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MHCC Draft 2-28-08

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3282 and 24 CFR Part 3285

[Docket N
o. FR-xxxx-P-01]

RIN 2502-AG92

On-Site Completion of Construction of Manufactured Homes

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

ACTION: Proposed Rule.

SUMMARY: In this rule, HUD is proposing to establish rules of procedure whereby construction of new manufactured housing can be completed at the installation site rather than in the factory. Under current regulations, manufacturers must apply for HUD approval for on-site completion of each of its designs pursuant to 24 CFR 3282.14, Alternative construction of manufactured homes (AC). This rule would simplify the process by establishing uniform procedures by which manufactures could complete construction of their homes at the installation site without seeking advance approval from HUD. This rule would only apply to work done to complete the manufacturing process required by the Manufactured Home Construction and Safety Standards (construction and safety standards). By its terms, this rule would not effect the installation of the home that is subject to the Model Manufactured Home Installation Standards at 24 CFR 3285 (model installation standards). Nor does the rule allow a major part of a manufactured home to be constructed on-site. In seeking guidance from commenters on how to

1 define the scope of work that may be done under this new rule, HUD has raised a number of
2 specific questions in Section VIII of this preamble. This proposed rule also considers comments
3 from the Manufactured Housing Consensus Committee on a previous, nonpublic draft of the
4 proposed regulation, as required by statute.

5 **DATES:** Comment due date: [Insert date 60 days from the date of publication in the
6 **FEDERAL REGISTER.**]

7 **ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule
8 to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing
9 and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Interested
10 persons may also submit comments electronically through either:

- 11 • The Federal eRulemaking Portal at: www.regulations.gov; or
- 12 • The HUD electronic website at: www.epa.gov/feddoCKET. [website doesn't work] Follow
13 the link entitled "View Open HUD Dockets." Commenters should follow the instructions
14 provided on that site to submit comments electronically.

15 Facsimile (FAX) comments are not acceptable. In all cases, communications must refer
16 to the above docket number and title. All comments and communications submitted will be
17 available, without charge, for public inspection and copying between 8:00 a.m. and 5:00 p.m.
18 weekdays at the above address. Copies are also available for inspection and downloading at
19 www.epa.gov/feddoCKET.

20 **FOR FURTHER INFORMATION CONTACT:** William W. Matchneer III, Associate
21 Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing, Department of
22 Housing and Urban Development, 451 Seventh Street SW, Room 9156, Washington, DC 20410,
23 phone (202) 708-6409 (this is not a toll-free number). Persons with hearing or speech

1 impairments may access this number via TTY by calling the toll-free Federal Information Relay
2 Service at 1-800-877-8339.

3 **SUPPLEMENTARY INFORMATION:**

4

5 I. Background

6

7 The National Manufactured Housing Construction and Safety Standards Act of 1974 (the
8 Act), 42 U.S.C. 5401-5426, authorizes the Secretary to establish and amend manufactured home
9 construction and safety standards (the construction and safety standards). The construction and
10 safety standards established by the Secretary are codified in 24 CFR part 3280. The Act also
11 authorizes the Secretary to establish procedures necessary to assure compliance with the
12 construction and safety standards and the related enforcement and monitoring provisions of the
13 Act. These procedures are codified in 24 CFR part 3282. As indicated in § 3282.1(b), it is
14 HUD's policy to work in partnership, especially with State agencies, in the enforcement of the
15 construction and safety standards, consistent with the public interest.

16 In the preparation of this proposed rule, HUD considered comments from the
17 Manufactured Housing Consensus Committee (MHCC) and incorporated many of those
18 comments. The MHCC is a Federal Advisory Committee that was authorized by the
19 Manufactured Housing Improvement Act of 2000 (2000 Act). It is composed of 21 persons
20 representing the following three interest categories: manufacturers and retailers, consumers, and
21 general interest and public officials. Once HUD developed a draft of this proposed rule, it was
22 provided to the MHCC for their review and comment. The MHCC considered the new on-site
23 completion process to be an improvement on the existing AC process. Under current law,

1 manufacturers must apply to HUD for individual AC approvals for each model of home that it
2 wants to complete construction at the home site, rather than in the production facility. In
3 general, construction that has required an AC approval because it was construction that could not
4 be completed at the factory and that met the construction safety standards upon completion on-
5 site will now be covered by this new rule of procedure for on-site completion. The work that
6 would be covered by this new on-site completion process would be limited to work required to
7 bring the home into conformance with the construction and safety standards.

8 As recommended by the MHCC, HUD has modified the text of its original draft of this
9 proposed rule to recognize that certain aspects of joining sections of multiple section homes are
10 installation, rather than construction. HUD has been careful to make this distinction in other
11 recent rules it has published. On October 19, 2007, HUD published a final rule that establishes
12 model installation standards in new part 3285 of title 24 of the Code of Federal Regulations. In
13 that final rule, several subparts identify certain work done on-site to join sections of multiple
14 section homes as being within the scope of these installation requirements. Commenters are
15 encouraged to consider these distinctions as they prepare their submissions on this proposed rule.

16

17 II. Principle Behind Proposed Rule

18

19 Section 3282.14 of HUD's Manufactured Home Procedural and Enforcement
20 Regulations, Alternative construction of manufactured homes (AC), permits the sale or lease of
21 manufactured homes that are not in compliance with the construction and safety standards in
22 circumstances where the public interest is not compromised. That section establishes specific
23 AC procedures that allow HUD to approve such homes to encourage innovation and the use of

1 new technology. The procedure expressly applies when manufacturers seek to use innovative
2 designs or techniques that are not in conformance with the construction and safety standards. In
3 order to obtain an AC approval, the manufacturer must show that construction it proposes
4 provides performance that is equivalent or superior to that required by the construction and
5 safety standards.

6 The AC process is limited to specific circumstances and requires the manufacturer to
7 submit a formal request to HUD. This procedure can be lengthy, and was never intended
8 address the sophistication of modern manufactured housing construction techniques.
9 Manufactured homes now include home design features, like stucco or brick, that cannot
10 reasonably be completed in the factory, and are currently being completed on-site under the AC
11 process. HUD also recognizes that many parts of modern manufactured homes, such as
12 components of smoke alarm, heating, ventilation, air conditioning, and plumbing systems, are
13 typically shipped loose with the home. Only when these systems are completed, however, do the
14 homes comply with the construction and safety standards. HUD believes that the individual
15 application and approvals required by the AC process are limiting to the availability of safe,
16 durable and affordable manufactured housing. This proposed rule would establish a new rule of
17 procedure by which HUD's approved Design Approval Primary Inspection Agencies (DAPIAs)
18 and Production Inspection Primary Inspection Agencies (IPIAs) (collectively known as PIAs)
19 could approve and inspect manufactured homes designed to be completed on-site. The proposal
20 is consistent with HUD's policy to expand regulatory flexibility and encourage innovation, and
21 will facilitate the timely completion of manufactured homes on-site. This proposed rule would
22 also allow HUD to better use its existing resources ensure that manufactured housing is durable
23 and safe. Again, this proposed rule applies only to completion of construction of homes, and is

1 not intend to affect the installation of the home. As noted earlier, a separate set of HUD
2 standards for the installation of manufactured homes is published at 24 CFR 3285.

