AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

state's request for a presentation of views must be submitted to the Secretary within 60 days after the Secretary has provided notification that the state's recertification of its installation program has been rejected.

§ 3286.809 Withdrawal of qualifying installation program status.

(a) *Voluntary withdrawal.* Any state that intends to withdraw from its responsibilities to administer a qualifying installation program should provide the Secretary with a minimum of 90 days notice.

(b) *Involuntary withdrawal.* Whenever the Secretary finds, after affording notice and an opportunity for a hearing in accordance with subpart D of part 3282 of this chapter, that a state installation program fails to comply substantially with any provision of the installation program requirements or that the state program has become inadequate, the Secretary will notify the state of withdrawal of acceptance or conditional acceptance of the state installation program. The HUD-administered installation program will begin to operate in such state at such time as the Secretary establishes in issuing the finding.

§ 3286.811 Effect on other manufactured housing program requirements.

A state with a qualifying installation program will operate in lieu of HUD with respect to only the installation program established under subparts B through H of this part. No state may permit its installation program, even if it is a qualified installation program under this part, to supersede the requirements applicable to HUD's Manufactured Housing Construction and Safety Standards and enforcement programs. Regardless of whether a state has a qualified installation program:

(a) *Construction and safety standards.* Any responsibilities, rights, and remedies applicable under the Manufactured Home Construction and Safety Standards Act in part 3280 of this chapter and the Manufactured Home Procedural and Enforcement Regulations in part 3282 of this chapter continue to apply as provided in those parts; and

(b) *Dispute resolution.* For any defect in a manufactured home that is reported during the one-year period beginning on the date of installation defined in § 3286.115, any responsibilities, rights, and remedies applicable under the HUD dispute resolution program as implemented in part 3288 of this chapter continue to apply as provided in that part.

§ 3286.813 Inclusion in state plan.

If a state installation program is included in a state plan approved in accordance with § 3282.302 of this chapter, the state installation program is subject to all of the requirements for such a state plan, including annual review by HUD.

PART 3288—MANUFACTURED HOME DISPUTE RESOLUTION PROGRAM

Subpart A—General

Sec.

3288.1 Purpose and scope.
3288.3 Definitions.
3288.5 Retailer notification at sale.

Subpart B—HUD Manufactured Home Dispute Resolution Program in HUD-Administered States

3288.10 Applicability.
3288.15 Eligibility for dispute resolution.
3288.20 Reporting a defect.
3288.25 Initiation of dispute resolution.
3288.30 Screening of dispute resolution request.
3288.33 Notice of dispute resolution.
3288.35 Mediation.
3288.40 Nonbinding arbitration.
3288.45 HUD review and order.

Subpart C—Alternative Process in HUD-Administered States

3288.100 Scope and applicability.
3288.105 Time when Alternative Process is available.
3288.110 Alternative Process agreements.

Subpart D—State Dispute Resolution Programs in Non-HUD-Administered States

3288.200 Applicability.
3288.205 Minimum requirements.
3288.210 Acceptance and recertification process.
3288.215 Effect on other manufactured home program requirements.

Subpart E—Dispute Resolution Program Rulemaking Procedures

3288.300 Applicability.
3288.305 Consultation with the Manufactured Housing Consensus Committee.

AUTHORITY: 42 U.S.C. 3535(d), 5422 and 5424.

SOURCE: 72 FR 27229, May 14, 2007, unless otherwise noted.

Subpart A—General

§ 3288.1 Purpose and scope.

(a) *Purpose.* The Act is intended, in part, to protect the quality, safety, durability, and affordability of manufactured homes. Section 623(c)(12) of the Act (42 U.S.C. 5422 (c)(12)) requires the implementation of ''a dispute resolution program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured homes regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured homes that are reported during the 1-year period beginning on the date of installation.'' The purpose of this part is to provide a dispute resolution program for the timely resolution of disputes among manufacturers, retailers, and installers regarding the responsibility for correction or repair of defects reported by the homeowner or others and reported in the 1-year period after the first installation of the manufactured home.

