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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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24 C.F.R. PART 3282 MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Comment [JN1]: Policy Issue – Cost and Justification are policy issues throughout the proposed rule.

Subpart A – General

§3282.7 Definitions.

Add the following definitions:

Quality assurance program means the process or procedure put in place by the manufacturer and approved by the DAPIA to ensure that the manufacturer is capable of producing homes in compliance with the Manufactured Home Construction and Safety Standards ~~and has effective quality control.~~

Comment [JN2]: Policy issue – subjective term – suggestion to cut phrase.

Quality control means the inspections and testing performed by the manufacturer at the factory or on-site to certify that all aspects of its activities during the design, production, and completion of manufactured homes it produces are in conformance with the Manufactured Home Construction and Safety Standards.

Secretary's monitoring contractor means the organization selected by the Secretary to carry out the monitoring responsibilities identified in subpart J of these Regulations.

Ship-loose parts means any part, material, component, or assembly that is not completely installed at the factory and that is required to be installed at the home site to comply with the Manufactured Home Construction and Safety Standards, or Model Installation Standards, or Procedural and Enforcement Regulations.

~~*Traveler* means the document that accompanies each manufactured home that contains the signoff by the person held accountable for each quality control inspection at each station and substation required by the manufacturer's quality assurance manual.~~

Comment [JN3]: Policy issue – definition is prescriptive. Current regulations don't require a traveler with each home. There are other ways to accomplish not in this prescriptive definition.

The following definitions should be revised as follows:

To red tag means to ~~affix~~ provide a label or notice to a manufactured home by a Primary Inspection Agency or State Administrative Agency which has been found to contain an imminent safety hazard or a failure to conform with ~~any of the requirements of~~ the Manufactured Home Construction and Safety Standards, which has not been corrected, and may not be shipped, sold or occupied. ~~A red tag is the notice so affixed to the manufactured home.~~

Comment [JN4]: Policy Issue – opens up regulations. Suggestion to cut phrase.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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Subpart E—Manufacturer Quality Assurance Inspection and Certification Requirements

§ 3282.201 Scope and purpose.

(a) This subpart sets out requirements which must be met by manufacturers of manufactured homes for sale to purchasers in the United States with respect to certification of manufactured home designs, inspection of designs, quality assurance programs, and manufactured home production, and certification of manufactured homes. Other than references and a general description of responsibilities, this subpart does not set out requirements with respect to remedial actions or reports which must be taken or filed under the Act and these regulations.

(b) The purpose of this subpart is to establish a system of design approvals and a system of production, quality assurance, inspections, and testing to assist in ensuring that manufactured homes conform to the Federal Manufactured Home Construction and Safety Standards and Model Manufactured Home Installation Standards (construction and safety, and model installation standards), as applicable. Such approvals and inspections are intended to protect the health and safety of consumers and advance the affordability and quality of manufactured housing ~~by decreasing the number of failures to conform in manufactured homes.~~

§ 3282.202 Retaining Primary Inspection Agencies.

(a) As described more fully in subpart H of this part, Design Approval Primary Inspection Agencies (DAPIAs) and Production Inspection Primary Inspection Agencies (IPIAs) are approved by the Secretary for the DAPIA review of manufactured home designs and IPIA monitoring of manufactured home production ~~inspection of manufactured home designs and manufactured home production for compliance with the construction and safety, and model installation standards, as applicable.~~

(b) Each manufacturer must use at least one DAPIA and a sufficient number of IPIAs to provide IPIA services for each manufacturing plant facility as set out in this subpart and in subpart H of this part. All Primary Inspection Agencies (PIAs), except for state exclusive IPIAs under 24 C.F.R. § 3282.352, must send a copy of each ~~contract statement of work or other agreement~~ to provide DAPIA and IPIA services to each manufacturer to the Secretary within ten (10) days of execution.

(c) In return for the services provided by the DAPIAs and IPIAs, each manufacturer will pay such reasonable fees as are agreed upon between the manufacturer and the PIA or, in the case of a State acting as an exclusive IPIA under §3282.352 such fees as may be established by the State.

(d) In the event that a manufacturer ends its relationship with the existing PIA at a plant facility and employs a new PIA:

Comment [JN5]: Subcommittee had recommended in the past cutting everything after “quality of manufactured housing”

Comment [JN6]: Other suggestion to take out this whole sentence.

Comment [JN7]: Policy issue – requiring PIA to provide full copies of contract. Full contract vs. statement of work without fee schedules.
Policy Issue – Status report vs. a detailed report – where is regulatory authority for this?
Policy Issue – Incoming PIA to act on status report
Policy Issue – Identify the authority and Cost implications of contract requirement

Discussion – The information requested duplicates information available in the manufacturing plant. The MHCC subcommittee recommended a status report explaining the significant issues the outgoing PIA was working with the manufacturer on.

Comment [JN8]: Policy Issue – IPIA doesn’t approve compliance of installation – needs clarification at a minimum – this is inconsistency based on IPIA functions.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(1) Within ten (10) days of the effective date of termination of service ~~notice of transfer of services, the outgoing PIA must transmit to HUD a written notice of the termination. If it believes that enforcement issues were the reason of the termination, the outgoing PIA must transmit that information to HUD with a copy going to the manufacturer as well. transfer and must explain the circumstances that led to the transfer.~~

(2) ~~In addition to the written notice described above, the outgoing PIA must also provide HUD, the manufacturer, and the new PIA subsequently engaged by the manufacturer with a status report of its inspection activities immediately prior to the transfer of services. In this status report, IPIAs shall provide to HUD, the incoming PIA and the manufacturer a status report the last inspection performed, any unresolved failures to conform, red-tags, and areas needing increased inspection the outgoing PIA must specifically enumerate all failures to comply with the Federal construction and safety standards, imminent safety hazards, failures of the quality control program, and any needed improvements to the quality assurance process found in each design package or each plant for which the outgoing PIA was responsible within sixty days prior to the change.~~

§ 3282.203 DAPIA services.

(a) Each manufacturer must have each manufactured home design and each quality assurance manual which it intends to follow approved by a DAPIA under §3282.361. The DAPIA will evaluate and approve the manufacturer's designs and quality assurance materials. The manufacturer may obtain design and quality assurance manual approval from a single DAPIA regardless of the number of plants-facilities in which the design and quality assurance manual will be followed. A manufacturer may also obtain approval for the same design and quality assurance manual from more than one DAPIA.

Comment [JN9]: Policy Issue – Removed phrase that manufacturer chooses PIA. HUD agrees.

(b) The manufacturer must submit to the DAPIA such information as the DAPIA may require in order to carry out design approvals. This information must include the following:

Comment [JN10]: Policy Issue – Removes discretion of DAPIA as to what info is necessary for design approval. Suggestion to return to strikethrough language.

(1) Construction drawings and/or specifications showing structural details and layouts of frames, floors, walls and roofs, and chassis; material specifications, framing details, door locations, etc., for each floor plan proposed to be manufactured;

(2) Structural analysis and calculations, test data and/or other accepted engineering practices used by the manufacturer to validate the design;

(3) ~~Complete heat loss calculations for each significant variation of each home design, including but not limited to the addition of skylights, sliding glass doors, and bay windows or other increases in opening sizes; use of insulated glazing; and changes in wall height or roof configuration;~~

Comment [JN11]: Policy Issue – Lists stuff you have to do heat loss calculations for. Could prohibit systems practice. Should just say complete heat loss calculations.

(4) Floor plans showing room arrangement and sizes, window sizes, emergency exits and locations, locations of smoke alarms, fixed appliance range hoods, and other construction and safety standards related aspects of the manufactured home that can be shown on the floor plans;

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(5) Diagrams of the fuel supply system, potable water system and drain, waste and vent systems. The diagrams must specify the types of materials used, types of fittings and methods of installing required safety equipment;

(6) Wiring diagrams, including circuit allocation of electrical load and branch circuit calculations, a table of the branch circuit protection provided, the type of wiring used, and wiring methods;

(7) Details showing the design of air supply and return systems;

(8) Details of chassis construction, components, connections and running gear including rating capacities of tires;

(9) A list of fixed and portable appliances furnished with the manufactured home, including type of appliance, rating of appliance, and applicable minimum and maximum performance ratings and/or energy requirements;

(10) Detailed manufacturer installation instructions complying with the model installation standards, including specifications and procedures for the erection and hook-up of the home at its permanent location;

(11) Reports of all tests that were run to validate the conformance of the design and transportation system to the construction and safety standards; and

(12) All design information and instructions for completing certain work on-site as permitted by subpart M of this part.

(c) The manufacturer must also submit to the DAPIA such information as the DAPIA may require in order to carry out quality assurance manual approvals. At a minimum, this information must include the quality assurance manual for which approval is sought. That manual must include at least the following elements of the manufacturer's quality assurance program, including provisions for factory and on-site completion for completing certain work permitted by subpart M of this part:

(1) An organizational chart showing the accountability, by position, of the manufacturer's quality control personnel;

(2) Procedures for material control to ensure conformance to the construction and safety standards and specifications, including provisions for purchasing, receiving, inspection, handling, storage, environmental controls, and rejection of nonconforming materials;

(3) A description of all production tests and test equipment maintenance and calibration, and maintenance needed to ensure compliance with the construction and safety standards;

Comment [JN12]: Policy issue – adding transportation

Comment [JN13]: Policy Issue – Not promulgated. Regulation hasn't been finalized yet.

Comment [JN14]: Policy Issue – Removes DAPIA discretion in quality assurance manual approval.

Comment [JN15]: Policy Issue – dealing with plant size and details. Some plants would spend all their time listing what each worker does. Couldn't use the worker until they've covered all details for every worker in the plant. In c sublists. 9 issues in this one section including feasibility of every worker having to know every function.

Comment [JN16]: Policy Issue – regulation hasn't been finalized. How can manual have onsite completion? We don't know what that is. You have that could be AC inspections.

Comment [JN17]: Policy issue – Adds new requirements for inclusion of material control that is very specific and detailed including handling, storage, environmental, and rejection of materials

Comment [JN18]: Policy Issues – specifications is an undefined term.

Comment [JN19]: Policy issue – adds wording "maintenance needed to ensure" to the descriptions needed.

Discussion – You do not know if the maintenance is for the test equipment, the house, the plant etc.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(4) A station-by-station description of the manufacturing work process that is compatible with and corresponds to the plant facility layout and production inspection checklist;

Comment [JN20]: Policy issue – Adds “compatible with and corresponds to the plant layout and production inspection checklist” to the station by station description of the manufacturing work process

(5) A list of quality control inspections required by the manufacturer at each stations and substations, and identification by title of each person and any alternates who will be held accountable for each quality control inspection;

Comment [JN21]: Policy Issue –Under Section (c) (5) Adds wording “and any alternates” to the list of people the plant must identify by title that is accountable for each quality control inspection

(6) The training program that will be provided and used to train all employees and new hires for their work and responsibilities ~~that they have been assigned~~, including training that will address:

Discussion – Historically plants hold all person accountable and this would require plants to continually provide a current list of all plant personnel to the DAPIA

(i) Work area responsibilities and use of DAPIA-approved designs and product installation instructions;

Comment [JN22]: Policy issue – Details new training program requirements for all plant personnel covering everything in the plant

(ii) Any Procedures for handling changes in materials or components;

Discussion – This training must be provided to all workers even if it is not in their area of responsibility including: work areas assigned, any changes in materials and components in the plant, any changes in designs or product installation in the plant, any change in the quality assurance manual, etc.

(iii) Any Procedures for handling revisions to DAPIA-approved designs or product installation instructions;

(iv) Any changes in the quality assurance manual, quality control procedures, or production processes;

~~(v) Employees whose work has resulted in repetitive failures to conform in their work area or station; and~~

Comment [JN23]: Policy Issue – Retaining or firing issue, not an issue for DAPIA

~~(vi) Any Changes~~ changes in procedures dealing with alternate in testing and equipment ~~and procedures~~;

(7) A list of documents that require manufacturer verification prior to shipment pursuant to 24 C.F.R. § 3282.205(e);

Comment [JN24]: Policy Issue – What does “efficiently” mean?

(8) A system to identify any problem source and procedures for implementing remedial actions to efficiently remove the problem and the reasons for its occurrence; and

Discussion – you do not know what this applies to. We assume it is in the production of the home but the wording is not specific.

(9) A method procedure for ensuring that current DAPIA-approved designs, specifications, and component installation instructions are ~~kept up to date and~~ made available to relevant on-line production personnel.

Comment [JN25]: Policy issue – Adds new section to include in the quality assurance program “ a method for ensuring the DAPIA approved designs, specifications and installation instructions are kept up to date and made available to on-line personnel”

(d) Manufacturers may be required to furnish supplementary information to the DAPIA if the design information or the quality assurance manual is not complete or if any information is not in accordance with accepted engineering practice.

Discussion – The wording requires all workers to receive everything rather than just the relevant portions available to the workers in each stage of production

(e) When a manufacturer wishes to make a change in an approved design or quality assurance manual, the manufacturer must obtain ~~the~~ prior approval ~~of the~~ from the DAPIA ~~which approved~~

Comment [JN26]: Policy Issue – Do you use original DAPIA? If you are redoing model over and over, do you keep going back to the first DAPIA? Same wording in regulations right now.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

Formatted: Strikethrough

~~the design or manual prior to production for sale.~~ The procedures for obtaining such approval are set out in §3282.361.

(f) The information to be submitted to a DAPIA under §3282.203 (b) and (c) may be prepared by the manufacturer's staff or outside consultants, including other DAPIAs. However, a DAPIA may not perform design or quality assurance manual approvals for any manufacturer whose design or manual has been created or prepared in whole or in part by members of the DAPIA's organization or of any affiliated organization.

