

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3286

[Docket No. FR-4813-A-01]

RIN 2502-AH98

Manufactured Housing Dispute Resolution Program; Advance Notice of Proposed Rulemaking

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document requests comments on issues related to the development of the manufactured housing dispute resolution program. Under the Manufactured Housing Improvement Act, HUD is required to establish a program for the timely resolution of disputes among manufacturers, retailers, and installers of manufactured homes regarding responsibility for defects in manufactured homes; and the issuance of appropriate orders for the correction or repair of defects in manufactured homes.

DATES: *Comment Due Date:* April 24, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this advance notice of proposed rulemaking to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile comments are not accepted. A copy of each communication submitted will be available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the above referenced address.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW., 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 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

The National Manufactured Housing Construction and Safety Standards Act

of 1974 (the Act) (42 U.S.C. 5401-5426) is intended to protect the quality, safety, durability, and affordability of manufactured homes. The Act was amended on December 27, 2000, by Public Law 106-569, in part to require the Secretary to establish and implement two new national manufactured housing programs, one for installation and one for dispute resolution.

This notice requests public input on what HUD should consider as it develops a proposed rule to establish the dispute resolution program. When the subsequent proposed rule is published, the public will also have an opportunity to comment on the elements of HUD's specific proposals. An advance notice of proposed rulemaking soliciting comments on the installation program is being published separately in today's **Federal Register**. The public is invited to submit comments separately in response to that notice, and should refer to the docket number and title of that notice in any such response.

Dispute Resolution Program

Section 623(c)(12) of the Act (42 U.S.C. 5422(c)(12)) provides for "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." Any states submitting a state plan after December 26, 2005, must provide for such a dispute resolution program as part of the state plan. Additionally, section 623(g) of the Act (42 U.S.C. 5422 (g)) calls for HUD to implement, beginning in December 2005, a dispute resolution program that meets the above requirements in any state that does not establish a program that complies with the Act.

Dispute Resolution Background

In preparation for designing its dispute resolution program, HUD has examined manufactured housing dispute resolution programs established in various states. HUD has also examined a wide variety of dispute resolution models. A brief description of a few of the models examined follows below:

1. Arbitration—An adjudicative process in which a decisionmaker or a panel of decisionmakers makes a ruling after hearing arguments. In this process, the parties are usually represented by attorneys.

2. Mediation—A process that uses a neutral, or mediator, to facilitate discussion between the disputing parties. The primary goal of mediation is to have the parties reach a mutually agreeable solution to their dispute. The mediator acts as a guide through the process and helps the parties focus on the issues, but has no final decisionmaking authority.

3. Mediation-Arbitration (Med-Arb)—A process that combines elements of mediation and arbitration. In this process, the parties attempt to reach resolution through mediation. However, if mediation fails, the parties must submit the remaining issues to arbitration.

4. Mediation-then-Arbitration (Med-then-Arb)—A process similar to Med-Arb, however, in this process a different neutral party is used during the mediation and arbitration phases.

5. Neutral Evaluation—A process that allows a neutral to assess the merits of a case and recommend settlement options.

6. Minitrial—A process designed for business disputes. In a minitrial, attorneys argue their clients' cases before a panel of business officials from the respective organizations involved in the disputes. The business officials must have settlement authority so that they can negotiate a settlement after the case presentations.

7. Negotiation—A process by which parties work out an agreement without any third party intervention.

Request for Comments

There are a number of issues that arise in connection with the creation and implementation of the mandated federal and state dispute resolution programs. The purpose of this Advance Notice Proposed Rulemaking is to allow HUD to gather ideas concerning how the federal dispute resolution program should be structured and how HUD should approve the state programs for operation. Even though HUD requests comments and suggestions on all issues related to the establishment and creation of the federal and state dispute resolution programs, the following issues are of particular interest:

State Program Standards

1. What process should be used to determine whether the proposed state programs meet the Act's requirements? Is proof of adequate funding of a state's program necessary for approval?

2. How will the state programs be funded? Is there a difference for funding purposes between a dispute resolution program that is a part of an approved state plan and a program that is not?