Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the Public Housing program is 14.872.

List of Subjects for 24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Pets, Public housing.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR part 960 as follows:

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

■ 1. The authority citation for 24 CFR part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z–3, and 3535(d).

■ 2. In § 960.253, revise paragraph (b) to read as follows:

§ 960.253 Choice of rent.

* * * * *

(b) *Flat rent.* The flat rent is determined annually, based on the market rental value of the unit as determined by this paragraph (b).

(1) The PHA must establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR) as determined under 24 CFR part 888, subpart A; or

(2) HUD may permit a flat rent of no less than 80 percent of an applicable small area FMR (SAFMR) or unadjusted rent, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in paragraph (b)(1) of this section. If HUD has not determined an applicable SAFMR or unadjusted rent, the PHA must rely on the applicable FMR under paragraph (b)(1) or may apply for an exception flat rent under paragraph (b)(3).

(3) The PHA may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in paragraphs (b)(1) and (2) of this section, subject to the following requirements:

(i) The PHA must submit a market analysis of the applicable market.

(ii) The PHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.

(iii) All requests for exception flat rents under this paragraph (b)(3) must be submitted to HUD.

(4) For units where utilities are tenant-paid, the PHA must adjust the flat rent downward by the amount of a utility allowance for which the family might otherwise be eligible under 24 CFR part 965, subpart E.

(5) The PHA must revise, if necessary, the flat rent amount for a unit no later than 90 days after HUD issues new FMRs.

(6) If a new flat rent would cause a family's rent to increase by more than 35 percent, the family's rent increase must be phased in at 35 percent annually until such time that the family chooses to pay the income-based rent or the family is paying the flat rent established pursuant to this paragraph.

* * * * *

Dated: August 7, 2015.

Lourdes Castro Ramírez,

Principal Deputy Assistant Secretary for Public and Indian Housing.

Approved on August 7, 2015.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2015–22022 Filed 9–4–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3280, 3282 and 3285

[Docket No. FR–5295–F–02]

RIN 2502–AI83

On-Site Completion of Construction of Manufactured Homes

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

ACTION: Final rule.

SUMMARY: This final rule establishes a procedure whereby construction of new manufactured housing that is substantially completed in the factory can be completed at the installation site, rather than in the plant. Before this rule, a manufacturer would first be required to obtain HUD approval for on-site completion of each of its designs using the alternate construction provisions of HUD's regulations. This final rule simplifies this process by establishing uniform procedures by which manufacturers may complete construction of their homes at the installation site without having to obtain advance approval from HUD. This final rule applies only to the completion of homes subject to the Manufactured Home Construction and Safety Standards, not to the installation of homes subject to the Model Manufactured Home Installation Standards. Moreover, this final rule would not apply when a major section of a manufactured home is to be constructed on-site.

DATES: *Effective Date:* March 7, 2016

FOR FURTHER INFORMATION CONTACT: Pamela B. Danner, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street SW., Room 9168, Washington, DC 20410; telephone 202–708–6423 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 1–800–877–8389 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 *et seq.*) (the Act), as amended, authorizes HUD to establish and amend the Manufactured Home Construction and Safety Standards (the Construction and Safety Standards, or Standards). The Construction and Safety Standards established by HUD are codified in 24 CFR part 3280. The Act also authorizes HUD to conduct inspections and investigations necessary to enforce the Standards, to determine whether a manufactured home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification of such failure, defect, or hazard, and, in some cases, to remedy the defect or imminent safety hazard through established procedures necessary to ensure compliance with the Construction and Safety Standards and the related enforcement and monitoring provisions of the Act. These procedures are codified in 24 CFR part 3282. As provided in § 3282.1(b), HUD's policy is to work in partnership, especially with State agencies, in the enforcement of the Construction and Safety Standards, consistent with the public interest.

This final rule establishes procedures to permit completion of new manufactured housing at the installation site, rather than in the factory, under certain circumstances. Prior to this rule, manufacturers were required to request and obtain advanced HUD approval to permit alternative construction (AC) under § 3282.14(b), for each model of home that it wanted to complete on-site rather than in the production facility. Among other things, manufacturers

were required to include in their requests information regarding how the construction work completed on-site would bring the home into conformance with the Construction and Safety Standards. This final rule establishes simplified procedures that eliminate the requirement for the manufacturer to obtain advance HUD approval and permits certain construction to be completed on-site rather than in the factory when the completed site work will bring the home into conformance with the Manufactured Home Construction and Safety Standards.

This final rule follows a proposed rule published on June 23, 2010 (75 FR 35902), and takes into account public comments received on the proposed rule. In preparing this final rule, HUD also reconsidered and incorporated some of the earlier comments provided by the Manufactured Housing Consensus Committee (MHCC) during the development of the proposed rule. The MHCC is a Federal Advisory Committee authorized by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569) (42 U.S.C. 5403). The MHCC was established to provide HUD with periodic recommendations regarding Federal Manufactured Housing Construction and Safety Standards and related procedural and enforcement regulations.

II. Changes and Clarifications Made in This Final Rule

This final rule follows publication of the June 23, 2010, proposed rule and takes into consideration the public comments received on the proposed rule. In response to public comment, a discussion of which is presented in the following section of this preamble, and in further consideration of issues addressed at the proposed rule stage, the Department is making the following changes at this final rule:

- Section 3280.5 has been revised to conform to this final rule to require that the manufacturer's data plate contain information, if applicable, stating that, except for the components completed on-site, the home has been substantially completed in accordance with an approved design and has been inspected in accordance with the Construction and Safety Standards.
- Section 3280.305 has been revised to provide that the attic floor of homes with high-pitched roofs (with slopes of 7:12 or greater), completed on-site, be designed to support live loads of 40 pounds per square inch. The attic floor of homes with roofs with slopes less than 7:12 that contain an attic space that can be used for storage must be designed for a storage live load of 20 pounds per square foot.
- Section 3282.603(d) has been revised to provide that the contents of the Design Approval Primary Inspection Agency (DAPIA) approval, in addition to items listed in this section in the proposed rule, must include a unique site completion numeric identification for each approval for each manufacturer (*i.e.,* manufacturer name or abbreviation, SC–XX) and a quality control checklist to be used by the manufacturer and Production Inspection Primary Inspection Agency (IPIA) and approved by the DAPIA to verify that all required components, materials, labels, and instructions needed for site completion are provided in each home prior to shipment.
- Section 3282.604(c) of the proposed rule which would have required the DAPIA to determine if complex work requires special criteria or qualification for the IPIA inspector has been removed in this final rule.
- Section 3282.605(a) has been revised to permit the ''SC'' designation to be used as either a prefix or suffix in the serial number for homes or sections of homes completed on-site.
- Section 3282.605(b) has been revised to remove the requirement that the manufacturer include a green, on-site certification label of the same size, location, material, and fastening as provided by § 3280.11. Rather, this final rule provides that the manufacturer have a label affixed to the home, in accordance with § 3282.362(c)(2).
- Section 3282.605(d)(4) has been revised to provide that the manufacturer must, within 5 business days after receiving notification from the IPIA regarding acceptance of its final site inspection report, provide the purchaser or lessor, as applicable, the manufacturer's final site inspection report.
- Section 3282.607 has been revised to provide that the IPIA is responsible for reporting to HUD, the DAPIA, and manufacturer if one or more homes has not been site inspected prior to occupancy or when arrangements for one or more manufactured homes to be site inspected have not been made.
- Section 3282.608 has been revised in several ways. First, HUD removed the requirement that the manufacturer certify the home by affixing the on-site completion certification label as proposed at paragraph (f), and that the manufacturer notify a State or local jurisdiction of any add-on to the home as proposed by paragraph (n). HUD also revised paragraph (e) by adding the requirement that the manufacturer maintain a copy of any applicable DAPIA-approved quality assurance manual for on-site completion, the approved instructions for completing the construction work on-site, and the approved inspection checklist at the job site until all on-site work is completed and accepted by the IPIA. HUD also added paragraph (f) which makes the manufacturer responsible for the satisfactory completion of all on-site construction and required repairs and for authorizing a licensed contractor or a similarly qualified person to complete site construction and needed repairs. HUD also added paragraph (g) to require that the manufacturer provide a written certification to the lessor or purchaser when all site construction work is completed that each home, to the best of the manufacturer's knowledge and belief, is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards. Finally, HUD revised paragraph (m) of the final rule to require the manufacturer to provide a copy of the site report to a State Administrative Agency (SAA), upon request.
- Section 3285.801(f)(2) has been revised to provide that homes with roof slopes of less than 7:12, including any designs incorporating peak cap construction or peak flip construction, are exempt from IPIA inspection and are to be inspected in accordance with 24 CFR part 3286.

III. The Public Comments

The public comment period for the June 23, 2010 (75 FR 35902), proposed rule closed August 23, 2010. In addition to soliciting comments on the proposal as a whole, HUD invited comments on 26 specific questions. HUD received 20 public comments. Comments were submitted by individuals; a housing alliance; a housing and community development organization; a vertically integrated manufactured housing company; a marketer of factory-built homes; a fire, building, and life-safety organization; manufactured housing associations; an industry trade journal; a State licensed installer/manager; a producer of manufactured housing; and a trade association representing all segments of the factory-built housing industry. The following section of this preamble summarizes the significant issues raised by the commenters on the June 23, 2010, proposed rule and HUD's responses to these comments.

A. General Comments

Consistency of the Rule With the Act

Comment: Several commenters stated that properly implemented, the rule supports the goals of the Manufactured

Housing Improvement Act of 2000 to ''facilitate the availability of affordable manufactured homes'' and ''encourage innovative and cost-effective construction techniques for manufactured homes.'' These commenters stated that allowing selected completion of construction after the home is transported to the site will also encourage the use of designs and techniques that will demonstrate the adaptability and versatility of manufactured housing. The commenters stated that the current process of HUD approval of AC requests on a case-by-case basis is time consuming, unduly costly, and ultimately unnecessary given the third-party design approval and quality control inspection infrastructure that the program already has in place.

HUD Response: HUD agrees with the commenters that allowing selected completion of homes to conform to the Manufactured Home Construction and Safety Standards after the homes have been transported to the site will encourage and facilitate use of innovative designs and construction methods and that its current method of approving AC requests has been time consuming.

Comment: Another commenter stated, however, that the manufactured home program appears to be expanding beyond the scope of the Act. Specifically, the commenter stated that the manufactured home industry of today appears to be competing with site-built and modular homes constructed to site-built codes. Rather than providing affordable, safe, durable, low-cost housing, the manufactured housing industry is trying to outdo site-built homes while trying to avoid the site-built codes and regulations adopted by most States with preemptive and weakened Federal regulations that are not strictly enforced to ensure safe, durable housing for consumers.

HUD Response: The scope of HUD's authority to regulate the manufacture of manufactured homes is established by the Manufactured Housing Construction and Safety Act, as amended. Under the Act, HUD is responsible for establishing construction and safety standards that, among other things, protects residents of manufactured homes, while encouraging innovation and cost-effective construction techniques. This rule recognizes that manufactured housing is evolving in ways that may not have been contemplated when the Act was enacted. Nevertheless, this rule remains consistent with the Act and its goals and reflects HUD's efforts to encourage innovative designs, while ensuring that high construction standards continue to be met.

Overall Purpose of the Rule is Too Broad

Comment: One commenter stated that under the proposed rule, there are many situations that would require extensive approval, reporting, and notification procedures and that there is not a clear ''trigger'' for when this new process would be required. The commenter stated, for example, that there are a number of existing DAPIA approvals that currently allow site installation of certain components, such as the field installation of double exterior doors (to prevent damage during transportation) and the field installation of fireplace hearths that cross the mating lines. These on-site installations are minor in nature and are already a natural part of the current process. The commenter asked, therefore, whether they would fall under the new proposal.

HUD Response: Yes, the field completion and installation of these components would be allowed under § 3282.602(a)(4) and (a)(5) of the final rule.

Rule Will Create Confusion for Consumers

Comment: One commenter stated that the proposed rule would significantly change the procedure for the on-site assembly of manufactured homes and will create confusion with consumers and retailers and may add unnecessary cost. The commenter stated that the completion of manufactured homes on-site should be left to the State or local authority having jurisdiction, working from manufacturer and DAPIA-approved methods of site assembly.

HUD Response: HUD believes that this rule will not create confusion with consumers and retailers or add to costs currently incurred by manufactures under the AC procedure for similar site-completion work. The final rule continues to require the IPIA rather than a State or local authority having jurisdiction to conduct the inspection. HUD does not agree with the commenter's suggestion that entities other than IPIAs conduct the final site inspection, as State or local jurisdictions are often unfamiliar with the requirements of the Standards and are not authorized to conduct these inspections on HUD's behalf.

