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Scott Walker, Governor
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MANUFACTURED HOUSING CODE COUNCIL
Room 121B, 1400 East Washington Avenue, Madison
Contact: Jeff Grothman (608) 266-2112
December 15, 2014

The following agenda describes the issues that the Council plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Council.

AGENDA

12:00 PM

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1)

B. Department Update (2)

C. Consider Election of Chairperson and Vice Chairperson

D. Consider New HUD Regulations for Ground Anchors – in 24 CFR 3285.5, 3285.404, and 3286.505; as Effective on November 10, 2014 (3-12)

E. Discuss Dispute-Resolution Rules that are Required by Section 101.957 of the Statutes (13-28)

F. Discuss Draft Scope Statement (29-30)

G. Future Business

H. Public Comments

ADJOURNMENT

MANUFACTURED HOMES PROGRAM

ONLINE SERVICES

- Search Manufactured Home Records
- View your credential status
- Search for individuals and businesses that are credentialed. You can search by name, credential type, credential id or by zip code.
- Open Records Request

MANUFACTURED HOME TITLES

- Application Forms
- Information on title situations

MANUFACTURED HOME COMMUNITIES

- Application Forms
- Plan review information
- License requirements
- Information on water and sewer service

MANUFACTURED HOME DEALERS AND SALESPEOPLE

- Application Forms
- Information on the Manufactured Home Dealer Program

MANUFACTURED HOME INSTALLER APPLICATION

INSTALLATION STANDARDS FOR MANUFACTURED HOMES Enrolled Code

MANUFACTURED HOMES MANUFACTURER APPLICATION

CONTACTS

Email: DspsSbManfHomes@wi.gov

Phone: (608) 266-2112 (option 2), 7:45 a.m. to 4:30 p.m. Central Time, Monday thru Friday

Fax: (608) 267-0592

In Person: 1400 East Washington Ave, Madison 53703.

Landlord/Tenant issues are handled by the WI Department of Agriculture, Trade and Consumer Protection, http://datcp.state.wi.us/

Additional contacts for manufactured home topics: Web Page

patients with dengue provides epidemiologic information for surveillance of circulating dengue viruses.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks:

TABLE 1—IDENTIFIED RISKS TO HEALTH AND MITIGATION MEASURES

Identified risks to health	Mitigation measures
A false positive test result for an individual may lead to unnecessary treatment and possibly a less thorough laboratory evaluation for the true cause of illness; a false positive result may lead to unnecessary initiation of mosquito vector control measures.	Device description containing the information specified in the special control guideline. Performance characteristics. Labeling. Postmarket measures.
A false negative test result may lead to inappropriate use of antibiotics or a delay in treatment to prevent death due to dengue hemorrhagic fever or dengue shock syndrome or a false negative result may lead to delay in initiation of mosquito vector control measures.	Device description containing the information specified in the special control guideline. Performance characteristics. Labeling. Postmarket measures.
An error in the interpretation of the results	Labeling.

FDA believes that the measures set forth in the special controls guideline entitled ''Class II Special Controls Guideline: Dengue Virus Nucleic Acid Amplification Test Reagents'' are necessary, in addition to general controls, to mitigate the risks to health described in table 1.

Therefore, on May 24, 2012, FDA issued an order to the petitioner classifying dengue virus nucleic acid amplification test reagents into class II. FDA is codifying this device type by adding § 866.3946.

II. 510(k) Premarket Notification

Following the effective date of this final classification order, any firm submitting a 510(k) premarket notification for this device type will need to comply with the special controls.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this type of device is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the dengue virus nucleic acid amplification test reagents they intend to market.

III. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 866.3946 is added to subpart D to read as follows:

§ 866.3946 Dengue virus nucleic acid amplification test reagents.

(a) *Identification.* Dengue virus nucleic acid amplification test reagents are devices that consist of primers, probes, enzymes, and controls for the amplification and detection of dengue virus serotypes 1, 2, 3, or 4 from viral ribonucleic acid (RNA) in human serum and plasma from individuals who have signs and symptoms consistent with dengue (mild or severe). The identification of dengue virus serotypes 1, 2, 3, or 4 in human serum and plasma (sodium citrate) collected from human patients with dengue provides epidemiologic information for surveillance of circulating dengue viruses.

(b) *Classification.* Class II (special controls). The special control is FDA's guideline entitled ''Class II Special Controls Guideline: Dengue Virus Nucleic Acid Amplification Test Reagents.'' For availability of the guideline document, see § 866.1(e).

Dated: September 4, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–21479 Filed 9–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3285 and 3286

[Docket No. FR–5631–F–02]

RIN 2502–AJ15

Model Manufactured Home Installation Standards: Ground Anchor Installations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Manufactured Home Model Installation Standards by revising existing requirements for ground anchor installations and establishing standardized test methods to determine ground anchor performance and resistance. The performance of conventional ground anchor assemblies is critical to the overall quality and structural integrity of manufactured housing installations. Because there was no generally accepted method for rating and certifying ground anchors, states had adopted different requirements for certifying ground anchor performance. This final rule establishes a uniform test method that can be utilized to determine and rate ground anchor performance in different soil classifications and may be used by states to certify and accept ground anchor assemblies.

DATES: *Effective Date:* November 10, 2014.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9164, Washington DC 20410; telephone number 202–708–6423 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 26, 2013, at 78 FR 45104, HUD published a proposed rule to amend the Manufactured Home Model Installation Standards by adopting recommendations made by the Manufactured Home Consensus Committee (MHCC) to revise existing requirements for ground anchor installations, and establish standardized test methods to determine ground anchor performance and resistance. The performance of conventional ground anchor assemblies is critical to the overall quality and structural integrity of manufactured housing installations. HUD's proposed rule recognized that while the Model Manufactured Home Installation Standards (24 CFR part 3285) reference a nationally recognized testing protocol for ground anchor assemblies, there is currently no national test method to rate and certify ground anchor assemblies in different soil classifications.

This final rule establishes standard test methods for evaluating ground anchors by the anchor assembly/stabilizer plate test method, the vertical in-line anchor assembly test method, and the in-line ground anchor assembly test method. These standard test methods require determination of soil classification by test probe at each testing site for each anchor assembly being certified. Failure criteria is established as a displacement of 2 inches in either the horizontal or vertical direction prior to reaching a total working load of 3,150 pounds, or when the ground anchor head displaces 2 inches in the vertical direction or 3 inches in the horizontal direction prior to reaching a total load of 4,725 pounds, or when any component of the ground anchor shaft fails prior to reaching a total load of 4,725 pounds. The final rule requires that the working load design value for each installation method and soil classification be reported in the ground anchor assembly listing or certification.

Ground anchors consist of a specific assembly designed to transfer home anchoring loads to the ground. Ground anchors are used extensively in manufactured housing installations, and are economical, readily available, and can be installed with relatively lightweight tools and equipment. Anchors are typically constructed with a circular shaft of one or more helixes, a head connects at the opposite side of the anchor which then connects with the home's frame or sidewalls. Helical anchors are designed to be augured into the ground and may also be installed with stabilizer plates to increase the lateral capacity of the anchor.

One significant limitation of ground anchors arises from multiple soil-anchor response mechanisms as a function of soil type, anchor depth, and load configuration. In cohesive soils, excessive anchor movements in a vertical direction can approach or exceed the soil's shear strength. In such cases, the ground anchor is supported by the soil's residual shear strength, resulting in a decrease in anchor capacity. In granular soils, large lateral movements may produce failure planes that can reduce the strength on the vertical direction. In either case, ground anchor movements of several inches can have significant negative impacts on long-term performance and safety of the home.

II. Changes and Clarifications Made in This Final Rule

This final rule follows publication of the July 26, 2013, proposed rule and takes into consideration the public comments received on the proposed rule. In response to public comment, a discussion of which is presented in the following section of this preamble, and in further consideration of issues addressed at the proposed rule stage, HUD is making two changes at this final rule stage. Specifically, HUD is providing that ground anchor designs that have been tested and approved prior to the effective date of this rule are not required to be retested to the standards of this rule if they meet certain criteria as discussed in Section IV of this preamble. In addition, HUD is clarifying the final rule to require that ground anchor assemblies be subject to on-going surveillance by a nationally recognized laboratory. More specifically and to preclude any misunderstanding, HUD is removing the phrase, ''or a registered professional engineer or registered architect must certify'' from § 3285.402(a) since professional engineers or architects do not typically offer these services.

III. The Commenters

The public comment period for the July 26, 2013, proposed rule closed September 24, 2013. HUD received six public comments in response to this proposed rule. Comments were submitted by two manufacturers of ground anchors, two national trade associations representing the manufactured housing industry, a nationally recognized independent third-party testing, listing, and inspection agency for building systems and materials and a nationally recognized Design Approval and Plan Inspection Agency for manufactured and modular homes, and a member of the public. The commenters were largely supportive of the proposed rule but offered specific recommendations to sections of the proposed rule. In addition, on May 8, 2014, HUD met with the Manufactured Housing Institute (MHI) and representatives of the manufactured home ground anchor industry. At this meeting, the concerns discussed in MHI's public comment were largely reiterated. Issues presented included the cost and need of retesting existing anchor designs, the need for HUD to focus on ensuring the proper installation of the manufactured home rather than on the methods used to test the anchor as a means to increase the integrity of manufactured homes in high wind events, and possible flaws in the field testing used by HUD to base its proposed rule. The following section of this preamble summarizes the significant issues raised by the commenters on the July 26, 2013,

proposed rule and HUD's responses to these comments.

Comment: HUD should use a higher safety factor. One commenter stated that anchoring/tie downs are not sufficient to hold prefab units unless they are complemented with seismic/wind load anchors of equal or greater weight with a safety factor of 5. The commenter recommended that the rule reflect the safety factor of 5 as a minimum for all soils and suggested that HUD consider using the International Code Council standards.

Response: The Department does not agree with the commenter with regard to the recommendation to use a higher safety factor of 5 in evaluating ground anchor performance. Based on field investigations of ground anchor performance following recent hurricane events, HUD has determined that the current factor of safety of 1.5 is adequate. HUD bases its determination on the adequacy of ground anchor performance in recent high wind events, such as Hurricane Charley, and commentary in a field research study conducted for HUD, which support the conclusion that a safety factor in the range of 1.5 to 2.0 is adequate when anchors are tested or selected on the basis of site soil characterization which would be required by this rule.

Comment: The field testing used by HUD to justify the proposed rule is flawed. One commenter stated that the results of the tests discussed in the proposed rule are invalid because the anchors tested where not appropriate for the soil classification. According to the commenter, Products Testing, Inc. in a letter dated October 20, 2008, reported that, ''the anchors used at the Georgia test site were the wrong anchors for soil classification at the site. The HUD contractor failed to use the correct maximum load scale to match the anchors that were tested.'' This issue was also presented in HUD's May 8, 2014, meeting with MHI and representatives of the ground anchor industry.

