

(b) Each manufactured home must have a hot water supply system that will service only that unit.

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

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AUTHORITY: 15 U.S.C. 2697, 42 U.S.C. 3535(d), 5403, and 5424.

EFFECTIVE DATE NOTE: At 86 FR 2525, Jan. 12, 2021, the authority for part 3282 was revised. At 86 FR 13645, Mar. 10, 2021 a delay published to the above rule making the new effective date July 12, 2021. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 15 U.S.C. 2697, 28 U.S.C. 2461 note, 42 U.S.C. 3535(d), 5403, and 5424.

SOURCE: 41 FR 19852, May 13, 1976, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 3282 appear at 78 FR 60199, Oct. 1, 2013.

Subpart A—General

§ 3282.1 Scope and purpose.

(a) The National Manufactured Housing Construction and Safety Standards Act of 1974 (title VI of Pub. L. 93–383, 88 Stat. 700, 42 U.S.C. 5401, *et seq.*) (hereinafter referred to as the Act), requires the Secretary of the Department of Housing and Urban Development to establish Federal manufactured home construction and safety standards and to issue regulations to carry out the purpose of the Act. The standards promulgated pursuant to the Act appear at part 3280 of chapter XX of this title, and apply to all manufactured homes manufactured for sale to purchasers in the United States on or after the effective date of the standards (June 15, 1976). A manufactured home is manufactured on or after June 15, 1976, if it enters the first stage of production on or after that date.

(b) The Secretary is also authorized by the Act to conduct inspections and investigations necessary to enforce the standards, to determine that a manufactured home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the defect or imminent safety hazard. The purpose of this part is to prescribe procedures for the implementation of these responsibilities of the Secretary under the Act through the use of private and State inspection organizations and cooperation with

State manufactured home agencies. It is the policy of the Department to involve State agencies in the enforcement of the Federal manufactured home standards to the maximum extent possible consistent with the capabilities of such agencies and the public interest. The procedures for investigations and investigational proceedings are set forth in 24 CFR part 3800.

[41 FR 19852, May 13, 1976, as amended at 61 FR 10442, Mar. 13, 1996]

§ 3282.6 Separability of provisions.

If any clause, sentence, paragraph, section or other portion of part 3282 shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 3282.7 Definitions.

The terms *Department*, *HUD*, and *Secretary* are defined in 24 CFR part 5.

(a) *Act* means the National Manufactured Housing Construction and Safety Standards Act of 1974, title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401 *et seq.*)

(b) *Add-on* means any structure (except a structure designed or produced as an integral part of a manufactured home) which, when attached to the basic manufactured home unit, increases the area, either living or storage, of the manufactured home.

(c) *Alteration* means the replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a retailer or distributor but prior to sale by a retailer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in the manufactured home that may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not in-

clude the addition of an appliance requiring *plug-in* to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

(d) *Certification label* see *label*.

(e) *Certification report* means the report prepared by an IPIA (see definition *z*) for each manufactured home manufacturing plant under § 3282.203 in which the IPIA provides a complete description of the initial comprehensive inspection of the plant, an evaluation of the quality assurance program under the approved quality assurance manual, and the identity of the DAPIA (see definition *z*) which approved the designs and quality assurance manual used in the plant. Where appropriate under § 3282.362(b)(5), the certification report may be made by a DAPIA.

(f) *Component* means any part, material or appliance which is built in as an integral part of the manufactured home during the manufacturing process.

(g) *Cost information* means information submitted by a manufacturer under section 607 of the Act with respect to alleged cost increases resulting from action by the Secretary, in such form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(h) *Date of manufacture* means the date on which the label required by § 3282.205(c) is affixed to the manufactured home.

(i) [Reserved]

(j) *Defect* means a failure to comply with an applicable Federal manufactured home safety and construction standard that renders the manufactured home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home. See related definitions of *imminent safety hazard* (definition *q*), *noncompliance* (definition *x*), and *serious defect* (definition *ff*).

(k) *Design* means drawings, specifications, sketches and the related engineering calculations, tests and data in support of the configurations, structures and systems to be incorporated in manufactured homes manufactured in a plant.

(l) [Reserved]

(m) *Distributor* means any person engaged in the sale and distribution of manufactured homes for resale.

(n) *Failure to conform* means an imminent safety hazard related to the standards, a serious defect, defect, or noncompliance and is used as a substitute for all of those terms.

(o) *Finished good* has the meaning provided in 40 CFR 770.3.

(p) *Imminent safety hazard* means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable Federal manufactured home construction or safety standard. See related definitions of *defect* (definition j), *noncompliance* (paragraph x) and *serious defect* (paragraph ff).

(q) *Joint monitoring team* means a monitoring inspection team composed of personnel provided by the various State Administrative Agencies, or by HUD or its contract agent, operating under a contract with HUD for the purpose of monitoring, or otherwise aiding in the enforcement of the Federal standards.

(r) *Label* or *certification label* means the approved form of certification by the manufacturer that, under § 3282.362(c)(2)(i), is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States.

(s) (Same as § 3280.2(a)(13).)

(t) *Manufacturer* means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale.

(u) (Same as § 3280.2(a)(16).)

(v) *Manufactured home construction* means all activities relating to the assembly and manufacture of a manufactured home including, but not limited to, those relating to durability, quality, and safety, but does not include

those activities regulated under the installation standards in this chapter.

(w) *Manufactured home safety* means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

(x) *Noncompliance* means a failure of a manufactured home to comply with a Federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard. See related definitions or *defect* (definition j), *imminent safety hazard* (definition q), and *serious defect* (definition ff).

(y) *Owner* means any person purchasing a manufactured home from any other person after the first purchase of the manufactured home, in good faith, for purposes other than resale.

(z) *Primary Inspection Agency* (PIA) means a State/or private organization that has been accepted by the Secretary in accordance with the requirement of subpart H of this part. There are two types of PIA:

(1) Design Approval PIA (DAPIA), which evaluates and approves or disapproves manufactured home designs and quality control procedures, and

(2) Production Inspection PIA (IPIA), which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and provides ongoing surveillance of the manufacturing process. Organizations may act as one or both of these types.

(aa) *Purchaser* means the first person purchasing a manufactured home in good faith for purposes other than resale.

(bb) *Quality Assurance Manual* means a manual, prepared by each manufacturer for its manufacturing plants and approved by a DAPIA which contains: a statement of the manufacturer's quality assurance program, a chart of the organization showing, by position, all personnel accountable for quality assurance, a list of tests and test equipment required, a station-by-station description of the manufacturing process,

a list of inspections required at each station, and a list by title of personnel in the manufacturer's organization to be held responsible for each inspection. Where necessary, the quality assurance manual used in a particular plant shall contain information specific to that plant.

(cc) *To red tag* means to affix a notice to a manufactured home which has been found to contain an imminent safety hazard or a failure to conform with any applicable standard. A *red tag* is the notice so affixed to the manufactured home.

(dd) *Retailer* means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

(ee) *Secretary's agent* means a party operating as an independent contractor under a contract with HUD.

(ff) *Serious defect* means any failure to comply with an applicable Federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

(gg) *Standards* means the Federal manufactured home construction and safety standards promulgated under section 604 of the Act, 42 U.S.C. 5403, as part 3280 of these regulations.

(hh) *State* includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(ii) *State Administrative Agency (SAA)* means an agency of a State which has been approved or conditionally approved to carry out the State plan for enforcement of the standards pursuant to section 623 of the Act, 42 U.S.C. 5422, and subpart G of this part.

(jj) *State plan application* means the application of any State organization which is submitted to the Secretary for approval as a State Administrative Agency under subpart G.

(kk) *Substantial completion*. A manufactured home is substantially completed if all aspects of construction

that can be finished in the manufacturer's plant are completed, except as provided in § 3282.603.

(ll) *System* means a set or arrangement of materials or components related or connected as to form an operating entity, i.e., heating, ventilating and air-conditioning systems, evaporative coolers.

(mm) *United States District Courts* means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(nn) (Same as § 3280.2(a)(22).)

[41 FR 19852, May 13, 1976, as amended at 41 FR 24971, June 21, 1976; 47 FR 28093, June 29, 1982; 61 FR 5216, Feb. 9, 1996; 61 FR 10859, Mar. 15, 1996; 78 FR 60199, Oct. 1, 2013; 80 FR 53727, Sept. 8, 2015; 85 FR 5566, Jan. 31, 2020]

EFFECTIVE DATE NOTE: At 86 FR 2525, Jan. 12, 2021, § 3282.7 was amended by redesignating paragraphs (d) through (nn) as (e) through (oo) and adding a new paragraph (d). At 86 FR 13645, Mar. 10, 2021 a delay published to the above rule making the new effective date July 12, 2021. For the convenience of the user, the added text is set forth as follows:

§ 3282.7 Definitions.

* * * * *

(d) *Attached accessory building or structure* means any awning, cabana, deck, ramada, storage cabinet, carport, windbreak, garage, or porch for which the attachment of such is designed by the home manufacturer to be structurally supported by the manufactured home.

§ 3282.8 Applicability.

(a) *Manufactured homes*. This part applies to all manufactured homes that enter the first stage of production on or after June 15, 1976, and to all manufactured homes that enter the first stage of production before June 15, 1976, to which labels are applied under § 3282.205(d).

(b) *States*. This part applies to States that desire to assume responsibility under the Federal manufactured home construction and safety standards enforcement program. It includes requirements which must be met in order for State agencies to be approved by the Secretary under section 623(c) of

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the Act, 42 U.S.C. 5422(c). It also includes requirements for States wishing to act as primary inspection agencies, as defined in §3282.7, or to participate in monitoring activities under §3282.308.

(c) *Primary inspection and engineering organizations.* This part applies to each private inspection and engineering organization that wishes to qualify as a primary inspection agency under subpart H.

(d) *Manufactured home manufacturers.* This part applies to all manufacturers producing manufactured homes for sale in the United States. It includes:

(1) Inspection procedures to be carried out in the manufacturing plants.

(2) Procedures by which a manufacturer obtains approval of manufactured home designs.

(3) Procedures by which a manufacturer obtains approval of manufacturing quality control and assurance programs.

(4) Procedures by which a manufacturer may obtain production inspections and certification labels for its manufactured homes.

(e) *Manufactured home retailers and distributors.* This part applies to any person selling, leasing, or distributing new manufactured homes for use in the United States. It includes prohibitions of the sale of new manufactured homes to which labels have not been affixed pursuant to subpart H of these regulations or that have been altered, damaged, or otherwise caused not to be in compliance with the Federal standards.

(f) *Purchasers, owners and consumers.* This part applies to purchasers, owners and consumers of manufactured homes in that it sets out procedures to be followed when purchasers, owners and consumers complain to manufacturers, States, the Secretary or others concerning problems in manufactured homes for which remedies are provided under the Act.

(g) [Reserved]

(h) *Imported manufactured homes.* Imported manufactured homes are covered by the regulations except as modified by regulations promulgated jointly by the Secretary and the Secretary of the Treasury.

(i) *Export manufactured homes.* Manufactured Homes intended solely for ex-

port are not governed by this part or by part 3280 of this title if a label or tag stating that the manufactured home is intended solely for export is placed on the manufactured home or the outside of the container, if any, in which it is to be exported. However, any manufactured home so tagged or labeled that is not exported but is sold to a purchaser in the United States is subject to this part and part 3280 of this title.

(j) *Add-on.* An add-on added by the retailer or some other party not the manufacturer (except where the manufacturer acts as a retailer) as part of a simultaneous transaction involving the sale of a new manufactured home, is not governed by the standards and is not subject to these regulations. However, the addition of the add-on must not affect the ability of the basic manufactured home to comply with the standards. If the addition of an add-on causes the basic manufactured home to fail to conform to the standards, sale, lease, and offer for sale or lease of the home is prohibited until the manufactured home is brought into conformance with the standards. While the standards do not govern add-ons, the Secretary has the authority to promulgate standards for add-ons and may do so in the future.

(k) A structure (including an expandable room, tip-out, or tag-along unit) which is designed and produced as an integral part of a manufactured home when assembled on site, is governed by the standards and these regulations regardless of the dimensions of such structure.

(1) *Multifamily homes.* Mobile homes designed and manufactured with more than one separate living unit are not covered by the standards and these regulations.

[41 FR 19852, May 13, 1976, as amended at 41 FR 24970, June 21, 1976; 42 FR 35013, July 7, 1977; 44 FR 68733, Nov. 29, 1979; 47 FR 28093, June 29, 1982; 80 FR 53727, Sept. 8, 2015; 83 FR 57688, Nov. 16, 2018]

EFFECTIVE DATE NOTE: At 86 FR 2526, Jan. 12, 2021, §3282.8 was amended by revising paragraph (j). At 86 FR 13645, Mar. 10, 2021 a delay published to the above rule making the new effective date July 12, 2021. For the convenience of the user, the revised text is set forth as follows:

§ 3282.8 Applicability.

* * * * *

(j) *Add-on.* An add-on including an attached accessory building or structure added by the retailer or some party other than the manufacturer (except where the manufacturer acts as a retailer) as part of a simultaneous transaction involving the sale of a new manufactured home, is not governed by the standards and is not subject to the regulations in this part except as identified in this section and part 3280 of this chapter. The addition of any add-on or attached accessory building or structure must not affect the ability of the manufactured home to comply with the standards. If the addition of an add-on or attached accessory building or structure causes the manufactured home to fail to conform to the standards, then sale, lease, and offer for sale or lease of the home are prohibited until the manufactured home is brought into conformance with the standards.

(1) With the exception of attached accessory buildings or structures, add-ons must be structurally independent and any attachment between the home and the add-on must be for weatherproofing or cosmetic purposes only.

(2) If an attached accessory building or structure is not structurally independent all the following must be met for attachment to the manufactured home:

(i) Manufactured home must be designed and constructed to accommodate all imposed loads, including any loads imposed on the home by the attached accessory building or structure, in accordance with part 3280 of this chapter.

(ii) Data plate must indicate that home has been designed to accommodate the additional loads imposed by the attachment of the attached accessory buildings or structures and must identify the design loads.

(iii) Installation instructions shall be provided by the home manufacturer which identifies acceptable attachment locations, indicates design limitations for the attached accessory building or structure including acceptable live and dead loads for which the home has been designed to accommodate and provide support and anchorage designs as necessary to transfer all imposed loads to the ground in accordance with part 3285 of this chapter.

§ 3282.9 Computation of time.

(a) In computing any period of time prescribed by the regulations in this part, refer to §26.16(a) of this title.

(b) Extensions of any of the time periods set out in these regulations may be granted by the Secretary or, as appropriate, by a State Administrative

Agency, upon a showing of good cause by the party governed by the time period.

[42 FR 2580, Jan. 12, 1977, as amended at 61 FR 10859, Mar. 15, 1996]

§ 3282.10 Civil and criminal penalties.

Failure to comply with this part may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410. The maximum amount of penalties imposed under section 611 of the Act shall be \$2,976 for each violation, up to a maximum of \$3,719,428 for any related series of violations occurring within one year from the date of the first violation.

[85 FR 13045, Mar. 6, 2020]

EFFECTIVE DATE NOTE: At 86 FR 14373, Mar. 16, 2021, §3282.10 was revised, effective Apr. 15, 2021. For the convenience of the user, the revised text is set forth as follows:

§ 3282.10 Civil and criminal penalties.

Failure to comply with these regulations may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410. The maximum amount of penalties imposed under section 611 of the Act shall be \$3,011 for each violation, up to a maximum of \$3,763,392 for any related series of violations occurring within one year from the date of the first violation.

§ 3282.11 Preemption and reciprocity.

(a) No State manufactured home standard regarding manufactured home construction and safety which covers aspects of the manufactured home governed by the Federal standards shall be established or continue in effect with respect to manufactured homes subject to the Federal standards and these regulations unless it is identical to the Federal standards.

(b) No State may require, as a condition of entry into or sale in the State, a manufactured home certified (by the application of the label required by §3282.362(c)(2)(i)) as in conformance with the Federal standards to be subject to State inspection to determine compliance with any standard covering any aspect of the manufactured home covered by the Federal standards. Nor may any State require that a State label be placed on the manufactured home certifying conformance to the

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Federal standard or an identical standard. Certain actions that States are permitted to take are set out in §3282.303.

(c) States may participate in the enforcement of the Federal standards enforcement program under these regulations either as SAAs or PIAs or both. These regulations establish the exclusive system for enforcement of the Federal standards. No State may establish or keep in effect through a building code enforcement system or otherwise, procedures or requirements which constitute systems for enforcement of the Federal standards or of identical State standards which are outside the system established in these regulations or which go beyond this system to require remedial actions which are not required by the Act and these regulations. A State may establish or continue in force consumer protections, such as warranty or warranty performance requirements, which respond to individual consumer complaints and so do not constitute systems of enforcement of the Federal standards, regardless of whether the State qualifies as an SAA or PIA.

(d) No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the Federal superintendence of the manufactured home industry as established by the Act.

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

§ 3282.12 Excluded structures—modular homes.

(a) The purpose of this section is to provide the certification procedure authorized by section 604(h) of the National Manufactured Housing Construction and Safety Standards Act under which modular homes may be excluded from coverage of the Act if the manufacturer of the structure elects to have them excluded. If a manufacturer wishes to construct a structure that is both

a manufactured home and a modular home, the manufacturer need not make the certification provided for by this section and may meet both the Federal manufactured home requirements and any modular housing requirements. When the certification is not made, all provisions of the Federal requirements shall be met.

(b) Any structure that meets the definition of *manufactured home* at 24 CFR 3282.7(u) is excluded from the coverage of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 *et seq.*, if the manufacturer certifies as prescribed in paragraph (c) of this section that:

(1) The structure is designed only for erection or installation on a site-built permanent foundation;

(i) A structure meets this criterion if all written materials and communications relating to installation of the structure, including but not limited to designs, drawings, and installation or erection instructions, indicate that the structure is to be installed on a permanent foundation.

(ii) A site-built permanent foundation is a system of supports, including piers, either partially or entirely below grade which is:

(A) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure,

(B) Placed at an adequate depth below grade to prevent frost damage, and

(C) Constructed of concrete, metal, treated lumber or wood, or grouted masonry; and

(2) The structure is not designed to be moved once erected or installed on a site-built permanent foundation;

(i) A structure meets this criterion if all written materials and communications relating to erection or installation of the structure, including but not limited to designs, drawings, calculations, and installation or erection instructions, indicate that the structure is not intended to be moved after it is erected or installed and if the towing hitch or running gear, which includes axles, brakes, wheels and other parts of the chassis that operate only during transportation, are removable and designed to be removed prior to erection

or installation on a site-built permanent foundation; and

(3) The structure is designed and manufactured to comply with the currently effective version of one of the following:

(i) One of the following nationally recognized building codes:

(A) That published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA) and made up of the following:

- (1) BOCA Basic Building Code,
- (2) BOCA Basic Industrialized Dwelling Code,
- (3) BOCA Basic Plumbing Code,
- (4) BOCA Basic Mechanical Code, and
- (5) National Electrical Code, or

(B) That published by the Southern Building Code Congress (SBCC) and the NFPA and made up of the following:

- (1) Standard Building Code,
- (2) Standard Gas Code,
- (3) Standard Mechanical Code,
- (4) Standard Plumbing Code, and
- (5) National Electrical Code, or

(C) That published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAPMO), and the NFPA and made up of the following:

- (1) Uniform Building Code,
- (2) Uniform Mechanical Code,
- (3) Uniform Plumbing Code, and
- (4) National Electrical Code or

(D) The codes included in paragraphs (b)(3)(i)(A), (B), or (C) in connection with the One- and Two-Family Dwelling Code, or

(E) Any combination of the codes included in paragraphs (b)(3)(i)(A), (B), (C), and (D), that is approved by the Secretary, including combinations using the National Standard Plumbing Code published by the National Association of Plumbing, Heating and Cooling Contractors (PHCC), or

(F) Any other building code accepted by the Secretary as a nationally recognized model building code, or

(ii) Any local code or State or local modular building code accepted as generally equivalent to the codes included under paragraph (b)(3)(i), (the Secretary will consider the manufacturer's certification under paragraph (c) of this section to constitute a certifi-

cation that the code to which the structure is built is generally equivalent to the referenced codes. This certification of equivalency is subject to the provisions of paragraph (f) of this section) or

(iii) The minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

(4) To the manufacturer's knowledge, the structure is not intended to be used other than on a site-built permanent foundation.

