

**Catalog of Federal Domestic Assistance**

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

**List of Subjects in 24 CFR Part 3286**

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

■ Accordingly, HUD adds a new part 3286 in chapter XX of Title 24 of the Code of Federal Regulations to read as follows:

**PART 3286—MANUFACTURED HOME INSTALLATION PROGRAM****Subpart A—Generally Applicable Provisions and Requirements**

- Sec.
- 3286.1 Purpose.
- 3286.2 Applicability.
- 3286.3 Definitions.
- 3286.5 Overview of installation program.
- 3286.7 Consumer information.
- 3286.9 Manufacturer shipment responsibilities.
- 3286.11 Temporary storage of units.
- 3286.13 Waiver of rights invalid.
- 3286.15 Consultation with the Manufactured Housing Consensus Committee (MHCC).

**Subpart B—Certification of Installation in HUD-Administered States**

- 3286.101 Purpose.
- 3286.102 Information provided by manufacturer.
- 3286.103 DAPIA-approved installation instructions.
- 3286.105 Requirement for installer licensing.
- 3286.107 Installation in accordance with standards.
- 3286.109 Inspection requirements—generally.
- 3286.111 Installer certification of installation.
- 3286.113 Information provided by retailer.
- 3286.115 Date of installation.
- 3286.117 Completion of sale date.

**Subpart C—Installer Licensing in HUD-Administered States**

- 3286.201 Purpose.
- 3286.203 Installation license required.
- 3286.205 Prerequisites for installation license.
- 3286.207 Process for obtaining installation license.
- 3286.209 Denial, suspension, or revocation of installation license.
- 3286.211 Expiration and renewal of installation licenses.

**Subpart D—Training of Installers in HUD-Administered States**

- 3286.301 Purpose.
- 3286.303 Responsibilities of qualified trainers.
- 3286.305 Installation trainer criteria.
- 3286.307 Process for obtaining trainer's qualification.

- 3286.308 Training curriculum.
- 3286.309 Continuing education—trainers and curriculum.
- 3286.311 Suspension or revocation of trainer's qualification.
- 3286.313 Expiration and renewal of trainer qualification.

**Subpart E—Installer Responsibilities of Installation in HUD-Administered States**

- 3286.401 Purpose.
- 3286.403 Licensing requirements.
- 3286.405 Installation suitability.
- 3286.407 Supervising work of crew.
- 3286.409 Obtaining inspection.
- 3286.411 Certifying installation.
- 3286.413 Recordkeeping.

**Subpart F—Inspection of Installations in HUD-Administered States**

- 3286.501 Purpose.
- 3286.503 Inspection required.
- 3286.505 Minimum elements to be inspected.
- 3286.507 Verifying installation.
- 3286.509 Reinspection upon failure to pass.
- 3286.511 Inspector qualifications.

**Subpart G—Retailer Responsibilities in HUD-Administered States**

- 3286.601 Purpose.
- 3286.603 At or before sale.
- 3286.605 After sale.
- 3286.607 Recordkeeping.

**Subpart H—Oversight and Enforcement in HUD-Administered States**

- 3286.701 Purpose.
- 3286.703 Failure to comply.
- 3286.705 Applicability of dispute resolution program.

**Subpart I—State Programs**

- 3286.801 Purpose.
- 3286.803 State qualifying installation programs.
- 3286.805 Procedures for identification as qualified installation program.
- 3286.807 Recertification required.
- 3286.809 Withdrawal of qualifying installation program status.
- 3286.811 Effect on other manufactured housing program requirements.
- 3286.813 Inclusion in state plan.

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

**Subpart A—Generally Applicable Provisions and Requirements****§ 3286.1 Purpose.**

(a) *Purpose.* The purpose of this part is to establish the regulations that are applicable to HUD's administration of an installation program that meets the requirements of sections 602 (42 U.S.C. 5401) and 605 (42 U.S.C. 5404) of the National Manufactured Housing Construction and Safety Standards Act of 1974. The purpose of this subpart A is to establish the regulations that are applicable with respect to all manufactured homes before they are sold to a purchaser. The requirements in subpart A apply regardless of whether

the actual installation of a manufactured home is regulated by HUD or a state with a qualifying installation program.

(b) *Implementation.* This part is effective on October 20, 2008. Implementation will be undertaken in accordance with the phased-in schedule provided by notice published in the **Federal Register**.

**§ 3286.2 Applicability.**

(a) *All states.* The requirements in subpart A are applicable in all states.

(b) *States without installation programs.* The requirements in subparts B through H of this part are applicable only in those states where HUD is administering an installation program in accordance with this part.

(c) *States with installation programs.* The requirements in subpart I of this part are applicable to only those states that want to administer their own installation programs in lieu of the installation program administered by HUD in accordance with this part.

(d) *Exclusion.* None of the requirements of this part apply to:

(1) Any structure that a manufacturer certifies as being excluded from the coverage of the Act in accordance with § 3282.12 of this chapter; or

(2) Temporary housing units provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) to victims of Presidentially declared disasters, when the manufactured home is installed by persons holding an emergency contractor license issued by the state in which the home is sited or installed by the Federal Emergency Management Agency; or

(3) Any manufactured home after the initial installation of the home following the first purchase of the home in good faith for purposes other than resale. State installation programs may regulate subsequent installations of manufactured homes.

(4) Any manufactured home installed on Indian reservations.

**§ 3286.3 Definitions.**

The following definitions apply in this part, except as otherwise noted in the regulations in this part:

*Act* means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401–5425.

*Certification of installation* means the certification, provided by an installer under the HUD-administered installation program in accordance with § 3286.111, that indicates that the manufactured home has been installed in compliance with the appropriate design and instructions and has been inspected as required by this part.

*Defect* means any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended.

*Design Approval Primary Inspection Agency (DAPIA)* means a state agency or private organization that has been accepted by the Secretary, in accordance with the requirement of subpart H of part 3282, to evaluate and either approve or disapprove manufactured home designs and quality control procedures.

*Distributor* means any person engaged in the sale and distribution of manufactured homes for resale.

*HUD* means the United States Department of Housing and Urban Development.

*HUD-administered installation program* means the installation program to be administered by HUD, in accordance with this part, in those states that do not have a qualifying installation program.

*Installation* means completion of work done specified in § 3286.505 to stabilize, support, anchor, and close up a manufactured home and to join sections of a multi-section manufactured home, when any such work is governed by the federal installation standards in part 3285 of this chapter or by state installation standards that are certified as part of a qualifying installation program.

*Installation defect* means any defect in the performance, installation, installation components, installation material, or close-up of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended or otherwise takes the home out of compliance with the Manufactured Home Construction and Safety Standards in 24 CFR part 3280.

*Installation design* means drawings, specifications, sketches, and the related engineering calculations, tests, and data in support of the installation configurations and systems to be incorporated in the installation of manufactured homes.

*Installation instructions* means DAPIA-approved instructions provided by the home manufacturer that accompany each new manufactured home and detail the home manufacturer requirements for support and anchoring systems and other work completed at the installation site to comply with the Model Manufactured Home Installation Standards in 24 CFR part 3285 and the Manufactured Home Construction and Safety Standards in 24 CFR part 3280.