Response: The field testing was not flawed and was not focused on the integrity of the anchors being tested. Rather, the testing was designed to determine a method or methods by which ground anchors could be universally tested in all soil classifications to produce reliable and repeatable results. The study found comparable testing results in ground anchor performance using the test protocol being evaluated between the testing apparatus and methods used by the contractor and the current testing approach used by ground anchor suppliers. The testing was not designed, as the commenter suggests, to evaluate the performance of a specific ground anchor at the testing site.

Comment: The testing costs estimated in the proposed rule are too conservative. A commenter questioned the accuracy of the testing costs reflected in the proposed rule, stating that it likely has the fewest number anchors requiring retesting and estimating that the cost of retesting would be approximately $175,000. The commenter also stated that the 2 to 3 day timeframe to do the retesting was unrealistic. Another commenter stated that HUD's cost estimates for retesting existing anchors were too low. According to the commenter, the five anchor manufacturers each have an average of 12 to 15 anchor designs. To retest each design, each anchor would need to be tested in two differed soil classifications taking 2 to 3 days. The costs of testing would include the possibility that testing would be delayed for bad weather and for the availability of engineers to witness tests and prepare reports and certifications. Rather than a one-time cost of $50,000 to $75,000 for each anchor manufacturer, as HUD estimates, the commenter states that a survey of all manufacturers estimates costs to be more like $200,000 to $250,000 per manufacturer, for an aggregate costs of $1 to $1.25 million. The commenter concluded that these costs would have to be borne by the consumer and that retesting of existing designs is not justifiable given the performance record of the current installed product. A third commenter recommended that HUD should address and minimize, to the maximum extent possible, any potential additional costs attributed to the new standards that have not previously been brought to or considered by the MHCC as part of its consensus process.

Response: The testing costs estimates discussed in the proposed rule included the cost of testing both new and existing ground anchor systems. HUD believes that its cost estimates also considered all of the factors identified in the comment as contributing to the cost of retesting existing designs. The suppliers of ground anchors present at the May 7, 2014, meeting with HUD, stated that tests for new anchor designs are infrequently conducted because few new anchor designs are produced. Notwithstanding, HUD has decided not to require the retesting of existing anchor designs provided they meet certain conditions specified in this final rule. HUD believes that this decision addresses the concerns regarding the potential cost of the rule.

Comment: Failure to properly install the manufactured home or the anchors securing the home is a greater risk to the home than failure to establish a national testing method to determine anchor performance and HUD should focus on ensuring that manufactured home is properly installed rather than on testing ground anchors. Two commenters stated that the integrity of the manufactured home installation depends more on the quality of the installation itself, rather than the methods used to test the anchor. According to these commenters, HUD can implement a stringent ground anchor test method, but the anchorage system will still fail if the wrong anchor is chosen for the soil classification at the site, the anchor is not properly installed (e.g., not installed to full depth, missing stabilizer plates, straps not installed tight, etc.), or if too few anchors are installed (e.g., manufacturer's instructions for the number of ground anchors were not adhered to resulting in too few anchors being installed.). These commenters stated that if HUD wants to increase the safety of manufactured housing it should shift its focus on inspecting the installation of new and used homes. Another commenter recommended that HUD focus its efforts in three general areas. First, the commenter stated that there are currently 17 states that have not had their installer licensing program approved by HUD; second, the commenter recommended that HUD create a standard for the installation of used homes; and third, the commenter recommended that HUD require all states to perform installation inspections on all manufactured homes.

Response. The Department agrees that ensuring the proper installation of each manufactured home can increase the safety of manufactured housing and reduce risk. However, ensuring through uniform testing and certification that anchors are properly installed will enhance the performance of the home in wind events. The Department intends to obtain the services of a contractor in 2014 to assist HUD in the administration and enforcement of its installation standards and regulations for installers in states that do not have HUD accepted qualifying installation programs. The current program regulations for installation in 24 CFR part 3286 do not specifically require qualifying state programs to inspect each home installation. Rather, each state must have a method for inspecting new installations that includes holding installers accountable for the work they perform. There is no legislative

authority for HUD to regulate the installation of used manufactured homes.

Comment: Current ground anchors have an admirable performance record when properly installed and should not have to be retested. One commenter, citing two studies, one conducted by the Florida Manufactured Housing Association and the second conducted by RADCO for the Manufactured Housing Institute,[1] stated that anchors installed in Florida prior to Hurricane Charley performed extremely well. The commenter quoted the RADCO report as stating that, ''[t]here was no evidence of shifting or movement of the homes. All anchors remained firmly anchored in the ground and all straps and metal braces remained tight. All piers remained in stable condition, and continued to provide full bearing and firm support for the homes. No remedial measures were needed. After Hurricane Charley, park management contracted with an independent firm to inspect the foundation and anchoring systems of all homes within the community. All of these inspections confirmed that the foundation and anchoring systems remained in good condition, and were not affected by the hurricane.'' Based on these reports, the commenter suggested that current ground anchors should not need to be retested.

Response. The Department agrees with the commenter and will not require existing ground anchor systems to be retested provided they meet the conditions detailed in the final rule and as discussed in response to the comment immediately below.

Comment: HUD should allow grandfathering of existing ground anchors that have already been tested and certified. Several commenters questioned the need to retest existing anchors that already have been tested and certified. These commenters recommended that anchors that have already been tested and certified be grandfathered in and not subject to retesting. Another commenter recommended that HUD's final rule should permit the continued use of existing ground anchors produced and certified prior to the final rule's effective date. A third commenter agreed that existing ground anchor designs should be grandfathered and recommended the following criteria to allow grandfathering:

1. Each ground anchor test shall have been witnessed by a professional engineer and that engineer shall have documented the results in a standard form test report which bears his P.E. stamp.
2. Each ground anchor shall be listed as that term is defined in 3285.5
3. Each specimen tested must meet or exceed an ultimate load of 4,725 lbs.
4. A minimum of three (3) specimens must be tested for each ground anchor design.
5. The soil test torque probe method must have been used to determine soil classifications at the ground anchor test site.
6. Each test report must identify the soil classification for which the ground anchor was tested. A ground anchor tested in a given soil classification number must not be listed for use in a higher/weaker soil classification number.
7. Tests performed by the stabilizer plate method must indicate the angle of pull and the listing for the anchor must identify the minimum allowable angle of pull to the horizontal based on the tests.
8. Each test report must include specifications and dimensions of the ground anchor assembly.
9. The maximum deflection at 3,150 lbs. is 2″ vertically or 2″ horizontally.
10. The maximum deflection at 4,725 lbs. is 2″ vertically or 3″ horizontally.

The commenter also recommended that HUD not alter or add to this list since doing so would make it impossible for the majority of ground anchors to conform.

Response: After reviewing these comments, HUD agrees that published studies support the conclusion that existing anchor designs have performed well in the past. HUD has also considered the concern raised by some of the commenters regarding the cost of retesting existing design. Based on this information, HUD believes there is limited utility to requiring that all existing ground anchor designs be retested. Nevertheless, HUD believes that public safety requires that existing ground anchor designs are structurally sound and provide a measure of dependability to ensure the public's trust. As a result, HUD will generally adopt the criteria provided by the commenter to ensure that existing ground anchor designs meet this measure. HUD has clarified in the final rule that for the stabilizer plate method, that the anchor must have been certified and listed for a minimum angle of pull to the horizontal of at least 30 degrees, and that minimum angle of pull to the horizontal must be included in the listing. The final rule also clarifies that for any previously certified anchor assembly where the angle of pull was less than 30 degrees that the anchor assembly will need to be re-evaluated in accordance with the procedures for new anchor designs. HUD believes that the criteria recommended is similar to and meets the intent of HUD's proposal to ensure public safety by retesting existing anchor designs. Based on public comment, HUD believes that most existing ground anchor products are tested and conform to this standard. This conclusion was confirmed by the ground anchor manufacturers at the May 7, 2014, meeting.

Comment: Other issues. A commenter disputed the lack of a nationally recognized ground anchor testing protocol in 2005, noting that Florida and Alabama have strict testing protocols since 1994.

Response: HUD is aware of the Florida and Alabama testing protocols. These protocols, however, are not recognized in states other than Florida and Alabama, respectively.

Comment: A commenter stated that there is typo at § 3285.402(b)(8)(I) and that the fourth line which reads in part ''(b)(7)(iii)'' should read ''(b)(8)(iii)''.

Response: The section has been revised to refer to § 3285.402(b)(8)(iii).

Response to Specific HUD Questions in the Proposed Rule

Question #1: Are three anchor tests at each test certification site sufficient to ensure adequate reliability in rated anchor performance, in view of the variation and impact of soil type on the resistance of ground anchor assemblies, or should a minimum of six tests be required, as initially proposed in the draft GAATP?

Comment: One commenter responded that three tests are wholly adequate. The commenter identified several factors which assure that three tests are adequate, including that the proposed rule would require all three test specimens to equal or exceed an ultimate load of 4725 pounds. The commenter stated that many national test methods, such as International Code Congress Evaluation Service Acceptance Criteria, also require three tests but allow for the average of the results to be used. The proposed test method described in HUD's rule would therefore be more stringent than many national recognized methods for determining allowable loading of structural systems based on tests. In addition, the requirements to (1) increase the load throughout the test and (2) that loading to 4725 pounds must not be reached in less than two minutes both serve to reduce variability in ultimate load test results. The commenter also stated that

[1] The Performance of Post-1994 HUD Code Manufactured Homes During Hurricane Charley. Prepared by RADCO. Prepared for the Manufactured Housing Institute. January 26, 2005.

requiring six tests instead of three would double the cost of conducting certification testing with very little if any added reliability.

Response: Based on the comments received, the final rule requires a minimum of three tests to be conducted to certify each ground anchor assembly in the weakest soil classification for which it is listed.

Question #2: Should the proposed rule be amended to include test requirements for an evenly controlled rate of anchor displacement (0.5 to 0.6 inches per minute) to prevent higher anchor load resistance from being certified, as found in the comparison tests in the HUD research study?

Comment: One commenter responded that HUD should not amend the requirement as suggested. The commenter stated that HUD's previous tests raised the concern that it might be possible to achieve higher ultimate load resistance by loading the anchor very quickly all the way to ultimate load. According to the commenter, the proposed rule adequately addressed this possible concern by adding the dual requirements that the load must be increased throughout the test, and that loading to 4725 pounds must not be reached in less than two minutes. The commenter also stated that test apparatus cost is another factor for not amending the rule. Equipment that can precisely control the rate of displacement is significantly more expensive that the hydraulic load ram systems actuated by hand or power pumps which are currently in use for ground anchor testing.

Response: HUD agrees with the commenter and the final rule does not require a controlled rate of displacement but does require that the ultimate load must not be reached in less than two minutes.

Question #3: Should anchor certifications performed by a professional engineer be required to include follow-up investigations and/or testing to assure ongoing quality of ground anchor products and assemblies?