(b) *Scope*—(1) *Applicability.* In carrying out this purpose, it is presumed that if a manufactured home contains an alleged defect that is reported in the first year after installation and was not caused by the homeowner, then the manufacturer, retailer, or installer is responsible for the alleged defect and the dispute resolution process recognized in this part is an appropriate means for resolving disputes about responsibility for correction and repair of the alleged defect. For purposes of the dispute resolution process recognized in this part, only alleged defects reported in the first year after the first installation are covered by the process. The state where the home is sited determines whether the HUD Manufactured Home Dispute Resolution Program or a state program applies. Subpart A of this part establishes general provisions applicable to HUD's implementation of a dispute resolution program as required by the Act. Subpart B of this part establishes the HUD Manufactured Home Dispute Resolution Program that HUD will administer in any state that does not establish a program that complies with the Act and been accepted by HUD as provided in subpart D of this part. Subpart C of this part provides an Alternative Process for manufacturers, retailers, and installers who agree that a homeowner is not responsible for the alleged defect to resolve their disputes about responsibility for correction or repair outside of the HUD Mediation and Arbitration Process under subpart B. Subpart D of this part establishes the minimum requirements that must be met by a state applying to implement its own dispute resolution program that complies with the Act, and the procedure for determining whether the requirements for complying have been met. Subpart E of this part establishes special rulemaking procedures that apply to the issuance of new regulations that implement the dispute resolution requirements set forth in section 623 of the Act (42 U.S.C. 5422).

(2) *Warranties not affected.* This part is not a warranty program and the requirements established in this part do not replace the manufacturer's or any other warranty program. Such warranty program may have its own requirements.

§ 3288.3 Definitions.

The following definitions apply in this part:

Act means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401–5426.

Appropriate order means an order issued by HUD or an order that is enforceable under state law.

Date of installation means the date all utilities are connected and the manufactured home is ready for occupancy as established, if applicable, by a certificate of occupancy, except as follows: if the manufactured home has not been sold to the first person purchasing the home in good faith for purposes other than resale by the date the home

is ready for occupancy, the date of installation is the date of closing under the purchase agreement or sales contract for the manufactured home.

Day means a calendar day.

Defect means any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part of the home not fit for the ordinary use for which it was intended, including, but not limited to, a defect in the construction, safety, or installation of the home. For purposes of state certification under § 3288.205, HUD will find it acceptable if the threshold for the state's program is functionally equivalent to this definition.

Dispute resolution provider means a person or entity providing dispute resolution services for HUD.

Homeowner means a person who purchased or leased the manufactured home in good faith for purposes other than resale.

HUD means the U.S. Department of Housing and Urban Development.

Installer means the person who is retained to engage in, or who engages in, the business of directing, supervising, controlling, or correcting the initial installation of a manufactured home.

Manufactured home has the same meaning as the term ''manufactured home'' as defined in 24 CFR 3280.2.

Manufactured Housing Consensus Committee or MHCC means the consensus committee established pursuant to section 604(a)(3) of the Act, 42 U.S.C. 5403(a)(3).

Party or parties means, individually or collectively, the manufacturer, retailer, or installer of a manufactured home in which a defect has been reported in accordance with § 3288.20.

State Administrative Agency means an agency of a state that 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.

Timely reporting means the reporting of an alleged defect within 1 year after the date of installation of a manufactured home in accordance with § 3288.20.

Timely resolution means the resolution of disputes among manufacturers, retailers, and installers within 120 days of the time a request for dispute resolution is made, except that if the defect presents an unreasonable risk of injury, death, or significant loss or damage to valuable personal property, the resolution must be within 60 days of the time a request for dispute resolution is made.

§ 3288.5 Retailer notification at sale.

