localities do not independently regulate HUD Code manufactured-home construction and safety; they may participate only within HUD's system, as State Administrative Agencies (SAAs) or Primary Inspection Agencies (PIAs, including DAPIAs and IPIAs).

“HUD Code preemption ensures that federal construction and safety standards override conflicting state and local building laws. This uniformity prevents a patchwork of thousands of distinct municipal rules, allowing factories to build cost-effective, standardized homes that can be legally transported, sold, and sited across all 50 states without undergoing redundant local code redesigns.”

Full text of the preemption provision, 24 CFR § 3282.11, is reproduced in Section 4, below.

Related Subpart H Provisions (headings, for reference)

§ 3282.351 General. (full text, Section 5 below) · § 3282.352 State exclusive IPIA functions. (full text, Section 5 below) · § 3282.353 Submission format. · § 3282.354 Submittal of false information or refusal to submit information. · § 3282.355 Submission acceptance. · § 3282.356 Disqualification and requalification of primary inspection agencies. · § 3282.357 Background and experience. · § 3282.358 Personnel. (full text above) · § 3282.359 Conflict of interest. (heading only — full text not yet compiled) · § 3282.360 PIA acceptance of product certification programs or listings. · § 3282.361 Design Approval Primary Inspection Agency (DAPIA). (full text, Section 5 below) · § 3282.362 Production Inspection Primary Inspection Agencies (IPIAs). (heading only — full text not yet compiled) · § 3282.363 Right of entry and inspection. · § 3282.364 Inspection responsibilities and coordination. · § 3282.365 Forwarding monitoring fee. · § 3282.366 Notification and correction campaign responsibilities.

Open item: full text of § 3282.359 (Conflict of interest) has not yet been retrieved for this record and is needed before any claim is made about what that provision specifically requires.

4. HUD Code Preemption

24 CFR § 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. [42 FR 2580, Jan. 12, 1977, as amended at 56 FR 65186, Dec. 16, 1991; 61 FR 10859, Mar. 15, 1996]

5. IPIA/DAPIA Requirements

24 CFR § 3282.351 — General

(a) This subpart sets out the requirements which must be met by States or private organizations which wish to qualify as primary inspection agencies under these regulations. It also sets out the various functions which will be carried out by primary inspection agencies. (b) There are four basic functions which are performed by primary inspection agencies: (1) Approval of the manufacturer's manufactured home design to assure that it is in compliance with the standard; (2) Approval of the manufacturer's quality control program to assure that it is compatible with the design; (3) Approval of the manufacturer's plant facility and manufacturing process to assure that the manufacturer can perform its approved quality control program and can produce manufactured homes in conformance with its approved design, and (4) Performance of ongoing inspections of the manufacturing process in each manufacturing plant to assure that the manufacturer is continuing to perform its approved quality control program and, with respect to those aspects of manufactured homes inspected, is continuing to produce manufactured homes in performance with its approved designs and in conformance with the standards (see § 3282.362(c)(1)). (c) There are two types of primary inspection agencies which perform these functions: (1) Those which approve designs and quality control programs (Design Approval Primary Inspection Agencies—DAPIAs) and (2) Those which approve plants and perform ongoing inspections in the manufacturing plants (Production Inspection Primary Inspection Agencies—IPIAs). (d) States and private organizations whose submissions under this subpart are acceptable shall be granted provisional acceptance. Final acceptance shall be conditioned upon adequate performance, which will be determined through monitoring of the actions of the primary inspection agencies. Monitoring of all primary inspection agencies shall be carried out as set out in subpart J. HUD accepted agencies can perform DAPIA functions for any manufacturer in any State and IPIA functions in any State except those in which the State has been approved to act as the exclusive IPIA under § 3282.352. (e) Primary inspection agencies approved under this subpart may contract with manufactured home manufacturers (see § 3282.202) to provide the services set out in this subpart. Any PIA which charges fees which are excessive in relation to the services rendered shall be subject to disqualification under § 3282.356.