(c) When a manufacturer makes a certification provided for under paragraph (b) of this section, the certification shall state as follows:

The manufacturer of this structure, Name _____ Address _____ (location where structure was manufactured).

Certifies that this structure (Ser. No. _____) is not a manufactured home subject to the provisions of the National Manufactured Housing Construction and Safety Standards Act and is—

(1) designed only for erection or installation on a site-built permanent foundation,

(2) not designed to be moved once so erected or installed,

(3) designed and manufactured to comply with _____ (Here state which code included in paragraph (b)(3) of this section has been followed), and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

(d) This certification shall be affixed in a permanent manner near the electrical panel, on the inside of a kitchen cabinet door, or in any other readily accessible and visible location.

(e) As part of this certification, the manufacturer shall identify each certified structure by a permanent serial number placed on the structure during the first stage of production. If the manufacturer also manufactures manufactured homes that are certified under §§ 3282.205 and 3282.362(c), the series of serial numbers for structures certified under this section shall be distinguishable on the structures and in the manufacturer's records from the series of serial numbers for the manufactured homes that are certified under §§ 3282.205 and 3282.362(c).

(1) If a manufacturer wishes to certify a structure as a manufactured

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home under §§ 3282.205 and 3282.362(c) after having applied a serial number identifying it as exempted under this section, the manufacturer may do so only with the written consent of the Production Inspection Primary Inspection Agency (IPIA) after thorough inspection of the structure by the IPIA at at least one stage of production and such removal or equipment, components, or materials as the IPIA may require to perform inspections to assure that the structure conforms to the Federal manufactured home standards. The manufacturer shall remove the original serial number and add the serial number required by § 3280.6.

(2) A manufacturer may not certify a structure under this section after having applied the manufactured home serial number under § 3280.6.

(f) All certifications made under this section are subject to investigation by the Secretary to determine their accuracy. If a certification is false or inaccurate, the certification for purposes of this section is invalid and the structures that have been or may be the subject of the certification are not excluded from the coverage of the Act, the Federal Manufactured Home Construction and Safety Standards, or these Regulations.

(1) If the Secretary has information that a certification may be false or inaccurate, the manufacturer will be given written notice of the nature of this information by certified mail and the procedure of this subparagraph will be followed.

(i) The manufacturer must investigate this matter and report its findings in writing as to the validity of this information to the Secretary within 15 days from the receipt of the Secretary's notice.

(ii) If a written report is received within the time prescribed in paragraph (f)(1)(i) of this section, the Secretary will review this report before determining whether a certification is false or inaccurate. If a report is not received within 15 days from the receipt of the Secretary's notice, the Secretary will make the determination on the basis of the information presented.

(iii) If the Secretary determines that a certification is false or inaccurate,

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the manufacturer will be given written notice and the reasons for this determination by certified mail.

(2) The Secretary may seek civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410, if the party in question in the exercise of due care has reason to know that such certification is false or misleading as to any material fact.

[44 FR 68733, Nov. 29, 1979, as amended at 49 FR 10666, Mar. 22, 1984]

§ 3282.13 Voluntary certification.

(a) The purpose of this section is to provide a procedure for voluntary certification of non-conforming manufactured homes as required by 42 U.S.C. 5402(6) as amended by section 308(d)(B) of the Housing and Community Development Act of 1980.

(b) Structures which meet all of the requirements of a *manufactured home* as set out in § 3282.7(u), except the size requirements, shall be *manufactured homes* if the manufacturer files with the Secretary a certification in the following form:

[Name of manufacturer and address where structures are to be manufactured] certifies that it intends to manufacture structures that meet all of the requirements of manufactured homes set forth at 42 U.S.C. 5402(6) except the size requirements. Such structures are to be treated as manufactured homes for the purposes of the National Manufactured Housing Construction and Safety Standards Act of 1974 and the regulations promulgated pursuant thereto. Such structures will be built in conformance with the Standards. [Name of manufacturer] further certifies that if, at any time it manufactures structures which are not manufactured homes, it will identify each such structure by a permanent serial number placed on the structure during the first stage of production and that the series of serial numbers for such structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes.

(c) Whenever a manufacturer which has filed a certification pursuant to § 3282.13(b) produces structures which are not manufactured homes, it must identify each such structure by placing a permanent serial number on the structure during the first stage of production. The series of serial numbers

placed on these structures shall be distinguishable on the structure and in the manufacturer's records from the series of serial numbers used for manufactured homes.

(d) A manufacturer may certify a structure as a manufactured home after having applied a serial number identifying it as a structure which is not a manufactured home. To do so, the manufacturer must secure the written consent of the IPIA. This consent may only be given after a DAPIA has approved the manufacturer's design and quality assistance manual in accordance with § 3282.361, and after the IPIA has thoroughly inspected the structure in at least one stage of production and after such removal of equipment, components or materials as the IPIA may require to assure that the structure conforms to the standards. After certification as a manufactured home has been approved, the manufacturer shall remove the original serial number and add the serial number required by § 3280.6.

(e) Once a manufacturer has certified under § 3282.13(b) that it intends to build structures which are manufactured homes in all respects except size, the manufacturer must then, with respect to those structures, comply with all of the requirements of the Act and its regulations. The structures may not thereafter be exempted under any other section of these regulations.

[47 FR 28093, June 29, 1982]

§ 3282.14 Alternative construction of manufactured homes.

(a) *Policy.* In order to promote the purposes of the Act, the Department will permit the sale or lease of one or more manufactured homes not in compliance with the Standards under circumstances wherein no affirmative action is needed to protect the public interest. The Department encourages innovation and the use of new technology in manufactured homes. Accordingly, HUD will permit manufacturers to utilize new designs or techniques not in compliance with the Standards in cases:

(1) Where a manufacturer proposes to utilize construction that would be prohibited by the Standards;

(2) Where such construction would provide performance that is equivalent to or superior to that required by the Standards; and

(3) Where (i) compliance with the Standards would be unreasonable because of the circumstances of the particular case, or (ii) the alternative construction would be for purposes of research, testing or development of new techniques or designs. If a request for alternative construction is submitted and the facts are consistent with these principles, the Secretary may issue a letter under paragraph (c) of this section stating that no action will be taken under the Act based upon specific failures to conform to the Standards or these regulations, provided that certain conditions are met. The issuance of a letter under paragraph (c) of this section will not affect any right that any purchaser may have under the Act or other applicable law and will not preclude any further agency action that may become necessary.

(b) *Request for alternative construction.* A manufacturer may submit a request for alternative construction of a manufactured home. The request should be sent to the U.S. Department of Housing and Urban Development, Manufactured Housing Standards Division, 451 Seventh Street, SW., Washington, DC 20410. The request must include:

(1) A copy of the manufactured design or plan for each nonconforming model which a manufacturer plans to build;

(2) An explanation of the manner in which the design fails to conform with the Standards, including a list of the specific standards involved;

(3) An explanation of how the design will result in homes that provide the same level of performance, quality, durability and safety as would be provided under the Standards;

(4) A copy of data adequate to support the request, including applicable test data, engineering calculations or certifications from nationally recognized laboratories;

(5) An estimate of the maximum number of manufactured home units affected and the location, if known, to which the units will be shipped;

(6) An indication of the period of time during which the manufacturer

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proposes to engage in the manufacture, sale or lease of the nonconforming homes;

(7) A copy of the proposed notice to be provided to home purchasers;

(8) A list of the names and addresses of any retailers that would be selling the nonconforming homes; and

(9) A letter from the manufacturer's DAPIA indicating that the design(s) to which any nonconforming homes would be built meet the Standards in all other respects.

(c) *Issuance of the letter by the Secretary*—(1) *Contents of the letter.* If the Secretary issues a letter in response to a request for alternative construction, the letter shall include the specific standards affected, an explanation of the proposed activity or design, an explanation of how the request is consistent with the objectives of the Act, and any conditions that the manufacturer must meet.

(2) *Letter sent to IPIA, DAPIA and SAA.* The Secretary shall forward a copy of the letter to the manufacturer's IPIA and DAPIA along with a letter authorizing the DAPIA to approve plans containing the alternative construction, and authorizing the IPIA to permit use of the alternative construction, provided that the conditions set forth in the letter are met. The Secretary shall also forward a copy of the letter to the SAAs in the State of manufacture and the State(s) in which the homes are to be located, if known.

(3) *Alternative construction in additional models.* In cases where the Secretary grants a letter under this paragraph that is not model-specific, the Secretary may permit the manufacturer to include the alternative construction in additional models. In such cases, the DAPIA shall notify the Department of additional models that incorporate the alternative construction.

(d) *Revocation.* The Secretary may revoke or amend a letter issued under paragraph (c) of this section at any time. Such revocation or amendment will be prospective only. Where manufacturers have requested alternative construction for research, testing or development such alternative construction may not achieve the anticipated results. Therefore, the Secretary may require a manufacturer to bring

those homes into compliance with the standards if, after the alternative construction has been in use for a period of time specified by the Secretary, these homes are not, in the Secretary's judgment, providing the levels of safety, quality and durability which would have been provided had the homes been built in compliance with the Standards.

(e) *Notice to prospective purchasers.* Manufacturers receiving letters under paragraph (c) of this section shall provide notice to prospective purchasers that the home does not conform to the Standards. Such notice shall be delivered to each prospective purchase before he or she enters into an agreement to purchase the home. The notice shall be in the following form or in such other form as may be approved by the Secretary:

NOTICE TO PURCHASERS

The Department of Housing and Urban Development has issued a letter to (Name of Manufacturer) concerning the homes in (location if known). As designed, the homes do not meet Federal Manufactured Home Construction and Safety Standards regarding (brief statement of manufacturer's non-conformance).

HUD has evaluated the alternative construction and believes that it provides an equivalent level of quality, durability and safety to that provided by the Standards.

For further information about the specific Federal Standards involved, a copy of the letter issued pursuant to 24 CFR 3282.14(c) is available from this retailer or manufacturer upon request.

(f) *Serial numbers of homes constructed using alternative construction.* Manufacturers shall provide the Department with the serial numbers assigned to each home produced in conformance with the letter issued under paragraph (c) of this section within 90 days of their date of manufacture. Each serial number shall include the letters "AC" to indicate that the homes was produced under alternative construction procedures.

[49 FR 1967, Jan. 16, 1984]

EFFECTIVE DATE NOTE: At 86 FR 2526, Jan. 12, 2021, §3282.14 was amended by revising (a) introductory text. At 86 FR 13645, Mar. 10, 2021 a delay published to the above rule making the new effective date July 12, 2021. For

the convenience of the user, the revised text is set forth as follows:

§ 3282.14 Alternative construction of manufactured homes.

(a) *Policy.* In order to promote the purposes of the Act, the Department will permit the sale or lease of one or more manufactured homes not in compliance with the standards under circumstances wherein no affirmative action is needed to protect the public interest. An add-on, including an attached accessory building or structure which does not affect the performance and ability of the manufactured home to comply with the standards in accordance with § 3282.8(j), is not governed by this section. The Department encourages innovation and the use of new technology in manufactured homes. Accordingly, HUD will permit manufacturers to utilize new designs or techniques not in compliance with the standards in cases:

§ 3282.15 Exemption for recreational vehicles.

(a) *Exemption.* A recreational vehicle that meets the requirements of this section is exempt from 24 CFR parts 3280 and 3282.

(b) *Definition.* A recreational vehicle is:

(1) A vehicle or vehicular structure not certified as a manufactured home;

(2) Designed only for recreational use and not as a primary residence or for permanent occupancy; and is either:

(i) Built and certified in accordance with either NFPA 1192 (incorporated by reference, see § 3282.16) or ANSI A119.5 (incorporated by reference, see § 3282.16) as provided by paragraph (c) of this section; or

(ii) Any vehicle which is self-propelled.

(c) *Notice and certification requirements.* In order for the exemption to apply to an ANSI A119.5–15 certified recreational vehicle, a Manufacturer's Notice must be delivered to the consumer prior to the completion of the sales transaction. The Manufacturer's Notice must also be prominently displayed in a temporary manner in the kitchen (*i.e.*, countertop or exposed cabinet face). The Manufacturer's Notice must meet the following requirements:

(1) *Title of Manufacturer's Notice.* The title of the Manufacturer's Notice shall be "*****MANUFACTURER'S NOTICE*****" which shall be legible

and typed using bold letters at least 1 inch in size.

(2) *Content of Notice.* The content of the Manufacturer's Notice text shall be as follows:

The Manufacturer of this unit certifies that it is a Park Model Recreational Vehicle designed only for recreational use, and not for use as a primary residence or for permanent occupancy. The manufacturer of this unit further certifies that this unit has been built in accordance with the ANSI A119.5–15 consensus standard for Park Model Recreational Vehicles.

(3) *Text of Notice.* The text of the Manufacturer's Notice, aside from the Manufacturer's Notice's title shall be legible and typed using letters at least ½ inch in size.

(4) *Removal of Manufacturer's Notice.* The Manufacturer's Notice shall not be removed by any party until the entire sales transaction has been completed.

(5) *Completion of sales transaction.* A sales transaction with a Park Model Recreational Vehicle purchaser is considered completed when all the goods and services that the dealer agreed to provide at the time the contract was formed have been provided. Completion of a retail sale will be at the time the dealer completes installation of the Park Model Recreational Vehicle, if the dealer has agreed to provide the installation, or at the time the dealer delivers the recreational vehicle to a transporter, if the dealer has not agreed to transport or install the Park Model Recreational Vehicle. The sale is also complete upon delivery to the site if the dealer has not agreed to provide installation as completion of sale.

[83 FR 57688, Nov. 16, 2018]

§ 3282.16 Incorporation by reference

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Department must publish a document in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at the Office of Manufactured Housing Programs, Manufactured Housing and Construction

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Standards Division, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room B-133, Washington, DC 20410, 202-402-5216, and is available from the sources listed below. Copies of incorporated standards that are not available from their producer organizations may be obtained from the Office of Manufactured Housing Programs. These standards are also available for inspection at the National Archives and Records Administration (NARA). For more information on the availability of this material at NARA, call 202-741-6030 or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, telephone number 800-344-3555, website <http://www.nfpa.org>.

(1) NFPA 1192, Standard on Recreational Vehicles, 2015 Edition, issued August 14, 2014, IBR approved for § 3282.15(b).

(2) [Reserved]

(c) Recreational Vehicle Industry Association (RVIA), 1896 Preston White Drive, Reston, VA 20191, telephone number 703-620-6003, website <http://www.rvia.org>.

(1) ANSI A119.5: Park Model Recreational Vehicle Standard, 2015 Edition, ANSI-approved April 7, 2015, IBR approved for § 3282.15(b).

(2) [Reserved]

[83 FR 57688, Nov. 16, 2018]

Subpart B—Formal Procedures

§ 3282.51 Scope.

This subpart contains rules of procedure generally applicable to the transaction of official business under the National Manufactured Housing Construction and Safety Standards Act, including the rules governing public availability of information.

§ 3282.52 Address of communications.

Unless otherwise specified, communications shall be addressed to the Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban De-

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velopment, 451 7th Street SW., Washington, DC 20410.

[78 FR 60199, Oct. 1, 2013]

§ 3282.53 Service of process on foreign manufacturers and importers.

The designation of an agent required by section 612(e) of the Act, 42 U.S.C. 5411(e), shall be in writing, dated, and signed by the manufacturer and the designated agent.

[61 FR 10860, Mar. 15, 1996]

§ 3282.54 Public information.

(a) *General.* Subject to the provisions of 24 CFR part 15 covering the production or disclosure of material or information and the provisions of 24 CFR part 16 at 40 FR 39729 relating to the Privacy Act, and except as otherwise provided by paragraphs (b), (c), (d), and (e) of this section, the Secretary may make available to the public:

(1) Any information which may indicate the existence of an imminent safety hazard, and

(2) Any information which may indicate the failure of a manufactured home to comply with applicable manufactured home construction and safety standards, and

(3) Such other information as the Secretary determines is necessary to carry out the Secretary's functions under the Act.

(b) *Protected information.* Data and information submitted or otherwise provided to the Secretary or an agent of the Secretary or a PIA or SAA which fall within the definitions of a trade secret or confidential commercial or financial information are exempt from disclosure under this section, only if the party submitting or providing the information so requests under paragraph (c) of this section. However, the Secretary may disclose such information to any person requesting it after deletion of the portions which are exempt, or in such combined or summary form as does not disclose the portions which are exempt from disclosure or in its entirety in accordance with section 614 of the Act, U.S.C. 5413.

(c) *Obtaining exemption.* Any party submitting any information to the Secretary in any form under this part, or otherwise in relation to the program

established by the Act shall, if the party desires the information to be exempt from disclosure, at the time of submittal of the information or at any time thereafter, request that the information or any part thereof be protected from disclosure. The request for nondisclosure shall include the basis for the request under the Act or other authority and complete justification supporting the claim that the material should be exempt from disclosure. The request should also include a statement of the information in such combined or summary form that alleged trade secrets or other protected information and the identity of the submitting party would not be disclosed. This request need not be made with respect to information which was submitted to the Secretary, an SAA or a PIA prior to the effective date of these regulations.

(d) *Request for information from PIAs or SAAs.* Whenever a PIA or SAA receives requests for disclosure of information, it shall disclose the information unless the party from which the information was originally obtained has submitted to the PIA or SAA a request that the information not be disclosed under paragraph (c) of this section, except that the PIA or SAA shall be governed by the provisions of 24 CFR part 16 (40 FR 39729) relating to the Privacy Act which may limit the disclosure of information. If a request for nondisclosure under paragraph (c) of this section has been received with respect to information whose disclosure is requested, the PIA or SAA shall refer the matter to the Secretary within 5 days of the request for disclosure. If a PIA or SAA receives a request for disclosure of information related to this program, which information was submitted to the PIA or SAA prior to the effective date of these regulations, the PIA or SAA shall refer the request for nondisclosure and required information to the Secretary.

[41 FR 19852, May 13, 1976, as amended at 61 FR 10860, Mar. 15, 1996]

Subpart C—Rules and Rulemaking Procedures

§ 3282.101 Generally.

Procedures that apply to the formulation, issuance, amendment, and revocation of rules pursuant to the Act are governed by the Act, the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and part 10 of this title, except that the Secretary shall respond to a petition for rulemaking by an interested party within 180 days of receipt of the petition.

[61 FR 10860, Mar. 15, 1996]

§ 3282.111 Petitions for reconsideration of final rules.

(a) *Definition.* A petition for reconsideration of a final rule issued by the Secretary is a request in writing from any interested person which must be received not later than 60 days after publication of the rule in the FEDERAL REGISTER. The petition shall state that it is a petition for reconsideration of a final rule, and shall contain an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. If the petitioner requests the consideration of additional facts, the petitioner shall state the reason they were not presented to be treated as petitions for rulemaking.

(b) *Proceedings on petitions for reconsideration.* The Secretary may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Secretary may issue a final decision on reconsideration without further proceeding, or may provide such opportunity to submit comments or information and data as the Secretary deems appropriate.

(c) Unless the Secretary determines otherwise, the filing of a petition under this section does not stay the effectiveness of the rule in question.

(d) Any party seeking to challenge any rule or regulation issued under the Act, except orders issued under section 604 42 U.S.C. 5403, if the challenge is brought before the expiration of the 60 day period set out in paragraph (a) of this section, shall file a timely petition for reconsideration under this section prior to seeking any other remedy.

§ 3282.113 Interpretative bulletins.

