

Manufactured Housing Consensus Committee

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TO: MHCC Committee Members

FROM: Robert E. Solomon

DATE: April 15, 2005

SUBJECT: SUBPART I Letter Ballot - Update MHCC– 2005

Complete the ballot as indicated. If you vote affirmative with comments, negative, or if you abstain, please indicate the reason (s) for doing so. Once you have reviewed the material and completed this ballot, return to:

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The due date for receipt of this ballot is **29 April, 2005**.

NAME _____

DATE _____

With respect to the proposed changes to Subpart I, record my vote as:

- AFFIRMATIVE**
- AFFIRMATIVE WITH COMMENTS***
- NEGATIVE***
- ABSTAIN***

* Reasons must accompany these votes.

1 MHCC SUBPART I PROPOSAL FOR BALLOTING -

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3
4 **TITLE 24, CODE OF FEDERAL REGULATIONS**

5 **PART 3282**

6
7
8 **SUBPART A: Changes in Definitions:**

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10 **§ 3282.7 (j):** Text with proposed modification:

11
12 *Defect* means, for purposes of this part, a failure to comply with an
13 applicable Federal manufactured home safety and construction
14 standard including any defect in the performance, construction,
15 components or material that renders the manufactured home or any
16 part thereof not fit for the ordinary use for which it was intended,
17 but does not result in an unreasonable risk of injury or death to
18 occupants of the affected manufactured home.

19
20 **§ 3282.7 (v):** Text with proposed modification:

21
22 *Manufactured Home Construction* means all activities relating to
23 the assembly and manufacture of a manufactured home including,
24 but not limited to, those relating to durability, quality, and safety,
25 but does not include those activities regulated under the installation
26 standards in this chapter.

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28 **§ 3282.7 (dd) (NEW):** Proposed New Text:

29
30 *Manufactured Home installation standards* means reasonable
31 specifications for the installation of a manufactured home, at the
32 place of occupancy, to ensure the proper siting, the joining of all
33 sections of the home, and the installation of stabilization, support
34 or anchoring systems.

1 **SUBPART H, § 3282.362(c)(1):**

2
3 Add the following new 11th sentence, before the sentence "Failure to
4 perform to the approved manual justifies withholding labels until an
5 adequate level of performance is attained.":

6
7 "The IPIA must periodically review the manufacturer's service
8 records for determinations under § 3282.404 to see whether
9 evidence exists that the manufacturer is ignoring or not performing
10 under its approved quality assurance manual, and, if such evidence
11 is found, must advise the manufacturer so that appropriate action
12 may be taken under § 3282.404."
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16 **SUBPART I**

17
18 **Table of Contents:**

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41 **§ 3282.401 Purpose and scope.**

42
43 (a) Purpose. The purpose of this subpart is to establish a system of
44 protections provided by the Act with respect to imminent safety hazards and

1 violations of the construction and safety standards with a minimum of formality
2 and delay, while protecting the rights of all parties.

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

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12 **§ 3282.402 General provisions.**

13
14 (a) Purchaser's rights. Nothing in this subpart shall limit the rights of the
15 purchaser under any contract or applicable law.

16 (b) Manufacturer's liability limited. A manufacturer is not responsible for
17 failures that occur in any manufactured home or component as the result of
18 normal wear and aging, unforeseeable consumer abuse, or unreasonable neglect of
19 maintenance. The life of a component warranty may be one of the indicators used
20 to establish normal wear and aging. A failure of any component may not be
21 attributed by the manufacturer to normal wear and aging under this subpart during
22 the term of any applicable warranty provided by the original manufacturer of the
23 affected component.

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26 **§ 3282.403 Consumer complaint and information referral.**

27
28 (a) Retailer responsibilities. When a retailer receives a consumer
29 complaint or other information about a home in its possession, or that it has sold
30 or leased, that likely indicates a noncompliance, defect, serious defect, or
31 imminent safety hazard, the retailer must forward the complaint or information to
32 the manufacturer of the manufactured home in question as early as possible in
33 accordance with § 3282.256.

34 (b) SAA and HUD responsibilities. (1) When an SAA or the Secretary
35 receives a consumer complaint or other information that likely indicates a
36 noncompliance, defect, serious defect, or imminent safety hazard in a
37 manufactured home, the SAA or HUD must:

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

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

43 (2) When it appears from the complaint or other information that an
44 imminent safety hazard or serious defect may be involved, the SAA of the State

1 where the home was manufactured must also send a copy of the complaint or
2 other information to the Secretary.

