

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.

§ 5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties

(a) Authority of Secretary; results furnished to Attorney General and Secretary of the Treasury for appropriate action

The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal manufactured home construction and safety standards established under this chapter or otherwise to carry out his duties under this chapter. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b) Designation by Secretary of persons to enter and inspect factories, etc.; presentation of credentials; reasonableness and scope of inspection

(1) For purposes of enforcement of this chapter, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held, for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c) of this section. Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private inspection organizations to carry out his functions under this subsection.

(c) Powers of Secretary

For the purpose of carrying out the provisions of this chapter, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the Secretary or such officer or employee deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this chapter;

(3) to require, by general or special orders, any person to file, in such form as the Sec-

retary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe;

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this chapter, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to detail, on a reimbursable basis, any personnel of such agency to assist in carrying out the duties of the Secretary under this chapter; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to manufactured home construction or safety or of the failure of a manufactured home to comply with applicable manufactured home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist in carrying out this chapter; but he shall not (under the authority of this sentence) make available or disclosure to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purpose of this chapter.

(d) Refusal to obey subpoena or order of Secretary; order of compliance by district court; failure to obey order of compliance punishable as contempt

Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Submission by manufacturer of building plans for manufactured homes; certification by manufacturer of conformity of building plans to standards

Each manufacturer of manufactured homes shall submit the building plans for every model of such manufactured homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at that time before the model involved is produced.

(f) Records, reports and information from manufacturers, distributors and retailers of manufactured homes; inspection and examination of relevant books, papers, records and documents by designated person

Each manufacturer, distributor, and retailer of manufactured homes shall establish and

maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this chapter and Federal manufactured home construction and safety standards prescribed pursuant to this chapter and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this chapter and manufactured home construction and safety standards prescribed pursuant to this chapter.

(g) Performance and technical data from manufacturer; persons required to receive notification of data

Each manufacturer of manufactured homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this chapter. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give notification of such performance and technical data to—

(1) each prospective purchaser of a manufactured home before its first sale for purposes other than resale, at each location where any such manufacturer's manufactured homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a manufactured home for purposes other than resale, at the time of such purchase or in printed matter placed in the manufactured home.

(h) Disclosure of confidential information and trade secrets

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b), (c), (f), or (g) of this section which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(Pub. L. 93-383, title VI, §614, Aug. 22, 1974, 88 Stat. 707; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97-35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106-569, title VI, §603(b)(2), Dec. 27, 2000, 114 Stat. 2999.)

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96-399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97-35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (f). Pub. L. 106-569 substituted "retailer" for "dealer" wherever appearing.

1980—Subsecs. (a), (c)(5), (f), (g). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

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§ 5414. Notification and correction of defects by manufacturer

(a) Notice to purchaser within reasonable time after discovery of defect

Every manufacturer of manufactured homes shall furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a Federal manufactured home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect.

(b) Notification by mail

The notification required by subsection (a) of this section shall be accomplished—

(1) by mail to the first purchaser (not including any retailer or distributor of such manufacturer) of the manufactured home containing the defect, and to any subsequent purchaser to whom any warranty on such manufactured home has been transferred;

(2) by mail to any other person who is a registered owner of such manufactured home and whose name and address has been ascertained pursuant to procedures established under subsection (f) of this section; and

(3) by mail or other more expeditious means to the retailer or retailers of such manufacturer to whom such manufactured home was delivered.

(c) Form and requisites of notification

The notification required by subsection (a) of this section shall contain a clear description of such defect or failure to comply, an evaluation of the risk to manufactured home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or