


SPECIAL BULLETIN 2008-03

January 18, 2008

TO: Manufacturers
FROM: Jess Maxcy 
SUBJECT: Dispute Resolution Program – Notification Addendum

HUD has issued a Cover Letter for retailers and the required Addendum to Consumer Manual for compliance with 24 CFR 3282.207(e)

HUD is requiring a "GOOD FAITH EFFORT" by all manufacturers to provide this information for any unsold inventory. HUD is requiring that this correspondence be done prior to February 8, 2008. An e-mail correspondence to your retailers with an attached .PDF file of those documents is acceptable to HUD.

I have included this Cover Letter and the Addendum for your convenience. in addition, I have attached an information summary for your review.

If you have any questions, please feel free to call me at 909-987-2599.

To:

From:

Subject: Consumer Manual Dispute Resolution Notification for Unsold Homes Manufactured Prior to February 8th, 2008

As you know, the new U.S. Department of Housing and Urban Development (HUD) Dispute Resolution Program rule, requiring a formal manufactured housing dispute resolution (DR) program, becomes effective for all new manufactured homes sold or leased on or after February 8th, 2008.

As part of HUD's requirement that consumers be notified of the availability of the DR program, HUD has determined that a notification addendum to the consumer manual must also be provided for new homes in your existing stock that have been manufactured by us prior to the DR effective date of February 8th.

HUD is therefore requiring that we provide you with a copy of the required consumer manual notification addendum with instructions to include it with the consumer documents for these homes that are sold or leased on or after February 8, 2008.

The required notification addendum is attached and we are asking that you please include a copy of it in the consumer documents for each home as requested.

If you have any questions, please contact

Thank you for your cooperation.

Addendum to Consumer Manual
for compliance with 24 CFR § 3282.207(e)

Dispute Resolution Process/Dispute Resolution Information

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 Housing Dispute Resolution Program will operate. These are “HUD-administered states.” The HUD Manufactured Housing 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 you have a state program or should use the HUD Manufactured Housing Dispute Resolution Program. Contact information for state programs is also available on the HUD website. If you have 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 Housing 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 correction of these problems may no longer be required under federal law.

**Additional Information – HUD Manufactured
Housing Dispute Resolution Program**

The steps and information outlined below apply only to the HUD Manufactured Housing Dispute Resolution Program that operates in HUD-administered states, as described under the heading “Dispute Resolution Information” in this manual. Under the HUD Manufactured Housing 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 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, fax, or 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 or problem, 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; emailed 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 or problem notification 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 the Secretary of HUD. The Secretary of 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 the Secretary of HUD issues a final order, the parties may submit an offer of settlement to the Secretary of HUD that he or she may, at his or her discretion, incorporate 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 Housing Dispute Resolution Program and proceed to mediation.

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

DISPUTE RESOLUTION CONSUMER NOTIFICATION INFORMATION

The following information is intended to address certain questions that have been raised over consumer notification requirements under HUD's new Dispute Resolution rule. The information is based on HUD responses to MHI regarding these questions.

As a review, per the **Manufactured Home Dispute Resolution Program – Final Rule**, manufacturers and retailers will be required to provide separate dispute resolution program consumer notifications as specified by 24 CFR Part 3282, § 3282.207(e) and Part 3288, § 3288.5 respectively, effective **February 08, 2008**.

Manufacturers will be required to include the notice in each new manufactured home consumer manual. Retailers will be required to provide a separate similar notice at the time of signing a contract for sale or lease of a new manufactured home.

The notices must include the language and headings, verbatim, as written in revised § 3282.207(e) for consumer manuals and § 3288.5 for sales and lease transactions. The required notice language for both manufacturers and retailers is provided in separate MS Word documents for your convenience and can be copied and pasted accordingly.

The following points address these requirements more specifically:

- **Manufacturer & retailer obligations in HUD Administered DR Program (“default states”) vs. Non-HUD Administered DR Program states:**

As of the effective date, both manufacturers and retailers will be required to provide the specified HUD dispute resolution consumer notices regardless of the status of the state. Specifically:

- Manufacturers: Manufacturers will be required to include the specified HUD notice in all consumer manuals whether or not the home will be sold to a consumer in a HUD Administered state (a.k.a. “default states”) or in a non-HUD Administered state.
- Retailers: Retailers will be required to provide the specified HUD retailer notice at the time of signing a contract for sale or lease of a new home whether or not the home will be sited in a HUD or non-HUD administered state.