When appropriate, the Secretary shall issue interpretative bulletins interpreting the standards under the authority of § 3280.9 of this chapter or interpreting the provisions of this part. Issuance of interpretative bulletins shall be treated as rulemaking under this subpart C unless the Secretary deems such treatment not to be in the public interest and the interpretation is not otherwise required to be treated as rulemaking. All interpretative bulletins shall be indexed and made available to the public at the Manufactured Housing Standards Division and a copy of the index shall be published periodically in the FEDERAL REGISTER.

[61 FR 10860, Mar. 15, 1996]

Subpart D—Informal and Formal Presentations of Views, Hearings and Investigations

§ 3282.151 Applicability and scope.

(a) This subpart sets out procedures to be followed when an opportunity to present views provided for in the Act is requested by an appropriate party. Section 3282.152 provides for two types of procedures that may be followed, one informal and nonadversary, and one more formal and adversary. Section 3282.152 also sets out criteria to govern which type of procedure will be followed in particular cases.

(b) The procedures of § 3282.152 also apply to:

(1) Proceedings held by the Secretary whenever the suspension or disqualification of a primary inspection agency, which has been granted final approval, is recommended under § 3282.356 of these regulations, and

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under § 3282.361 that a manufactured home design does or does not conform to the standards or that a quality assurance manual is or is not adequate with a decision by an IPIA to red tag or not to red tag or to provide or not to provide a certification label for a manufactured home under § 3282.362 when the IPIA believes that the manufactured home does or does not conform to the standards.

(c) The procedures set out in § 3282.152 shall also be followed whenever State Administrative Agencies hold Formal or Informal Presentations of Views under § 3282.309.

(d) To the extent that these regulations provide for Formal or Informal Presentations of Views for parties that would otherwise qualify for hearings under 2 CFR part 2424, the procedures of 2 CFR part 2424 shall not be available and shall not apply.

[41 FR 19852, May 13, 1976, as amended at 51 FR 34467, Sept. 29, 1986; 61 FR 10442, Mar. 13, 1996; 72 FR 73497, Dec. 27, 2007]

§ 3282.152 Procedures to present views and evidence.

(a) *Policy.* All Formal and Informal Presentations of Views under this subpart shall be public, unless, for good cause, the Secretary determines it is in the public interest that a particular proceeding should be closed. If the Secretary determines that a proceeding should be closed, the Secretary shall state and make publicly available the basis for that determination.

(b) *Request.* Upon receipt of a request to present views and evidence under the Act, the Secretary shall determine whether the proceeding will be a Formal or an Informal Presentation of Views, and shall issue a notice under paragraph (c) of this section.

(c) *Notice.* When the Secretary decides to conduct a Formal or an Informal Presentation of Views under this section, the Secretary shall provide notice as follows:

(1) Except where the need for swift resolution of the question involved prohibits it, notice of a proceeding hereunder shall be published in the FEDERAL REGISTER at least 10 days prior to the date of the proceeding. In any case, notice shall be provided to interested persons to the maximum extent practicable. Direct notice shall be sent by certified mail to the parties involved in the hearing.

(2) The notice, whether published or mailed, shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the proceeding will be held; a statement of the subject matter of the proceeding, the parties and issues involved; and a statement of the

manner in which interested persons shall be afforded the opportunity to participate in the hearing.

(3) The notice shall designate the official who shall be the presiding officer for the proceedings and to whom all inquiries should be directed concerning such proceedings.

(4) The notice shall state whether the proceeding shall be held in accordance with the provisions of paragraph (f)—(Informal Presentation of Views) or paragraph (g)—(Formal Presentation of Views) of this section, except that when the Secretary makes the determinations provided for in sections 623 (d) and (f) of the Act, the requirements of paragraph (g) of this section shall apply. In determining whether the requirements of paragraph (f) or those of paragraph (g) of this section shall apply the Secretary shall consider the following:

(i) The necessity for expeditious action;

(ii) The risk of injury to affected members of the public;

(iii) The economic consequences of the decisions to be rendered; and

(iv) Such other factors as the Secretary determines are appropriate.

(d) *Department representative.* If the Department is to be represented by Counsel, such representation shall be by a Department hearing attorney designated by the General Counsel.

(e) *Reporting and transcription.* Oral proceedings shall be stenographically or mechanically reported and transcribed under the supervision of the presiding officer, unless the presiding officer and the parties otherwise agree, in which case a summary approved by the presiding officer shall be kept. The original transcript or summary shall be a part of the record and the sole official transcript, or summary. A copy of the transcript or summary shall be available to any person at a fee established by the Secretary, which fee the Secretary may waive in the public interest. Any information contained in the transcript or summary which would be exempt from required disclosure under § 3282.54 of these regulations may be protected from disclosure if appropriate under that section upon a request for such protection under § 3282.54(c).

(f) *Informal presentation of views.* (1) An Informal Presentation of Views may be written or oral, and may include an opportunity for an oral presentation, whether requested or not, whenever the Secretary concludes that an oral presentation would be in the public interest, and so states in the notice. A presiding officer shall preside over all oral presentations held under this subsection. The purpose of any such presentation shall be to gather information to allow fully informed decision making. Informal Presentations of Views shall not be adversary proceedings. Oral presentations shall be conducted in an informal but orderly manner. The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid delay, and to maintain order. In the absence of extraordinary circumstances, the presiding officer at an oral Informal Presentation of Views shall not require that testimony be given under an oath or affirmation, and shall not permit either cross-examination of witnesses by other witnesses or their representatives, or the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of oral Informal Presentations of Views.

(2) Within 10 days after an Informal Presentation of Views, the presiding officer shall refer to the Secretary all documentary evidence submitted, the transcript, if any, a summary of the issues involved and information presented in the Informal Presentation of Views and the presiding official's recommendations, with the rationale therefor. The presiding officer shall make any appropriate statements concerning the apparent veracity of witnesses or the validity of factual assertions which may be within the competence of the presiding officer. The Secretary shall issue a Final Determination concerning the matters at issue within 30 days of receipt of the presiding officer's summary. The Final Determination shall include:

(i) A statement of findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material

issues of fact, law, or discretion as presented on the record, and

(ii) An appropriate order. Notice of the Final Determination shall be given in writing and transmitted by certified mail, return receipt requested, to all participants in the presentation of views. The Final Determination shall be conclusive, with respect to persons whose interests were represented.

(g) *Formal presentation of views.* (1) A Formal Presentation of Views is an adversary proceeding and includes an opportunity for the oral presentation of evidence. All witnesses shall testify under oath or affirmation, which shall be administered by the presiding officer. Participants shall have the right to present such oral or documentary evidence and to conduct such cross-examination as the presiding officer determines is required for a full and true disclosure of facts. The presiding officer shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence. However, the technicalities of the rules of evidence prevailing in courts of law or equity shall not control the conduct of a Formal Presentation of Views. The presiding officer shall take all necessary action to regulate the course of the Formal Presentation of Views to avoid delay and to maintain order. The presiding officer may exclude the attorney or witness from further participation in the particular Formal Presentation of Views and may render a decision adverse to the interests of the excluded party in his absence.

(2) *Decision.* The presiding officer shall make and file an initial written decision on the matter in question. The decision shall be filed within 10 days after completion of the oral presentation. The decision shall include:

(i) A statement of findings of fact, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of law or discretion presented on the record, and

(ii) An appropriate order.

The presiding officer's decision shall be final and shall constitute the Final Determination of the Secretary unless reversed or modified within 30 days by

the Secretary. Notice of the Final Determination shall be given in writing, and transmitted by registered or certified mail, return receipt requested, to all participants in the proceeding. The Final Determination shall be conclusive with respect to persons whose interests were represented.

[41 FR 19852, May 13, 1976, as amended at 51 FR 34467, Sept. 29, 1986]

§ 3282.153 Public participation in formal or informal presentation of views.

(a) Any interested persons may participate, in writing, in any Formal or Informal Presentation of Views held under the provisions of paragraph (f) or (g) of § 3282.152. The presiding officer shall, to the extent practicable, consider any such written materials.

(b) Any interested person may participate in the oral portion of any Formal or Informal Presentation of Views held under paragraphs (f) and (g) of § 3282.152 unless the presiding officer determines that participation should be limited or barred so as not unduly to prejudice the rights of the parties directly involved or unnecessarily to delay the proceedings.

[51 FR 34468, Sept. 29, 1986]

§ 3282.154 Petitions for formal or informal presentations of views, and requests for extraordinary interim relief.

Any person entitled to a Formal or an Informal Presentation of Views under paragraph (f) or paragraph (g) of § 3282.152 in order to address issues as provided for in § 3282.151(a) may petition the Secretary to initiate such a Presentation of Views. The petition may be accompanied by a request that the Secretary provide appropriate interim relief pending the issuance of the final determination or decision. No interim relief will be granted unless there is a showing of extraordinary cause. Upon receipt of a petition, the Secretary shall grant the petition and issue the notice provided for in § 3282.152(b) for Formal or Informal Presentation of Views, and may grant, deny or defer decision on any request for interim relief.

[51 FR 34468, Sept. 29, 1986]

§ 3282.155 Investigations.

The procedures for investigations and investigational proceedings are set forth in part 3800 of this chapter.

[61 FR 10442, Mar. 13, 1996]

§ 3282.156 Petitions for investigations.

(a) Any person may petition the Secretary in writing to open an investigation into whether noncompliances, defects, serious defects, or imminent safety hazards exist in manufactured homes. A petition shall include the reasons that the petitioner believes warrant an investigation, and it shall state any steps which have previously been taken to remedy the situation. The petition shall include all information known to the petitioner concerning the identity of manufactured homes which may be affected and where those manufactured homes were manufactured. The Secretary shall respond to petitions concerning alleged imminent safety hazards and serious defects within 60 days and to petitions alleging the existence of defects or noncompliances within 120 days.

(b) Any person may petition the Secretary in writing to undertake an investigation for the purpose of determining whether a primary inspection agency should be disqualified. The petition shall set out all facts and information on which the petition is based and a detailed statement of why such information justifies disqualification. The Secretary shall consider such petitions when making determinations on final acceptance and continued acceptance. The Secretary shall respond to such petition within 120 days.

Subpart E—Manufacturer 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 de-

scription 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 require manufacturers to participate in a system of design approvals and inspections which serve to assist them in assuring that manufactured homes which they manufacture will conform to Federal standards. Such approvals and inspections provide significant protection to the public by decreasing the number of manufactured homes with possible defects in them, and provide protection to manufacturers by reducing the number of instances in which costly remedial actions must be undertaken after manufactured homes are sold.

§ 3282.202 Primary inspection agency contracts.

Each manufacturer shall enter into a contract or other agreement with as many Design Inspection Primary Inspection Agencies (DAPIAs) as it wishes and with enough Production Inspection Primary Inspection Agencies (IPIAs) to provide IPIA services for each manufacturing plant as set out in this subpart and in subpart H of this part. In return for the services provided by the DAPIAs and IPIAs, each manufacturer shall pay such reasonable fees as are agreed upon between the manufacturer and the primary inspection agency or, in the case of a State acting as an exclusive IPIA under § 3282.3 such fees as may be established by the State.

§ 3282.203 DAPIA services.

(a) Each manufacturer shall have each manufactured home design and each quality assurance manual which it intends to follow approved by a DAPIA under § 3282.361. The manufacturer is free to choose which DAPIA will evaluate and approve its designs and quality assurance materials manufacturer may obtain design and quality assurance manual approval from a single DAPIA regardless of the number of plants in which the design and quality assurance manual will be followed. A manufacturer may also obtain approval

for the same design and quality assurance manual from more than one DAPIA. The choice of which DAPIA or DAPIAs to employ is left to the manufacturer.

(b) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out design approvals. This information shall, except where the manufacturer demonstrates to the DAPIA that it is not necessary, include the following:

(1) Construction drawings and/or specifications 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 home design,

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

(5) Diagrams of the fuel supply system, potable water system and drain, waste and vent systems. The diagrams shall 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 including specifications and procedures for the erection and hook-up of the home at its permanent location, and

(11) Reports of all tests that were run to validate the conformance of the design to the standards.

(c) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out quality assurance manual approvals. At a minimum, this information shall include the quality assurance manual for which approval is sought. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station-by-station description of the manufacturing process, a list of quality control inspections required by the manufacturer at each station, and identification by title of each person who will be held accountable for each quality control inspection.

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

(e) When a manufacturer wishes to make a change in an approved design or quality assurance manual, the manufacturer shall obtain the approval of the DAPIA which approved the design or manual prior to production for sale. The procedures for obtaining such approval are set out in §3282.361. When applicable under §3282.605, the IPIA must concur in the change before it can be approved by the DAPIA.

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

part by members of the DAPIA's organization or of any affiliated organization.

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

[41 FR 19852, May 13, 1976, as amended at 67 FR 12818, Mar. 19, 2002; 80 FR 53727, Sept. 8, 2015]

§ 3282.204 IPIA services.

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

(b) The manufacturer shall make available to the IPIA operating in each of its plants a copy of the drawings and specifications from the DAPIA approved design and the quality assurance manual for that plant, and the IPIA shall 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 shall make any corrections or adjustments which are necessary to conform with the DAPIA approved designs and manuals. After the corrections required by the deviation report are completed to the satisfaction of the IPIA, the IPIA shall issue the certification report as described in § 3282.362(b)(2). In certain instances a DAPIA may provide the certification report. (See § 3282.362) The manufacturer shall maintain a current copy of each certification report in the plant to which the certification report relates.

(c) After the certification report has been signed by the IPIA, the manufacturer shall obtain labels from the IPIA and shall affix them to completed manufactured homes as set out in § 3282.362(c)(2). During the initial fac-

tory certification, the IPIA may apply labels to manufactured homes which it knows to be in compliance with the standards if it is performing complete inspections of all phases of production of each manufactured home and the manufacturer authorizes it to apply labels.

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

(e) If during the course of production, an IPIA finds a failure to conform to a standard exists in a manufactured home under production, the manufacturer must correct the failure to conform in any manufactured home still in the factory and held by distributors or retailers and shall carry out remedial actions under § 3282.416(a) with respect to any other manufactured homes which may contain the same failure to conform.

[41 FR 19852, May 13, 1976, as amended at 78 FR 60199, Oct. 1, 2013]

§ 3282.205 Certification requirements.

(a) Every manufacturer shall make a record of the serial number of each manufactured home produced, and a duly authorized representative of the manufacturer shall certify that each manufactured home has been constructed in accordance with the Federal standards. The manufacturer shall furnish a copy of that certification to the IPIA for the purpose of determining which manufactured homes are subject to the notification and correction requirements of subpart I of this part.

(b) Every manufacturer of manufactured homes shall certify on the data plate as set out in § 3280.5 of chapter XX of 24 CFR and § 3282.362(c)(3) that the manufactured home is designed to comply with the Federal manufactured home 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.

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(c) Every manufacturer of manufactured homes shall 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 Federal construction and safety standards. This certification shall be in the form of the label provided by the IPIA under § 3282.362(c)(2). The label shall be affixed only at the end of the last stage of production of the manufactured home.

(d) The manufacturer shall apply a label required or allowed by the regulations in this part only to a manufactured home that the manufacturer knows by its inspections to be in compliance with the standards.

[41 FR 19852, May 13, 1976, as amended at 41 FR 24970, June 21, 1976; 61 FR 10860, Mar. 15, 1996]

§ 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 shall 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 standards unless and until:

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

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

(c) The DAPIA or IPIA otherwise resolves the disagreement.

[41 FR 19852, May 13, 1976, as amended at 51 FR 34468, Sept. 29, 1986; 61 FR 10860, Mar. 15, 1996]

§ 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. 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 assure 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:

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.

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

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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 Manufactured Housing and Regulatory Functions, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410; the Information Center, Department of Housing and Urban Development, Room 1202, 451 Seventh Street, SW., Washington, DC, 20410; or any HUD Area or State Office.

[61 FR 10860, Mar. 15, 1996, as amended at 72 FR 27228, May 14, 2007]

§ 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 that subpart that an imminent safety hazard, serious defect, defect, or noncompliance exists or may exist in a manufactured home produced by that manufacturer.

(b) *Correction.* A manufacturer may be required to correct imminent safety hazards and serious defects which the manufacturer or the Secretary determines under subpart I exist 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.

(c) *Cooperation.* The manufacturer shall be responsible for working with

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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.

(a) Each manufacturer shall 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 shall be paid in the form of a check made payable to the Secretary or the Secretary's agent. 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.

[50 FR 28398, July 12, 1985]

§ 3282.211 Record of purchasers.

(a) *Information requirements for purchasers.* (1) Every manufacturer of manufactured homes shall, 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 (a)(2) of this section. On the front of the booklet, in bold faced type, shall 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 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.”

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

(i) Name and address of the retailer or other person selling the manufactured home to the purchaser;

(ii) Name and complete mailing address of the manufactured home purchaser;

(iii) Address where the manufactured home will be located, if not the same as item (a)(2)(ii) of this section.

(iv) Date of sale to the purchaser;

(v) Month, day and year of manufacture;

(vi) Identification number of the manufactured home;

(vii) Model and/or type designation of the manufactured home as provided by the manufacturer; and

(viii) 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 shall have the responsibility for filing in the blanks on the cards for paragraphs (a)(2) (v), (vi), (vii), and (viii) of this section.

(3) The manufacturer shall maintain all cards received 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.

§ 3282.212 Toxic Substances Control Act (TSCA) Title VI requirements.

Manufacturers must maintain bills of lading, invoices, or comparable documents that include a written statement from the supplier that the component or finished goods are TSCA Title VI compliant for a minimum of 3

years from the date of import, purchase, or shipment, consistent with 40 CFR 770.30(c) and 770.40.

[85 FR 5566, Jan. 31, 2020]

Subpart F—Retailer and Distributor Responsibilities

§ 3282.251 Scope and purpose.

(a) This subpart sets out the responsibilities which shall be met by distributors and retailers with respect to manufactured homes manufactured after the effective date of the standards for sale to purchasers in the United States. It prohibits the sale, lease, or offer for sale or lease of manufactured homes known by the distributor or retailer not to be in conformance with the standards, and it includes responsibilities for maintaining certain records and assisting in the gathering of certain information.

(b) The purpose of this subpart is to inform distributors and retailers when they may sell manufactured homes, when they are prohibited from selling manufactured homes, and what they may do in order to prepare a manufactured home for sale if it is not in conformance with the standards.

(c) For purposes of this part, any manufacturer or distributor who sells, leases, or offers for sale or lease a manufactured home to a purchaser shall be a retailer for purposes of that transaction.

§ 3282.252 Prohibition of sale.

(a) No distributor or retailer shall make use of any means of transportation affecting interstate or foreign commerce or the mails to sell, lease, or offer for sale or lease in the United States any manufactured home manufactured on or after the effective date of an applicable standard unless:

(1) There is affixed to the manufactured home a label certifying that the manufactured home conforms to applicable standards as required by § 3282.205(c), and

(2) The distributor or retailer, acting as a reasonable distributor or retailer, does not know that the manufactured home does not conform to any applicable standards.

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

(c) This prohibition of sale does not apply to manufactured homes which are placed in production prior to the effective date of the standards, and it does not apply to “used” manufactured homes which are being sold or offered for sale after the first purchase in good faith for purposes other than the resale.

[41 FR 19852, May 13, 1976, as amended at 80 FR 53727, Sept. 8, 2015]

§ 3282.253 Removal of prohibition of sale.

(a) If a distributor or retailer has a manufactured home in its possession or a manufactured home with respect to a sales transaction has not yet been completed, and a distributor or retailer knows as a result of notification by the manufacturer or otherwise that the manufactured home contains a failure to conform or imminent safety hazard, the distributor or retailer may seek the remedies available under §3282.415.

(b) When, in accordance with §3282.415, a manufacturer corrects a failure to conform to the applicable standard or an imminent safety hazard, the distributor or retailer, acting as a reasonable distributor or retailer, may accept the remedies provided by the manufacturer as having corrected the failure to conform or imminent safety

hazard. The distributor or retailer, therefore, may sell, lease, or offer for sale or lease any manufactured home so corrected by the manufacturer.

(c) When a distributor or retailer is authorized by a manufacturer to correct a failure to conform to the applicable standard or an imminent safety hazard and completes the correction in accordance with the manufacturer’s instructions, the distributor or retailer may sell, or lease or offer for sale or lease the manufactured home in question, provided that the distributor or retailer, acting as a reasonable distributor or retailer knows that the manufactured home conforms to the standards. A distributor or retailer and a manufacturer, at the manufacturer’s option, may agree in advance that the distributor or retailer is authorized to make such corrections as the manufacturer believes are within the expertise of the dealer.

(d) If the corrections made under paragraphs (b) and (c) of this section do not bring the manufactured home into conformance or correct the imminent safety hazard, the provisions of §3282.415 will continue in effect prior to completion of the sales transaction.

[41 FR 19852, May 13, 1976, as amended at 78 FR 60199, Oct. 1, 2013]

§ 3282.254 Distributor and retailer alterations.

(a) If a distributor or retailer alters a manufactured home in such a way as to create an imminent safety hazard or to create a condition which causes a failure to conform with applicable Federal standards, the manufactured home affected may not be sold, leased, or offered for sale or lease.

(b) After correction by the distributor or retailer of the failure to conform or imminent safety hazard, the corrected manufactured home may be sold, leased, or offered for sale or lease.

(c) Distributors and retailers shall maintain complete records of all alterations made under paragraphs (a) and (b) of this section.

§ 3282.255 Completion of information card.

(a) Whenever a distributor or retailer sells a manufactured home subject to

the standards to a purchaser, the distributor or retailer shall fill out the card with information provided by the purchaser and shall send the card to the manufacturer. (See § 3282.211.)

(b) Whenever a distributor or retailer sells a manufactured home to an owner which was originally manufactured under the standards, the distributor or retailer shall similarly use one of the detachable cards which was originally provided with the manufactured home. If such a card is no longer available, the distributor or retailer shall obtain the information which the card would require and send it to the manufacturer of the manufactured home in an appropriate format.

§ 3282.256 Distributor or retailer complaint handling.

(a) When a distributor or retailer believes that a manufactured home in its possession which it has not yet sold to a purchaser contains an imminent safety hazard, serious defect, defect, or noncompliance, the distributor or retailer shall refer the matter to the manufacturer for remedial action under § 3282.415. If the distributor or retailer is not satisfied with the action taken by the manufacturer, it may refer the matter to the SAA in the state in which the manufactured home is located, or to the Secretary if there is no such SAA.

(b) Where a distributor or retailer receives a consumer complaint or other information concerning a manufactured home sold by the distributor or retailer, indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in the manufactured home, the distributor or retailer shall refer the matter to the manufacturer.

§ 3282.257 TSCA Title VI requirements.

Retailers and distributors must maintain bills of lading, invoices, or comparable documents that include a written statement from the supplier that the component or finished goods are TSCA Title VI compliant for a minimum of 3 years from the date of import, purchase, or shipment, consistent with 40 CFR 770.30(c) and 770.40.

[85 FR 5567, Jan. 31, 2020]

Subpart G—State Administrative Agencies

§ 3282.301 General—scope.

This subpart sets out procedures to be followed and requirements to be met by States which wish to participate as State Administrative Agencies (SAA) under the Federal standards enforcement program. Requirements relating to States which wish to participate as primary inspection agencies under the Federal standards enforcement program are set out in subpart H of this part. Requirements which States must meet in order to receive full or conditional approval as SAAs and the responsibilities of such agencies are set out in § 3282.302. Reporting requirements for approved and conditionally approved SAAs are set out in subpart L.

§ 3282.302 State plan.

A State wishing to qualify and act as an SAA under this subpart shall make a State Plan Application under this section. The State Plan Application shall be made to the Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, and shall include:

(a) An original and one copy of a cover sheet which shall show the following:

(1) The name and address of the State agency designated as the sole agency responsible for administering the plan throughout the State,

(2) The name of the administrator in charge of the agency,

(3) The name, title, address, and phone number of the person responsible for handling consumer complaints concerning standards related problems in manufactured homes under subpart I of this part,

(4) A list of personnel who will carry out the State plan,

(5) The number of manufactured home manufacturing plants presently operating in the State,

(6) The estimated total number of manufactured homes manufactured in the State per year,

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(7) The estimated total number of manufactured homes set up in the State per year, and

(8) A certification signed by the administrator in charge of the designated State agency stating that, if it is approved by the Secretary, the State plan will be carried out in full, and that the regulations issued under the Act shall be followed,

(b) An original and one copy of appropriate materials which:

(1) Demonstrate how the designated State agency shall ensure effective handling of consumer complaints and other information referred to it that relate to noncompliances, defects, serious defects or imminent safety hazards as set out in subpart I of this part, including the holding of Formal and Informal Presentations of Views and the fulfilling of all other responsibilities of SAAs as set out in this subpart G,

(2) Provide that personnel of the designated agency shall, under State law or as agents of HUD, have the right at any reasonable time to enter and inspect all factories, warehouses, or establishments in the State in which manufactured homes are manufactured,

(3) Provide for the imposition under State authority of civil and criminal penalties which are identical to those set out in section 611 of the Act, 42 U.S.C. 5410 except that civil penalties shall be payable to the State rather than to the United States,

(4) Provide for the notification and correction procedures under subpart I of this part where the SAA is to act under that subpart by providing the required approval by the SAA of the plan for notification and correction described in §§ 3282.408, 3282.409, and 3282.410, including approval of the number of units that may be affected and the proposed repairs, and by providing for approval of corrective actions where appropriate under subpart I,

(5) Provide for oversight by the SAA of:

(i) Remedial actions carried out by manufacturers for which the SAA approved the plan for notification and correction or for which the SAA has waived formal notification under subpart I.

(ii) A manufacturer's handling of consumer complaints and other information under subpart I as to plants located in the State.

(6) Provide for the setting of monitoring inspection fees in accordance with guidelines established by the Secretary and provide for participation in the fee distribution system set out in § 3282.307.

(7) Contain satisfactory assurances in whatever form is appropriate under State law that the designated agency has or will have the legal authority necessary to carry out the State plan as submitted for full or conditional approval,

(8) Contain satisfactory assurances that the designated agency has or will have, in its own staff or provided by other agencies of the state or otherwise, the personnel, qualified by education or experience necessary to carry out the State plan,

(9) Include the resumes of administrative personnel in policy making positions and of all inspectors and engineers to be utilized by the designated agency in carrying out the State plan,

(10) Include a certification that none of the personnel who may be involved in carrying out the State plan in any way are subject to any conflict of interest of the type discussed in § 3282.359 or otherwise, except that members of councils, committees, or similar bodies providing advice to the designated agency are not subject to the requirement,

(11) Include an estimate of the cost to the State of carrying out all activities called for in the State plan, under this section and § 3282.303, which estimate shall be broken down by particular function and indicate the correlation between the estimate and the number of manufactured homes manufactured in the State and the number of manufactured homes imported into the State, and the relationship of these factors to any fees currently charged and any fees charged during the preceding two calendar years. A description of all current and past State activities with respect to manufactured homes shall be included with this estimate.

(12) Give satisfactory assurances that the State shall devote adequate funds to carrying out its State plan,

(13) Indicate that State Law requires manufacturers, distributors, and retailers in the State to make reports pursuant to section 614 of the Act 42 U.S.C. 5413 and this chapter of these regulations in the same manner and to the same extent as if the State plan were not in effect,

(14) Provide that the designated agency shall make reports to the Secretary as required by subpart L of this part in such form and containing such information as the Secretary shall from time to time require,

(c) A state plan may be granted conditional approval if all of the requirements of § 3282.302 (a) and (b) are met except paragraphs (b)(2), (b)(3), (b)(6) or (b)(13). When conditional approval is given, the state shall not be considered approved under section 623 of the Act, 42 U.S.C. 5422, but it will participate in all phases of the program as called for in its State plan. Conditional approval shall last for a maximum of five years, by which time all requirements shall be met for full approval, or conditional approval shall lapse. However, the Secretary may for good cause grant an extension of conditional approval upon petition by the SAA.

(d) If a State wishes to discontinue participation in the Federal enforcement program as an SAA, it shall provide the Secretary with a minimum of 90 days notice.

(e) *Exclusive IPIA status.* (1) A State that wishes to act as an exclusive IPIA under § 3282.352 shall so indicate in its State Plan and shall include in the information provided under paragraph (b)(11) of this section the fee schedule for the State's activities as an IPIA and the relationship between the proposed fees and the other information provided under paragraph (b)(11) of this section. If the Secretary determines that the fees to be charged by a State acting as an IPIA are unreasonable, the Secretary shall not grant the State status as an exclusive IPIA.

(2) The State shall also demonstrate in its State Plan that it has the

present capability to act as an IPIA for all plants operating in the State.

[41 FR 19852, May 13, 1976, as amended at 47 FR 5888, Feb. 9, 1982; 51 FR 34468, Sept. 29, 1986; 61 FR 10860, Mar. 15, 1996; 78 FR 60199, Oct. 1, 2013]

§ 3282.303 State plan—suggested provisions.

The following are not required to be included in the State plan, but they are urged as necessary to provide full consumer protection and assurances of manufactured home safety:

(a) Provision for monitoring of retailers' lots within the State for transit damage, seal tampering, and retailer performance generally,

(b) Provision of approvals of all alterations made to certified manufactured homes by retailer in the State. Under this program, the State would assure that alterations did not result in the failure of the manufactured home to comply with the standards.

(c) Provision for monitoring of the installation of manufactured homes set up in the State to assure that the homes are properly installed and, where necessary, tied down,

(d) Provision for inspection of used manufactured homes and requirements under State authority that used manufactured homes meet a minimal level of safety and durability at the time of sale, and,

(e) Provision for regulation of manufactured home transportation over the road to the extent that such regulation is not preempted by Federal authority.

§ 3282.304 Inadequate State plan.

If the Secretary determines that a State plan submitted under this subpart is not adequate, the designated State agency shall be informed of the additions and corrections required for approval. A revised State plan shall be submitted within 30 days of receipt of such determination. If the revised State plan is inadequate or if the State fails to resubmit within the 30 day period or otherwise indicates that it does not intend to change its State plan as submitted, the Secretary shall notify the designated State agency that the State plan is not approved and that it

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has a right to a hearing on the disapproval in accordance with subpart D of this part.

§ 3282.305 State plan approval.

The Secretary's approval or conditional approval of a State plan Application shall qualify that State to perform the functions for which it has been approved.

§ 3282.306 Withdrawal of State approval.

The Secretary shall, on the basis of reports submitted by the State, and on the basis of HUD monitoring, make a continuing evaluation of the manner in which each State is carrying out its State plan and shall submit the reports of such evaluation to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing in accordance with subpart D of this part, that in the administration of the State program there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, the Secretary shall notify the State of withdrawal of approval or conditional approval of the State program. The State program shall cease to be in effect at such time as the Secretary may establish.

§ 3282.307 Monitoring inspection fee establishment and distribution.

(a) Each approved State shall establish a monitoring inspection fee in an amount required by the Secretary. This fee shall be an amount paid by each manufactured home manufacturer in the State for each transportable section of each manufactured housing unit produced by the manufacturer in that State. In non-approved and conditionally-approved States, the fee shall be set by the Secretary.

(b) The monitoring inspection fee shall be paid by the manufacturer to the Secretary or to the Secretary's Agent, who shall distribute a portion of the fees collected from all manufactured home manufacturers among the approved and conditionally-approved States in accordance with an agreement between the Secretary and the States and based upon the following

formula subject to the availability of appropriations:

(1) \$9.00 of the monitoring inspection fee collected for each transportable section of each new manufactured housing unit that is first located on the premises of a retailer, distributor, or purchaser in that State; plus

(2) \$14.00 of the monitoring inspection fee collected for each transportable section of each new manufactured housing unit produced in a manufacturing plant in that State.

(c) A portion of the monitoring inspection fee collected also shall be distributed by the Secretary or the Secretary's Agent based on the extent of participation of the State in the Joint Team Monitoring Program set out in § 3282.308.

(d) To assure that a State devotes adequate funds to carry out its State Plan, a State may impose an additional reasonable inspection fee to offset expenses incurred by that State in conducting inspections. Such fee shall not exceed that amount which is the difference between the amount of funds distributed to the State as provided in paragraph (b) of this section and the amount necessary to cover the costs of inspections. Such fee shall be part of the State Plan pursuant to § 3282.302(b) (11) and (12) and shall be subject to the approval of the Secretary pursuant to § 3282.305.

(e) The Secretary may establish by notice in the FEDERAL REGISTER a monitoring inspection fee which is to be paid by manufacturers for each transportable section of each manufactured housing unit manufactured in nonapproved and conditionally approved States as described in § 3282.210. To determine the amount of the inspection fee to be paid for each transportable section of each manufactured home, the Secretary shall divide the (estimated) number of transportable sections of manufactured homes (based on recent industry production figures) into the anticipated aggregate cost of conducting the inspection program in the foreseeable future. The time period selected for projecting the Department's inspection-related costs and number of transportable sections need not always be the same, but must be for a period of sufficient duration to

provide for access to reasonable underlying data. To determine the aggregate cost of conducting the inspection program, the Secretary shall calculate the sum necessary to support:

- (1) Inspection-related activities of State Administrative Agencies;
 - (2) Inspection-related activities performed by the Department of Housing and Urban Development;
 - (3) Inspection-related activities performed by monitoring inspection contractors;
 - (4) Miscellaneous activities involving the performance of inspection-related activities by the Department, including on-site inspections on an ad hoc basis; and
 - (5) Maintenance of adequate funds to offset short-term fluctuations in costs that do not warrant revising the fee under the authority of this section.
- (f) The Secretary may at any time revise the amount of the fees established under paragraph (a) or (e) of this section by placing a notice of the amount of the revised fee in the FEDERAL REGISTER.

[50 FR 28398, July 12, 1985, as amended at 56 FR 65186, Dec. 16, 1991; 85 FR 71834, Nov. 12, 2020]

§ 3282.308 State participation in monitoring of primary inspection agencies.

(a) An SAA may provide personnel to participate in joint team monitoring of primary inspection agencies as set out in subpart J. If an SAA wishes to do so, it must include in its State plan a list of what personnel would be supplied for the teams, their qualifications, and how many person-years the State would supply. All personnel will be subject to approval by the Secretary or the Secretary's agent. A person-year is 2,080 hours of work.

(b) If an SAA wishes to monitor the performance of primary inspection agencies acting within the State, it must include in its State plan a description of how extensively, how often, and by whom this will be carried out. This monitoring shall be coordinated by the Secretary, or the Secretary's agent with monitoring carried out by joint monitoring teams, and in no event shall an SAA provide moni-

toring where the State is also acting as a primary inspection agency.

§ 3282.309 Formal and informal presentations of views held by SAAs.

(a) When an SAA is the appropriate agency to hold a Formal or Informal Presentation of Views under § 3282.412 of subpart I, the SAA shall follow the procedures set out in §§ 3282.152 and 3282.153, with the SAA acting as the Secretary otherwise would under that section. Where § 3282.152 requires publication of notice in the FEDERAL REGISTER, the SAA shall, to the maximum extent possible, provide equivalent notice throughout the State by publication in the newspaper or newspapers having statewide coverage or otherwise. The determination of whether to provide an Informal Presentation of Views under § 3282.152(f), or a Formal Presentation of Views under § 3282.152(g), is left to the SAA.

(b) Notwithstanding the provisions of § 3282.152(f)(2) and (g)(2) relating to the conclusive effect of a final determination, any party, in a proceeding held at an SAA under this section, including specifically the owners of affected manufactured homes, States in which affected manufactured homes are located, consumer groups representing affected owners and manufacturers (but limited to parties with similar substantial interest) may appeal to the Secretary in writing any Final Determination by an SAA which is adverse to the interest of that party. This appeal on the record shall be made within 30 days of the date on which the Final Determination was made by the SAA.

[41 FR 19852, May 13, 1976, as amended at 51 FR 34468, Sept. 29, 1986; 78 FR 60199, Oct. 1, 2013]

Subpart H—Primary Inspection Agencies

§ 3282.351 General.

(a) This subpart sets out the requirements which must be met by States or private organizations which wish to qualify as primary inspection agencies under these regulations. It also sets out the various functions which will be carried out by primary inspection agencies.

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(b) There are four basic functions which are performed by primary inspection agencies:

(1) Approval of the manufacturer's manufactured home design to assure that it is in compliance with the standard;

(2) Approval of the manufacturer's quality control program to assure that it is compatible with the design;

(3) Approval of the manufacturer's plant facility and manufacturing process to assure that the manufacturer can perform its approved quality control program and can produce manufactured homes in conformance with its approved design, and

(4) Performance of ongoing inspections of the manufacturing process in each manufacturing plant to assure that the manufacturer is continuing to perform its approved quality control program and, with respect to those aspects of manufactured homes inspected, is continuing to produce manufactured homes in performance with its approved designs and in conformance with the standards (see § 3282.362(c)(1)).

(c) There are two types of primary inspection agencies which perform these functions:

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

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

(d) States and private organizations whose submissions under this subpart are acceptable shall be granted provisional acceptance. Final acceptance shall be conditioned upon adequate performance, which will be determined through monitoring of the actions of the primary inspection agencies. Monitoring of all primary inspection agencies shall be carried out as set out in subpart J. HUD accepted agencies can perform DAPIA functions for any manufacturer in any State and IPIA functions in any State except those in which the State has been approved to act as the exclusive IPIA under § 3282.352.

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

§ 3282.352 State exclusive IPIA functions.

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

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

(c) A State's status as an exclusive IPIA shall commence upon approval of the State Plan Application and acceptance of the State's submission under § 3282.355. Where a private organization accepted or provisionally accepted as an IPIA under this subpart H is operating in a manufacturing plant within the State on the date the State's status

as an exclusive IPIA commences, the private organization may provide IPIA services in that plant for 90 days after that date.

[61 FR 10861, Mar. 15, 1996]

§ 3282.353 Submission format.

States and private organizations that wish to act as primary inspection agencies shall submit to the Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, an application that includes the following:

(a) A cover sheet which shall show the following:

(1) Name and address of the party making the application;

(2) The capacity (DAPIA, IPIA) in which the party 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 for which the submitting party 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 per year;

(6) The number of years the proposed primary inspection agency has been actively engaged in the enforcement of manufactured home standards; and

(7) A certification by the party applying that it will follow the Federal manufactured home construction and safety standards set out at 24 CFR part 3280 and any interpretations of those standards which 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.

(c) A detailed description of how the submitting party intends to carry out all of the functions for which it wishes to be approved under this subpart, with appropriate cross-references to sections of this subpart, including examples and complete descriptions of all reports, tests, and evaluations which the party would be required to make.

Where appropriate, later sections of this subpart identify particular items which must be included in the submission. The Secretary may request further detailed information, when appropriate.

(d) A party wishing to be approved as a DAPIA shall submit a 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 standards) and a copy of a quality assurance manual that it has approved (or if it was not approved a manual, one that it has evaluated and a deviation report showing where the manual is inadequate).

(e) A party wishing to be approved as an IPIA shall submit a copy of a certification report which it has prepared for a manufactured home plant or, if it has not prepared such a report, an evaluation of a manufacturing plant which it has inspected with a description of what changes shall be made before a certification report can be issued. A party 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.

[41 FR 19852, May 13, 1976, as amended at 61 FR 10861, Mar. 15, 1996; 78 FR 60199, Oct. 1, 2013]

§ 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 Submission acceptance.

(a) A party whose submission is determined by the Department to be adequate shall be granted provisional acceptance until December 15, 1976, or for a six month period from the date of such determination, whichever is later.