3 For HUD to allow this variance from the current requirements relating to the construction
4 of manufactured housing in the factory, manufacturers must establish an adequate quality control
5 and inspection process, and must provide for good recordkeeping, in order to ensure protection
6 for consumers and the public. In reviewing comments, HUD will be responsive to the needs of
7 manufacturers, private inspection agencies, State officials, and consumers. HUD emphasizes
8 that the procedures to be permitted under this proposed rule apply only to aspects of construction
9 over which HUD has historically exercised preemptive authority. Thus, approval of construction
10 completed on-site under this new process cannot be extended to requirements imposed under
11 State or local authority that are not preempted by Federal construction and safety standards.

12 HUD also does not believe that the drafters of the Act intended the benefits of Federal
13 preemption to be extended to any manufactured home in which a major section or portion of the
14 home is constructed on-site. The Federal manufactured housing program is based upon national
15 construction and safety standards that are enforced through the manufacturer's quality control
16 systems, in-plant compliance inspections by HUD approved third party agencies, and
17 performance monitoring of those agencies in the plant. Therefore, it would be inappropriate to
18 permit major portions of a home to be completed beyond the plant, as that would avoid the
19 normal inspection and certification process, and may frustrate legitimate local and State code
20 enforcement efforts. In Section VIII of this preamble ("Specific Issues for Comment"),
21 commenters are invited to respond to a number of questions aimed at defining the limits for
22 proposed procedures.

1 HUD hopes that allowing completion of construction after the manufactured home is
2 transported to the site without AC approval will encourage the use of designs and techniques that
3 will demonstrate the adaptability and versatility of manufactured housing. Manufacturers
4 continue to make significant improvements to both the quality and the aesthetics of homes.
5 Easing the process for on-site construction could lead to increased recognition of these homes as
6 a viable source of unsubsidized affordable housing and could encourage zoning policies that do
7 not discriminate against manufactured housing.

8

9 III. Distinction from Alternative Construction

10

11 The procedure to allow limited on-site completion of manufactured homes would
12 complement the AC procedure by which HUD now approves construction using designs and
13 techniques that do not comply with the construction and safety standards. These two procedures
14 will address different aspects of the final product, though both may be utilized on the same
15 home. The on-site completion process established by this rule is for homes that comply with the
16 requirements of the construction and safety standards and will eliminate further use of the AC
17 process for this same purpose. The AC process would be reserved for homes with use of new
18 designs or techniques that do not comply with the construction and safety standards.

19 The procedures established by this rule for on-site completion would differ from the AC
20 process in that:

21 • On-site completion under this rule would only apply to homes that can be certified as
22 substantially meeting the requirements of the construction and safety standards when labeled in
23 the factory and that will comply fully with those standards when completed on-site. (Later in

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

7 • On-site completion under this rule allows a manufacturer to work directly with the
8 DAPIA and IPIA for approval to complete aspects of construction at the final home site and
9 avoids submissions for approval by HUD. The on-site completion process under this rule would
10 also eliminate the direct HUD review and approval currently required under the AC process.

11 • On-site completion under this rule requires the manufacturer's quality control manual to
12 extend to the on-site work. The process also requires the IPIA to concur with the manufacturer's
13 quality control manual and to accept responsibility for assuring that the system is working and
14 that on-site construction is completed in conformance with the construction and safety standards
15 and approved designs. Only persons authorized by the manufacturer may complete the
16 construction work on-site, and only the IPIA in the factory of origin, or other qualified
17 independent inspector acceptable to and acting on behalf of the IPIA (including, possibly, an
18 IPIA in the State where the home is sited), may perform oversight tasks, including inspections.
19 This process would eliminate much of the reporting for site inspections of completed homes
20 currently required under the AC process. The manufacturer need only report to HUD or its agent
21 the location of the home, its serial number, and a brief description of the work done on-site. This
22 information will be included on a modified production form that is based on the current HUD
23 Manufactured Home Monthly Production Report (Form 302), on which each manufacturer

1 already reports to its In-plant Primary Inspection Agency (IPIA) and to HUD (or its monitoring
2 contractor) certain completion and shipping information on labeled units.

3 •

4 When a home is constructed under the new on-site completion process, it will still be a
5 violation of the Act and regulations to take the home out of compliance with the construction and
6 safety standards. If, for example, a retailer agrees to make any major change to the home on-site,
7 the home must meet the construction and safety standards when that work is completed. The
8 retailer continues to be forbidden from selling a home that does not comply with the construction
9 and safety standards, and the manufacturer continues to be responsible for assuring correction of
10 a nonconforming home before sale. To the extent that the alteration involves an aspect of the
11 home that is governed by the construction and safety standards, the work must be performed in
12 accordance with a DAPIA-approved design and must be inspected in accordance with the on-site
13 completion requirements that would be established in this rulemaking. State and local
14 jurisdictions continue to be permitted to inspect add-ons and, as currently provided in
15 § 3282.303(b) of the regulations, retailer alterations.

16

17 IV. Changes Based on MHCC Comments on Draft

18

19 As a result of the comments received from the MHCC on HUD's draft proposal, HUD
20 modified the text of the draft proposed regulation and accompanying preamble in several
21 fundamental and substantial ways.

22 One significant change recommended by the MHCC, which HUD incorporated into the
23 model installation standards and installation program, was to include several specific aspects of

1 the close-up work done on multiple section homes under the scope of installation standards,
2 rather than construction and safety standards. While this work would not be subject to the
3 requirements of this rule, it would be subject to all applicable Federal and State installation
4 requirements. Further, as a result of being considered installation rather than construction,
5 different procedural and remedial requirements would apply to this work.

6 HUD hopes to establish a clear basis for determining the party responsible for the various
7 activities relating to producing and siting a manufactured home. By including the close-up of
8 multiple section homes within installation standards, rather than construction and safety
9 standards, those limited and specifically defined aspects of the placement of a manufactured
10 home at a site are not subject to either the on-site completion or AC processes. For example, the
11 final work on Wind Zone I low-pitch hinged roofs that are not penetrated will generally be
12 governed by State or Federal installation standards.

13 Even when close-up work is governed by the installation standards, the manufacturer will
14 still be responsible for assuring that the sections of a multiple section home can be joined in a
15 way that will bring the home into conformance with the construction and safety standards. The
16 model installation standards require manufacturers to provide instructions for close-up in their
17 installation instructions (see 3285.801). Thus, while the installer is responsible for actually
18 completing the close-up work, the manufacturer will continue to be responsible for providing
19 instructions that are acceptable under the construction and safety standards.

20 Work done to complete the home to the construction and safety standards falls within
21 three categories: (1) work done in the factory in accordance with the construction and safety
22 standards and an approved quality assurance manual; (2) work done that does not comply with
23 the construction and safety standards but has been approved through the AC process; (3) work

1 done pursuant to this rule beyond the factory to complete certain aspects of the home to the
2 construction and safety standards. The designs for construction work to be done on-site under
3 this rule would only be subject to Federal construction and safety standards; State and local
4 jurisdictions are preempted from establishing their own design requirements for these aspects of
5 the home unless the requirements are identical to the Federal construction and safety standards.

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

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

18 Conforming changes to this section of the Model Manufactured Home Installation
19 Standards are also being proposed to clarify that these elements are to be considered
20 construction and as such are also not exempted as installation regardless of the roof pitch
21 of the hinged roof.

22 On-site completion under this rule would apply to the completion of any high-pitch (i.e., roof
23 pitch equals or exceeds 7:12) hinged roof construction that conforms to the construction and

1 safety standards when finished. Completion of lower-pitched hinged roofs that are not penetrated
2 above the hinge and are designed for Wind Zone I would be considered installation, and would
3 not be covered by this process.

