

## **1350.4800 NOTIFICATION AND CORRECTION PURSUANT TO ADMINISTRATIVE DETERMINATION.**

Subpart 1. **Preliminary determinations.** Whenever the commissioner has information indicating the possible existence of an imminent safety hazard or serious defect in a manufactured home, the commissioner may issue a preliminary determination to that effect to the manufacturer.

Whenever the information indicates that the manufacturer is required to correct the imminent safety hazard or serious defect under part 1350.4700, the commissioner shall issue a preliminary determination to that effect to the manufacturer. Whenever the commissioner has information indicating that a defect or noncompliance may exist in a class of manufactured homes that is identifiable because the cause of the defect or noncompliance is such that the same defect or noncompliance would probably have been systematically introduced into more than one manufactured home during production, and whenever all manufactured homes in the class appear to have been manufactured in this state, the commissioner may issue a preliminary determination of defect or noncompliance to the manufacturer. Information on which the commissioner will base a conclusion that an affected class of manufactured homes exists consists of complaints that can be traced to the same cause, defects known to exist in supplies of components or parts, information related to the performance of a particular employee, and information indicating a failure to follow quality control procedures with respect to a particular aspect of the manufactured home. If, during the course of these proceedings, evidence arises that indicates that manufactured homes in the same identifiable class were manufactured in more than one state, the commissioner shall refer the matter to the secretary.

Subp. 2. **Notice and request for hearing or presentation of views.** Notice of the preliminary determination under subpart 1 shall be sent by certified mail. It shall include the factual basis for the determination and the identifying criteria of the manufactured homes known to be affected and those believed to be in the class of possibly affected manufactured homes. The notice shall inform the manufacturer that the preliminary determination shall become final unless the manufacturer requests a hearing or presentation of views under parts 1350.6000 to 1350.6200 within 15 days after receiving a notice of preliminary determination of serious defect, defect, or noncompliance, or within five days of receipt of a notice of preliminary determination of imminent safety hazard.

Promptly upon receipt of a manufacturer's request for a hearing or presentation of views meeting, the hearing or presentation shall be held pursuant to parts 1350.6000 to 1350.6200. Parties may propose in writing, at any time, offers of settlement which shall be submitted to and considered by the commissioner. If determined to be appropriate, the party making the offer may be given an opportunity to make an oral presentation in support of the offer. If an offer of settlement is rejected, the party making the offer shall be so

notified, and the offer shall be deemed withdrawn and shall not constitute a part of the record in the proceeding. Final acceptance by the commissioner of any offer of settlement shall automatically terminate any proceedings related to it.

Subp. 3. **Final determinations.** If the manufacturer fails to respond to the notice of preliminary determination within the time period established in subpart 2, or if the commissioner decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the preliminary determination, the commissioner shall make a final determination that an imminent safety hazard, serious defect, defect, or noncompliance exists. If there is a final determination that an imminent safety hazard, serious defect, defect, or noncompliance exists, the commissioner shall issue an order directing the manufacturer to furnish notification.

Subp. 4. **Appeals.** When the commissioner has made a final determination that a defect or noncompliance exists, the manufacturer may appeal to the secretary within ten days after receiving the notice of final determination.

Subp. 5. **Waiver of formal notification requirements.** Where a preliminary determination of defect or noncompliance has been issued, the manufacturer may request a waiver of the formal notification requirements at any time during the proceedings called for in subparts 1 to 4 or after the issuance of a final determination and order. The manufacturer may request a waiver from the commissioner. When requesting a waiver, the manufacturer shall certify and provide assurances that:

A. the manufacturer has identified the class of possibly affected manufactured homes in accordance with part 1350.5000;

B. the manufacturer will correct, at the manufacturer's expense, all affected manufactured homes in the class within a time period specified by the commissioner but not later than 60 days after being informed of the acceptance of the request for waiver or issuance of the final determination, whichever is later; and

C. the proposed repairs are adequate to remove the failure to conform or imminent safety hazard that gave rise to the issuance of the preliminary determination.

The commissioner shall grant the request or waiver if the manufacturer agrees to an offer of settlement that includes an order that embodies the assurances made by the manufacturer.

**Statutory Authority:** *MS s 327.33*

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