*Installation standards* means the standards established by HUD in 24 CFR part 3285, or any set of state standards that the Secretary has determined provide protection to the residents of manufactured homes that equals or exceeds the protection provided by the standards in 24 CFR part 3285.

*Installer* means the person or entity 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, as governed by part 3285 of this chapter.

*Installer's license or installation license* means the evidence that an installer has met the requirements for installing manufactured homes under the HUD-administered installation program. The term does not incorporate a state-issued installation license or certification, except to the extent provided in this part. The term does not imply that HUD approves or recommends an installer or warrants the work of an installer, and should not be used in any way that indicates HUD approval in violation of 18 U.S.C. 709.

*Lessee* means the first person who leases a manufactured home from a retailer after the initial installation.

*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, 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 therein. The term also includes any structure that meets all the requirements of this paragraph 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 installation standards established under part 3285 and the construction and safety standards in part 3280 of this chapter, but such 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).

*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).

*Manufacturer* means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale.

*Manufacturer's certification label* means the permanent label that is required by § 3280.11 of this chapter to be affixed to each transportable section of each manufactured home.

*Person* includes, unless the context indicates otherwise, corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals, but does not include any agency of government or tribal government entity.

*Professional engineer or registered architect* means an individual or entity: licensed to practice engineering or architecture in a state; and subject to all laws and limitations imposed by the state agency that regulates the applicable profession, and who is engaged in the professional practice of rendering service or creative work requiring education, training, and experience in architecture or engineering sciences and the application of special knowledge of the mathematical, physical, and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design, and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

*Purchaser* means the first person purchasing a manufactured home in good faith for purposes other than resale.

*Qualified trainer* means a person who has met the requirements established in subpart D of this part to be recognized as qualified to provide training to installers for purposes of the HUD-administered installation program.

*Qualifying installation program* means an installation program that a state certifies, in accordance with the requirements set out in subpart I of this part, as meeting the requirements of 42 U.S.C. 5404(c)(3).

*Resident* means any person residing in the manufactured home.

*Retailer* means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale, and, for purposes of this part, the term includes any manufacturer or distributor that sells a manufactured home directly to a purchaser.

*Secretary* means the Secretary of Housing and Urban Development.

*Set up* means any assembly or installation of a manufactured home on-site that includes aspects of work that are governed by parts 3280 or 3285 of this chapter.

*State* includes each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

#### **§ 3286.5 Overview of installation program.**

(a) *HUD-administered installation program.* HUD will administer the installation program, as established and set out in subparts A through H of this part, in a state unless that state administers its own qualifying installation program. The states in which HUD administers an installation program can be identified under this part by referring to a list on a Web site maintained by HUD or by calling HUD. For convenience only, the current URL of the Web site is <http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm> and the current toll-free telephone number to contact the HUD Office of Manufactured Housing Programs is 1-800-927-2891, extension 57.

(b) *State-administered installation programs.* States that have qualifying installation programs, as established through the procedures set out in subpart I of this part, will administer their own programs, except for generally applicable requirements in this subpart A.

(c) *Manufacturer and retailer requirements.* (1) Manufacturers and retailers are responsible for compliance of the home with the construction and safety standards in part 3280 of this chapter, in accordance with the Act and applicable regulations. Manufacturers and retailers must also comply with applicable requirements in this part relating to the installation of the manufactured home.

(2) In the installation instructions required pursuant to part 3285 of this chapter, the manufacturer must include instructions for supporting the manufactured home or sections of homes temporarily and protecting the interior of the manufactured home or sections of homes from damage,

pending the first siting of the home for occupancy. The instructions must be adequate to assure that the temporary supports and weatherization used will be sufficient to prevent the home and its transportable sections from being brought out of conformance with the construction and safety standards in part 3280 of this chapter if the home or its sections is either:

(i) Stored at any location for more than 30 days; or

(ii) In the possession of any entity for more than 30 days.

(d) *HUD oversight.* The Secretary may take such actions as are authorized by the Act to oversee the system established by the regulations in this part, as the Secretary deems appropriate.

#### **§ 3286.7 Consumer information.**

(a) *Manufacturer's consumer manual.* In each consumer manual provided by a manufacturer as required in § 3282.207 of this chapter, the manufacturer must include a recommendation that any home that has been reinstalled after its original installation should be inspected after it is set up, in order to assure that it has not been damaged and is properly installed.

(b) *Retailer disclosures before sale or lease.* Prior to execution of the sales contract to purchase or agreement to lease a manufactured home, the retailer must provide the purchaser or lessee with a consumer disclosure. This disclosure must be in a document separate from the sales or lease agreement. The disclosure must include the following information, as applicable:

(1) When the installation of the home is in a state that administers its own qualifying installation program, the consumer disclosure must clearly state that the home will be required to comply with all state requirements for the installation of the home;

(2) When the installation of the home is in a state that does not administer its own qualifying installation program, the consumer disclosure must clearly state that the home will be required to comply with federal requirements, including installation in accordance with federal installation standards set forth in 24 CFR part 3285 and certification by a licensed installer of installation work, regardless of whether the work is performed by the homeowner or anyone else, and when certification includes inspection by an appropriate person;

(3) For all homes, the home may also be required to comply with additional state and local requirements for its installation;

(4) For all homes, additional information about the requirements disclosed under paragraphs (b)(1) through (b)(4) of this section is available from the retailer and, in the case of the federal requirements, is available in part 3286 of Title 24 of the Code of Federal Regulations and from the U.S. Department of Housing and Urban Development;

(5) For all homes, compliance with any additional federal, state, and local requirements, including a requirement for inspection of the installation of the home, may involve additional costs to the purchaser or lessee; and

(6) For all homes, a recommendation that any home that has been reinstalled after its original installation should be professionally inspected after it is set up, in order to assure that it has not been damaged in transit and is properly installed.

#### **§ 3286.9 Manufacturer shipment responsibilities.**

(a) *Providing information to HUD.* At or before the time that each manufactured home is shipped by a manufacturer, the manufacturer must provide HUD, through the Production Inspection Primary Inspection Agency (PIPA), in accordance with § 3282.552 of this chapter, with information, as applicable, about:

(1) The serial number and manufacturer's certification label number of the home;

(2) The manufacturer of the home; and

(3) The name and address of the retailer or distributor that has arranged for the home to be shipped.

(b) *Manufacturer's installation instructions.* The manufacturer is required to provide with each manufactured home, installation designs and instructions for the installation of the manufactured home that have been approved by a DAPIA. A DAPIA must give approval only if the installation designs and instructions provide equal or greater protection than the protection provided under the installation standards.

#### **§ 3286.11 Temporary storage of units.**

Pursuant to § 3286.5(c), the manufacturer is required to provide instructions for the temporary support and protection of the interior from damage of its manufactured homes or sections of homes. Every manufacturer, distributor, retailer, or installer that has possession of a home is required to support each transportable section of a manufactured home that is temporarily located on a site used by that 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.

**§ 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 which HUD administers the installation program may perform installation work on the home that is in accordance with paragraph (a) of this section, provided that the work is certified in accordance with § 3286.111.