Rule Shifts Regulatory Burden to Retailers and Installers

Comment: Several commenters recommended that HUD withdraw the proposed rule given its lack of accountability, oversight, and enforcement, coupled with its failure to recognize the concerns of the retailers, installers, and home buying public. Another commenter stated that the views and concerns of retailers and certified installers in States that have approved programs have not been considered. One commenter described the on-site rule as the manufactured housing industry trying to shift the burden to retailers and installers. Other commenters claimed that the rule adds unnecessary administrative paperwork that will restrict the manufacturer and retailer's ability to use the new process effectively.

HUD Response: Rather than adding layers of administrative paperwork, HUD believes that this final rule streamlines the approval process for on-site construction. This final rule adds only minimal burdens for retailers and installers. The final rule requires retailers to provide a copy of the consumer notice to prospective purchasers before sale; however, under current AC practices, they are already required to provide such a notice to purchasers. The only burden shifted to installers is the inclusion of the completion of peak flip and peak cap construction as installation, rather than construction, when the roof pitch is less than 7:12 and the home is designed to be located in Wind Zone I. Manufacturers continue to remain responsible for successful completion of all site work to conform to HUD's standards and regulations.

Rule Should Clearly Identify Excluded Close-up and Related Work

Comment: Several commenters, citing language in the preamble of the proposed rule, agreed with the exclusion of close-up work from the proposed rule but recommended that the rule specify the types of close-up work that would be excluded from the rule. These commenters recommended that close-up work excluded from the rule include: (1) Duct connection from half to half and additional crossovers; (2) dryer vent, range cook-top exhaust termination vents; (3) ridge vents; (4) plumbing connections in the attic; (5) gas line connections between the halves; (6) the main power supply connection; (7) electrical crossover connections; (8) front and rear siding; and (9) floor and roof connections (*e.g.,* lags, straps, etc.). According to the commenters, specifying the types of close-up work excluded from the rule will avoid future disputes regarding the scope of on-site completion and reduce unnecessary costs for manufacturers and consumers.

HUD Response: HUD agrees that specifying the types of close-up work

excluded from the rule will avoid future disputes; however, the specific types of close-up work cited by the commenters are already covered under various provisions of HUD's Model Manufactured Home Installation Standards, or would be considered as components for construction qualifying for on-site completion under § 3282.602(a) of this final rule.

Comment: A commenter recommended that HUD remove terms such as ''reasonably'' and ''practically'' from the final rule since these terms are not quantifiable and meaningless in the regulation.

HUD Response: HUD agrees with the commenter and has removed the terms ''reasonably'' and ''practicably'' from the final rule.

Rule Should Adopt a More Streamlined and Less Redundant Labeling and Reporting Method

Comment: Several commenters described HUD's method of designating homes constructed on-site with an ''SC'' designation as a prudent and necessary requirement. These commenters recommended, however, that manufacturers should have the flexibility of including the ''SC'' designation as either a prefix or a suffix, or in the middle of the serial number. According to these commenters, many manufacturers use the serial number for various types of recordkeeping and invoicing. Requiring manufacturers to use the ''SC'' designation as a prefix is unnecessarily restrictive and will necessitate cumbersome and extensive changes to current database programs and recordkeeping practices.

HUD Response: HUD agrees with the commenters and has revised § 3282.605(a) of the final rule to permit the ''SC'' designation to be used as either a prefix or suffix in the serial number for homes or sections of homes completed under this rule.

Comment: Several commenters strongly opposed the use of a green on-site completion certification label. These commenters stated that use of a different color permanent label for a home completed on-site will lead to significant disorder in the market, which already suffers from confusion between manufactured homes, modular homes, and park models. According to these commenters, the label is utilized by consumers, code inspectors, zoning officials, lenders, and appraisers as the primary distinguishing feature to differentiate between these different types of factory-built housing. The commenters recommended that the proposal to require a data plate with an ''SC'' designation, combined with a notice to the consumer, would be sufficient to meet the objectives of this proposal. These commenters also stated that consumer notice should be provided at the time the buyer enters into a contract to purchase the home rather than requiring it to be posted in the home. This will ensure that the buyer has complete knowledge of the status of the home and knows that it will not be complete until a certificate of occupancy is provided. Another commenter stated that there is no way to get the text required by § 3282.605(b)(2) on a 2in x 4in label and make it legible.

HUD Response: HUD agrees with the commenters and is revising § 3282.605(b) of the final rule to remove the requirement that the manufacturer include a green, on-site certification label. Rather, the current label required by § 3282.362(c)(2) will be required for homes completed on-site. The final rule continues to require, however, that the consumer notice be provided to prospective purchasers before sale of the home is completed.

Comment: A commenter stated that HUD's existing label method should be viewed to signify compliance of the home prior to delivery from the factory. According to the commenter, a label placed on the unit at the factory cannot signify more because future on-site construction and inspections have not yet occurred.

HUD Response: The placement of the label on the home at the factory is consistent with the current AC process, which requires the IPIA to inspect the unit at the site to verify that all work that could not be completed at the factory is satisfactorily completed on-site. This final rule requires the IPIA to inspect all work that could not be completed at the factory and to verify that the home complies with the Department's Standards when completed on-site. Further, under this final rule, a home cannot be occupied until a successful inspection has been completed by the IPIA.

Comment: Several commenters questioned the requirement that the manufacturer notify the appropriate State or local jurisdiction of any add-on to the home that has not been inspected by the State or local jurisdiction as unnecessary and inappropriately placing responsibility on the manufacturer to certify that the home meets the Federal Manufactured Home Construction Safety Standards. The commenters suggested that this requirement may raise liability issues by extending responsibility for construction issues not covered by the Construction and Safety Standards to the manufacturer.

HUD Response: The requirement in § 3282.608(n) of the proposed rule for the manufacturer to notify the State or local jurisdiction of any add-on to the home has been removed from this final rule.

Frequency of On-site Inspections

Comment: Several commenters expressed concern regarding the provision requiring an on-site inspection to be completed by the IPIA for every home prior to occupancy. According to the commenters, the reporting requirements in the proposed rule are redundant and have the potential to cause unnecessary, costly delays in loan closings and settlements; increase costs for the homebuyer; and reduce consumer satisfaction. The commenters questioned, for example, whether it was necessary to require both the IPIA and the manufacturer to prepare a site inspection report. According to the commenters, the required DAPIA approved ''on-site'' inspection checklist can be used by all parties to provide the necessary information and assurances that the on-site work was completed in accordance with the DAPIA approved design. The checklist can be expanded to include the necessary manufacturer's certification, and the identifying items specified in § 3282.605(d)(2) of the proposed rule, *e.g.,* serial numbers, names and addresses, etc. This expanded inspection checklist can be used for the necessary reporting requirements and can be used to obtain the certificate of occupancy and can serve as the necessary documentation for lenders, settlement agents, State Administrative Agencies (SAA's) and HUD.

HUD Response: HUD does not agree with the commenters and a successful on-site inspection must be independently completed by the IPIA prior to occupancy for all site completed homes, as required by this final rule.

Comment: Several commenters recommended that site work be treated as yet another ''stage of production'' whereby each unit is inspected in at least one stage of its production. The commenters recommended that the rule be changed to reflect current inspection practices and extend flexibility to the IPIA for determining frequency of on-site inspections as they deem necessary based on complexity of the design and history of past inspections. As an option, the commenters recommended that HUD modify the rule to allow a manufacturer to elect either 100 percent on-site inspection offset by reduced in-

plant inspections, or audit type inspections subject to frequency adjustments based on demonstrated compliance levels.

HUD Response: HUD believes that the construction completed on-site is part of the final production necessary to complete the home. HUD believes that IPIA inspection of each home completed on-site is required to ensure compliance with its Safety and Construction Standards since on-site construction necessarily involves the completion of a variety of unique design specification and quality control procedures that may be performed by staff or representatives assigned by retailers or manufacturers for which there is no way for HUD to ensure their knowledge and qualifications.

Comment: One commenter stated that the proposed rule allows 10 days after IPIA approval for the manufacturer to provide the report to the consumer. According to the commenter, this time frame is unrealistic and contrary to a number of State laws defining completion of sale.

HUD Response: HUD agrees with the commenter and has revised § 3282.605(d)(4) of the final rule to require that the report be provided 5 days after IPIA approval to facilitate the completion of sale.

Non-IPIA Inspections of On-site Work

Comment: Several commenters supported provisions in the proposed rule prohibiting non-IPIA inspections of on-site work. According to these commenters, allowing non-IPIA inspections of the on-site work would erode HUD's authority and is contrary to the existing and effective inspection process in the current regulations. In addition, it would be a disincentive for States to become HUD-approved State IPIAs under the current regulations, and would complicate the current inspection process. These commenters stated that if SAAs wish to become IPIAs as provided under the current procedural and enforcement regulations, they have every opportunity to do so through the appropriate approval process.

HUD Response: HUD agrees with the commenters. As previously indicated, only IPIAs or representatives of IPIAs are authorized to perform on-site completion inspections under this final rule.

Comment: Another commenter stated that completion of manufactured homes on-site should be left to the State or local authority having jurisdiction over the work site, working from manufacturer/DAPIA approved methods of site assembly. According to the commenter, if State or local authorities having jurisdiction are not allowed to inspect on-site construction, a large segment of the consumer protection will have been lost from the manufactured housing program and it may increase the cost to consumers as local authorities having jurisdiction will still invoice, issue permits, and inspect other on-site work.

HUD Response: HUD disagrees with the commenter. Using State or local jurisdictions to perform the on-site inspections would be both outside of HUD's regulatory system, as established under 24 CFR part 3282, and would create inconsistencies in interpretation, tracking, and reporting between those entities and the Department and may result in unnecessary costs for consumers. In addition, some State or local jurisdictions may not have the ability or resources to perform the inspection.

Rule Imposes Additional Burdens and Confusion on Local and State Building Code Enforcers

Comment: Several comments stated that the rule will cause many local municipalities and State building code enforcers to reexamine their current programs. According to these commenters, current building codes were enacted under the assumption that every section of manufactured housing would be constructed in accordance with approved designs and inspected under an approved quality assurance program. On-site completion would change this and shift compliance responsibilities to local and State officials who will have to reexamine their current programs to include these responsibilities.

HUD Response: HUD does not believe that the rule will impact current programs of State or local building code enforcers or create additional confusion for consumers. The final rule makes no changes from current AC procedures for inspection or acceptance of the work being completed on-site and therefore should not impact current programs of State or local building code enforcers.

B. Specific Issues for Comment

To assist in HUD's development of this final rule, HUD solicited feedback on specific questions and issues associated with its on-site completion procedures. Each question will be followed by the comments received and HUD's responses to those commenters in developing this final rule.

1. How should the rule define the limits on the construction work that may be completed on-site

Comment: Several commenters recommended that the rule retain a broad definition of ''substantial completion'' to not limit future technological advances. One commenter, for example, suggested that an external heating/cooling technology may become available that would differ based upon the geography or other physical feature of the job site, which might go beyond the ''box'' of the home. As a result, the commenter stated that HUD's final rule should maintain flexibility in defining the type of work that may be completed on-site. Other commenters agreed stating that there should not be a defined limit due to the infinite combinations of on-site construction. The commenters suggest that limits be left to the DAPIAs and manufacturers, who are well-suited to determine and clarify on-site construction. Other commenters stated that § 3283.602 provides adequate examples that qualify for on-site completion and provide adequate direction to enable manufacturers and DAPIAs to determine when on-site construction protocol is warranted. Another commenter stated that extending on-site completion to certain installation work, such as a hinged roof, is appropriate since this work is performed under the guidance of the manufacturer.

HUD Response: HUD shares an interest in promoting technological advances in the design and manufacture of manufactured housing and agrees that manufacturers and manufacturer's DAPIAs and IPIAs should have flexibility in determining the scope of construction that may be approved to be completed on-site. HUD also agrees that § 3282.602(a) of this final rule contains adequate examples to determine whether a particular type of construction may qualify for on-site completion. This flexibility should encourage and not inhibit future technological advancements. Further, the final rule does not change current practice with regard to which site work is considered construction and which is considered installation, except for the inclusion of peak flip or peak cap construction with roof slopes less than 7:12, when homes are designed to be located in Wind Zone I.

2. Should the proposed requirements applicable to on-site completion in accordance with the construction and safety standards be extended to repairs of homes in the hands of retailers or distributors or to work proposed to be defined as installation, especially close-up details for multiple and single sections?