4

5 However, HUD is seeking comments on whether different treatment for high pitch roofs with
6 slopes 7:12 or greater is needed because for higher roof slopes, a portion of the attic meets the
7 ceiling height/living space requirements of the Manufactured Home Construction and Safety
8 Standards and, as such, will require the attic floor to be designed for the floor live loads of 40 psf
9 in accordance with § 3280.305(g) of the Standards. HUD is concerned that under the on-site
10 completion process these floor live loads may not be considered as is the current practice with
11 the AC process. For roof slopes of less than 7:12, the ceiling height of the entire attic space will
12 be less than 6'-0" and, as such, does not meet the minimum requirements for living space in §
13 3280.104 of the Standards. Further, the reference standard ASCE 7-88 provides that any
14 uninhabitable attic space which can be used for storage be designed for a storage live load of 20
15 psf. Manufacturers should note that they remain responsible for assuring that a home with a
16 high-pitch hinged roof complies with all applicable construction and safety standards if the home
17 is sold with indications that the additional space provided under the roof when fully erected is
18 suitable for living space. Thus, when fixed stairway access is provided to the attic space, the
19 floor of the attic must comply with structural design requirements for floors, either to be used as
20 living space or to withstand a 40 psf live load (rather than a storage load). The manufacturer
21 must also provide either insulation requirements for the floor of the upper living space area or an
22 insulated and, where appropriate, weathertight attic access panel or hatch.

1 In the final rule, HUD may further clarify these requirements through conforming
2 amendments to the design requirements in the construction and safety standards that must be met
3 for high-slope hinged roofs where living space is likely to be created when the roof is fully
4 raised.

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

- 7 • single-family attached construction
- 8 • multi-story homes that do not comply with the standards because of egress or other
9 requirements
- 10 • a home installed without floor insulation over a basement; i.e., the existence of a
11 basement will not substitute for insulation under the construction and safety standards.
12 (However, when the floor is properly insulated at the factory, it may be installed over a
13 basement without having to use either the on-site or AC approval processes.)

14

15

16 Another change recommended by the MHCC and adopted by HUD in this proposed rule
17 concerns the labeling system for homes completed under the on-site process. Based on MHCC
18 recommendations, HUD has fashioned an on-site labeling system that requires only one
19 permanent label, rather than both a temporary, preliminary and a permanent, final label, as HUD
20 had originally drafted. HUD did not incorporate several changes the MHCC recommended to
21 the consumer notice required as part of this rule, because the recommendations were not
22 consistent with the responsibilities otherwise established for all parties in this proposed rule. The
23 text of the consumer notice and special permanent label were revised to simplify the content,

1 while assuring adequate consumer understanding of the construction procedure applicable to any
2 manufactured home completed on-site under this special approval process.

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

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

12

13 V. Details of Proposed Procedure

14

15 A. Purpose and applicability (Proposed § 3282.601). This rule proposes a procedure that
16 allows manufacturers to deviate from existing requirements when an aspect of construction
17 cannot reasonably be completed in the manufacturer's production facility. For example, it
18 might not be possible to completely assemble a dormer window until the home arrives on-site.
19 In general, the proposal permits on-site completion under certain circumstances, without
20 requiring an AC approval from HUD. These special procedures may only be used when the
21 manufacturer, its DAPIA, and its IPIA agree to follow them, and can only be used if all affected
22 homes are substantially completed in the factory, as defined in proposed § 3282.602.

1 B. Substantial Completion (Proposed § 3282.602). Because this on-site completion
2 process would only be available for manufactured homes that are substantially completed in the
3 factory, the rule proposes a definition of "substantial completion." The definition recognizes that
4 some work may be performed to complete the home outside of the factory under the procedures
5 for AC or installation, in addition to the new on-site procedures under this rule.

6 C. Qualifying Construction (Proposed § 3282.603). The on-site approval process will be
7 available for work to complete a partial structural assembly or system that cannot reasonably be
8 done in the factory. The reasons for this difficulty may be, for example, transportation
9 limitations, design requirements, or delivery of an appliance ordered by a homeowner. The rule
10 also clarifies when work on certain hinged roofs could be completed under the installation
11 standards, rather than through the on-site process under the construction and safety standards.

12 D. DAPIA Approval (Proposed § 3282.604). The manufacturer must request and obtain
13 DAPIA approval to complete, on-site, the final, limited aspects of construction of a
14 manufactured home that will be substantially completed in the factory (i.e., the home leaving the
15 factory must include: (1) a complete chassis; and (2) structural assemblies and plumbing,
16 heating, and air conditioning systems that are complete except for limited construction that
17 cannot reasonably be completed in the manufacturer's production facility and that the DAPIA has
18 approved for completion on-site). Among other things, in the approval the DAPIA will identify
19 what work will be completed on-site and will authorize a notice that includes a description of this
20 work, identify instructions authorized for completing the work on-site (including any special
21 conditions and requirements), and list all models for which the DAPIA approval is applicable.¹

22 As part of its approval, the DAPIA will stamp or sign each page of any set of designs accepted

¹ As with the AC process, an approval for on-site completion may be made more flexible when the PIA's and manufacturer agree that the approval is not model-specific, but may be extended to additional models. See § 3282.14(c)(3).

1 for completion on-site, and will include an "SC" designation on each page that includes an
2 element of construction that is to be completed on-site.

3 In addition, the DAPIA must approve the part of the manufacturer's written quality
4 assurance manual that is applicable to completing the manufactured homes on-site to the
5 construction and safety standards. When the part of the quality assurance manual applicable to
6 the on-site completion also has received the concurrence of the IPIA, the system may be
7 approved as part of the manufacturer's quality assurance manual. If this approval is not done as
8 part of the initial approval of the entire quality assurance manual, it will be deemed a change to
9 be incorporated into the manual in accordance with established procedures (see §§ 3282.203(e)
10 and 3282.361(c)(4)). The approval will also include other requirements, such as use of an
11 inspection checklist developed by the manufacturer and approved by the DAPIA, in the
12 manufacturer's and IPIA's final inspections. As with the procedures followed under an approval
13 for AC, the manufacturer's IPIA will then be responsible for assuring that the homes it inspects
14 under the new procedures in this proposed rule comply with the changes in the quality assurance
15 manual, as provided in § 3282.362(a) of the regulations, and with the approved design or, where
16 the design is not specific, to the construction and safety standards.

17 E. Requirements Applicable to Completion of Construction (Proposed § 3282.605).

18 After an acceptable final inspection of work completed on-site, the manufacturer must report to
19 HUD or its agent the serial number and a brief description of the work done on-site for each
20 home produced under the new procedures. This report must be consistent with the DAPIA
21 approval and will be submitted, in part, on the modified production Form 302. A copy of this
22 report also must be submitted to the State Administrative Agencies (SAA's) of the States where
23 the home is substantially completed in the factory and where the home is sited, as applicable.

1 The serial numbers as provided by the manufacturer must contain the prefix "SC", for site
2 construction.

3 A home will be shipped from the factory with a special on-site completion certification
4 label, which is in lieu of the traditional manufacturer's certification label (see 24 CFR §§ 3280.5
5 and 3282.362(c)(3)) and which will indicate that the manufacturer must complete and inspect the
6 authorized on-site work. The on-site completion certification label will be a different color, but
7 will be the same size as the traditional certification label and will be located and affixed in the
8 same manner as required for the traditional certification label (see 24 CFR 3280.11). The color
9 green has been specified as a requirement for the on-site completion label, in order to distinguish
10 it clearly from the traditional red manufacturer's label for certification of completion in the
11 factory in accordance with the construction and safety standards. HUD seeks comment on
12 whether this color distinction between the traditional label and the on-site completion label
13 would be helpful to State and local regulators or to consumers who might purchase homes
14 completed under the on-site completion process.

