

and either new or in the same condition 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) That the manufacturer take possession of the manufactured home and refund the purchase price in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year. Such depreciation shall be based upon an appraisal system approved by the Secretary, and shall not take into account damage or deterioration resulting from the imminent safety hazard or serious defect.

(b) In determining whether to order replacement or refund by the manufacturer, the Secretary shall consider:

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

(2) Any costs and inconvenience to manufactured home owners which 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 has knowledge; and

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

(c) In those situations where, under contract or other applicable law, the owner has the right of election between replacement and refund, the manufacturer shall inform the owner of such right of election and shall inform the Secretary of the election, if any, by the owner.

(d) This section applies where an attempted correction of an imminent safety hazard or serious defect relieves the safety problem but does not bring the home in conformity to the standards.

(e) Where replacement or refund by the manufacturer is ordered under this section, it shall be carried out within 30 days of the Secretary's order to replace the manufactured home or refund the purchase price unless the Secretary, for good cause shown, grants an extension of time for implementation

of such order and publishes notice of extension in the FEDERAL REGISTER.

§ 3282.414 Manufactured homes in the hands of dealers and distributors.

(a) The manufacturer is responsible for correcting any failures to conform and imminent safety hazards which exist in manufactured homes which have been sold or otherwise released to a distributor or dealer but which have not yet been sold to a purchaser. This responsibility generally does not extend to failures to conform or imminent safety hazards that result solely from transit damage that occurs after the manufactured home leaves the control of the manufacturer, unless such transit damage is reasonably foreseeable by the manufacturer when the home is released by the manufacturer. This section sets out the procedures to be followed by dealers and distributors for handling manufactured homes in such cases. Regardless of whether the manufacturer is responsible for repairing a manufactured home, no dealer or distributor may sell a manufactured home if it contains a failure to conform or an imminent safety hazard.

(b) Whenever a dealer or distributor finds a problem in a manufactured home which the manufacturer is responsible for correcting under paragraph (a) of this section, the dealer or distributor shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer in accord with paragraph (c) of this section. Where the manufacturer agrees to correct, the manufacturer shall maintain a complete record of its actions. Where the manufacturer authorizes the dealer to make the necessary corrections on a reimbursable basis, the dealer or distributor shall maintain a complete record of its actions. Agreement by the manufacturer to correct or to authorize corrections on a reimbursable basis under this paragraph constitutes a determination of the Secretary for purposes of section 613(b) of the Act with respect to judicial review of the amount which the manufacturer agrees to reimburse the dealer or distributor for corrections.

(c) Upon a final determination by the Secretary or a State Administration

Agency under § 3282.407, or upon a determination by a court of competent jurisdiction that a manufactured home fails to conform to the standard or contains an imminent safety hazard after such manufactured home is sold or otherwise released by a manufacturer to a distributor or a dealer and prior to the sale of such manufactured home by such distributor or dealer to a purchaser, the manufacturer shall have the option to either:

(1) Immediately furnish, at the manufacturer's expense, to the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such manufactured home, and the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than one per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of noncompliance to the date such manufactured home is brought into compliance with the standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the part or component is received; or

(2) Immediately repurchase, at the manufacturer's expense, such manufactured home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than one per centum per month of such price paid prorated from the date of receipt by certified mail of notice of the imminent safety hazard, serious defect, defect or noncompliance to the distributor. The value of such reasonable reimbursements as specified in this paragraph shall be fixed by mutual agreement of the parties or by a court in an action brought under section 613(b) of the Act.

(d) This section shall not apply to any manufactured home purchased by a dealer or distributor which has been leased by such dealer or distributor to a tenant for purposes other than resale. In that instance the dealer or distributor has the remedies available to a purchaser under this subpart.

§ 3282.415 Notices, bulletins and other communications.

Each manufacturer shall, at the time of dispatch, furnish to the Secretary a true or representative copy of all notices, bulletins, and other written communications to the dealers or distributors of such manufacturer or purchasers or owners of manufactured homes of such manufacturers regarding any serious defect or imminent safety hazard which may exist in any such manufactured homes produced by such manufacturer. Manufacturers shall keep complete records of all other communications with dealers, owners, and purchasers regarding noncompliances, and defects.

§ 3282.416 Supervision of notification and correction actions.

(a) The IPIA in each manufacturing plant shall be responsible for assuring that notifications are sent to all owners, purchasers, dealers, or distributors of whom the manufacturer has knowledge under § 3282.211 or otherwise as required by these regulations, and the IFIA shall be responsible for assuring that the required corrections are carried out by auditing the certificates required by § 3282.412.

(b) The SAA or Secretary to which the report required by § 3282.412(e) is sent shall be responsible for assuring through oversight that remedial actions described in the report have been carried out as described in the report.

(c) The SAA of the state in which an affected manufactured home is located may inspect that manufactured home to determine whether any required correction is carried out to the approved plan or, if there is no plan, to the standards or other approval obtained by the manufacturer.

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