Comment: Several commenters stated that repairs should not be included in the rule. These commenters submitted that repairs do not fit the scope of this rule and including them will inevitably lead to consumer dissatisfaction. The commenters stated that subjecting repairs to the on-site process would also result in increased cost to consumers where there has been no indication of changes required from present practice.

HUD Response: HUD agrees. This final rule does not include any additional requirements for repairs of manufactured homes in the possession of retailers or distributors beyond those requirements currently in effect under 24 CFR part 3282, subpart F.

3. Has HUD drawn the proper lines between aspects of work on the home to be finalized as part of installation and those aspects that would be considered completion of construction under a special approval for either on-site or AC?

Comment: Several commenters stated that the distinction between on-site construction work and installation work should be clarified. According to these commenters, more clearly defining the work subject to on-site construction process would provide greater flexibility in the on-site inspection process and ensure uniform, preemptive Federal regulation and oversight of on-site work.

HUD Response: HUD believes that the distinction between on-site construction work and installation work is adequately provided by § 3282.602 of this final rule and related provisions in HUD's Model Manufactured Home Installation Standards, 24 CFR part 3285. In addition, HUD clarified the distinction for certain types of roof construction by allowing peak flip and peak cap construction with a roof pitch of less than 7:12, when located in Wind Zone I, to be considered as installation.

Comment: Another commenter stated that the rule cites examples of work to which the new rule would apply (*e.g.,* completion of dormer windows, additions of sidings/stone/stucco, certain types of hinged roofs, and assembly of multistory designs) which would be part of the construction standards if factory installed. The commenter continued, however, that this work also becomes part of the home installation if it is to performed on-site. According to the commenter, the rule does not clearly distinguish ''on-site construction'' from ''installation.'' As a result, it may be difficult to determine whether HUD's Construction and Safety or Installation Standards apply.

HUD Response: HUD does not agree with the commenter, and believes that this final rule distinguishes between on-site construction work that could or should have been completed in the factory and work that is considered part of the installation of the home.

Comment: Several commenters stated that including the on-site installation of certain components such as the field installation of double exterior doors and of fireplace hearths that cross the mating line are too broad and should be questioned. According to the commenters, allowing unregulated entities to provide alternate or additional building components without the benefit of proper oversight should not be permitted. The commenters stated that some appliances are likely to be installed in new manufactured homes that will not only take the home out of compliance, but also defeat some of the safeguards provided in the present Construction and Safety Standards.

HUD Response: As stated in response to a previous comment, the field completion and installation of these components are permitted under § 3282.602(a)(4) and (a)(5) of this final rule. Site installation of these types of building components, including appliances and fireplaces, are subject to final inspection and oversight by the IPIA under this final rule.

Comment: Several commenters expressed disagreement with HUD's decision to codify the Model Manufactured Home Installation Standards in part 3285 rather than incorporating them in the Construction and Safety Standards in part 3280 of the Code of Federal Regulations. However, despite this disagreement, the commenters agreed with HUD that on-site work covered by the proposed rule clearly entails final ''construction'' of the home and is subject to the Federal preemption.

HUD Response: The National Manufactured Home Construction and Safety Standards Act does not permit ''installation'' to be considered as ''construction'' and does not authorize codification of the Model Installation Standards under the preemptive provisions of 24 CFR part 3280.

4. What is the best method for assuring that the on-site construction work is inspected for compliance with the construction and safety standards prior to occupancy?

Comment: Several commenters stated that on-site inspection is a natural extension of the manufacturing process and, as a result, the inspection process should do the same. According to these commenters, each unit in the factory is inspected by an IPIA in at least one stage of its production. Further, manufacturer's personnel are responsible for inspection of all stages of production. The commenters submitted that this process should be applied to on-site construction and that the manufacturer's personnel certify completion, subject to sampling by the IPIA and that the frequency of inspections would be determined by the IPIA, based on the manufacturer's performance.

HUD Response: As the personnel and work crew at each home site typically varies, HUD considers the on-site construction work at each site to be similar to conducting a plant certification during which both the manufacturer and IPIA are responsible for inspecting each phase of the production to ensure the quality assurance system is properly functioning and the work performed conforms to the Standards. As such, the final rule makes the manufacturer responsible for satisfactory completion of all on-site work for each home and requires the IPIA to inspect all of the on-site construction work for each home.

5. Should the IPIA be the only entity permitted to conduct the on-site inspections required under this rule or should the rule be amended to permit a State to conduct the on-site inspections?

Comment: Several commenters stated that the inspection process needs to be uniform nationally, and recommend that only HUD-approved IPIAs be permitted to conduct on-site inspections. These commenters supported the provisions in the rule prohibiting parties other than the plant's IPIA from being responsible for inspections of on-site work performed by individuals that may be unqualified since to do otherwise may result in insufficient oversight. Several commenters opposed requiring or permitting on-site inspections by any State entity other than an approved State stating that such an approach would discourage States from becoming SAAs and, thereby, weakening and undermining the Federal-State partnership envisioned by the Act.

According to the commenters, a State option or mandate could also allow States to exercise IPIA-type enforcement powers without meeting all the requirements for HUD approval as an IPIA, thereby undermining HUD superintendence and control of the regulation of manufactured housing as provided by Federal law.

HUD Response: HUD agrees with these commenters. Inspections need to be uniform nationally and performed by entities that are knowledgeable with the requirements of the Standards. As a result and as stated in response to a previous comment, only IPIAs are authorized to conduct site completion inspections under this final rule.

Comment: Several commenters also stated that allowing non-IPIA agencies to regulate inspections of the on-site work would erode HUD's authority and is contrary to the existing and effective inspection process established by the current regulations. These commenters stated that inspections by non-IPIA agencies may expose consumers to inconsistent, ineffective, and more costly and/or improper regulation.

HUD Response: HUD agrees with these commenters and reiterates that only IPIAs are authorized to conduct site completion inspections under this final rule.

Comment: Other commenters, however, suggested that the final rule allow manufacturers to elect between on-site inspections by IPIAs or by other HUD-approved, non-IPIA licensed and insured individuals or entities, such as Registered Professional Engineers or Certified Architect-Engineers. According to the commenters, permitting on-site inspections by HUD-approved, independent, licensed professionals would result in more effective competition and more affordable inspection prices and ensure proper accountability for errors or omissions.

HUD Response: HUD's interest in ensuring that inspections are conducted by entities knowledgeable with the Construction and Safety Standards requires that it authorize only IPIAs to conduct site completion inspections under this final rule. However, an IPIA may authorize or designate a professional engineer or architect or other inspection professionals to conduct inspections on their behalf.

6. Should the IPIA inspect all homes completed on-site, or should the IPIA undertake inspections only for a certain number or percentage of homes completed on-site?

Comment: Several commenters stated that not every home needs to be inspected and recommended that the IPIA should inspect a percentage of homes that convinces them that the process is being completed as directed. They suggested that the IPIA determine how many inspections should be performed, based on the complexity and multiple uses of an approval across different models and in accordance with the regulations. The commenters based their recommendation on the fact that IPIA personnel do not inspect each home at every stage of production and are not required to inspect homes at any specific stage of production, or specifically upon completion in a production facility.

HUD Response: As noted in response to a previous comment, HUD believes that construction completed on-site is part of the final production necessary to complete the home. Notwithstanding, on-site construction necessarily involves the completion of a variety of unique design specification and quality control procedures which may be performed by staff or representatives assigned by the retailer or manufacture. HUD does not have a means to ensure that such staff has the proper qualifications and knowledge to perform the work. As a result, HUD believes that IPIA inspection of each home completed on-site is required to ensure compliance with the Safety and Construction Standards.

Comment: Commenters also suggested that manufacturers be allowed to exercise an election regarding the inspection of homes completed on-site, in place of the one-size-fits-all, 100 percent inspection mandated by the proposed rule. According to the commenters, such an approach would reduce costs and create flexibility for the IPIA and HUD to increase the frequency of inspection as warranted by a particular manufacturer's compliance with its DAPIA approved on-site design and the Standards. One commenter recommended that HUD modify the rule to permit manufacturers to elect 100 percent on-site inspection, offset by reduced in-plant inspections, or audit type inspections subject to frequency adjustments based on demonstrated compliance levels.

HUD Response: HUD does not agree with the commenters. Initially, given the scope and complexity of construction that may be completed on-site, inspection of each home at the construction site is not a ''one-size-fits-all'' procedure. Further, providing manufacturers the option of reducing in plant inspections for each on-site inspection misses the fact that inspections on-site differ in scope and purpose from in plant inspections. Consequently, IPIA inspection of each home completed on-site is required by this final rule to ensure conformance to the Standards and the manufacturer's designs and specifications.

Comment: Some commenters expressed concern that requiring an on-site inspection to be completed by the IPIA for every home prior to occupancy will result in lengthy delays in the construction and sales process, add unnecessary costs for the homebuyer, and reduce consumer satisfaction. Other commenters suggested that the rule be changed to reflect current inspection practices and extend flexibility to the IPIA for determining the frequency of on-site inspections as they deem necessary based on complexity of the design and history of past inspection.

HUD Response: HUD does not anticipate that the inspection of each home completed on-site will result in any additional time or delay than is currently required for IPIAs to conduct inspections under AC procedures.

7. Should authorized inspectors be limited to State and local inspection officials, rather than permitting IPIAs to choose some other qualified independent inspector?

Comment: Several commenters stated that the IPIA should designate who may act on its behalf. They also stated that the qualifications of individuals selected to act on behalf of the IPIA should be no different than those required of individuals conducting in-plant inspections.

HUD Response: Each IPIA may designate and authorize independent inspection professionals to conduct inspections on their behalf, as permitted by § 3282.607(d) of this final rule. Any IPIA that permits others to act on its behalf assumes full regulatory responsibility for those individuals.

8. Does HUD need to identify those aspects of completion of the home that are not subject to Federal Construction and Safety Standards and inform local inspectors that they may inspect those aspects?

Comment: Some commenters stated that designating those aspects subject to local inspection would be helpful as long as some consistency is maintained. However, other commenters stated that there should be no need for HUD's involvement in on-site work items that are not covered by or subject to the Standards. In addition, commenters also stated that when permits are required, those items are covered and inspected by the jurisdiction issuing the permit and these construction elements are the responsibility of others and outside the

control of the manufacturer. Other commenters stated that this is not part of the regulatory responsibility of manufacturers under Manufactured Home Construction and Safety Standards and should not be required.

HUD Response: The final rule requires the IPIA, rather than a State or local authority having jurisdiction, to conduct the inspection. HUD does not agree with the commenters' suggestion to permit entities other than IPIAs to perform the final site inspection. HUD believes that entities such as State or local jurisdictions are often unfamiliar with the requirements of the Construction and Safety Standards and are not are authorized to conduct these inspections on HUD's behalf.

9. Should the DAPIA be permitted to determine whether the complex work also requires special criteria or qualification for the IPIA inspector in order to perform the on-site inspection?

Comment: One commenter stated that the manufacturer, not the DAPIA, is responsible for the proper completion of all on-site work and, in conjunction with its IPIA, should be responsible for the proper inspection of such work. According to the commenter, 24 CFR part 3282, subpart I, makes the manufacturer responsible for noncompliances and defects in the home. As a result, the commenter recommended that the manufacturer and IPIA determine the appropriate qualifications for the on-site inspector in a given situation.

HUD Response: HUD agrees with the commenter. As a result, HUD has removed from this final rule the requirement proposed by § 3282.604(c) that would have made the DAPIA responsible for determining whether the on-site inspection required special testing or that the IPIA inspector have special qualifications to perform the on-site inspection.

Comment: Other commenters stated that the qualifications of individuals conducting on-site inspections should not be different than those of an IPIA inspector, and that the manufacturer and the IPIA should have responsibility for determining the appropriate qualifications of the on-site inspector in a given situation. Other commenters stated that the functions of the DAPIA and IPIA should complement each other rather than have barriers that prevent direct and open communication. As a result, these commenters stated that DAPIA oversight functions should not include responsibility for determining the specific skills necessary for an individual to conduct the on-site inspections.

HUD Response: As stated in the preceding response, HUD agrees with those comments and has removed from this final rule the provision that would have made the DAPIA responsible for determining whether the IPIA inspector requires special skills to conduct on-site inspections.

10. Should the rule establish, or provide that the DAPIA may establish in its approval a deadline for completion of the work on-site and final inspection?