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

18 All aspects of construction that are completed on the final home site remain the
19 responsibility of the manufacturer, which must ensure that the home is properly labeled and, as
20 part of its final on-site inspection report provided to the IPIA, certify the work is consistent with
21 DAPIA-approved instructions and conforms with approved designs or, as appropriate under
22 § 3282.362(a)(1)(iii), the construction and safety standards. The IPIA would be required to
23 review all of the manufacturer's final on-site inspection reports and to inspect all on-site work

1 completed pursuant to an approval under this new process. If the IPIA determines that the
2 manufacturer is not performing adequately in conformance with the approval, the IPIA may
3 require reinspections, until it is satisfied that the manufacturer is conforming to the conditions
4 included in the approval.

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

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

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

22 • Working with the manufacturer and the manufacturer's DAPIA to ensure the
23 manufacturer's quality control system has the proper procedures and controls to assure the on-site

1 construction work will conform to DAPIA-approved designs and the Department's construction
2 and safety standards.

3 • Providing the special on-site completion certification labels that the manufacturer may
4 use to label a home that has been substantially completed in the factory.

5 • Monitoring the manufacturer's proposed system for tracking the status of homes built
6 under the approval until the on-site work and necessary inspections have been completed, to
7 assure that the work is being performed properly on all applicable home.

8 • Performing the required inspections of the manufacturer's reports and site work, to
9 verify compliance with the manufacturer's quality control system, the approved designs, and, as
10 appropriate, the construction and safety standards. Only the IPIA, or other qualified independent
11 inspector acceptable to and acting on behalf of the IPIA, may perform these inspections. The
12 inspector must be free of any conflict of interest (see § 3282.359) and not involved in the sale or
13 site completion of the home. When the DAPIA deems it appropriate, the DAPIA may establish
14 minimum qualifications for the inspector who is to perform the final site inspection
15 responsibilities of the IPIA (e.g., inspector must be an engineer).

16 • Maintaining a copy of each final site inspection report submitted by a manufacturer and
17 each inspection report prepared or accepted by the IPIA.

18 H. Manufacturer's Responsibilities (Proposed § 3282.608) The manufacturer's
19 responsibilities will include:

20 • Certifying the home as required and as evidenced by affixing the on-site completion
21 certification label.

22 • All work performed on a home that is necessary to assure compliance with the
23 construction and safety standards, regardless of who does the work or where it is completed.

1 Such responsibility would not extend to any limited close-up work for multiple section homes as
2 would be defined as installation work in a final rule establishing model installation standards.

3 • Working with the DAPIA and IPIA to obtain approval and concurrence on the quality
4 control system the manufacturer will use to assure the on-site work is performed according to
5 DAPIA-approved designs, and to incorporate this system into the manufacturer's quality
6 assurance manual.

7 • Working with the DAPIA to develop an approved checklist and providing the IPIA
8 with the checklist to be used when the IPIA inspects the home after completion on-site.
9 Notifying the IPIA that the home is ready to inspect.

10 • Maintaining a system for tracking the status of homes built under the approval, to
11 ensure that each home installed on a building lot has the on-site work and necessary inspections
12 completed.

13 • Paying IPIA costs for performing on-site inspections.

14 • Providing a copy of the instructions for completing the work on-site, inside the home
15 and to the IPIA, for monitoring/inspection purposes (the copy provided in the home may be
16 provided with the installation instructions in the home). Either before, or at the time, on-site
17 work commences, the manufacturer must provide the IPIA with a copy of any applicable
18 DAPIA-approved quality assurance manual for on-site completion changes, the approved
19 instructions for completing the construction work on-site, and the approved inspection checklist.

20 Commenters are invited to address whether manufacturers should be required to comply with
21 this requirement by maintaining these documents at the job site.

22 • Providing a copy of the final site inspection report and certificate of completion to the
23 first purchaser or lessor of the home prior to occupancy.

1 • Maintaining a copy of the site inspection report and the notification of the IPIA's
2 approval or acceptance of this report.

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

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

18 VI. Comparison

19 A. Current Process vs. On-Site Completion. HUD has been allowing certain details of
20 manufactured homes to be finalized on-site as an extension of the siting process, but without
21 imposing specific requirements for the on-site inspection of the work. This work has included,
22 to some extent: (1) final framing and decking of certain hinged roofs that are not penetrated for
23 windows or connections, including connections for heat-producing appliances and plumbing
24 equipment; (2) close-up details for multiple sections; and (3) close-up details for single sections

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

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

13 • Any hinged roof that is not considered part of the installation of the home. (See §
14 3285.801(f))

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

20 • The homeowner is providing a required appliance, such as a furnace, water heater, or
21 cooking range.

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

1 • Complete or substantial construction of structural assemblies of a home, except
2 pursuant to an approval received by the manufacturer under AC (§ 3282.14). Examples of
3 structural assemblies include the roof, walls, and the floor. An example of construction that
4 would be substantial and, therefore, would not qualify for the on-site completion process, is
5 single family attached construction.

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

11 • Construction that when completed on-site would not conform to the Manufactured
12 Home Construction and Safety Standards. An example of this type of construction would be a
13 multi-story home that did not comply with the Standards because of distance requirements to
14 reach an exterior door for egress from a bedroom.

15 16 VII. Conforming Amendments

17
18 The proposed rule includes conforming changes to other sections of 24 CFR part 3282.
19 The conforming amendment proposed for § 3282.552 also clarifies the actual information that is
20 included on the reports currently submitted under this authority.

21 The Department also proposes to use this rulemaking proceeding to make a technical
22 correction to the heading of § 3282.8(a), which would be updated from Mobile homes to
23 Manufactured homes.

24 25 VIII. Specific Issues for Comment

26

1 HUD continues to encourage suggestions for improving its responsiveness to
2 technological advancements and innovation that foster the use of manufactured housing for
3 affordable housing and to enhance affordable homeownership opportunities. In developing a
4 proposal that would help focus comments, HUD has defined certain features of a proposed on-
5 site completion procedure. However, HUD is very interested in the views of the manufacturers,
6 retailers, consumers, private inspection agencies, installers, and State and local governments on
7 the usefulness and practical aspects of such a procedure. Therefore, in addition to commenting
8 on the specific provisions included in this proposed rule, the public is invited to comment on the
9 following questions and any other related matters or suggestions:

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

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

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

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

10 (5) Should the IPIA inspect all homes completed on-site, or should the IPIA
11 complete inspections for only a certain number or percentage of homes completed on-site?
12 Should there be an initial inspection of a certain number of homes and then a random number
13 thereafter? What percentage of homes should be inspected to ensure compliance with the
14 Federal construction and safety standards for homes completed on-site? Should authorized
15 inspectors be limited to State and local inspection officials, rather than permitting IPIA's to
16 choose some other qualified independent inspector? How should a "qualified independent
17 inspector" be defined, and should a provision be included to prohibit use of inspectors who have
18 been identified as performing inspections inadequately?