(e) *Compliance with construction and safety standards.* This rule does not alter or affect the requirements of the Act concerning compliance with the construction and safety standards, and the implementing regulations in parts 3280 and 3282 of this chapter, which apply regardless of where the work is completed.

#### **§ 3286.109 Inspection requirements—generally.**

The installer or the retailer must arrange for the inspection of the installation work on any manufactured home that is sited in a state without a qualifying installation program. Before the home can be occupied, the installer must certify, and the inspector must verify, the home as having been installed in conformance with the requirements of § 3286.107(a). The requirements for installer certification are set out in subpart E of this part.

#### **§ 3286.111 Installer certification of installation.**

(a) *Certification required.* When the installation work is complete, a licensed installer must visit the jobsite and certify that:

(1) The manufactured home has been 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) The installation of the home has been inspected as required by § 3286.503 and an inspector has verified the installation as meeting the requirements of this part.

(3) All installation defects brought to the installer's attention have been corrected.

(b) *Recipients of certification.* The installer must provide a signed copy of its certification to the retailer that contracted with the purchaser or lessee for the sale or lease of the home, and to the purchaser or other person with whom the installer contracted for the installation work.

#### **§ 3286.113 Information provided by retailer.**

(a) *Tracking information.* Within 30 days from the time a purchaser or lessee enters into a contract to purchase or lease a manufactured home, the retailer or distributor of the home must provide HUD with the following information:

(1) The home's serial number and manufacturer's certification label number;

(2) The name and address of the retailer or distributor that is selling or leasing the home;

(3) The state and address where the home is to be sited, and, if known, the name of the local jurisdiction; and

(4) The name of the purchaser or lessee.

(b) *Installation information.* Within 30 days from the date of installation, the retailer or distributor of the home must provide HUD with the following information:

(1) The name, address, telephone number, and license number of the licensed installer;

(2) The date of installer certification of completion of the installation;

(3) The date a qualified inspector verified the installation as being in compliance with the requirements of this part; and

(4) The name, address, and telephone number of the qualified inspector who performed the inspection of the installation as required by § 3286.109.

(c) *Method of providing information.*

(1) The retailer or distributor must provide a copy of the information set forth in paragraphs (a) and (b) of this section to HUD by providing a copy of the information to HUD by facsimile, e-mail, or first-class or overnight delivery.

(2) The information must be sent 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. For convenience only, the URL of the Web site is <http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm> and the toll-free telephone number to contact the Office of Manufactured Housing Programs is 1-800-927-2891, extension 57.

(d) *Correcting information.* If the information provided by the retailer changes after it has been provided to HUD, the retailer must correct the information within 10 business days after the retailer learns of the change.

(e) *Record retention requirements.* The retailer or distributor must maintain a copy of the records required in paragraphs (a) and (b) of this section for 3 years from the date of installation, as under § 3286.115.

#### **§ 3286.115 Date of installation.**

The date of installation will be the date the installer has certified that all required inspections have been completed, 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 the purchase agreement or sales contract for the manufactured home.

#### **§ 3286.117 Completion of sale date.**

(a) *Date of sale defined.* For purposes of determining the responsibilities of a manufacturer, retailer, or distributor under subpart I of part 3282 of this chapter, the sale of a manufactured home will not be considered complete until all the goods and services that the manufacturer, retailer, or distributor agreed to provide at the time the contract was entered into have been provided.

(b) *Compliance with construction and safety standards.* When a retailer or manufacturer is providing the installation and an installer installs a home in such a way as to create an imminent safety hazard or cause the home to not comply with the construction and safety standards in part 3280 of this chapter, and those issues are discovered during the installation of the home, the sale or lease of the home is not complete until the home is corrected.

**Subpart C—Installer Licensing in HUD-Administered States****§ 3286.201 Purpose.**

The purpose of this subpart C is to establish the requirements for a person to qualify to install a manufactured home in accordance with the HUD-administered installation program. Installers will be required to meet licensing, training, and insurance requirements established in this part. Licensed installers will self-certify their installations of manufactured homes to be in compliance with the Model Manufactured Home Installation Standards in part 3285 of this chapter. In order for such an installer to self-certify compliance with the installation standards, the installer will have to assure that acceptable inspections, as required in subpart F of this part, are performed.

**§ 3286.203 Installation license required.**

(a) *Installation license required.* (1) Any individual or entity that engages in the business of directing, supervising, or controlling initial installations of new manufactured homes in a state without a qualifying installation program must itself have, or must employ someone who has, a valid manufactured home installation license issued in accordance with the requirements of this subpart C. For each installation covered under these requirements, the licensed installer, and any company that employs the licensed installer, will be responsible for the proper and competent performance of all employees working under the licensed installer's supervision and for assuring that the installation work complies with this part.

(2) A business that employs a licensed installer to represent the business and hold the installer's license retains primary responsibility for performance of the installation work in compliance with the requirements of this part.

(3) A license is not required for individuals working as direct employees of a licensed installer or for the company that employs a licensed installer, provided that those individuals are supervised by a licensed installer.

(4) The installer must display an original or a copy of a valid installation license at the site of the installation while performing work related to the installation of the home.

(5) The installer is responsible for understanding and following, as applicable, the approved manufacturer installation instructions and any alternative installation design and instructions that have been certified by

a professional engineer or registered architect, that have been approved by the manufacturer and 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) *Installation license not required.* An installation license is not required for:

(1) Site preparation that is not subject to the requirements of part 3285 of this chapter;

(2) Connection of utilities to the manufactured home;

(3) Add-ons subject to the requirements of § 3282.8(j) of this chapter;

(4) Temporary installations on dealer, distributor, manufacturer, or other sales or storage lots, when the manufactured home is not serving as an occupied residence;

(5) Home maintenance, repairs, or corrections, or other noninstallation-related work performed by the home manufacturer under warranty or other obligations or service agreements;

(6) Installations performed by authorized representatives of the Federal Emergency Management Agency in order to provide emergency housing after a natural disaster; or

(7) Work performed at the home site that is not covered by the federal installation standards in part 3285 of this chapter or the requirements of this part.

**§ 3286.205 Prerequisites for installation license.**

(a) *Required experience.* (1) In order to obtain an installation license to perform manufactured home installations under the HUD-administered installation program, an individual must meet at least one of the following minimum experience requirements:

(i) 1,800 hours of experience installing manufactured homes;

(ii) 3,600 hours of experience in the construction of manufactured homes;

(iii) 3,600 hours of experience as a building construction supervisor;

(iv) 1,800 hours as an active manufactured home installation inspector;

(v) Completion of one year of a college program in a construction-related field; or

(vi) Any combination of experience or education from paragraphs (a)(1)(i) through (a)(1)(v) of this section that totals 3,600 hours.

(2) An installer who is certified or licensed to perform manufactured home installations in a state with a qualifying

installation program may be exempted by the Secretary from complying with these experience requirements, if the Secretary determines that the state requirements are substantially equal to the HUD experience requirements.

(b) *Required training—(1) Initial applicant.* An applicant for an installation license must complete 12 hours of training, at least 4 hours of which must consist of training on the federal installation standards in part 3285 of this chapter and the installation program regulations in this part. An installer who is licensed to perform installations in a state with a qualified installation program may postpone the training requirements of this section until October 20, 2009.