Comment: Several commenters stated that the rule should address completion timelines and not permit nonuniform deadlines. However, other commenters disagreed and stated that completion time deadlines have no place in a construction standard. These commenters stated that unforeseen circumstances may arise which, if addressed in the rule, would subject the manufacturer and the IPIA to legal liability or regulatory consequences. Another commenter stated that time frame deadlines are almost always a part of the contractual negotiation with the consumer. Another commenter stated that for display models, deadlines for completion would not be possible to predict.

HUD Response: HUD believes that the deadlines for completion should be negotiated by the parties to the transaction. As a result, HUD has not added completion timelines or deadlines to this final rule.

11. Should HUD specify requirements for the retailer to notify the manufacturer that a home subject to the on-site completion process is ready for the manufacturer's final inspection, or should the requirements be left to private arrangements?

Comment: Several commenters suggested that arranging for the final inspection be left to private arrangements. Another commenter stated that HUD should specify that the retailer is responsible for notifying the manufacturer that a home is ready for final inspection.

HUD Response: HUD agrees with the commenter that recommended that arranging for the final inspection be left to private arrangements.

12. Should the regulations in 24 CFR 3282 subpart F be extended to provide that some or all of the procedures for manufacturer and IPIA inspection of the work on-site also apply to repairs, on-site or in retailer lots, of manufactured homes that are completed and labeled in the factory, but that are substantially damaged before being sold by a retailer?

Comment: Several commenters stated that the retailer is responsible for such items and the manufacturer should not be held responsible. Other commenters state that repairs should be left to the private arrangements between the manufacturer and the retailer.

HUD Response: If a home is damaged on a retailer's lot, it cannot be sold by the retailer to a consumer until the home is brought into compliance with the Standards. If the manufactured home is damaged on-site by some other entity, the manufacturer of the home remains responsible for its required repairs. Under the final rule, the manufacturer is to complete the work and any repairs and may authorize a licensed contractor or similarly qualified person to complete the work or repairs.

13. Should the rule address more explicitly what happens if the manufactured home does not pass the on-site inspection?

Comment: One commenter stated that it should be left to the IPIA and the manufacturer to determine what happens if a home does not pass inspection and if they cannot reach consensus in a timely manner then the homeowner has legal rights to remedy the situation. Another commenters stated that, this should be left to private arrangements and noted that the rule is clear that the home may not be occupied absent a satisfactory inspection.

HUD Response: This final rule requires that each home must successfully pass a final on-site completion inspection. The rule leaves it to the IPIA and manufacturer to determine how to resolve any areas that do not pass inspection so that a successful final inspection can be completed.

14. Is the proposed labeling procedure workable?

HUD responded to comments submitted in response to this question in Section A, General Comments, of this preamble.

15. What mechanism can be used to ensure that the prospective purchaser is provided with the Consumer Information Notice?

Comment: Several commenters stated that the retailer or manufacturer will advise the customer of any requirements applicable under the on-site construction approval during contract negotiations. Commenters recommended that the Consumer Information Notice be provided to the consumer when the contract is signed and that the homebuyer be required to sign the notice. Commenters stated that there is no need for notice to be posted in the home because this does not ensure that the consumer has read or will read the notice.

HUD Response: HUD believes the value in displaying the notice in the home is that it alerts perspective purchasers at the earliest opportunity that additional construction needs to be completed at the site before the home can be occupied. The final rule requires that the notice be both prominently displayed in the home and that a copy of the notice be given to prospective purchasers before the purchasers enter into a sales agreement to purchase the home. Removal or failure to provide the notice by any entity constitutes a violation of the regulations.

Comment: One commenter stated that times have changed and that unlike in the past, when retailers would purchase inventory to be sold off the lot, today's process is much different. According to the commenter, with few exceptions a potential customer will visit a model center and make decisions about floor plans, colors, exteriors, etc., and then have their home built. This is the point, according to the commenter, when the consumer needs to be informed about any SC approvals and the possible delay of their expected move-in. The commenter also stated that the display of the notice in the unit is unnecessary and of little value since it is unlikely that a retailer would display a unit that required SC approval.

HUD Response: Under the final rule it is the responsibility of the retailer to provide the notice to all prospective purchasers before the prospective purchaser enters into an agreement to purchase the home, as required by § 3282.606(c).

16. Should the rule clarify what is the ''date of manufacture'' for units completed under this procedure, for purposes of the information required to be included in the data plate?

Comment: One commenter stated that the rule should provide guidance on the issue to ensure uniformity and an even playing field for all regulated parties. Other commenters stated that regardless of what method HUD decides to use, the date of manufacture should be the date the label is affixed at the factory, prior to shipment, to allow completion of all paperwork that goes with the home. This will eliminate the need for additional paperwork, avoid miscommunications between the factory and the site, and ensure uniformity.

HUD Response: HUD agrees with the commenters that the date of manufacture is the date the label is affixed to a manufactured home at the factory, as specified in § 3282.7(h).

17. Can monthly reporting to HUD of on-site production be achieved better, such as through the use of individual reports, rather than combining the required extra information with the existing production report (Form 302) information?

Comment: One commenter stated that the current AC reporting process (quarterly) be applied to this rule. Another commenter stated that any new paperwork and related costs under the rule should be minimized to the greatest degree possible, consistent with safety. The commenter agreed, however, that the existing form be used.

HUD Response: The final rule has been revised to require an SC numeric identification with the monthly 302 production form, in lieu of the brief description of the work performed that was indicated in the proposed rule. This will provide HUD with the most up-to-date information with regard to homes produced for site completion. Under the final rule, each IPIA is required to maintain complete inspection records of all on-site inspections for at least 5 years.

18. Are there special concerns about the ability of a State PIA to conduct out-of-state inspections and about the costs for those State PIA inspections that should be addressed in the rule?

Comment: Some commenters indicated that IPIAs will be challenged to perform on-site inspections, especially those conducted out of State. These commenters also stated that any such concerns should be addressed outside of this rule, either in the regulations relating to State plans or as part of the regulations governing the qualification and approval of State IPIAs. Other commenters suggested that this issue be left to private arrangements between the State IPIA and the manufacturer. These commenters stated the IPIA, whether a State or private agency, must have the flexibility to select other qualified third-party inspectors for any on-site inspections.

HUD Response: HUD agrees that these arrangements are best addressed outside of the rule through private arrangements as suggested by some of the commenters. As a result, the final rule provides that the IPIA, whether State or private, is responsible for conducting the required on-site inspections by using its own inspectors or by independent qualified inspectors acceptable to the IPIA as its representative. The manufacturer is responsible for coordinating for these required inspections by the IPIA.

19. If the inspection requirements for on-site approvals are changed from the levels proposed, should the inspection requirements vary according to the kind of work involved?

Comment: Some commenters suggested that inspection requirements should be left to the manufacturer designing and the DAPIA approving the design, who are the most qualified to determine the appropriate inspection levels on-site. Other commenters suggested that changing inspection requirements might reduce compliance costs but that it would also create confusion, disputes, and need for a more intricate inspection system.

HUD Response: HUD agrees with those commenters that stated that multiple inspection requirements would add unnecessary complexity to the rule and create confusion for the public. As a result, under the final rule, the inspection requirements are the same regardless of the type of site construction work that is being completed.

20. Are there any special processing or inspection requirements that should be included in a final rule if HUD permits completion on-site of multistory and high-slope-roof style homes designed to be located in Wind Zones II and III?

Comment: Commenters stated that special inspection requirements have no place in a construction standard and reiterate that inspection requirements should be left to the manufacturer and the DAPIA. Other commenters stated that there is no evidence that this issue would require special processing or inspection requirements.

HUD Response: There are no provisions in the final rule for the DAPIA to require special processing or inspection requirements. At the option of the DAPIA, it may determine whether any special processing or inspection requirements are needed for site completion of the home. In addition, this final rule is not applicable to

completion of multistory homes and does not apply to attached garages as this subject is under current review by the MHCC and is expected to be addressed in future rulemaking by HUD.

21. Are there other jurisdictional concerns about the monitoring of the work completed on-site being the continuing responsibility of the manufacturer's IPIA?

Comment: A commenter stated that the manufacturer's IPIA must be allowed to use alternate, qualified inspectors outside their organization.

HUD Response: Section 3282.607(d) of the final rule allows independent, qualified inspectors acceptable to the IPIA to act as its representative or designee in making the required inspections.

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

Comment: Several commenters stated that the manufacturer's IPIA must be allowed to use alternate, qualified inspectors outside their organization. These commenters stated that if the IPIA is unable or unwilling to help select a qualified party for the inspection, the manufacturer should be given the authority to select the inspection agent.

HUD Response: Please see HUD's prior responses regarding the use of other professionals to conduct inspections on behalf of the IPIA.

23. Should the manufacturer be required to provide a copy of the final site inspection report, or any other information about the on-site approval, to the SAA of the State in which the home is sited?

Comment: Several commenters stated that submitting related paperwork prior to a consumer complaint should not be necessary and that additional paperwork is a barrier to streamlining the process and is contrary to HUD's intention in issuing this rule. A commenter also stated that SAAs can request service records from the manufacturer when they receive a consumer complaint. Other commenters stated that additional paperwork would unnecessarily increase costs without providing corresponding benefits for consumers.

HUD Response: In response to these comments, HUD has revised § 3282.608(m) of the final rule to require the manufacturer to provide a copy of the site report to an SAA, upon request.

24. Should the rule extend authority to revoke or amend an approval to the SAA in the State where the factory is located, the SAA in the State where the home is sited, both, or neither?

Comment: Commenters stated that SAAs do not need to be involved in the SC process, unless, and until, they receive a consumer complaint. These commenters stated that the appropriate role of the SAA is to address consumer complaints and conduct monitoring as per the current procedural enforcement regulations.

HUD Response: HUD agrees. SAAs are not authorized to revoke or amend site construction approvals. Section 3282.609 of the final rule provides regulatory remedies if manufacturers fail to comply with the provisions of this final rule.

25. Should the final rule limit the on-site installation of all appliances except furnaces and water heaters due to problems experienced with improper venting and installation of these appliances?

Comment: Several commenters suggested that the rule only require SC for fuel-burning, built-in appliances and be limited to those appliances furnished by the manufacturer. The commenters also stated that a customer who decides to furnish his own appliances should assume responsibility for installing them properly.

HUD Response: HUD considered these comments and concluded that the final rule should continue to allow for the installation of all appliances, subject to a final site inspection by the IPIA.

26. Are the manufacturer's inspection responsibilities as outlined in § 3282.605(c) sufficiently clear?

Comment: Several commenters stated that the manufacturer's responsibilities are clearly outlined in § 3282.605(c)

HUD Response: HUD agrees that the manufacturer's responsibilities are clearly delineated in the final rule.

C. Comments on Specific Sections of the Regulation

Comment on § 3282.252(b): One commenter stated that the proposed amendment attempts to redefine when the ''completion of the entire sales transaction'' occurs and refers to the term ''set-up,'' which is not defined in either the Manufactured Home Procedural and Enforcement Regulations or this proposed rule.

HUD Response: HUD appreciates this comment and has changed the term ''set-up'' to ''installation'' in the final rule to be consistent with the terminology used in other parts of the rule.

Comment on § 3282.603(d): One commenter stated that this section would provide that all nine items delineated in paragraphs (d)(1) to (d)(9) must be included with each request for approval. According to the commenter, this is overly cumbersome. More specifically, the commenter recommended that paragraphs (d)(3), (d)(4), and (d)(6), be generalized and applicable to the process of SC as a whole and not be specific to and for any individual approval.

HUD Response: HUD does not agree with commenter. All items are needed and must be provided to the DAPIA for each site construction approval request to ensure that all site work can be completed in accordance with the manufacturers' designs, quality control procedures, standards, and regulations.

Comment on § 3282.605(d)(1): A commenter stated that there is no time limit for the IPIA to notify the manufacturers of the IPIA's final site inspection report.

HUD Response: HUD has revised § 3282.605(f) of the final rule to require the IPIA to notify the manufacturer within 5 business days of its acceptance of the manufacturer's final site inspection report.

Comment on § 605(d)(3)(i) to (iii): One commenter questioned if the IPIA must inspect the on-site completed work concurrently with the manufacturer, why would the IPIA have to ''formally'' accept or reject the inspection report. According to the commenter, waiting for the IPIA to issue a written acceptance delays the ability of the owner to move in and will inevitably lead to customer dissatisfaction.

HUD Response: As discussed in response to other comments in this preamble, HUD does not believe that issuance of a written acceptance by the IPIA will result any additional delays as that currently required by the AC procedures. Under the current AC procedures and the on-site procedures provided by this final rule, the IPIA must verify that all site completion work has been successfully completed by the manufacturer.