Retailer notice at the time of signing. At the time of signing a contract for sale or lease for a manufactured home, the retailer must provide the purchaser with a retailer notice. This notice may be in a separate document from the sales contract or may be incorporated clearly in a separate section on consumer dispute resolution information at the top of the sales contract. The notice must include the following language:

> The U.S. Department of Housing and Urban Development (HUD) Manufactured Home Dispute Resolution Program is available to resolve disputes among manufacturers, retailers, or installers concerning defects in manufactured homes. Many states also have a consumer assistance or dispute resolution program. For additional information about these programs, see sections titled ''Dispute Resolution Process'' and ''Additional Information—HUD Manufactured Home Dispute Resolution Program'' in the Consumer Manual required to be provided to the purchaser. These programs are not warranty programs and do not replace the manufacturer's, or any other person's, warranty program.

Subpart B—HUD Manufactured Home Dispute Resolution Program in HUD-Administered States

§ 3288.10 Applicability.

The requirements of the HUD Manufactured Home Dispute Resolution Program established in this subpart B apply in each state that does not establish a state dispute resolution program that complies with the Act and has been accepted by HUD as provided in subpart D of this part.

§ 3288.15 Eligibility for dispute resolution.

(a) *Initiation of actions.* Manufacturers, retailers, and installers of manufactured homes are eligible to initiate

and participate in the HUD Manufactured Home Dispute Resolution Program. Homeowners may initiate action under, and be observers to, the HUD Manufactured Home Dispute Resolution Program.

(b) *Eligible disputes.* Only disputes concerning alleged defects that have been reported to the manufacturer, retailer, installer, HUD, or a State Administrative Agency within 1 year after the date of the first installation of the manufactured home are eligible for resolution through the HUD Manufactured Home Dispute Resolution Program. The eligible dispute includes the defect alleged in a timely report and any related issues.

§ 3288.20 Reporting a defect.

(a) *Making a report.* To preserve the right to request dispute resolution through HUD, alleged defects must be reported to the manufacturer, retailer, installer, HUD, or a State Administrative Agency. An alleged defect may be reported by a homeowner, manufacturer, retailer, or installer.

(b) *Form of report.* It is recommended that alleged defects be reported in writing, including, but not limited to, e-mail, written letter, certified mail, or fax. The existence of an alleged defect may also be reported by telephone.

(c) *Content of report.* No particular form or format is required to report an alleged defect, but any such report must, at a minimum, include a description of the alleged defect, the name of homeowner, and the address of the home.

(d) *Record of report*—(1) *To evidence timeliness.* To establish timely reporting, the report of an alleged defect that is made to the manufacturer, retailer, installer, or a State Administrative Agency of the manufactured home should be done in a manner that will create a dated record of the report that demonstrates that the report was made within 1 year after the date of installation; for example, by certified mail, fax, or email. Persons who report an alleged defect by telephone should make a contemporaneous note of the telephone call, including date, time, the name of the person who received the report, the name of the business contacted, and the telephone number called. If the matter goes to arbitration, the arbitrator and HUD will review whether there is sufficient evidence to believe the report was made on a timely basis.

(2) *Obligation to retain.* Each report of a defect, including logs of telephonic complaints, received by a manufacturer, retailer, a State Administrative Agency or installer, must be maintained for 3 years from the date of receipt.

(e) *Reports made to a State Administrative Agency.* Reports of defects in the manufactured home that are made in the first year after its installation can be sent to the appropriate State Administrative Agency. Contact information about a State Administrative Agency is available at *http://www.hud.gov*. Contact the appropriate State Administrative Agency to determine the method for making the report.

(f) *Reports made to HUD.* Reports of alleged defects in the manufactured home that are made in the first year after its installation can be sent to HUD. The report to HUD may be made using any of the following methods:

(1) In writing at: HUD, Office of Regulatory Affairs and Manufactured Housing, Attn: Dispute Resolution, 451 Seventh Street, SW., Washington, DC 20410–8000;

(2) By telephone at: (202) 708–6423 or (800) 927–2891;

(3) By fax at: (202) 708–4213; or

(4) By e-mail at *mhs@hud.gov*.