3 (c) Manufacturer responsibilities. Whenever the manufacturer receives
4 information from any source that the manufacturer believes in good faith relates
5 to a noncompliance, defect, serious defect, or imminent safety hazard in any of its
6 manufactured homes, the manufacturer must, for each such occurrence, make the
7 determinations required by § 3282.404.

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11 **§ 3282.404 Manufacturers' determinations and related concurrences.**

12
13 (a) Initial determination. (1) Not later than 30 days after a manufacturer
14 receives information that it believes in good faith likely indicates a
15 noncompliance, defect, serious defect, or imminent safety hazard, the
16 manufacturer must make a specific initial determination that there is a
17 noncompliance, a defect, a serious defect, an imminent safety hazard, or that the
18 information requires no further action under subpart I. When no further action
19 under subpart I is required and a problem still exists, the manufacturer must
20 forward the information in its possession to the appropriate retailer and, if known,
21 the installer, for their consideration.

22 (2) In making the determination of noncompliance, defect, serious defect,
23 imminent safety hazard, or that no further action is required under subpart I, the
24 manufacturer must review the information it received and carry out reasonable
25 investigations, including, if appropriate, inspections. The manufacturer must
26 review the information, the known facts, and the circumstances relating to the
27 complaint or information, including service records, approved designs, and audit
28 findings, as applicable, to decide what investigations are reasonable.

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

41 (2) Paragraph (c) of this section sets out methods for a manufacturer to
42 use in determining the class of manufactured homes. If the manufacturer can
43 identify the precise manufactured homes affected by the defect, serious defect, or
44 imminent safety hazard, the class of manufactured homes may include only those
45 manufactured homes actually affected by the same defect, serious defect, or

1 imminent safety hazard. The manufacturer is also permitted to exclude from the
2 class those manufactured homes for which the manufacturer has information that
3 indicates the homes were not affected by the same cause. If it is not possible to
4 identify the precise manufactured homes affected, the class must include every
5 manufactured home in the group of homes that is identifiable because the same
6 defect, serious defect, or imminent safety hazard exists or likely exists in some
7 homes in that group of manufactured homes.

8 (3) For purposes related to this section, a defect, a serious defect, or an
9 imminent safety hazard likely exists in a manufactured home if the cause of the
10 defect, serious defect, or imminent safety hazard is such that the same defect,
11 serious defect, or imminent safety hazard would likely have been introduced
12 systematically into more than one manufactured home by the manufacturer,
13 including a person performing work or providing a component on behalf of the
14 manufacturer. Indications that the defect, serious defect, or imminent safety
15 hazard would likely have been introduced systematically may include, but are not
16 limited to, complaints that can be traced to the same faulty design, problems
17 known to exist in supplies of components or parts, information related to the
18 performance of a particular employee or use of a particular process, and
19 information signaling a failure to follow quality control procedures with respect to
20 a particular aspect of the manufactured home.

21 (4) If under this paragraph (b) the manufacturer must determine the class
22 of homes, the manufacturer must obtain from the IPIA, and the IPIA must
23 provide, either:

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

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

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

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

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

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

4 (iii) Inspection of the service records of a home in question and of homes
5 of the same design or construction, as appropriate, produced before and after that
6 home;

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

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

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

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

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

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

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29 **§ 3282.405 Notification pursuant to manufacturer's determination.**
30

31 (a) General requirement. Every manufacturer of manufactured homes
32 must provide notification as set out in this section with respect to any
33 manufactured home produced by the manufacturer in which the manufacturer
34 determines, in good faith, that there exists or likely exists:

35 (1) A serious defect or an imminent safety hazard; or

36 (2) The same defect caused by a manufacturer, including a person
37 performing work or providing a component on behalf of the manufacturer, that
38 has been introduced systematically into more than one home.

39 (b) Requirements by category. (1) Noncompliance. A manufacturer
40 must provide notification of a noncompliance only when ordered to do so by the
41 Secretary or an SAA pursuant to §§ 3282.412 and 3282.413.