Comment on § 3285.801(f): Several commenters expressed concerns about moving single-hinged-roof designs from ''installation'' to ''construction.'' According to the commenters, the proposed rule would require that any hinged roof with a ridge box (peak cap) or peak flip (second hinge) be included under the on-site completion regime established by this final rule and, thereby, subject to inspection by the IPIA. They also suggested that this will

subject nearly every home with a hinged roof to fall under this rulemaking and add significant cost to consumers. The commenters urged HUD to leave this section unchanged, enabling hinged roofs to be regulated by the installation standards.

HUD Response: The revisions HUD is making to § 3285.801(f) do not change current practice used to determine which types of hinged roofs are covered by HUD's Model Installation Standards and will only extend these requirements to peak cap or peak flip construction for roof slopes less than 7:12, as suggested by the commenters, when the home is designed to be located in Wind Zone I. Otherwise, the final rule does not change the type of hinged roofs considered as construction and subject to AC under current procedures.

IV. This Final Rule

Prior to this rule, HUD reviewed and approved requests for on-site completion of construction of manufactured homes under § 3282.14. This procedure can be lengthy and, when originally implemented, was not intended to address the evolution and sophistication of the current modern manufactured housing construction techniques. Manufactured homes now include home design features, such as stucco or brick, that cannot reasonably be completed in the factory and which are currently being completed on-site under the AC process. HUD also recognizes that many parts of modern manufactured homes, such as components of smoke alarm, heating, ventilation, air conditioning, and plumbing systems, are typically shipped loose with the home. It is only when these systems are completed that the homes comply with the Construction and Safety Standards.

This final rule establishes simplified, uniform procedures at 24 CFR part 3282, subpart M, that permit manufacturers to complete the construction of manufactured housing on-site, rather than in the factory, under certain circumstances, without obtaining advance approval from HUD. Under this final rule, HUD's approved DAPIAs and IPIAs (collectively known as Primary Inspection Agencies (PIAs) are authorized to approve and inspect certain construction for manufactured homes designed to be completed on-site. Delegating this responsibility to HUD's PIAs is consistent with HUD's policy to expand regulatory flexibility, encourage innovation in the construction of manufactured homes, and facilitate the timely completion of manufactured homes on-site.

As a result of this final rule, manufacturers may now complete the home in the factory, in accordance with the Construction and Safety Standards and an approved quality assurance manual, or may complete work on certain aspects of the home on-site in accordance with procedures established by this rule, which bring the home in conformance with the Construction and Safety Standards. The designs for construction work to be done on-site in accordance with the procedures in this final rule are subject to Construction and Safety Standards; accordingly, State and local jurisdictions are preempted from establishing their own design requirements for these aspects of the home, unless the requirements are identical to the Construction and Safety Standards. Manufacturers also may continue to seek approval through the AC process under the procedures established by § 3282.14 for construction that does not comply with the Construction and Safety Standards.

The Federal Manufactured Housing program is based upon national Construction and Safety Standards that are enforced through the manufacturer's quality control systems, in-plant compliance inspections by HUD-approved third-party agencies, and performance monitoring of those agencies in the plant. Given these conditions, this final rule does not permit major portions of a home to be completed beyond the plant, as that would avoid the normal inspection and certification process, and may frustrate legitimate local and State code enforcement efforts. Notwithstanding, § 3282.602 of this final rule lists aspects of construction of a manufactured home that may be approved to be completed on-site. Examples of the types of work that are not considered to involve substantial completion and which cannot be reasonably expected to be completed in the factory and to which the final rule applies include:

(a) Completion of roof dormers;

(b) Addition of stucco, stone, brick, or other siding that is subject to damage in transit;

(c) Retailer changes to the home on-site (such as add-ons subject to requirements established by the local authority having jurisdiction), when the home is taken out of compliance with the Construction and Safety Standards and then is brought back into compliance with the Standards. However, this provision does not apply to attached garages as this subject is under current review by the MHCC and is expected to be addressed in future rulemaking by HUD;

(d) Any hinged roof that is not considered part of the installation of the home (see § 3285.801(f)). Based on the recent recommendations of the MHCC and the comments received, the final rule now allows peak flip and peak cap construction in which the roof pitch of the hinged roof is less than 7:12, when located in Wind Zone I, to be deemed part of installation and exempt from IPIA inspection under the Regulations;

(e) Site installed appliances that are listed or certified for use in manufactured homes, such as a cooking range, furnace, or water heater; and

(f) Completion of any high-pitch (*i.e.,* roof pitch equals or exceeds 7:12) hinged roof construction that conforms to the construction and safety standards when finished. Completion of lower-pitched hinged roofs that are not penetrated above the hinge and are designed for Wind Zone I would be considered installation and are not covered by this final rule.

The procedures established by this final rule eliminate much of the reporting for site inspections of completed homes previously required under the AC process. Under this final rule, the manufacturer is only required to report, to HUD or its agent, the State of first location of the home, its serial number, and a brief description of the work done on-site. This information is to be included on an updated HUD Manufactured Home Monthly Production Report (Form 302), which manufacturers have in the past used to report to their IPIA and to HUD (or their monitoring contractor) certain completion and shipping information on labeled units.

As stated in this preamble, manufacturers may continue to seek approval through the AC process, under the procedures established by § 3282.14, for construction that does not comply with the Construction and Safety Standards. HUD will utilize § 3282.14, as originally intended, to encourage innovation and the use of new technology that are not in conformance with the Construction and Safety Standards. The AC process is limited to specific circumstances and requires the manufacturer to submit a formal request to HUD and show that the construction it proposes provides performance that is equivalent or superior to that required by the Construction and Safety Standards. Examples of designs in which the completed home does not comply with the Construction and Safety Standards when finished and would therefore continue to require an AC approval include:

(a) Multistory homes that do not comply with the standards because of

distance requirements to reach an exterior door for egress from a bedroom or other requirements;

(b) A home installed without floor insulation over a basement; that is, the existence of a basement will not substitute for insulation under the construction and safety standards (however, if the floor is properly insulated at the factory, it may be installed over a basement without having to use either the on-site or AC approval processes); and

(c) Attached garages, as this subject is under current review by the MHCC and is expected to be addressed in future rulemaking by HUD.

The procedures established by this final rule for on-site completion differ from the AC. Initially, this final rule applies to homes that can be certified as substantially meeting the requirements of the Construction and Safety Standards when labeled in the factory and that comply fully with those Standards when completed on-site. In addition, the on-site completion procedures established by this rule eliminate the direct HUD review and approval currently required under the AC process. Rather, this rule requires that manufacturers work directly with their DAPIAs and IPIAs to obtain approval to complete aspects of construction at the final home site.

This final rule will encourage the use of innovative designs and techniques that will further demonstrate the adaptability and versatility of manufactured housing. As manufacturers continue to make significant improvements to both the quality and the aesthetics of such homes, providing for simplified, uniform procedures that permit manufacturers to complete the construction of manufactured housing on-site, rather than in the factory, will support the increased recognition of manufactured homes as a viable source of unsubsidized, affordable housing and encourage zoning policies that do not discriminate against manufactured housing.

A. Section by Section Discussion of 24 CFR Part 3282, Subpart M, of the Final Rule

1. *Purpose and applicability (§ 3282.601).* Section 3282.601 establishes a procedure that allows manufacturers to deviate from existing completion requirements when an aspect of construction cannot reasonably be completed in the manufacturer's production facility. Manufacturers may utilize this procedure when all requirements of Subpart M are met. Generally, to be applicable a manufactured home must be: (1) Substantially completed in the factory; (2) meet the requirements of the Construction and Safety Standards upon completion of the site work; and (3) inspected by the manufacturer's IPIA, as provided in this subpart, unless specifically exempted as installation under HUD's Model Installation Standards, 24 CFR part 3285. These special procedures would be available only when the manufacturer, its DAPIA, and its IPIA agree to follow them, and can only be used if all affected homes are substantially completed in the factory, as defined.

2. *Qualifying construction (§ 3282.602).* Section 3282.602 describes those aspects of the construction of a manufactured home that may be completed on-site, under the Construction and Safety Standards, in accordance with the requirements of this subpart. Generally, the on-site approval process is available for work to complete a partial structural assembly or system that cannot reasonably be done in the factory. The reasons for this difficulty may result, for example, from transportation limitations, design requirements, or delivery of an appliance ordered by a homeowner. This final rule clarifies when work on certain hinged roofs can be completed under the installation standards, rather than through the on-site process under the Construction and Safety Standards.

3. *Request for approval; DAPIA approval (§ 3282.603).* Under this final rule, the manufacturer must request and obtain DAPIA approval to complete, on-site, the final, limited aspects of construction of a manufactured home that would be substantially completed in the factory (*i.e.,* the home leaving the factory must include: (1) A complete chassis; and (2) structural assemblies and plumbing, heating, and air conditioning systems that are complete except for limited construction that cannot reasonably be completed in the manufacturer's production facility and that the DAPIA has approved for completion on-site). Among other things, in the approval, the DAPIA will identify what work will be completed on-site through use of a unique site completion numeric identification for each manufacturer and will authorize a notice that includes a description of this work, identify instructions authorized for completing the work on-site (including any special conditions and requirements), and list all models for which the DAPIA approval is applicable.[1] As part of its approval, the DAPIA will stamp or sign each page of any set of designs accepted for completion on-site, and will include an ''SC'' designation on each page that includes an element of construction that is to be completed on-site.

In addition, the DAPIA must approve the part of the manufacturer's written quality assurance manual that is applicable to completing the manufactured homes on-site under the Construction and Safety Standards. When the part of the quality assurance manual applicable to the on-site completion also has received the concurrence of the IPIA, the system may be approved as part of the manufacturer's quality assurance manual. If this approval is not done as part of the initial approval of the entire quality assurance manual, the pertinent part of the manufacturer's manual will be deemed a change to be incorporated into the manual in accordance with established procedures (see §§ 3282.203(e) and 3282.361(c)(4)). The approval will also include other requirements, such as a quality control checklist to verify that all required components, materials, labels, and instructions needed for site completion are provided by the manufacturer and an inspection checklist, developed by the manufacturer and approved by the DAPIA, to be used in the manufacturer's and IPIA's final inspections. As with the procedures followed under an approval for AC, the manufacturer's IPIA is responsible for ensuring that the homes the IPIA inspects under the new procedures comply with the changes in the quality assurance manual, as provided in § 3282.362(a) of the existing regulations, and with the approved design or, where the design is not specific, to the Construction and Safety Standards.

4. *DAPIA responsibilities (§ 3282.604).* In addition to the DAPIA's regular duties under § 3282.361, this section provides that the DAPIA is also responsible for:

(a) Verifying that the manufacturer submits all required information, when a manufacturer seeks a DAPIA's approval to complete any aspect of construction on-site under § 3282.603;

(b) Reviewing and approving the manufacturer's designs, site completion instructions, and quality assurance manuals for the site work that is to be performed;

(c) Determining whether there are any other requirements or limitations deemed necessary or appropriate; and

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

(d) Revoking or amending its approval for on-site construction, as provided in § 3282.609, after determining that the manufacturer is: (1) Not complying with the terms of the approval or the requirements of § 3282.610; (2) the approval was not issued in conformance with the requirements of § 3282.603; (3) a home produced under the approval fails to comply with the Federal construction and safety standards or contains an imminent safety hazard; or (4) the manufacturer failed to make arrangements for one or more manufactured homes to be inspected by the IPIA prior to occupancy. Upon revocation or amendment of a DAPIA approval, the DAPIA must immediately notify the manufacturer, the IPIA, and HUD.

5. *Requirements applicable to completion of construction (§ 3282.605).* After an acceptable final inspection of work completed on-site, the manufacturer must report to HUD or its agent the serial number and a brief description of the work done on-site for each home produced under these procedures. This report must be consistent with the DAPIA approval and is to be submitted, in part, on the updated production Form 302. A copy of this report also must be submitted to the SAAs of the States where the home is substantially completed in the factory and where the home is sited, upon request. The serial numbers as provided by the manufacturer must contain the prefix or suffix ''SC,'' for site construction.