Retailers acting as leasing agents: In the case of leases, while § 3288.5 does not explicitly state that the retailer dispute resolution notice must be included in the lease contract or provided in a separate document, HUD has

informed MHI that “the effect of the term “lease” as used in §3288.5, “lease” only applies where the retailer acts as a leasing agent for a manufacturer or other owner-landlord. So the duty is only to someone who leases the manufactured home directly from a retailer,” and further that, “the express obligation for retailers that applies to a sales contract would apply equally to a lease agreement.” (The intent, as stated by HUD, being for the retailer, if acting as the leasing agent, to include the notification in the lease contract or provide it to lessee in a separate document at the time of signing the contract as stated in § 3288.5). MHI has requested further formal clarification from HUD.

- The effective date for including/providing the notice applies as follows:

- Consumer Manual Notice (UPDATE): At the request of MHI, HUD initially stated that the effective date for the consumer manual notice means “the requirements of revised § 3282.207(e) need only apply to homes labeled on or after February 8, 2008.” However, after further consideration, HUD is now requiring manufacturers to provide retailers with a Dispute Resolution Program (DR) notification addendum to consumer manuals for existing stock of their unsold new homes manufactured prior to February 8th, 2008.

In response to concerns raised by MHI over the burden this places on manufacturers and the industry, especially at the late date, HUD has agreed to keep this as simple as possible and is therefore only requiring that a “good faith effort” be made by manufacturers to contact their retailers and provide them with the addendum.

More specifically, in MHI follow-up with HUD, HUD has stated that manufacturers can satisfy this requirement by sending a single correspondence to each of their retailers via e-mail with a PDF of the required addendum attached, and instructions for the retailer to include it with the consumer documents for their existing stock of unsold new homes manufactured by their company prior to February 8th, 2008.

HUD is not requiring manufacturers to follow-up with retailers to ensure that they include the addendum as requested, just for them to make the “good faith effort” to contact retailers as described. HUD is however requiring manufacturers to send this correspondence by February 8th, and to include retailers who have sold their homes” during the year prior to February 8th.”

Again, this only applies to new homes manufactured before February 8, 2008 that are sold or leased on or after February 8th, 2008.

- Retailer Notice: Retailers will however be required to provide the notice for all new home sales or, leases if the retailer is acting as a leasing agent, as of February 08, 2008, regardless of the label date.

- How the notices must be provided:
 - Consumer Manual Notice: Revised Part 3282 § 3282.207(e) only requires that the specified notice be included in the manual. The location of the notice in the manual is left to the discretion of the manufacturer though it is assumed it will be located in an appropriate section. The notice may also be included as an insert if necessary though if so it should be inserted securely. Please note that there are two parts to the notice and each is required to be titled as specified in revised Part 3282 § 3282.207(e) which are as follows: “Dispute Resolution Process” and “Additional Information “HUD Manufactured Home Dispute Resolution Program”” respectively.
 - Retailer Notice – sales & leases: Part 3288 § 3288.5 requires retailers to either include the specified notice “clearly in a separate section on consumer dispute resolution information at the top of the sales contract,” or lease, or in a separate document. There are no specific provisions for the notice if it is provided in/as a separate document other than the document must include the specified language and be provided at the time of signing a contract for sale or lease. If the notice is provided in a separate document as permitted, retailers should consider a means for verifying receipt.
- Additional dispute resolution language can be included in the consumer manual or provided by the retailer provided it does not amend, interrupt or otherwise edit the language or other provisions required by revised § 3282.207(e) or § 3288.5.
- Anticipated HUD vs. Non-HUD administered states: HUD has informed MHI that as of December 20, 2007 they expect the following states to be HUD administered (default) states: AK, CA, CT, HI, MD, MA, MT, NE, PA, VT, WY & the District of Columbia. Arizona is still undetermined. All other states are expected to be fully or conditionally certified to operate their own programs as of February 08, 2008 depending on the submission of their certification application. Those states that are not certified by February 08, 2008 will be considered HUD administered states until they are fully or conditionally certified.

If you have additional questions regarding the dispute resolution program, please contact Jeff Inks via e-mail at inks@mfghome.org or on 703-558-0654.