19 (6) Does HUD need to identify those aspects of completion of the home that are not
20 subject to preemption (e.g., stairs and handrails) and inform local inspectors that they may
21 inspect those aspects? For example, in its request for approval to complete construction on-site,
22 should a manufacturer be required to identify those design aspects that are not covered by the
23 construction and safety standards and, therefore, are subject to local or State building codes?

1 Should these design aspects also be listed individually on the Notice required to be displayed in
2 the home?

3 (7) Should the rule establish, or provide that the DAPIA establish in its approval, a
4 deadline for completion of the work on-site and final inspection? Should protections, in addition
5 to proposed § 3282.15(f)(3) and section 622 of the Act (42 U.S.C. 5421), be defined for the
6 consumer who has entered into an arrangement to purchase a manufactured home that is to be
7 completed to the construction and safety standards on-site? How can HUD ensure that a
8 purchaser can occupy the home at the earliest time possible, consistent with the completion of
9 acceptable inspections? Should regulatory protections be defined for a manufacturer or retailer
10 that has entered into a contract in which the construction of the home is to be completed on-site
11 by a certain date, but where there are delays outside of the manufacturer's or retailer's control in
12 the construction or final inspection?

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

16 (9) Under subpart F of HUD's regulations in 24 CFR part 3282, a retailer that makes
17 alterations of correction on a home before its sale to the first purchaser is acting on behalf of the
18 manufacturer. Should the rule be extended to provide that some or all of the procedures for
19 manufacturer and IPIA inspection of the work on-site also apply to repairs, on-site or in retailer
20 lots, of manufactured homes that are completed and labeled in the factory, but that are
21 substantially damaged before being sold by a retailer? Should the rule be extended to provide
22 that some or all of the procedures for inspection apply whenever a retailer, in the process of
23 providing alterations or add-ons to a new home, takes the home out of compliance with the

1 construction and safety standards? If HUD extends the on-site construction approval process to
2 retailer corrections, should the required inspections apply to only certain kinds of corrections? If
3 so, which?

4 (10) Should the rule say more about what happens if the manufactured home does not
5 pass the on-site inspection? If so, what should the rule provide? For example, should the rule
6 require that such a home be removed, repaired, or red tagged?

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

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

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

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

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

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

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

20 (18) Are there other jurisdictional concerns about the monitoring of the work completed
21 on-site being the continuing responsibility of the manufacturer's IPIA? Should the rule provide
22 that the IPIA responsible under these procedures may agree to allow any other IPIA to provide

1 the services required of the responsible IPIA? Would such a provision conflict with any State
2 requirements relating to the inspection of manufactured homes?

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

5 (20) The proposed rule requires the manufacturer to send a copy of identifying
6 information on homes completed under an on-site approval to HUD and to the SAA's in the
7 States where the factory is located and where the home is sited. Should the manufacturer also be
8 required to provide a copy of the final site inspection report, or any other information about the
9 on-site approval, to the SAA of the State in which the home is sited?

10 (21) The proposed rule authorizes the DAPIA and the Secretary to revoke or amend,
11 prospectively, an on-site completion approval. Should the rule extend authority to revoke or
12 amend an approval to the SAA in the State where the factory is located, the SAA in the State
13 where the home is sited, both, or neither?

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

19 IX. MHCC Suggestions Not Accepted

20

21 The MHCC suggested other edits to the draft of this proposed regulation and
22 accompanying preamble that HUD had submitted for the MHCC's review and comments.
23 Earlier in this preamble, HUD identified instances in which significant comments from the

1 MHCC were accepted and incorporated into this proposal. HUD believes it has incorporated the
2 most significant suggestions made by the MHCC. HUD did not, however, incorporate all
3 significant comments from the MHCC. Generally, HUD did not accept these suggestions
4 because of concern about how they affected clear distinctions of responsibility for the work
5 performed and oversight of the work, and how they affected consumer understanding of the
6 product. In some instances, HUD has already asked questions related to concepts contained in
7 the suggestions that were not included in the text of the regulation as proposed. In any event,
8 commenters are also invited to comment on the following MHCC suggestions and HUD
9 explanations for not incorporating the suggestions:

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

17 • The MHCC suggested changes to the labeling and notification proposals in the draft
18 that HUD believes have been improved by the clear labeling and consumer notification proposals
19 included in this proposed rule. HUD has revised the draft in a way that ensures the consumer
20 would receive notice that will aid in his or her understanding of the construction process used for
21 the home, including a broad description of the construction work to be done on-site. The
22 consumer notice would be included in transactional paperwork, similar to a requirement
23 established in § 3282.14(e) for notice required under the AC process, and would be placed in a

1 temporary location in the home. HUD also was concerned that language included in the
2 temporary notice suggested by the MHCC would be misleading about the nature of HUD's
3 oversight and the responsibilities and authority of various entities related to the sales transaction
4 and siting of the home. Finally, HUD believes that the use of a permanent label tailored for
5 homes completed using the special on-site approval process could provide subsequent purchasers
6 with information about the home that might be of interest to them, as well.

7 • HUD also retained a requirement that a copy of the final site inspection report, which
8 would be based on the inspection checklist and approved by the IPIA, be given to the purchaser
9 or lessor, as well as to the retailer. The manufacturer and IPIA are required to retain a copy of
10 the final inspection report in their files. The MHCC had suggested a 5-year record-retention
11 period, which, as explained above, HUD has incorporated into the proposed rule for DAPIA's, to
12 which a 5-year requirement currently applies for other records. Similarly, however,
13 manufacturers would be required to retain records relating to on-site approval and completion in
14 the home records for the same period of time that applies to retention of other information in the
15 home files, i.e., the life of the home. IPIAs would be required to retain their records of actions
16 taken on on-site (and AC) approvals as part of their permanent records in accordance with
17 § 3282.362(d).

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

1 • For purposes of public comment, HUD retained a requirement that every manufactured
2 home completed under an on-site approval process be inspected after the construction work
3 performed on-site is completed. Although homes completed on-site might no longer have to
4 follow the more burdensome AC approval process, HUD has proposed that the homes be equally
5 subject to a final compliance review requirement. The MHCC suggested that the IPIA, DAPIA,
6 and manufacturer decide on how the manufacturer's IPIA will review and approve the on-site
7 work after manufacturer does its final site inspection report. HUD is concerned that the MHCC
8 approach to assuring the quality of work performed on-site would not verify that on-site workers
9 are capable of following the manufacturer's instructions or quality control procedures for the
10 final stages of production. Therefore, HUD has retained the requirements for IPIA inspection of
11 on-site work. However, HUD would be interested in receiving comments about any
12 circumstances that could permit a reduced level of inspection of homes that are completed under
13 an on-site approval.

14 • Although the proposed rule provides that a final inspection of on-site work is to be done
15 by the IPIA or its independent agents, HUD has also retained a provision that allows the DAPIA
16 to establish minimal qualifications for an inspector acceptable to the DAPIA. The ability to
17 assure a particular level of inspection may encourage a DAPIA to approve on-site completion
18 requests that may involve unusual circumstances, thus making the process even more flexible.

19 • HUD has retained a requirement, which the MHCC suggested be eliminated, that the
20 DAPIA include an "SC" designation on each page of the manufacturer's designs that includes an
21 element of construction to be completed on-site. This procedure will facilitate easier oversight
22 of the on-site construction process by the SAA's and HUD.