(g) *Effect of report.* The reporting of an alleged defect does not initiate the HUD Manufactured Home Dispute Resolution Program, but only establishes whether the requirement of timely reporting in accordance with § 3288.15(b) has been met. The HUD Manufactured Home Dispute Resolution Process is initiated when a request for dispute resolution is submitted to HUD in accordance with § 3288.25.

§ 3288.25 Initiation of dispute resolution.

(a) *Preliminary effort.* HUD strongly encourages the homeowner or party reporting an alleged defect to seek to resolve the dispute directly with any manufacturer, retailer, or installer

that the person reporting the defect believes to be responsible before initiating the HUD dispute resolution process.

(b) *Request for dispute resolution*. Any of the parties or the homeowner may initiate the HUD Manufactured Home Dispute Resolution Program at any time after an alleged defect has been reported, by requesting dispute resolution, as follows:

(1) By mailing, e-mailing, or otherwise delivering a written request for dispute resolution to the dispute resolution provider at the address or e-mail address provided either at *http://www.hud.gov*, or by contacting HUD's Office of Regulatory Affairs and Manufactured Housing at (202) 708–6423 or (800) 927–2891;

(2) By faxing a request for dispute resolution to the fax number provided either at *http://www.hud.gov*, or by contacting HUD's Office of Regulatory Affairs and Manufactured Housing at (202) 708–6423 or (800) 927–2891; or

(3) By telephoning a request for dispute resolution to the number provided either at *http://www.hud.gov*, or by contacting HUD's Office of Regulatory Affairs and Manufactured Housing at (202) 708–6423 or (800) 927–2891.

(c) *Requested information*. The dispute resolution provider will request at least the following information when a person seeks to initiate dispute resolution under the HUD Manufactured Home Dispute Resolution Program:

(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, to the extent available;

(3) The date the report of the alleged defect was made;

(4) The name and contact information of the recipient or recipients of the report of the alleged defect;

(5) The date of installation of the manufactured home affected by the alleged defect; and

(6) A description of the alleged defect.

§ 3288.30 Screening of dispute resolution request.

(a) *Review for sufficiency*. When the request for dispute resolution has been received by the dispute resolution provider, a screening neutral will review the sufficiency of the information provided in the request for dispute resolution and determine if the dispute resolution process should proceed. If the screening neutral determines that a defect is properly alleged and timely reported, notice of the request will be forwarded, as provided in § 3288.33, to the manufacturer, retailer, and installer, as appropriate and to the extent the appropriate parties can be identified based on the information in the request.

(b) *Insufficient information*. If a request for dispute resolution is lacking any information necessary to determine if the dispute resolution process should proceed, the screening neutral will contact the requester or the parties about supplementing the initial request. If information necessary to qualify the matter for the HUD Manufactured Home Dispute Resolution Program is not received within a reasonable time established by the screening neutral, the request for dispute resolution will be considered withdrawn.

(c) *Denial of a dispute*. Denial by all of the parties that there is a dispute does not preclude the dispute resolution process from going forward to mediation. A screening neutral's determination that a defect is properly alleged is prima facie evidence of a dispute. If the defect has not been corrected or repaired, the matter will be referred to mediation.

(d) *Determination of unreasonable risk*. If the screening neutral determines there is sufficient documentation of an alleged defect presenting an unreasonable risk of injury or death, he or she will send a copy of the request to HUD.

§ 3288.33 Notice of dispute resolution.

(a) Once the screening neutral determines that a defect is properly alleged and timely reported, notice about the request will be forwarded to the parties by overnight delivery, commercial carrier, or fax.

(b) If the parties have not initiated the Alternative Process in accordance with § 3288.105 of this part within 7 days of the screening neutral's notification, the screening neutral will refer the matter to mediation.

§ 3288.35 Mediation.