(b) Final acceptance of a party to act as a primary inspection agency will be contingent upon adequate performance

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during the period of provisional acceptance as determined through monitoring carried out under subpart J and upon satisfactory acceptance under § 3282.361(e) or § 3282.362(e). Final acceptance shall be withheld if performance is inadequate.

(c) Continued acceptance as a primary inspection agency shall be contingent upon continued adequacy of performance as determined through monitoring carried out under subpart J. If the Secretary determines that a primary inspection agency that has been granted final acceptance is performing inadequately, the Secretary shall suspend the acceptance, and the primary inspection agency shall be entitled to a Formal or Informal Presentation of Views as set out in subpart D of this part.

[41 FR 19852, May 13, 1976, as amended at 51 FR 34468, Sept. 29, 1986; 61 FR 10861, Mar. 15, 1996]

§ 3282.356 Disqualification and requalification of primary inspection agencies.

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

(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 which has been disqualified under paragraph (a) may resubmit an application under § 3282.353. The submission shall include a full explanation of how problems or inadequacies which resulted in disqualifications have been rectified and how the primary inspection agency

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shall assure that such problems shall not recur.

(d) When appropriate, the Secretary shall 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 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 § 3282.353 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.

[41 FR 19852, May 13, 1976, as amended at 45 FR 59311, Sept. 9, 1980; 51 FR 34468, Sept. 29, 1986]

§ 3282.357 Background and experience.

All private organizations shall submit statements of the organizations' 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 shall also submit statements regarding the length of time these services have been provided by them. In addition, all such submissions shall include a list of other products for which the submitting party 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.

(a) Each primary inspection agency shall have qualified personnel capable of carrying out all of the functions for which the primary inspection agency is seeking to be approved or disapproved. Where a State intends to act as the exclusive IPIA in the State, it shall show that it has adequate personnel to so act in all plants in the State.

(b) Each submission shall indicate the total number of personnel employed by the submitting party, the number of personnel available for this program, and the locations of the activities of the personnel to be used in the program.

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

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

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

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

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

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

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

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

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

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

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

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

§ 3282.359 Conflict of interest.

(a) All submissions by private organizations shall include a statement that the submitting party 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 producer, supplier, or vendor of products in any manner which might affect its capacity to render reports of findings objectively and without bias.

(b) A private organization shall 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 producer, 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 producer, supplier or vendor of the products involved;

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(3) Its directors and other management personnel and its engineers and inspectors involved in certification activities hold no stock in and receive no stock option or other benefits, financial, or otherwise, from any producer, 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 producer, 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 submissions by States shall 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 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 PIA acceptance of product certification programs or listings.

In determining whether products to be included in a manufactured home are acceptable under the standards set out in part 3280 of 24 CFR, all PIAs shall accept all product verification programs, labelings, and listings unless the PIA has reason to believe that a particular certification is not acceptable, in which case, the PIA shall so inform the Secretary and provide the Secretary with full documentation and information on which it bases its belief. Pending a determination by the Secretary, the PIA shall provisionally accept the certification. The Secretary's determination shall be binding on all PIAs.

§ 3282.361 Design Approval Primary Inspection Agency (DAPIA).

(a) *General.* (1) The DAPIA selected by a manufacturer under § 3282.203 shall be responsible for evaluating all manufactured home designs submitted to it by the manufacturer and for assuring that they conform to the standards. It

shall also be responsible for evaluating all quality control programs submitted to it by the manufacturer by reviewing the quality assurance manuals in which the programs are set out to assure that the manuals reflect programs which are compatible with the designs to be followed and which commit the manufacturer to make adequate inspections and tests of every part of every manufactured home produced.

(2) A design or quality assurance manual approved by a DAPIA shall be accepted by all IPIAs acting under § 3282.362 who deal with the design, quality assurance manual, or manufactured homes built to them, and by all other parties, as, respectively, being in conformance with the Federal standards or as providing for adequate quality control to assure conformance. However, each design and quality assurance manual is subject to review and verification by the Secretary or the Secretary's agent at any time.

(b) *Designs.* (1) In evaluating designs for compliance with the standards, the DAPIA will not allow any deviations from accepted engineering practice standards for design calculations or any deviations from accepted test standards, except that the DAPIA, for good cause, may request the Secretary to accept innovations which are not yet accepted practices. Acceptances by the Secretary shall be published in the form of interpretative bulletins, where appropriate.

(2) The DAPIA shall require the manufacturer to submit floor plans and specific information for each manufactured home design or variation which the DAPIA is to evaluate. It shall also require the submission of drawings, specifications, calculations, and test records of the structural, electrical and mechanical systems of each such manufactured home design or variation. The manufacturer need not supply duplicate information where systems are common to several floor plans. Each DAPIA shall develop and carry out procedures for evaluating original manufactured home designs by requiring manufacturers to submit necessary drawings and calculations and carry out such verifications and calculations

as it deems necessary. Where compliance with the standards cannot be determined on the basis of drawings and calculations, the DAPIA shall require any necessary tests to be carried out at its own facility, at separate testing facilities or at the manufacturer's plant.

(3) *Design deviation report.* After evaluating the manufacturer's design, the DAPIA shall furnish the manufacturer with a design deviation report which specifies in detail, item by item with appropriate citations to the standards, the specific deviations in the manufacturer's design which must be rectified in order to produce manufactured homes which comply with the standards. The design deviation report may acknowledge the possibility of alternative designs, tests, listings, and certifications and state the conditions under which they will be acceptable. The design deviation report shall, to the extent practicable, be complete for each design evaluated in order to avoid repeated rejections and additional costs to the manufacturer.

(4) *Design approval.* The DAPIA shall signify approval of a design by placing its stamp of approval or authorized signature on each drawing and each sheet of test results. The DAPIA shall clearly cross-reference the calculations and test results to applicable drawings. The DAPIA may require the manufacturer to do the cross-referencing if it wishes. It shall indicate on each sheet how any deviations from the standards have been or shall be resolved. Within 5 days after approving a design, the DAPIA shall forward a copy of the design to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards the latter copy shall go to the Secretary.)

The DAPIA shall maintain a complete up-to-date set of approved designs and design changes approved under paragraph (b)(5) of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(5) *Design change approval.* The DAPIA shall also be responsible for approving all changes which a manufacturer wishes to make in a design approved by the DAPIA. In reviewing design changes, the DAPIA shall respond as quickly as possible to avoid disruption

of the manufacturing process. Within 5 days after approving a design change, the DAPIA shall forward a copy of this change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (b)(4) of this section to be included in the design to which the change was made.

(c) *Quality assurance manuals.* (1) In evaluating a quality assurance manual, the DAPIA shall identify any aspects of designs to be manufactured under the manual which require special quality control procedures. The DAPIA shall determine whether the manual under which a particular design is to be manufactured reflects those special procedures, and shall also determine whether the manuals which it evaluates provide for such inspections and testing of each manufactured home so that the manufacturer, by following the manual, can assure that each manufactured home it manufactures will conform to the standards. The manual shall, at a minimum, include the information set out in § 3282.203(c).

(2) *Manual deviation report.* After evaluating a manufacturer's quality assurance manual, the DAPIA shall furnish the manufacturer with a manual deviation report which specifies in detail any changes which a manufacturer must make in order for the quality assurance manual to be acceptable. The manual deviation report shall, to the extent practicable, be complete for each design in order to avoid repeated rejections and additional costs to the manufacturer.

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

section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(4) *Manual change approval.* Each change the manufacturer wishes to make in its quality assurance manual must be approved by the DAPIA, and, when subject to §3282.604, concurred in by the IPIA. Within 5 days after approving a manual change, the DAPIA shall forward a copy of the change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (c)(3) of this section to be included in the manual to which the change was made.

(d) *Requirements for full acceptance—DAPIA.* (1) Before granting full acceptance to a DAPIA, the Secretary or the Secretary's agent shall review and evaluate at least one complete design and one quality assurance manual which has been approved by the DAPIA. These shall be designs and manuals approved to the Federal standards, and they shall be chosen at random from those approved by the DAPIA during the period of provisional acceptance.

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

[41 FR 19852, May 13, 1976, as amended at 61 FR 10861, Mar. 15, 1996; 80 FR 53727, Sept. 8, 2015]

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

(a) *General—(1) IPIA responsibilities.* An IPIA selected by a manufacturer under §3282.204 to act in a particular manufacturing plant shall be responsible for assuring:

(i) That the plant is capable of following the quality control procedures

set out in the quality assurance manual to be followed in that plant;

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

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

(iv) That whenever it finds a manufactured home in production which fails to conform to the design or where the design is not specific, to the standards, the failure to conform is corrected before the manufactured home leaves the manufacturing plant; and

(v) That if a failure to conform to the design, or where the design is not specific, to the standards, is found in one manufactured home, all other homes still in the plant which the IPIA's records or the records of the manufacturer indicate might not conform to the design or to standards are inspected and, if necessary, brought up to the standards before they leave the plant.

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

(b) *Plant approval.* (1) Each IPIA shall, with respect to each manufacturing plant for which it is responsible, evaluate the quality control procedures being followed by the manufacturer in the plant to determine whether those procedures are consistent with and fulfill the procedures set out in the DAPIA approved quality assurance manual being followed in the plant. As part of this evaluation, and prior to the issuance of any labels to the manufacturer, the IPIA shall make a complete inspection of the manufacture of at least one manufactured home through all of the operations in the manufacturer's plant. The purpose of this initial factory inspection is to determine whether the manufacturer is capable of producing manufactured homes in conformance with the approved design and, to the extent the design is not specific with respect to an aspect of the

standards, with the standards and to determine whether the manufacturer's quality control procedures as set out in the quality assurance manual, plant equipment, and personnel, will assure that such conformance continues. This inspection should be made by one or more qualified engineers who have reviewed the approved design and by an inspector who has been carefully briefed by the engineers on the restrictive aspects of the design. The manufactured home shall be inspected to the approved design for the home except that where the design is not specific with respect to any aspect of the standards, the inspection shall be to the standards as to that aspect of the manufactured home. If the first manufactured home inspected fails to conform to the design or, with respect to any aspect of the standards not specifically covered by the design, to the standards, additional units shall be similarly inspected until the IPIA is satisfied that the manufacturer is conforming to the approved design, or where the design is not specific with respect to any aspect of the standards, to the standards and quality assurance manual.

(2) *Certification report.* If, on the basis of the initial comprehensive factory inspection required by paragraph (b)(1) of this section, the IPIA determines that the manufacturer is performing adequately, the IPIA shall prepare and forward to the manufacturer, to HUD, and to HUD's agent a certification report as described in this paragraph (b)(2) of this section. The issuance of the certification report is a prerequisite to the commencement of production surveillance under paragraph (c) of this section in the plant for which the report is issued. At the time the certification report is issued, the IPIA may provide the manufacturer with a two to four week supply of labels to be applied to manufactured homes produced in the plant. The IPIA shall maintain a copy of each certification report which it issues.

(3) The certification report shall include:

(i) The name of the DAPIA which 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 which were observed, corrective actions taken, and dates of inspections, and

(iv) A certification that at least one manufactured home has been completely inspected in all phases of its production in the plant, that the manufacturer is performing in conformance with the approved designs and quality assurance manual and, to the extent the design is not specific with respect to any aspects of the standards, with the standards, and the IPIA is satisfied that the manufacturer can produce manufactured homes in conformance with the designs, and where the designs are not specific, with the standards on a continuing basis.

(4) *Inadequate manufacturer performance.* Where an IPIA determines that the performance of a manufacturer is not yet adequate to justify the issuance of a certification report and labels to the manufacturer, the IPIA may label manufactured homes itself by using such of its personnel as it deems necessary to perform complete inspections of all phases of production of each manufactured home being produced and labeling only those determined after any necessary corrections to be in conformance with the design and, as appropriate, with the standards. This procedure shall continue until the IPIA determines that the manufacturer's performance is adequate to justify the issuance of a certification report.

(c) *Production surveillance.* (1) After it has issued a certification report under paragraph (b) of this section, the IPIA shall carry out ongoing surveillance of the manufacturing process in the plant. The IPIA shall be responsible for conducting representative inspections to assure that the manufacturer is performing its quality control program pursuant to and consistent with its approved quality assurance manual and to assure that whatever part of a manufactured home is actually inspected by the IPIA is fully in conformance with the design and, as appropriate

under paragraph (a)(1)(iii) of this section, with the standards before a label is issued for or placed on that manufactured home. The surveillance visits shall commence no later than that date on which the IPIA determines they must commence so that the IPIA can assure that every manufactured home to be produced after the effective date of the standards to which a label provided for in paragraph (c)(2) of this section is affixed, is inspected in at least one stage of its production. The frequency of subsequent visits to the plant shall continue to be such that every manufactured home is inspected at some stage in its production. In the course of each visit, the IPIA shall make a complete inspection of every phase of production and of every visible part of every manufactured home which is at each stage of production. The inspection shall be made to the approved design except where the design is not specific with respect to an aspect of the standards, in which case the inspection of that aspect of the manufactured home shall be made to the standards. The IPIA shall assure that no label is placed on any manufactured home which it finds fails to conform with the approved design or, as appropriate, the standards in the course of these inspections and shall assure that no labels are placed on other manufactured homes still in the plant which may also not conform until those homes are inspected and if necessary corrected to the design or the standards. If an IPIA finds a manufactured home that fails to conform to the design, or as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA may, in addition to withholding the label for the unit, proceed to red tag the home until the failure to conform is corrected. Only the IPIA is authorized to remove a red tag. When manufactured homes repeatedly fail to conform to the design, or as appropriate under paragraph (a)(1)(iii) of this section, to the standards in the same assembly station or when there is evidence that the manufacturer is ignoring or not performing under its approved quality assurance manual, the IPIA shall increase the frequency of these inspections until it is satisfied that the manufacturer is performing to

its approved quality assurance manual. Failure to perform to the approved manual justifies withholding labels until an adequate level of performance is attained. As part of its function of assuring quality control, the IPIA shall inspect materials in storage and test equipment used by the manufacturer at least once a month, and more frequently if unacceptable conditions are observed. With the prior approval of the Secretary, an IPIA may decrease the frequency of any inspections.

(2) *Labeling*—(i) *Labels required.* (A) The IPIA shall continuously provide the manufacturer with a two- to four-week supply (at the convenience of the IPIA and the manufacturer) of the labels described in this subsection, except that no labels shall be issued for use when the IPIA is not present if the IPIA is not satisfied that the manufacturer can and is producing manufactured homes which conform to the design and, as appropriate, to the standards. Where necessary, the IPIA shall reclaim labels already given to the manufacturer. In no event shall the IPIA allow a label to be affixed to a manufactured home if the IPIA believes that the manufactured home fails to conform to the design, or, where the design is not specific with respect to an aspect of the standards, to the standards. Labels for such manufactured homes shall be provided only after the failure to conform has been remedied, or after the Secretary has determined that there is no failure to conform.

(B) A permanent label shall 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.

(C) The label shall 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.”

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

(E) The label shall 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 road-side is the right side of the manufactured home when one views the manufactured home from the tow bar end of the manufactured home. It shall be applied to the manufactured home unit in the manufacturing plant by the manufacturer or the IPIA, as appropriate.

(F) The label shall be provided to the manufacturer only by the IPIA. The IPIA shall provide the labels in sequentially numbered series. The IPIA may obtain labels from the Secretary or the Secretary's agent, or where the IPIA obtains the prior approval of the Secretary, from a label manufacturer. However, if the IPIA obtains labels directly from a label supplier, those labels must be sequentially numbered without any duplication of label numbers.

(G) Whenever the IPIA determines that a manufactured home which has been labeled, but which has not yet been released by the manufacturer may not conform to the design or, as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA by itself or through an agent shall red tag the manufactured home. Where the IPIA determines that a manufactured home which has been labeled and released by the manufacturer, but not yet sold to a purchaser (as described in § 3282.252(b)) may not conform, the IPIA may, in its discretion, proceed to red tag the manufactured home. Only the

IPIA is authorized to remove red tags, though it may do so through agents which it deems qualified to determine that the failure to conform has been corrected. Red tags may be removed when the IPIA is satisfied, through inspections, assurances from the manufacturer, or otherwise, that the affected homes conform.

(H) Labels that are damaged, destroyed, or otherwise made illegible or removed shall be replaced by the IPIA, after determination that the manufactured home is in compliance with the standards, by a new label of a different serial number. The IPIA's labeling record shall be permanently marked with the number of the replacement label and a corresponding record of the replacement label.

(ii) *Label control.* The labels used in each plant shall be under the direct control of the IPIA acting in that plant. Only the IPIA shall provide the labels to the manufacturer. The IPIA shall assure that the manufacturer does not use any other label to indicate conformance to the standards.

(A) The IPIA shall be responsible for obtaining labels. Labels shall be obtained from HUD or its agent, or with the approval of the Secretary, from a label manufacturer. The labels shall meet the requirements of this section. Where the IPIA obtains labels directly from a label manufacturer, the IPIA shall 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 shall cease dealing with the label manufacturer.

(B) The labels shall be shipped to and stored by the IPIA's at a location which permits ready access to manufacturing plants under its surveillance. The labels shall be stored under strict security and inventory control. They shall be released only by the IPIA to the manufacturer under these regulations.

(C) The IPIA shall be able to account for all labels which it has obtained through the date on which the manufactured home leaves the manufacturing plant, and it shall be able to

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identify the serial number of the manufactured home to which each particular label is affixed.

(D) The IPIA shall 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 and failure to keep adequate records of which label is on which manufactured home shall render the IPIA subject to disqualification under § 3282.356.

(3) *Data plate.* (i) The IPIA shall assure that each manufactured home produced in each manufacturing plant under its surveillance is supplied with a data plate which meets the requirements of this section and of § 3280.5 of chapter XX of 24 CFR. The data plate shall be furnished by the manufacturer and affixed inside the manufactured home on or near the main electrical distribution panel. The data plate shall contain the following information:

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

(B) The serial number and model designation of the unit and the date the unit was manufactured,

(C) 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.”,

(D) A list of major factory-installed equipment including the manufacturer’s name and the model designation of each appliance,

(E) 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 shall 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 sys-

tem have been designed for the increased requirements specified for Exposure D in ANSI/ASCE 7-88.

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

(ii) A copy of the data plate shall be furnished to the IPIA, and the IPIA shall 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.* The IPIA shall maintain the following records 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.

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

(3) Records of all inspections made at each manufacturing plant 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 other locations of manufactured homes identified by manufacturer and serial number, all manufactured homes believed to contain the same failure to conform, and the action taken in each case.

All records shall specify the precise section of the standard which is in question and contain a clear and concise explanation of the process by which the IPIA reached any conclusions. All records shall be traceable to

specific manufactured home serial numbers and through the manufacturer's records to retailers and purchasers.

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

(e) *Requirements for full acceptance— IPIA.* (1) Before granting full acceptance to an IPIA, the Secretary or the Secretary's agent shall review and evaluate at least one certification report which has been prepared by the IPIA during the period of provisional acceptance. The Secretary or the Secretary's agent shall also review in depth the IPIA's administrative capabilities and otherwise review the IPIA's performance of its responsibilities under these regulations.

(2) 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 agent shall carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary shall not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance shall lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary or the Secretary's agent has not had adequate time in which to complete an evaluation.

[41 FR 19852, May 13, 1976, as amended at 42 FR 2580, Jan. 12, 1977; 42 FR 35157, July 8, 1977; 59 FR 2474, Jan. 14, 1994; 61 FR 10861, Mar. 15, 1996; 80 FR 53727, Sept. 8, 2015]

§ 3282.363 Right of entry and inspection.

Each primary inspection agency shall secure from each manufacturer and manufacturing plant under its surveillance an agreement that the Secretary, the State Administrative Agency and the primary inspection agency have the right to inspect the plant and its manufactured home inspection, labeling, and delivery records, and any of its manufactured homes in the hands of retailers or distributors at any reasonable time.

§ 3282.364 Inspection responsibilities and coordination.