24 CFR § 3282.607 — IPIA Responsibilities (On-Site Completion of Construction)

This section is the first place in this record where operative regulatory text applies the § 3282.359 conflict-of-interest standard directly to an inspector's role, rather than only listing the section heading.

The IPIA, acting on behalf of HUD, 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 an independent qualified third-party inspector acceptable to the IPIA and acting as the designee or representative: (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 an independent qualified third-party inspector acceptable to the IPIA, 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)); (f) Preparing final site inspection reports and providing notification to the manufacturer of its acceptance of the manufacturer's final site inspection report within 5 business days of preparing its report. The IPIA is to maintain its final site inspection reports and those 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; and (g) Reporting to HUD, the DAPIA, and the manufacturer if one or more homes has not been site inspected prior to occupancy or when arrangements for one or more manufactured homes to be site inspected have not been made. Note on the record: § 3282.607(d) requires the on-site inspector to be "not associated with the manufacturer and... not involved with the site construction or completion of the home" and "free of any conflict of interest in accordance with § 3282.359." This is independence from the manufacturer being inspected; it does not, on the text obtained so far, address independence between the code-writing body and the certifying/inspecting body. Full text of § 3282.359 itself has not yet been retrieved for this record.

24 CFR § 3282.203 — DAPIA Services

(a) Each manufacturer shall have each manufactured home design and each quality assurance manual which it intends to follow approved by a DAPIA under § 3282.361. The manufacturer is free to choose which DAPIA will evaluate and approve its designs and quality assurance materials; the manufacturer may obtain design and quality assurance manual approval from a single DAPIA regardless of the number of plants in which the design and quality assurance manual will be followed. A manufacturer may also obtain approval for the same design and quality assurance manual from more than one DAPIA. The choice of which DAPIA or DAPIAs to employ is left to the manufacturer. (b) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out design approvals. This information shall, except where the manufacturer demonstrates to the DAPIA that

it is not necessary, include the following: (1) Construction drawings and/or specifications... (2) Structural analysis and calculations, test data... (3) Complete heat loss calculations... (4) Floor plans... (5) Diagrams of the fuel supply system, potable water system... (6) Wiring diagrams... (7) Details showing the design of air supply and return systems, (8) Details of chassis construction... (9) A list of fixed and portable appliances furnished..., (10) Detailed manufacturer installation instructions..., and (11) Reports of all tests that were run to validate the conformance of the design to the standards. (c) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out quality assurance manual approvals. At a minimum, this information shall include the quality assurance manual for which approval is sought. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station-by-station description of the manufacturing process, a list of quality control inspections required by the manufacturer at each station, and identification by title of each person who

will be held accountable for each quality control inspection. (d) Manufacturers may be required to furnish supplementary information to the DAPIA if the design information or the quality assurance manual is not complete or if any information is not in accordance with accepted engineering practice. (e) When a manufacturer wishes to make a change in an approved design or quality assurance manual, the manufacturer shall obtain the approval of the DAPIA which approved the design or manual prior to production for sale. The procedures for obtaining such approval are set out in § 3282.361. When applicable under § 3282.605, the IPIA must concur in the change before it can be approved by the DAPIA. (f) The information to be submitted to a DAPIA under § 3282.203 (b) and (c) may be prepared by the manufacturer's staff or outside consultants, including other DAPIAs. However, a DAPIA may not perform design or quality assurance manual approvals for any manufacturer whose design or manual has been created or prepared in whole or in part by members of the DAPIA's organization or of any affiliated organization. (g) Each manufacturer shall maintain a copy of the drawings, specifications, and sketches from each approved design received from a DAPIA under § 3282.361(b)(4) in each plant in which manufactured homes are being produced to the design. Each manufacturer shall also maintain in each manufacturing plant a copy of the approved quality assurance manual received from a DAPIA under § 3282.361(c)(3) that is being followed in the plant. These materials shall be kept current and shall be readily accessible for use by the Secretary or other parties acting under these regulations. Note on the record: § 3282.203(f) is an explicit self-review prohibition — a DAPIA may not approve a design or quality assurance manual that was “created or prepared in whole or in part by members of the DAPIA's organization or of any affiliated organization.” This is the first provision obtained so far in this record that names “affiliated organization” self-review specifically, rather than only manufacturer-inspector independence (as in § 3282.607(d)) or a general personnel standard (as in § 3282.358).

