

follows: “The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal manufactured home construction and safety standards. Each such Federal manufactured home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to manufactured home safety and construction.”

Subsec. (b). Pub. L. 106-569, §604(1), added subsec. (b) and struck out former subsec. (b) which read as follows: “All orders issued under this section shall be issued after notice and an opportunity for interested persons to participate are provided in accordance with the provisions of section 553 of title 5.”

Subsec. (d). Pub. L. 106-569, §604(2), inserted at end “Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter. Subject to section 5404 of this title, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this chapter and shall be consistent with the design of the manufacturer.”

Subsec. (e). Pub. L. 106-569, §604(3), (4), redesignated subsec. (f) as (e), inserted heading, substituted “The consensus committee, in recommending standards, regulations, and interpretations, and the Secretary, in establishing standards or regulations or issuing interpretations under this section, shall—” for “In establishing standards under this section, the Secretary shall—” in introductory provisions, and struck out former subsec. (e) which read as follows: “The Secretary may by order amend or revoke any Federal manufactured home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later date is in the public interest, and publishes his reasons for such finding.”

Subsec. (f). Pub. L. 106-569, §604(7), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 106-569, §604(5), (7), redesignated subsec. (i) as (g) and struck out former subsec. (g) which read as follows: “The Secretary shall issue an order establishing initial Federal manufactured home construction and safety standards not later than one year after August 22, 1974.”

Subsec. (h). Pub. L. 106-569, §604(7), redesignated subsec. (j) as (h). Former subsec. (h) redesignated (f).

Subsec. (i). Pub. L. 106-569, §604(7), redesignated subsec. (i) as (g).

Subsec. (j). Pub. L. 106-569, §604(6), (7), substituted “subsection (e) of this section” for “subsection (f) of this section” and redesignated subsec. (j) as (h).

1992—Subsec. (j). Pub. L. 102-550 added subsec. (j).

1988—Subsec. (i). Pub. L. 100-242 added subsec. (i).

1984—Subsec. (e). Pub. L. 98-479 substituted “that” for “than” before “an earlier or later date”.

1980—Subsecs. (a), (c) to (g). Pub. L. 96-399 substituted “manufactured home” for “mobile home” wherever appearing.

1977—Subsec. (h). Pub. L. 95-128 added subsec. (h).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EXCEPTION TO FEDERAL PREEMPTION FOR THERMAL INSULATION AND ENERGY EFFICIENCY STANDARDS

Pub. L. 102-486, title I, §104(c), Oct. 24, 1992, 106 Stat. 2792, provided that: “If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act [Oct. 24, 1992], final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled ‘Energy Efficient Design of Low-Rise Residential Buildings’ and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act.”

§ 5404. Manufactured home installation

(a) Provision of installation design and instructions

A manufacturer shall provide with each manufactured home, design and instructions for the installation of the manufactured home that have been approved by a design approval primary inspection agency. After establishment of model standards under subsection (b)(2) of this section, a design approval primary inspection agency may not give such approval unless a design and instruction provides equal or greater protection than the protection provided under such model standards.

(b) Model manufactured home installation standards

(1) Proposed model standards

Not later than 18 months after the date on which the initial appointments of all the members of the consensus committee are completed, the consensus committee shall develop and submit to the Secretary proposed model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a) of this section.

(2) Establishment of model standards

Not later than 12 months after receiving the proposed model standards submitted under paragraph (1), the Secretary shall develop and establish model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a) of this section.

(3) Factors for consideration**(A) Consensus committee**

In developing the proposed model standards under paragraph (1), the consensus committee shall consider the factors described in section 5403(e) of this title.

(B) Secretary

In developing and establishing the model standards under paragraph (2), the Secretary shall consider the factors described in section 5403(e) of this title.

(4) Issuance

The model manufactured home installation standards shall be issued after notice and an opportunity for public comment in accordance with section 553 of title 5.

(c) Manufactured home installation programs**(1) Protection of manufactured housing residents during initial period**

During the 5-year period beginning on December 27, 2000, no State or manufacturer may establish or implement any installation standards that, in the determination of the Secretary, provide less protection to the residents of manufactured homes than the protection provided by the installation standards in effect with respect to the State or manufacturer, as applicable, on December 27, 2000.

(2) Installation standards**(A) Establishment of installation program**

Not later than the expiration of the 5-year period described in paragraph (1), the Secretary shall establish an installation program that meets the requirements of paragraph (3) for the enforcement of installation standards in each State described in subparagraph (B) of this paragraph.

(B) Implementation of installation program

Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the installation program established under subparagraph (A) in each State that does not have an installation program established by State law that meets the requirements of paragraph (3).

(C) Contracting out of implementation

In carrying out subparagraph (B), the Secretary may contract with an appropriate agent to implement the installation program established under that subparagraph, except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this chapter.

(3) Requirements

An installation program meets the requirements of this paragraph if it is a program regulating the installation of manufactured homes that includes—

(A) installation standards that, in the determination of the Secretary, provide protection to the residents of manufactured homes that equals or exceeds the protection provided to those residents by—

(i) the model manufactured home installation standards established by the Secretary under subsection (b)(2) of this section; or

(ii) the designs and instructions provided by manufacturers under subsection (a) of this section, if the Secretary determines that such designs and instructions provide protection to the residents of manufactured homes that equals or exceeds the protection provided by the model manufactured home installation standards established by the Secretary under subsection (b)(2) of this section;

(B) the training and licensing of manufactured home installers; and

(C) inspection of the installation of manufactured homes.

(Pub. L. 93-383, title VI, §605, Aug. 22, 1974, 88 Stat. 702; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §605(a), Dec. 27, 2000, 114 Stat. 3006.)

AMENDMENTS

2000—Pub. L. 106-569 amended section catchline and text generally, substituting provisions relating to manufactured home installation for provisions relating to National Manufactured Home Advisory Council.

1980—Subsecs. (a) to (c). Pub. L. 96-399 substituted “Manufactured Home” for “Mobile Home” and “manufactured home” for “mobile home” wherever appearing.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

§5405. Judicial review of orders establishing standards; petition; additional evidence before Secretary; certified copy of transcript

(a)(1) In a case of actual controversy as to the validity of any order under section 5403 of this title, any person who may be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings