

§ 3286.13

manufacturer, distributor, retailer, or installer in accordance with the manufacturer's instructions.

§ 3286.13 Waiver of rights invalid.

Any provision of a contract or agreement entered into by a manufactured home purchaser that seeks to waive any recourse to either the HUD installation program or a state-qualifying installation program is void.

§ 3286.15 Consultation with the Manufactured Housing Consensus Committee (MHCC).

The Secretary will seek input from the MHCC when revising the installation program regulations in this part 3286. Before publication of a proposed rule to revise these regulations, the Secretary will provide the MHCC with a 120-day opportunity to comment on such revision. The MHCC may send to the Secretary any of the MHCC's own recommendations to adopt new installation 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. The Secretary 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.

Subpart B—Certification of Installation in HUD-Administered States

§ 3286.101 Purpose.

The purpose of this subpart B is to establish the systems for tracking and certifying a manufactured home installation that is to be completed in accordance with the HUD-administered installation program.

24 CFR Ch. XX (4–1–10 Edition)

§ 3286.102 Information provided by manufacturer.

(a) *Shipment of home to retailer or distributor.* At the time the manufactured home is shipped to a retailer or distributor, the manufacturer must provide notice to the retailer or distributor that tracking information for the home is being provided to HUD, and the information must be updated by the retailer or distributor in accordance with the requirements in § 3286.113. Such notice must include all of the information required in § 3286.9(a). The manufacturer is also encouraged to provide notice to the retailer that reminds the retailer of its other responsibilities under this part.

(b) *Manufacturer's installation instructions.* The manufacturer is required to include in its installation instructions for the home a notice that the home is required to be installed in accordance with:

(1) An installation design and instructions that have been provided by the manufacturer and approved by the Secretary directly or through review by the DAPIA; or

(2) An installation design and instructions that have been prepared and certified by a professional engineer or registered architect, that have been approved by the manufacturer and the DAPIA as providing a level of protection for residents of the home that equals or exceeds the protection provided by the federal installation standards in part 3285 of this chapter.

§ 3286.103 DAPIA-approved installation instructions.

(a) *Providing instructions to purchaser or lessee.* (1) For each manufactured home sold or leased to a purchaser or lessee, the retailer must provide the purchaser or lessee with a copy of the manufacturer's DAPIA-approved installation instructions for the home.

(2) If the installation requires a design that is different from that provided by the manufacturer in paragraph (a)(1) of this section, the installation design and instructions must be prepared and certified by a professional engineer or registered architect, that have been approved by the manufacturer and the DAPIA as providing a level of protection for residents of the

home that equals or exceeds the protection provided by the federal installation standards in part 3285 of this chapter.

(b) *Providing instructions to installer.* When the retailer or manufacturer agrees to provide any set up in connection with the sale of the home, the retailer or manufacturer must provide a copy of the approved installation instructions required in paragraph (a)(1) of this section or, as applicable, installation design and instructions required in paragraph (a)(2) of this section to each company or, in the case of sole proprietor, to each individual who performs set up or installation work on the home.

§ 3286.105 Requirement for installer licensing.

(a) *Installer Licensing.* The installer that installs a manufactured home in a state that does not have a qualifying installation program must be certified or licensed in accordance with the requirements in subpart C of this part.

(b) *Use of licensed installer.* When the retailer or manufacturer agrees to provide any set up in connection with the sale or lease of the home, the retailer or manufacturer must ensure that the installer is licensed in accordance with these regulations.

§ 3286.107 Installation in accordance with standards.

(a) *Compliance with installation requirements.* (1) For purposes of determining installer compliance, a manufactured home that is subject to the requirements of this subpart B must be installed in accordance with:

(i) An installation design and instructions that have been provided by the manufacturer and approved by the Secretary directly or through review by the DAPIA; or

(ii) An installation design and instructions that have been prepared and certified by a professional engineer or registered architect, that have been approved by the manufacturer and the DAPIA as providing a level of protection for residents of the home that equals or exceeds the protection provided by the federal installation standards in part 3285 of this chapter.

(2) If the installation instructions do not comply with the installation standards, the manufacturer is responsible for any aspect of installation that is completed in accordance with the installation instructions and that does not comply with the installation standards.

(3) All installation work must be in conformance with accepted practices to ensure durable, livable, and safe housing, and must demonstrate acceptable workmanship reflecting, at a minimum, journeyman quality of work of the various trades.

(4) Except as set out in paragraph (a)(2) of this section, all installation defects due to the work of the installer are the responsibility of the installer or retailer or manufacturer that retained the installer and must be corrected.

(5) If the manufacturer or retailer retains the installer, they are jointly and severally responsible with the installer for correcting installation defects.

(6) Installation defects must be corrected within 60 days after the date of discovery of the installation defect.

(b) *Secretarial approval of manufacturer's designs.* A manufacturer that seeks a Secretarial determination under paragraph (a) of this section that its installation designs and instructions provide protection to residents of manufactured homes that equals or exceeds the protection provided by the HUD federal installation standards in part 3285 of this chapter must send the request for such determination and a copy of the applicable designs and instructions to: Administrator, Office of Manufactured Housing Programs, HUD, 451 Seventh Street, SW., Room 9164, Washington, DC 20410-8000, or to a fax number or e-mail address obtained by calling the Office of Manufactured Housing Programs at the toll-free telephone number 1-800-927-2891, extension 57.

(c) *Compliance with construction and safety standards.* The installer must not take the home out of compliance with the construction and safety standards applicable under part 3280 of this chapter.

(d) *Homeowner installations.* The purchaser of a home sited in a state in