1 • The MHCC had suggested language providing that the retailer must notify the
2 manufacturer that a home subject to the on-site completion approval process is ready for siting at
3 a specific address, or that the completed home is ready for the manufacturer's final inspection.
4 Instead, because the manufacturer is responsible for the on-site completion process under this
5 proposed rule, HUD has left the requirements for such notification to private arrangements.
6 Given that the use of private arrangements for notification has not proven successful under
7 current regulatory practices for AC, HUD is seeking comment on whether the rule should
8 expressly address notification to a manufacturer about a retail sale or repair that requires on-site
9 construction work. If so, how should the rule address such notification, and what would be the
10 ramifications for failure to provide the notification, especially in light of the Act's and this
11 proposed rule's requirements for manufacturer responsibility for production of homes that
12 comply with the construction and safety standards?

13 • The MHCC recommended that HUD delete initial proposal that defined when the
14 responsibilities of the manufacturer and retailer shift under the Act and the regulations in
15 Subparts F (24 CFR §§ 3282.251-3282.256) and I (§§ 3282.401-3282.416) of the Manufactured
16 Home Procedural and Enforcement Regulations. Instead HUD has revised the language of
17 § 3282.606(c) and (d) to more clearly establish the purpose of the provision. Because the Act
18 and HUD's regulations establish responsibilities and sanctions that are defined in terms of point
19 of sale, HUD believes it is important for manufacturers and retailers to understand at what point
20 in a transaction their responsibilities will change from pre-sale to post-sale duties. HUD
21 understands, however, the concern that some purchasers experiencing "buyer's remorse" might
22 try to take inappropriate advantage of such a provision. Therefore, HUD also is retaining

1 language in the provision to establish that the provision is not intended to affect how a contract
2 of sale would be enforced under State law.

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

15 • HUD also has not accepted two MHCC recommendations concerning the provision of
16 information that might be helpful to State and local governments that might have responsibilities
17 related to manufactured homes when work is performed on those homes on-site. HUD has
18 retained a requirement that the manufacturer provide the serial number of each home produced
19 under an on-site completion approval and a brief description of the work done on-site for each of
20 these homes to the SAA's in production and siting States, as well as to HUD. Further, HUD has
21 modified, but retained, a requirement that manufacturers notify the State or local jurisdiction of
22 any add-on to the home that is not covered by the manufacturer's final on-site inspection and
23 certification of completion, but about which the manufacturer knew or reasonably should have

1 known. HUD intends this requirement to help the State and local jurisdictions identify work
2 performed during the siting of manufactured homes that might be subject to State and local,
3 rather than HUD, construction and inspection requirements. The MHCC had recommended
4 eliminating these requirements.

5 • Finally, the MHCC made other comments that were more editorial than substantive in
6 nature. When HUD agreed with those suggestions, they have been incorporated into the
7 proposed regulation and preamble, as appropriate.

8

9 **Findings and Certifications**

10

11 Unfunded Mandates Reform Act

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

17

18 Environmental Impact

19 In accordance with 24 CFR § 50.19(c)(6) of the HUD regulations, this rule sets forth
20 requirements that do not constitute a development decision that affects the physical condition of
21 specific project areas or building sites, and therefore is categorically excluded from the
22 requirements of the National Environmental Policy Act and related Federal laws and authorities.

23

1 Regulatory Flexibility Act

2 The Secretary has reviewed this rule before publication and by approving it certifies, in
3 accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule would not have a
4 significant economic impact on a substantial number of small entities. This rule will provide an
5 additional option for how manufacturers comply with current requirements, and will have a
6 negligible economic impact. Notwithstanding HUD's determination that this rule will not have a
7 significant economic impact on a substantial number of small entities, HUD specifically invites
8 comments regarding any less burdensome alternatives to this rule that will meet HUD's program
9 responsibilities.

10

11 Executive Order 13132, Federalism

12 Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any
13 rule that has federalism implications if the rule either (1) imposes substantial direct compliance
14 costs on state and local governments and is not required by statute, or (2) the rule preempts state
15 law, unless the agency meets the consultation and funding requirements of section 6 of the
16 Executive Order. This rule does not have federalism implications and does not impose
17 substantial direct compliance costs on state and local governments or preempt state law within
18 the meaning of the Executive Order.

19

20 Executive Order 12866, Regulatory Planning and Review

21 The Office of Management and Budget (OMB) reviewed this rule under Executive Order
22 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a
23 "significant regulatory action," as defined in section 3(f) of the Order (although not economically

1 significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule
2 subsequent to its submission to OMB are identified in the docket file, which is available for
3 public inspection in the Regulations Division, Office of the General Counsel, Room 10276,
4 Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC,
5 20410-0500.

6
7

8 List of Subjects in 24 CFR Part 3282

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

12

13 Accordingly, HUD proposes to amend 24 CFR part 3282 and 24 CFR Part 3285 to read as
14 follows:

15

16

17

**PART 3282--MANUFACTURED HOME PROCEDURAL
AND ENFORCEMENT REGULATIONS**

18

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

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

21

22 2. The heading of § 3282.8(a) is revised to read as follows:

23 **§ 3282.8 Applicability.**

24 (a) Manufactured homes. * * * * *

25

26 3. In chapter XX, a new subpart M is added to read as follows:

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

2 **Sec.**

- 3 3282.601 Purpose and applicability.
- 4 3282.602 Definitions.
- 5 3282.603 Construction qualifying for on-site completion.
- 6 3282.604 Request for approval; DAPIA review and notification.
- 7 3282.605 Requirements applicable to completion of construction.
- 8 3282.606 Consumer Information.
- 9 3282.607 IPIA responsibilities.
- 10 3282.608 Manufacturer responsibilities.
- 11 3282.609 Revocation or amendment of DAPIA approval.
- 12 3282.610 Failure to comply with the procedures of this subpart.
- 13 3282.611 Compliance with this subpart.

14

15 **§ 3282.601 Purpose and applicability.**

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

18 (b) Applicability. This section will apply only if the manufactured home is substantially
19 completed in the factory. The affected home must meet the requirements of the construction and
20 safety standards upon completion of the site work. This section does not apply to AC (see §
21 3282.14) that does not comply with the Manufactured Home Construction and Safety Standards.
22 It also does not apply to limited work necessary to join sections of a home, when that work is
23 subject to the installation standards in subparts G, H, and I of part 3285.

24 **§ 3282.602 Definitions.** "Substantial completion" defined. A manufactured home is
25 substantially completed if all aspects of construction that can be finished in the manufacturer's
26 plant are completed.

1 **§ 3282.603 Construction qualifying for on-site completion.** (a) The manufacturer, the
2 manufacturer's DAPIA, and the manufacturer's IPIA may agree to permit certain aspects of
3 construction of a manufactured home to be completed to the construction and safety standards
4 on-site in accordance with the requirements of this section. The aspects of construction that may
5 be approved to be completed on-site are the partial completion of structural assemblies or
6 systems (e.g., electrical, plumbing, heating, cooling, fuel burning, and fire safety systems) and
7 components built as an integral part of the home, when the partial completion on-site is
8 warranted because completion of the partial structural assembly or system during the
9 manufacturing process in the factory would not be practicable because of the home design or
10 result in transportation damage
11 or precluded because of road restrictions. Examples include:

12 (1) Multistory designs;

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

16 (3) Parts shipped loose with the house, such as plumbing parts, that will be installed on-
17 site unless exempted as installation by the installation standards;

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

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

21 (b) The home design involves work that cannot reasonably be completed in the factory,
22 or when the retailer is to provide an add-on to the home during set-up when that work would take
23 the home out of conformance with the construction and safety standards and then bring it back
24 into conformance; or

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

1 **§ 3282.604 Request for approval; DAPIA review, notification, and approval.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (9) Include any other requirements and limitations that the DAPIA deems necessary or
12 appropriate to accomplish the purposes of the Act, such as any special testing procedures.