All primary inspection agencies shall be responsible for acting as necessary under their contractual commitment with the manufacturer to determine whether alleged failures to conform to the standards may exist in manufactured homes produced under their surveillance and to determine the source of the problems. 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 which it has approved to determine if they conform to the quality assurance manual, and the IPIA shall have primary responsibility for inspecting actual units produced and, where necessary, for inspecting units released by the manufacturer. All primary inspection agencies acting with respect to particular manufacturer or plant shall act in close coordination so that all necessary functions are performed effectively and efficiently.

§ 3282.365 Forwarding monitoring fee.

The IPIA shall, whenever it provides labels to a manufacturer, obtain from the manufacturer the monitoring fee to be forwarded to the Secretary or the Secretary's agent 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 shall immediately inform the Secretary; or the Secretary's Agent.

§ 3282.366 Notification and correction campaign responsibilities.

(a) Both IPIAs and DAPIAs are responsible for assisting the Secretary or an SAA in identifying the class of manufactured homes that may have been affected where the Secretary or an SAA makes or is contemplating making a preliminary determination of imminent safety hazard, serious defect, defect, or noncompliance under § 3282.412 with respect to manufactured homes for which the IPIA and DAPIA provided either plant inspection or design approval services.

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(b) The IPIA must in each manufacturing plant review at least monthly the manufacturer's service and inspection records to verify if appropriate determinations are being made by the manufacturer under §3282.404 and, if not, take the actions required by this section and §3282.404.

(c) The IPIA in each manufacturing plant is also responsible for reviewing manufacturer determinations of the class of manufactured homes affected when the manufacturer is acting under subpart I. The IPIA must concur in the method used to determine the class of potentially affected manufactured homes or is to state why it finds the method to be inappropriate, inadequate, or incorrect.

[78 FR 60200, Oct. 1, 2013]

Subpart I—Consumer Complaint Handling and Remedial Actions

SOURCE: 78 FR 60200, Oct. 1, 2013, unless otherwise noted.

§ 3282.401 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to establish a system of protections provided by the Act with respect to imminent safety hazards and failures to conform to the construction and safety standards with a minimum of formality and delay, while protecting the rights of all parties.

(b) *Scope.* This subpart sets out the procedures to be followed by manufacturers, retailers, and distributors, SAAs, primary inspection agencies, and the Secretary to assure that notification and correction are provided with respect to manufactured homes when required under this subpart. Notification and correction may be required with respect to manufactured homes that have been sold or otherwise released by the manufacturer to another party.

§ 3282.402 General provisions.

(a) *Purchaser's rights.* Nothing in this subpart shall limit the rights of the purchaser under any contract or applicable law.

(b) *Manufacturer's liability limited.* A manufacturer is not responsible for failures that occur in any manufac-

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tured home or component as the result of normal wear and aging, consumer abuse, or neglect of maintenance. The life of a component warranty may be one of the indicators used to establish normal wear and aging. A failure of any component may not be attributed by the manufacturer to normal wear and aging under this subpart during the term of any applicable warranty provided by the original manufacturer of the affected component.

§ 3282.403 Consumer complaint and information referral.

(a) *Retailer responsibilities.* When a retailer receives a consumer complaint or other information about a home in its possession, or that it has sold or leased, that likely indicates a non-compliance, defect, serious defect, or imminent safety hazard, the retailer must forward the complaint or information to the manufacturer of the manufactured home in question as early as possible, in accordance with §3282.256.

(b) *SAA and HUD responsibilities.* (1) When an SAA or the Secretary receives a consumer complaint or other information that likely indicates a non-compliance, defect, serious defect, or imminent safety hazard in a manufactured home, the SAA or HUD must:

(i) Forward the complaint or information to the manufacturer of the home in question as early as possible; and

(ii) Send a copy of the complaint or other information to the SAA of the State where the manufactured home was manufactured or to the Secretary if there is no such SAA.

(2) When it appears from the complaint or other information that an imminent safety hazard or serious defect may be involved, the SAA of the State where the home was manufactured must also send a copy of the complaint or other information to the Secretary.

(c) *Manufacturer responsibilities.* Whenever the manufacturer receives information from any source that the manufacturer believes in good faith relates to a noncompliance, defect, serious defect, or imminent safety hazard in any of its manufactured homes, the

manufacturer must, for each such occurrence, make the determinations required by § 3282.404.

§ 3282.404 Manufacturers' determinations and related concurrences.

(a) *Initial determination.* (1) Not later than 30 days after a manufacturer receives information that it believes in good faith may indicate a noncompliance, defect, serious defect, or imminent safety hazard, the manufacturer must make a specific initial determination that there is a noncompliance, defect, serious defect, or imminent safety hazard, or that the information requires no further action under this subpart. If a manufacturer makes a final determination of noncompliance for an individual home (see § 3282.412(b)) and a class of homes is not involved, no further action is needed by the manufacturer other than to keep a record of its determination as required by § 3282.417. If the manufacturer determines that it is not the cause of the problem, but a problem still exists, the manufacturer must forward the information in its possession to the appropriate retailer (see § 3282.254), and, if known, to the installer (see §§ 3286.115 and 3286.811) for their consideration. Alternatively, the manufacturer, retailer, or installer may choose to submit the issue for resolution under dispute resolution (see 24 CFR part 3288).

(2) When a manufacturer makes an initial determination that there is a serious defect or an imminent safety hazard, the manufacturer must immediately notify the Secretary, the SAA in the state of manufacture, and the manufacturer's IPIA.

(3) In making the determination of noncompliance, defect, serious defect, or imminent safety hazard, or that no further action is required under this subpart, the manufacturer must review the information it received and carry out investigations, including, a review of service records, IPIA inspection records, and, as appropriate, inspections of homes in the class. The manufacturer must review the information, the known facts, and the circumstances relating to the complaint or information, including service records, approved designs, and audit

findings, as applicable, to decide what investigations are reasonable.

(b) *Class determination.* (1) When the manufacturer makes an initial determination of defect, serious defect, or imminent safety hazard, the manufacturer must also make a good-faith determination of the class that includes each manufactured home in which the same defect, serious defect, or imminent safety hazard exists or likely exists. Multiple occurrences of defects may be considered the same defect if they have the same cause, are related to a specific workstation description, or are related to the same failure to follow the manufacturer's approved quality assurance manual. Good faith may be used as a defense to the imposition of a penalty, but does not relieve the manufacturer of its responsibilities for notification or correction under this subpart I. The manufacturer must make this class determination not later than 20 days after making a determination of defect, serious defect, or imminent safety hazard.

(2) Paragraph (c) of this section sets out methods for a manufacturer to use in determining the class of manufactured homes. If the manufacturer can identify the precise manufactured homes affected by the defect, serious defect, or imminent safety hazard, the class of manufactured homes may include only those manufactured homes actually affected by the same defect, serious defect, or imminent safety hazard. The manufacturer is also permitted to exclude from the class those manufactured homes for which the manufacturer has information that indicates the homes were not affected by the same cause. If it is not possible to identify the precise manufactured homes affected, the class must include every manufactured home in the group of homes that is identifiable, since the same defect, serious defect, or imminent safety hazard exists or likely exists in some homes in that group of manufactured homes.

(3) For purposes related to this section, a defect, a serious defect, or an imminent safety hazard likely exists in a manufactured home if the cause of the defect, serious defect, or imminent safety hazard is such that the same defect, serious defect, or imminent safety

hazard would likely have been introduced systematically into more than one manufactured home. Indications that the defect, serious defect, or imminent safety hazard would likely have been introduced systematically may include, but are not limited to, complaints that can be traced to the same faulty design or faulty construction, problems known to exist in supplies of components or parts, information related to the performance of a particular employee or use of a particular process, and information signaling a failure to follow quality control procedures with respect to a particular aspect of the manufactured home.

(4) If the manufacturer must determine the class of homes pursuant to paragraph (b) of this section, the manufacturer must obtain from the IPIA, and the IPIA must provide, either:

(i) The IPIA's written concurrence on the methods used by the manufacturer to identify the homes that should be included in the class of homes; or

(ii) The IPIA's written statement explaining why it believes the manufacturer's methods for determining the class of homes were inappropriate or inadequate.

(c) *Methods for determining class.* (1) In making a class determination under paragraph (b) of this section, a manufacturer is responsible for carrying out reasonable investigations. In carrying out investigations, the manufacturer must review the information, the known facts, and the relevant circumstances, and generally must establish the cause of the defect, serious defect, or imminent safety hazard. Based on the results of such investigations and all information received or developed, the manufacturer must use an appropriate method or appropriate methods to determine the class of manufactured homes in which the same defect, serious defect, or imminent safety hazard exists or likely exists.

(2) Methods that may be used in determining the class of manufactured homes include, but are not limited to:

(i) Inspection of the manufactured home in question, including its design, to determine whether the defect, serious defect, or imminent safety hazard resulted from the design itself;

(ii) Physical inspection of manufactured homes of the same design or construction, as appropriate, that were produced before and after a home in question;

(iii) Inspection of the service records of a home in question and of homes of the same design or construction, as appropriate, produced before and after that home, if it is clear that the cause of the defect, serious defect, or imminent safety hazard is such that the defect, serious defect, or imminent safety hazard would be visible to and reportable by consumers or retailers;

(iv) Inspection of manufacturer quality control records to determine whether quality control procedures were followed and, if not, the time frame during which they were not;

(v) Inspection of IPIA records to determine whether the defect, serious defect, or imminent safety hazard was either detected or specifically found not to exist in some manufactured homes;

(vi) Identification of the cause as relating to a particular employee whose work, or to a process whose use, would have been common to the production of the manufacturer's homes for a period of time; and

(vii) Inspection of records relating to components supplied by other parties and known to contain or suspected of containing a defect, a serious defect, or an imminent safety hazard.

(3) When the Secretary or an SAA decides the method chosen by the manufacturer to conduct an investigation in order to make a class determination is not the most appropriate method, the Secretary or SAA must explain in writing to the manufacturer why the chosen method is not the most appropriate.

(d) *Documentation required.* The manufacturer must comply with the recordkeeping requirements in § 3282.417 as applicable to its determinations and any IPIA concurrence or statement that it does not concur.

§ 3282.405 Notification pursuant to manufacturer's determination.

(a) *General requirement.* Every manufacturer of manufactured homes must provide notification, as set out in this

section, with respect to any manufactured home produced by the manufacturer in which the manufacturer determines, in good faith, that there exists or likely exists in more than one home, the same defect introduced systematically, a serious defect, or an imminent safety hazard.

(b) *Requirements by category.* (1) *Non-compliance.* A manufacturer must provide notification of a noncompliance only when ordered to do so by the Secretary or an SAA, pursuant to §§ 3282.412 and 3282.413.

(2) *Defects.* When a manufacturer has made a class determination in accordance with § 3282.404 that a defect exists or likely exists in more than one home, the manufacturer must prepare a plan for notification in accordance with § 3282.408, and must provide notification with respect to each manufactured home in the class of manufactured homes.

(3) *Serious defects and imminent safety hazards.* When a manufacturer has made an initial determination in accordance with § 3282.404(a) that a serious defect or imminent safety hazard exists or likely exists, the manufacturer must prepare a plan for notification in accordance with § 3282.408, must provide notification with respect to all manufactured homes in which the serious defect or imminent safety hazard exists or likely exists, and must correct the home or homes in accordance with § 3282.406.

(c) *Plan for notification required.* (1) If a manufacturer determines that it is responsible for providing notification under this section, the manufacturer must prepare and receive approval on a plan for notification as set out in § 3282.408, unless the manufacturer meets alternative requirements established in § 3282.407.

(2) If the Secretary or SAA orders a manufacturer to provide notification in accordance with the procedures in §§ 3282.412 and 3282.413, the Secretary or SAA has the option of requiring a manufacturer to prepare and receive approval on a plan for notification.

(d) *Method of notification.* When a manufacturer provides notification as required under this section, notification must be:

(1) By certified mail or other more expeditious means that provides a receipt to each retailer or distributor to whom any manufactured home in the class of homes containing the defect, serious defect, or imminent safety hazard was delivered;

(2) By certified mail or other more expeditious means that provides a receipt to the first purchaser of each manufactured home in the class of manufactured homes containing the defect, serious defect, or imminent safety hazard, and, to the extent feasible, to any subsequent owner to whom any warranty provided by the manufacturer or required by federal, state, or local law on such manufactured home has been transferred, except that notification need not be sent to any person known by the manufacturer not to own the manufactured home in question if the manufacturer has a record of a subsequent owner of the manufactured home; and

(3) By certified mail or other more expeditious means that provides a receipt to each other person who is a registered owner of a manufactured home in the class of homes containing the defect, serious defect, or imminent safety hazard and whose name has been ascertained pursuant to § 3282.211 or is known to the manufacturer.

§ 3282.406 Required manufacturer correction.

(a) *Correction of noncompliances and defects.* (1) Section 3282.415 sets out requirements with respect to a manufacturer's correction of any noncompliance or defect that exists in each manufactured home that has been sold or otherwise released to a retailer but that has not yet been sold to a purchaser.

(2) In accordance with section 623 of the Act and Part 3288, "Manufactured Home Dispute Resolution Program," of this chapter, the manufacturer, retailer, or installer of a manufactured home deemed responsible for correction of repairs or defects must correct, at its expense, each failure in the performance, construction, components, or material of the home that renders the home or any part of the home not fit for the ordinary use for which it was intended and that is reported during

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the one-year period beginning on the date of installation of the home (see § 3286.115).

(b) *Correction of serious defects and imminent safety hazards.* (1) A manufacturer required to furnish notification under § 3282.405 or § 3282.413 must correct, at its expense, any serious defect or imminent safety hazard that can be related to an error in design or assembly of the manufactured home by the manufacturer, including an error in design or assembly of any component or system incorporated into the manufactured home by the manufacturer.

(2) If, while making corrections under any of the provisions of this subpart, the manufacturer creates an imminent safety hazard or serious defect, the manufacturer shall correct the imminent safety hazard or serious defect.

(3) Each serious defect or imminent safety hazard corrected under this paragraph (b) must be brought into compliance with applicable construction and safety standards or, where those standards are not specific, with the manufacturer's approved design.

(c) *Inclusion in plan.* (1) In the plan required by § 3282.408, the manufacturer must provide for correction of those homes that are required to be corrected pursuant to paragraph (b) of this section.

(2) If the Secretary or SAA orders a manufacturer to provide correction in accordance with the procedures in § 3282.413, the Secretary or SAA has the option of requiring a manufacturer to prepare and receive approval on a plan for correction.

(d) *Corrections by owners.* A manufacturer that is required to make corrections under paragraph (b) of this section, or that elects to make corrections in accordance with § 3282.407, must reimburse any owner of an affected manufactured home who chooses to make the correction before the manufacturer did so, for the reasonable cost of correction.

(e) *Correction of appliances, components, or systems.* (1) If any appliance, component, or system in a manufactured home is covered by a product warranty, the manufacturer, retailer, or installer that is responsible under this section for correcting a non-compliance, defect, serious defect, or

imminent safety hazard in the appliance, component, or system may seek the required correction directly from the producer. The SAA that approves any plan of notification required pursuant to § 3282.408 or the Secretary, as applicable, may establish reasonable time limits for the manufacturer of the home and the producer of the appliance, component, or system to agree on who is to make the correction and for completing the correction.

(2) Nothing in this section shall prevent the manufacturer, retailer, or installer from seeking indemnification from the producer of the appliance, component, or system for correction work done on any appliance, component, or system.

§ 3282.407 Voluntary compliance with the notification and correction requirements under the Act.

A manufacturer that takes corrective action that complies with one of the following three alternatives to the requirement in § 3282.408 for preparing a plan will be deemed to have provided any notification required by § 3282.405:

(a) *Voluntary action—one home.* When a manufacturer has made a determination that only one manufactured home is involved, the manufacturer is not required to provide notification pursuant to § 3282.405 or to prepare or submit a plan if:

(1) The manufacturer has made a determination of defect; or

(2) The manufacturer has made a determination of serious defect or imminent safety hazard and corrects the home within the 20-day period. The manufacturer must maintain, in the plant where the manufactured home was manufactured, a complete record of the correction. The record must describe briefly the facts of the case and any known cause of the serious defect or imminent safety hazard, state what corrective actions were taken, and be maintained in the service records in a form that will allow the Secretary or an SAA to review all such corrections.

(b) *Voluntary action—multiple homes.* Regardless of whether a plan has been submitted under § 3282.408, the manufacturer may act prior to obtaining approval of the plan. Such action is subject to review and disapproval by the

SAA of the state where the home was manufactured or by the Secretary, unless the manufacturer obtains the written agreement of the SAA or the Secretary that the corrective action is adequate. If such an agreement is obtained, the correction must be accepted as adequate by all SAAs and the Secretary, if the manufacturer makes the correction as agreed to and any imminent safety hazard or serious defect is eliminated.

(c) *Waiver.* (1) A manufacturer may obtain a waiver of the notification requirements in § 3282.405 and the plan requirements in § 3282.408 either from the SAA of the state of manufacture, when all of the manufactured homes that would be covered by the plan were manufactured in that state, or from the Secretary. As of the date of a request for a waiver, the notification and plan requirements are deferred pending timely submission of any additional documentation as the SAA or the Secretary may require and final resolution of the waiver request. If a waiver request is not granted, the plan required by § 3282.408 must be submitted within 5 days after the expiration of the time frame established in § 3282.408, if the manufacturer is notified that the request was not granted.

(2) The waiver may be approved if, not later than 20 days after making the determination that notification is required, the manufacturer presents evidence that it, in good faith, believes would show to the satisfaction of the SAA or the Secretary that:

(i) The manufacturer has identified all homes that would be covered by the plan in accordance with § 3282.408;

(ii) The manufacturer will correct, at its expense, all of the identified homes, either within 60 days of being informed that the request for waiver has been granted or within another time limit approved in the waiver;

(iii) The proposed repairs are adequate to remove the defect, serious defect, or imminent safety hazard that gave rise to the determination that correction is required; and

(3) The manufacturer must correct all affected manufactured homes within 60 days of being informed that the request for waiver has been granted or within the time limit approved in the

waiver, as applicable. The manufacturer must record the known cause of the problem and the correction in the service records, in an approved form that will allow the Secretary or SAA to review the cause and correction.

§ 3282.408 Plan of notification required.

(a) *Manufacturer's plan required.* Except as provided in § 3282.407, if a manufacturer determines that it is responsible for providing notification under § 3282.405, the manufacturer must prepare a plan in accordance with this section and § 3282.409. The manufacturer must, as soon as practical, but not later than 20 days after making the determination of defect, serious defect, or imminent safety hazard, submit the plan for approval to one of the following, as appropriate:

(1) The SAA of the State of manufacture, when all of the manufactured homes covered by the plan were manufactured in that State; or

(2) The Secretary, when the manufactured homes were manufactured in more than one State or there is no SAA in the State of manufacture.

(b) *Implementation of plan.* Upon approval of the plan, including any changes for cause required by the Secretary or SAA after consultation with the manufacturer, the manufacturer must carry out the approved plan within the agreed time limits.

§ 3282.409 Contents of plan.

(a) *Purpose of plan.* This section sets out the requirements that must be met by a manufacturer in preparing any plan it is required to submit under § 3282.408. The underlying requirement is that the plan show how the manufacturer will fulfill its responsibilities with respect to notification and correction.

(b) *Contents of plan.* The plan must:

(1) Identify, by serial number and other appropriate identifying criteria, all manufactured homes for which notification is to be provided, as determined pursuant to § 3282.404;

(2) Include a copy of the notice that the manufacturer proposes to use to provide the notification required by § 3282.405;

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(3) Provide for correction of those manufactured homes that are required to be corrected pursuant to § 3282.406(b);

(4) Include the IPIA's written concurrence or statement on the methods used by the manufacturer to identify the homes that should be included in the class of homes, as required pursuant to § 3282.404(b); and

(5) Include a deadline for completion of all notifications and corrections.