42 (2) Defects. When a manufacturer has made a determination in
43 accordance with § 3282.404 that a defect exists or likely exists in more than one
44 home, the manufacturer must prepare a plan for notification in accordance with

1 § 3282.408, and must provide notification with respect to each manufactured
2 home in the class of manufactured homes.

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

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

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

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

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

23 (2) By certified or express mail to the first purchaser of each
24 manufactured home in the class of manufactured homes containing the defect,
25 serious defect, or imminent safety hazard, and, to the extent feasible, to any
26 subsequent owner to whom any warranty provided by the manufacturer or
27 required by Federal, State, or local law on such manufactured home has been
28 transferred, except that notification need not be sent to any person known by the
29 manufacturer not to own the manufactured home in question if the manufacturer
30 has a record of a subsequent owner of the manufactured home; and

31 (3) By certified or express mail to each other person who is a registered
32 owner of a manufactured home in the class of homes containing the defect,
33 serious defect, or imminent safety hazard and whose name has been ascertained
34 pursuant to § 3282.211 or is known to the manufacturer.
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38 **§ 3282.406 Required manufacturer correction.**

39
40 (a) Correction of noncompliances and defects. (1) Section 3282.415 sets
41 out requirements with respect to a manufacturer's correction of any
42 noncompliance or defect that exists in each manufactured home that has been sold
43 or otherwise released to a retailer but that has not yet been sold to a purchaser.

44 (2) In accordance with section 623 of the Act and the regulations in part
45 3288 of this chapter, the manufacturer, retailer, or installer of a manufactured

1 home must correct, at its expense, each failure in the performance, construction,
2 components, or material of the home that renders the home or any part of the
3 home not fit for the ordinary use for which it was intended and that is reported
4 during the 1-year period beginning on the date of installation of the home.

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

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

14 (3) Each serious defect or imminent safety hazard corrected under this
15 paragraph must be brought into compliance with applicable Standards or, where
16 the Standards are not specific, with the manufacturer's approved design.

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

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

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

29 (e) Correction of appliances, components, or systems. (1) If any
30 appliance, component, or system in a manufactured home is covered by a product
31 warranty, the manufacturer, retailer, or installer that is responsible under this
32 section for correcting a noncompliance, a defect, a serious defect, or an imminent
33 safety hazard in the appliance, component, or system may seek the required
34 correction directly from the producer. The SAA that approves any plan of
35 notification required pursuant to § 3282.408 or the Secretary, as applicable, may
36 establish reasonable time limits for the manufacturer of the home and the
37 producer of the appliance, component, or system to agree on who is to make the
38 correction and for completing the correction.

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

1 **§ 3282.407 Voluntary compliance with the notification and correction**
2 **requirements under the Act.**

3
4 A manufacturer that takes corrective action that complies with one of the
5 following three alternatives to the requirement in § 3282.408 for preparing a plan
6 will be deemed to have provided any notification required by § 3282.405:

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

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

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

20 (b) Voluntary action-multiple homes. Regardless of whether a plan has
21 been submitted under § 3282.408, the manufacturer may act prior to obtaining
22 approval of the plan. Such action is subject to review and disapproval by the
23 SAA of the State where the home was manufactured or the Secretary, unless the
24 manufacturer obtains the written agreement of the SAA or the Secretary that the
25 corrective action is adequate. If such an agreement is obtained, the correction
26 must be accepted as adequate by all SAA's and the Secretary if the manufacturer
27 makes the correction as agreed to and any imminent safety hazard or serious
28 defect is eliminated.

29 (c) Waiver. (1) A manufacturer may obtain a waiver of the notification
30 requirements in § 3282.405 and the plan requirements in § 3282.408 either from
31 the SAA of the State of manufacture, when all of the manufactured homes that
32 would be covered by the plan were manufactured in that State, or from the
33 Secretary. As of the date of a request for a waiver, the notification and plan
34 requirements are deferred pending timely submission of any additional
35 documentation as the SAA or the Secretary may require and final resolution of the
36 waiver request. If a waiver request is not granted, the plan required by
37 § 3282.408 must be submitted within 5 days after the expiration of the time period
38 established in § 3282.408 if the manufacturer is notified that the request was not
39 granted.

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

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

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

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

7 (3) The manufacturer must correct all affected manufactured homes
8 within 60 days of being informed that the request for waiver has been granted or
9 the time limit approved in the waiver, as applicable. The manufacturer must
10 record the known cause of the problem and the correction in the service records in
11 an approved form that will allow the Secretary or SAA to review the cause and
12 correction.