(2) *Renewal applicant.* In order to qualify for renewal of an installation license, the licensed installer must complete 8 hours of continuing education during the 3-year license period, including in any particular subject area that may be required by HUD to be covered in order to assure adequate understanding of installation requirements.

(3) The training required under this paragraph (b) must be conducted by trainers who meet the requirements of subpart D of this part and must meet the curriculum requirements established in § 3286.308 or § 3286.309, as applicable.

(c) *Testing.* An applicant for an installation license must have successfully received a passing grade of 70 percent on a HUD-administered or HUD-approved examination covering the Manufactured Home Installation Program and the federal installation standards in part 3285.

(d) *Surety bond or insurance.* An applicant for an installation license must provide evidence of and must maintain, when available in the state of installation, a surety bond or insurance that will cover the cost of repairing all damage to the home and its supports caused by the installer during the installation up to and including replacement of the home. HUD may require the licensed installer to provide proof of the surety bond or insurance at any time. The licensed installer must notify HUD of any changes or cancellations with the surety bond or insurance coverage.

**§ 3286.207 Process for obtaining installation license.**

(a) *Where to apply.* An applicant for an initial or renewed installation license must provide the applicant's legal name, address, and telephone number to HUD. The application, with all required information, must be sent 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. For convenience only, the current URL of the Web site is <http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm>, and the current toll-free telephone number to contact the Office of Manufactured Housing Programs is 1-800-927-2891, extension 57.

(b) *Proof of experience.* Every applicant for an initial installation license must submit verification of the experience required in § 3286.205(a). This verification may be in the form of statements by past or present employers or a self-certification that the applicant meets those experience requirements, but HUD may contact the applicant for additional verification at any time. The applicant must also provide to HUD employment information relevant to the applicant's experience as an installer, including the dates and type of such employment. An installer who is certified or licensed to perform manufactured home installations in a state with a qualifying installation program may seek an exemption from the experience requirement by submitting proof of such certification or license.

(c) *Proof of training.* Every applicant for an initial installation license, or the renewal of an installation license, must submit verification of successful completion of the training required in § 3286.205(b). This verification must be in the form of a certificate of completion from a qualified trainer that the applicant has completed the requisite number of hours of a qualifying curriculum, as set out in § 3286.308 or § 3286.309.

(d) *Proof of surety bond or insurance.* Every applicant for an installation license must submit the name of the applicant's surety bond or insurance carrier and the number of the policy required in § 3286.205(d).

(e) *Other application submissions.* (1) Every applicant for an installation license must submit a list of all states in which the applicant holds a similar installation certification or license, and a list of all states in which the applicant has had such a certification or license revoked, suspended, or denied.

(2) When the examination is not administered by HUD, every applicant for an initial installation license must submit certification of a passing grade on the examination required by § 3286.205(c).

(f) *Issuance or denial of an installation license.* (1) When HUD confirms that an applicant has met the

requirements in this subpart C, HUD will either:

(i) Provide an installation license to the applicant that, as long as the installation license remains in effect, establishes the applicant's qualification to install manufactured homes in a state subject to the HUD-administered installation program; or

(ii) Provide a written explanation of why HUD deems the applicant to not qualify for an installation license, including on grounds applicable under § 3286.209 for suspension or revocation of an installation license and any other specified evidence of inability to adequately meet the requirements of this part.

(2) An applicant who is denied an installation license under this subpart C, other than for failure to pass the installation license test, may request from HUD an opportunity for a presentation of views, in accordance with subpart D of part 3282 of this chapter, for the purpose of establishing the applicant's qualifications to obtain an installation license.

(g) *Assignment of license prohibited.* An installation license issued under this part may not be transferred, assigned, or pledged to another entity or individual.

#### **§ 3286.209 Denial, suspension, or revocation of installation license.**

(a) *Oversight.* The Secretary may make a continuing evaluation of the manner in which each licensed installer is carrying out his or her responsibilities under this subpart C.

(b) *Denial, suspension, or revocation.* After notice and an opportunity for a presentation of views in accordance with subpart D of part 3282 of this chapter, the Secretary may deny, suspend, or revoke an installation license under this part. An installation license may be denied, suspended, or revoked for, among other things:

(1) Providing false records or information to any party;

(2) Refusing to submit information that the Secretary requires to be submitted;

(3) Failure to comply with applicable requirements of parts 3285, 3286, or 3288 of this chapter;

(4) Failure to take appropriate actions upon a failed inspection, as provided in § 3286.509;

(5) Fraudulently obtaining or attempting to obtain an installation license, or fraudulently or deceptively using an installation license;

(6) Using or attempting to use an expired, suspended, or revoked installation license;

(7) Violating state or federal laws that relate to the fitness and qualification or

ability of the applicant to install homes; or

(8) Engaging in poor conduct or workmanship as evidenced by one or more of the following:

(i) Installing one or more homes that fail to meet the requirements of § 3286.107;

(ii) An unsatisfied judgment in favor of a consumer;

(iii) Repeatedly engaging in fraud, deception, misrepresentation, or knowing omissions of material facts relating to installation contracts;

(iv) Having a similar state installation license or certification denied, suspended, or revoked;

(v) Having the renewal of a similar state installation license or certification denied for any cause other than failure to pay a renewal fee; or

(vi) Failure to maintain the surety bond or insurance required by § 3286.205(d).

(c) *Other criteria.* In deciding whether to suspend or revoke an installation license, the Secretary will consider the impact of the suspension or revocation on other affected parties and will seek to assure that the sales and siting of manufactured homes are not unduly disrupted.

(d) *Reinstating an installation license.* An installer whose installation license has been denied, suspended, or revoked may submit a new application in accordance with this subpart C. Installers whose installation licenses have been suspended may also reinstate their installation licenses in any manner provided under the terms of their suspensions.

#### **§ 3286.211 Expiration and renewal of installation licenses.**

(a) *Expiration.* Each installation license issued or renewed under this subpart C will expire 3 years after the date of its issuance or renewal.

(b) *Renewal.* An application for the renewal of an installation license must include the information required by, and must be submitted to, HUD in accordance with § 3286.207, and must be submitted at least 60 days before the date the license expires. Any person applying for a license renewal after the date the license expires must apply for a new installation license following the requirements established under this subpart C for application for an initial installation license.

#### **Subpart D—Training of Installers in HUD-Administered States**

##### **§ 3286.301 Purpose.**

The purpose of this subpart D is to establish the requirements for a person

to qualify to provide the training required under subpart C of this part. This training is required for manufactured home installers who want to be licensed in accordance with the HUD-administered installation program.

**§ 3286.303 Responsibilities of qualified trainers.**

(a) *Curriculum and hours.* In providing training to installers for the purpose of qualifying installers under the HUD-administered installation program, qualified trainers must adequately address the curriculum and instruction-time requirements established in subparts C and D of this part.

(b) *Attendance records.* Qualified trainers must maintain records of the times, locations, names of attendees at each session, and content of all courses offered. When an attendee misses a significant portion of any training session, the trainer must assure that the attendee makes up the missed portion of the instruction.

(c) *Certificates of completion of training.* Qualified trainers must provide certificates of completion to course attendees that indicate the level of compliance with the applicable curriculum and time requirements under subparts C and D of this part.

(d) *Record retention.* All records maintained by trainers and continuing education providers must be retained for 3 years, and must be made available to HUD upon request.

(e) *Testing of installers.* Qualified trainers may be authorized to administer the installation license testing required for initial licensing of installers, as set forth in § 3286.205(c).

**§ 3286.305 Installation trainer criteria.**

(a) *Trainer qualification required.* (1) All classes that provide manufactured home installation education classes used to satisfy the requirements for the initial issuance and renewal of installation licenses under subpart C of this part must be taught by trainers who are registered with HUD as qualified trainers. In order to register with HUD as a qualified trainer, a person must meet the experience requirements of this section.

(2) Any entity other than a natural person may also provide initial training and continuing education, as long as such entity establishes its qualification as a trainer by providing evidence and assurance that the entity's individual trainers meet the requirements of this section.

(b) *Experience prerequisites.* In order to qualify as a trainer, an individual or other training entity must provide to

HUD evidence that each individual who will be responsible for providing training:

(1) Has a minimum of 3,600 hours of experience in one or more of the following:

(i) As a supervisor of manufactured home installations;

(ii) As a supervisor in the building construction industry;

(iii) In design work related to the building construction industry; or

(2) Has completed a 2-year educational program in a construction-related field.

(c) *Certification of curriculum.* In order to register as a qualified trainer, an individual or other training entity must submit to HUD certification that training provided in accordance with this subpart D will meet the curriculum requirements established in § 3286.308 or § 3286.309, as applicable.

**§ 3286.307 Process for obtaining trainer's qualification.**

(a) *Where to apply.* An applicant for qualification as a trainer must provide the applicant's legal name, address, and telephone number to HUD. The application, with all required information, must be sent 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. For convenience only, the URL of the Web site is <http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm>, and the toll-free telephone number to contact the Office of Manufactured Housing Programs is 1-800-927-2891, extension 57.

(b) *Proof of experience.* (1) Every individual applicant for initial qualification as a trainer must submit verification of the experience required in § 3286.305. This verification may be in the form of statements by past or present employers or a self-certification that the applicant meets those experience requirements, but HUD may contact the applicant for additional verification at any time. The applicant must also provide to HUD employment information relevant to the applicant's experience as a trainer, including the dates and type of such employment. A trainer who is licensed, or otherwise certified, to provide manufactured home installation training in a state with a qualifying installation program may seek an exemption from the experience requirement by submitting proof of such license or other certification. An individual who applies for renewal qualification as a trainer is not required

to submit additional proof of experience.

(2) An entity that seeks to be designated as a qualified trainer must provide evidence and assurance that the entity's individual trainers meet the experience requirements in § 3286.305.

(c) *Other qualification information.*

(1) An applicant for initial or renewal qualification as a trainer must submit to HUD a list of all states in which the applicant has had a similar training qualification revoked, suspended, or denied.

(2) An applicant also must submit to HUD a certification that training provided in accordance with this subpart D will meet the curriculum requirements established in § 3286.308 or § 3286.309, as applicable.

(d) *Confirmation or denial of qualification.* (1) When HUD confirms that an applicant has met the experience and curriculum requirements in this section, HUD will either:

(i) Provide to the applicant a written confirmation that the applicant is a qualified trainer under this part, and will add the applicant's name to a list maintained by HUD of qualified trainers; or

(ii) Provide a written explanation of why HUD deems the applicant to not qualify as a trainer, including on grounds applicable under § 3286.311 for suspension or revocation of a qualification and any other specified evidence of inability to meet the requirements of this part.

(2) An applicant whose qualification is denied by HUD may request an opportunity for a presentation of views, in accordance with subpart D of part 3282 of this chapter, for the purpose of establishing the applicant's qualifications to be a qualified trainer or the adequacy of any training curriculum that is challenged by HUD.

(e) *Assignment of qualification prohibited.* A qualification issued under this subpart D may not be transferred, assigned, or pledged to another entity or individual.

**§ 3286.308 Training curriculum.**

(a) *Curriculum for initial installer licensing.* The training provided by qualified trainers to installers to meet the initial requirements of the HUD-administered installation program must include at least 12 hours of training, at least 4 hours of which must consist of training on the federal installation standards in part 3285 of this chapter and the installation program regulations in this part. The curriculum must include, at a minimum, training in the following areas:



(1) An overview of the Act and the general regulatory structure of the HUD manufactured housing program;

(2) An overview of the manufactured home installation standards and regulations established in parts 3285 and 3286 of this chapter, and specific instruction including:

- (i) Preinstallation considerations;
- (ii) Site preparation;
- (iii) Foundations;
- (iv) Anchorage against wind;
- (v) Optional features, including comfort cooling systems;
- (vi) Ductwork and plumbing and fuel supply systems;
- (vii) Electrical systems; and
- (viii) Exterior and interior close-up work;

(3) An overview of the construction and safety standards and regulations found in parts 3280 and 3282 of this chapter;

(4) Licensing requirements applicable to installers;

(5) Installer responsibilities for correction of improper installation, including installer obligations under applicable state and HUD manufactured housing dispute resolution programs;

(6) Inspection requirements and procedures;

(7) Problem-reporting mechanisms;

(8) Operational checks and adjustments; and

(9) Penalties for any person's failure to comply with the requirements of this part 3286 and parts 3285 and 3288 of this chapter.

(b) *Updating curriculum.* Qualified trainers must revise and modify course curriculum as needed to include, at a minimum, any relevant modifications to the Act or the implementing standards and regulations in this chapter, as well as to provide any training further mandated by HUD.

#### **§ 3286.309 Continuing education-trainers and curriculum.**

(a) *HUD-mandated elements.* Only qualified trainers are permitted to provide any training on particular subject areas that are required by HUD to be an element of the continuing education requirement set out in § 3286.205(b)(2) for the renewal of an installer's license. In implementing this requirement, HUD will:

(1) Establish the minimum number of hours and the required curriculum for such subject areas, according to experience with the program and changes in program requirements; and

(2) Provide information about the hours and curriculum directly to qualified trainers and licensed installers, or through general publication of the information.

(b) *Other training.* (1) The remainder of the 8 hours required to meet the continuing education requirement may be met through training provided either by qualified trainers or by any combination of the following:

(i) Accredited educational institutions, including community colleges and universities;

(ii) A provider of continuing education units who is certified by the International Association for Continuing Education and Training;

(iii) Agencies at any level of government; and

(iv) State or national professional associations.

(2) The curriculum for the remainder of the 8 hours of continuing education training must relate to any aspect of manufactured home installation or construction, or to the general fields of building construction or contracting.

#### **§ 3286.311 Suspension or revocation of trainer's qualification.**

(a) *Oversight.* The Secretary may make a continuing evaluation of the manner in which each qualified trainer is carrying out the trainer's responsibilities under this subpart D.

(b) *Suspension or revocation of qualification.* After notice and an opportunity for a presentation of views in accordance with subpart D of part 3282 of this chapter, the Secretary may suspend or revoke a trainer's qualification under this part. A trainer's qualification may be suspended or revoked for cause, which may include:

(1) Providing false records or information to HUD;

(2) Refusing to submit information required to be submitted by the Secretary in accordance with the Act;

(3) Certifying, or improperly assisting certification of, a person as having met the training requirements established in this part when that person has not completed the required training;

(4) Failing to appropriately supervise installation training that is used to meet the requirements of this part and that is provided by other persons; and

(5) Any other failures to comply with the requirements of this part.

(c) *Other criteria.* In deciding whether to suspend or revoke a trainer's qualification, the Secretary will consider the impact of the suspension or revocation on other affected parties and will seek to assure that the sales and siting of manufactured homes are not unduly disrupted.

(d) *Reinstating qualification.* A trainer whose qualification has been suspended or revoked may submit a new application to be qualified in accordance with this subpart D no

sooner than 6 months after the date of suspension or revocation. A trainer whose qualification has been suspended may also reinstate the qualification in any manner provided under the terms of the suspension.

#### **§ 3286.313 Expiration and renewal of trainer qualification.**

(a) *Expiration.* Each notice of qualification issued or renewed under this subpart D will expire 5 years after the date of its issuance or renewal.

(b) *Renewal.* An application for the renewal of a trainer qualification must be submitted to HUD in accordance with § 3286.307, and must be submitted at least 60 days before the date the trainer's term of qualification expires. Any person applying for a qualification renewal after the date the qualification expires must apply for a new qualification, following the requirements established under this subpart D for application for initial qualification as an installation trainer.

### **Subpart E—Installer Responsibilities of Installation in HUD-Administered States**

#### **§ 3286.401 Purpose.**

The purpose of this subpart E is to set out the responsibilities of the installer who is accountable for the installation of a manufactured home in compliance with the requirements of the HUD-administered installation program.

#### **§ 3286.403 Licensing requirements.**

An installer of manufactured homes must comply with the licensing requirements set forth in subpart C of this part.

#### **§ 3286.405 Installation suitability.**

(a) *Site appropriateness.* Before installing a manufactured home at any site, the installer must assure that the site is suitable for installing the home by verifying that:

- (1) The site is accessible;
- (2) The site is appropriate for the foundation or support and stabilization system that is to be used to install the home in accordance with the federal installation standards or alternative requirements in part 3285 of this chapter;

(3) The data plate required by § 3280.5 of this chapter is affixed to the home, that the home is designed for the roof load, wind load, and thermal zones that are applicable to the intended site; and

(4) The installation site is protected from surface run-off and can be graded in accordance with part 3285.

(b) *Installer notification of unsuitable site.* If the installer determines that the

home cannot be installed properly at the site, the installer must:

(1) Notify the purchaser or other person with whom the installer contracted for the installation work, identifying the reasons why the site is unsuitable;

(2) Notify the retailer that contracted with the purchaser for the sale of the home, identifying the reasons why the site is unsuitable;

(3) Notify HUD, identifying the reasons why the site is unsuitable;

(4) Decline to install the home until the site and the home are both verified by the installer as suitable for the site under this section; and

(5) Ensure that all unique characteristics of the site have been fully addressed.

(c) *Installer notification of failures to comply with the construction and safety standards.* If the installer notices and recognizes failures to comply with the construction and safety standards in part 3280 of this chapter prior to beginning any installation work, during the course of the installation work, or after the installation work is complete, the installer must notify the manufacturer and retailer of each failure to comply.

(d) *Retailer notification.* The retailer must provide a copy of the notification received in paragraphs (b) and (c) of this section to any subsequent installer.

#### § 3286.407 Supervising work of crew.

The installer will be responsible for the work performed by each person engaged to perform installation tasks on a manufactured home, in accordance with the HUD-administered installation program.

#### § 3286.409 Obtaining inspection.

(a) *Inspection obligations.* Ten business days prior to the completion of installation, the installer must arrange for a third-party inspection of the work performed, in accordance with subpart F of this part, unless the installer and retailer who contracted with the purchaser for the sale of the home agree, in writing, that during the same time period the retailer will arrange for the inspection. Such inspection must be performed as soon as practicable by an inspector who meets the qualifications set forth in § 3286.511. The scope of the inspections that are required to be performed is addressed in § 3286.505.

(b) *Contract rights not affected.* Failure to arrange for an inspection of a home within 5 business days will not affect the validity or enforceability of any sale or contract for the sale of any manufactured home.

(c) *State or local permits.* The licensed installer should obtain all

necessary permits required under state or local laws.

#### § 3286.411 Certifying installation.

(a) *Certification required.* When the installation work is complete, a licensed installer must visit the jobsite and certify that:

(1) The manufactured home has been 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) The installation of the home has been inspected as required by § 3286.503, and an inspector has verified the installation as meeting the requirements of this part.

(3) All installation defects brought to the installer's attention have been corrected.

(b) *Recipients of certification.* The installer must provide a signed copy of its certification to the retailer that contracted with the purchaser or lessee for the sale or lease of the home, and to the purchaser or other person with whom the installer contracted for the installation work.

#### § 3286.413 Recordkeeping.

(a) *Records to be retained.* The installer must retain:

(1) A record of the name and address of the purchaser or other person with whom the installer contracted for the installation work and the address of the home installed;

(2) A copy of the contract pursuant to which the installer performed the installation work;

(3) A copy of any notice from an inspector disapproving the installation work;

(4) A copy of the qualified inspector's verification of the installation work;

(5) A copy of the installer's certification of completion of installation in accordance with the requirements of this part; and

(6) A copy of foundation designs used to install the home, if different from the designs provided by the manufacturer, including evidence that the foundation designs and instructions were certified by a professional engineer or registered architect, including the name, address,

and telephone number of the professional engineer or architect certifying the designs.

(b) Retention requirement. The records listed in paragraph (a) of this section must be maintained for a period of 3 years after the installer certifies completion of installation.

### Subpart F—Inspection of Installations in HUD-Administered States

#### § 3286.501 Purpose.

The purpose of this subpart F is to provide additional detail about the inspection that must be performed by a qualified third-party inspector before the installation of a manufactured home may be verified by the inspector and certified by the installer under the HUD-administered installation program.

#### § 3286.503 Inspection required.

(a) *Timing of requirements.* Ten business days prior to the completion of the installation of each manufactured home, the installer must arrange for a third-party inspection of the work performed, unless the installer and retailer who contracted with the purchaser for the sale of the home agree, in writing, that during the same time period the retailer will arrange for the inspection. Such inspection must be performed as soon as practicable by an inspector that meets the qualifications set out in § 3286.511. The scope of the inspections that are required to be performed is addressed in § 3286.505.

(b) *Disclosure of requirement.* At the time of sale, the retailer must disclose to the purchaser, in a manner provided in § 3286.7, that the manufactured home must be installed in accordance with applicable federal and state law, including requirements for a third-party inspection of the installation. If the cost of inspection of the home's installation is not included in the sales price of the home, the sales contract must include a clear disclosure about whether the purchaser will be charged separately for the inspection of the home's installation and the amount of such charge.

(c) *Providing instructions to inspectors.* Installation instructions must be made available to the inspector at the installation site by the installer.

#### § 3286.505 Minimum elements to be inspected.

The installation of every manufactured home that is subject to the HUD-administered installation program is required to be inspected for each of the installation elements included in a checklist. The checklist must include assurance that each of the following elements complies with the

requirements of part 3285 of this chapter:

(a) Site location with respect to home design and construction;

(b) Consideration of site-specific conditions;

(c) Site preparation and grading for drainage;

(d) Foundation construction;

(e) Anchorage;

(f) Installation of optional features;

(g) Completion of ductwork, plumbing, and fuel supply systems;

(h) Electrical systems;

(i) Exterior and interior close-up;

(j) Skirting, if installed; and

(k) Completion of operational checks and adjustments.

#### § 3286.507 Verifying installation.

(a) *Verification by inspector.* When an inspector is satisfied that the manufactured home has been installed in accordance with the requirements of this part, the inspector must provide verification of the installation in writing and return the evidence of such verification to the installer.

(b) *Certification by installer.* (1) Once an installation has been inspected and verified, the installer is permitted to certify the installation as provided in § 3286.111. The installer must provide a signed copy of the certification to:

(i) The retailer that contracted with the purchaser for the sale of the home;

(ii) The purchaser; and

(iii) Any other person that contracted to obtain the services of the installer for the installation work on the home.

(2) The installer must retain records in accordance with § 3286.413.

#### § 3286.509 Reinspection upon failure to pass.

(a) *Procedures for failed inspection.* If the inspector cannot verify the installation of the manufactured home, the inspector must immediately notify the installer of any failures to comply with the installation standards and explain the reasons why the inspector cannot issue verification that the installation complies with the requirements of this part. After the installation is corrected, it must be reinspected before verification can be issued.

(b) *Cost of reinspection.* If there is any cost for the reinspection of an installation that an inspector has refused to verify, that cost must be paid by the installer or the retailer and, absent a written agreement with the purchaser that specifically states otherwise, that cost cannot be charged to the purchaser of the manufactured home.

#### § 3286.511 Inspector qualifications.

(a) *Qualifications.* Any individual or entity who meets at least one of the following qualifications is permitted to review the work and verify the installation of a manufactured home that is subject to the requirements of the HUD-administered installation program:

(1) A manufactured home or residential building inspector employed by the local authority having jurisdiction over the site of the home, provided that the jurisdiction has a residential code enforcement program;

(2) A professional engineer;

(3) A registered architect;

(4) A HUD-accepted Production Inspection Primary Inspection Agency (PIPA) or a Design Approval Primary Inspection Agency (DAPIA); or

(5) An International Code Council certified inspector.

(b) *Independence required.* The inspector must be independent of the manufacturer, the retailer, the installer, and any other person that has a monetary interest, other than collection of an inspection fee, in the completion of the sale of the home to the purchaser.

(c) *Suspension or revocation of inspection authority.* After notice and an opportunity for a presentation of views in accordance with subpart D of part 3282 of this chapter, the Secretary may suspend or revoke an inspector's authority to inspect manufactured home installations under this part in HUD-administered states. An inspector's authority may be suspended or revoked for cause. In deciding whether to suspend or revoke an inspector's authority to conduct such installation inspections, the Secretary will consider the impact of the suspension or revocation on other affected parties and will seek to assure that the sales and siting of manufactured homes are not unduly disrupted.

(d) *Reinstating inspection authority.* An inspector whose authority to inspect manufactured home installations in HUD-administered states has been suspended or revoked under this section may apply for reauthorization by contacting: 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.

#### Subpart G—Retailer Responsibilities in HUD-Administered States

##### § 3286.601 Purpose.

The purpose of this subpart G is to set out the requirements that apply to a retailer with respect to the federal installation requirements applicable to new manufactured homes that the retailer sells or leases and that will be installed in states that do not have qualifying installation programs. These requirements are in addition to other requirements that apply to retailers of manufactured homes pursuant to other parts of this chapter.

##### § 3286.603 At or before sale.

(a) *Before contract.* (1) The retailer is required to support each transportable section of a manufactured home that is temporarily or permanently located on a site used by a retailer in accordance with the manufacturer's instructions.

(2) Before a purchaser or lessee signs a contract of sale or lease for a manufactured home, the retailer must:

(i) Provide the purchaser or lessee with a copy of the consumer disclosure statement required in § 3286.7(b); and

(ii) Verify that the wind, thermal, and roof load zones of the home being purchased or leased are appropriate for the site where the purchaser or lessee plans to install the home for occupancy; and

(iii) If the cost of inspection of the home's installation is not included in the sales price of the home, provide the disclosure required in § 3286.7(b).

(b) *Occupancy site not known.* When at the time of purchase the purchaser does not know the locale for the initial siting of the home for occupancy, the retailer must advise the purchaser that:

(1) The home was designed and constructed for specific wind, thermal, and roof load zones; and

(2) If the home is sited in a different zone, the home may not pass the required installation inspection because the home will have been installed in a manner that would take it out of compliance with the construction and safety standards in part 3280 of this chapter.

(c) *Verification of installer license.* 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 verify that the installer is licensed in accordance with these regulations.

##### § 3286.605 After sale.

(a) *Tracking installation information.* The retailer is responsible for providing to HUD the information required pursuant to § 3286.113.

(b) *Other tracking and compliance requirements.* The retailer continues to be responsible for compliance with the tracking and compliance requirements set out in subpart F of part 3282 of this chapter, which are related to HUD construction and safety standards.

#### **§ 3286.607 Recordkeeping.**

The retailer is responsible for the reporting and recordkeeping requirements under § 3286.113.

### **Subpart H—Oversight and Enforcement in HUD-Administered States**

#### **§ 3286.701 Purpose.**

The purpose of this subpart H is to set out the mechanisms by which manufacturers, retailers, distributors, installers, and installation inspectors will be held accountable for assuring the appropriate installation of manufactured homes. The requirements in subpart A of this part are applicable in all states, the requirements in subparts B through H are applicable in states where the HUD-administered installation program operates, and the requirements in subpart I are applicable in states with qualifying installation programs. It is the policy of the Secretary, regarding manufactured home installation program enforcement matters, to cooperate with state or local agencies having authority to regulate the installation of manufactured homes. In addition to actions expressly recognized under this subpart H and other provisions in this part, however, HUD may take any actions authorized by the Act in order to oversee the system established by the regulations in this part.

#### **§ 3286.703 Failure to comply.**

(a) *Penalties and injunctive relief.* Failure to comply with the requirements of this part is a prohibited act under section 610(a)(7) of the Act, 42 U.S.C. 5409(a). Any person who fails to comply with the requirements of this part is subject to civil and criminal penalties, and to actions for injunctive relief, in accordance with sections 611 and 612 of the Act, 42 U.S.C. 5410 and 5411.

(b) *Presentation of views.* When practicable, the Secretary will provide notice to any person against whom an action for injunctive relief is contemplated and will afford such person an opportunity to request a presentation of views. The procedures set forth in §§ 3282.152 through 3282.154 of this chapter shall apply to each request to present views and to each presentation of views authorized in accordance with this section.