(g) Each manufacturer must maintain a copy of the drawings, specifications, and sketches from each approved design received from a DAPIA under §3282.361(b)(4) in each ~~facility~~ plant in which manufactured homes are being produced to the design. Each manufacturer must also maintain in each manufacturing ~~plant~~ facility a copy of the approved quality assurance manual received from a DAPIA under §3282.361(c)(3) that is being followed in the ~~plant~~ facility. These materials must be kept current and must be readily accessible for use by the Secretary, the SAA, or other parties acting under these regulations.

§ 3282.204 IPIA services.

(a) Each manufacturer must obtain the services of an IPIA as set out in §3282.362 for each manufacturing ~~plant~~ facility operated by the manufacturer.

(b) The manufacturer must make available to the IPIA operating in each of its ~~plants~~ facilities a copy of the drawings and specifications from the DAPIA approved design and the quality assurance manual for that ~~plant~~ facility, and the IPIA must perform an initial factory inspection as set out in §3282.362(b). If the IPIA issues a deviation report after the initial factory inspection, the manufacturer must make any corrections or adjustments which are necessary to conform to the DAPIA approved designs and manuals. After the corrections required by the deviation report are completed to the satisfaction of the IPIA and the IPIA determines that manufacturer is capable of producing homes ~~the plant equipment, personnel, and manufacturer's quality control procedures as set out in the quality assurance manual will ensure that homes will continue to be constructed~~ in conformance with the construction and safety standards, the IPIA ~~is to~~ must issue the certification report as described in §3282.362(b)(2). The manufacturer must maintain a current copy of each certification report in the ~~plant~~ facility to which the certification report relates.

Comment [JN27]: Policy Issue – IPIA should stay away from personnel type issues. Is IPIA indicating individual's names?

(c) After the certification report has been issued ~~signed~~ by the IPIA, the manufacturer must obtain certification labels from the IPIA and must affix them to ~~completed~~ manufactured homes as set out in §3282.362(c)(2). During the initial factory certification, the IPIA may ~~apply~~ authorize the manufacturer to apply certification labels to each manufactured homes ~~or~~ section(s) ~~thereof~~ which has been inspected and contains no failures to conform ~~it knows to be in compliance with the construction and safety standards if it is performing complete inspections of all phases of production of each manufactured home or section thereof.~~ [agreement to add a definition]

Comment [JN28]: Policy Issue – Change that carries through: adds phrase “or section thereof”. Doesn't define section. It's undefined term. Does it have implications beyond that? HUD – can add definition to make everyone comfortable.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(d) During the course of production the manufacturer must maintain a complete set of approved drawings, specifications, and approved design changes for the use of the IPIA's inspector and make them available to the inspector when in the manufacturing ~~plant~~ facility.

(e) If, during the course of production, a manufacturer or IPIA finds that a failure to conform to a standard exists in a manufactured home ~~or section thereof~~ in production, the manufacturer must determine the cause of the problem and correct the failure to conform in any manufactured homes ~~or sections thereof~~ still in the factory and held by distributors or retailers and must carry out remedial actions under §§3282.404 and 3282.405 with respect to any other manufactured homes ~~or sections thereof~~ which may contain the same failure to conform. When the IPIA identifies a failure to conform that has not been isolated to the facility or units on retailer lots, the IPIA is to verify by inspection or other means that the manufacturer has conducted an investigation pursuant to 3282.404. If the IPIA knows or has reason to know about the failure to conform, the IPIA is also to verify by inspection or other means that the manufacturer has conducted an investigation to determine the cause of the problem and whether a failure to conform exists in any manufactured homes on retailer lots or that have been sold to purchasers or affects a class of homes as provided in subpart I of this part. If the IPIA finds that the manufacturer has not conducted an investigation, then the IPIA must report the failure to conform and lack of investigation as set forth in subpart H of this section.

Comment [JN29]: Policy Issue – Section will contain failures to conform because it's not the whole house. General issue of section thereof. Sometimes it's appropriate, sometimes it's not. The home includes the section.

Discussion – Since the section is only part of the house, a section will always have failures to conform and this was not clarified in the proposed wording. "Of section thereof" is added through out subsequent sections and in many cases may not be appropriate such as in section 3282.205 (e) (1)

Comment [JN30]: Policy Issue – "Knows or has reason to know." That's a negligence type standard. A lot more work and cost. (comment that this is important when taking action against IPIA) Needs separate paragraph on IPIA performance.

Comment [JN31]: Policy Issue - This is a new IPIA responsibility – verifying inspection.

Comment [JN32]: Policy Issue – New IPIA responsibility – reporting failure to investigate

Comment [JN33]: Policy Issue – "to the best of its knowledge" wording should be changed

Comment [JN34]: Policy Issue – "completely" needs to be changed or clarified

Comment [JN35]: Policy Issue – "regulation" – What regulation here? Should be certifying conformance with standard. Currently talks about standards. Why add regulation? Should add "and the installation standard?" It's a separate regulation. Needs clarification.

§ 3282.205 Certification requirements.

~~(a) Every manufacturer must make a record of the serial number of each manufactured home or section thereof produced, and a duly authorized representative of the manufacturer must certify to the best of its knowledge and belief that each manufactured home or section thereof has been completely inspected under the manufacturer's quality assurance program in all phases of production and has been constructed in accordance with the construction and safety standards and regulations. The manufacturer must furnish a copy of that certification to the IPIA for the purpose of determining which manufactured homes or sections thereof are subject to the notification and correction requirements of subpart I of this part.~~

(ba) Every manufacturer of manufactured homes must certify on the data plate as required by 24 C.F.R. §§ 3280.5 and 3282.362(c)(3) that the manufactured home is designed to comply with the construction and safety standards in force at the time of manufacture in addition to providing other information required to be completed on the data plate.

(eb) Every manufacturer of manufactured homes must furnish to the retailer or distributor of each of its manufactured homes a certification that such manufactured home, to the best of the manufacturer's knowledge and belief, conforms to all applicable construction and safety standards. This certification must be in the form of the label provided by the IPIA under §3282.362(c)(2). The label must be affixed only at the end of the last stage of production of the manufactured home or section thereof.

(ec) The manufacturer may only apply the certification labels required by this part when the manufacturer's quality control inspections have found the manufactured home and ~~or~~ section(s)

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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thereof to be in compliance with the DAPIA-approved designs, and the construction and safety standards, ~~and the regulations~~. ~~Affixing a label to a manufactured home or section thereof that the manufacturer knows or has reason to know contains an imminent safety hazard, or does not comply with the construction and safety standards will constitute a violation of 42 U.S.C. § 5409.~~

Comment [JN36]: Policy Issue – “and the regulations” should be “installation standard regulations.”

Comment [JN37]: Policy Issue – “has reason to know” – need to look at appropriateness of this.

(ed) Manufacturer verification of required documents prior to shipment.

(1) The manufacturer is to ~~verify, verify and record on a written checklist~~ that the following required documents are shipped together ~~with each manufactured home or section thereof~~:

Comment [JN38]: Policy Issue – Does not deal with AC letter instructions or what else. Lists specific things but not all potentials.

Comment [JN39]: Policy Issue – Don’t need to provide multiple checklists depending on number of sections. That’s what this says. Do you provide a checklist with each section?

(i) Consumer manual;

(ii) Manufacturer’s Installation Instructions including pages specific to the installation of that home;

(iii) Health notice on formaldehyde emissions is prominently displayed in a temporary manner in the kitchen as required by § 3280.309 of the Standards;

(iv) Data Plate is affixed (see 24 C.F.R. § 3280.5); and

(v) When applicable under alternative construction requirements in 24 C.F.R. § 3282.14 or the on-site completion requirements in subpart M, that all set-up instructions, on-site quality assurance manual, checklists, inspection forms, and tracking documents are provided.

(2) The manufacturer ~~is to~~ must verify that all ship-loose parts are provided with each home, ~~and that a checklist has been provided for retailer verification upon receipt of each home.~~

Comment [JN40]: Policy Issue – new checklist for retailer. Doesn’t say what you do with checklist.

§ 3282.206 Disagreement with IPIA or DAPIA.

Whenever a manufacturer disagrees with a finding by a DAPIA or an IPIA acting in accordance with subpart H of this part, the manufacturer may request a Formal or Informal Presentation of Views as provided in §3282.152. The manufacturer may not, however, produce manufactured homes pursuant to designs which have not been approved by a DAPIA or produce manufactured homes which the relevant IPIA believes not to conform to the construction and safety standards unless and until:

(a) The Secretary determines that the manufacturer is correct in believing the design of the manufactured home or section thereof conforms to the construction and safety standards; or

(b) Extraordinary interim relief is granted under §3282.154; or

(c) The DAPIA or IPIA otherwise resolves the disagreement, ~~and the Secretary approves this resolution.~~

Comment [JN41]: Policy Issue – new approval. Even if two parties agree, secretary has to approve. HUD – can clarify that this is only in regard when it’s been brought forward in presentation of views.

Discussion – It is unclear if this is only for disagreements as part of Subpart I or more broadly for disagreements during production of the home

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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§ 3282.207 Manufactured home consumer manual requirements.

(a) The manufacturer shall provide a consumer manual with each manufactured home that enters the first stage of production on or after July 31, 1977, pursuant to section 617 of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5416.

(b) The manufacturer shall provide the consumer manual by placing a manual in each such manufactured home before the manufactured home leaves the manufacturing ~~plant~~ facility. The manual shall be placed in a conspicuous location in a manner likely to assure that it is not removed until the purchaser removes it.

(c) If a manufacturer is informed that a purchaser did not receive a consumer manual, the manufacturer shall provide the appropriate manual to the purchaser within 30 days of being so informed.

(d) No retailer or distributor may interfere with the distribution of the consumer manual. When necessary, the retailer or distributor shall take any appropriate steps to ensure that the purchaser receives a consumer manual from the manufacturer.

(e) *Dispute resolution information.* (1) The manufacturer must include the following language under a heading of “Dispute Resolution Process” in the consumer manual:

Many states have a consumer assistance or dispute resolution program that homeowners may use to resolve problems with manufacturers, retailers, or installers concerning defects in their manufactured homes that render part of the home unfit for its intended use. Such state programs may include a process to resolve a dispute among a manufacturer, a retailer, and an installer about who will correct the defect. In states where there is not a dispute resolution program that meets the federal requirements, the HUD Manufactured Home Dispute Resolution Program will operate. These are “HUD-administered states.” The HUD Manufactured Home Dispute Resolution Program is not for cosmetic or minor problems in the home. You may contact the HUD Manufactured Housing Program Office at (202) 708-6423 or (800) 927-2891, or visit the HUD website at www.hud.gov to determine whether your state has a state program or whether you should use the HUD Manufactured Home Dispute Resolution Program. Contact information for state programs is also available on the HUD website. If your state has a state program, please contact the state for information about the program, how it operates, and what steps to take to request dispute resolution. When there is no state dispute resolution program, a homeowner may use the HUD Manufactured Home Dispute Resolution Program to resolve disputes among the manufacturer, retailer, and installer about responsibility for the correction or repair of defects in the manufactured home that were reported during the 1-year period starting on the date of installation. Even after the 1-year period, manufacturers have continuing responsibility to review certain problems that affect the intended use of the manufactured home or its parts, but for which correction may no longer be required under federal law.

(2) The manufacturer must include the following language under a heading of “Additional Information - HUD Manufactured Home Dispute Resolution Program” in the consumer manual:

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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The steps and information outlined below apply only to the HUD Manufactured Home Dispute Resolution Program that operates in HUD-administered states, as described under the heading “Dispute Resolution Information” in this manual. Under the HUD Manufactured Home Dispute Resolution Program, homeowners must report defects to the manufacturer, retailer, installer, a State Administrative Agency, or HUD within 1 year after the date of the first installation. Homeowners are encouraged to report defects in writing, including, but not limited to, email, written letter, certified mail, or fax, but they may also make a report by telephone. To demonstrate that the report was made within 1 year after the date of installation, homeowners should report defects in a manner that will create a dated record of the report: for example, by certified mail, by fax, or by email. When making a report by telephone, homeowners are encouraged to make a note of the phone call, including names of conversants, date, and time. No particular format is required to submit a report of an alleged defect, but any such report should at a minimum include a description of the alleged defect, the name of the homeowner, and the address of the home.

Homeowners are encouraged to send reports of an alleged defect first to the manufacturer, retailer, or installer of the manufactured home, or a State Administrative Agency. Reports of alleged defects may also be sent to HUD at: HUD, Office of Regulatory Affairs and Manufactured Housing, Attn: Dispute Resolution, 451 Seventh Street, SW., Washington, DC 20410–8000; faxed to (202) 708–4213; e-mailed to *mhs@hud.gov*, or reported telephonically at (202) 708–6423 or (800) 927–2891.

If, after taking the steps outlined above, the homeowner does not receive a satisfactory response from the manufacturer, retailer, or installer, the homeowner may file a dispute resolution request with the dispute resolution provider in writing, or by making a request by phone. No particular format is required to make a request for dispute resolution, but the request should generally include the following information:

- (1) The name, address, and contact information of the homeowner;
- (2) The name and contact information of the manufacturer, retailer, and installer of the manufactured home;
- (3) The date or dates the report of the alleged defect was made;
- (4) Identification of the entities or persons to whom each report of the alleged defect was made and the method that was used to make the report;
- (5) The date of installation of the manufactured home affected by the alleged defect; and
- (6) A description of the alleged defect.

