



24 CFR Parts 3280, 3282 and 3285

[Docket No. FR-6149-F-04]

RIN 2502-AJ49

Manufactured Home Construction and Safety Standards; Delay of Effective Date

AGENCY: Office of the Assistant Secretary for Housing – Federal Housing Commissioner, HUD.

ACTION: Final rule; delay of effective date.

SUMMARY: The Department of Housing and Urban Development is delaying the effective date of its final rule published on January 12, 2021, that amends the Federal Manufactured Home Construction and Safety Standards (the Construction and Safety Standards) that were based upon the third group of recommendations made to HUD by the Manufactured Housing Consensus Committee (MHCC), as modified by HUD. The March 15, 2021, effective date does not provide adequate time for affected manufacturers and stakeholders to implement the new requirements. By extending the effective date from March 15, 2021, to July 12, 2021, manufacturers and other stakeholders will have sufficient time to implement the new or amended requirements.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] the effective date of the final rule amending 24 CFR parts 3280, 3282, and 3285, published January 12, 2021 at 86 FR 2496, is delayed until July 12, 2021.

As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] the March 15, 2021 incorporation by reference approval published in the January 12, 2021 rule at 86 FR 2496 is delayed to July 12, 2021.

FOR FURTHER INFORMATION CONTACT: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street, SW, Room 9166, Washington, DC 20410-8000; telephone number 202-402-2698 (this is not a toll-free number). For hearing and speech-impaired persons, this number may be accessed

via TTY by calling the toll-free Federal Relay Service at 1-800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401-5426) (the Act), authorizes HUD to establish and amend the Federal Manufactured Home Construction and Safety Standards (the Construction and Safety Standards) codified at 24 CFR part 3280. The Manufactured Housing Improvement Act of 2000 (Pub. L. 106-569, approved December 27, 2000), established the Manufactured Housing Consensus Committee (MHCC) to provide HUD recommendations to adopt, revise, and interpret the Construction and Safety Standards. HUD's Construction and Safety Standards apply to the design, construction, and installation of new manufactured homes.

Following MHCC's third set of recommendations made to HUD, and HUD's review of, editorial revisions to, and addition of proposals to the MHCC's recommendations, HUD published a proposed rule on January 31, 2020 (85 FR 5589). Most commenters on the proposed rule expressed general support for the proposed revisions as part of HUD's effort to update the Construction and Safety Standards, and several commenters provided technical and substantive recommendations. Following HUD's consideration of public comments on the proposed rule, and consideration of HUD's experience with the program, HUD published a final rule on January 12, 2021 (86 FR 2496). The final rule revises certain sections of the Construction and Safety Standards, incorporates six reference standards, and makes minor technical edits to the Construction and Safety Standards. The amendments to the codified regulations reinforce the Act's purposes, namely to provide benefits to consumers, homeowners, and the broader community; promote and improve consumer and home safety, such as by improving smoke and carbon monoxide alarm requirements; reduce regulatory barriers and expand consumer options;

and allow the use of the latest building technologies and materials while creating more consistency with State-adopted residential building codes.

II. This Final Rule

HUD's January 12, 2021, final rule has a March 15, 2021, effective date. This final rule delays the March 15, 2021, effective date by 120 days to July 12, 2021, to provide sufficient time for affected stakeholders and manufacturers to implement the new and amended requirements.

HUD recognizes that, as the result of the COVID-19 pandemic, many manufacturers are experiencing backlogs and supply chain challenges that make it difficult for manufacturers to obtain products that the new regulations require in a timely manner.¹ Industry stakeholders stated that these shortages have made it difficult for manufactures to obtain carbon monoxide alarms, combination carbon monoxide and smoke alarms, doors, railings, and other products required to meet the January 12, 2021 regulation. Industry stakeholders have also expressed to HUD a desire for additional time to implement and modify processes to ensure compliance with the new regulation. For example, stakeholders have pointed out that the changes will require consultation with Design Approval Primary Inspection Agencies (DAPIAs) and drafting teams which take additional time.

In response to these concerns, HUD is publishing this final rule to delay the March 15, 2021 effective date to July 12, 2021, to provide additional time for affected stakeholders and manufacturers to implement the new and amended requirements.

III. Justification for Final Rulemaking for the Delay of Effective Date

Section 553(b)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)) permits agencies to omit prior notice and comment procedure when an agency for "good cause" finds such procedure to be "impracticable, unnecessary, or contrary to the public interest."

¹ *Manufactured Housing Landscape 2020*, FANNIE MAE (May 21, 2020) <https://multifamily.fanniemae.com/news-insights/multifamily-market-commentary/manufactured-housing-landscape-2020>.

HUD's regulation on rulemaking at 24 CFR 10.1 implements the APA's requirements for HUD, including the "good cause" exception.

HUD finds that prior public notice and comment for this final rule is contrary to the public interest. This final rule extends the effective date for the Manufactured Home Construction and Safety Standards final rule for 120 days, from March 15, 2021, to July 12, 2021. It does not signal any revision of the requirements included in the January 12, 2021, final rule. All revisions to the Manufactured Home Construction and Safety Standards codified by the January 12, 2021, final rule will still be implemented without change.

Without this extension, manufacturers would be hard pressed to implement and meet new requirements that were scheduled to take effect on March 15, 2021. The inability to meet the March 15, 2021, effective date is largely a result of the COVID-19 pandemic and its disruption of economic activity in the United States, including backlogs and supply chain disruptions within the manufactured housing industry, making compliance by March 15, 2021 unlikely if not impossible. Manufacturers and stakeholders expressed this concern to HUD and asked for additional time to implement and modify processes to ensure compliance with new regulations. Delaying the effective date of the final rule will allow manufacturers and program stakeholders the additional time needed to obtain the products and implement the procedures required to comply with new or amended requirements. For these reasons, HUD finds that there is good cause to issue this final rule without additional public comment.

IV. Findings and Certifications

Regulatory Review - Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and

to modify, streamline, expand, or repeal them in accordance with what has been learned.”

Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

This rule has been determined not to be a “significant regulatory action” as defined in section 3(f) of the Executive order and therefore was not reviewed by OMB. The Office of Information and Regulatory Affairs (OIRA) has designated this rule not as a major rule under the Congressional Review Act (5 U.S.C. 801 et seq.).

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA), an agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this final rule have been approved by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0253.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This rule will not impose any Federal mandates on any state, local, or tribal government or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Review

A Finding of No Significant Impact with respect to the environment was made prior to publication of the proposed rule, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact remains applicable, and is available for public

inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. The Finding of No Significant Impact will also be available for review in the docket for this rule on [Regulations.gov](https://www.regulations.gov).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. HUD has determined that this final rule imposes no additional requirements, and does not have a significant economic impact, on a substantial number of small entities. Of the 222 firms primarily engaged in manufacturing manufactured homes, under the NAICS definition (NAICS 32991), approximately 35 produce manufactured homes subject to HUD's Manufactured Home Construction and Safety Standards. Of these firms, 31 are considered to be small businesses based on the U.S. Small Business Administration's threshold of 1,250 employees or less. The final rule applies to all the manufacturers and thus would affect a substantial number of small entities. However, this final rule provides all manufacturers, including small manufacturers, more time to implement revisions to the Construction and Safety Standards contained in HUD's January 12, 2021 final rule, but does not itself update or amend the Standards. As a result, this rule does not place any additional costs on any manufactured home manufacturers subject to the January 12, 2021, final rule. Accordingly, the undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not

required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Authority: 15 U.S.C. 2697, 28 U.S.C. 2461 note, 42 U.S.C. 3535(d), 5403, 5404, 5424.

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