(c) *Investigations.* The procedures for investigations and investigational proceedings are set forth in part 3800 of this chapter.

#### **§ 3286.705 Applicability of dispute resolution program.**

(a) *Generally.* Regardless of any action taken under § 3286.703, for any defect in a manufactured home that is reported during the one-year period beginning on the date of installation, as specified in § 3286.115, any rights and remedies available under the HUD dispute resolution program, as implemented in part 3288 of this chapter, continue to apply as provided in that part.

(b) *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 HUD or a state dispute resolution program is void.

### **Subpart I—State Programs**

#### **§ 3286.801 Purpose.**

The purpose of this subpart I is to establish the requirements that must be met by a state to implement and administer its own installation program, either as part of its approved state plan or under this subpart, in such a way that the state would not be covered by the HUD-administered installation program. This subpart I also establishes the procedure for determining whether a state installation program meets the requirements of the Act for a qualifying installation program that will operate in lieu of the HUD-administered installation program.

#### **§ 3286.803 State qualifying installation programs.**

(a) *Qualifying installation program supersedes.* The HUD-administered installation program will not be implemented in any state that is identified as fully or conditionally accepted under the requirements and procedures of this subpart I or in accordance with part 3282 of this chapter.

(b) *Minimum elements.* To be accepted as a fully qualifying installation program, a state installation program must include the following elements:

(1) Installation standards that meet or exceed the requirements of § 3286.107(a) and that apply to every initial installation of a new manufactured home within the state;

(2) The training of manufactured home installers;

(3) The licensing of, or other method of certifying or approving, manufactured home installers to perform the initial

installations of new manufactured homes in the state;

(4) A method for inspecting the initial installations of new manufactured homes in the state that is implemented and used to hold installers responsible for the work they perform; and

(5) Provision of adequate funding and personnel to administer the state installation program.

(c) *Conditional acceptance.* (1) A state installation program that meets the minimum requirements set forth under paragraphs (b)(1), (4), and (5) of this section may be conditionally accepted by the Secretary if the state provides assurances deemed adequate by the Secretary that the state is moving to meet all of the requirements for full acceptance. If the Secretary conditionally accepts a state's installation program, the Secretary will provide to the state an explanation of what is necessary to obtain full acceptance.

(2) A conditionally accepted state will be permitted to implement its own installation program in lieu of the HUD-administered program for a period of not more than 3 years. The Secretary may for good cause grant an extension of conditional approval upon petition by the state.

(d) *Limited exemptions from requirements.* A state installation program may be accepted by the Secretary as a qualifying installation program if the state can demonstrate that it lacks legal authority, as a matter of federal law, to impose the minimum requirements set forth under paragraph (b) of this section in certain geographic areas of the state, but that the minimum requirements do apply in all other geographic areas of the state.

#### **§ 3286.805 Procedures for identification as qualified installation program.**

(a) *Submission of certification.* (1) A state seeking identification as having a qualified installation program must submit a completed State Installation Program Certification form to the Secretary for review and acceptance and indicate if the installation program will be part of its approved state plan in accordance with part 3282 of this chapter.

(2) A state must include a qualified installation program as part of any state plan application submitted for approval under § 3282.302 of this chapter, if the state does not have a fully or conditionally approved state plan in effect at the time of submission of the state plan application. In all other cases, a qualified installation program is permitted, but is not required, to be submitted as a part of a state plan

approved in accordance with § 3282.305 of this chapter.

(b) *HUD review and action.* (1) The Secretary will review the State Installation Program Certification form submitted by a state and may request that the state submit additional information as necessary. Unless the Secretary has contacted the state for additional information or has conditionally accepted or rejected the state installation program, the state installation program will be considered to have been accepted by the Secretary as a fully qualifying installation program as of the earlier of:

(i) Ninety days after the Secretary receives the state's completed State Installation Program Certification form; or

(ii) The date that the Secretary issues notification to the state of its full acceptance.

(2) A notice of full or conditional acceptance will include the effective date of acceptance.

(c) *Rejection of state installation program.* (1) If the Secretary intends to reject a state's installation program, the Secretary will provide to the state an explanation of what is necessary to obtain full or conditional acceptance. The state will be given 90 days from the date the Secretary provides such explanation to submit a revised State Installation Program Certification form.

(2) If the Secretary decides that any revised State Installation Program Certification form is inadequate, or if the state fails to submit a revised form within the 90-day period or otherwise indicates that it does not intend to change its form, the Secretary will notify the state that its installation program is not accepted.

(3) A state whose State Installation Program Certification form is rejected has a right to a presentation of views on the rejection using the procedures set forth under subpart D of part 3282 of this chapter. The state's request for a presentation of views must be submitted to the Secretary within 60 days after the Secretary has provided notification that the state's installation program has been rejected.

#### **§ 3286.807 Recertification required.**

(a) *Recertification.* To maintain its status as a qualified installation program when the installation program is not part of the approved state plan in accordance with part 3282 of this chapter, a state must submit a new State Installation Program Certification form to the Secretary for review and action as follows:

(1) Every 5 years after the state's most recent certification as a qualified installation program; and

(2) Whenever there is a change to the state's installation program or a change in the HUD requirements applicable to qualifying installation programs such that the state's installation program no longer complies with the minimum requirements set forth in § 3286.803(b), regardless of when the state's next regular recertification of its installation program would be due.

(b) *Due date of recertification.* (1) A state's recertification required in paragraph (a) of this section must be filed within 90 days of, as applicable:

(i) The 5-year anniversary of the effective date of the Secretary's acceptance of the state's most recent certification as a qualified installation program; and

(ii) The effective date of the state or HUD action that makes a significant change to the state's installation program.

(2) Upon petition by the state, the Secretary may for good cause grant an extension of the deadline for recertification.

(c) *Failure to Recertify.* (1) A state whose certification of its installation program, when the installation program is not part of the approved state plan in accordance with part 3282 of this chapter, has been accepted by the Secretary is permitted to administer its installation program in lieu of the HUD-administered installation program until the effective date of a notification by the Secretary that the state's certification of its installation program is no longer approved.

(2) A state whose recertification of its installation program is rejected by the Secretary has a right to a presentation of views on the rejection using the procedures set forth under subpart D of part 3282 of this chapter. The state's request for a presentation of views must be submitted to the Secretary within 60 days after the Secretary has provided notification that the state's recertification of its installation program has been rejected.

#### **§ 3286.809 Withdrawal of qualifying installation program status.**

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

(b) *Involuntary withdrawal.* Whenever the Secretary finds, after affording notice and an opportunity for a hearing

in accordance with subpart D of part 3282 of this chapter, that a state installation program fails to comply substantially with any provision of the installation program requirements or that the state program has become inadequate, the Secretary will notify the state of withdrawal of acceptance or conditional acceptance of the state installation program. The HUD-administered installation program will begin to operate in such state at such time as the Secretary establishes in issuing the finding.

#### **§ 3286.811 Effect on other manufactured housing program requirements.**

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

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

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

#### **§ 3286.813 Inclusion in state plan.**

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

Dated: June 5, 2008.

**Brian D. Montgomery,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

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