Comment: One commenter responded that the real question should be, should professional engineers be allowed to ''certify'' products on an ongoing basis and that the answer to this question should be no. Another commenter agreed and stated that the terms ''listed'' and ''certified'' have a common definition in the Installation Standard found at § 3282.5. According to both commenters, listing agencies are in the business of providing ongoing inspections to assure ongoing quality, but engineers and architects are not. Engineers and architects typically provide a service at one moment in time and do not provide independent ongoing quality assurance surveillance of products. ''Follow-up investigation,'' as stated by HUD, is critical to help assure ongoing quality of any building material or system including ground anchors. This activity should be left to listing agencies or third-party follow-up to ensure independent assurance of ongoing quality of any building material or system. To preclude any misunderstanding regarding, both commenters recommended that HUD remove the phrase, ''or a registered professional engineer or registered architect must certify'' from § 3285.402. The phrase, according to the commenters, is confusing and misleading and provides no assurance whatsoever on ongoing quality.

Response: HUD agrees with the commenters. As a result, HUD has revised § 3285.402(a)(1) of the final rule to require on-going surveillance by a nationally recognized laboratory since professional engineers or architects do not typically offer these services.

IV. This Final Rule

The test methods for evaluating ground anchor assemblies and reporting requirements remain unchanged from the proposed rule. However, the final rule now requires that each ground anchor assembly be subject to an on-going quality assurance surveillance program by a nationally recognized third party testing agency following initial certification by a registered professional engineer or architect. Based on the public comments received, the final rule will also not require that existing ground anchor assemblies be retested and certified and be subject to the testing provisions of this part, provided that they have been previously tested and those tests were certified by a professional engineer or registered architect and the ground anchor has been listed by a nationally recognized testing agency and the following conditions are met and satisfied:

(i) A minimum of three tests meeting all requirements set by this rule were conducted for each ground anchor assembly design;

(ii) Each of the ground anchor assembly designs tested must have met or exceeded a working load of 3,150 pounds and sustained an ultimate load of 4,725 pounds in the weakest soil classification for which the anchors were tested and certified;

(iii) The soil in which the anchor was certified has been classified by one of the methods indicated in § 3285.202 and the anchor is not listed for use in a weaker/higher soil classification than tested and identified in the Table to § 3285.202;

(iv) A test report was provided for each ground anchor assembly design that identifies the soil classification in which the ground anchor was tested and listed, and includes complete specifications and dimensions for the ground anchor assembly;

(v) For each of the ground anchor assemblies tested, the maximum deflection at 3,150 pounds did not exceed two inches vertically or three inches horizontally;

(vi) For each of the ground anchor assemblies tested, the maximum deflection at 4,725 pounds did not exceed two inches vertically or three inches horizontally;

(vii) For the stabilizer plate test method, at least three tests were performed at the minimum angle of pull to the horizontal specified in the listing and the minimum angle of pull to the horizontal must have been at least 30 degrees. Any existing ground anchor assembly tests and certifications where the angle of pull was less than 30 degrees will need to be re-evaluated in accordance with § 3285.402(b); and

(viii) For the stabilizer plate test method, the mimimum angle of pull to the horizontal is specified in the listing.

The final rule requires determination of soil classification by the test probe method at each testing site for which each anchor assembly is being certified, and requires the tests to be conducted in weaker soils at the lower 50 percentile torque probe value of the soil in which the anchor is being tested. A minimum of three tests must be performed at each certification test site and the anchor assembly must resist at least 4725 pounds (3,150 pounds × 1.5 factor of safety) in the direction of the pull for each test method for which the anchor is being certified.

The final rule includes standard test methods for evaluating ground anchors by the anchor assembly/stabilizer plate test method, the vertical in-line anchor assembly test method, and the in line ground anchor assembly test method. Failure criteria is established as a displacement of 2 inches in either the horizontal or vertical direction prior to reaching a total working load of 3,150 pounds, or when the ground anchor head displaces 2 inches in the vertical direction or 3 inches in the horizontal direction prior to reaching a total load of 4,725 pounds, or when any component of the ground anchor shaft fails prior to reaching a total load of 4,725 pounds.

The final rule requires the working load design value for each installation

method and soil classification to be reported in the ground anchor assembly listing or certification. The final rule also clarifies that an anchor tested in a given soil classification is not approved for use in a weaker or higher numbered soil classification (see Table to § 3285.202). The test report required by the final rule includes all conditions for each ground anchor assembly tested and the soil classification(s) for which the assembly is certified for use, and the working load design value and minimum ultimate capacity for those soil classification(s).

V. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this final rule are pending approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and given OMB control number 2502–0578. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410–0500.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has Federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have Federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. The Model Installation Standards by themselves do not affect governmental relationships or distribution of power. Therefore, HUD has determined that the Model Manufacture Home Ground Anchor Installation Standards do not have Federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. At the proposed rule stage, HUD conducted a material and labor cost impact analysis for this rule. HUD determined that the potential cost impact of the rule would be the costs associated with re-testing and listing or certifying existing ground anchor assemblies in accordance with the proposed testing methods. HUD estimated that the average per-home cost at the proposed rule stage would be approximately $1.6 million annually ($2.00 per anchor multiplied by an average of 16 anchors per home multiplied by 50,000 homes produced in a year). This included possible additional costs that may be incurred for re-design of existing anchor assemblies that may be needed to meet the testing requirements of the proposed rule. Based on this estimate, HUD determined that these costs would not represent a significant economic effect on either an industry-wide or per-unit basis and concluded that the rule would not impose a significant burden for a small business. As discussed in the preamble of this final rule, HUD has decided not to require that existing ground anchor assemblies be retested and certified as long as the anchor has been previously tested and those tests were certified by a professional engineer or registered architect. Based on public comment and meetings with representatives of the manufactured home ground anchor industry, HUD believes that most existing ground anchor products currently in use meet these standards and will not have to be retested. This revision significantly reduces the costs of the rule estimated at the proposed rule stage. As a result, HUD continues to believe that this rule would not impose a significant burden for small business. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Catalogue of Federal and Domestic Assistance

The Catalogue of Federal and Domestic Assistance number is 14.171.

List of Subjects

24 CFR Part 3285

Housing standards, Incorporation by reference, Installation, Manufactured homes.

24 CFR Part 3286

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Manufactured homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in this preamble, HUD amends 24 CFR parts 3285 and 3286 as follows:

PART 3285—MODEL MANUFACTURED HOME INSTALLATION STANDARDS

■ 1. The authority citation for part 3285 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 5403, 5404, and 5424.

■ 2. In § 3285.5, add a new definition for *Site* in alphabetical order to read as follows:

§ 3285.5 Definitions.

* * * * *

Site. An area of land upon which a manufactured home is installed.

* * * * *

■ 3. In § 3285.402 revise paragraph (a), redesignate paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and add a new paragraph (b) and a new appendix to § 3285.402, to read as follows:

§ 3285.402 Ground anchor installations.

(a) *Ground anchor certification and testing.* (1) Each ground anchor assembly must be manufactured and provided with installation instructions, and must be labeled or otherwise identified and subject to an on-going quality assurance surveillance program in accordance with its listing or certification (see 24 CFR 3285.5) by a nationally recognized testing laboratory.

A registered professional engineer or architect must certify that each ground anchor assembly is capable of resisting all loads in paragraph (c) of this section based on the test methods in paragraph (b) of this section for use in soil(s) classified in accordance with § 3285.202.

(2) Each ground anchor assembly that has been listed prior to November 10, 2014 is not subject to paragraph (b) of this section, provided it has been previously tested in accordance with this paragraph. A professional engineer or registered architect must have certified the testing. The ground anchor must be listed by a nationally recognized testing agency and the listing or certification includes or has met all of the following requirements:

(i) A minimum of three tests meeting all of the requirements of this section were conducted for each ground anchor assembly design;

(ii) Each of the ground anchor assembly designs tested must have met or exceeded a working load of 3,150 pounds and sustained an ultimate load of 4,725 pounds in the weakest soil classification for which the anchors were tested and certified;

(iii) The soil in which the anchor was certified has been classified by one of the methods indicated in § 3285.202 of these Standards and the anchor is not listed for use in a weaker/higher soil classification than tested and identified in the Table to § 3285.202;

(iv) A test report was provided for each ground anchor assembly design that identifies the soil classification in which the ground anchor was tested and listed and includes complete specifications and dimensions for the ground anchor assembly;

(v) For each of the ground anchor assemblies tested, the maximum deflection at 3,150 pounds did not exceed two inches vertically or three inches horizontally;

(vi) For each of the ground anchor assemblies tested, the maximum deflection at 4,725 pounds did not exceed two inches vertically or three inches horizontally;

(vii) For the stabilizer plate test method, at least three tests were performed at the minimum angle of pull to the horizontal specified in the listing and the minimum angle of pull to the horizontal must have been at least 30 degrees. Any existing ground anchor assembly tests and certifications where the angle of pull was less than 30 degrees will need to be re-evaluated in accordance with paragraph (b) of this section; and

(viii) For the stabilizer plate test method, the minimum angle of pull to the horizontal is specified in the listing.

(b) *Standard test methods for establishing working load design values of ground anchor assemblies used for new manufactured home installations*—(1) *Scope.* (i) These testing procedures provide standard test methods for establishing both ultimate loads and load resistance design values.

(ii) Each assembly or component of an anchor assembly must be tested by the methods established by this section, and therefore be suitable, as listed or certified for installation in an appropriately classified soil, for installation of manufactured homes.

(iii) To secure approval of ground anchor assembly products and components, ground anchor manufacturers must have their products tested and listed by a nationally recognized testing laboratory, or tested and certified by an independent registered professional engineer.

(iv) The testing laboratory or independent registered engineer must be free from any conflict of interest from the product manufacturer and any of the product manufacturer's affiliates.

(2) *Definitions.* The definitions contained in this section apply to the terms used in subpart E of this part.

Allowable displacement limits. Criteria establishing the maximum amount of displacement of a material, assembly, or component under load.

Certification test site. A site used for the purpose of anchor assembly qualification testing in accordance with this section.

Cohesive soil. A soil with sufficient clay content to exhibit substantial plastic behavior when moist or wet (i.e., able to be readily molded or rolled into a ⅛ -inch thread at a wide range of moisture contents).

Ground anchor manufacturer. Any person or company engaged in manufacturing or importing ground anchor assemblies.

Non-Cohesive soil. Sand, gravel, and similar soils that are predominantly granular and lack a sufficient quantity of fine, clay-sized particles to exhibit the behavior of cohesive soil as defined in this section.

Ultimate anchor load. The lower of either the highest load achieved during an individual test prior to failure due to exceeding allowable displacement limits or the load at failure of the anchoring equipment or its attachment point to the testing apparatus.

Working anchor load. The ultimate anchor load in pounds divided by a factor of safety of 1.5.

(3) *Determination of soil classification*—(i) *General description of soil classification.* The general description of soil classification is to be determined in accordance with the methods specified in the Table to § 3285.202.