Information about the dispute resolution provider and how to make a request for dispute resolution is available at <http://www.hud.gov> or by contacting the Office of Manufactured Housing Programs at (202) 708–6423 or (800) 927–2891.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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A screening agent will review the request and, as appropriate, forward the request to the manufacturer, retailer, installer, and mediator. The mediator will mediate the dispute and attempt to facilitate a settlement. The parties to a settlement include, as applicable, the manufacturer, retailer, and installer. If the parties are unable to reach a settlement that results in correction or repair of the alleged defect, any party or the homeowner may request nonbinding arbitration. Should any party refuse to participate, the arbitration shall proceed without that party's input. Once the arbitrator makes a non-binding recommendation, the arbitrator will forward it to the parties and HUD. HUD will have the option of adopting, modifying, or rejecting the recommendation when issuing an order requiring the responsible party or parties to make any corrections or repairs in the home. At any time before HUD issues a final order, the parties may submit an offer of settlement to HUD that may, at HUD's discretion, be incorporated into the order.

In circumstances where the parties agree that one or more of them, and not the homeowner, is responsible for the alleged defect, the parties will have the opportunity to resolve the dispute outside of the HUD Mediation and Arbitration process by using the Alternative Process. Homeowners will maintain the right to be informed in writing of the outcome when the Alternative Process is used, within 5 days of the outcome. At any time after 30 days of the Alternative Process notification, any participant or the homeowner may invoke the HUD Manufactured Home Dispute Resolution Program and proceed to mediation.

The HUD Manufactured Home Dispute Resolution Program is not a warranty program and does not replace the manufacturer's or any other warranty program.

(f) If a consumer manual or a change or revision to a manual does not substantially comply with the guidelines issued by HUD, the manufacturer shall cease distribution of the consumer manual and shall provide a corrected manual for each manufactured home for which the inadequate or incorrect manual or revision was provided. A manual substantially complies with the guidelines if it includes the language in paragraph (e) of this section and presents current material on each of the subjects covered in the guidelines in sufficient detail to inform consumers about the operation, maintenance, and repair of manufactured homes. An updated copy of guidelines published in the Federal Register on March 15, 1996, can be obtained by contacting the Office of Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, Room 9164, 451 Seventh Street, SW., Washington, DC, 20410.

~~(g) Consumer Notice (reserved)~~

Comment [JN42]: Policy Issue – Consumer Notice (reserved) – What is the reserved? What does that mean? Seems like there must be an idea of what should go in here.

§ 3282.208 Remedial actions—general description.

(a) *Notification.* A manufacturer may be required to provide formal notice to manufactured home owners and retailers, as set out in subpart I of this part, if the manufacturer, the Secretary, or a State Administrative Agency determines under subpart I that an imminent safety hazard, serious defect, defect, or noncompliance exists or may exist in a manufactured home produced by that manufacturer.

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(b) *Correction.* ~~As set forth in subpart I, a~~ manufacturer ~~must~~ may be required to correct imminent safety hazards and serious defects, ~~and may be required to correct defects or noncompliances~~ which the manufacturer and the Secretary determines under subpart I exists, in manufactured homes produced by the manufacturer. This correction would be carried out in addition to the sending of formal notice as described in paragraph (a) of this section.

Comment [JN43]: Policy Issue – Where in subpart I are they required to do this? Should only be if home hasn't been sold to first purchaser. If that's correct, it should be stated that way. Add "when the home is still in the plant or on the retailer lot but not sold to first purchaser"

(c) *Cooperation.* The manufacturer shall be responsible for working with the DAPIA, IPIA, any SAA, the Secretary, and the Secretary's agent as necessary in the course of carrying out investigations and remedial actions under subpart I.

(d) *Avoidance of formalities.* The provisions for notification and required correction outlined in paragraphs (a) and (b) of this section and described more fully in subpart I may be waived or avoided in certain circumstances under that subpart.

§ 3282.209 Report requirements.

The manufacturer shall submit reports to the PIAs, SAAs, and the Secretary as required by subpart L of these regulations.

§ 3282.210 Payment of monitoring fee and issuance of labels.

(a) Each manufacturer must pay the monitoring fee established under §§3282.307 and 3282.454 for each transportable section of each manufactured housing unit that it manufactures under the Federal standards.

(b) The monitoring fee is to be paid ~~in a~~ the form ~~of a check made payable~~ acceptable and payable to the Secretary or the Secretary's agent. The IPIA must not issue labels until it is evidenced that payment has been made. ~~The manufacturer shall give to the IPIA (or to any other person or agency designated in writing by the Secretary) the required check in the amount of the number of labels, as required by §3282.365, multiplied by the amount of the fee per transportable section of each manufactured housing unit.~~

§ 3282.211 Record of purchasers.

(a) *Information for purchasers.* Every manufacturer of manufactured homes must, for each manufactured home manufactured under the Federal standards, provide with the manufactured home a booklet containing at least 3 detachable cards as described in paragraph (b) of this section. On the front of the booklet, in bold faced type, must be printed the following language:

“Keep this booklet with your manufactured home. Title VI of the Housing and Community Development Act of 1974 provides you with protection against certain construction and safety hazards in your manufactured home. To help assure your protection, the manufacturer of your manufactured home needs the information which these cards, when completed and mailed, will supply. If you bought your home from a retailer, please be sure that your retailer has completed and mailed a card for you. If you acquired your home from someone who is not a retailer, you

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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should promptly fill out and send a card to the manufacturer. It is important that you keep this booklet and give it to any person who buys the manufactured home from you.”

(b) The detachable cards shall contain blanks for the following information:

- (1) Name and address of the retailer or other person selling the manufactured home to the purchaser;
- (2) Name and complete mailing address of the manufactured home purchaser;
- (3) Address where the manufactured home will be located, if not the same as item (b)(2) of this section;
- (4) Date of sale to the purchaser;
- (5) Month, day and year of manufacture;
- (6) Identification number of the manufactured home;
- (7) Model and/or type designation of the manufactured home as provided by the manufacturer; and
- (8) A designation of the zones for which the manufactured home is equipped, as set forth in §3280.305 in this title.

Additionally, the cards shall have the name and address of the manufacturer printed clearly on the reverse side and shall contain adequate postage or business reply privileges to ensure return to the manufacturer. The manufacturer is responsible for filling in the blanks on the cards for paragraphs (b)(5), (6), (7), and (8) of this section.

§ 3282.212 Manufacturer recordkeeping responsibilities.

Manufacturers must maintain records regarding each home in individual files or an equivalently accessible format are required to maintain the following records in individual files for each manufactured home or section thereof produced

~~:(a) All cards received from purchasers (see § 3282.211), so that the manufacturer has a readily accessible record of the current purchaser or owner and the current address of all manufactured homes manufactured by it for which a card has been received;~~

~~(b) A copy of the manufacturer's completed and signed off traveler for each home;~~

~~(c) A copy of the IPIA's inspection report for the home, or in the alternative, a copy of the IPIA's inspection report may be kept in a separate central file at the plant;~~

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Comment [JN44]: Policy Issue – Requires a single file. This is not currently done. It's not how plants keep information.

Discussion – The rule would change the way manufacturers currently keep information by requiring the information to be kept by home or section and not by activity like most of the current systems have been developed i.e. travelers are kept by production and manufacturer's production number, service records are kept by home in the service department and not by section, IPIA inspections reports are kept in separate files etc.

Comment [JN45]: Policy Issue – this raises the traveler issue again.

Comment [JN46]: Policy Issue – Must now have a file for each section that contains all of that information. Just say for each manufactured home. Comment that sometimes sections are produced to match up with one destroyed during transport. Needs clarification.

Comment [JN47]: Policy Issue – This seems to be a conflict with the first paragraph in 212

Comment [JN48]: Policy Issue – Single file issue again

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~(d) A copy of the written checklist required under § 3282.205(e)(1); and~~

~~(e) Any records related to repair and service for each home.~~

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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Subpart H—Primary Inspection Agencies

§ 3282.351 General.

~~Primary inspection agencies (PIAs) work closely with HUD to protect the quality, durability, and safety of manufactured homes. HUD relies on PIAs to promote the uniform and effective enforcement of the construction and safety standards for manufactured homes.~~

Comment [JN49]: Policy Issue – need to define “quality.” Opens up to lawsuits. Strike first paragraph especially quality.

Comment [JN50]: Policy Issue – should include all parties including manufacturers. This is editorial language. It’s not necessary. Comment that this makes specific the portions of the statute referred to, especially second sentence.

(a) This subpart sets out the requirements that must be met by States or private organizations in order to qualify as PIAs accepted by the Department under these regulations. It establishes functions that primary inspection agencies must perform.

(b) The five basic functions that primary inspection agencies perform are:

(1) Review and approval of the manufacturer's manufactured home design to ensure that it is in compliance with the standards;

(2) Review and approval of the manufacturer's quality assurance program to ensure that it is compatible with the design;

(3) Inspection and certification of each manufacturing plant facility to verify that the facility is capable to produce manufactured homes in accordance with MHCSS and the DAPIA-approved designs. ~~ensure that the plant can adequately perform under its approved quality assurance and quality control programs and can sustain production of manufactured homes in conformance with its approved design;~~

Comment [JN51]: Policy Issue – “Adequately perform” and “sustain production of” are subjective

Discussion – These words will be open to differing interpretations by plant inspectors and federal monitoring agents across the nation

Comment [JN52]: Policy Issue – This is the plant’s responsibility. This is the reason they have the quality control program. Now it’s being given to the IPIAs. You make the IPIA jointly responsible. IPIA inspection is to make sure inspection process is working. Primary inspection is in manufacturing plant. This has IPIA doing same thing as the plant does. Should IPIAs be more responsible and liable?

(4) Oversight and surveillance of the manufacturing process in each manufacturing plant facility to ensure that the manufacturer is continuing to perform in accordance with its approved quality assurance and quality control programs and is continuing to produce manufactured homes in conformance with its approved designs and the construction and safety standards (see 24 C.F.R. § 3282.362(c)(1)); and

Discussion – Historically the manufacturer has had the responsibility to put in place a quality control system to ensure homes are built to the standards. This quality control system is to have methods to find errors in production, to record those errors and to make sure they are fixed so the home complies with the standards. The IPIA plant inspector is to monitor and review this quality control system to ensure it is working and if it is not, to work with the manufacturer to correct the problems with the quality control system and if necessary to control the labeling of the homes in the plant to ensure they meet the standards. By assigning the IPIA plant inspector and the design approval agency the same responsibilities as the manufacturer, you are duplicating responsibilities and significantly increasing the cost to the manufacturer and the homeowner for this duplication. If the issue is how do you address the poor performance by an IPIA inspector or design approval agency, address the poor performance requirements in regulation but don’t duplicate the manufacturer’s responsibility.

(5) Have the ability to recognize and identify imminent safety hazards and failures to conform to the construction and safety standards, IPIAs must review and approve including review and evaluation of the manufacturer determinations regarding the cause of the problem and the method for determining classes of manufactured homes when the manufacturer is acting as required under subpart I of this part.

(c) There are two types of primary inspection agencies, DAPIAs and IPIAs. (see 3282.7(z)) that perform these functions:

~~(1) Those which approve designs and quality assurance programs (Design Approval Primary Inspection Agencies—DAPIAs) and~~

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~(2) Those which approve plants and perform ongoing inspections in the manufacturing plants (Production Inspection Primary Inspection Agencies—PIAs).~~

(d) States and private organizations whose applications to become PIAs under this subpart are acceptable will be granted provisional acceptance. Final acceptance is to be conditioned upon adequate performance, which will be determined through monitoring of the actions of the primary inspection agencies. Monitoring of all primary inspection agencies is to be carried out as set out in subpart J. HUD accepted agencies can perform DAPIA functions for any manufacturer in any State and IPIA functions in any State except those in which the State has been approved to act as the exclusive IPIA under § 3282.352.3

Comment [JN53]: Policy Issue – should be changed to section 3282.353.

(e) Primary inspection agencies approved under this subpart may contract with manufactured home manufacturers (see § 3282.202) to provide the services set out in this subpart. Any PIA that charges fees that are excessive or inadequate in relation to the services rendered will be subject to disqualification under § 3282.356.

Comment [JN54]: Policy issue – judgment of excessive fees.

Discussion – this is an issue where there is only one allowed PIA. The market determines these fees in the PIA market. Getting into fee structures do not help at all. Quality will be determined by people working on it and the quality control program.

§ 3282.352 Application format.

States and private organizations that want to act as primary inspection agencies must submit to the Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh St. SW., Washington, DC 20410, an application that includes the following:

Comment [JN55]: Policy issue – who makes this determination of what is inadequate? What is the basis for determination?

Discussion – to provide punishment for not charging enough provides incentives for charging more. Question on state IPIA – those fees are set by state law. Even if it's under private PIA, is that still adequate.

(a) A cover sheet that must show the following:

(1) Name and address of the applicant;

(2) The capacity (DAPIA, IPIA) in which the applicant wishes to be approved to act;

(3) A list of the key personnel who will perform the various functions required under these regulations;

(4) The number of manufactured home manufacturers and manufacturing ~~plants~~ facilities for which the applicant proposes to act in each of the capacities for which it wishes to be approved to act;

(5) The estimated total number of manufactured homes produced by those manufacturers and in those ~~plants~~ facilities per year;

(6) The number of years the applicant has been actively engaged in the oversight and surveillance of factory-built housing; and

Comment [JN56]: Comment that Original 3282.352 moved to 3282.353 and 3282.353 moved to 3282.352.

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(7) A certification by the applicant that it will follow the Manufactured Home Construction and Safety Standards set out at 24 CFR part 3280, and also the Model Manufactured Home Installation Standards set out at 24 CFR part 3285 if applying to become a DAPIA, and any interpretations of those standards that may be made by the Secretary.

~~(b) A detailed schedule of fees to be charged broken down by the services for which they will be charged.~~

~~(eb)~~ A detailed description of how the applicant intends to operate on behalf of the Secretary and carry out all of the functions for which it ~~wishes to be approved~~ seeks approval under this subpart, with appropriate cross-references to sections of this subpart, including examples and complete descriptions of all procedures, including reports, tests, and evaluations that the applicant would be required to make. Where appropriate, later sections of this subpart identify particular items that must be included in the application. The Secretary may request further detailed information, when appropriate.

