

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.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, 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 as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon

certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this chapter, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

(Pub. L. 93-383, title VI, § 606, Aug. 22, 1974, 88 Stat. 702.)

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§ 5406. Submission of cost or other information by manufacturer

(a) Purpose of submission; detail of information

Whenever any manufacturer is opposed to any action of the Secretary under section 5403 of this title or under any other provision of this chapter on the grounds of increased cost or for other reasons, the manufacturer shall submit to the Secretary such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement. The Secretary shall submit such cost and other information to the consensus committee for evaluation.

(b) Conditions upon availability to public of submitted information

Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret or that disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except that any 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 subsection 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.

(c) “Cost information” defined

For purposes of this section, “cost information” means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public, the consensus committee, and the Secretary to make an informed judgment on the validity of the manufacturer’s statements. Such term includes both the manufacturer’s cost and the cost to retail purchasers.

(d) Power of Secretary to obtain or require submission of information under other provisions unaffected

Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this chapter.

(Pub. L. 93-383, title VI, §607, Aug. 22, 1974, 88 Stat. 703; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §606, Dec. 27, 2000, 114 Stat. 3009.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-569, §606(1), inserted “to the Secretary” after “manufacturer shall submit” and inserted at end “The Secretary shall submit such cost and other information to the consensus committee for evaluation.”

Subsec. (c). Pub. L. 106-569, §606(3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “If the Secretary proposes to establish, amend, or revoke a Federal manufactured home construction and safety standard under section 5403 of this title on the basis of information submitted pursuant to subsection (a) of this section, he shall publish a notice of such proposed action, together with the reasons therefor, in the Federal Register at least thirty days in advance of making a final determination, in order to allow interested parties an opportunity to comment.”

Subsec. (d). Pub. L. 106-569, §606(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 106-569, §606(2), inserted “, the consensus committee,” after “permit the public”.

Subsec. (e). Pub. L. 106-569, §606(3), redesignated subsec. (e) as (d).

1980—Subsec. (c). Pub. L. 96-399 substituted “manufactured home” for “mobile home”.

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.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§ 5407. Research, testing, development, and training by Secretary**(a) Scope**

The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

- (1) collecting data from any source for the purpose of determining the relationship between manufactured home performance characteristics and (A) accidents involving manufactured homes, and (B) the occurrence of

death, personal injury, or damage resulting from such accidents;

- (2) procuring (by negotiation or otherwise) experimental and other manufactured homes for research and testing purposes;

- (3) selling or otherwise disposing of test manufactured homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this chapter;

- (4) encouraging the government-sponsored housing entities to actively develop and implement secondary market securitization programs for the FHA manufactured home loans and those of other loan programs, as appropriate, thereby promoting the availability of affordable manufactured homes to increase homeownership for all people in the United States; and

- (5) reviewing the programs for FHA manufactured home loans and developing any changes to such programs to promote the affordability of manufactured homes, including changes in loan terms, amortization periods, regulations, and procedures.

(b) Contracts and grants with States, interstate agencies, and independent institutions

The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by contracting for or making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions.

(c) Definitions

For purposes of this section, the following definitions shall apply:

(1) Government-sponsored housing entities

The term “government-sponsored housing entities” means the Government National Mortgage Association of the Department of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(2) FHA manufactured home loan

The term “FHA manufactured home loan” means a loan that—

- (A) is insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.] and is made for the purpose of financing alterations, repairs, or improvements on or in connection with an existing manufactured home, the purchase of a manufactured home, the purchase of a manufactured home and a lot on which to place the home, or the purchase only of a lot on which to place a manufactured home; or

- (B) is otherwise insured under the National Housing Act [12 U.S.C. 1701 et seq.] and made for or in connection with a manufactured home.

(Pub. L. 93-383, title VI, §608, Aug. 22, 1974, 88 Stat. 704; 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, §607, Dec. 27, 2000, 114 Stat. 3009.)