24 CFR § 3282.352 — State Exclusive IPIA Functions

(a) Any State which has an approved State Administrative Agency may, if accepted as an IPIA, act as the exclusive IPIA within the State. A State which acts as an IPIA but is not approved as an SAA may not act as the exclusive IPIA in the State. A State which acts as an exclusive IPIA shall be staffed to provide IPIA services to all manufacturers within the state and may not charge unreasonable fees for those services. (b) States which wish to act as exclusive IPIAs shall apply for approval to do so in their State plan applications. They shall specify the fees they will charge for IPIA services and shall submit proposed fee revisions to the Secretary prior to instituting any change in fees. If at any time the Secretary finds that those fees are not commensurate with the fees generally being charged for similar services, the Secretary will withhold or revoke approval to act as an exclusive IPIA. States acting as DAPIAs and also as exclusive IPIAs shall establish separate fees for the two functions and shall specify what additional services (such as approval of design changes and full time inspections) these fees cover. As provided in § 3282.302(b)(11), each State shall submit fee schedules for its activities and, where appropriate, the fees presently charged for DAPIA and IPIA services, and any fees charged for DAPIA and IPIA services during the preceding two calendar years.

(c) A State's status as an exclusive IPIA shall commence upon approval of the State Plan Application and acceptance of the State's submission under § 3282.355. Where a private organization accepted or provisionally accepted as an IPIA under this subpart H is operating in a manufacturing plant within the State on the date the State's status as an exclusive IPIA commences, the private organization may provide IPIA services in that plant for 90 days after that date. Note on the record: § 3282.352 establishes that IPIA services can be performed either by a State (if approved as an SAA and accepted as an exclusive IPIA, with fees subject to HUD Secretary review) or by a private organization such as ICC NTA (accepted or provisionally accepted as an IPIA under Subpart H). Where a State becomes the exclusive IPIA, a previously operating private IPIA is limited to a 90-day transition window in that plant.

24 CFR § 3282.361 — Design Approval Primary Inspection Agency (DAPIA)

(a) General. (1) The DAPIA selected by a manufacturer under § 3282.203 shall be responsible for evaluating all manufactured home designs submitted to it by the manufacturer and for assuring that they conform to the standards. It shall also be responsible for evaluating all quality control programs submitted to it by the manufacturer by reviewing the quality assurance manuals in which the programs are set out to assure that the manuals reflect programs which are compatible with the designs to be followed and which commit the manufacturer to make adequate inspections and tests of every part of every manufactured home produced. (2) A design or quality assurance manual approved by a DAPIA shall be accepted by all IPIAs acting under § 3282.362 who deal with the design, quality assurance manual, or manufactured homes built to them, and by all other parties, as, respectively, being in conformance with the Federal standards or as providing for adequate quality control to assure conformance. However, each design and quality assurance manual is subject to review and verification by the Secretary or the Secretary's agent at any time. (b) Designs. (1) In evaluating designs for compliance with the standards, the DAPIA will not allow any deviations from accepted engineering practice standards for design calculations or any deviations from accepted test standards, except that the DAPIA, for good cause, may request the Secretary to accept innovations which are not yet accepted practices. Acceptances by the Secretary shall be published in the form of interpretative bulletins, where appropriate. (2) The DAPIA shall require the manufacturer to submit floor plans and specific information for each manufactured home design or variation which the DAPIA is to evaluate. It shall also require the submission of drawings, specifications, calculations, and test records of the structural, electrical and mechanical systems of each such manufactured home design or variation. The manufacturer need not supply duplicate information where systems are common to several floor plans. Each DAPIA shall develop and carry out procedures for evaluating original manufactured home designs by requiring manufacturers to submit necessary drawings and calculations and carry out such verifications and calculations as it deems necessary. Where compliance with the standards cannot be determined on the basis of drawings and calculations, the DAPIA shall require any necessary tests to be carried out at its own facility, at separate testing facilities or at the manufacturer's plant. (3) Design deviation report. After evaluating the manufacturer's design, the DAPIA shall furnish the manufacturer with a design deviation report which specifies in detail, item by item with appropriate citations to the standards, the specific deviations in the manufacturer's design which must be rectified in order to produce manufactured homes which comply with the standards. The design deviation report may acknowledge the possibility of alternative designs, tests, listings, and certifications and state the conditions under which they will be acceptable. The design deviation report shall, to the extent practicable, be complete for each design evaluated in order to avoid repeated rejections and additional costs to the manufacturer. (4) Design approval. The DAPIA shall signify approval of a design by placing its stamp of approval or authorized signature on each drawing and each sheet of test results. The DAPIA shall clearly cross-reference the calculations and test results to applicable drawings. The DAPIA may require the manufacturer to do the cross-referencing if it wishes. It shall indicate on each sheet how any deviations from the standards have been or shall be resolved. Within 5 days after approving a design, the DAPIA shall forward a copy of the design to