Comment [JN57]: Policy issue – IPIAs aren't measured this way in practice.

Discussion – this is how IPIAs should be measured by, but they aren't. If these aren't significant, they should be removed. HUD comment that this dates back 30 years to very first IPIA applications. HUD comment that it can't be removed because of new IPIA entry. State IPIA's provide the same info. Comment – in addition to looking at the policy issues, let's see what's not longer needed. The measurement of whether new parties are ok, is the criteria from IBTS and HUD. 3282.352 (c) and (d) are unnecessary. HUD and IBTS have to evaluate the new performance.

~~(ec)~~ An applicant wishing to be approved as a DAPIA must submit a sample copy of a manufactured home design that it has approved (or if it has not approved a design, one that it has evaluated and a deviation report showing where the design is not in conformance with the construction and safety, and model installation standards) and a copy of a quality assurance manual that it has approved (or if it has not approved a manual, one that it has evaluated and a deviation report showing where the manual is inadequate).

Comment [JN58]: Policy issue – IPIAs aren't measured this way in practice.

Discussion – Comment that when approving new third party, it's a paper process. Can't fly out and meet people. You have to get a flavor of whether or not they are adequate. Looks bureaucratic, but it's helpful. Send to MHCC and let them decide?

~~(ed)~~ An applicant wishing to be approved as an IPIA must submit a copy of a certification report that it has prepared for a manufactured home ~~plant facility~~ or, if it has not prepared such a report, an evaluation of a manufacturing ~~plant facility~~ that it has inspected with a description of what changes must be made before a certification report can be issued. An applicant that has not previously inspected manufactured homes may nevertheless be accepted on the basis of the qualifications of its personnel and its commitment to perform the required functions.

~~§ 3282.353~~ **Additional requirements to become a state exclusive IPIA.**

Comment [JN59]: Verbatim of old 352? Small word changes only

In addition to the requirements set forth in § 3282.352, in order for an applicant to become a state exclusive IPIA it must satisfy the following requirements:

Comment [JN60]: Policy issue – is there a need to continue exclusivity?

(a) Any State that has an approved State Administrative Agency may, if accepted as an IPIA, act as the exclusive IPIA within the State. A State that acts as an IPIA but is not approved as an SAA may not act as the exclusive IPIA in the State. A State that acts as an exclusive IPIA must be staffed to provide IPIA services to all manufacturers within the State and may not charge unreasonable fees for those services.

Discussion – Comment that there is no need.

(b) States that want to act as exclusive IPIAs must apply for approval to do so in their State plan applications. ~~They must specify the fees they will charge for IPIA services and must submit proposed fee revisions to the Secretary prior to instituting any change in fees. If at any time the Secretary finds that those fees are not commensurate with the fees generally being charged for~~

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~similar services, the Secretary will withhold or revoke approval to act as an exclusive IPIA. States acting as DAPIAs and also as exclusive IPIAs must establish separate fees for the two functions and must specify what additional services (such as approval of design changes and full time inspections) these fees cover. As provided in § 3282.302(b)(11), each State must submit fee schedules for its activities and, where appropriate, the fees present charged for DAPIA and IPIA services, and any fees charged for DAPIA and IPIA services during the preceding two calendar years.~~

(c) A State's status as an exclusive IPIA may commence upon approval of the State Plan Application and acceptance of the State's application under § 3282.355. Where a private organization accepted or provisionally accepted as an IPIA under this subpart H is operating in a manufacturing plant facility within the State on the date the State's status as an exclusive IPIA commences, the private organization may provide IPIA services in that plant facility for 90 days after that date.

§ 3282.354 Submittal of false information or refusal to submit information.

The submittal of false information or the refusal to submit information required under this subpart may be sufficient cause for the Secretary to revoke or withhold acceptance.

§ 3282.355 Application acceptance.

(a) When the Department determines that an application is adequate, the applicant will be granted provisional acceptance for a six month period from the date of such determination.

(b) Final acceptance of an applicant to act as a primary inspection agency will be contingent upon adequate performance during the period of provisional acceptance as determined through monitoring carried out under subpart J and upon satisfactory acceptance under §3282.361(d) or §3282.362(e). Final acceptance will be withheld if performance is inadequate.

(1) *Requirements for full acceptance – DAPIA.* (A) Before granting full acceptance to a DAPIA, the Secretary will review and evaluate at least one complete design and one quality assurance manual that has been approved by the DAPIA. These must be designs and manuals approved to the construction and safety, and model installation standards, and they will be chosen at random from those approved by the DAPIA during the period of provisional acceptance.

(B) If the Secretary determines that a design or quality assurance manual shows an inadequate level of performance, the Secretary may carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary may refuse to grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance will lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary has not had adequate time in which to complete an evaluation.

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(2) *Requirements for full acceptance—IPIA.* (A) Before granting full acceptance to an IPIA, the Secretary or the Secretary's monitoring contractor will review and evaluate at least one certification report that has been prepared by the IPIA during the period of provisional acceptance. The Secretary or the Secretary's monitoring contractor will also review in depth the IPIA's administrative capabilities and otherwise review the IPIA's performance of its responsibilities under these regulations.

(B) Where the Secretary determines on the basis of these reviews that an IPIA is not meeting an adequate level of performance, the Secretary or the Secretary's monitoring contractor may carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary will not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance will lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary or the Secretary's monitoring contractor has not had adequate time in which to complete an evaluation.

(c) Continued acceptance as a primary inspection agency is contingent upon continued adequacy of performance as determined through monitoring carried out under subpart J.

§ 3282.356 Disqualification, requalification, and other remedial actions.

(a) The Secretary, based on monitoring reports or on other reliable information, may determine that a primary inspection agency that has been accepted under this subpart is not adequately carrying out one or more of its required functions. In so determining, the Secretary may consider the impact of disqualification and possible disruption of the manufacturing process on manufacturers and other affected parties. Whenever the Secretary suspends acceptance and decides to disqualify a primary inspection agency under this section, the primary inspection agency will have a right to a Formal or Informal Presentation of Views under subpart D of this part prior to disqualification.

(b) Interested persons may petition the Secretary to disqualify a primary inspection agency under the provisions of §3282.156(b).

(c) A primary inspection agency that has been disqualified under paragraph (a) may resubmit an application under §3282.352. The application must include a full explanation of how problems or inadequacies that resulted in disqualifications have been rectified and how the primary inspection agency will ensure that such problems do not recur.

(d) When appropriate, the Secretary may publish in the Federal Register or otherwise make available to the public for comment a disqualified PIA's application for requalification, subject to the provisions of §3282.54.

(e) Both provisional and final acceptance of any IPIA (or DAPIA) automatically expires at the end of any period of one year during which it has not acted as an IPIA (or DAPIA). An IPIA (or DAPIA) has not acted as such unless it has actively performed its services as an IPIA (or

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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DAPIA) for at least one manufacturer by which it has been selected. An IPIA (or DAPIA) whose acceptance has expired pursuant to this section may resubmit an application under §3282.352 in order to again be qualified as an IPIA (or DAPIA), when it can show a bona fide prospect of performing IPIA (or DAPIA) services.

(f) In lieu of proceeding with a disqualification action against an IPIA or DAPIA that is ~~generally performing adequately but is~~ underperforming in limited areas of its responsibilities, HUD, at its discretion, can proceed with any or all of the following remedial actions against a PIA including but not limited to:

Comment [JN61]: Policy issue – undefined term.

Discussion – Based on that, HUD can do the following actions and those actions are not appealable. There are other actions where you do have a right to formal or informal presentation of views. Discretion asking for is overly broad. And no formal way to solve the issue. Needs due process. Issues are in section 2 in which describes actions before PIAs not entitled to a Presentation of Views.

(1) Actions before which PIAs have a right to a Formal or Informal Presentation of Views under subpart D of this part:

(i) Restricting PIAs from adding new manufacturer clients;

(ii) Removing DAPIAs from specific design packages that are found to contain numerous errors; and

(iii) Removing IPIAs from specific ~~plants~~ facilities where their oversight and surveillance has been determined to be ineffective.

(2) Actions before which PIAs are not entitled to a Presentation of Views:

(i) Requiring DAPIAs to reexamine specific design packages that are found to contain numerous errors; and

(ii) Requiring PIAs to perform increased inspections or new certifications in ~~plants~~ facilities with ineffective quality control systems.

(3) Removal or restriction pursuant to subsection (f)(1) of this section can be for a specified time or for an indefinite period. If the removal or restriction is for an indefinite period, the PIA can request that the Secretary review and lift the removal or restriction. Whether or not to undertake this review is at the Secretary's discretion.

§ 3282.357 Background and experience.

All private applicants must submit statements of the applicant's experience in the housing industry, including a list of housing products, equipment, and structures for which evaluation, testing and follow-up inspection services have been furnished. They must also submit statements regarding the length of time these services have been provided by them. In addition, all such applications must include a list of other products for which the applicant provides evaluation, inspection, and listing or labeling services and the standard applied to each product, as well as the length of time it has provided these additional services.

§ 3282.358 Personnel.

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(a) Each applicant must have sufficient qualified personnel dedicated to and capable of carrying out all of the functions for which the primary inspection agency is seeking to be approved. Where the State intends to act as the exclusive IPIA in the State, it must show that it has adequate funding to provide sufficient personnel to so act in all facilities in the state.

Comment [JN62]: Policy issue – last sentence was cut and should be added back in.

Discussion – Is it redundant? It's pertinent to exclusive IPIAs.

(b) Each application must indicate the total number of personnel employed by the applicant, the number of personnel available for this program, and the locations of the activities of the personnel to be used in the program.

(c) Each application must include the names and qualifications of the administrator and the supervisor who will be directly responsible for the program, and résumés of their experience.

(d) Each application must contain the information set out in paragraphs (d)(1) through (d)(9) of this section. Depending upon the functions (DAPIA or IPIA) to be undertaken by a particular applicant, some of the categories of personnel listed may not be required. In such cases, the application should indicate which of the categories of information are not required and explain why they are not needed. The application should identify which personnel will carry out each of the functions the applicant plans to perform. The qualifications of the personnel to perform one or more of the functions will be judged in accordance with the requirements of ASTM Standard E-541 except that the requirement for registration as a professional engineer or architect may be waived for personnel whose qualifications by experience or education equal those of a registered engineer or architect. The categories of personnel to be included in the application are as follows:

(1) The names of engineers practicing structural engineering who will be involved in the evaluation, testing, or follow up inspection services, and résumés of their experience;

(2) The names of engineers practicing mechanical engineering who will be involved in the evaluation, testing, or follow up, inspection services and résumés of their experience;

(3) The names of engineers practicing electrical engineering who will be involved in the evaluation, testing, or follow up inspection services and résumés of their experience;

(4) The names of engineers practicing fire protection engineering who will be involved in the evaluation, testing, or follow up inspection services, and résumés of their experience;

(5) The names of all other engineers assigned to this program, the capacity in which they will be employed, and résumés of their experience;

(6) The names of all full-time and part-time consulting architects and engineers, their registration, and résumés of their experience;

(7) The names of inspectors and other technicians along with résumés of experience and a description of the type of work each will perform;

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(8) A general outline of the applicant's training program for assuring that all inspectors and other technicians are properly trained to do each specific job assigned; and

(9) The names and qualifications of individuals serving on advisory panels that assist the applicant in making its policies conform with the public interest in the field of public health and safety.

(e) All information required by this section must be kept current. The Secretary must be notified of any change in professional personnel or management or change of ownership or State jurisdiction within 30 days of such change, both before and after an applicant has been accepted into the program.

§ 3282.359 Conflict of interest.

(a) All applications by private organizations must include a statement that the applicant is independent in that it does not have any actual or potential conflict of interest and is not affiliated with or influenced or controlled by any manufacturer, producer, retailer, supplier, or vendor of products in any manner that might affect its capacity to render reports of findings objectively and without bias.

(b) An applicant will be judged to be free of conflicting affiliation, influence, and control if it demonstrates compliance with all of the following criteria:

(1) It has no managerial affiliation with any manufacturer, producer, retailer, supplier, or vendor of products for which it performs PIA services, and is not engaged in the sale or promotion of any such product or material;

(2) The results of its work do not accrue financial benefits to the organization via stock ownership of any manufacturer, producer, retailer, supplier or vendor of the products involved;

(3) Its directors and other management personnel and its engineers and inspectors involved in DAPIA and IPIA activities hold no stock in and receive no stock option or other benefits, financial, or otherwise, from any manufacturer, producer, retailer, supplier, or vendor of the product involved, other than compensation under §3282.202 of this part;

(4) The employment security status of its personnel is free of influence or control of any manufacturer, producer, retailer, supplier, or vendor; and

(5) It does not perform design or quality assurance manual approval services for any manufacturer whose design or manual has been created or prepared in whole or in part by engineers of its organization or engineers of any affiliated organization.

(c) All applications by States must include a statement that personnel who will be in any way involved in carrying out the State plan or PIA function are free of any conflict of interest except

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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that with respect to members of councils, committees or similar bodies providing advice to the designated agency are not subject to this requirement.

§ 3282.360 ~~Product~~ PIA acceptance of product certification programs or listings.

Comment [JN63]: Policy issue – relying on other third party accreditation agencies.

Discussion – Anyone who runs a lab has multiple accreditation agencies.