(c) *Contents of notice.* Except as otherwise agreed by the Secretary or the SAA reviewing the plan under § 3282.408, the notice to be approved as part of the plan must include the following:

(1) An opening statement that reads: "This notice is sent to you in accordance with the requirements of the National Manufactured Housing Construction and Safety Standards Act."

(2) The following statement: "[choose one, as appropriate: Manufacturer's name, or the Secretary, or the (insert State) SAA] has determined that [insert identifying criteria of manufactured home] may not comply with an applicable Federal Manufactured Home Construction or Safety Standard."

(3) Except when the manufacturer is providing notice pursuant to an approved plan or agreement with the Secretary or an SAA under § 3282.408, each applicable statement must read as follows:

(i) "An imminent safety hazard may exist in (identifying criteria of manufactured home)."

(ii) "A serious defect may exist in (identifying criteria of manufactured home)."

(iii) "A defect may exist in (identifying criteria of manufactured home)."

(4) A clear description of the defect, serious defect, or imminent safety hazard and an explanation of the risk to the occupants, which must include:

(i) The location of the defect, serious defect, or imminent safety hazard in the manufactured home;

(ii) A description of any hazards, malfunctions, deterioration, or other consequences that may reasonably be expected to result from the defect, serious defect, or imminent safety hazard;

(iii) A statement of the conditions that may cause such consequences to arise; and

(iv) Precautions, if any, that the owner can, should, or must take to reduce the chance that the consequences will arise before the manufactured home is repaired;

(5) A statement of whether there will be any warning that a dangerous occurrence may take place and what that warning would be, and of any signs that the owner might see, hear, smell, or feel that might indicate danger or deterioration of the manufactured home as a result of the defect, serious defect, or imminent safety hazard;

(6) A statement that the manufacturer will correct the manufactured home, if the manufacturer will correct the manufactured home under this subpart or otherwise;

(7) A statement in accordance with whichever of the following is appropriate:

(i) Where the manufacturer will correct the manufactured home at no cost to the owner, the statement must indicate how and when the correction will be done, how long the correction will take, and any other information that may be helpful to the owner; or

(ii) When the manufacturer does not bear the cost of repair, the notification must include a detailed description of all parts and materials needed to make the correction; a description of all steps to be followed in making the correction, including appropriate illustrations; and an estimate of the cost of the purchaser or owner of the correction;

(8) A statement informing the owner that the owner may submit a complaint to the SAA or Secretary if the owner believes that:

(i) The notification or the remedy described therein is inadequate;

(ii) The manufacturer has failed or is unable to remedy the problem in accordance with its notification; or

(iii) The manufacturer has failed or is unable to remedy the problem within a reasonable time after the owner's first attempt to obtain remedy; and

(9) A statement that any actions taken by the manufacturer under the Act in no way limit the rights of the owner or any other person under any contract or other applicable law and that the owner may have further rights under contract or other applicable law.

§ 3282.410 Implementation of plan.

(a) *Deadline for notifications.* (1) The manufacturer must complete the notifications carried out under a plan approved by an SAA or the Secretary under § 3282.408 on or before the deadline approved by the SAA or Secretary. In approving each deadline, an SAA or the Secretary will allow a reasonable time to complete all notifications, taking into account the number of manufactured homes involved and the difficulty of completing the notifications.

(2) The manufacturer must, at the time of dispatch, furnish to the SAA or the Secretary a true or representative copy of each notice, bulletin, and other written communication sent to retailers, distributors, or owners of manufactured homes regarding any serious defect or imminent safety hazard that may exist in any homes produced by the manufacturer, or regarding any noncompliance or defect for which the SAA or Secretary requires, under § 3282.413(c), the manufacturer to submit a plan for providing notification.

(b) *Deadline for corrections.* A manufacturer that is required to correct a serious defect or imminent safety hazard pursuant to § 3282.406(b) must complete implementation of the plan required by § 3282.408 on or before the deadline approved by the SAA or the Secretary. The deadline must be no later than 60 days after approval of the plan. In approving the deadline, the SAA or the Secretary will allow a reasonable amount of time to complete the plan, taking into account the seriousness of the problem, the number of manufactured homes involved, the immediacy of any risk, and the difficulty of completing the action. The seriousness and immediacy of any risk posed by the serious defect or imminent safety hazard will be given greater weight than other considerations.

(c) *Extensions.* An SAA that approved a plan or the Secretary may grant an extension of the deadlines included in a plan, if the manufacturer requests such an extension in writing and shows good cause for the extension, if the SAA or the Secretary decides that the extension is justified and not contrary to the public interest. When the Secretary grants an extension for completion of any corrections, the Secretary will no-

tify the manufacturer and must publish notice of such extension in the FEDERAL REGISTER. When an SAA grants an extension for completion of any corrections, the SAA must notify the Secretary and the manufacturer.

(d) *Recordkeeping.* The manufacturer must provide the report and maintain the records that are required by § 3282.417 for all notification and correction actions.

§ 3282.411 SAA initiation of remedial action.

(a) *SAA review of information.* Whenever an SAA has information indicating the possible existence of a noncompliance, defect, serious defect, or imminent safety hazard in a manufactured home, the SAA may initiate administrative review of the need for notification and correction. An SAA initiates administrative review by either:

(1) Referring the matter to another SAA in accordance with paragraph (b) of this section or to the Secretary; or

(2) Taking action itself, in accordance with § 3282.412, when it appears that all of the homes affected by the noncompliance, defect, serious defect, or imminent safety hazard were manufactured in the SAA's State.

(b) *SAA referral of matter.* If at any time it appears that the affected manufactured homes were manufactured in more than one State, an SAA that decides to initiate such administrative review must refer the matter to the Secretary for possible action pursuant to § 3282.412. If it appears that all of the affected manufactured homes were manufactured in another State, an SAA that decides to initiate administrative review must refer the matter to the SAA in the State of manufacture or to the Secretary, for possible action pursuant to § 3282.412.

§ 3282.412 Preliminary and final administrative determinations.

(a) *Grounds for issuance of preliminary determination.* The Secretary or, in accordance with § 3282.411, an SAA in the State of manufacture, may issue a Notice of Preliminary Determination when:

(1) The manufacturer has not provided to the Secretary or SAA the necessary information to make a determination that:

(i) A noncompliance, defect, serious defect, or imminent safety hazard possibly exists; or

(ii) A manufacturer had information that likely indicates a noncompliance, defect, serious defect, or imminent safety hazard for which the manufacturer failed to make the determinations required under § 3282.404;

(2) The Secretary or SAA has information that indicates a noncompliance, defect, serious defect, or imminent safety hazard possibly exists, and, in the case of the SAA, the SAA believes that:

(i) The affected manufactured home has been sold or otherwise released by a manufacturer to a retailer or distributor, but there is no completed sale of the home to a purchaser;

(ii) Based on the same factors that are established for a manufacturer's class determination in § 3282.404(b), the information indicates a class of homes in which a noncompliance or defect possibly exists; or

(iii) The information indicates one or more homes in which a serious defect or an imminent safety hazard possibly exists;

(3) The Secretary or SAA is reviewing a plan under § 3282.408 and the Secretary or SAA disagree with the manufacturer on proposed changes to the plan;

(4) The Secretary or SAA believes that the manufacturer has failed to fulfill the requirements of a waiver granted under § 3282.407(c); or

(5) There is information that a manufacturer failed to make the determinations required under § 3282.404.

(b) *Additional requirements—SAA issuance.* (1) An SAA that receives information that indicates a serious defect or an imminent safety hazard possibly exists in a home manufactured in that SAA's State must notify the Secretary about that information.

(2) An SAA that issues a preliminary determination must provide a copy of the preliminary determination to the Secretary at the time of its issuance. Failure to comply with this require-

ment does not affect the validity of the preliminary determination.

(c) *Additional requirements—Secretary issuance.* The Secretary will notify the SAA of each State where the affected homes were manufactured, and, to the extent reasonable, the SAA of each State where the homes are located, of the issuance of a preliminary determination. Failure to comply with this requirement does not affect the validity of the preliminary determination.

(d) *Notice of Preliminary Determination.* (1) The Notice of Preliminary Determination must be sent by certified mail or express delivery and must:

(i) Include the factual basis for the determination;

(ii) Include the criteria used to identify any class of homes in which the noncompliance, defect, serious defect, or imminent safety hazard possibly exists;

(iii) If applicable, indicate that the manufacturer may be required to make corrections on a home or in a class of homes; and

(iv) If the preliminary determination is that the manufacturer failed to make an initial determination required under § 3282.404(a), include an allegation that the manufacturer failed to act in good faith.

(2) The Notice of Preliminary Determination must inform the manufacturer that the preliminary determination will become final unless the manufacturer requests a hearing or presentation of views under subpart D of this part.

(e) *Presentation of views.* (1) If a manufacturer elects to exercise its right to a hearing or presentation of views, the Secretary or the SAA, as applicable, must receive the manufacturer's request for a hearing or presentation of views:

(i) Within 15 days of delivery of the Notice of Preliminary Determination of serious defect, defect, or noncompliance; or

(ii) Within 5 days of delivery of the Notice of Preliminary Determination of imminent safety hazard.

(2) A Formal or an Informal Presentation of Views will be held in accordance with § 3282.152 promptly upon receipt of a manufacturer's request under paragraph (c) of this section.

(f) *Issuance of Final Determination.* (1) The SAA or the Secretary, as appropriate, may make a Final Determination that is based on the allegations in the preliminary determination and advise to the manufacturer if:

(i) The manufacturer fails to respond to the Notice of Preliminary Determination within the time period established in paragraph (c)(2) of this section; or

(ii) The SAA or the Secretary decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the preliminary determination.

(2) At the time that the SAA or Secretary makes a Final Determination that an imminent safety hazard, serious defect, defect, or noncompliance exists, the SAA or Secretary, as appropriate, must issue an order in accordance with § 3282.413.

§ 3282.413 Implementation of Final Determination.

(a) *Issuance of orders.* (1) The SAA or the Secretary, as appropriate, must issue an order directing the manufacturer to furnish notification if:

(i) The SAA makes a Final Determination that a defect or noncompliance exists in a class of homes;

(ii) The Secretary makes a Final Determination that an imminent safety hazard, serious defect, defect, or noncompliance exists; or

(iii) The SAA makes a Final Determination that an imminent safety hazard or a serious defect exists in any home, and the SAA has received the Secretary's concurrence on the issuance of the Final Determination and order.

(2) The SAA or the Secretary, as appropriate, must issue an order directing the manufacturer to make corrections in any affected manufactured home if:

(i) The SAA or the Secretary makes a Final Determination that a defect or noncompliance exists in a manufactured home that has been sold or otherwise released by a manufacturer to a retailer or distributor but for which the sale to a purchaser has not been completed;

(ii) The Secretary makes a Final Determination that an imminent safety hazard or serious defect exists; or

(iii) The SAA makes a Final Determination that an imminent safety hazard or serious defect exists in any home, and the SAA has received the Secretary's concurrence on the issuance of the Final Determination and order.

(3) Only the Secretary may issue an order directing a manufacturer to repurchase or replace any manufactured home already sold to a purchaser, unless the Secretary authorizes an SAA to issue such an order.

(4) An SAA that has a concurrence or authorization from the Secretary on any order issued under this section must have the Secretary's concurrence on any subsequent changes to the order. An SAA that has issued a Preliminary Determination must have the Secretary's concurrence on any waiver of notification or any settlement when the concerns addressed in the Preliminary Determination involve a serious defect or an imminent safety hazard.

(5) If an SAA or the Secretary makes a Final Determination that the manufacturer failed to make, in good faith, an initial determination required under § 3282.404(a):

(i) The SAA may impose any penalties or take any action applicable under State law and may refer the matter to the Secretary for appropriate action; and

(ii) The Secretary may take any action permitted by law.

(b) *Decision to order replacement or repurchase.* The SAA or the Secretary will order correction of any manufactured home covered by an order issued in accordance with paragraph (a)(2) of this section, unless any requirements and factors applicable under § 3282.414 and § 3282.415 indicate that the SAA or the Secretary should order replacement or repurchase of the home.

(c) *Time for compliance with order.* (1) The SAA or the Secretary may require the manufacturer to submit a plan for providing any notification and any correction, replacement, or repurchase remedy that results from an order under this section. The manufacturer's plan must include the method and date

by which notification and any corrective action will be provided.

(2) The manufacturer must provide any such notification and correction, replacement, or repurchase remedy as early as practicable, but not later than:

(i) Thirty days after issuance of the order, in the case of a Final Determination of imminent safety hazard or when the SAA or Secretary has ordered replacement or repurchase of a home pursuant to § 3282.414; or

(ii) Sixty days after issuance of the order, in the case of a Final Determination of serious defect, defect, or non-compliance.

(3) Subject to the requirements of paragraph (a)(3) of this section, the SAA that issued the order or the Secretary may grant an extension of the deadline for compliance with an order if:

(i) The manufacturer requests such an extension in writing and shows good cause for the extension; and

(ii) The SAA or the Secretary is satisfied that the extension is justified in the public interest.

(4) When the SAA grants an extension, it must notify the manufacturer and forward to the Secretary a draft of a notice of the extension for the Secretary to publish in the FEDERAL REGISTER. When the Secretary grants an extension, the Secretary must notify the manufacturer and publish notice of such extension in the FEDERAL REGISTER.

(d) *Appeal of SAA determination.* Within 10 days of a manufacturer receiving notice that an SAA has made a Final Determination that an imminent safety hazard, a serious defect, a defect, or noncompliance exists or that the manufacturer failed to make the determinations required under § 3282.404, the manufacturer may appeal the Final Determination to the Secretary under § 3282.309.

(e) *Settlement offers.* A manufacturer may propose in writing, at any time, an offer of settlement and shall submit it for consideration by the Secretary or the SAA that issued the Notice of Preliminary Determination. The Secretary or the SAA has the option of providing the manufacturer making the offer with an opportunity to make

an oral presentation in support of such offer. If the manufacturer is notified that an offer of settlement is rejected, the offer is deemed to have been withdrawn and will not constitute a part of the record in the proceeding. Final acceptance by the Secretary or an SAA of any offer of settlement automatically terminates any proceedings related to the matter involved in the settlement.

(f) *Waiver of notification.* (1) At any time after the Secretary or an SAA has issued a Notice of Preliminary Determination, the manufacturer may ask the Secretary or SAA to waive any formal notification requirements. When requesting a waiver, the manufacturer must certify that:

(i) The manufacturer has made a class determination in accordance with § 3282.404(b);

(ii) The manufacturer will correct, at the manufacturer's expense, all affected manufactured homes in the class within a time period specified by the Secretary or SAA, but not later than 60 days after the manufacturer is notified of the acceptance of the request for waiver or the issuance of any Final Determination, whichever is later; and

(iii) The proposed repairs are adequate to correct the noncompliance, defect, serious defect, or imminent safety hazard that gave rise to the issuance of the Notice of Preliminary Determination.

(2) If the Secretary or SAA grants a waiver, the manufacturer must reimburse any owner of an affected manufactured home who chose to make the correction before the manufacturer did so, for the reasonable cost of correction.

(g) *Recordkeeping.* The manufacturer must provide the report and maintain the records that are required by § 3282.417 for all notification and correction actions.

§ 3282.414 Replacement or repurchase of homes after sale to purchaser.

(a) *Order to replace or repurchase.* Whenever a manufacturer cannot correct or remove an imminent safety hazard or a serious defect in a manufactured home, for which there is a completed sale to a purchaser, within 60 days of the issuance of an order under § 3282.413 or any extension of the 60-day

deadline that has been granted by the Secretary in accordance with § 3282.413(c)(3), the Secretary or, if authorized in writing by the Secretary in accordance with § 3282.413(a)(3), the SAA may require that the manufacturer:

(1) Replace the manufactured home with a home that:

(i) Is substantially equal in size, equipment, and quality; and

(ii) Either is new or is in the same condition that the defective manufactured home would have been in at the time of discovery of the imminent safety hazard or serious defect had the imminent safety hazard or serious defect not existed; or

(2) Take possession of the manufactured home, if the Secretary or the SAA so orders, and refund the purchase price in full, except that the amount of the purchase price may be reduced by a reasonable amount for depreciation if the home has been in the possession of the owner for more than one year and the amount of depreciation is based on:

(i) Actual use of the home; and

(ii) An appraisal system approved by the Secretary or the SAA that does not take into account damage or deterioration resulting from the imminent safety hazard or serious defect.

(b) *Factors affecting order.* In determining whether to order replacement or refund by the manufacturer, the Secretary or the SAA will consider:

(1) The threat of injury or death to manufactured home occupants;

(2) Any costs and inconvenience to manufactured-home owners that will result from the lack of adequate repair within the specified period;

(3) The expense to the manufacturer;

(4) Any obligations imposed on the manufacturer under contract, or other applicable law of which the Secretary or the SAA has knowledge; and

(5) Any other relevant factors that may be brought to the attention of the Secretary or the SAA.

(c) *Owner's election of remedy.* When under contract or other applicable law the owner has the right of election between replacement and refund, the manufacturer must inform the owner of such right of election and must inform the Secretary of the election, if any, made by the owner.

(d) *Recordkeeping.* The manufacturer must provide the report that is required by § 3282.417 when a manufactured home has been replaced or repurchased under this section.

§ 3282.415 Correction of homes before sale to purchaser.

(a) *Sale or lease prohibited.* Manufacturers, retailers, and distributors must not sell, lease, or offer for sale or lease any manufactured home that they have reason to know, in the exercise of due care, contains a noncompliance, defect, serious defect, or imminent safety hazard. The sale of a home to a purchaser is complete when all contractual obligations of the manufacturer, retailer, and distributor to the purchaser and conditions specified in § 3282.252 have been met.

(b) *Retailer/distributor notification to manufacturer.* When a retailer, acting as a reasonable retailer, or a distributor, acting as a reasonable distributor, believes that a manufactured home that has been sold to the retailer or distributor, but for which there is no completed sale to a purchaser, likely contains a noncompliance, defect, serious defect, or imminent safety hazard, the retailer or distributor must notify the manufacturer of the home in a timely manner.

(c) *Manufacturer's remedial responsibilities.* Upon a Final Determination pursuant to § 3282.412(f) by the Secretary or an SAA, a determination by a court of appropriate jurisdiction, or a manufacturer's own determination that a manufactured home that has been sold to a retailer but for which there is no completed sale to a purchaser contains a noncompliance, defect, serious defect, or imminent safety hazard, the manufacturer must do one of the following:

(1) Immediately repurchase such manufactured home from the retailer or distributor at the price paid by the retailer or distributor, plus pay all transportation charges involved, if any, and a reasonable reimbursement of not less than one percent per month of such price paid, prorated from the date the manufacturer receives notice by certified mail of the noncompliance, defect, serious defect, or imminent safety hazard; or

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(2) At its expense, immediately furnish to the retailer or distributor all required parts or equipment for installation in the home by the retailer or distributor, and the manufacturer must reimburse the retailer or distributor for the reasonable value of the retailer's or distributor's work, plus a reasonable reimbursement of not less than one percent per month of the manufacturer's or distributor's selling price, prorated from the date the manufacturer receives notice by certified mail to the date the noncompliance, defect, serious defect, or imminent safety hazard is corrected, so long as the retailer or distributor proceeds with reasonable diligence with the required work; or

(3) Carry out all needed corrections to the home.

(d) *Establishing costs.* The value of reasonable reimbursements as specified in paragraph (c) of this section will be fixed by either:

(1) Mutual agreement of the manufacturer and retailer or distributor; or

(2) A court in an action brought under section 613(b) of the Act (42 U.S.C. 5412(b)).

(e) *Records required.* The manufacturer and the retailer or distributor must maintain records of their actions taken under this section in accordance with § 3282.417.