(ii) *Standards for identification of soil and soil classification.* The soil test torque probe method must be used at the certification test site for soil classification. At a minimum, the soil test torque probe must be used at three sample locations representative of the extent of the certification site test area. Soil characteristics must be measured at a depth below ground surface of not greater than the anchor helix depth and not less than ⅔ of the anchor helix depth for each ground anchor depth evaluated within the test area. The lowest torque probe value resulting in the highest soil classification number must be used. Additional guidance regarding the soil test torque probe method is available at the Appendix to this section and at § 3282.202.

(iii) *Classification in non-cohesive soils.* Ground anchor assemblies must be tested and listed or certified, and labeled for use in non-cohesive soil. Ground anchor assemblies are permitted to be tested, listed or certified, and labeled for use in cohesive soil.

(4) *Field testing apparatus.* (i) The testing equipment for conducting tests to list or certify a ground anchor assembly for use in a classified soil must be capable of meeting the requirements of paragraph (b)(7) of this section as determined by the testing agency.

(ii) The testing equipment shall be calibrated to meet the testing requirements of paragraph (b)(7) of this section as determined by the testing agency.

(5) *Test specimens details and selection.* (i) Test specimens are to be examined by the independent testing, listing, or certifying entity for conformance with engineered drawings, specifications, and other information provided by the ground anchor manufacturer or producer including:

(A) Dimensions and specifications on all welds and fasteners;

(B) Dimensions and specifications of all metal or material;

(C) Model number and its location on the ground anchor; and

(ii) Necessary test specimens and products for the installed anchor assembly tests must be randomly selected by the independent testing, listing, or certifying entity.

(6) *Test requirements.* (i) Field tests must be performed on each anchor assembly installed in a classified soil as

defined in paragraph (b)(3) of this section.

(ii) Field test apparatuses must be as specified in paragraph (b)(4) of this section, and must conform to the testing requirements of paragraph (b)(7) of this section.

(iii) Testing equipment shall be adequate for testing as determined by the testing agency.

Note to paragraph (b)(6): As a recommended practice, the test rig soil reactions (bearing pads) should not be located closer to the center of the anchor assembly (anchor head) than the lesser of D, 4d, or 32 inches where D is the depth of the anchor helix and d is the diameter of the anchor helix, both in inches. However, experience with a particular test rig, types of anchors, and soil conditions may justify other acceptable dimensional tolerances.

(7) *Field tests of anchor assemblies.* (i) The soil characteristics at the certification test site must be identified and recorded according to paragraph (b)(3) of this section. The date, approximate time, and names of persons conducting and witnessing the anchor assembly tests must also be recorded at each certification test site.

(ii) Connection of the testing apparatus to the anchor assembly head must provide loading conditions to the anchor head, similar to actual site conditions. Adequacy of the connection must be determined by the testing agency or test engineer.

(iii) For soil classifications 3, 4A, and 4B, testing must be performed in the lower 50 percentile torque probe value of the soil classification being tested. For soil classifications 1 and 2 the torque probe value must not exceed 750 inch-pounds.

(iv) A minimum of three tests must be performed and the result of each test must meet or exceed 4,725 pounds pull (3,150 × 1.5 factor of safety) in the direction of pull.

(v) Special-purpose anchor assemblies, including those needed to accommodate unique design loads identified by manufacturers in their installation instructions, may be certified under this section or to more stringent requirements such as higher working loads, more restrictive anchor head displacements and/or tested angle limitations.

(vi) *Angle of pull.* Where the test apparatus configuration results in a changing angle of pull due to anchor assembly displacement during a lateral angle pull test, the angle of pull at the ultimate anchor load is to be recorded as the load angle for the test. Load angles are to be measured relative to the plane of the ground surface and shall be permitted to be rounded to the nearest 5-degree increment.

(vii) *Displacement measurement.* Vertical displacement (for all tests) and horizontal displacement (for lateral angle pull tests) must be measured relative to the centerline of the test apparatus' connection to the ground anchor assembly (anchor head) and the ground. A stable ground reference point for displacement measurements must be located independent of the test apparatus and not closer to the anchor assembly than the soil reaction points of the test apparatus. Displacement measurements shall be taken using a device with not less than ⅛-inch reading increments. Measurements shall be permitted to be rounded to the nearest ⅛-inch increment.

(8) *Anchor assembly field test methods.* (i) An anchor assembly must be tested in accordance with one or more of the assembly configurations addressed in paragraphs (b)(8)(iii), (iv) and (v) of this section. The as-tested configuration of any anchor assembly is a condition of the listing or certification. Alternate configurations are acceptable provided test conditions appropriately simulate actual end-use conditions and the as-tested configuration is addressed in the manufacturer's installation instructions.

(ii) Anchor assemblies designed for multiple connections to the manufactured home must be individually tested as specified in paragraphs (b)(8)(iii) and (iv) of this section.

(iii) Anchor assembly/stabilizer plate method. The following anchor assembly installation and testing must be consistently applied for all tests:

(A) The ground anchor is to be installed at an angle of 10–15 degrees from vertical to a depth of one-half (½) to two-thirds (⅔) of the anchor length.

(B) A stabilizer plate is to be driven vertically on the side of the ground anchor shaft facing the tensioning equipment three inches (3″) from the shaft and the top of the plate must be installed flush with the soil surface or not more than one inch below the soil surface.

(C) The ground anchor is to be driven to its full depth into the soil with the bottom of the anchor head not more than ¾ inch (¾″) above the stabilizer plate.

(D) The ground anchor head is to be attached to the tensioning equipment such that the tension load and displacement can be recorded. The tensioning equipment must be positioned to load the ground anchor and stabilizer plate at the minimum angle to the test site ground surface for which the anchor is being evaluated.

(E) The ground anchor is to be pre-tensioned to 500 pounds so that the anchor shaft contacts the stabilizer plate. If the anchor shaft does not come into contact with the stabilizer plate an anchor setting load not to exceed 1,000 pounds is permitted to be applied and then released prior to re-application of the 500-pound pre-tension force.

(F) The location of the ground anchor head is to be marked after it is pre-tensioned for measuring subsequent movement under test loading.

(G) Increase the load throughout the test. The recommended rate of load application must be such that the loading to not less than 4725 pounds is reached in not less than 2 minutes from the time the 500 pound pre-tension load is achieved.

(H) Record the load and displacement, at a minimum of 500–1000 pound increments, such that a minimum of five data points will be obtained to determine a load deflection curve. For each datum, the applied load and the ground anchor head displacement is to be recorded. In addition, the load and displacement is to be recorded at the Failure Mode identified in paragraph (b)(10) of this section. It is permissible to halt the addition of load at each loading increment for up to 60 seconds to facilitate taking displacement readings. The ultimate anchor load of the ground anchor assembly and corresponding displacement is to be recorded. The pre-tension load of 500 pounds should be included in the 4725 pound ultimate anchor load test. It is permissible to interpolate between displacement and load measurements to determine the ultimate anchor load.

(I) All ground anchor assemblies must be tested to the following:

(*1*) Failure due to displacement of the ground anchor assembly as established in paragraph (b)(9) of this section, or

(*2*) Failure of either the anchoring equipment or its attachment point to the testing apparatus, or to a minimum of 4725 pounds (when possible tests should be taken to 6000 pounds to provide additional data but this is not required).

(iv) Vertical in-line anchor assembly method. Anchor assembly installation and withdrawal procedures for test purposes are to be as follows, and be used consistently throughout all tests;

(A) The ground anchor must be installed vertically.

(B) The ground anchor must be driven to its full depth into the soil. (C) The ground anchor head must be attached to the tensioning equipment such that the

load and ground anchor head displacement can be recorded.

(D) The ground anchor must be pulled in line with the ground anchor shaft.

(E) The ground anchor shall be pre-tensioned to 500 pounds.

(F) The location of the ground anchor head must be marked after it is pre-tensioned for measuring subsequent movement under test loading.

(G) Increase the load throughout the test. The recommended rate of load application shall be such that the loading to not less than 4725 pounds is reached in not less than 2 minutes from the time the 500 pound pre-tension load is achieved.

(H) Record the load and displacement, at a minimum of 500–1000 pound increments, such that a minimum of five data points will be obtained to determine a load deflection curve. For each datum, the applied load and the ground anchor head displacement is to be recorded. In addition, the load and displacement is to be recorded at the Failure Mode identified in paragraph (b)(10) of this section. It is permissible to halt the addition of load at each loading increment for up to 60 seconds to facilitate taking displacement readings. The ultimate anchor load of the ground anchor assembly and corresponding displacement is to be recorded. The pre-tension load of 500 pounds should be included in the 4725 pound ultimate anchor load test. It shall be permissible to interpolate between displacement and load measurements to determine the Ultimate anchor load.

(I) All ground anchor assemblies must be tested to the following:

(*1*) Failure due to displacement of the ground anchor assembly as established in paragraph (b)(9) of this section, or

(*2*) Failure of either the anchoring equipment or its attachment point to the testing apparatus, or to a minimum of 4725 pounds (when possible tests should be taken to 6000 pounds to provide additional data but this is NOT required).

(v) In line ground anchor assembly method. Ground anchor assembly installation and withdrawal procedures for test purposes must be as follows, and must be used consistently throughout all tests.

(A) The ground anchor must be installed at an angle from the horizontal ground surface at which it is to be rated.

(B) The ground anchor must be driven to its full depth into the soil.

(C) The ground anchor head must be attached to the tensioning equipment such that tension and displacement can be recorded.

(D) The anchor must be pulled in line with the ground anchor shaft.

(E) The ground anchor shall be pre-tensioned 500 pounds.

(F) The location of the ground anchor head is to be marked after it is pre-tensioned for measuring subsequent movement under test loading.

(G) Increase the load throughout the test. The recommended rate of load application must be such that the loading to not less than 4725 pounds is reached in not less than 2 minutes from the time the 500 pound pre-tension load is achieved.

(H) Record the load and displacement, at a minimum of 500–1000 pound increments, such that a minimum of five data points will be obtained to determine a load deflection curve. For each datum, the applied load and the ground anchor head displacement is to be recorded. In addition, the load and displacement is to be recorded at the Failure Mode identified in paragraph (b)(10) of this section. It shall be permissible to halt the addition of load at each loading increment for up to 60 seconds to facilitate taking displacement readings. The ultimate anchor load of the ground anchor assembly and corresponding displacement must be recorded. The pre-tension load of 500 pounds should be included in the 4725 pound ultimate anchor load test. It is permissible to interpolate between displacement and load measurements to determine the Ultimate anchor load.

(I) All ground anchor assemblies must be tested to the following:

(*1*) failure due to displacement of the ground anchor assembly as established in paragraph (b)(9) of this section, or

(*2*) Failure of either the anchoring equipment or its attachment point to the testing apparatus, or to a minimum of 4725 pounds (when possible tests should be taken to 6000 pounds to provide additional data but this is NOT required)

Note to paragraph (b)(8). Additional testing at angles of pull greater than the minimum angle of pull may be used to provide design values for specific angles of pull greater than the minimum angle for which evaluation is sought.

(9) *Failure criteria.* The following conditions constitute failure of the ground anchor test assembly:

(i) When the ground anchor head, or its attachment point, displaces 2 inches in the vertical or horizontal direction from its pre-tensioned measurement position prior to reaching a total load of 3150 pounds (including any pretension load).