(a) *Mediator*. The dispute resolution provider will provide for the selection of a mediator. The selected mediator will not be the person who screened the dispute resolution request. The selected mediator will mediate the dispute and attempt to facilitate a settlement. If a party identifies any other party that should be included in the mediation, the mediator will contact the other party and provide information about the scheduled mediation meetings.

(b) *Time*—(1) *For reaching settlement*. Except as provided in paragraph (b)(2) of this section, the parties are allowed 30 days from the commencement of the mediation to reach a mediated settlement. In every case, the dispute resolution provider will notify the parties and the homeowner, in writing, of the date of the commencement of the mediation.

(2) *Alleged defects presenting an unreasonable risk of injury, death, or significant loss or damage to valuable personal property*. For mediations involving alleged defects that appear to present an unreasonable risk of injury, death, or significant loss or damage to valuable personal property as determined by the screening neutral, the parties have a maximum 10 days from the commencement of the mediation to reach a settlement.

(3) *For corrective repairs*. Unless a longer period is agreed to in writing by the parties to the mediated settlement and the homeowner, corrective repairs must be completed no later than 30 days after the date the settlement agreement is signed by the applicable parties.

(c) *Denial of dispute*. During mediation, denial of a dispute by all parties without acceptance of responsibility will result in the mediator referring the matter to arbitration for determination of the defect and responsibility for the defect.

(d) *Written settlement agreement*. (1) Upon reaching an agreement, the parties will sign a written settlement agreement. The dispute resolution provider will forward copies of the agreements with the original signatures of the parties to the parties, the homeowner, and to HUD.

(2) Sample agreements will be made available to the parties as drafting guidance by the dispute resolution provider.

(e) *Failure of mediation*. If mediation is not successful, parties or the homeowner may proceed to nonbinding arbitration, as provided in § 3288.40 of this part.

(f) *Confidentiality*. Except for the report of an alleged defect, any request for dispute resolution, and any written settlement agreement, all other documents and communications provided in confidence and used in the mediation will be confidential, in accordance with the Administrative Dispute Resolution Act of 1996 (5 U.S.C. 571 *et seq.*).

§ 3288.40 Nonbinding arbitration.

(a) *When initiated*. (1) If, following mediation under § 3288.35, the parties fail to reach a settlement, any party or the homeowner may, within 15 days of the expiration of the deadline applicable under § 3288.35(b), initiate nonbinding arbitration.

(2) In addition, arbitration may be initiated upon referral by the mediator pursuant to § 3288.35(c).

(b) *Written request*—(1) *Submission to HUD*. A written request for arbitration must be submitted to the dispute resolution provider. Information about the dispute resolution provider and how to make a request for dispute resolution will be available at *http://www.hud.gov* or by contacting HUD's Office of Manufactured Housing Programs at (202) 708–6423 or (800) 927–2891.

(2) *Contents of request*. The written request for arbitration must include:

(i) The name and address of the party making the request;

(ii) A brief description of the alleged defect or a copy of the report of the alleged defect; and

(iii) A copy of the request for dispute resolution.

(c) *Appointment and authority of arbitrator*. Upon receipt of the request, the dispute resolution provider will select an arbitrator. The arbitrator will have the authority to:

(1) Set hearing dates and deadlines;

(2) Conduct on-site inspections;

(3) Issue requests for documentation and information necessary to complete the record;

(4) Dismiss frivolous allegations;

(5) Make proposed findings, including findings of defect and culpability and a disposition recommendation to HUD; and

(6) Recommend apportionment of the responsibility of paying for or providing any correction or repair of the home when recommending that culpability be assessed to more than one party.

(d) *Denial of dispute.* If the parties deny a dispute exists and the arbitrator determines there is a defect, the arbitrator will make a determination of responsibility for the defect.

(e) *Notice to parties.* The dispute resolution provider will provide the parties and the homeowner with a notice setting forth the date, place, and time an arbitration is to be held.

(f) *Proceedings.* (1) If all parties do not request an in-person hearing under paragraph (f)(2) of this section within 5 days of the dispute resolution provider's receipt of the request for arbitration, or if the arbitrator rejects the request for an in-person hearing, the arbitrator may conduct either a record review or a telephonic hearing.