Based on the comments received, the final rule does not require a unique on-site completion label as indicated in the proposed rule, but instead requires that homes or sections of such homes have a label affixed in accordance with § 3282.362(c)(2) and be shipped with a Consumer Information Notice that meets the requirements of § 3282.606. Approved designs for completion of aspects of construction outside of the manufacturer's plant must be marked with the identification code for the appropriate approved set of designs, and must be included as a separate part of the manufacturer's approved design package. All aspects of construction that are completed on the final home site remain the responsibility of the manufacturer, which must ensure that the home is properly labeled and, as part of its final on-site inspection report provided to the IPIA, certify that the work is consistent with DAPIA-approved instructions and conforms with approved designs or, as appropriate under § 3282.362(a)(1)(iii), conforms to the Construction and Safety Standards. The IPIA is required to review all of the manufacturer's final on-site inspection reports and to inspect all on-site work completed pursuant to an approval under this new process. If the IPIA determines that the manufacturer is not performing adequately in conformance with the approval, the IPIA may require reinspections, until it is satisfied that the manufacturer is conforming to the conditions included in the approval. Based on public comments HUD has revised § 3282.605(d)(4) to require that the manufacturer provide the purchaser or lessor a copy of the final site inspection report within 5 business days of the IPIA's notification of its acceptance of the report.

6. *Consumer information (§ 3282.606).* In addition to the on-site completion certification label, this section requires that the home must be shipped with a ''NOTICE'' that explains that the home will comply with the requirements of the Construction and Safety Standards only after all of the limited on-site work has been completed in accordance with detailed instructions provided by the manufacturer, and the home has been inspected. The ''NOTICE'' is to be displayed in a prominent and highly visible location within the home (*e.g.,* a kitchen countertop or front door), and include information instructions for those aspects of construction to be completed on-site and provided with the home. The notice may only be removed after the final inspection report is completed and the purchaser or lessor is provided with a copy of the report.

The sale or lease of the manufactured home to the purchaser will not be considered complete (see § 3282.252(b)) until the purchaser has been provided with a copy of the manufacturer's final site inspection report, including the certification of completion that has been reviewed and accepted by the IPIA. However, HUD does not intend that failure to provide this report within 5 days of the date of the IPIA's notification will constitute a breach of contract. The manufacturer must maintain in its labeling records an indication that the final on-site inspection report and certification of completion has been provided to the purchaser and the retailer.

7. *Responsibilities of the IPIA (§ 3282.607).* The responsibilities of the IPIA include, in addition to the IPIA's regular duties under § 3282.362:

(a) Working with the manufacturer and the manufacturer's DAPIA to ensure that the manufacturer's quality control system has the proper procedures and controls to assure that the on-site construction work will conform to DAPIA-approved designs and HUD's construction and safety standards;

(b) Providing the certification labels that the manufacturer may use to label a home that has been substantially completed in the factory;

(c) Monitoring the manufacturer's system for tracking the status of homes built under the approval until the on-site work and necessary inspections have been completed, to assure that the work is being performed properly on all applicable homes;

(d) Performing the required inspections of the manufacturer's reports and site work, to verify compliance with the manufacturer's quality control system, the approved designs, and, as appropriate, the Construction and Safety Standards. Only the IPIA, or other qualified independent inspector acceptable to and acting on behalf of the IPIA, may perform these inspections. The inspector must be free of any conflict of interest (see § 3282.359) and not be involved in the sale or site completion of the home; and

(e) Maintaining a copy of each final site inspection report submitted by a manufacturer and each inspection report prepared or accepted by the IPIA, and reporting to HUD, the DAPIA, and manufacturer if one or more manufactured homes has not been site inspected prior to occupancy or if arrangements have not been made to site inspect one or more manufactured homes.

8. *Manufacturer's responsibilities (§ 3282.608).* The manufacturer's responsibilities include:

(a) Certifying the completed home is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards, as indicated on the label, in § 3282.362(c)(2) of the Manufactured Home Procedural and Enforcement Regulations;

(b) Completing all work performed on a home that is necessary to assure compliance with the Construction and Safety Standards, regardless of who does the work or where it is completed. Such responsibility would not extend to any limited close-up work for multiple-section homes, as defined as installation work in the model installation standards;

(c) Working with the DAPIA and IPIA to obtain approval and concurrence on the quality control system the manufacturer will use to assure that the on-site work is performed according to DAPIA-approved designs, and to incorporate this system into the manufacturer's quality assurance manual;

(d) Working with the DAPIA to develop an approved checklist, providing the IPIA with the checklist to be used when the IPIA inspects the home after completion on-site, and notifying the IPIA that the home is ready to be inspected;

(e) Maintaining a system for tracking the status of homes built under the approval, to ensure that each home installed on a building lot has the on-site work and necessary inspections completed;

(f) Paying IPIA costs for performing on-site inspections;

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

(h) Satisfactory completion of all on-site work construction and required repairs or authorizing a licensed contractor or similarly qualified person to complete all site inspection and repairs.

(i) Providing a copy of the final site inspection report and certificate of completion to the IPIA; first purchaser or lessor of the home, prior to occupancy; to the appropriate retailer, and to the SAA upon request;

(j) Maintaining a copy of the site inspection report and the notification of the IPIA's approval or acceptance of this report;

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

(l) Providing cumulative quarterly production inspection reports to HUD or its agent.

9. *Enforcement (§§ 3282.609, 3282.610, and 3282.611).* A manufacturer or IPIA found to be in violation of the requirements for this procedure may lose the discretion to utilize the on-site completion procedure in the future. HUD or the DAPIA also may withdraw or amend an approval for on-site construction if the manufacturer does not comply with the requirements for the approval or produces a home that does not comply with the Federal Construction and Safety Standards. Other remedies provided separately under the Act and HUD's regulations will also continue to be available, as applicable, but HUD would consider a manufacturer or IPIA that complies with the requirements for on-site completion to be in compliance with the certification requirements of the Act and regulations for aspects of construction that are covered by the on-site completion approval.

B. Conforming Changes

This final rule includes conforming changes to 24 CFR part 3280. Initially, HUD is revising § 3280.5 to require that the manufacturer's data plate contain information, if applicable, stating that, except for the components completed on-site, the home has been substantially completed in accordance with an approved design and has been inspected in accordance with the Construction and Safety Standards.

In addition, and as discussed in the preamble of the proposed rule, HUD is revising the structural design requirements in § 3280.305 for attic areas with high- or low-pitched roofs. As discussed in the preamble of the June 23, 2010, proposed rule, HUD stated that this rule as proposed would apply to the completion of any high-pitched (*i.e.,* the roof pitch equals or exceeds 7:12), hinged roof construction that conforms to the Construction and Safety Standards when finished. HUD sought public comment on whether different treatment for high-pitched roofs was needed since a portion of the attic would meet the ceiling-height/living-spaces requirements of the Construction and Safety Standards and, as such, would require the attic floor to be designed for floor live loads of 40 pounds per square inch. In response to this request, most commenters stated that extending on-site completion to certain installation work, such as a hinged roof, would be appropriate since this work is done under the guidance of the manufacturer. Another commenter stated that HUD should not allow the inspection of certain roof pitches to be under the installation standards, while requiring inspection of others under the provisions of the on-site construction rule. No commenter addressed whether HUD should conform the Construction and Safety Standards for high-pitched roofs that create attic space to be designed to resist a minimum design live load of 40 pounds per square foot, in accordance with 3280.305(g) of the standards, the design standard for floors, or that roofs with slopes of less than 7:12 that contain an attic area for storage be required to be designed for a storage live load of 20 pounds per square foot. As a result, as provided in the June 23, 2010, proposed rule, HUD is conforming the Construction and Safety Standards to address these elements of the home that results when the roof is raised via construction on-site in this final rule.

The final rule includes conforming changes to three other sections of 24 CFR part 3282. A conforming amendment is made to § 3282.252 (b) to change the term ''dealer'' to ''retailer.'' HUD is also conforming this section to this final rule by providing that the sale is complete upon delivery to the site, except that sales under this final rule will not be considered complete until the purchaser or lessor has been provided with a final site inspection report. A conforming amendment is also made to § 3282.552 to specify the information that is included on the reports currently submitted under 24 CFR part 3282. Finally, HUD is also using this rulemaking to make a technical correction to the heading of § 3282.8(a), which would be updated from ''mobile homes'' to ''manufactured homes''.

V. Findings and Certifications

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select the regulatory approach that maximizes net benefits. Because this final rule allows manufactured housing manufacturers to complete construction of certain homes at the installation site without seeking advance approval from HUD, and thereby eliminating costly processing and construction delays, the rule was determined to not be a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and therefore was not reviewed by the Office of Management and Budget (OMB).

This final rule establishes simplified, uniform procedures at 24 CFR part 3282, subpart M, that permit manufacturers to complete the construction of manufactured housing on-site, rather than in the factory, under certain circumstances, without obtaining advanced approval from HUD. Given the objective of the Federal Manufactured Housing program, this final rule does not permit major

portions of a home to be completed beyond the plant, as that would avoid the normal inspection and certification process, and may frustrate legitimate local and State code enforcement efforts. Notwithstanding, this final rule lists numerous aspects of construction of a manufactured home that may be approved to be completed on-site.

This final rule will encourage the use of innovative designs and techniques that will further demonstrate the adaptability and versatility of manufactured housing and eliminate the need for manufactures to apply for advance approval to complete construction of a manufactured home on-site. Easing the process for on-site construction of manufactured homes supports achievement of the goal of widely available safe, durable, and affordable manufactured housing.

Paperwork Reduction Act

This final rule contains provisions that are subject to review by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As required by the Paperwork Reduction Act, HUD published a description of these provisions, with estimates of annual reporting, recordkeeping, and notice requirements, on June 15, 2015, at 80 FR 34165. Interested persons are encouraged to review and provide comment on HUD's proposed information collection. The 180-day delayed effective date for this rule will provide HUD the opportunity to complete the approval process for this final rule prior to its effective date. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

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

Environmental Review

A Finding of No Significant Impact (FONSI) with respect to the environment was approved at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between the hours of 8 a.m. and 5 p.m., weekdays, in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service at 800–877–8339 (this is a toll-free number).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. It is HUD's position that this final rule does not have a significant economic impact on a substantial number of small entities. HUD and MHCC have recognized the benefit of maximizing opportunities for housing manufacturers to complete construction of some homes at the installation site without seeking advance approval from HUD. This final rule promotes this shared goal. The manufactured housing industry is rapidly expanding its offerings, and the inclusion of new design elements is viewed as key to the growth of this industry. On-site installation of innovative design elements will improve the aesthetic quality and overall attractiveness of the manufactured housing product, increasing the appeal of these homes to the public and improving cost effectiveness for the manufacturers, by allowing them to complete these structures at the construction site by installing these features there.

This rule also alleviates burden for all manufacturers, large and small, because it makes tangible streamlined improvements to the system regulating on-site construction of manufactured homes. This rule establishes procedures whereby manufacturers could complete construction of new manufactured housing on-site without being required to apply for HUD approval for on-site construction. This rule would apply only to work done to complete the manufacturing process required by the Manufactured Home Construction and Safety Standards. It would not affect the installation of homes subject to the model Manufactured Home Installation Standards, or apply in instances where a major portion of the home is to be constructed on site. In addition, this rule applies only to a subset of the total number of manufactured housing manufacturers—those that decide to incorporate the new design elements into their products. It is not a requirement that all manufacturers do so.

Finally, this final rule will have a beneficial effect by reducing the paperwork burden and costs of construction delays for all housing manufacturers, large or small. These manufacturers will no longer be required to apply repeatedly for variances regarding on-site construction utilizing design elements and innovations that are expected to become commonplace over time. Easing the process for on-site construction of manufactured homes supports achievement of the goal of widely available safe, durable, and affordable manufactured housing.

Accordingly, the undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule does not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

List of Subjects

24 CFR Part 3280

Fire prevention, Housing standards.

24 CFR Part 3282

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

24 CFR Part 3285

Housing standards, Incorporation by reference, Installation, Manufactured homes.

Accordingly, for the reasons discussed in this preamble, HUD amends 24 CFR parts 3280, 3284 and 3285 as follows:

PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

■ 1. The authority citation for parts 3280 continues to read as follows:

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

■ 2. In 3280.5, revise paragraph (c) to read as follows:

§ 3280.5 Data plate.

* * * * *

(c) The applicable statement:

This manufactured home is designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture.or

This manufactured home has been substantially completed in accordance with an approved design and has been inspected (except for the components specifically identified in the instructions for completion on-site) in accordance with the Federal Manufactured Home Construction and Safety Standards and the requirements of the Department of Housing and Urban Development (HUD) in effect on the date of manufacture.

* * * * *

■ 3. In 3280.305 add paragraph (k) to read as follows:

§ 3280.305 Structural design requirements.

