

**§ 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

(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 dis-

tributor 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