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16 **§ 3282.408 Plan of notification required.**

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18 (a) Manufacturer's plan required. Except as provided in § 3282.407, if a
19 manufacturer determines that it is responsible for providing notification under
20 § 3282.405, the manufacturer must prepare a plan in accordance with this section
21 and § 3282.409. The manufacturer must, as soon as practical, but not later than
22 20 days after making the determination of defect, serious defect, or imminent
23 safety hazard, submit the plan for approval to one of the following, as appropriate:

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

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

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

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35 **§ 3282.409 Contents of plan.**

36
37 (a) Purpose of plan. This section sets out the requirements that must be
38 met by a manufacturer in preparing any plan it is required to submit under
39 § 3282.408. The underlying requirement is that the plan show how the
40 manufacturer will fulfill its responsibilities with respect to notification and
41 correction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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29 **§ 3282.410 Implementation of plan.**

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31 (a) Deadline for notifications. (1) The manufacturer must complete the
32 notifications carried out under a plan approved by an SAA or the Secretary under
33 § 3282.408 on or before the deadline approved by the SAA or Secretary. In
34 approving each deadline, an SAA or the Secretary will allow a reasonable time to
35 complete all notifications, taking into account the number of manufactured homes
36 involved and the difficulty of completing the notifications.

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

44 (b) Deadline for corrections. A manufacturer that is required to correct a
45 serious defect or imminent safety hazard pursuant to § 3282.406(b) must complete

1 implementation of the plan required by § 3282.408 on or before the deadline
2 approved by the SAA or the Secretary. The deadline must be no later than 60
3 days after approval of the plan. In approving the deadline, the SAA or the
4 Secretary will allow a reasonable amount of time to complete the plan, taking into
5 account the seriousness of the problem, the number of manufactured homes
6 involved, the immediacy of any risk, and the difficulty of completing the action.
7 The seriousness and immediacy of any risk posed by the serious defect or
8 imminent safety hazard will be given greater weight than other considerations.

9 (c) Extensions. An SAA that approved a plan or the Secretary may grant
10 an extension of the deadlines included in a plan if the manufacturer requests such
11 an extension in writing and shows good cause for the extension, and the SAA or
12 the Secretary decides that the extension is justified and is not contrary to the
13 public interest. When the Secretary grants an extension for completion of any
14 corrections, the Secretary will notify the manufacturer and must publish notice of
15 such extension in the Federal Register. When an SAA grants an extension for
16 completion of any corrections, the SAA must notify the Secretary and the
17 manufacturer.

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

21 22 23 24 **§ 3282.411 Administrative initiation of remedial action.**

25
26 (a) Administrative review of information. Whenever the Secretary or an
27 SAA has information indicating the possible existence of a noncompliance,
28 defect, serious defect, or imminent safety hazard in a manufactured home, the
29 Secretary or SAA may initiate administrative review of the need for notification
30 and correction in accordance with paragraphs (b) and (c) of this section.

31 (b) SAA authority. (1) An SAA that decides to initiate such
32 administrative review must refer the matter to the SAA in the state of manufacture
33 or, whenever the affected manufactured homes were manufactured in more than
34 one state, to the Secretary for possible action pursuant to § 3282.412.

35 (2) An SAA in a State of manufacture is permitted to issue a preliminary
36 determination in accordance with § 3282.412 under the following circumstances:

37 (i) The SAA believes that a manufactured home that has been sold or
38 otherwise released by a manufacturer to a retailer or distributor, but for which
39 there is no completed sale to a purchaser, contains a noncompliance, defect,
40 serious defect, or imminent safety hazard;

41 (ii) The SAA believes that the information referenced in paragraph (a) of
42 this section indicates a class of homes in which a noncompliance or defect
43 possibly exists;

1 (iii) The SAA believes that the information referenced in paragraph (a) of
2 this section indicates one or more homes in which a serious defect or an imminent
3 safety hazard possibly exists;

4 (iv) The SAA is reviewing a plan under § 3282.408 and the SAA and
5 manufacturer disagree on proposed changes to the plan;

6 (v) The SAA believes that the manufacturer has failed to fulfill the
7 requirements of a waiver granted under § 3282.407; or

8 (vi) There is evidence that a manufacturer in the State failed to make the
9 determinations required under § 3282.404.