(f) *Exception for leased homes.* This section does not apply to any manufactured home purchased by a retailer or distributor that has been leased by such retailer or distributor to a tenant for purposes other than resale. Other remedies that may be available to a retailer or distributor under subpart I of this part continue to be applicable.

(g) *Indemnification.* A manufacturer may indemnify itself through agreements or contracts with retailers, distributors, transporters, installers, or others for the costs of repurchase, parts, equipment, and corrective work incurred by the manufacturer pursuant to paragraph (c).

§ 3282.416 Oversight of notification and correction activities.

(a) *IPIA responsibilities.* The IPIA in each manufacturing plant must:

(1) Assure that notifications required under this subpart I are sent to all

owners, purchasers, retailers, and distributors of whom the manufacturer has knowledge;

(2) Audit the certificates required by § 3282.417 to assure that the manufacturer has made required corrections;

(3) Whenever a manufacturer is required to determine a class of homes pursuant to § 3282.404(b), provide either:

(i) The IPIA's written concurrence on the methods used by the manufacturer to identify the homes that should be included in the class of homes; or

(ii) The IPIA's written statement explaining why it believes the manufacturer's methods for determining the class of homes were inappropriate or inadequate; and

(4) Conduct, at least monthly, a review the manufacturer's service records of determinations under § 3282.404 and take appropriate action in accordance with §§ 3282.362(c) and 3282.364.

(b) *SAA and Secretary's responsibilities.*

(1) SAA oversight of manufacturer compliance with this subpart will be done primarily by periodically checking the records that manufacturers are required to keep under § 3282.417.

(2) The SAA or Secretary to which the report required by § 3282.417(a) is sent is responsible for assuring, through oversight, that remedial actions have been carried out as described in the report. The SAA of the State in which an affected manufactured home is located may inspect that home to determine whether any correction required under this subpart I is carried out in accordance with the approved plan or, if there is no plan, with the construction and safety standards or other approval obtained by the manufacturer.

§ 3282.417 Recordkeeping requirements.

(a) *Manufacturer report on notifications and corrections.* Within 30 days after the deadline for completing any notifications, corrections, replacement, or repurchase required pursuant to this subpart, the manufacturer must provide a complete report of the action taken to, as appropriate, the Secretary or the SAA that approved the plan under § 3282.408, granted a waiver, or issued the order under § 3282.413. If any

other SAA or the Secretary forwarded the relevant consumer complaint or other information to the manufacturer in accordance with § 3282.403, the manufacturer must send a copy of the report to that SAA or the Secretary, as applicable.

(b) *Records of manufacturer's determinations.* (1) A manufacturer must record each initial and class determination required under § 3282.404, in a manner approved by the Secretary or an SAA and that identifies who made each determination, what each determination was, and all bases for each determination. Such information must be available for review by the IPIA.

(2) The manufacturer records must include:

(i) The information it received that likely indicated a noncompliance, defect, serious defect, or imminent safety hazard;

(ii) All of the manufacturer's determinations and each basis for those determinations;

(iii) The methods used by the manufacturer to establish any class, including, when applicable, the cause of the defect, serious defect, or imminent safety hazard; and

(iv) Any IPIA concurrence or statement that it does not concur with the manufacturer's class determination, in accordance with § 3282.404(b).

(3) When the records that a manufacturer is required to keep in accordance with this paragraph (b) involve a class of manufactured homes that have the same noncompliance, defect, serious defect, or imminent safety hazard, the manufacturer has the option of meeting the requirements of this paragraph by establishing a class determination file, instead of including the same information in the file required by paragraph (e) of this section for each affected home. Such class determination file must contain the records of each class determination, notification, and correction, as applicable. For each class determination, the manufacturer must record once in each class determination file the information common to the class, and must identify by serial number all of the homes that the class comprises and that are subject to notification and correction, as applicable.

(c) *Manufacturer records of notifications.* When a manufacturer is required to provide notification under this subpart, the manufacturer must maintain a record of each type of notice sent and a complete list of the persons notified and their addresses. The manufacturer must maintain these records in a manner approved by the Secretary or an SAA to identify each notification campaign.

(d) *Manufacturer records of corrections.* When a manufacturer is required to provide or provides correction under this subpart, the manufacturer must maintain a record of one of the following, as appropriate, for each manufactured home involved:

(1) If the correction is made, a certification by the manufacturer that the repair was made to conform to the federal construction and safety standards in effect at the time the home was manufactured and that each identified imminent safety hazard or serious defect has been corrected; or

(2) If the owner refuses to allow the manufacturer to repair the home, a certification by the manufacturer that:

(i) The owner has been informed of the problem that may exist in the home;

(ii) The owner has been provided with a description of any hazards, malfunctions, deterioration, or other consequences that may reasonably be expected to result from the defect, serious defect, or imminent safety hazard; and

(iii) An attempt has been made to repair the problems, but the owner has refused the repair.

(e) *Maintenance of manufacturer's records.* (1) Except as provided in paragraph (b)(3) of this section, for each manufactured home produced by a manufacturer, the manufacturer must maintain in a printed or electronic format all of the information required by paragraphs (b), (c), and (d) of this section, and must consolidate the information in a readily accessible file or in a readily accessible combination of a printed file and an electronic file. For each home, the manufacturer also must include in such file a copy of the homes data plate; all information related to manufacture, handling, and assembly of the home; any checklist or

similar documentation used by the manufacturer in the transport of the home; the name and address of the retailer; the original or a copy of each purchaser's registration record received by the manufacturer; all correspondence with the retailer and homeowner that is related to the home; any information received by the manufacturer regarding setup of the home; all work orders for servicing the home; and the information that the manufacturer is required to keep pursuant to § 3282.211. The manufacturer must organize all such files in order of the serial numbers of the homes produced.

(2) The manufacturer must maintain each of these manufactured-home records at the plant where the home was produced. If that plant is no longer in existence, the manufacturer must keep the records at its nearest production plant in the same State, or, if such a plant does not exist, at the manufacturer's corporate headquarters.

§ 3282.418 Factors for appropriateness and amount of civil penalties.

In determining whether to seek a civil penalty for a violation of the requirements of this subpart, and the amount of such penalty to be recommended, the Secretary will consider the provisions of the Act and the following factors:

- (a) The gravity of the violation;
- (b) The degree of the violator's culpability, including whether the violator had acted in good faith in trying to comply with the requirements;
- (c) The injury to the public;
- (d) Any injury to owners or occupants of manufactured homes
- (e) The ability to pay the penalty;
- (f) Any benefits received by the violator;
- (g) The extent of potential benefits to other persons;
- (h) Any history of prior violations;
- (i) Deterrence of future violations; and
- (j) Such other factors as justice may require.

Subpart J—Monitoring of Primary Inspection Agencies

§ 3282.451 General.

The actions of all primary inspection agencies accepted under subpart H shall be monitored by the Secretary or the Secretary's agent to determine whether the PIAs are fulfilling their responsibilities under these regulations. This monitoring shall be carried out primarily through joint monitoring teams made up of personnel supplied by SAAs and by the Secretary or the Secretary's agent. Monitoring parties shall make recommendations to the Secretary with respect to final acceptance of PIAs under §§ 3282.361(e) and 3282.362(e), continued acceptance, and disqualification or requalification under § 3282.356, and with respect to any changes which PIAs should make in their operations in order to continue to be approved. Based on this monitoring, the Secretary shall determine whether PIAs should continue to be approved under these regulations.

§ 3282.452 Participation in monitoring.

(a) *Joint monitoring teams.* (1) The Secretary or the Secretary's agent shall develop and coordinate joint monitoring teams which shall be made up of qualified personnel provided by SAAs and by the Secretary or the Secretary's agent. The Secretary or the Secretary's agent shall determine whether personnel are qualified based on education or experience.

(2) The joint monitoring teams will operate generally on a regional basis. To the extent possible, the teams shall be so scheduled that personnel provided by an SAA will be monitoring operations in manufactured home plants from which manufactured homes are shipped into their State.

(3) Personnel from an SAA shall not participate on joint monitoring teams operating within their State.

(4) States are encouraged but not required to participate on joint monitoring teams.

(b) *State monitoring.* A State may carry out monitoring of IPIA functions at plant facilities within the State if the State is not acting as an IPIA. Where a State wishes to carry out monitoring activities it shall do so in

coordination with the Secretary and the Secretary's agent. To the extent that the State is performing adequate monitoring, the frequency of the joint team monitoring may be reduced to one visit per year consistent with the requirements of § 3282.453.

(c) *Review of staff capability.* The monitoring party shall review the capability of the PIA's staff to perform the functions it is required to perform.

(d) *Review of interpretations.* The monitoring party shall 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 which should be referred to the Secretary for determination.

(e) *DAPIA.* Monitoring parties shall review on a random basis at least 10 percent of the design and quality assurance manual approvals made by each DAPIA in each year.

(f) *IPIA.* The monitoring parties shall assure that the IPIAs are carrying out all of the functions for which they have been accepted. In particular, they shall assure that the manufacturing process 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. A monitoring team shall monitor the IPIA's office procedures, files, and label control and the monitoring team shall send copies of its report to the Secretary or the Secretary's agent, which shall send copies to all monitoring teams which monitor the operations of the subject IPIA.

(g) *Remedial actions.* The monitoring parties shall 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.

§ 3282.453 Frequency and extent of monitoring.

(a) The actions of all primary inspection agencies shall be monitored at a frequency adequate to assure that they are performing consistently and fulfilling their responsibilities under

these regulations. Every aspect of the primary inspection agencies' performance shall be monitored.

(b) Frequency of monitoring. The performance of each primary inspection agency shall be monitored during its period of provisional acceptance by a complete review of its records and, in the case of IPAs, by a complete inspection of the operations of at least one manufacturing plant which it has approved or in which it is operating. After the initial inspection, the performance of each primary inspection agency shall be monitored four times per year, except that the number of monitoring visits may be decreased to a minimum of one per year if the performance of the primary inspection agency is deemed by the Secretary or the Secretary's agent to be superior, and it may be increased as necessary if performance is suspect. There shall be a minimum of one review per year of the records of each primary inspection agency, and there shall be more reviews as needed.

Subpart K—Departmental Oversight

§ 3282.501 General.

The Secretary shall oversee the performance of SAAs, the Secretary's agent, and primary inspection agencies as follows:

(a) The Secretary shall review SAA reports to ensure that States are taking appropriate actions with regard to the enforcement of the standards and with respect to the functions for which they are approved under these regulations.

(b) The Secretary shall review monitoring reports submitted by the Secretary's agent to determine that it is performing in accordance with the contract between it and the Secretary.

(c) The Secretary shall review monitoring reports to determine whether PIAs are fulfilling their responsibilities under these regulations.

(d) The Secretary shall make random visits for the purpose of overseeing the activities of SAAs and the Secretary's agent.

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(e) The Secretary shall take such other actions to oversee the system established by these regulations as it deems appropriate.

(f) All records maintained by all parties acting under these regulations with respect to those actions shall be available to the Secretary, the Secretary's agent, and where appropriate, SAAs and PIAs for review at any reasonable time.

§ 3282.502 Departmental implementation.

To the extent that SAAs or any parties contracting with the Secretary do not perform functions called for under these regulations, those functions shall be carried out by the Secretary with its own personnel or through other appropriate parties.

§ 3282.503 Determinations and hearings.

The Secretary shall make all the determinations and hold such hearings as are required by these regulations, and the Secretary shall resolve all disputes arising under these regulations.

Subpart L—Manufacturer, IPIA and SAA Reports

§ 3282.551 Scope and purpose.

This subpart describes the reports which shall be submitted by manufacturers, PIAs and SAAs as part of the system of enforcement established under these regulations. Additional reports described in subpart I are required when corrective actions are taken under that subpart.

§ 3282.552 Manufacturer reports for joint monitoring fees.

The manufacturer must submit to the IPIA in each of its manufacturing plants, and to HUD or to the Secretary's agent, a monthly production report that includes the serial numbers of each manufactured home manufactured and labeled at that plant during the preceding month. The report must also include the date of manufacture, State of first location of these manufactured homes after leaving the plant, type of unit, and any other information required under this part. For all homes to be completed pursuant to subpart M

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of these regulations, the production report must also include a brief description of the work to be completed on site. The State of first location is the State of the premises of the retailer or purchaser to whom the manufactured home is first shipped. The monthly report must be submitted by the 10th day of each month and contain information describing the manufacturer's previous month's activities. The manufacturer is encouraged to submit the report electronically, when feasible.

[80 FR 53727, Sept. 8, 2015]

§ 3282.553 IPIA reports.

Each IPIA shall 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, a report of the operations of each manufacturer in that State for the preceding month which includes the following information:

(a) The number of single-wide and double-wide manufactured homes labeled in the preceding month;

(b) The number of inspection visits made to each manufacturing plant in the preceding month; and

(c) The number of manufactured homes with a failure to conform to the standards or an imminent safety hazard during the preceding month found in the manufacturing plant.

The manufacturers report for the preceding month described in § 3282.552 shall be attached to each such IPIA report as an appendix thereto.

§ 3282.554 SAA reports.

Each SAA shall submit, prior to the last day of each month, to the Secretary a report covering the preceding month which includes:

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

(b) The description of the SAA's oversight activities and findings regarding consumer complaints, notification, and correction actions during the preceding month. The IPIA report for the preceding month described in § 3282.553, as well as any orders issued pursuant to 3282.413 and manufacturer reports

under § 3282.417(a), which were received during the preceding month, are to be attached to each such SAA report as an Appendix thereto.

[41 FR 19852, May 13, 1976, as amended at 78 FR 60208, Oct. 1, 2013]

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

SOURCE: 80 FR 53727, Sept. 8, 2015, unless otherwise noted.

§ 3282.601 Purpose and applicability.

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

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

- (1) Be substantially completed in the factory;
- (2) Meet the requirements of the Construction and Safety Standards upon completion of the site work; and
- (3) Be inspected by the manufacturer's IPIA as provided in this subpart, unless specifically exempted as installation under HUD's Model Installation Standards, 24 CFR part 3285. This subpart does not apply to Alternative Construction (see § 3282.14) that does not comply with the Manufactured Home Construction and Safety Standards.

EFFECTIVE DATE NOTE: At 86 FR 2526, Jan. 12, 2021, § 3282.601 was amended by adding paragraph (c). At 86 FR 13645, Mar. 10, 2021 a delay published to the above rule making the new effective date July 12, 2021. For the convenience of the user, the added text is set forth as follows:

§ 3282.601 Purpose and applicability.

* * * * *

(c) *Exception.* An add-on or attached accessory building or structure which does not affect the performance and ability of the manufactured home to comply with the standards in accordance with § 3282.8(j) is not governed by this section.

§ 3282.602 Construction qualifying for on-site completion.

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

- (1) Hinged roof and eave construction, unless exempted as installation by § 3285.801(f) of the Model Manufactured Home Installation Standards and completed and inspected in accordance with the Manufactured Home Installation Program;
- (2) Any work required by the home design that cannot be completed in the factory, or when the manufacturer authorizes the retailer to provide an add-on, not including an attached garage, to the home during installation, when that work would take the home out of conformance with the construction and safety standards and then bring it back into conformance;
- (3) Appliances provided by the manufacturer, installer, retailer, or purchaser, including fireplaces to be installed on site;
- (4) Components or parts that are shipped loose with the manufactured home and that will be installed on-site, unless exempted as installation by the installation standards;
- (5) Exterior applications such as brick siding, stucco, or tile roof systems; and
- (6) Other construction such as roof extensions (dormers), site-installed

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windows in roofs, removable or open floor sections for basement stairs, and sidewall bay windows.

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

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

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

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

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

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

(c) *Manner of DAPIA approval.* Notification of DAPIA approval must include, by incorporation or by listing, the information required by paragraph (d) of this section, and must be indicated by the DAPIA placing its stamp of approval or authorized signature on each page of the manufacturer's designs submitted with its request for approval. The DAPIA must include an

"SC" designation on each page that includes an element of construction that is to be completed on-site and must include those pages as part of the approved design package.

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

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

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

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

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

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

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

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

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

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

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

(11) Include any other requirements and limitations that the DAPIA deems necessary or appropriate to accomplish the purposes of the Act.

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

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

§ 3282.604 DAPIA responsibilities.

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

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

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

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

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

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

§ 3282.605 Requirements applicable to completion of construction.

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

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

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

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

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

(i) The name and address of the manufacturer;

(ii) The serial number of the manufactured home;

(iii) The address of the home site;

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

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

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

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

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

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

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

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

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

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

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

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

(3) The manufacturer must submit a copy of the report, or a separate listing of all information provided on each report for homes that are completed under an approval issued pursuant to this section, to the SAAs of the States where the home is substantially completed in the factory and where the home is sited, as applicable.

§ 3282.606 Consumer information.

(a) *Notice.* Any home completed under the procedures established in this section must be shipped with a temporary notice that explains that the home will comply with the requirements of the construction and safety standards only after all of the site work has been completed and inspected. The notice must be legible and typed, using letters at least ¼ inch high in the text of the notice and ¾ inch high for the title. The notice must read as follows:

IMPORTANT CONSUMER INFORMATION
NOTICE

WARNING: DO NOT LIVE IN THIS HOME UNTIL THE ON-SITE WORK HAS BEEN COMPLETED AND THE MANUFACTURER HAS PROVIDED A COPY OF THE INSPECTION REPORT THAT CERTIFIES THAT THE HOME HAS BEEN INSPECTED AND IS CONSTRUCTED IN ACCORDANCE WITH

APPROVED INSTRUCTIONS FOR MEETING THE CONSTRUCTION AND SAFETY STANDARDS.

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

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

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

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

(d) *When sale or lease of home is complete.* For purposes of establishing the manufacturer's and retailer's responsibilities for on-site completion under the Act and subparts F and I of this part, the sale or lease of the manufactured home will not be considered complete until the purchaser or lessor, as applicable, has been provided with a copy of the final site inspection report required under § 3282.605(d) and a copy of the manufacturer's certification of completion required under § 3282.609(k)

and (l). For 5 years from the date of the sale or lease of each home, the manufacturer must maintain in its records an indication that the final on-site inspection report and certification of completion has been provided to the lessor or purchaser and, as applicable, the appropriate retailer.

§ 3282.607 IPIA responsibilities.

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

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

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

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

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

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

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

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

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

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

(d) Designating an IPIA inspector or an independent qualified third-party inspector acceptable to the IPIA, as set forth under § 3282.358(d), who is not associated with the manufacturer and is

not involved with the site construction or completion of the home and is free of any conflict of interest in accordance with § 3282.359, to inspect the work done on-site for the purpose of determining compliance with:

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

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

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

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

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

§ 3282.608 Manufacturer responsibilities.

A manufacturer proceeding under this section is responsible for:

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

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

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

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

(e) Either before or at the time on-site work commences, providing the IPIA with a copy of any applicable DAPIA-approved quality assurance manual for on-site completion, the ap-

proved instructions for completing the construction work on-site, and an approved inspection checklist, and maintaining this information on the job site until all on-site work is completed and accepted by the IPIA;

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

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

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

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

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

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

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

(m) Providing its final on-site inspection report and certification of completion to the IPIA and, after approval, to

the lessor or purchaser and, as applicable, the appropriate retailer, and to the SAA upon request;

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

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

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

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

§ 3282.609 Revocation or amendment of DAPIA approval.

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

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

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

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

(4) The manufacturer fails to make arrangements for one or more manu-

factured homes to be inspected by the IPIA prior to occupancy.

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

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

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

§ 3282.611 Compliance with this subpart.

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

PART 3284—MANUFACTURED HOUSING PROGRAM FEE

Sec.

3284.1 Applicability.

3284.5 Amount of fee.

3284.10 *Minimum payments to states.*

AUTHORITY: 42 U.S.C. 3535(d), 5419 and 5424.

SOURCE: 67 FR 52835, Aug. 13, 2002, unless otherwise noted.

§ 3284.1 Applicability.

This part applies to manufacturers that are subject to the requirements of the National Manufactured Housing Construction and Safety Standards Act