

community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

24 CFR Part 950

Aged, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

Accordingly, the amendments to the definitions of “Annual income” codified at 24 CFR 950.102, as published on August 30, 1996 (61 FR 46346), is adopted as final, without change, and 24 CFR 5.609(d), published on October 18, 1996 (61 FR 54502), is reaffirmed as final.

Dated: April 23, 1997.

Andrew Cuomo,
Secretary.

[FR Doc. 97-11534 Filed 5-2-97; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3280 and 3282

[Docket No. FR-4223-N-01]

Manufactured Housing: Statement of Policy 1997-1, State and Local Zoning Determinations Involving HUD-Code

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

ACTION: Statement of policy.

SUMMARY: This Statement of Policy provides notice to the public concerning HUD's application of the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act) to certain zoning decisions being made by State or local government. These cases typically involve State or local actions to prohibit the siting of HUD-code manufactured housing while permitting the siting of other types of manufactured housing built to State or local building codes.

If a locality is attempting to regulate and even exclude certain manufactured homes through zoning enforcement that is based solely on a construction and safety code different than that prescribed by the Act, the locality is without authority to do so. This Statement of Policy is being provided to clarify and distribute HUD's existing policy determination concerning this matter.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th St. SW, Room 9152, Washington, D.C. 20410-8000, telephone number (202) 708-6409 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Over the last few years, HUD has received a number of questions concerning the application of the Federal preemption authority in the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401-5426) (Act) to actions by State or local government. HUD recently published a nonbinding notice of staff guidance, which it hoped would assist the public on some of these questions (62 FR 3456, January 23, 1997).

In certain cases involving questions of preemption and zoning, the State or local government is imposing more limitations on the placement of manufactured homes that are built to the Federal manufactured home construction and safety standards (24 CFR part 3282) (Federal standards) than on other types of factory-built single family housing. In the past, HUD has sent letters to various communities in such cases, where local zoning laws are in direct conflict with the Federal Act and regulations.

II. Increasing Homeownership and the Supply and Availability of Affordable Housing

The elimination of barriers to the expanded use of affordable housing, including manufactured homes, has been one of the primary objectives of the President's National Homeownership Strategy. HUD coordinates the National Partners in Homeownership, which now has over 60 national organizations participating, including State, county and local governments, and other groups, to identify and promote ways to increase homeownership and the supply of affordable housing. The Strategy includes the following goals and objectives in Action Item 27:

- The partnership should identify and promote zoning and land development policies that are more conducive to manufactured housing. As part of this initiative, partners should develop model legislation for States and localities to adopt that prohibits

exclusion of manufactured housing solely on the basis of HUD certification (manufacturer certification that the home has been constructed to the Federal standards).

- The partners also should produce design and land development criteria and guidance materials for use by housing developers and local governments, to facilitate inclusion of manufactured housing in their jurisdictions. To supplement these efforts, the partnership should offer a cooperative program of education and technical assistance to encourage nationwide acceptance of the model legislation within 6 years.

HUD strongly endorses this Action Item, particularly making available sites for manufactured housing outside of parks and largely rural areas. On March 22, 1996, the Manufactured Housing Institute (MHI) and the American Planning Association (APA) convened a National Partners in Homeownership Forum to discuss zoning and other issues. The Forum drew over 100 attendees including planners, housing-advocacy organizations, and representatives from the manufactured housing industry.

The attendees reached an almost unanimous consensus that very real zoning and other regulatory barriers exist that significantly hinder the full use of manufactured housing. The Forum produced a series of recommendations to HUD and the National Partners in Homeownership, including APA and MHI.

This Statement of Policy is being issued as an initial step toward the elimination of barriers to the use of manufactured housing and in furtherance of the goals and objectives of the National Homeownership Strategy.

III. Requirements of Act and Regulations

Section 604(d) of the Act, 42 U.S.C. 5403(d), states:

Whenever a Federal manufactured home construction and safety standard established under [the Act] is in effect, no State or political subdivision of a State shall have any authority * * * to establish, * * * with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

The term “manufactured home” is defined in section 603(6) of the Act, 42 U.S.C. 5402(6). In addition, § 3282.11(d) of the Manufactured Home Procedural and Enforcement Regulations (24 CFR part 3282) prohibits any State or locality

from establishing and enforcing rules or taking any action that impairs the Federal superintendence of the manufactured home industry.