10 (3) For purposes of this paragraph (b), the conclusion that there is a class
11 of homes in which a noncompliance or defect possibly exists must be based on the
12 same factors that are established for a manufacturer's class determination in
13 §3282.404(b). If evidence arises that the manufactured homes in the class were
14 manufactured in more than one state, the SAA must refer the matter to the
15 Secretary for any further action.

16 (4) An SAA that issues a preliminary determination must provide a copy
17 of the preliminary determination to the Secretary at the time of its issuance.
18 Failure to comply with this requirement does not affect the validity of the
19 preliminary determination.

20 (c) Secretary authority. The Secretary may make a preliminary
21 determination in accordance with § 3282.412 when:

22 (1) There is evidence that a noncompliance, defect, serious defect, or
23 imminent safety hazard possibly exists in any manufactured home; or

24 (2) There is evidence that the manufacturer failed to make the
25 determinations required under § 3282.404.

26 (d) Secretary notification. The Secretary will notify the SAA of each
27 State where the affected homes were manufactured and, to the extent it is
28 reasonable, the SAA of each State where the homes are located of the issuance of
29 a preliminary determination. Failure to comply with this requirement does not
30 affect the validity of the preliminary determination.

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34 **§ 3282.412 Preliminary and final administrative determinations.**

35
36 (a) Issuance of preliminary determination. In accordance with
37 § 3282.411, the Secretary or an SAA may issue a Notice of Preliminary
38 Determination when:

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

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

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

1 (2) The Secretary or SAA has information that likely indicates a
2 noncompliance, a defect, a serious defect, or an imminent safety hazard exists.
3 (b) Notice of Preliminary Determination. (1) The Notice of Preliminary
4 Determination must be sent by certified mail or express delivery and must:
5 (i) Include the factual basis for the determination;
6 (ii) Include the criteria used to identify any class of homes in which the
7 noncompliance, defect, serious defect, or imminent safety hazard possibly exists;
8 (iii) If applicable, indicate that the manufacturer may be required to make
9 corrections on a home or in a class of homes; and
10 (iv) If the preliminary determination is that the manufacturer failed to
11 make an initial determination required under § 3282.404(a), include an allegation
12 that the manufacturer failed to act in good faith.
13 (2) The Notice of Preliminary Determination must inform the
14 manufacturer that the preliminary determination will become final unless the
15 manufacturer requests a hearing or presentation of views under subpart D of this
16 part.
17 (c) Presentation of views. (1) The Secretary or the SAA, as applicable,
18 must receive the manufacturer's request for a hearing or presentation of views:
19 (i) Within 15 days of delivery of the Notice of Preliminary Determination
20 of serious defect, defect, or noncompliance; or
21 (ii) Within 5 days of delivery of the Notice of Preliminary Determination
22 of imminent safety hazard.
23 (2) A Formal or an Informal Presentation of Views will be held in
24 accordance with § 3282.152 promptly upon receipt of a manufacturer's request
25 under paragraph (c) of this section.
26 (d) Issuance of Final Determination. (1) The SAA or the Secretary, as
27 appropriate, may make a Final Determination that an imminent safety hazard,
28 serious defect, defect, or noncompliance exists, or that the manufacturer failed to
29 make the determinations required under § 3282.404, if:
30 (i) The manufacturer fails to respond to the Notice of Preliminary
31 Determination within the time period established in paragraph (c)(2) of this
32 section; or
33 (ii) The SAA or the Secretary decides that the views and evidence
34 presented by the manufacturer or others are insufficient to rebut the preliminary
35 determination.
36 (2) At the time that the SAA or Secretary makes a Final Determination
37 that an imminent safety hazard, serious defect, defect, or noncompliance exists,
38 the SAA or Secretary, as appropriate, must issue an order in accordance with
39 § 3282.413.

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43 **§ 3282.413 Implementation of Final Determination.**
44

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

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

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

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

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

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

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

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

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

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

31 (5) If an SAA or the Secretary makes a Final Determination that the
32 manufacturer failed to make in good faith an initial determination required under
33 § 3282.404(a):

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

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

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

43 (c) Time for compliance with order. (1) The SAA or the Secretary may
44 require the manufacturer to submit a plan for providing any notification and any
45 correction, replacement, or repurchase remedy that results from an order under

1 this section. The manufacturer's plan must include the method and date by which
2 notification and any corrective action will be provided.