13 (e) Quality Assurance Manual for On-Site Completion Requirements. The portion of the
14 quality assurance manual on-site completion required by paragraph (d)(3) of this section must
15 receive the concurrence of the manufacturer's IPIA to the extent that it is applicable to the on-site
16 completion of the affected manufactured homes. It must include a commitment by the
17 manufacturer to prepare a final site inspection report that will be submitted to the IPIA for its
18 review. When appropriate, this portion of the quality assurance manual for on-site completion
19 will be deemed a change in the manufacturer's quality assurance manual for the applicable
20 models, in accordance with §§ 3282.203 and 3282.361.

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

25 **§ 3282.605 Requirements applicable to completion of construction.**

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

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

9 (2) The on-site completion certification label must be green and must meet the same
10 location, size, material, and fastening requirements established for the certification label in
11 § 3280.11. The on-site completion certification label must read as follows:

12
13 As evidenced by this ON-SITE COMPLETION CERTIFICATION LABEL No. SC-
14 ABC 000 000 001(P), the manufacturer certifies to the best of the manufacturer's
15 knowledge and belief that this manufactured home has been substantially completed in
16 accordance with an approved design and has been inspected (except for the components
17 specifically identified in the instructions for completion on-site) in accordance with
18 requirements of the Department of Housing and Urban Development (HUD) in effect on
19 the date of manufacture (see data plate affixed to home). This ON-SITE COMPLETION
20 CERTIFICATION LABEL permits the home to be moved to the site where work will be
21 completed. The manufacturer is required to complete construction of the home in
22 accordance with HUD requirements, arrange for inspection of the on-site work, and
23 provide an approved final site inspection report to the lessor or first person to purchase
24 the home for purposes other than resale.

25 (c) Site inspection. Prior to occupancy, the manufacturer shall ensure that each home is
26 inspected on-site.

27 (d) Site inspection report. (1) The manufacturer is responsible for inspecting all aspects
28 of construction that are completed on-site as provided in its approved designs and quality
29 assurance manual for on-site completion. The manufacturer must use the inspection checklist
30 approved by the DAPIA in accordance with § 3282.604(d)(7), and must prepare a final site
31 inspection report and provide a copy to the IPIA. Within 10 days after the IPIA notifies the

1 manufacturer of the IPIA's approval of the final site inspection report, the manufacturer must
2 provide a copy of the approved report to the lessor or purchaser prior to occupancy and, as
3 applicable, the appropriate retailer and any person or entity other than the manufacturer that
4 performed the on-site construction work.

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

6 (i) The name and address of the manufacturer;

7 (ii) The serial number of the manufactured home;

8 (iii) The address of the home site;

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

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

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

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

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

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

22 (i) Concurrently with preparation of, or upon receipt of, the manufacturer's final site
23 inspection report, the IPIA or the IPIA's agent must inspect all of the on-site work for homes
24 completed using an approval under this section. The IPIA must use the inspection checklist
25 approved by the DAPIA in accordance with § 3282.604(d)(7).

1 (ii) If the IPIA determines that the manufacturer is not performing adequately in
2 conformance with the approval, the IPIA must reinspect until it is satisfied that the manufacturer
3 is conforming to the conditions included in the approval.

4 (iii) The IPIA must notify the manufacturer of the IPIA's acceptance of the
5 manufacturer's final site inspection report. The IPIA may indicate acceptance by issuing its own
6 final site inspection report showing the work completed on-site is in compliance with the DAPIA
7 approval and the construction and safety standards, or by placing its stamp of approval or
8 authorized signature on the cover page of the manufacturer's final on-site inspection report and
9 certification of completion.

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

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

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

25 (3) The manufacturer must submit a copy of the report, or a separate listing of all
26 information provided on each report for homes that are completed under an approval issued

1 pursuant to this section, to the SAA's of the States where the home is substantially completed in
2 the factory and where the home is sited, as applicable.

3 **§ 3282.606 Consumer information.** (a) Notice. Any home completed under the procedures
4 established in this section must be shipped with a temporary notice that explains that the home
5 will comply with the requirements of the construction and safety standards only after all of the
6 site work has been completed and inspected. The notice must be legible and typed, using letters
7 at least 1/4 inch high in the text of the notice and 3/4 inch high for the title. The notice must read
8 as follows:

9
10 **IMPORTANT CONSUMER INFORMATION NOTICE**

11
12 **WARNING: DO NOT LIVE IN THIS HOME UNTIL THE ON-SITE WORK HAS**
13 **BEEN COMPLETED AND THE MANUFACTURER HAS PROVIDED A COPY OF**
14 **THE INSPECTION REPORT THAT CERTIFIES THAT THE HOME HAS BEEN**
15 **INSPECTED AND IS CONSTRUCTED IN ACCORDANCE WITH APPROVED**
16 **INSTRUCTIONS FOR MEETING THE CONSTRUCTION AND SAFETY**
17 **STANDARDS.**

18
19 This home has been substantially completed at the factory and certified as having been
20 constructed in conformance with the Federal Manufactured Home Construction and
21 Safety Standards when specified work is performed and inspected at the home site. This
22 on-site work must be performed in accordance with manufacturer's instructions that have
23 been approved for this purpose. The work to be performed on-site is [insert description
24 of all work to be performed in accordance with the construction and safety standards].

25
26 This notice may be removed by the purchaser or lessor when the manufacturer provides
27 the first purchaser or lessor with a copy of the manufacturer's final site inspection report,
28 as required by regulation. This final report must include the manufacturer's certification
29 of completion. All manufactured homes may also be subject to separate regulations
30 requiring approval of items not covered by the Federal Manufactured Home Construction
31 and Safety Standards, such as installation and utility connections.

32
33 (b) Placement of notice in home. The notice required by paragraph (a) of this section
34 must be displayed in a conspicuous and prominent location within the manufactured home and in
35 a manner likely to assure that it is not removed until, or under the authorization of, the purchaser
36 or lessor. The notice is to be removed only by the first purchaser or lessor. No retailer,

1 installation or construction contractor, or other person may interfere with the required display of
2 the notice.

3 (c) Providing notice before sale. A manufacturer that receives an on-site construction
4 approval under § 3282.604 also must provide, or assure that the retailer provides, a copy of the
5 Consumer Information Notice to prospective purchasers of any home to which the approval
6 applies before the purchasers enter into an agreement to purchase the home.

7 (d) When sale or lease of home is complete. For purposes of establishing the
8 manufacturer's and retailer's responsibilities for on-site completion under the Act and subparts F
9 and I of this part, the sale or lease of the manufactured home will not be considered complete
10 until the purchaser or lessor, as applicable, has been provided with a copy of the final site
11 inspection report required under § 3282.605(d) and a copy of the manufacturer's certification of
12 completion required under § 3282.608(k) and (l). For five years from the sale or lease of each
13 home, the manufacturer must maintain in its records an indication that the final on-site inspection
14 report and certification of completion has been provided to the lessor or purchaser and, as
15 applicable, the appropriate retailer.