* * * * *

(k) *Attics.* (1) For roofs with slopes 7:12 or greater, the area of the attic floor that meets the ceiling-height/living-space requirements of these construction and safety standards must be designed to resist a minimum design live load of 40 pounds per square foot (psf) in accordance with paragraph (g) of this section.

(2) For roofs with slopes less than 7:12 that contain an attic area or for portions of roofs with slopes 7:12 or greater that do meet the ceiling height/living space requirements of the standards, the attic floor must be designed for a storage live load of 20 pounds per square foot (psf).

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

■ 4. The authority citation for part 3282 continues to read as follows:

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

■ 5. In § 3282.7, redesignate paragraph (kk) as paragraph (ll) and add new paragraph (kk) to read as follows:

§ 3282.7 Definitions.

* * * * *

(kk) *Substantial completion.* A manufactured home is substantially completed if all aspects of construction that can be finished in the manufacturer's plant are completed, except as provided in § 3282.603.

* * * * *

■ 6. In § 3282.8, revise the heading to paragraph (a) read as follows:

§ 3282.8 Applicability.

(a) *Manufactured homes.*

* * * * *

■ 7. In § 3282.203, add a sentence at the end of paragraph (e) to read as follows:

§ 3282.203 DAPIA services.

* * * * *

(e) * * * When applicable under § 3282.605, the IPIA must concur in the change before it can be approved by the DAPIA.

* * * * *

■ 8. In § 3282.252, revise paragraph (b) to read as follows:

§ 3282.252 Prohibition of sale.

* * * * *

(b) This prohibition applies to any affected manufactured homes until the completion of the entire sales transaction. A sales transaction with a purchaser is considered completed when all the goods and services that the retailer agreed to provide at the time the contract was entered into have been provided. Completion of a retail sale will be at the time the retailer completes installation of the manufactured home, if the retailer has agreed to provide the installation, or at the time the retailer delivers the home to a transporter, if the retailer has not agreed to transport or install the manufactured home. The sale is also complete upon delivery to the site if the retailer has not agreed to provide installation as completion of sale, except that any sale or lease under subpart M and as provided in § 3286.117(a) will not be considered complete until the purchaser or lessor, as applicable, has been provided with a final site inspection report.

* * * * *

■ 9. In § 3282.361, revise the first sentence of paragraph (c)(4) to read as follows:

§ 3282.361 Design Approval Primary Inspection Agency (DAPIA).

* * * * *

(c) * * *

(4) *Manual change approval.* Each change the manufacturer wishes to make in its quality assurance manual must be approved by the DAPIA, and, when subject to § 3282.604, concurred in by the IPIA. * * *

* * * * *

■ 10. Amend § 3282.362 by adding paragraph (d)(5), to read as follows:

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

* * * * *

(d) * * *

(5) Records of all site inspections made as required under procedures applicable to approval of AC or on-site completion pursuant to §§ 3282.14 or 3282.610.

* * * * *

■ 11. Revise § 3282.552 to read as follows:

§ 3282.552 Manufacturer reports for joint monitoring fees.

The manufacturer must submit to the IPIA in each of its manufacturing plants, and to HUD or to the Secretary's agent, a monthly production report that includes the serial numbers of each manufactured home manufactured and labeled at that plant during the preceding month. The report must also include the date of manufacture, State of first location of these manufactured homes after leaving the plant, type of unit, and any other information required under this part. For all homes to be completed pursuant to subpart M of these regulations, the production report must also include a brief description of the work to be completed on site. The State of first location is the State of the premises of the retailer or purchaser to whom the manufactured home is first shipped. The monthly report must be submitted by the 10th day of each month and contain information describing the manufacturer's previous month's activities. The manufacturer is encouraged to submit the report electronically, when feasible.

■ 12. Add a new subpart M to read as follows:

Subpart M—On-Site Completion of Construction of Manufactured Homes

Sec.

3282.601 Purpose and applicability.
3282.602 Construction qualifying for on-site completion.
3282.603 Request for approval; DAPIA review, notification, and approval.
3282.604 DAPIA responsibilities.
3282.605 Requirements applicable to completion of construction.
3282.606 Consumer information.
3282.607 IPIA responsibilities.
3282.608 Manufacturer responsibilities.

3282.609 Revocation or amendment of DAPIA approval.
3282.610 Failure to comply with the procedures of this subpart.
3282.611 Compliance with this subpart.

§ 3282.601 Purpose and applicability.

(a) *Purpose of section.* Under HUD oversight, this section establishes the procedure for limited on-site completion of some aspects of construction that cannot be completed at the factory.

(b) *Applicability.* This section may be applied when all requirements of this subpart are met. To be applicable a manufactured home must:

(1) Be substantially completed in the factory;

(2) Meet the requirements of the Construction and Safety Standards upon completion of the site work; and

(3) Be inspected by the manufacturer's IPIA as provided in this subpart, unless specifically exempted as installation under HUD's Model Installation Standards, 24 CFR part 3285. This subpart does not apply to Alternative Construction (see § 3282.14) that does not comply with the Manufactured Home Construction and Safety Standards.

§ 3282.602 Construction qualifying for on-site completion.

(a) The manufacturer, the manufacturer's DAPIA acting on behalf of HUD, and the manufacturer's IPIA acting on behalf of HUD may agree to permit certain aspects of construction of a manufactured home to be completed to the Construction and Safety Standards on-site in accordance with the requirements of this subpart. The aspects of construction that may be approved to be completed on-site are the partial completion of structural assemblies or systems (*e.g.,* electrical, plumbing, heating, cooling, fuel burning, and fire safety systems) and components built as an integral part of the home, when the partial completion on-site is warranted because completion of the partial structural assembly or system during the manufacturing process in the factory would not be practicable (*e.g.,* because of the home design or which could result in transportation damage or if precluded because of road restrictions). Examples of construction that may be completed on-site include:

(1) Hinged roof and eave construction, unless exempted as installation by § 3285.801(f) of the Model Manufactured Home Installation Standards and completed and inspected in accordance with the Manufactured Home Installation Program;

(2) Any work required by the home design that cannot be completed in the factory, or when the manufacturer authorizes the retailer to provide an add-on, not including an attached garage, to the home during installation, when that work would take the home out of conformance with the construction and safety standards and then bring it back into conformance;

(3) Appliances provided by the manufacturer, installer, retailer, or purchaser, including fireplaces to be installed on site;

(4) Components or parts that are shipped loose with the manufactured home and that will be installed on-site, unless exempted as installation by the installation standards;

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

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

(b) The manufacturer or a licensed contractor or similarly qualified professional with prior authorization from the manufacturer may perform the on-site work in accordance with the DAPIA approvals and site completion instructions. However, the manufacturer is responsible for the adequacy of all on-site completion work regardless of who does the work, and must prepare and provide all site inspection reports, as well as the certification of completion, and must fulfill all of its responsibilities and maintain all records at the factory of origin as required by § 3282.609.

§ 3282.603 Request for approval; DAPIA review, notification, and approval.

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

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

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

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

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

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

(1) Include a unique site completion numeric identification for each approval for each manufacturer (*i.e.,* manufacturer name or abbreviation, SC–XX);

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

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

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

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

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

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

(8) Include a quality control checklist to be used by the manufacturer and IPIA and approved by the DAPIA to verify that all required components, materials, labels, and instructions needed for site completion are provided in each home prior to shipment;

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

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

(11) Include any other requirements and limitations that the DAPIA deems

necessary or appropriate to accomplish the purposes of the Act.

(e) *Quality assurance manual for on-site completion requirements.* The portion of the quality assurance manual for on-site completion required by paragraph (d)(3) of this section must receive the written concurrence of the manufacturer's IPIA with regard to its acceptability and applicability to the on-site completion of the affected manufactured homes. It must include a commitment by the manufacturer to prepare a final site inspection report that will be submitted to the IPIA for its review. When appropriate, this portion of the quality assurance manual for on-site completion will be deemed a change in the manufacturer's quality assurance manual for the applicable models, in accordance with §§ 3282.203 and 3282.361.

(f) *Instructions for completion on-site.* The DAPIA must include instructions authorized for completing the work on-site as a separate part of the manufacturer's approved design package. The manufacturer must provide a copy of these instructions and the inspection checklist required by paragraph (d)(9) of this section to the IPIA for monitoring and inspection purposes.

§ 3282.604 DAPIA responsibilities.

The DAPIA, acting on behalf of HUD, for any manufacturer proceeding under this section is responsible for:

(a) Verifying that all information required by § 3282.603 has been submitted by the manufacturer;

(b) Reviewing and approving the manufacturer's designs, quality control checklist, site inspection checklist, site completion instructions, and quality assurance manuals for site work to be performed;

(c) Maintaining all records and approvals for at least 5 years;

(d) Revoking or amending its approvals in accordance with § 3282.609; and

(e) Reviewing its approvals under this section at least every 3 years or more frequently if there are changes made to the Manufactured Home Construction and Safety Standards, 24 CFR part 3280, to verify continued compliance with the Standards.

§ 3282.605 Requirements applicable to completion of construction.

(a) *Serial numbers of homes completed on-site.* The serial number of each home completed in conformance with this section must include the prefix or suffix ''SC''.

(b) *Labeling.* A manufacturer that has received a DAPIA approval under § 3282.604 may certify and label a manufactured home that is substantially completed in the manufacturer's plant at the proper completion of the in-plant production phase, even though some aspects of construction will be completed on-site in accordance with the DAPIA's approval. Any such homes or sections of such homes must have a label affixed in accordance with § 3282.362(c)(2) and be shipped with a Consumer Information Notice that meets the requirements of § 3282.606.

(c) *Site inspection.* Prior to occupancy, the manufacturer must ensure that each home is inspected on-site. The manufacturer is responsible for inspecting all aspects of construction that are completed on-site as provided in its approved designs and quality assurance manual for on-site completion.

(d) *Site inspection report.* (1) In preparing the site inspection report, the manufacturer must use the inspection checklist approved by the DAPIA in accordance with § 3282.603(d)(9), and must prepare a final site inspection report and provide a copy to the IPIA within 5 business days of completing the report. Within 5 business days after the date that the IPIA notifies the manufacturer of the IPIA's approval of the final site inspection report, the manufacturer must provide a copy of the approved report to the lessor or purchaser prior to occupancy and, as applicable, the appropriate retailer and any person or entity other than the manufacturer that performed the on-site construction work.

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

(i) The name and address of the manufacturer;

(ii) The serial number of the manufactured home;

(iii) The address of the home site;

(iv) The name of the person and/or agency responsible for the manufacturer's final site inspection;

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

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

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

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

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

(i) Concurrent with the manufacturer's final site inspection, the IPIA or the IPIA's agent must inspect all of the on-site work for homes completed using an approval under this section. The IPIA must use the inspection checklist approved by the DAPIA in accordance with § 3282.603(d)(9).

(ii) If the IPIA determines that the manufacturer is not performing adequately in conformance with the approval, the IPIA must redtag and reinspect until it is satisfied that the manufacturer is conforming to the conditions included in the approval. The home may not be occupied until the manufacturer and the IPIA have provided reports, required by this section, confirming compliance with the Construction and Safety Standards.

(iii) The IPIA must notify the manufacturer of the IPIA's acceptance of the manufacturer's final site inspection report. The IPIA may indicate acceptance by issuing its own final site inspection report or by indicating, in writing, its acceptance of the manufacturer's site inspection report showing that the work completed on-site is in compliance with the DAPIA approval and the Construction and Safety Standards.

(4) Within 5 business days of the date of IPIA's notification to the manufacturer of the acceptance of its final site inspection report, the manufacturer must provide to the purchaser or lessor, as applicable, the manufacturer's final site inspection report. For purposes of establishing the manufacturer's and retailer's responsibilities under the Act and subparts F and I of this part, the sale or lease of the manufactured home will not be considered complete until the purchaser or lessor, as applicable, has been provided with the report.

(e) *Report to HUD.* (1) The manufacturer must report to HUD through its IPIA, on the manufacturer's monthly production report required in accordance with § 3282.552, the serial number and site completion numeric identification (see § 3282.603(d)(1)) of each home produced under an approval issued pursuant to this section.

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

(3) The manufacturer must submit a copy of the report, or a separate listing

of all information provided on each report for homes that are completed under an approval issued pursuant to this section, to the SAAs of the States where the home is substantially completed in the factory and where the home is sited, as applicable.

§ 3282.606 Consumer information.