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

5 (i) Thirty (30) days, in the case of a Final Determination of imminent
6 safety hazard or when the SAA or Secretary has ordered replacement or
7 repurchase of a home pursuant to § 3282.414; or

8 (ii) Sixty (60) days, in the case of a Final Determination of serious defect,
9 defect, or noncompliance.

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

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

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

17 (4) When the SAA grants an extension, it must notify the manufacturer
18 and forward to the Secretary a draft of a notice of the extension for the Secretary
19 to publish in the Federal Register. When the Secretary grants an extension, the
20 Secretary must notify the manufacturer and publish notice of such extension in the
21 Federal Register.

22 (d) Appeal of SAA determination. Within 10 days of a manufacturer
23 receiving notice that an SAA has made a Final Determination that an imminent
24 safety hazard, serious defect, defect, or noncompliance exists or that the
25 manufacturer failed to make the determinations required under § 3282.404, the
26 manufacturer may appeal the Final Determination to the Secretary under
27 § 3282.309.

28 (e) Settlement offers. A manufacturer may propose in writing, at any time,
29 an offer of settlement which shall be submitted to and considered by the Secretary
30 or the SAA that issued the Notice of Preliminary Determination. The Secretary or
31 the SAA has the option of providing the manufacturer making the offer with an
32 opportunity to make an oral presentation in support of such offer. If the
33 manufacturer is notified that an offer of settlement is rejected, the offer is deemed
34 to have been withdrawn and will not constitute a part of the record in the
35 proceeding. Final acceptance by the Secretary or an SAA of any offer of
36 settlement automatically terminates any proceedings related to the matter
37 involved in the settlement.

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

42 (i) The manufacturer has made a class determination in accordance with
43 § 3282.404(b);

44 (ii) The manufacturer will correct, at the manufacturer's expense, all
45 affected manufactured homes in the class within a time period that is specified by

1 the Secretary or SAA, but is not later than 60 days after the manufacturer is
2 notified of the acceptance of the request for waiver or the issuance of any Final
3 Determination, whichever is later; and

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

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

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

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16 **§ 3282.414 Replacement or repurchase of homes after sale to purchaser.**

17
18 (a) Order to replace or repurchase. Whenever a manufacturer cannot fully
19 correct an imminent safety hazard or a serious defect in a manufactured home for
20 which there is a completed sale to a purchaser within 60 days of the issuance of an
21 order under § 3282.413 or any extension of the 60-day deadline that has been
22 granted by the Secretary in accordance with § 3282.413(c), the Secretary or, if
23 authorized in writing by the Secretary in accordance with § 3282.413(a)(3), the
24 SAA may require that the manufacturer:

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

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

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

31 (2) Take possession of the manufactured home, if the Secretary or the
32 SAA so orders, and refund the purchase price in full, except that the amount of
33 the purchase price may be reduced by a reasonable amount for depreciation if the
34 home has been in the possession of the owner for more than 1 year and the
35 amount of depreciation is based on:

36 (i) Actual use of the home; and

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

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

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

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

45 (3) The expense to the manufacturer;

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

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

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

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

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15 **§ 3282.415 Correction of homes before sale to purchaser.**

16
17 (a) Sale or lease prohibited. Manufacturers, retailers, and distributors
18 must not sell, lease, or offer for sale or lease any manufactured home that they
19 have reason to know in the exercise of due care contains a noncompliance, defect,
20 serious defect, or an imminent safety hazard. The sale of a home to a purchaser is
21 complete when all contractual obligations of the manufacturer, retailer, and
22 distributor to the purchaser have been met.