16 **§ 3282.607 IPIA responsibilities.** The IPIA for any manufacturer proceeding under this section
17 is responsible for:

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

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

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

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

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

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

4 (4) Inspecting all of the on-site construction work;

5 (d) Designating an IPIA inspector, or a qualified inspector as set forth under §
6 3282.358(d) when acting on behalf of the IPIA, who is not associated with the manufacturer and
7 is not involved with the site construction or completion of the home and is free of any conflict of
8 interest in accordance with § 3282.359, to inspect the work done on-site for the purpose of
9 determining compliance with:

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

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

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

16 (f) Preparing final inspection reports and maintaining such reports and final site
17 inspection reports of the manufacturer. All reports must be available for HUD and SAA review
18 in the IPIA's central record office as part of the labeling records.

19 **§ 3282.608 Manufacturer responsibilities.** A manufacturer proceeding under this section is
20 responsible for:

21 (a) Obtaining DAPIA approval for completion of construction on-site, in accordance
22 with § 3282.604;

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

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

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

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

7 (f) Certifying the home by affixing the on-site completion certification label, as provided
8 in § 3282.605(b);

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

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

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

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

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

24 (l) Maintaining in its records the approval notification from the DAPIA, the
25 manufacturer's final on-site inspection report and certification of completion, and the IPIA's

1 acceptance of the final site inspection report and certification, and making all such records
2 available for review by HUD in the factory of origin;

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

5 (n) With respect to a home that the manufacturer inspected and certified upon
6 completion of the work on-site, notifying the appropriate State or local jurisdiction of any add-on
7 to the home, as referenced in § 3282.8(j), that has not been inspected by the State or local
8 jurisdiction and that is not covered by the manufacturer's inspection and certification, but about
9 which the manufacturer knew or reasonably should have known.

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

12 **§ 3282.609 Revocation or amendment of DAPIA approval.** The DAPIA that issued an
13 approval or the Secretary may revoke or amend, prospectively, an approval notification issued
14 under § 3282.604. The approval may be revoked or amended whenever the DAPIA or Secretary
15 determines that: (a) The manufacturer is not complying with the terms of the approval or
16 the requirements of this section; or

17 (b) The approval was not issued in conformance with the requirements of this section; or

18 (c) A home produced under the approval fails to comply with the Federal construction
19 and safety standards; or

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

22 The DAPIA must immediately notify the manufacturer and IPIA of any revocation or
23 amendment of DAPIA approval.

24 **§ 3282.610 Failure to comply with the procedures of this subpart.** In addition to other
25 sanctions available under the Act and this part, the Secretary may prohibit any manufacturer or
26 PIA found to be in violation of the requirements of this section from applying the procedure in

1 the future, after providing an opportunity for an informal presentation of views in accordance
 2 with § 3282.152(f). Repeated infractions of the requirements of this section may be grounds for
 3 the suspension or disqualification of a PIA under § 3282.355 and § 3282.356.

4 **§ 3282.611 Compliance with this subpart.** If the manufacturer or IPIA, as applicable, complies
 5 with the requirements of this section and the home complies with the construction and safety
 6 standards for those aspects of construction covered by the DAPIA approval, then HUD will
 7 consider a manufacturer or retailer that has permitted a manufactured home approved for on-site
 8 completion under this section to be sold, leased, offered for sale or lease, introduced, delivered,
 9 or imported, or, as appropriate, an IPIA that has permitted the home to be labeled as conforming
 10 to the construction and safety standards, to be in compliance with the certification requirements
 11 of the Act and the applicable implementing regulations in this part 3282 for those aspects of
 12 construction covered by the approval.
 13

14 4. Section 3282.203 is amended by adding a new sentence at the end of paragraph (e) to
 15 read as follows:

16 **§ 3282.203 DAPIA services.**

17 * * * * *

18 (e) * * * When applicable under the requirements in § 3282.605 for on-site completion,
 19 the appropriate IPIA must concur in the change before it may be approved by the DAPIA.

20 * * * * *

21 **§ 3282.252 Prohibition of Sale.**

22 * * * * *

23 (b) * * * Completion of a retail sale will be at the time the dealer completes
 24 set-up of the manufactured home if the dealer has agreed to provide set-up, or at the time the
 25 dealer delivers the home to a transporter, if the dealer has not agreed to transport or set up the
 26 manufactured home or to the site if the dealer has not agreed to provide setup* * *, completion

1 of sale except that any sale or lease under Subpart M will not be considered complete until the
2 purchaser or lessor, as applicable, has been provided with a final site inspection report.

3 * * * * *

4

5 5. Section 3282.361(c)(4) is amended by revising the first sentence to read as follows:

6 **§ 3282.361 Design Approval Primary Inspection Agency (DAPIA)**

7 * * * * *

8 (c) * * *

9 (4) Manual change approval. Each change the manufacturer wishes to make in its
10 quality assurance manual must be approved by the DAPIA, and, as necessary pursuant to
11 § 3282.604, concurred in by the IPIA. * * *

12 * * * * *

13

14 6. Section 3282.362 is amended by revising the first sentence of paragraph (c)(2)(i)(A),
15 by revising the introductory text of paragraph (2)(i)(C), and by adding a new paragraph (d)(5), to
16 read as follows:

17 **§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs)**

18 * * * * *

19 (c) * * *

20 (2) * * *

21 (i) * * *

22 (A) The IPIA will continuously provide the manufacturer with a 2- to 4-week supply (at
23 the convenience of the IPIA and manufacturer) of the labels described in this paragraph (c)(2)(i)
24 and § 3282.15(e)(2), except that no labels may be issued for use when the IPIA is not present if
25 the IPIA is not satisfied that the manufacturer can and is producing manufactured homes that
26 conform to the design and, as appropriate, the construction and safety standards. * * *

1 (B) * * *

2 (C) Except as provided by § 3282.605, the label must read as follows: * * *

3 * * * * *

4 (d) * * *

5 (5) Records of all site inspections made as required under procedures applicable to
6 approval of AC or on-site completion pursuant to §§ 3282.14 or 3282.608.

7 * * * * *

8

9 7. Section 3282.552 is revised to read as follows:

10 **§ 3282.552 Manufacturer reports for joint monitoring fees.**

11 For each month, the manufacturer must submit to the IPIA in each of its manufacturing
12 plants, and to HUD or its agent, a production report that includes the serial numbers of each
13 manufactured home manufactured and labeled at that plant during the preceding month. The
14 report must also include the date of completion, State of first location of these manufactured
15 homes after leaving the plant, type of unit, and any other information required under this part.
16 The State of first location is the State of the premises of the retailer or purchaser to whom the
17 manufactured home is first shipped. The report for each month must be submitted by the tenth
18 day of the following month. The manufacturer is encouraged to submit the report electronically,
19 when feasible.

20

21 **PART 3285—MODEL MANUFACTURED HOME INSTALLATION STANDARDS**

22

23 1. The authority citation for 24 CFR Part 3285 continues to read as follows:

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

25 2. In § 3285.302, add the definitions for peak cap construction and peak flip construction to
26 read as follows:

1 **§ 3285.302 Definitions.**

2 * * * * *

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

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

8 * * * * *

9 3. In § 3285.801, revise paragraph (f) to read as follows:

10 **§ 3285.801 Exterior Close-up.**

11 * * * * *

12 (f)* * *

13 (1)* * *

14 (2) In which the roof pitch of the hinged roof is less than 7:12 and does not consist of
15 peak cap construction or peak flip construction; and

16 (3)* * *

1

2 **Dated:**_____

3

4

5

6

**Brian D. Montgomery, Assistant Secretary for Housing-
Federal Housing Commissioner**