Conversely, section 623(a) of the Act (42 U.S.C. 5422(a)) provides:

Nothing in this [Act] shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established. * * *

IV. Statement of Policy 1997-1

Generally, the adoption and enforcement of a local zoning ordinance regulating the location of manufactured homes has not been subjected to the regulatory authority of the Act because such actions are exercises of the locality's authority to determine proper land use. Under section 604(d) of the Act (42 U.S.C. 5403(d)), however, the locality is without authority to regulate or exclude certain manufactured homes through zoning ordinances or enforcement decisions that are based solely on a construction and safety code that is different from the Federal standards prescribed under the Act.

For example, assume two structures are brought into a locality and both structures are: 320 or more square feet when erected on site; built on a permanent chassis; and transported in one or more sections. If the locality only allows the structure that is built to the State or local building code to be sited outside an approved mobile home park, the locality would be acting without authority. If under the local zoning laws the locality accords the same treatment to all structures that meet the Act's definition of a "Manufactured home" (42 U.S.C. 5402(6)), the locality is not in conflict with the preemptive provisions of the Act.

Therefore, a locality cannot exclude or restrict manufactured homes that meet the Federal standards if the locality accepts manufactured homes meeting other standards. By excluding or restricting only manufactured homes built to the Federal standards and accepting manufactured homes built to State or local codes, the locality is establishing standards for manufactured homes that are different from the Federal standards. To the extent that the provisions or enforcement of local zoning regulations require that manufactured homes meet standards other than the Federal standards for manufactured homes, those local actions are preempted by section 604(d) of the Act (42 U.S.C. 5403(d)). Furthermore, such a system of local regulation and enforcement would

interfere with Federal superintendence of the manufactured home industry, in contravention of 24 CFR 3282.11(d).

Dated: April 24, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-96-101]

RIN 2115-AE47

Drawbridge Operation Regulations; Corson Inlet, Strathmere, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Cape May County Bridge Commission, the Coast Guard is changing the regulations that govern the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, by requiring a two-hour advance notice for drawbridge openings from October 1 to May 15 from 10 p.m. to 6 a.m., seven days a week. This final rule will help relieve the bridge owner of the burden of having a bridge tender constantly available at times when there are few or no requests for openings, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on June 19, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection and copying at the Office of the Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, USCG Atlantic Area, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Administration Section, and CDR G. Shelton, Project Counsel, USCG Maintenance and Logistics Command Atlantic Legal Division.

Regulatory History

On December 26, 1996, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Corson Inlet, Strathmere, New Jersey" in the **Federal Register** (61 FR 67970). The comment period ended February 24, 1997. No comments were received. No public hearing was requested, and none was held.

Background and Purpose

The drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, is currently required to open on signal year round. The Cape May County Bridge Commission (Commission) requested that the operating schedule for the drawbridge be amended to reduce the periods during which the bridge must open on signal. In support of its request, the Commission contends that its records show that during the period from October 1 through May 15, no vessels required a drawbridge between the hours of 10 p.m. to 6 a.m.

The Coast Guard reviewed the Commission's bridge logs for 1992 through 1995, copies of which are included in the docket of this rulemaking. According to the logs, no openings occurred between the hours of 10 p.m. and 6 a.m. from October 1 through May 15 in any of these years.

Therefore, the Coast Guard is changing the regulations governing the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey. The final rule requires the bridge to open on signal from May 15 through September 30 and between 6 a.m. and 10 p.m. from October 1 through May 15. The bridge will also open between 10 p.m. and 6 a.m. from October 1 through May 15 if notice is given to the Cape May County Bridge Department at least two hours in advance of the time that the opening is requested. A sign will be posted at the bridge giving the Cape May County Bridge Department's 24-hour telephone number. The Coast Guard believes that this change relieves the bridge owner of the burden of having a bridge tender on duty during periods of little or no vessel traffic while not unduly restricting navigation.

Discussion of Comments and Changes

The Coast Guard received no comments on the NPRM. Therefore, the proposed rule is being implemented without change.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not