(ii) When the ground anchor head, or its attachment point, displaces 2 inches (2″) in the vertical direction or 3 inches (3″) in the horizontal direction from its pre-tensioned measurement position prior to reaching a total load of 4725 pounds (including any pretension load).

(iii) When breakage of any component of the ground anchor shaft occurs prior to reaching a total load of 4725 pounds.

(10) *Use of ultimate anchor loads to establish the working load design value.* (i) The working load design value is the lowest ultimate anchor load determined by testing, divided by a 1.5 factor of safety.

(ii) The working load design value, for each installation method and soil classification, shall be stated in the ground anchor assembly listing or certification. An anchor tested in a given soil classification number must not be approved for use in a higher/weaker soil classification number. For example an anchor tested in soil classification 3 must not be approved for soil classification 4A or 4B unless it is also tested in those soils. The 500 pound pre-tension is included in the ultimate anchor load.

(11) *Test report.* The test report to support the listing or certification for each ground anchor assembly tested is to include all conditions under which the ground anchor assembly was tested, including the following:

(i) A copy of all test data accumulated during the testing.

(ii) The soil characteristics including moisture content and methods for determining soil characteristics for each type of soil for which the ground anchoring assembly was evaluated.

(iii) The model of the ground anchor assembly tested.

(iv) The ground anchor assembly test method used.

(v) Detailed drawings including all dimensions of the ground anchor assembly and its components.

(vi) Method of installation at the test site.

(vii) Date of installation and date of testing.

(viii) Location of the certification test site.

(ix) Test equipment used.

(x) For each anchor specimen tested: For each load increment the load in pounds and resultant displacements in inches in chart or graph form.

(xi) The working load design value and ultimate anchor load determined in accordance with paragraph (b)(10) of this section.

(xii) If required, a description of the stabilizer plate used in each ground anchor assembly/stabilizer plate test, including the name of the manufacturer.

(xiii) Angle(s) of pull for which the anchor has been tested.

(xiv) Embedment depth of the ground anchor assembly.

(xv) The application and orientation of the applied load.

(xvi) A description of the mode and location of failure for each ground anchor assembly tested.

(xvii) Name and signature of the nationally recognized testing agency or registered professional engineer certifying the testing and evaluation.

(xviii) The soil classification(s) for which each ground anchor assembly is certified for use and the working load design value and minimum ultimate load capacity for those soil classification(s).

(12) *Approved ground anchor assemblies.* Each ground anchor manufacturer or producer must provide the following information for use of approved ground anchor assemblies and this information must also be included in the listing or certification for each ground anchor assembly:

(i) Drawings showing ground anchor installation.

(ii) Specifications for the ground anchor assembly including:

(A) Soils classifications listed or certified for use;

(B) The working load and minimum ultimate anchor load capacity for the anchor assembly in the soil classification(s) it is listed or certified for use;

(C) Model number and its location on the anchor;

(D) Instructions for use, including pre-tensioning;

(E) Angle(s) of pull for which the anchor has been listed and certified; and

(F) Manufacturer, size and type of stabilizer plate required.

* * * * *

Appendix to § 3285.402

Torque Probe Method for determining soil classification: This kit contains a 5-foot long steel earth-probe rod, with a helix at the end. It resembles a wood-boring bit on a larger scale. The tip of the probe is inserted as deep as the bottom helix of the ground anchor assembly that is being considered for installation. The torque wrench is placed on the top of the probe. The torque wrench is used to rotate the probe steadily so one can read the scale on the wrench. If the torque wrench reads 551 inch-pounds or greater, then a Class 2 soil is present according to the Table to 24 CFR 3285.202(a)(3). A Class 3 soil is from 351 to 550 inch-pounds. A Class 4A soil is from 276 to 350 inch-pounds, and a Class 4B soil is from 175 to 275 inch-pounds. When the torque wrench reading is below 175 inch-pounds, a professional engineer should be consulted.

PART 3286—MANUFACTURED HOME INSTALLATION PROGRAM

■ 4. The authority citation for part 3286 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 5404, and 5424.

■ 5. Revise § 3286.505(e) to read as follows:

§ 3286.505 Minimum elements to be inspected.

* * * * *

(e) Anchorage including verification that the ground anchors have been installed in accordance with the manufacturer's instructions, in a soil classification permitted by the anchor listing or certification, with the required size and type of stabilizer plate, if required by the listing or certification, and at an orientation and angle of pull permitted by its listing or certification.

* * * * *

Dated: August 12, 2014.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2014–21431 Filed 9–9–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8349]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of

101.957 Nonjudicial resolution of manufactured housing industry disputes. The department, by rule, shall establish an alternative dispute resolution program for the timely resolution of any dispute that concerns a defect in a manufactured home, or in the installation of a manufactured home, reported to the department within one year of the date on which the manufactured home was installed and that occurs between parties, each of which is a manufacturer of manufactured homes, manufactured home salesperson, manufactured home dealer, or installer. The rules may require the parties to submit to an alternative dispute resolution program before bringing an action in another forum. This section does not affect the rights of any consumer to commence an action or the rights of any person to commence an action against a consumer.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3280, 3282, and 3288

[Docket No. FR–4813–F–03]

RIN 2502–AH98

Manufactured Home Dispute Resolution Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule establishes a federal manufactured home dispute resolution program and guidelines for the creation of state-administered dispute resolution programs. Under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000, HUD is required to establish a program for the timely resolution of disputes among manufacturers, retailers, and installers of manufactured homes regarding responsibility, and 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.

DATES: *Effective Date:* February 8, 2008.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Associate Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9164, Washington, DC 20410, telephone (202) 708–6401 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8389.

SUPPLEMENTARY INFORMATION:

I. Background

Requirement for a Dispute Resolution Program

The National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act) (42 U.S.C. 5401–5426) is intended, in part, to protect the quality, safety, durability, and affordability of manufactured homes. The Act was amended on December 27, 2000, by the Manufactured Housing Improvement Act of 2000, Public Law 106–569, to require HUD, among other things, to establish and implement a new manufactured home dispute resolution program for states that choose not to operate their own dispute resolution programs and to establish guidelines for the creation of state-administered dispute resolution programs.

Specifically, section 623(c)(12) of the Act (42 U.S.C. 5422(c)(12)) calls for 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.'' A state is not required to be a State Administrative Agency under HUD's manufactured home program to administer its own dispute resolution program. However, any state submitting a state plan to change its status from a nonparticipating state to a conditionally or fully approved State Administrative Agency after the effective date must provide for a dispute resolution program as part of its plan. Any state that was conditionally or fully approved before the effective date will not be required to include a dispute resolution program in its state plan, as long as the state maintains conditionally or fully approved status. Section 623(g)(2) of the Act requires HUD to implement a HUD Manufactured Home Dispute Resolution Program that will meet the above requirements in any state that has not established a program that complies with the Act. The state where the home is sited determines whether the HUD Manufactured Home Dispute Resolution Program or the state program applies.

Proposed Rule

On October 20, 2005, HUD published the Manufactured Home Dispute Resolution Program Proposed Rule (70 FR 61178) with a comment due date of December 19, 2005. HUD received responses from 20 commenters during the comment period. The commenters included two state agencies, several statewide and national manufactured housing associations, individuals, the Manufactured Housing Consensus Committee (MHCC), and one low-income housing organization.

II. Particular Areas of Interest to Commenters

This section of the preamble discusses particular areas of interest to commenters in addition to the discussions of public comments that appear throughout the preamble in conjunction with the description of the dispute resolution program adopted in this final rule.

General

As previously discussed, HUD was charged with implementing a system to resolve disputes among manufacturers, retailers, and installers. As several commenters noted, the proposed rule did not include a definition of ''installer.'' In response to this comment, this rule defines the term ''installer.'' Additional information regarding installers may be found in the Manufactured Home Installation Program Proposed Rule published June 14, 2006 (71 FR 34476).

Even though the Act does not require their participation in the HUD Dispute Resolution Program, HUD views the participation of homeowners as a crucial element to a viable program. Under Section 625 of the Act, HUD has the broad authority to involve homeowners in the dispute resolution program. Consistent with the proposed rule, this final rule gives homeowners the right to participate in the HUD Dispute Resolution Program by initiating the Mediation and Arbitration Process and by acting as observers of the process. This final rule does not recognize homeowners as parties.

HUD and the MHCC, in its meetings, recognized that it may have been possible under the proposed rule for the parties to argue that there is no dispute between them when in fact there is a defect that needs correction. In this final rule, HUD has ensured that the HUD Manufactured Home Dispute Resolution Program results in a proper determination of defect and culpability.

Funding

The MHCC and commenters have continued to recommend that parties that use and receive the benefits of the dispute resolution process pay at least a portion of the direct costs associated with the program. HUD agrees with this ''fees for service'' approach and is currently seeking statutory authority to assess users of the program a fee for costs associated with the program. Absent such authority, the Department will absorb the cost of running the program in HUD-administered states as general program expenses. It is anticipated that such fees for service would not be used to cover the purely administrative costs to HUD of implementing the program, but would include a filing fee to initiate a dispute resolution process, a fee to initiate arbitration, and the assessment of arbitration costs to a losing party. Other administrative costs of the program in HUD-administered states would be funded as general program expenses.

Several commenters stated it is unfair to consumers in states with their own dispute resolution programs both to pay for their state's program and subsidize the administration of HUD's program in states that are not offering programs. The Department is sensitive to this issue. However, because fees for service are not currently authorized, the financing of the HUD Manufactured Home Dispute Program will be absorbed as a general Office of Manufactured Housing program expense as described above.

As discussed in the proposed rule, HUD will use mediation and arbitration, two widely accepted methods of dispute resolution, as well as an alternative process that will allow manufacturers, retailers, and installers an opportunity to resolve disputes outside of the HUD Mediation and Arbitration Process established by this rule. The addition of an alternate process to the HUD Manufactured Home Dispute Resolution Program is based on comments received from the MHCC. In its comments to the proposed rule, the MHCC recommended that a term other than ''Commercial Opt-Out Option'' be used for the alternate process. In its place, HUD has substituted the term ''Alternative Process.''

The HUD Manufactured Home Dispute Resolution Program reflects the Executive Branch's emphasis on utilizing dispute resolution processes to resolve conflicts in a cost-effective and expeditious manner, and on fostering good government by giving parties the opportunity to resolve disputes amicably and creatively through alternative dispute resolution. It also dovetails with Congress' active promotion of alternative dispute resolution as set forth in the Administrative Dispute Resolution Act of 1996 (5 U.S.C. 571 *et seq.*).

There were several comments to the proposed rule about the relationship between the HUD Dispute Resolution Program and subpart I of 24 CFR part 3282 (Subpart I). This final dispute resolution rule is not inconsistent with other requirements of the Act. Specifically, nothing in this final rule absolves the manufacturer of its notification and correction responsibilities or other obligations under Subpart I. The dispute resolution program provides an additional homeowner protection mechanism and does not toll or replace the manufacturer's responsibilities under Subpart I. Furthermore, the HUD Dispute Resolution Program does not replace any manufacturer's warranty program.