~~DAPIAs are to review and only approve as part of each manufacturer’s approved designs, product verification programs, certifications, and listings that are determined to comply with the Manufactured Home Construction and Safety Standards (24 C.F.R. part 3280). As part of their review, DAPIAs are to evaluate the adequacy of test equipment and qualifications of personnel used to conduct the product certifications or listings. DAPIAs are also to verify that inspection criteria and requirements are included in the manufacturer’s quality assurance program (see § 3282.203(e)) for all pre fabricated structural components or assemblies (e.g., trusses, chassis) or other materials, components, or systems requiring factory completion (e.g., sprayed on vapor retarder, blown in insulation). In determining whether products to be included in a manufactured home are acceptable under the standard set out in part 3280 of 24 CFR, all PIAs shall accept all product verification programs, labelings, and listings unless the PIA After approval, if a DAPIA or IPIA has reason to believe that a particular certification is not acceptable, the PIA must so inform the Secretary and any affected manufacturers of its concerns, and provide the Secretary with full documentation and information on which it bases its belief. Pending a determination by the Secretary, the PIA is to continue to must provisionally accept the product certification or listing, unless the manufacturer instructs its DAPIA to remove it from its approved designs. If The Secretary’s determines determination that the certification is not valid, the decision is binding on all PIAs, and manufacturers using the product certification program.~~

Comment [JN64]: Policy Issue – Having DAPIAs review test equipment and qualification of personnel.

Discussion – This is way over the top. Don’t know if that’s what was intended. Second sentence.

Comment [JN65]: Policy Issue – What does the word verify mean here?

Discussion – New policy. Maybe listed examples shouldn’t be there. How far are we going with this list?

§ 3282.361 Design Approval Primary Inspection Agencies (DAPIAs).

Comment [JN66]: Policy issue – having to wait for secretary to act.

Discussion – This can be a long time. How do you put time parameters on that?

(a) *General.* (1) ~~DAPIA responsibilities. A DAPIA acting on a particular design package is responsible to HUD for evaluating all manufactured home designs submitted to it by the manufacturer and for ensuring that they and for conformance to conform to~~ the construction and safety, and model installation standards. It is also responsible for evaluating all quality assurance programs submitted to it by the manufacturer ~~for conformance with the requirements of, and must therefore review the quality assurance manuals in which the programs are set out to ensure that the manuals comply with the requirements of~~ § 3282.203(c) and that they otherwise reflect programs that are compatible with the designs to be followed and require the manufacturer to make adequate inspections and tests of every part of every manufactured home or section thereof produced. ~~The DAPIA is responsible for evaluating manufacturer’s installation instructions to ensure verify that the instructions they conform to are equal to or exceed~~ the model installation standards in 24 C.F.R. part 3285.

Comment [JN67]: Policy issue – “or section thereof” issue already mentioned

Comment [JN68]: Policy issue – This is a policy change by inserting “to HUD.” They are also responsible to the manufacturer and maybe other parties.

(2) ~~A design or quality assurance manual approved by a DAPIA is to be accepted by all IPIAs unless an IPIA knows or has reason to know that the design or manual violates the construction and safety standards or creates an imminent safety hazard. Each design and quality assurance manual is subject to review by the Secretary at any time. retain original wording paragraph 2~~

Comment [JN69]: Policy issue – what about the manufacturer designs that exceed the minimum standard?

Discussion – Is exceeding conforming? Could eliminate second part.

Comment [JN70]: Policy issue – allows IPIA to overrule any DAPIA at any time.

Discussion – It would supersede the above section above. This is a change and promotes second guessing of DAPIA. Huge cost increase.

Comment [JN71]: Policy issue – “or has reason to know” issue mentioned previously

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~(3) Manufacturer's installation instructions must conform to the model installation standards, and are subject to review by the Secretary at any time.~~

(b) *Designs.* (1) The DAPIA will evaluate designs for compliance with the construction and safety, and model installation standards. The DAPIA may not accept:

(i) Deviations from accepted engineering practice standards for design calculations; or

(ii) Any designs that are based on deviations from accepted test standards, except as permitted in accordance with 24 C.F.R. § 3280.303(g) of the construction and safety standards.

However, the DAPIA may accept variations from the Standards that are permitted by the Secretary to be used in limited circumstances under the alternative construction provisions of § 3282.14, or by waiver pursuant to § 3280.8 of the construction and safety standards.

Comment [JN72]: Policy issue – needs to be able to accept variations from standard if it exceeds the standard. Manufacturer designs that exceed the standard.

(2) The DAPIA must require the manufacturer to submit floor plans and specific information for each manufactured home design or variation thereof that the DAPIA evaluates. It must also require the submission of drawings, specifications, calculations, and test records of the structural, electrical and mechanical systems of each such manufactured home design or variation. The manufacturer need not supply duplicate information where systems are common to several floor plans. Each DAPIA must develop and carry out procedures for evaluating and verifying manufactured home designs by requiring manufacturers to submit drawings, calculations, and other information. Where compliance with the construction and safety, and model installation standards cannot be determined on the basis of drawings and calculations, the DAPIA must require any necessary tests to be carried out.

(3) *Design deviation report.* After evaluating the manufacturer's design, the DAPIA will furnish the manufacturer with a design deviation report that specifies in detail, item by item with appropriate citations to the construction and safety, and model installation standards, the specific deviations in the manufacturer's design that must be rectified in order to produce manufactured homes that comply with the construction and safety standards, and manufacturer's installation instructions that comply with the model installation standards in 24 C.F.R. Part 3285. The design deviation report may acknowledge the possibility of alternative designs, tests, listings, and certifications and state the conditions under which they will be acceptable. The design deviation report must, to the extent practicable, be complete for each design evaluated in order to avoid repeated rejections and additional costs to the manufacturer. ~~If a design deviation report identifies a potential imminent safety hazard or serious defect on a design previously approved by the DAPIA, the DAPIA must also provide a copy of the report to the Secretary within 5 days after issuing the report. If the deviation report identifies a potential failure to conform or an imminent safety hazard, the DAPIA must inform all IPIAs who oversee plants using that design, pursuant to its inspection coordination responsibilities as set forth in 24 C.F.R. § 3282.364.~~ [recommendation to come up with language specific to existing designs]

Comment [JN73]: Policy Issue – pre design approval phase – to have DAPIA send reports while reviewing design, doesn't make sense. It's also a new duty on DAPIA to make determination on problems for safety hazard. Also new to report within 5 days

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(4) *Design approval.* The DAPIA must signify approval of a design by placing its stamp of approval or authorized signature on each drawing and each sheet of test results. The DAPIA must clearly cross-reference the calculations and test results to applicable drawings. The DAPIA may require the manufacturer to do the cross-referencing. Within 5 days after approving a design, the DAPIA must forward a copy of the design to the manufacturer and the Secretary or the Secretary's monitoring contractor.

The DAPIA must maintain a complete up-to-date set of approved designs and design changes approved under paragraph (b)(5) of this section.

(5) *Design change approval.* The DAPIA can approve changes that a manufacturer requests be made to a design previously approved by the DAPIA, so long as these changes comply with the construction and safety, and model installation standards. In reviewing design changes, the DAPIA is to respond promptly to avoid disruption of the manufacturing process. Within 5 days after approving a design change, the DAPIA must forward a copy of this change to the manufacturer and the Secretary or the Secretary's monitoring contractor as set out in paragraph (b)(4) of this section to be included in the design to which the change was made. All such changes will be subject to review by the Secretary.

(c) *Quality assurance manuals.* (1) In evaluating a quality assurance manual, the DAPIA must identify all aspects of the designs to be manufactured under the manual that require special quality control procedures. The DAPIA must determine whether the manual under which a particular design is to be manufactured reflects those special procedures, and must also determine whether the manuals that it evaluates provide for such inspections and testing of each manufactured home or section thereof so that the manufacturer, by following the manual, can ensure that each manufactured home ~~or section thereof~~ it manufactures will conform to the construction and safety, and model installation standards. The manual must, at a minimum, comply with the requirements of §3282.203(c).

Comment [JN74]: Policy issue – “or section thereof” issue mentioned before

(2) *Manual deviation report.* If changes are necessary after evaluating a manufacturer's quality assurance manual, the DAPIA must furnish the manufacturer with a manual deviation report that specifies in detail any changes that a manufacturer must make in order for the quality assurance manual to be acceptable. The manual deviation report must, to the extent practicable, be complete for each ~~design manual~~ in order to avoid repeated rejections and additional costs to the manufacturer. ~~The DAPIA is to coordinate with any IPIAs as needed, pursuant to its inspection coordination responsibilities as set forth in 24 C.F.R. § 328.364.~~

Comment [JN75]: Should that be manual? Editorial change?

Comment [JN76]: Policy issue – vague and possibly unnecessary.

(3) *Manual approval.* The DAPIA must signify approval of the manufacturer's quality assurance manual by placing its stamp of approval or authorized signature on the cover page of the manual. Within 5 days of approving a quality assurance manual, the DAPIA must forward a copy of the quality assurance manual to the manufacturer and the Secretary or the Secretary's monitoring contractor. The DAPIA must maintain a complete up-to-date set of approved manuals and manual changes approved under paragraph (c)(4) of this section.

Discussion – Isn't there another section that addresses coordination? Duplicative? Potential cost issue in that it might exceed what's in 3282.364. This is during approval of manual phase. Coordination not necessary here. Is exception when manufacturer changes 3rd party? If DAPIA finds things that aren't right, they should be letting IPIAs know. That might be covered under 3282.364.

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(4) *Manual change approval.* Each change the manufacturer makes in its quality assurance manual must be approved by the DAPIA. Within 5 days after approving a manual change, the DAPIA must forward a copy of the change to the manufacturer and the Secretary or the Secretary's monitoring contractor as set out in paragraph (c)(3) of this section to be included in the manual to which the change was made.

(d) The DAPIA is to coordinate with any IPIAs as needed, pursuant to its inspection coordination responsibilities as set forth in 24 C.F.R. § 328.364.

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Comment [JN77]: Policy issue – vague and possibly unnecessary.

Discussion – Isn't there another section that addresses coordination? Duplicative? Potential cost issue in that it might exceed what's in 3282.364. This is during approval of manual phase. Coordination not necessary here. Is exception when manufacturer changes 3rd party? If DAPIA finds things that aren't right, they should be letting IPIAs know. That might be covered under 3282.364.

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

(a) *General*—(1) *IPIA responsibilities.* The IPIA acting in each manufacturing plant facility is responsible for assuring HUD that:

(i) The plant facility is capable of following the quality control procedures set out in the quality assurance manual to be followed in that plant facility;

(ii) The plant facility continues to follow the quality assurance manual;

(iii) Any part of any manufactured home or section thereof that it actually inspects conforms with the design, or where the design is not specific with respect to an aspect of the construction and safety standards, to the construction and safety standards;

(iv) Whenever it finds ~~or its records indicate~~ that a manufactured home or section thereof in production fails to conform to the design, or where the design is not specific, to the construction and safety standards, it red tags the home, alerts the manufacturer about the likely existence of failures to conform or imminent safety hazards, and verifies that all such homes or sections thereof are corrected to comply with the construction and safety standards before they leave the manufacturing plant facility. ~~If the IPIA knows or has reason to believe~~ that the manufacturer did not correct the manufactured homes or sections thereof before leaving the manufacturing plant facility, it must immediately report all information pertaining to those violations directly to the Office of Manufactured Housing Programs at HUD; and

Comment [JN78]: Policy issue – “or sections thereof” or “knows or has reason to know.”

Comment [JN79]: Policy issue – this isn't really how it works. Various IPIAs may handle it differently.

Discussion – Would note on traveler or section report. Agreement among IPIAs. Without “red tags”, it's fine. Comment that “alerts” isn't defined. Does it need to be? Red tag is a formal declaration that something is wrong. It usually occurs close to final finish. Make sure it doesn't move until finished. HUD question on whether this should be standardized like how the label is standardized? Response that it should be up to PIA and fully described in their manual. Red tag is defined. Only the agency that put the red. Has red tag become too casual an expression? Don't want IPIA to red tag a home on production line.

(v) All required documents are provided or affixed in accordance with 24 C.F.R. § 3282.205(e).

Comment [JN80]: Policy issue – New duty

Comment [JN81]: Policy issue – this could bypass subpart I, and additional cost.

Discussion – Does subpart I only come into effect for class of home? It may fall under other requirements, not subpart I. But still don't want all those reported to HUD. Some instances may go into subpart I and if that's the case you should reference it here.

(2) No more than one IPIA may operate in any one manufacturing plant facility, except that where a manufacturer decides to change from one IPIA to another, the two may operate in the plant facility simultaneously for a limited period of time to the extent necessary to ensure a smooth transition.

(b) *Plant Facility certification.* (1) Each IPIA must, when it first becomes responsible for a manufacturing plant facility perform a comprehensive inspection of the plant facility to determine if the quality control procedures in place are consistent with the DAPIA approved

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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quality assurance manual. Prior to the issuance of any labels to the manufacturer, the IPIA must complete its certification inspection of the ~~plant facility~~ and file a certification report with the Department (see subsection (b)(3) of this section) that verifies that the following elements of the manufacturer's quality assurance program are in place, ~~functioning effectively, and sustainable~~:
[\[HUD to reword paragraph\]](#)

Comment [JN82]: Policy issue – does that mean IPIA can't have a label on a home prior to certification report being approved by HUD? New policy.
Discussion – You have to keep 100% inspecting until report has been submitted and HUD has approved. This says you can't issue a label. also making the function prescriptive with roman numeral subsections. But also adding subjective language

(i) Quality control inspections are ~~complete and thorough and are~~ being conducted by the personnel that are identified by job title as accountable for making the inspections and conducting the tests in accordance with ~~the inspection checklist and organizational chart in~~ the quality assurance manual;

Comment [JN83]: Policy issue – Undefined subjective terms.

(ii) The work process and station by station descriptions are compatible with and correspond to the ~~physical plant facility~~ layout and approved ~~checklist description of required inspections and tests~~ in the quality assurance manual;

Comment [JN84]: Policy issue – Uses the terms "inspection checklist" and "approved checklist." Did they mean traveler?