(2) If any party wants to request an in-person hearing, in which the parties or their representatives may personally appear before the arbitrator, the arbitrator will consider such a request if it is made by all of the parties that are participating in the arbitration. Such an in-person hearing will be held at the discretion of the arbitrator, after considering appropriate factors, such as cost.

(g) *Effect on nonparticipating parties.* If a party chooses not to participate in the arbitration, the process will continue without further input from that party. In such a case, the arbitrator may rely on the record developed through the arbitration to find a nonparticipating party responsible for correction or repair of a defect.

(h) *Completion of arbitration.* (1) Unless an extension is granted for good cause by HUD, the arbitrator, within 21 days of the dispute resolution provider's receipt of the request for arbitration, the arbitrator will complete the arbitration process and provide HUD with all background information used during the arbitration and with a written, nonbinding recommendation as to which party or parties are responsible for the defect, and what corrective actions should be taken.

(2) Unless an extension is granted for good cause by HUD, the arbitrator, within 21 days of the dispute resolution provider's receipt of the request for arbitration, will provide the parties with a copy of the nonbinding recommendation that was delivered to HUD, in accordance with § 3288.40(h)(1).

(i) *Settlement offers.* At any time before HUD issues a final order, the parties may submit to HUD a proposal to resolve the dispute.

§ 3288.45 HUD review and order.

(a) *Appropriate order.* HUD will review the arbitrator's recommendation provided in accordance with § 3288.40(h), any settlement offers presented by the parties in accordance with § 3288.40(i), and the information gathered during the arbitration, and will issue an appropriate order in which HUD may accept, modify, or reject the recommendations. HUD will forward a copy of the order to the arbitrator and to each of the parties and the homeowner, whether or not a party chose to participate in the arbitration.

(b) *Contents of order.* If HUD finds that a defect exists, the order will include the following:

(1) Assignment of responsibility for the correction and repair of all defects and associated costs; and

(2) If the manufacturer, retailer, or installer is responsible for corrective action, a date by which the correction and repair of each defect must be completed, taking into consideration the seriousness of the defect.

(c) *Failure to comply.* Failure to comply with an order issued by HUD is a violation of section 610(a)(5) of the Act (42 U.S.C. 5409(a)(5)).

Subpart C—Alternative Process in HUD-Administered States

§ 3288.100 Scope and applicability.

The requirements of this subpart C may be followed in lieu of the requirements of subpart B of this part to resolve disputes among manufacturers,

retailers, and installers of manufactured homes in any state where subpart B of this part would otherwise apply. In limited circumstances, this subpart C permits manufacturers, retailers, and installers of manufactured homes to use neutrals of their choosing to resolve disputes concerning alleged defects in manufactured homes.

§ 3288.105 Time when Alternative Process is available.

(a) The Alternative Process may be invoked after an alleged defect has been reported, pursuant to § 3288.15(b). However, the Alternative Process may not be invoked more than 7 days after notification of a request for dispute resolution has been received by all of the parties. The notification must be delivered by overnight delivery, commercial carrier, or fax by the screening neutral, in accordance with § 3288.30. If within 7 days of the receipt of notification, the Alternative Process is not initiated, the screening neutral will refer the matter to the mediator. Once the Alternative Process is invoked, neither the parties nor the homeowner may invoke the Mediation and Arbitration Process in the HUD Manufactured Home Dispute Resolution Program for 30 days.

(b) No particular form or format is required to provide notification for the Alternative Process, but the party or parties submitting the notification must include a statement from the parties participating in the Alternative Process stating that the homeowner is not responsible for the alleged defect and that one or more of the parties will correct or repair the defect. All required agreements are set forth in § 3288.110 of this part. The parties must also make reasonable efforts to include the following information in the notification:

(1) Identification of the case; and

(2) Identification of the parties participating in the Alternative Process.