III. Program Administration for the HUD-Administered Program

HUD interprets the language set forth in section 623(g)(3) of the Act (42 U.S.C. 5422(g)(3)) as permitting the use of contractors in the implementation of the dispute resolution program in HUD-administered states. HUD will likely use contractors as screening neutrals, mediators, and arbitrators, and they will be required to become familiar with HUD's manufactured home program. HUD acknowledges, however, that dispute resolution experts emphasize that a primary consideration for selecting neutrals, mediators, and arbitrators should be their background and experience in dispute resolution.

The HUD Manufactured Home Dispute Resolution Program is governed by the Administrative Dispute Resolution Act, 5 U.S.C. 571 *et seq*. The HUD Manufactured Home Dispute Resolution Program consists of a Mediation and Arbitration Process comprised of six parts, in addition to the Alternative Process. The six parts of the Mediation and Arbitration Process are: Initial Reporting of an Alleged Defect, Initiating Dispute Resolution, Intake and Screening, Mediation, Nonbinding Arbitration, and HUD Review. When the manufacturer, retailer, and installer agree that the homeowner is not responsible for causing the defect, they may elect to use the Alternative Process instead of the HUD Mediation and Arbitration Process. The parties would then engage in a neutral evaluation process of their own design. However, if the defect is not corrected or repaired, the homeowner has the right to invoke the HUD Mediation and Arbitration Process after 30 days have elapsed from the initiation of the Alternative Process.

IV. HUD Manufactured Home Dispute Resolution Program in HUD-Administered States

As noted previously, HUD will administer its dispute resolution program only in states that choose not to operate their own dispute resolution programs. The following discussion of the HUD-administered program will not apply in any state that provides satisfactory assurances that it has implemented its own qualifying dispute resolution program, and that certifies its program to HUD, as described in Section VI of this preamble.

A. Initial Reporting of an Alleged Defect

Under the Act, alleged defects that can be referred to the dispute resolution program must be reported within the first year after the date of home installation. It is only alleged defects reported in the first year after the first installation that are covered under the HUD Manufactured Home Dispute Resolution Program. As used in HUD's Manufactured Home Dispute Resolution Program and this new part 3288, the term ''defect'' is defined to parallel its definition in the Act. Accordingly, the rule also makes clear that for the HUD Manufactured Home Dispute Resolution Program, the term ''defect'' includes each defect in the installation, construction, or safety of the home. Persons familiar with HUD's long-established program for manufactured home construction and safety standards are likely to be accustomed to using the term ''defect'' in a narrower way. In regulations implementing the historical aspects of HUD's manufactured home program, the term has been defined to encompass only construction and safety standards, and to exclude matters that involve significant health and safety issues. See the definition in § 3282.7(j). For purposes of the HUD Manufactured Home Dispute Resolution Program, however, a defect is any problem in the performance, construction, components, or material of the home that renders the home or any part of it 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. The broader use of the term as it applies to rights and responsibilities established under this new part 3288, is distinguished from the term's historical use in part 3282.

As previously discussed, alleged defects must be reported within 1 year of the date of home installation to be eligible for the HUD Manufactured Home Dispute Resolution Program. The Department strongly encourages the parties and homeowners to seek to resolve disputes directly with the party or parties that they believe to be responsible for causing the alleged defect before invoking the HUD Manufactured Home Dispute Resolution Program. Nevertheless, any of the parties, and the homeowners, must report the existence of possible defects within the 1-year period in order to preserve the option of initiating the HUD Manufactured Home Dispute Resolution Program. The report may be made to the Department, any of the parties, or a State Administrative Agency. To be more flexible, the Department is permitting reports to be made to State Administrative Agencies in addition to the Department and the parties. The Department recommends that reports of alleged defects be made in writing, including, but not limited to,

e-mail, written letter, certified mail, or fax. Reports are also permitted by telephone. A report of an alleged defect must, at a minimum, include a description of the alleged defect, the name of the homeowner, and the address of the home. Parties alleging defects are encouraged to send any written correspondence via certified mail, fax, e-mail or other method, so that there will be proof of date of delivery. After reporting an alleged defect, the reporting party or homeowner is encouraged to allow time for a satisfactory response before initiating the HUD Manufactured Home Dispute Resolution Program.

B. Initiating the Process

Any party or a homeowner may initiate the HUD Mediation and Arbitration Process in a HUD-administered state by submitting a request for dispute resolution to the dispute resolution provider or by calling a toll-free number.

C. Intake and Screening

When the request for dispute resolution has been received by the dispute resolution provider, the screening neutral will review the sufficiency of the information provided with the request. Although there is no specified time period established for the screening neutral to review the request for dispute resolution, as recommended by the MHCC and other commenters, it is HUD's intention to perform this task in a timely manner. If a defect is properly alleged and timely reported, notice of the request will be forwarded to the manufacturer, retailer, and installer by the screening neutral to the extent the appropriate parties can be identified based on the information in the request. If the screening neutral determines there is sufficient documentation of an alleged defect presenting an unreasonable risk of injury or death, a copy of the request will be sent to HUD. If a request is lacking any of the required information, the screening neutral will contact the requester or the parties to supplement 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. The Department anticipates establishing additional specific time periods for intake and screening as part of the contracting process with the third-party dispute resolution provider and publicizing these time periods on HUD's Web site *http://www.hud.gov.*

D. Mandatory Mediation

The second stage in the process is mandatory mediation. The dispute resolution provider will select a mediator, who will be a different individual from the screening neutral used during the intake and screening process. The mediator will mediate the dispute and attempt to facilitate a settlement. The parties will be given 30 days from the commencement of the mediation to reach a settlement. For cases involving defects presenting an unreasonable risk of injury, death, or significant loss or damage to valuable personal property, the parties will have a maximum of 10 days from the commencement of the mediation to reach an agreement. The dispute resolution provider will notify the parties and the homeowner in writing of the date of the commencement of the mediation. Sample agreements will be made available to the parties as drafting guidance. Upon the parties reaching and signing an agreement, the mediator will forward copies of any settlements reached to the parties, the homeowner, and HUD. 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.*). Once the settlement agreement is signed, the corrective repairs must be completed within 30 days, unless a longer period is agreed to by the homeowner and the parties.

E. Nonbinding Arbitration

The third stage that may be invoked is nonbinding arbitration. If the parties fail to reach a settlement during mediation, a party or the homeowner may, within 15 days of the expiration of the time allowed for reaching a settlement, request nonbinding arbitration. The party or the homeowner requesting nonbinding arbitration will be required to submit a written request for arbitration to the dispute resolution provider. The dispute resolution provider will determine how an arbitrator will be selected for each case. The parties may request an in-person hearing, to be held at the discretion of the arbitrator, after considering factors such as cost. If such a request is not made by all parties within 5 days of the dispute resolution provider's receipt of the request for arbitration, the arbitrator may conduct either a record review or a telephonic hearing. The dispute resolution provider will issue a notice to the parties and the homeowner setting forth the date, place, and time the arbitration is to be held. If a party chooses not to participate in the arbitration, the process will continue without input from that party. The arbitrator will have the authority to issue requests for documentation and information necessary to complete the record, conduct on-site inspections, dismiss frivolous allegations, and set hearing dates and deadlines. The arbitrator will be required to complete the arbitration within 21 days of receipt of the request for arbitration, unless good cause is found by HUD. After conducting a hearing, the arbitrator will provide the parties and HUD with a written nonbinding recommendation as to who the responsible party or parties are and what actions should be taken. Several commenters, including the MHCC, proposed that the contents of the recommendation be made available to HUD and the parties simultaneously. The Department agrees and has restructured the Mediation and Arbitration Process accordingly. Several commenters, including the MHCC, stated that the parties should have the ability to enter into binding agreements of their choosing at any point in the process. Taking this into consideration, HUD has modified the procedures set out in the proposed rule. Under the final rule, at any time before HUD issues a final order, the parties may submit an offer of settlement to HUD that HUD may, at its discretion, incorporate into the order.

F. HUD Review

The final stage of the process is HUD Review. After the arbitrator makes a recommendation, he or she will forward it to HUD. HUD will review the arbitrator's recommendation, the record, and any settlement offers. HUD will accept, modify, or reject the recommendation. Several commenters, including the MHCC, were opposed to HUD having the option to accept, modify, or reject the arbitrator's recommendation. HUD considers it appropriate for HUD to issue final enforceable orders and that this inherent governmental function cannot be delegated to a private party. It is HUD's obligation to issue an order that under the Administrative Procedure Act can withstand the arbitrary and capricious standard. When a defect is determined to be present, HUD will issue an appropriate order that assigns responsibility for correction of the defect. In the order for correction, HUD will include a date by which the correction of all defects must be completed, taking into consideration the

seriousness of the defect. A party's failure to comply with an order of HUD will be considered a violation of section 610(a)(5) of the Act (42 U.S.C. 5409(a)(5)).

The responsible party or parties will be required to pay for or provide any repair of the home. HUD may apportion the costs for correction and repair if culpability rests with more than one party.

G. Alternative Process When Homeowners Are Not Responsible for the Defect

Manufacturers, retailers, and installers who have been unable to resolve a dispute involving a defect among themselves and who certify that the homeowner is not responsible for the defect will have the option of electing to use an Alternative Process under the HUD Manufactured Home Dispute Resolution Program. The Alternative Process permits the parties to seek neutral evaluation outside of the procedures established by the HUD Mediation and Arbitration Process. To participate in the Alternative Process, at least one of the parties must submit a written notification to the dispute resolution provider after it has reported an alleged defect or has been informed that an alleged defect has been reported to another party. Parties must elect to use the Alternative Process no more than 7 days after notification of a request for dispute resolution has been delivered by overnight delivery, or commercial carrier, or by fax, to the screening neutral. Parties who elect to use the Alternative Process must agree to engage a neutral of their own selection. The selected neutral will evaluate the dispute and make an assignment of responsibility for correction and repair. The actual process followed will be designed and agreed to by the parties; there are no particular procedural requirements, such as witnesses or formal evidence. The parties may elect to memorialize the assignment of responsibility in writing and should agree to act upon the neutral's assignment of responsibility for correction and repair. The participants must agree to allow the homeowner or the homeowner's representative to be present at any meetings and to be informed of the outcome. The parties may inform the Department of the outcome. At any time after 30 days of the Alternative Process notification, any party or the homeowner may invoke the HUD Mediation and Arbitration Process and proceed to mediation by following the established procedures.

V. Informing Homeowners About Manufactured Home Dispute Resolution

One key component of the HUD Manufactured Home Dispute Resolution Program is notifying homeowners about the availability of dispute resolution in HUD-administered states through the HUD Manufactured Home Dispute Resolution Program, and in all other states through state dispute resolution programs. Homeowners will be advised of the availability of the HUD Manufactured Home Dispute Resolution Program from retailers when purchasing a manufactured home. The rule requires retailers to provide each homeowner with a standard notice at the time of signing of a contract for the sale or lease of a manufactured home. This is consistent with numerous comments received from the MHCC and others opposed to the posting of a notice in each home, but favoring a standard notice to be provided at or before the signing of the sales contract.