(iii) Procedures for material control to ensure conformance with the construction and safety standards are in place as required by the quality assurance manual, including provisions for purchasing, receiving, inspection, handling, storage, and rejection of nonconforming materials;

(iv) Production line tests and test equipment being used are adequate to ensure compliance with the construction and safety standards;

(v) A ~~training program is provided and used to train all employees and new hires for their work and responsibilities that they have been assigned, including, as applicable training that will address:~~

Comment [JN85]: Policy issue – you don't train all new employees on (A)-(F). This wording would change that. Needs to say something like "applicable." Adds more training.

(A) Work area responsibilities and use of DAPIA approved designs and product installation instructions;

(B) ~~CAny~~ changes in materials or components;

(C) ~~RAny~~ revisions to DAPIA approved designs or product installation instructions;

(D) ~~CAny~~ changes in the quality assurance manual, quality control procedures, or production processes;

~~(E) Employees whose work has resulted in repetitive failures to conform in their work area or station; and~~

~~(F) Changes in procedures dealing with alternate testing and equipment~~ Any changes in testing equipment and procedures;

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(vi) Procedures for tracking and correcting failures to conform and for identifying and addressing the source of the problem that caused the failures to occur under the manufacturer's quality control operations;

(vii) DAPIA approved designs are being followed and used by ~~plant facility~~ personnel and there is a system in place to keep the DAPIA approved designs and quality assurance manual up to date;

(viii) The manufacturer is capable of producing manufactured homes in conformance with the DAPIA approved designs being produced in the ~~plant facility~~;

(ix) To the extent the designs are not specific with respect to an aspect of the construction and safety standards, whether the manufacturer is capable of producing manufactured homes in conformance with the construction and safety standards; and

(x) The ~~plant facility~~ equipment, personnel, and manufacturer's quality control procedures as set out in the quality assurance manual are sufficient to ensure that all such conformances will continue.

(2) The certification inspection must be performed by ~~one or more qualified engineers or state IPIA program officials~~ qualified personnel, ~~who have reviewed all DAPIA approved designs in production at the plant, and by inspectors who have been carefully briefed by the engineers or state IPIA program officials on the restrictive aspects of those designs.~~ Manufactured homes must be inspected to the DAPIA approved designs. Where the design is not specific with respect to any aspect of the construction and safety standards, the inspection must be to the construction and safety standards as to that aspect of the manufactured home. The IPIA must continue the certification inspection until ~~it states to the Department that it believes~~ determines that the manufacturer is capable of conforming to the DAPIA approved quality assurance manual and the DAPIA approved designs, and otherwise conforming with the construction and safety standards under production surveillance as provided in paragraph (c) of this section.

Comment [JN86]: Policy issue – This term is a problem – “qualified engineers.” Also, “carefully briefed.”

Discussion – IPIA needs qualified personnel. Shouldn't be specific about engineers or program officers, etc.

(3) If, ~~on the basis of the comprehensive factory inspection required by paragraph (b)(1)~~ of this section, the IPIA ~~reasonably believes~~ determines that the manufacturer can perform as required by paragraph (b)(2) of this section, the IPIA will prepare and file a certification report with HUD's Office of Manufactured Housing Programs and HUD's monitoring contractor and forward a copy of the report to the manufacturer. At the time the certification report is filed, the IPIA may provide the manufacturer ~~with a two to four week supply of~~ labels to be applied to each manufactured home or section thereof produced in the ~~plant facility~~.

Comment [JN87]: Policy Issue – new policy and timing issue. What happens during week waiting for approval?

(4) ~~Before certification is granted by HUD,~~ the certification report will be subject to review and approval. HUD will, within a reasonable time, notify the manufacturer and the IPIA in writing of the Department's decision to either:

Comment [JN88]: Policy issue – new policy issue. Certification report approved by HUD. Not currently done.

Discussion – HUD comment that this is currently done. HUD comment that you get new plant approval letter from HUD. Comment that plant is already operating before HUD approves. Is this two certifications? HUD and IPIA?

(i) Grant certification based on the report; or

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

(ii) Require specific improvements to the ~~plant's facility's~~ quality assurance program and quality control system. After verifying that the required improvements have been successfully implemented, the IPIA may file a supplemental report with HUD's Office of Manufactured Housing Programs and HUD's monitoring contractor. Upon review of a supplemental report, HUD may either grant certification or require further specific improvements.

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Comment [JN89]: Policy issue – new policy issue. Certification report approved by HUD. Not currently done.

~~(5) After verifying that the required improvements have been successfully implemented, the IPIA may file a supplemental report with HUD's Office of Manufactured Housing Programs and HUD's monitoring contractor. Upon review of a supplemental report, HUD may either grant certification or require further specific improvements.~~

Comment [JN90]: Policy issue – new policy issue. Certification report approved by HUD. Not currently done.

(6) The IPIA must maintain a copy of each certification report that it files for five years.

(7) At a minimum, the certification report must include the following information:

(i) The name of the DAPIA that approved the manufacturer's design and quality assurance manual and the dates of those approvals;

(ii) The names and titles of the IPIA engineers and inspectors who performed the initial comprehensive inspection;

(iii) A full report of inspections made, serial numbers inspected, any failures to comply that were observed, corrective actions taken, and dates of inspections; and

(iv) A statement that the IPIA ~~believes has determined~~ that the manufacturer is capable of conforming to the DAPIA approved quality assurance manual and the DAPIA approved designs, and otherwise conforming with the construction and safety standards under production surveillance as provided in paragraph (c) of this section.

Comment [JN91]: Policy issue – The statement requirement is new.

(8) Until the IPIA determines that the performance of a manufacturing plant facility is adequate to file a certification report, the IPIA must ~~label manufactured homes itself and~~ deploy sufficient personnel to perform complete inspections of all phases of production of each manufactured home or section thereof being produced. The IPIA may only release labels for those manufactured homes or sections thereof that conform with the DAPIA approved designs and, as applicable, with the construction and safety standards. This procedure will continue until the IPIA files a certification report and must be resumed if the Department requires improvements after reviewing the certification report.

Comment [JN92]: Policy issue – time to create and file certification report.

(c) *Production surveillance.* (1) After it has filed a certification report pursuant to paragraph (b) of this section, the IPIA must carry out ongoing surveillance of the manufacturing process in the plant facility. The IPIA is responsible for conducting inspections to ensure that the manufacturer is performing its quality control program pursuant to and consistent with its approved quality

Comment [JN93]: Policy issue – red tag has been deleted.

Discussion – Should be added back. That was the correct description of how they are currently being used. HUD – you can find it on page 34. Most of it.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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assurance manual. The IPIA must also ensure that whatever part of a manufactured home ~~or section thereof~~ is actually inspected by the IPIA is fully in conformance with the design and, as applicable under paragraph (a)(1)(iii) of this section, with the construction and safety standards, before a certification label is placed on that manufactured home ~~or section thereof~~. The surveillance visits must commence no later than the date necessary for the IPIA to assure the Department that every manufactured home ~~or section thereof~~ produced to which a certification label provided for in paragraph (c)(2) of this section is affixed, has been inspected in at least one stage of its production. The frequency of subsequent visits to the plant facility must be sufficient to assure the Department that every manufactured home ~~or section thereof~~ is inspected at some stage in its production. In the course of each visit, the IPIA must make a complete inspection of every phase of production and of every visible part of every manufactured home ~~or section thereof~~ at each stage of production. The inspection is to be made to the approved design except where the design is not specific with respect to an aspect of the construction and safety standards, in which case the inspection of that aspect of the manufactured home is to be made to the construction and safety standards. As part of its function of assuring quality control, the IPIA must inspect materials in storage and test equipment used by the manufacturer at least once a month to ensure that materials are properly stored and that the equipment is in good working condition, and more frequently if unacceptable conditions are observed. [request for HUD to add reference to Red Tag section]

Comment [JN94]: Or section thereof issue.

(2) Increased frequency of inspection. When manufactured homes ~~or sections thereof~~ in any manufacturing plant facility ~~repeatedly~~ fail to conform to DAPIA approved designs, or as applicable under paragraph (a)(1)(iii) of this section, to the construction and safety standards, during multiple inspections, as determined by the IPIA, or when the IPIA knows ~~or has reason to believe~~ that the manufacturer is not complying with its DAPIA approved quality assurance manual, the IPIA must increase the frequency of its inspections in the plant facility until it ~~believes~~ determines that the manufacturer is in compliance with its approved quality assurance manual. The IPIA must reclaim any previously issued labels from the manufacturer and label manufactured homes itself during the period of increased inspection. The IPIA must also report its decision to increase the frequency of inspection to the Secretary within 3 business days. Thereafter, the IPIA will ~~inform~~ consult with the Department regarding corrective actions implemented by the IPIA in ~~for~~ the manufacturing plant facility. The IPIA must notify the Secretary ~~within~~ 3 business days ~~prior when it decides~~ to return to a normal frequency of inspections. [Committee suggests for HUD to reword the paragraph to be two sections to focus increase of inspections and on removal of labels]

Comment [JN95]: Policy Issue – “repeated fail” – what does this mean? Also “must increase frequency of inspection”. Might have you reclaiming on the HUD labels. Also “knows or has reason to believe?”

(3) Certification labels. [suggestion to make this a section all to itself to break up long section]

(i)(A) A permanent label must be affixed to each transportable section of each manufactured home for sale or lease to a purchaser or lessor in the United States in such a manner that removal will damage the label so that it cannot be reused. This label is provided by the IPIA and is separate and distinct from the data plate that the manufacturer is required to provide under §3280.5.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(B) The label must read as follows:

“As evidenced by this label No. ABC 000 001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this manufactured home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture. See data plate.”

(C) The label must be 2 in. by 4 in. in size and be permanently attached to each manufactured home or section thereof by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without defacing it. It must be etched on .032 in. thick aluminum plate. The label number must be etched or stamped with a 3 letter IPIA designation that the Secretary or the Secretary's monitoring contractor must assign and a 6 digit number that the label supplier must stamp sequentially on labels supplied to each IPIA.

(D) The label must be located at the tail-light end of each transportable section of the manufactured home approximately one foot up from the floor and one foot in from the road side, or as near that location on a permanent part of the exterior of the manufactured home as practicable. The roadside is the right side of the manufactured home when one views the manufactured home from the tow bar end of the manufactured home. It must be applied to the manufactured home or section thereof in the manufacturing ~~plant~~ facility by the manufacturer or the IPIA, as appropriate.

(E) Labels that are damaged, ~~destroyed~~ lost, or otherwise made illegible ~~or removed~~ must be ~~replaced~~ moved by the IPIA ~~or the IPIA's authorized agent~~ and, where applicable, returned to the Secretary's monitoring contractor ~~within 5 business days~~. ~~The IPIA may, after determination that the manufactured home or section thereof is in compliance with the construction and safety standards, affix a new label of a different serial number.~~ The IPIA's labeling record must be permanently marked with the number of the replacement label and a corresponding record of the replacement label.

Comment [JN96]: Policy Issue – new requirement for IPIA to have to remove damaged label.

Discussion – 5 day period is too short. Doesn't allow for anyone else to remove. Doesn't say how IPIA would know of damage in all cases. State IPIAs would have to do out of state. Needs to be IPIA or approved agent.

(ii) *Label control.*

(A) The IPIA is responsible for obtaining labels. Labels must be obtained from HUD or its monitoring contractor, or, with the prior approval of the Secretary, directly from a label manufacturer. Where the IPIA obtains labels directly from a label manufacturer, the IPIA will be responsible for assuring that the label manufacturer does not provide labels directly to the manufacturer of manufactured homes. If the label manufacturer fails to supply correct labels or allows labels to be released to parties other than the IPIA, the IPIA must cease dealing with the label manufacturer.

Comment [JN97]: Policy issue – red tag removed again.

Discussion – full committee needs to deal with this. Red tag issue makes more sense here rather than all on page 34.

(B) The labels will be shipped to and stored by the IPIA at a location that permits ready access to manufacturing ~~plants~~ facilities under its surveillance. The labels must be

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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stored under strict security and inventory control. They must be released only by the IPIA to the manufacturer.

(C) The IPIA must account for all labels that it has provided to the manufacturer, and it must be able to identify the serial number of the manufactured home or section thereof to which each particular label is affixed. For a period of five years, the IPIA must keep in its central record office a list of the serial numbers of labels issued from the label producer to the IPIA and by the IPIA to the manufacturing facility.

Comment [JN98]: Policy issue – requires IPIA to maintain forever, the serial number.

Discussion – forever is an issue and also duplicative of what IBTS does. Does not limit time. It's currently an issue with data plate, label records.

~~(D) The IPIA must keep in its central record office a list of the serial numbers of labels issued from the label producer to the IPIA and by the IPIA to the manufacturing plant.~~

~~(E) Failure to maintain control of labels through the date the manufactured home leaves the manufacturing plant facility and failure to keep adequate records as required by this part of which label is on which manufactured home or section thereof may render the IPIA subject to disqualification or other remedial actions pursuant to 24 C.F.R. §3282.356.~~

Comment [JN99]: Policy issue – “adequate” is undefined.

(F) The IPIA is to supply the manufacturer with a supply of two to four week supply of the certification labels in quantities that are mutually agreeable between the IPIA and the manufacturer described in this subsection. The IPIA is to provide the labels in sequentially numbered series without any duplication of label numbers. The IPIA may obtain labels from the Secretary or the Secretary's monitoring contractor or, where the IPIA obtains the prior approval of the Secretary, from a label manufacturer. No labels may be provided to the manufacturer unless the IPIA ~~reasonably believes~~ determines that the manufacturing ~~plant facility~~ is producing manufactured homes that conform to the DAPIA approved designs and the construction and safety standards. In no event may the IPIA allow a label to be affixed to a manufactured home or section thereof if the IPIA ~~knows determines or should have known~~ that ~~it the home~~ fails to conform to the design, or, where the design is not specific with respect to an aspect of the construction and safety standards, to the construction and safety standards.