the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards the latter copy shall go to the Secretary.) The DAPIA shall maintain a complete up-to-date set of approved designs and design changes approved under paragraph (b)(5) of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise. (5) Design change approval. The DAPIA shall also be responsible for approving all changes which a manufacturer wishes to make in a design approved by the DAPIA. In reviewing design changes, the DAPIA shall respond as quickly as possible to avoid disruption of the manufacturing process. Within 5 days after approving a design change, the DAPIA shall forward a copy of this change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (b)(4) of this section to be included in the design to which the change was made. (c) Quality assurance manuals. (1) In evaluating a quality assurance manual, the DAPIA shall identify any aspects of designs to be manufactured under the manual which require special quality control procedures. The DAPIA shall determine whether the manual under which a particular

design is to be manufactured reflects those special procedures, and shall also determine whether the manuals which it evaluates provide for such inspections and testing of each manufactured home so that the manufacturer, by following the manual, can assure that each manufactured home it manufactures will conform to the standards. The manual shall, at a minimum, include the information set out in § 3282.203(c). (2) Manual deviation report. After evaluating a manufacturer's quality assurance manual, the DAPIA shall furnish the manufacturer with a manual deviation report which specifies in detail any changes which a manufacturer must make in order for the quality assurance manual to be acceptable. The manual deviation report shall, to the extent practicable, be complete for each design in order to avoid repeated rejections and additional costs to the manufacturer. (3) Manual approval. The DAPIA shall signify approval of the manufacturer's quality assurance manual by placing its stamp of approval or authorized signature on the cover page of the manual. Within 5 days of approving a quality assurance manual, the DAPIA shall forward a copy of the quality assurance manual to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards, the latter copy shall go to the Secretary). The DAPIA shall maintain a complete up-to-date set of approved manuals and manual changes approved under paragraph (c)(4) of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise. (4) 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. Within 5 days after approving a manual change, the DAPIA shall forward a copy of the change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (c)(3) of this section to be included in the manual to which the change was made. (d) Requirements for full acceptance—DAPIA. (1) Before granting full acceptance to a DAPIA, the Secretary or the Secretary's agent shall review and evaluate at least one complete design and one quality assurance manual which has been approved by the DAPIA. These shall be designs and manuals approved to the Federal standards, and they shall be chosen at random from those approved by the DAPIA during the period of provisional acceptance. (2) If the Secretary determines that a design or quality assurance manual shows an inadequate level of performance, the Secretary or the Secretary's agent shall carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary shall not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance shall lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary or her agent has not had adequate time in which to complete an evaluation.