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

IMPORTANT CONSUMER INFORMATION NOTICE

WARNING: DO NOT LIVE IN THIS HOME UNTIL THE ON–SITE WORK HAS BEEN COMPLETED AND THE MANUFACTURER HAS PROVIDED A COPY OF THE INSPECTION REPORT THAT CERTIFIES THAT THE HOME HAS BEEN INSPECTED AND IS CONSTRUCTED IN ACCORDANCE WITH APPROVED INSTRUCTIONS FOR MEETING THE CONSTRUCTION AND SAFETY STANDARDS.

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

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

(b) *Placement of notice in home.* The notice required by paragraph (a) of this section must be displayed in a conspicuous and prominent location within the manufactured home and in a manner likely to assure that it is not removed until, or under the authorization of, the purchaser or lessor. The notice is to be removed only by the first purchaser or lessor. No retailer, installation or construction contractor, or other person may interfere with the required display of the notice.

(c) *Providing notice before sale.* The manufacturer or retailer must also provide a copy of the Consumer Information Notice to prospective purchasers of any home to which the approval applies before the purchasers enter into an agreement to purchase the home.

(d) *When sale or lease of home is complete.* For purposes of establishing the manufacturer's and retailer's responsibilities for on-site completion under the Act and subparts F and I of this part, the sale or lease of the manufactured home will not be considered complete until the purchaser or lessor, as applicable, has been provided with a copy of the final site inspection report required under § 3282.605(d) and a copy of the manufacturer's certification of completion required under § 3282.609(k) and (l). For 5 years from the date of the sale or lease of each home, the manufacturer must maintain in its records an indication that the final on-site inspection report and certification of completion has been provided to the lessor or purchaser and, as applicable, the appropriate retailer.

§ 3282.607 IPIA responsibilities.

The IPIA, acting on behalf of HUD, for any manufacturer proceeding under this section is responsible for:

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

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

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

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

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

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

(4) Inspecting all of the on-site construction work for each home utilizing an IPIA inspector or an independent qualified third-party inspector acceptable to the IPIA and acting as the designee or representative:

(i) Prior to close-up, unless access panels are provided to allow the work to be inspected after all work is completed on-site; and

(ii) After all work is completed on-site, except for close-up;

(d) Designating an IPIA inspector or an independent qualified third-party inspector acceptable to the IPIA, as set forth under § 3282.358(d), who is not associated with the manufacturer and is not involved with the site construction or completion of the home and is free of any conflict of interest in accordance with § 3282.359, to inspect the work done on-site for the purpose of determining compliance with:

(1) The approved design or, as appropriate under § 3282.362(a)(1)(iii), the Construction and Safety Standards; and

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

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

(f) Preparing final site inspection reports and providing notification to the manufacturer of its acceptance of the manufacturer's final site inspection report within 5 business days of preparing its report. The IPIA is to maintain its final site inspection reports and those of the manufacturer for a period of at least 5 years. All reports must be available for HUD and SAA review in the IPIA's central record office as part of the labeling records; and

(g) Reporting to HUD, the DAPIA, and the manufacturer if one or more homes has not been site inspected prior to occupancy or when arrangements for one or more manufactured homes to be site inspected have not been made.

§ 3282.608 Manufacturer responsibilities.

A manufacturer proceeding under this section is responsible for:

(a) Obtaining DAPIA approval for completion of construction on-site, in accordance with § 3282.603;

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

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

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

(e) Either before or at the time on-site work commences, providing the IPIA

with a copy of any applicable DAPIA-approved quality assurance manual for on-site completion, the approved instructions for completing the construction work on-site, and an approved inspection checklist, and maintaining this information on the job site until all on-site work is completed and accepted by the IPIA;

(f) Satisfactorily completing all on-site construction and required repairs or authorizing a licensed contractor or similarly qualified person to complete all site construction and any needed repairs;

(g) Providing a written certification to the lessor or purchaser, when all site construction work is completed, that each home, to the best of the manufacturer's knowledge and belief, is constructed in conformance with the Construction and Safety Standards;

(h) Ensuring that the consumer notification requirements of § 3282.606 are met for any home completed under this subpart;

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

(j) Ensuring performance of all work as necessary to assure compliance with the Construction and Safety Standards upon completion of the site work, including § 3280.303(b) of this chapter, regardless of who does the work or where the work is completed;

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

(l) Arranging for an on-site inspection of each home upon completion of the on-site work by the IPIA or its authorized designee prior to occupancy to verify compliance of the work with the DAPIA-approved designs and the Construction and Safety Standards;

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

(n) Maintaining in its records the approval notification from the DAPIA, the manufacturer's final on-site inspection report and certification of completion, and the IPIA's acceptance of the final site inspection report and certification, and making all such records available for review by HUD in the factory of origin;

(o) Reporting to HUD or its agent the serial numbers assigned to each home completed in conformance with this section and as required by § 3282.552; and

(p) Providing cumulative quarterly production reports to HUD or its agent that include the site completion numeric identification number(s) for each home (see § 3282.603(d)(1)); the serial number(s) for each home; the HUD label number(s) assigned to each home; the retailer's name and address for each home; the name, address, and phone number for each home purchaser; the dates of the final site completion inspection for each home; and whether each home was inspected prior to occupancy.

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

§ 3282.609 Revocation or amendment of DAPIA approval.

(a) The DAPIA that issued an approval or the Secretary may revoke or amend, prospectively, an approval notification issued under § 3282.603. The approval may be revoked or amended whenever the DAPIA or HUD determines that:

(1) The manufacturer is not complying with the terms of the approval or the requirements of this section;

(2) The approval was not issued in conformance with the requirements of § 3282.603;

(3) A home produced under the approval fails to comply with the Federal construction and safety standards or contains an imminent safety hazard; or

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

(b) The DAPIA must immediately notify the manufacturer, the IPIA, and HUD of any revocation or amendment of DAPIA approval.

§ 3282.610 Failure to comply with the procedures of this subpart.

In addition to other sanctions available under the Act and this part, HUD may prohibit any manufacturer or PIA found to be in violation of the requirements of this section from carrying out their functions of this Subpart in the future, after providing an opportunity for an informal presentation of views in accordance with § 3282.152(f). Repeated infractions of the requirements of this section may be grounds for the suspension or disqualification of a PIA under §§ 3282.355 and 3282.356.

§ 3282.611 Compliance with this subpart.

If the manufacturer and IPIA, as applicable, complies with the requirements of this section and the home complies with the construction and safety standards for those aspects of construction covered by the DAPIA approval, then HUD will consider a manufacturer or retailer that has permitted a manufactured home approved for on-site completion under this section to be sold, leased, offered for sale or lease, introduced, delivered, or imported to be in compliance with the certification requirements of the Act and the applicable implementing regulations in this part 3282 for those aspects of construction covered by the approval.

PART 3285—MODEL MANUFACTURED HOME INSTALLATION STANDARDS

■ 13. The authority citation for 24 CFR part 3285 continues to read as follows:

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

■ 14. In § 3285.5, in alphabetic order, add definitions for ''*peak cap construction*'' and ''*peak flip construction*'' to read as follows:

§ 3285.5 Definitions.

* * * * *

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

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

* * * * *

■ 15. In § 3285.801, revise paragraph (f)(2) to read as follows:

§ 3285.801 Exterior close-up.

* * * * *

(f) * * *

(2) In which the roof pitch of the hinged roof is less than 7:12, including designs incorporating peak cap construction or peak flip construction; and

* * * * *

Dated: August 25, 2015.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

Approved: August 25, 2015.

Laura H. Hogshead,

Chief Operating Officer.

[FR Doc. 2015–21774 Filed 9–4–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9736]

RIN 1545–BK98

Integrated Hedging Transactions of Qualifying Debt

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that address certain integrated transactions that involve a foreign currency denominated debt instrument and multiple associated hedging transactions. The regulations provide that if a taxpayer has identified multiple hedges as being part of a qualified hedging transaction, and the taxpayer has terminated at least one but less than all of the hedges (including a portion of one or more of the hedges), the taxpayer must treat the remaining hedges as having been sold for fair market value on the date of disposition of the terminated hedge.

DATES: *Effective Date.* These regulations are effective on *September 8, 2015.*

Applicability Date. These regulations apply to leg-outs within the meaning of § 1.988–5(a)(6)(ii) that occur on or after September 6, 2012.

FOR FURTHER INFORMATION CONTACT: Sheila Ramaswamy, at (202) 317–6938 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 5, 2012, the Treasury Department and the IRS issued temporary regulations (TD 9598) (the ''Temporary Regulations'') that revised the legging out rules of § 1.988–5(a)(6)(ii) applicable to hedging transactions under section 988(d). No public hearing was requested or held. One comment was received, which is available at *www.regulations.gov* or upon request. After consideration of the comment, the Temporary Regulations are adopted as final regulations without substantive change. The Temporary Regulations are removed.

Summary of Comments and Explanation of Revisions

The only comment received on the Temporary Regulations suggested that the promulgation of the Temporary Regulations was unnecessary because the prior regulations did not support the taxpayer reporting position that the Temporary Regulations were designed to prevent. The comment considered the taxpayer position addressed in the Temporary Regulations to be inconsistent with both the purposes of section 988(d) and the economic substance of the transaction. Although the comment finds the Temporary Regulations ultimately unnecessary, it acknowledges that the section 988 hedging rules are a complicated area of law and that the prior regulations could be improved to provide greater certainty to taxpayers. The Treasury Department and the IRS have determined that the Temporary Regulations are useful in clarifying the section 988(d) integration rules—as well as in preventing unintended approaches to legging out under those rules—and thus should be adopted as final.

The comment recommended that the Treasury Department and the IRS consider aligning the hedge integration regime under section 988 with the approach taken in regulations under section 1275 on the basis that the section 1275 approach is more consistent with economic reality. The § 1.1275–6 regulations generally allow the integration of a qualifying debt instrument with a hedge or combination of hedges if the combined cash flows of the components are substantially equivalent to the cash flows on a fixed or variable rate debt instrument. However, a financial instrument that hedges currency risk cannot be integrated as a § 1.1275–6 hedge. *See* § 1.1275–6(b)(2). Under the legging out rules of § 1.1275–6, a taxpayer that legs out of an integrated transaction is treated as terminating the synthetic debt instrument for its fair market value and recognizing any gain or loss. If the taxpayer remains liable on the qualifying debt instrument after the leg-out, adjustments are made to reflect any difference between the fair market value of the qualifying debt instrument and its adjusted issue price. If the taxpayer remains a party to the § 1.1275–6 hedge, the hedge is treated as entered into at its fair market value. By contrast, subject to § 1.988–5T(a)(6)(ii)(F), the legging out rules under § 1.988–5 treat a taxpayer that legs out of a synthetic debt instrument under section 988 as having disposed of any remaining hedges, and those hedges cannot be part of a qualified hedging transaction for any period after the leg-out date.

The Treasury Department and the IRS have determined that achieving greater alignment between the hedge integration regimes under sections 988 and 1275 is beyond the scope of this project and unnecessary to achieve the purpose of the Temporary Regulations. The limited purpose of the Temporary Regulations was to clarify the application of the legging out rules under § 1.988–5 to a particular fact pattern rather than to undertake a more general revision of those rules. When some of the hedge components of a qualified hedging transaction are disposed of on a leg-out date, deeming a disposition of all remaining components is sufficient to achieve a clear reflection of income. Continuing to treat the remaining components as integrated, as under the rule of § 1.1275–6, would represent a departure from the approach taken in the original § 1.988–5 regulations. Nonetheless, the Treasury Department and the IRS will continue to consider whether the hedge integration regimes under sections 988 and 1275 should be modified and brought into closer conformity.

As further support for the recommendation to achieve better alignment between §§ 1.988–5 and 1.1275–6, the comment also suggested that the provision in § 1.988–5T(a)(6)(ii)(F) of the Temporary Regulations, which was also included in the prior final regulations, would be unnecessary if the regulations were modified to conform to § 1.1275–6. Under § 1.988–5T(a)(6)(ii)(F), if a taxpayer legs out of a qualified hedging transaction and realizes a gain with respect to the debt instrument or hedge that is disposed of or otherwise terminated, then the taxpayer is not treated as legging out if during the period beginning 30 days before the leg-out date and ending 30 days after that date the taxpayer enters into another transaction that, taken together with any remaining components of the hedge, hedges at least 50 percent of the remaining currency flow with respect to the qualifying debt instrument that was part of the qualified hedging transaction. Section 1.988–5T(a)(6)(ii)(F) also provides a similar rule where a taxpayer has a qualified hedging transaction comprised of multiple components. In such a case, the taxpayer will not be treated as legging out of the qualified hedging transaction if the taxpayer terminates all or a part of one or more of the components and