Comment [JN100]: Policy issue – this has been too restrictive in some cases from a practical standpoint.

Discussion – Sometimes production rates will go up and down rapidly. Time it takes to order, ship and receive labels, it's been a problem. If there comes a time when labels have to be confiscated, if you have two months of labels there, that becomes a problem.

Comment [JN101]: Policy issue – “should have known.”

Discussion – leads to second guessing and added cost.

(G) *Removal of labels.* The IPIA or its authorized agent must remove labels from any manufactured home or section thereof not yet sold to the first purchaser that has been labeled and released by the manufacturer under the following conditions:

(aa) When an IPIA or its authorized agent ~~knows or has reason~~ determines ~~to know~~ that a manufactured home or section thereof ~~that has not been sold to the first purchaser~~ has sustained ~~major structural damage or that renders it~~ no longer habitable. ~~This may be a result of, among other things, a natural disaster, transportation damage, erection on site, or determined through insurance investigation.~~ Manufacturers, retailers, and distributors ~~that who~~ know ~~or have reason to know~~ of such damage to a manufactured home or section thereof must immediately notify HUD and the IPIA that issued the label(s). The IPIA or its ~~designee~~ authorized agent is to remove the label(s)

Comment [JN102]: Policy issue – “has been sold to the first purchaser” has not been carried over to bb or cc.

Comment [JN103]: Policy issue – notification of HUD and IPIA.

Discussion – should it also been in another portion that is readily identifiable as manufacturer and retailer? Or should we strike manufacturer and retailer. Might be appropriate to split that up.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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and return them to HUD or to HUD's monitoring contractor. A new label may be affixed if an IPIA ~~certifies~~ determines that the home has been repaired to meet the construction and safety standards in accordance with a DAPIA-approved repair method;

Comment [JN104]: Policy issue – different term than certifies?

Discussion – manufacturer certifies homes is in compliance. Could use "finds" or "determines." HUD not just thinking about natural disasters exclusively here. Could be damaged in any number of ways. Transportation being the most common.

(bb) When the IPIA determines that a label was improperly applied to a structure for any reason; or

Comment [JN105]: Policy issue – who determines if it's improperly applied. IPIA, HUD, manufacturer?

(cc) When the Secretary determines that any of the above circumstances are present.

(HG) *Reclaiming of labels.* Labels that have not yet been affixed to a manufactured home or section thereof are to be immediately reclaimed from the manufacturer by the IPIA when there is a change in IPIA at a manufacturing plant facility or the manufacturing plant facility has ~~ceased doing business~~ production of manufactured homes.

Comment [JN106]: Problem with this term. Factory might stop doing HUD code homes but does modular for 2 years.

(4) *Red Tag.* The IPIA must issue a red tag ~~affix a red tag that is prominently displayed in plain view~~ under the following conditions:

Comment [JN107]: Policy issue – this is where red tag language has been moved to.

Discussion – this addresses a unit on a retailer lot.....it doesn't say that. Right now it applies to the production line as well. Should this be IPIA or manufacturer responsibility?

(i) Whenever the IPIA ~~knows or has reason to know~~ determines that a manufactured home or section thereof that has been labeled but not yet released by the manufacturer contains an imminent safety hazard or failure to conform to the construction and safety standards; or

Comment [JN108]: Policy issue – "knows or has reason to know" issue.

(ii) Whenever the IPIA ~~knows or has reason to know~~ determines that a manufactured home or section thereof that has been labeled and released by the manufacturer, but not yet sold to the first purchaser, contains a failure to conform to the construction and safety standards or an imminent safety hazard.

The IPIA or its designee ~~may must only remove~~ rescind a red tag when the IPIA or its designee has determined that the affected manufactured homes or sections thereof conform to the construction and safety standards or no longer contain the imminent safety hazard, as applicable.

(5) *Data plate.* (i) The IPIA must assure the Department that each manufactured home ~~or section thereof~~ produced in each manufacturing plant facility under its surveillance is supplied with a data plate that meets the requirements of this section and of 24 C.F.R. §3280.5. The data plate must be furnished by the manufacturer and affixed inside the manufactured home ~~on or~~ near the main electrical distribution panel. The data plate must contain the following information:

Comment [JN109]: Policy issue – now requires data plate for each section thereof.

Discussion – HUD comment that that's an error.

Comment [JN110]: Policy issue – does not say that you have to list HUD label number.

Discussion – It's important and everyone does it, but it's not in there.

(A) The name and address of the manufacturing plant facility in which the manufactured home was manufactured;

(B) The serial number and model designation of the manufactured home ~~or section thereof~~ and the date it was manufactured;

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

Formatted: Strikethrough

(C) The HUD label number(s)

(~~E~~D) The statement: “This manufactured home is designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture.”;

(~~E~~E) A list of major factory-installed equipment including the manufacturer's name and the model designation of each appliance;

(~~E~~F) Reference to the roof load zone and wind load zone for which the home is designed and duplicates of the maps as set forth in §3280.305. This information may be combined with the heating/cooling certificate and insulation zone map required by §§3280.510 and 3280.511. The Wind Zone Map on the Data Plate must also contain the statement:

This home has not been designed for the higher wind pressures and anchoring provisions required for ocean/coastal areas and should not be located within 1500' of the coastline in Wind Zones II and III, unless the home and its anchoring and foundation system have been designed for the increased requirements specified for Exposure D in ANSI/ASCE 7-88;

(~~F~~G) The statement:

This home has ___ has not ___ (appropriate blank to be checked by manufacturer) been equipped with storm shutters or other protective coverings for windows and exterior door openings. For homes designed to be located in Wind Zones II and III, which have not been provided with shutters or equivalent covering devices, it is strongly recommended that the home be made ready to be equipped with these devices in accordance with the method recommended in the manufacturers printed instructions;

(~~G~~H) The statement: “Design Approval by,” followed by the name of the agency that approved the design.

(ii) A copy of the data plate must be furnished to the IPIA, and the IPIA must keep a permanent record of the data plate as part of its labeling record so that the information is available during the life of the manufactured home in case the data plate in the manufactured home is defaced or destroyed.

(d) ~~Permanent records~~ Record retention. The IPIA must maintain the following records for a period of five years following their origination ~~as appropriate~~:

(1) Records of all labels issued, applied, removed, and replaced by label number, manufactured home serial number, manufactured home type, manufacturer's name, retailer destination, and copies of corresponding data plates.

Comment [JN111]: Policy issue – need a reasonable time frame such as 5 years like we have on DAPIA side.

Discussion – back to keeping records forever. Would have to rename section. “Permanent records.” What about “retention of records?”

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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(2) Records of all manufactured homes that are red tagged, and the status of each home.

(3) Records of all inspections made at each manufacturing ~~plant facility~~ on each manufactured home serial number, each failure to conform found, and the action taken in each case.

(4) Records of all inspections made at retailer lots or other locations of manufactured homes organized by manufacturer and serial number, all manufactured homes or sections thereof believed by the IPIA to contain the same failure to conform, and the action taken in each case.

All records must specify the precise section of the standard that is in question and contain a clear ~~and concise~~ explanation of the process by which the IPIA reached any conclusions. All records must be traceable to specific manufactured home serial numbers and through the manufacturer's records to retailers and purchasers.

§ 3282.363 Right of entry and inspection.

Each primary inspection agency must secure from each manufacturer and manufacturing ~~plant facility~~ under its surveillance an acknowledgement that the Secretary, the Secretary's ~~monitoring contractor~~ designated agent, the appropriate State Administrative Agency and the primary inspection agency have the right to inspect, at any reasonable time, within reasonable limits, and in a reasonable manner, the ~~plant facility~~, its quality assurance program, its labeling process, its delivery records, and any manufactured homes built constructed in the ~~plant facility~~, whether in the possession of retailers or distributors.

§ 3282.364 Inspection coordination.

~~DAPIAs~~ and IPIAs ~~must should work operate~~ in close coordination with respect to design and quality assurance manual approvals and production surveillance at each ~~plant facility~~ for which they are responsible to the Department. The DAPIA may be required to examine the designs in question or the quality assurance manual under which the manufactured homes were produced. The IPIA may be required to reexamine the quality control procedures that ~~it has have been~~ approved to determine if they conform to the quality assurance manual, and the IPIA has primary responsibility for production surveillance of inspecting actual manufactured homes produced and, where necessary, for inspecting manufactured homes released by the manufacturer. If a DAPIA ~~or IPIA knows or has reason to know~~ determines that a drawing the DAPIA has previously approved contains an imminent safety hazard or failure to conform with the construction and safety standards, the failure to conform or imminent safety hazard must be immediately reported to all manufacturing facilities and IPIAs for ~~plants facilities using the designs in which that drawing is active so that the DAPIA can immediately correct the drawing and the IPIA can determine if the failure to conform affects a class of homes as provided in Subpart I of this part.~~

Comment [JN112]: Policy issue – needs to be compared with the statute to see if it's consistent with the authority provided in the statute.

Comment [JN113]: Policy issue – new issues of DAPIA notifying IPIA of any errors in previously approved drawing, no matter how minor.

Discussion – comment that if it's non-compliance, it's non-compliance. Does IPIA want to get copies of all changes from DAPIA? New reporting that isn't currently there. Deviation could be change of number of screws of connection from 14 to 15. What is the value to IPIA? IPIA would get the new drawing anyway. Comment that if this rewrite is adopted, it creates a vast amount of paper that will flow every direction. Paper work of little or no value. Cost to industry of all the paperwork. HUD comment that we want a way to assure that IPIAs and DAPIAs to coordinate closely. Example of outdated way of doing things with paper and electronic databases. Is this paperwork electronic or is it physical? What other third parties is that this is new reporting, whether paper or electronic. It's going to have a cost, either electronic or hard copy record. What is HUD going to do with it? It will be a filing process. Could a software tool minimize cost? Would it be in the consumers interest to have electronic database nationally to track non-conformances. Comment that sometimes "minor issues" or changes have a big impact.

Comment [JN114]: Policy issue – IPIA does not have this responsibility, the manufacturer does. IPIA responsibility is quality control program. Not homes produced.

Discussion – comment that this is what the proposal is about...making PIAs partners with manufacturers in responsibility. Making PIA the QA program.

Comment [JN115]: Policy issue – "knows or has reason to know issue."

Comment [JN116]: Policy Issue – IPIA wouldn't know how many other plants its active in. DAPIA might not either.

Comment [JN117]: Policy issue – IPIA currently doesn't do this. Manufacturer does.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~§ 3282.365 Forwarding monitoring fee.~~

~~Whenever the IPIA provides labels to a manufacturer, it must obtain from the manufacturer the monitoring fee to be forwarded to the Secretary or the Secretary's monitoring contractor as set out in §3282.210. If a manufacturer fails to provide the monitoring fee as required by §3282.210 to be forwarded by the IPIA under this section, the IPIA must immediately inform the Secretary and the Secretary's monitoring contractor.~~

Comment [JN118]: New policy – IPIAs don't do this. Manufacturer sends fee directly to a lock box or something like that.

Discussion – HUD comment that this is a holdover...should it just be knocked out? Manufacturer currently submits fee electronically. Needs to reflect change or be cut. The reason this is here is that the IPIA doesn't release labels until IPIA knows payment has been sent. IPIA gets copy of transaction.

~~§ 3282.366 Notification and correction campaign responsibilities.~~

~~(a) Both The IPIAs and/or DAPIA, as appropriate, s are is responsible to the Secretary or an SAA for reviewing the results of the manufacturer's determination of identifying any class of manufactured homes. ~~that may have been affected. W~~ where the Secretary or an SAA makes or is contemplating making a preliminary determination of imminent safety hazard, serious defect, defect, or noncompliance under §3282.407 with respect to manufactured homes ~~for which the IPIA or DAPIA, as appropriate, must concur with the manufacturer's identification of the class or other determination. provided either plant inspection or design approval services.~~~~

Comment [JN119]: Policy issue – changes function of PIA to make them jointly responsible for determinations. Also have "may contain or could contain" type language. It's additional cost and new function. How would IPIA immediately file a copy of this?

~~(b) The IPIA in each manufacturing plant is responsible for reviewing all manufacturer determinations regarding the class of manufactured homes affected when the manufacturer is acting under §3282.404. The IPIA must prepare a written evaluation of each determination in which it either explains why it concurs with the cause of the problem and the method used to determine the class of potentially affected manufactured homes or why it finds the method to be inappropriate, inadequate or incorrect.~~

Comment [JN120]: Policy issue – also makes IPIA do what manufacture already does. Concurring with the cost. Now have to explain why they concur. Evidence speaks for itself often. HUD would be more interested when IPIA does not concur. Usually you wouldn't see this because it would mean people have to go back and redo it.

~~(e) Whenever a class of potentially affected manufactured homes may contain possible imminent safety hazards or serious defects, the IPIA must immediately file a copy of the written evaluation described in subsection (b) with the Secretary.~~

Comment [JN121]: Policy issue – Class needs to move out. "May contain" language.

Discussion –How can you determine the cause of a possibility? Requires speculation.

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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Subpart J—Monitoring of Primary Inspection Agencies

§ 3282.451 General.

The actions of all primary inspection agencies will be monitored by the Secretary, the Secretary's monitoring contractor, or ~~by an SAA acting under an approved state plan,~~ to determine whether PIAs are fulfilling their responsibilities under these regulations. This monitoring shall be carried out by monitoring personnel made up of qualified individuals supplied by SAAs, the Secretary, or the Secretary's monitoring contractor. Monitoring personnel will make recommendations to the Secretary with respect to final acceptance of PIAs under § 3282.355(b), continued acceptance, and disqualification, requalification, or other remedial action under §3282.356, ~~and with respect to any changes that PIAs should make in their operations.~~ The Secretary may use these recommendations in his determination.