(c) The screening neutral will notify the parties if the case is referred to the Alternative Process for resolution.

§ 3288.110 Alternative Process agreements.

(a) *Required agreement.* To use the Alternative Process, the manufacturer, retailer, and installer of the manufactured home at issue, as appropriate, must agree:

(1) That there is a defect in the manufactured home;

(2) That the manufacturer, retailer, or installer is responsible for the defect;

(3) That the homeowner is not responsible for the defect;

(4) To engage a neutral to evaluate the dispute and make an assignment of responsibility for correction and repair; and

(5) To notify the homeowner of, and allow the homeowner to be present at, any meetings and to inform the homeowner of the outcome.

(b) *Additional element of agreement.* In addition, the parties should agree to act upon the neutral's assignment of responsibility for correction and repair.

Subpart D—State Dispute Resolution Programs in Non-HUD Administered States

§ 3288.200 Applicability.

This subpart D establishes the minimum requirements that must be met by a state to implement its own dispute resolution program and therefore not be covered by the HUD Manufactured Home Dispute Resolution Program established in accordance with subpart B. The subpart also establishes the procedure for determining whether the state dispute resolution program meets the requirements of the Act for operating in lieu of the HUD Manufactured Home Dispute Resolution Program.

§ 3288.205 Minimum requirements.

(a) *List of requirements.* The HUD Manufactured Home Dispute Resolution Program will not be implemented in any state that complies with the procedures of this subpart D and that has a dispute resolution program that provides for the following minimum requirements:

(1) The timely resolution of disputes among manufacturers, retailers, or installers regarding responsibility for correction and repair of defects in manufactured homes;

(2) The issuance of appropriate orders for correction and repair of defects in such homes;

(3) A coverage period for disputes that includes at least defects that are reported within 1 year after the date of first installation; and

(4) Adequate funding and personnel.

(b) *Applicability to programs in state plans.* (1) In order to include a dispute resolution program in a state plan that on February 8, 2008 is fully or conditionally approved under § 3282.302 of this chapter, a state must amend its state plan to provide for the requirements of paragraphs (a)(1) through (3) of this section.

(2) After February 8, 2008, a state that submits a state plan for approval in accordance with § 3282.302 of this chapter must provide for the requirements of paragraphs (a)(1) through (3) of this section in its state plan.

§ 3288.210 Acceptance and recertification process.

(a) *Submission of certification.* A state seeking HUD acceptance of its state dispute resolution program under this subpart must submit to HUD a completed Dispute Resolution Certification Form, which is available by contacting HUD by telephone at (202) 708–6423 or by e-mail at *mhs@hud.gov*. The certification may be submitted as a part of, or independent of, a state plan under § 3282.302 of this chapter. If included as part of a state plan, the state does not have to separately certify that it meets the requirements of § 3288.205(a)(4).

(b) *HUD review and action.* (1) HUD will review the Dispute Resolution Certification Form submitted by a state and may contact the state to request additional clarification or information as necessary. Upon completing its review, HUD will provide the state with notice of acceptance, conditional acceptance, or rejection of its dispute resolution program.

(2) A notice of acceptance will include the date of acceptance.

(3) If HUD rejects a state's dispute resolution program, HUD will provide an explanation of what is necessary to obtain full acceptance. A revised Dispute Resolution Certification Form may be submitted within 30 days of receipt of such notification. If the revised Dispute Resolution Certification Form 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 Dispute Resolution Certification Form, HUD will notify the state that its dispute resolution program is not accepted and that it has a right to a hearing on the rejection using the procedures set forth under subpart D of part 3282 of this chapter.

(c) *Conditional acceptance.* A state meeting three of the four minimum requirements set forth under § 3288.205(a)(1) through (4) will be conditionally accepted by HUD. If HUD conditionally accepts a state's dispute resolution program, HUD will provide an explanation of what is necessary to obtain full acceptance. A revised Dispute Resolution Certification Form may be submitted within 30 days of receipt of such notification. Any state conditionally accepted will be permitted to implement its own dispute resolution program for a period of not more than 3 years, absent extension of this period by HUD.