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

29 (c) Manufacturer's remedial responsibilities. Upon a Final Determination
30 pursuant to § 3282.412 by the Secretary or an SAA, a determination by a court of
31 appropriate jurisdiction, or a manufacturer's own determination that a
32 manufactured home that has been sold to a retailer but for which there is no
33 completed sale to a purchaser contains a noncompliance, defect, serious defect, or
34 an imminent safety hazard, if caused by the manufacturer or a person working on
35 behalf of the manufacturer, or when the retailer/distributor has not made the
36 corrections for the problems they cause, the manufacturer must do one of the
37 following:

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

44 (2) At its expense, immediately furnish to the retailer or distributor all
45 required parts or equipment for installation in the home by the retailer or

1 distributor, and the manufacturer must reimburse the retailer or distributor for the
2 reasonable value of the retailer's or distributor's work, plus a reasonable
3 reimbursement of not less than 1 percent per month of the manufacturer's or
4 distributor's selling price prorated from the date the manufacturer receives notice
5 by certified mail to the date the noncompliance, defect, serious defect, or
6 imminent safety hazard is corrected, so long as the retailer or distributor proceeds
7 with reasonable diligence with the required work; or

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

9 (d) Retailer/distributor responsibilities. Upon a Final Determination
10 pursuant to 3282.412 by the Secretary or an SAA, a determination by a court of
11 appropriate jurisdiction, or an agreement reached under section 623(c)(12) of the
12 Act [Dispute Resolution] that a retailer/distributor is responsible for taking a
13 home out of compliance with the construction standards and that the home
14 contains a noncompliance, defect, serious defect, or an imminent safety hazard,
15 the retailer/distributor must, before it is permitted to sell the home:

16 (1) At its expense, immediately obtain approved designs or instructions
17 from the manufacturer and all required parts and equipment for correction of the
18 home and reimburse the manufacturer or the person authorized by the
19 manufacturer to make the corrections on the home; or

20 (2) Carry out all needed corrections to the home when approved by the
21 manufacturer.

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

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

25 (2) A court in an action brought under section 613(b) of the Act (42 USC
26 5412(b)).

27 (f) Records required. The manufacturer and the retailer or distributor
28 must maintain records of their actions taken under this section in accordance with
29 § 3282.417.

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

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

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42 **§ 3282.416 Oversight of notification and correction activities.**

43
44 (a) IPIA responsibilities. The IPIA in each manufacturing plant must:

1 (1) Assure that notifications required under this subpart I are sent to all
2 owners, purchasers, retailers, and distributors of whom the manufacturer has
3 knowledge;

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

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

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

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

14 (4) Periodically review the manufacturer's service records of
15 determinations under § 3282.404 and take appropriate action in accordance with
16 §§ 3282.362(c) and 3282.364.

17 (b) SAA and Secretary's responsibilities. (1) SAA oversight of
18 manufacturer compliance with this subpart I will be done primarily by
19 periodically checking the records that manufacturers are required to keep under
20 § 3282.417.

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

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31 **§ 3282.417 Recordkeeping requirements.**

32
33 (a) Manufacturer report on notifications and corrections. Within 30 days
34 after the deadline for completing any notifications, corrections, replacement, or
35 repurchase required pursuant to this subpart I, the manufacturer must provide a
36 complete report of the action taken to, as appropriate, the Secretary or the SAA
37 that approved the plan under § 3282.408, granted a waiver, or issued the order
38 under § 3282.413. If any other SAA or the Secretary forwarded the relevant
39 consumer complaint or other information to the manufacturer in accordance with
40 § 3282.403, the manufacturer must send a copy of the report to that SAA or the
41 Secretary, as applicable.

42 (b) Records of manufacturer's determinations. (1) A manufacturer must
43 record each initial and class determination required under § 3282.404 in its
44 service records, in a manner approved by the Secretary or an SAA and that
45 identifies who made each determination, what each determination was, and all

1 bases for each determination. Such information must be available for review by
2 the IPIA.

3 (2) The manufacturer records must include:

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

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

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

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

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

19 (d) Manufacturer records of corrections. When a manufacturer is required
20 to provide or provides correction under this subpart, the manufacturer must
21 maintain in its files one of the following, as appropriate, for each manufactured
22 home involved:

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

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

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

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

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

36 (e) Retailer and distributor records of corrections. When a retailer or
37 distributor makes corrections necessary to bring a manufactured home into
38 compliance with the Standards, the retailer or distributor must maintain a
39 complete record of its actions.

40 (f) Length of retention. Records of the information and any other records
41 required to be maintained by this subpart must be kept for a minimum of 5 years
42 from the date the manufacturer, retailer, or distributor, as applicable:

43 (1) Received the information;

44 (2) Creates the record; or

45 (3) Completes the notification or correction campaign.

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§ 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 I, 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.