The Department will notify the public about the HUD Manufactured Home Dispute Resolution Program through the Consumer Manual that 42 U.S.C. 5416 and 24 CFR 3282.207 currently require be provided with each manufactured home. The manufacturer will be required to include in the Consumer Manual the specific language that is set out in the revised § 3282.207 in this rule. The language gives detailed information about the HUD program.

VI. State Dispute Resolution Programs in Non-HUD-Administered States

The HUD Manufactured Home Dispute Resolution Program will not be implemented in states that are certified by HUD and have dispute resolution programs that comply with the minimum requirements set out in these regulations. These states will administer their own dispute resolution programs. A state dispute resolution program will be required to meet criteria listed in a certification form. However, the final rule does not specify how the criteria are to be met. Comments from the MHCC and others strongly supported redefining HUD's proposed state requirements for certification. Those commenters were in favor of having the state requirements parallel the statutory requirements. Additionally, those commenters noted that some states have already implemented programs that closely model the statutory requirements. The proposed rule included six requirements for full certification and five for conditional approval. In response to the comments, HUD has reduced the minimum requirements for full certification to four, and to three for conditional approval. The proposed rule also required that states allow homeowners to initiate complaints. Comments from the MHCC and others recommended that this requirement be removed. HUD has changed the certification form to allow states flexibility when operating their own programs and to give them the ability to design programs that closely model the statutory requirements. The minimum requirements for certification are set forth in Part II of the Dispute Resolution Certification attached as an appendix, and include provisions for: (1) The timely resolution of disputes regarding responsibility for correction and repair of defects in manufactured homes involving manufacturers, retailers, or installers; (2) provisions for issuance of appropriate orders for correction and repairs of defects in the homes; (3) a coverage period for disputes involving defects that are reported within a minimum of 1 year from the date beginning on the date of first installation; and (4) adequate funding and personnel. Any state that certifies that its program meets these four minimum requirements will be accepted and permitted to implement its own program. A state that meets three of the four minimum requirements under § 3288.205(a)(1) through (4) will be conditionally approved by HUD.

HUD recognizes that some states may have a different definition of ''defect'' or use a different threshold for its program than the one set forth in these regulations for the HUD program. For purposes of state certification, this rule provides for state approval if the threshold for the program is functionally equivalent to the federal definition of ''defect.''

VII. Role of the Manufactured Housing Consensus Committee in Future Revisions of This Regulation

Several commenters expressed a desire to have the Department work closely with the MHCC in future rulemaking for the dispute resolution program. Such involvement is not specifically provided for in the Act. However, HUD provides in this rule for the MHCC's input prior to publication of any new dispute resolution rulemaking initiated by HUD. This rule also provides that the MHCC may initiate its own recommendations for HUD regarding dispute resolution regulations, and that HUD will explain to the MHCC any modification or rejection by HUD of the MHCC recommendations.

VIII. Conforming Amendments

As stated in the October 20, 2005, proposed rule, since HUD is using the term ''manufactured home'' in this rule, it is taking this opportunity to correct the definition in 24 CFR 3280.2 by adding the reference to self-propelled vehicles found in section 603(6) of the Act (42 U.S.C. 5402(6)). HUD is also clarifying the methodology for the calculation of square footage that is included in the current regulatory definition. This action will result in consistent usage of the term for all parts of the manufactured home program. The definition in this final rule is unchanged from the definition that appeared in the proposed rule.

IX. Changes to the Proposed Rule in This Final Rule

The following changes to the October 20, 2005, proposed rule are made by this final rule, consistent with the discussion of public comments in this preamble and as further explained below:

1. To provide consistency in this rule with the terminology used in other HUD regulations, the term ''manufactured home'' rather than ''manufactured housing'' is used, and references to ''HUD'' have been substituted for references to ''the Secretary.''

2. While this final rule gives homeowners the right to participate in the HUD Dispute Resolution Program by initiating the Mediation and Arbitration Process and by acting as observers of the process, it does not recognize homeowners as parties.

3. A statement has been added to the dispute resolution language required in the consumer manual by § 3280.2(e) that the HUD Dispute Resolution Program does not replace any manufacturer's warranty program.

4. A definition of the term ''installer'' has been added to the list of definitions at § 3288.3.

5. The rule at § 3288.5 requires retailers to provide each homeowner with a standard notice at the time of signing of a contract for the sale or lease of a manufactured home, rather than the posting of a notice in each home.

6. The rule at § 3288.15(b) now permits reports of defects to be made to State Administrative Agencies in addition to the Department and the parties.

7. A provision is added at § 3288.30(c) that denial of a dispute by all of the parties that there is a dispute does not preclude the dispute resolution process from going forward to mediation. A provision is also added at § 3288.35(c) that, 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. A similar provision is added at § 3288.40(d), that 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. These additions protect the homeowner's right to have the existence of, and responsibility for, any alleged defect determined through the HUD Manufactured Home Dispute Resolution Program in HUD-administered states in the event existence of a dispute is denied by all of the parties without determination of the defect and of responsibility for the defect.

8. A procedure cited in the preamble of the proposed rule (at 70 FR 61180), that if the screening neutral determines there is sufficient documentation of an alleged defect presenting an unreasonable risk of injury or death, a copy of the request will be sent to HUD, is explicitly added to this rule at § 3288.30(d). Similarly, a procedure cited in the preamble of the proposed rule (at 70 FR 61180), to make sample agreements available to the mediation parties as drafting guidance, is included in the final rule at § 3288.35(d)(2).

9. Section 3288.40(c) makes explicit the arbitrator's authority to make proposed findings of the presence of a defect and culpability.

10. An extension of the 21-day time period by which the arbitrator is required to complete the arbitration is now permitted for good cause under § 3288.40(h).

11. Under § 3288.40(h), the contents of the arbitrator's recommendation are to be made available to HUD and the parties simultaneously, rather than only to HUD as was stated in the proposed rule.

12. The final rule, at § 3288.40(i), allows the parties to submit an offer of settlement to HUD at any time before a final order is issued that HUD may, at HUD's discretion, incorporate into the order.

13. For the alternate dispute resolution procedure of subpart C, the term ''Alternative Process'' has been substituted for ''Commercial Opt-Out Option.''

14. In § 3288.205(a), the final rule has reduced the minimum requirements for full certification from six to four, and from five to three for conditional approval. The proposed requirements dealing with homeowner initiation of the process and conflict of interest have been removed.

15. A new subpart E has been added to address the role of the MHCC in Dispute Resolution Program rulemaking procedures.

X. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0562. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule, which implements a statutory mandate to establish a program for the resolution of a narrow category of disputes, will not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured

housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Impact on Small Entities

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities.

HUD has conducted a labor and travel cost impact analysis for this rule. The cost analysis determines the cost difference between a typical dispute resolution process (the process) involving manufactured housing and the civil litigation costs between one or more parties involved in a manufactured housing dispute. A typical dispute resolution method is a two-step process: mediation and, for a small percent of unsuccessful mediation cases, arbitration.

The potential cost impact of the mediation step for manufacturers would be approximately $1,550 per dispute, $237 for retailers, and $177 for installers. HUD anticipates that it may be administering the dispute resolution process in 26 states where approximately 37,800 homes are expected to be installed annually. Currently, 45 manufacturing corporate entities ship into those states, while 1,719 retailers sell homes and approximately 5,000 individuals or businesses install manufactured homes in those states.

Based on the preceding data, HUD anticipates taking action on 1,890 complaints under the federal manufactured home dispute resolution process during an average year. Presuming that the average cost of this action ($1,964) will be incorporated into the home price or related service fees of every installed home in the 26 states (37,800), the cost impact to each installed home would be $98.

If all 1,890 cases were settled through litigation rather than dispute resolution, the cost of litigating 1,890 cases would total $18.9 million. Averaged across 37,800 homes, the average cost of litigation incorporated into each home price would be $500 per home, compared to the average cost of dispute resolution of $98 per home. Dispute resolution would, therefore, provide an average savings of $402 per home.

Several commenters claimed that the number of complaints was not properly substantiated and was unrealistically low. However, these numbers were developed by carefully sampling 12 current state dispute resolution programs. Furthermore, the Small Business Administration has accepted these estimates while none of the commenters supplied any numbers of their own. Some commenters also complained that the cost estimate provided by HUD runs only through the mediation phase. While this is true, HUD's research, which was again based on current state program experience, determined that the number of disputes requiring arbitration would be minimal.

The small increase in total cost associated with this final rule would not impose a significant burden for a small business. The rule would regulate establishments primarily engaged in the production of manufactured homes (NAICS 32991) and the sale of manufactured homes (NAICS 453930). In addition, manufactured home set-up and tie-down establishments (installers) would be included within the definition of all other special trade contractors (NAICS 23599). Of the 222 firms included under the NAICS 32991 definition, 198 are small manufacturers, which fall below the small business threshold of 500 employees. There are 10,691 retailers included under NAICS 453930; all of the firms fall below the $11 million annual income rate. Of the 31,320 firms included under NAICS 23599 definitions, only 53 firms exceed the small business threshold of 500 employees and none of these is primarily a manufactured home set-up and tie-down establishment. The rule, therefore, would affect a substantial number of small entities. However, the home manufacturers, retailers, and installers would be subject only to an associated labor cost and travel expense necessary to attend the mediation process and labor costs to participate in the expected record review and possible telephonic or face-to-face meeting for arbitration. Moreover, because the great majority of manufacturers, retailers, and installers are considered small entities, there would not be any disproportionate impact on them. Therefore, although this rule would affect a substantial number of small entities, it would not have a significant economic impact on them. In addition, the speedier and more certain resolution of disputes should help the affected businesses.

Accordingly, the undersigned certifies that this final rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order. State and local governments are not required to establish dispute resolution programs, but the rule provides a mechanism to recognize state programs that meet the statutory elements of a dispute resolution program to operate in lieu of the federal manufactured home dispute resolution program.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for Manufactured Housing is 14.171.

List of Subjects

24 CFR Part 3280

Housing standards, Incorporation by reference, Manufactured homes.

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Reporting and recordkeeping requirements, Warranties.

24 CFR Part 3288

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Manufactured homes, Reporting and recordkeeping requirements.

■ Accordingly, HUD amends parts 3280 and 3282 and adds a new part 3288 in chapter XX of title 24 of the Code of Federal Regulations to read as follows:

PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

■ 1. The authority citation for part 3280 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 5403, and 5424.

■ 2. In § 3280.2, the definition of ''manufactured home'' is revised to read as follows:

§ 3280.2 Definitions.

* * * * *

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. This term includes all structures that meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to § 3282.13 of this chapter and complies with the construction and safety standards set forth in this part 3280. The term does not include any self-propelled recreational vehicle. Calculations used to determine the number of square feet in a structure will include the total of square feet for each transportable section comprising the completed structure and will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. Nothing in this definition should be interpreted to mean that a manufactured home necessarily meets the requirements of HUD's Minimum Property Standards (HUD Handbook 4900.1) or that it is automatically eligible for financing under 12 U.S.C. 1709(b).