(d) *Revocation.* If HUD becomes aware at any time that a state no longer meets the minimum requirements set forth under § 3288.205, HUD may revoke acceptance of the state's certification after an opportunity for a hearing, using the procedures set forth under subpart D of part 3282.

(e) *Recertification of a program not included in state plan.* Except as provided in paragraph (f), to maintain its accepted status, a state whose program is not included in an approved or conditionally approved state plan must submit a current Dispute Resolution Certification Form to HUD for review and acceptance as follows:

(1) Every 3 years within 90 days of the day and month of the most recent date of HUD's acceptance of the state's program or

(2) Whenever there is a significant change to the program.

(f) *Inclusion in state plan.* If a state dispute resolution program is part of a state plan, it will be reviewed annually as part of the state plan and separate recertification of the state's dispute resolution program is not required.

§ 3288.215 Effect on other manufactured home program requirements.

A state with an accepted dispute resolution program will operate in lieu of HUD's Manufactured Home Dispute Resolution Program established under subpart B of this part 3288. A state dispute resolution program, even if it is an accepted dispute resolution program under this part, does not supersede the requirements applicable to any other aspect of HUD's manufactured home program. Any responsibilities, rights, and remedies applicable under the Manufactured Home Construction and Safety Standards in part 3280 of this chapter and the Manufactured Home Procedural and Enforcement Regulations in part 3282 of this chapter continue to apply as provided in those parts in all states.

Subpart E—Dispute Resolution Program Rulemaking Procedures

§ 3288.300 Applicability.

This subpart establishes special regulatory procedures for issuing or revising dispute resolution program regulations as codified in this part.

§ 3288.305 Consultation with the Manufactured Housing Consensus Committee.

HUD will seek input from the MHCC when revising the HUD Manufactured Home Dispute Resolution Program regulations in this part 3288. Before publication of a proposed rule to revise these regulations, HUD will provide the MHCC with an opportunity to comment on such revision. The MHCC may send to HUD any of the MHCC's own recommendations to adopt new dispute resolution program regulations or to modify or repeal any of the regulations in this part. Along with each recommendation, the MHCC must set forth pertinent data and arguments in support of the action sought. HUD will either: accept or modify the recommendation and publish it for public comment in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553), along with an explanation of the reasons for any such modification; or reject the recommendation entirely, and provide to the MHCC a written explanation of the reasons for the rejection. This section does not supersede section 605 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5404).

PARTS 3289–3799 [RESERVED]

PART 3800—INVESTIGATIONS IN CONSUMER REGULATORY PROGRAMS

Sec.

3800.10 Scope of rules.
3800.20 Subpoenas in investigations.
3800.30 Subpoena enforcement in district court.
3800.40 Investigational proceedings.
3800.50 Rights of witnesses in investigational proceedings.
3800.60 Settlements.

AUTHORITY: 12 U.S.C. 2601 *et seq.;* 15 U.S.C. 1714; 42 U.S.C. 3535(d) and 5413.

SOURCE: 61 FR 10441, Mar. 13, 1996, unless otherwise noted.

§ 3800.10 Scope of rules.

This part applies to investigations and investigational proceedings undertaken by the Secretary, or the Secretary's designee, pursuant to the following:

(a) The Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 *et seq.;*

(b) The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.;* and

(c) The Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 *et seq.*

§ 3800.20 Subpoenas in investigations.

(a) The Secretary may issue subpoenas relating to any matter under investigation. A subpoena may:

(1) Require testimony to be taken by interrogatories;

(2) Require the attendance and testimony of witnesses at a specific time and place;

(3) Require access to, examination of, and the right to copy documents; and

(4) Require the production of documents at a specific time and place.

(b) A subpoenaed person may petition the Secretary or the Secretary's designee to modify or withdraw a subpoena by filing the petition within 10 days after service of the subpoena. The petition may be in letter form, but