Comment [JN122]: Policy issue –Duplicates monitoring done by HUD monitoring contractor “or SAAs”

Discussion – the intent may have been that SAA personnel participate on monitoring teams. But that’s not what it ended up saying. Comment that monitoring of SAA’s is in the current regulations within the state. Maybe that needs to be revised.

§ 3282.452 Participation in monitoring.

(a) *Monitoring personnel.* The Secretary or the Secretary's monitoring contractor is to develop and maintain a roster of qualified individuals for monitoring of primary inspection agencies. Monitoring personnel are to be selected from qualified individuals provided by SAAs, the Secretary, or the Secretary's monitoring contractor. The Secretary or the Secretary's monitoring contractor will determine whether personnel are qualified based on their level of education, training, experience, or any combination thereof.

(b) Personnel from an SAA will not participate in monitoring of primary inspection agencies in their State, if the State is acting as an IPIA.

(c) SAAs are encouraged but not required to provide personnel to participate in monitoring.

§ 3282.453 Monitoring responsibilities.

The monitoring required by this subpart is to be carried out by the Secretary, the Secretary’s monitoring contractor, or by any SAA not acting as an IPIA and in lieu of the monitoring contractor, and is to consist of at least the following:

(a) ~~SAA monitoring~~ An SAA may carry out monitoring of IPIA functions at ~~plant~~ facilities within the State if the State is not acting as an IPIA. Where an SAA is carrying out ~~wishes to carry out~~ monitoring activities under an approved state plan it must do so in coordination with the Secretary ~~and the Secretary's monitoring contractor~~. The monitoring is to consist of an assessment of the following areas of PIA performance:

Comment [JN123]: Policy issue – SAA monitoring – Suggestion to delete.

Discussion – Is there any state that does it? Pennsylvania? There may be a move toward that if the industry recovers. Maybe remove this section.

~~(1) *Review of PIA staff capability.* The monitoring party will review the capability of the PIA’s staff to perform the functions it is required to perform.~~

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~(2) Review of interpretations. The monitoring party will review all records of interpretations of the standards made by the PIA to determine whether they are consistent and to determine whether there are any conflicts that should be referred to the Secretary for determination.~~

(31) *Monitoring of IPIAs.* The monitoring party is to advise HUD of the extent to which IPIAs are carrying out all of the functions for which they have been accepted. In particular, they are to assure HUD that the manufacturing and quality assurance processes ~~is as stated in~~ are in accordance with the certification reports, that the IPIAs are carrying out the required number of inspections, that inspections are effective, and that the IPIAs are maintaining complete label control as required by § 3282.362. Monitoring personnel are to review the IPIA's office procedures, files, and label control, and are to send copies of its report to the Secretary and the Secretary's monitoring contractor.

~~(4) Review of remedial actions. The monitoring parties will review the remedial action records of the manufacturers and the primary inspection agencies closely to determine whether primary inspection agencies have been carrying out their responsibilities with respect to remedial actions.~~

(b) *Monitoring by the Secretary or Secretary's monitoring contractor.*

The monitoring is to consist of an assessment of the following areas of PIA performance:

~~(1) Review of PIA staff capability. The monitoring party will review the capability of the PIA's staff to perform the functions it is required to perform.~~

~~(2) Review of interpretations. The monitoring party will review all records of interpretations of the standards made by the PIA to determine whether they are consistent and to determine whether there are any conflicts that should be referred to the Secretary for determination.~~

(31) *Monitoring of DAPIAs.* Monitoring parties will review on a random basis portions of the design and quality assurance manual approvals made by each DAPIA in each year.

Comment [JN124]: Policy issue – currently not random.

(42) *Monitoring of IPIAs.* The monitoring parties are to advise HUD of the extent to which IPIAs are carrying out all of the functions for which they have been accepted. In particular, they are to determine whether the manufacturing and quality assurance processes are in accordance with ~~is as stated in~~ the certification reports, that the IPIAs are carrying out the required number of inspections, that inspections are effective, and that the IPIAs are maintaining complete label control as required by §3282.362. Monitoring personnel are to review the IPIA's office procedures, files, and label control and are to send copies of its report to the Secretary and the Secretary's monitoring contractor, ~~which shall send copies to all monitoring personnel that monitor the operations of the subject IPIA.~~

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~(g) Review of remedial actions. The monitoring parties will review the remedial action records of the manufacturers and of the primary inspection agencies closely to determine whether the primary inspection agencies have been carrying out their responsibilities with respect to remedial actions (see § 3282.208).~~

§ 3282.454 **Frequency and extent of monitoring.**

Comment [JN125]: Policy issue – time frame for HUD response.

(a) The actions of primary inspection agencies are to be monitored at a frequency adequate to ensure that they are performing consistently and fulfilling their responsibilities under these regulations. ~~Every aspect of the primary inspection agencies' performance is to be monitored.~~

Discussion – it would be nice to have a time frame to get back monitoring reports and status at least within the year from HUD. HUD – currently as often as we can afford it. Comment that you lose meaning if you are dealing with issues 2 or 3 years old. Comment that this gets back to point about HUD's resources to do it's job. The consumer is negatively impacted when HUD cannot get back with summary reports. Comment that there is nothing before us saying what "this" is.

(b) Frequency of PIA monitoring. The performance of each primary inspection agency will be monitored during its period of provisional acceptance by a complete review of its records and, in the case of IPIAs, by a complete inspection of the operations of at least one manufacturing ~~plant~~ facility that it has approved or in which it is operating. After ~~the initial inspection~~ provisional acceptance, the performance of each primary inspection agency will be monitored at least annually, and more often as appropriate. Monitoring personnel may also review the records of each primary inspection agency, and there may be more reviews as needed.

(c) Copies of the monitoring reports must be provided to each affected PIA within 180 days of the inspection date.

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~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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Subpart L—Manufacturer, IPIA and SAA Reports

§ 3282.551 Scope and purpose.

This subpart describes the reports that must be submitted by manufacturers, PIAs and SAAs as part of the system of enforcement established under these regulations. ~~Failure to comply with these reporting requirements may constitute a violation of 42 U.S.C. §5420.~~ Additional reports described in subpart I are required when corrective actions are taken under that subpart.

Comment [JN126]: Policy issue – conflict with later section. Statute requires knowing and willful conduct. 3282.552 is “knows or has reason to believe. Conflict here.

§ 3282.552 Ongoing reporting requirements.

Unless a failure to conform has been permitted under the alternative construction provisions set forth in § 3282.14 or is permitted in order to complete certain aspects of the home under Subpart M of this part:

Comment [JN127]: Policy issue – Now requires three different reports. Also “or section thereof” now added more reports.

Discussion – could all be for the same problem. Burying yourselves in paperwork.

(a) *Manufacturer’s ongoing reporting requirements.* ~~Where a manufacturer knows or has reason to believe that a manufactured home or section thereof contains a failure to conform to any construction and safety standard, or an imminent safety hazard, the manufacturer must report the failure to conform or imminent safety hazard to the IPIA for the affected plant or plants.~~ If the manufacturer ~~knows or has reason to believe~~ determines that a labeled manufactured home or section thereof contained an imminent safety hazard or serious defect at the time the home was shipped from the ~~plant facility~~ in which it was constructed, the manufacturer, within five days, must ~~immediately~~ notify the Office of Manufactured Housing Programs at HUD, and alert the IPIA for the affected ~~plant facility~~ or ~~plants facilities~~ that it has done so;

Comment [JN128]: Policy issue mentioned in 3282.551 – conflict in language.

(b) *IPIA’s ongoing reporting requirements.* Where an IPIA ~~knows or has reason to believe~~ determines that a manufactured home or section thereof, not already subject to the notice requirements of 3282.404 or subsections (a) or (c) of this section, contained a failure to conform or an imminent safety hazard at the time the home was shipped from the ~~plant facility~~ in which it was constructed, the IPIA, within five days, must ~~immediately~~ report the failure to conform or imminent safety hazard to the SAA where the home was shipped, and to HUD. In its report, the IPIA will describe the circumstances under which the home came to be shipped with the failure to conform or imminent safety hazard.

(c) *Retailer’s ongoing reporting requirements.* Where a manufactured home retailer ~~knows or has reason to believe~~ determines that a manufactured home or section thereof contains a failure to conform to any construction and safety standard or an imminent safety hazard, the retailer must report it to the manufacturer, and that failure to conform or imminent safety hazard must be corrected prior to the sale of the home (see subpart F). If the ~~manufacturer-retailer~~ ~~knows or has reason to believe~~ determines that a manufactured home or section thereof contains an imminent safety hazard or serious defect, the retailer must, within five days, also ~~immediately~~ notify the Office of Manufactured Housing Programs at HUD. Where a new manufactured home or

Comment [JN129]: Policy issue – Issue of “immediately.” What does this mean?

Comment [JN130]: Typo – HUD Comment that it should be “if the retailer knows”

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

Formatted: Strikethrough

section thereof has sustained major damage ~~or is no longer so that it is not~~ habitable, a retailer must also notify the IPIA, the SAA where the home is located, and HUD.

Comment [JN131]: Policy issue – doubles up reporting again.

§ 3282.553 Monthly reports.

(a) *Manufacturer's monthly report.* For each month, the manufacturer must submit to the IPIA in each of its manufacturing ~~plants~~ facilities a production report for the preceding month that includes the serial numbers of each manufactured home manufactured at that ~~plant~~ facility and the serial numbers of all homes to be completed on-site in accordance ~~with subpart M of~~ this part. The report must also include: (1) the date of completion of all such manufactured homes labeled in the factory or completed on-site; (2) the State of first location, after leaving the manufacturing ~~plant~~ facility, of such manufactured homes; (3) the name and address of the retailer or distributor to whom each home is to be shipped; (4) the type of unit; and (5) any other information required by this part. The State of first location for the purpose of this report is the State of the premises of the distributor, retailer, or purchaser to whom the manufactured home is first shipped. The report for each month must be submitted by the tenth day of the following month.

Comment [JN132]: Policy issue – subpart M not in effect yet.

(b) *IPIA's monthly report.* Each IPIA must submit by the twentieth day of each month to each SAA, or if no SAA to the Secretary, in each state where it is engaged in the inspection of manufacturing ~~plants~~ facilities, a report of the operations of each manufacturer in that State for the preceding month which includes the following information:

Comment [JN133]: Policy issue – adds new requirement that increases cost.

Comment [JN134]: Policy issue – “potential” is a problem.

~~(1) The number of single and multiple section manufactured homes labeled in the preceding month;~~

~~(2) The number of inspection visits made to each manufacturing ~~plant~~ facility in the preceding month;~~

~~(3) For each manufacturing plant, a description of any potential imminent safety hazards or serious defects identified by the manufacturer or by the IPIA in each manufactured home during the course of its inspections during the previous month, including any homes reported pursuant to § 3282.552, the number and serial numbers of the manufactured homes containing each such identified failure, and any remedial actions taken by the manufacturer to address and rectify those problems;~~

Comment [JN135]: Policy issue – does this mean, for this plant, and this month, we found a problem and corrected it?

Discussion – why report all that? if we are anticipating a plant is going to build in an imminent danger...wonder about the purpose. Also, what is a potential imminent safety hazard? Fixed issues don't need to be sent in.

~~(4) A list of manufactured homes by serial number of any labels that have been removed by the IPIA during the preceding month pursuant to § 3282.362(e)(3)(ii)(G);~~

~~(5) Any increases in inspection made in each manufacturing plant during the preceding month, the reasons for the increased inspections, and any corrective actions planned or taken to address the problem areas identified (see § 3282.362(e)(2));~~

DRAFT

~~3/25/09 HUD DRAFT~~

9-1-09 DRAFT W/MHCC CHANGES AND COMMENTS

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~~(6) Any changes in conditions in the manufacturer's quality assurance manual or conditions under which each manufacturing plant under the IPIA's surveillance is certified and whether a new plant certification is needed to address those changes;~~

~~(7) Final site inspection reports in accordance with subpart M of this part;~~

(82) The manufacturer's report for the preceding month described in subsection (a) of this section must be attached to each such IPIA report as an appendix thereto.

~~(e) DAPIA's monthly report. Each DAPIA must submit by the twentieth day of each month to the Secretary a report containing:~~

Comment [JN136]: Policy issue – new DAPIA report. Not done before.

~~(1) All interpretations of the Manufactured Home Construction and Safety Standards or Model Installation Standards made by the DAPIA during the preceding month;~~

Comment [JN137]: Policy issue – what's an "interpretation?" And why do they have to report them?

~~(2) Any imminent safety hazard or failure to conform to the Standards reported by the DAPIA to PIAs in the preceding month pursuant to § 3282.364;~~

Discussion – That could be a lot of things. That's what a DAPIA is doing every minute of looking at a drawing.

~~(3) Any revocation or amendment of DAPIA approval made during the preceding month in accordance with subpart M of this part.~~

~~(d) SAA's monthly report. Each SAA must submit, prior to the last day of each month, to the Secretary a report covering the preceding month which includes:~~

Comment [JN138]: Policy issue – new SAA reporting requirement. Including a summary of notification or corrective action.

(1) The description and status of all presentations of views, hearings and other legal actions during the preceding month; and

Discussion – Right now don't have to provide a summary or what is carried out by the manufacturer.

(2) The description of the SAA's oversight activities and findings regarding consumer complaints, including a summary of any notification and/or corrective actions carried out by the manufacturer(s) during the preceding month. The IPIA report for the preceding month described in §3282.553, as well as the reports described in §3282.413 and manufacturer reports under §3282.404(d), which were received during the preceding month, are to be attached to each such SAA report as an appendix thereto.