* * * * *

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

■ 3. The authority citation for part 3282 is revised to read as follows:

Authority: 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 5424.

■ 4. In § 3282.207, redesignate paragraph (e) as paragraph (f), add a new paragraph (e), and revise the second sentence of paragraph (f) as redesignated, to read as follows:

§ 3282.207 Manufactured home consumer manual requirements.

* * * * *

(e) *Dispute resolution information.* (1) The manufacturer must include the following language under a heading of ''Dispute Resolution Process'' in the consumer manual:

Many states have a consumer assistance or dispute resolution program that homeowners may use to resolve problems with manufacturers, retailers, or installers concerning defects in their manufactured homes that render part of the home unfit for its intended use. Such state programs may include a process to resolve a dispute among a manufacturer, a retailer, and an installer about who will correct the defect. In states where there is not a dispute resolution program that meets the federal requirements, the HUD Manufactured Home Dispute Resolution Program will operate. These are ''HUD-administered states.'' The HUD Manufactured Home Dispute Resolution Program is not for cosmetic or minor problems in the home. You may contact the HUD Manufactured Housing Program Office at (202) 708–6423 or (800) 927–2891, or visit the HUD website at *www.hud.gov* to determine whether your state has a state program or whether you should use the HUD Manufactured Home Dispute Resolution Program. Contact information for state programs is also available on the HUD website. If your state has a state program, please contact the state for information about the program, how it operates, and what steps to take to request dispute resolution. When there is no state dispute resolution program, a homeowner may use the HUD Manufactured Home Dispute Resolution Program to resolve disputes among the manufacturer, retailer, and installer about responsibility for the correction or repair of defects in the manufactured home that were reported during the 1-year period starting on the date of installation. Even after the 1-year period, manufacturers have continuing responsibility to review certain problems that affect the intended use of the manufactured home or its parts, but for which correction may no longer be required under federal law.

(2) The manufacturer must include the following language under a heading of ''Additional Information '' HUD Manufactured Home Dispute Resolution Program'' in the consumer manual:

The steps and information outlined below apply only to the HUD Manufactured Home Dispute Resolution Program that operates in HUD-administered states, as described under the heading ''Dispute Resolution Information'' in this manual. Under the HUD Manufactured Home Dispute Resolution Program, homeowners must report defects to the manufacturer, retailer, installer, a State Administrative Agency, or HUD within 1 year after the date of the first installation. Homeowners are encouraged to report defects in writing, including, but not limited to, email, written letter, certified mail, or fax, but they may also make a report by telephone. To demonstrate that the report was made within 1 year after the date of installation, homeowners should report defects in a manner that will create a dated record of the report: for example, by certified mail, by fax, or by email. When making a report by telephone, homeowners are encouraged to make a note of the phone call, including names of conversants, date, and time. No particular format is required to submit a report of an alleged defect, but any such report should at a minimum include a description of the alleged defect, the name of the homeowner, and the address of the home.

Homeowners are encouraged to send reports of an alleged defect first to the manufacturer, retailer, or installer of the manufactured home, or a State Administrative Agency. Reports of alleged defects may also be sent to HUD at: HUD, Office of Regulatory Affairs and Manufactured Housing, Attn: Dispute Resolution, 451 Seventh Street, SW., Washington, DC 20410–8000; faxed to (202) 708–4213; e-mailed to *mhs@hud.gov,* or reported telephonically at (202) 708–6423 or (800) 927–2891.

If, after taking the steps outlined above, the homeowner does not receive a satisfactory response from the manufacturer, retailer, or installer, the homeowner may file a dispute resolution request with the dispute resolution provider in writing, or by making a request by phone. No particular format is required to make a request for dispute resolution, but the request should generally include the following information:

(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;

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

(4) Identification of the entities or persons to whom each report of the alleged defect was made and the method that was used to make the report;

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

(6) A description of the alleged defect.

Information about the dispute resolution provider and how to make a request for dispute resolution is available at *http://www.hud.gov* or by contacting the Office of Manufactured Housing Programs at (202) 708–6423 or (800) 927–2891.

A screening agent will review the request and, as appropriate, forward the request to the manufacturer, retailer, installer, and mediator. The mediator will mediate the dispute and attempt to facilitate a settlement. The parties to a settlement include, as applicable, the manufacturer, retailer, and installer. If the parties are unable to reach a settlement that results in correction or repair of the alleged defect, any party or the homeowner may request nonbinding arbitration. Should any party refuse to participate, the arbitration shall proceed without that party's input. Once the arbitrator makes a non-binding recommendation, the arbitrator will forward it to the parties and HUD. HUD will have the option of adopting, modifying, or rejecting the recommendation when issuing an order requiring the responsible party or parties to make any corrections or repairs in the home. At any time before HUD issues a final order, the parties may submit an offer of settlement

to HUD that may, at HUD's discretion, be incorporated into the order.

In circumstances where the parties agree that one or more of them, and not the homeowner, is responsible for the alleged defect, the parties will have the opportunity to resolve the dispute outside of the HUD Mediation and Arbitration process by using the Alternative Process. Homeowners will maintain the right to be informed in writing of the outcome when the Alternative Process is used, within 5 days of the outcome. At any time after 30 days of the Alternative Process notification, any participant or the homeowner may invoke the HUD Manufactured Home Dispute Resolution Program and proceed to mediation.

The HUD Manufactured Home Dispute Resolution Program is not a warranty program and does not replace the manufacturer's or any other warranty program.

(f) * * * A manual substantially complies with the guidelines if it includes the language in paragraph (e) of this section and presents current material on each of the subjects covered in the guidelines in sufficient detail to inform consumers about the operation, maintenance, and repair of manufactured homes.* * *

■ 5. In chapter XX, add a new part 3288, to read as follows:

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.

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).

Dated: May 7, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210–67–P

APPENDIX (This appendix will not be codified in the CFR)

DISPUTE RESOLUTION CERTIFICATION

Pursuant to 42 U.S.C. 5422(g) (section 623(g) of the National Manufactured Housing Construction and Safety Standards Act of 1974), HUD will implement a dispute resolution program in each state that does not have a program meeting the requirements of 42 U.S.C. 5422(c)(12). This Dispute Resolution Certification Form will be used for states to self-certify the adequacy of the state's dispute resolution program and for HUD to review that self-certification. Acceptance of your state's program will be determined by reviewing whether the response to Part II of this form complies with the requirements of 24 CFR 3288.205. Your answers to the following questions are requested for a proper review. Please answer each question concisely and certify the responses as full and accurate at the end of the form. Use additional pages if necessary.

Submit completed form to: Office of Manufactured Housing Programs
Department of Housing and Urban Development
Room _____
451 Seventh Street, SW
Washington, DC 20410

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

Part I

Name, address, telephone number, and email address of the state agency responsible for administering the dispute resolution program:

Name and title of the administrator or director in charge of the state agency:

Name, title, address, telephone number, and email address of the person responsible for administering the dispute resolution program:

Part II

Indicate whether the state dispute resolution program being administered meets the following minimum requirements:

1. Provides for the timely resolution of disputes regarding responsibility for correction and repair of defects in manufactured homes involving manufacturers, retailers, and installers?
   Yes _____ No _____

2. Provides for the issuance of appropriate orders for the correction and repair of defects in the manufactured homes? Yes _____ No _____

3. Provides a coverage period for disputes involving defects that are reported within a minimum of one year from the date beginning on the date of the first installation? Yes _____ No _____

4. Provides adequate funding and personnel to carry out the program? Yes _____ No _____

Part III – Additional Information

1. Describe the state's dispute resolution program.

2. Describe how disputes regarding responsibility for correction and repair of defects in manufactured homes involving retailers, manufacturers, or installers are resolved.

3. Describe how the state's dispute resolution program addresses defects as defined in 24 CFR Part 3288, and any special requirements applicable to defects that involve an unreasonable risk of injury or death to occupants of a manufactured home or significant loss or damage to valuable personal property.

4. Explain the state's requirements for providing timely resolution of disputes.

5. What is the time period for initiating a dispute resolution process?

6. Describe the appropriate orders issued as part of the state's dispute resolution program.

7. Describe the staff and funding utilized by the state's dispute resolution program.

Part IV

COMPLIANCE CERTIFICATION

I hereby certify to the best of my knowledge that the answers given are truthful, accurate, and complete.

Date: _____ (Signature)

By: _____

(Print or type name and official capacity) _____

_____ (State)

[FR Doc. 07–2363 Filed 5–11–07; 8:45 am]
BILLING CODE 4210–67–C

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: Chapters SPS 320 and 321

Relating to: Dispute Resolution for Manufactured Homes

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

2. Detailed description of the objective of the proposed rule:

This rulemaking will focus on the rules required under section 101.957 of the Statutes, relating to establishing an alternative dispute resolution process for defects either in a manufactured home or in the installation of a manufactured home.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Although section SPS 326.38 currently addresses resolution of disputes between an occupant of a manufactured-home community and the operator or a contractor for the community, the Department currently does not have rules relating to disputes about defects either in a manufactured home or in the installation of a manufactured home.

The anticipated rules would establish an alternative dispute resolution process for these defects, and would be consistent with the corresponding dispute-resolution criteria in the following portions of title 24 of the *Code of Federal Regulations*: sections 3280.2 and 3282.207 and part 3288.

The alternative of not developing these rules would result in continuing to not fulfill the corresponding mandate under section 101.957 of the Statutes.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 101.957 of the Statutes requires the Department to promulgate rules establishing an alternative, non-judicial dispute resolution process for defects in a manufactured home or in its installation.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

100 hours.

6. List with description of all entities that may be affected by the proposed rule:

Manufacturers, retailers, installers, inspectors, and occupants of manufactured homes.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Federal construction regulations that preempt state or local requirements for constructing manufactured homes are addressed in title 42 of the *United States Code* under sections 5401 to 5425, and in title 24 of the *Code of Federal Regulations* under part 3280. Federal minimum, model installation regulations for manufactured homes are addressed in 24 CFR 3285. Federal minimum regulations for resolving disputes among manufacturers, retailers, and installers regarding the responsibility for correction or repair of defects reported by the owner of a manufactured home are contained in 24 CFR 3288. Any rule revisions resulting under this scope statement will not infringe on the federal construction regulations, and will not provide less protection than the federal minimum installation or dispute-resolution regulations.

No corresponding proposed federal regulations were found.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The rule changes contemplated in this project are not expected to have any negative economic impacts on any of the entities listed above.

Contact Person: Sam Rockweiler, Rules Coordinator, sam.rockweiler@wi.gov, (608) 266-0797.

Approved for publication in the *Wisconsin Administrative Register* at Madison, Wisconsin, this date:

_____

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

_____

Dave Ross, Secretary

Approved for implementation at Madison, Wisconsin, this date:

_____

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

_____

Dave Ross, Secretary