

Regulatory Analysis Form

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IRRC Number: 2282

(1) Agency

Department of Community and Economic Development

(2) I.D. Number (Governor's Office Use)

~~4-76~~ 4-72

(3) Short Title

Industrialized Housing and Components

(4) PA Code Cite

12 Pa. Code §145

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jill Busch, 717-720-7314

Secondary Contact: Mark Conte, 720-7416

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The purpose of the final regulation is to further clarify and strengthen the Department's and third party's role in monitoring the installation of industrialized housing; to adopt the ICC International Building Code; to update definitions to bring them into conformance with current terminology and with proposed changes to the placement of insignia of certification; to place the determination regarding the frequency of inspection reports on the inspection agency; to require manufacturers to ensure that instructions for installation are given to those installing industrialized housing; and to increase the fees charged by the Department to offset increases in the cost of administering and enforcing the industrialized housing program.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 5 of the act of May 11, 1972 (P.L. 286, No.70), known as the Industrialized Housing Act

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Recognition of the assimilation of the BOCA/CABO Code into the ICC, International Code Series will allow the Department to apply and enforce uniform standards. An increase in the fee structure will allow the Department to effectively administer and enforce the industrialized housing program. The requirement that installers of industrialized housing prepare and submit site installation inspection reports for all installations of industrialized housing will assure on-site completion expertise and accountability. The requirement that "as-built" production plans and specifications for each variation be approved by the evaluation agency prior to the start of construction stems the excessive latitude in system approvals which has weakened accountability of design approvals.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Failure to adopt the ICC, International Code Series will cause construction standards to lag behind changes in technology. Failure to increase the fee structure will cause a reduction in the number of inspections performed and an overall inability to administer and enforce the program. Failure to require installers of industrialized housing to prepare and submit site installation inspection reports for all installations of industrialized housing will adversely affect industrialized housing consumers who would continue to experience less than assured quality in the installation of their industrialized housing. Failure to require that "as-built" production plans and specifications for each variation be approved by the evaluation agency prior to the start of construction would continue a process in which system design approvals are inadequately specific with regard to "as-built" plans within a system approval.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Industrialized housing consumers in Pennsylvania (2000-2500 annually) will be assured continued funding of a strengthened program to better assure access to a quality home, designed and built to specific current standards, through installation/completion on-site. Modular Housing Industry Trade Professionals (builders, set crews, crane operators, manufacturers and third party agencies) will have subsidized opportunity to attend the Modular Housing Training Institute (MHTI) at Penn College of Technology.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Manufacturers of industrialized housing will need to buy more insignia of certification (one for each module of industrialized housing) at a higher fee, as well as paying a higher fee for monitoring and inspection services performed by the Department. However, the impact is minimal when compared to fees charged by other states and in view of the fact that the rates have not changed since 1979. Third party agencies will pay more when applying to the Department for approval and reapproval as an evaluation or inspection agency. Again, the impact is minimal when compared to fees charged by other states and in view of the fact that the rates have not changed since 1979. There are currently forty nine approved manufacturing facilities, nine Pennsylvania vocational technical schools, and six private third party design and inspection agencies.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

There are currently forty nine approved manufacturing facilities, nine Pennsylvania vocational technical schools, and six private third party design and inspection agencies.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Department has had informal discussions with the executive directors of two trade associations: The Mid-Atlantic Building System Council (MABSC) and The Pennsylvania Manufactured Housing Association (PMHA). The Department has also had discussions with private third party agencies regarding design detail approvals, including on-site completion instructions.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The insignia of certification label fee would increase from the current \$35 per house to \$40 per module or \$100 per house (average number of modules in a house is 2.5). The housing component label fee would increase from \$17.50 to \$40. The private third party one time application fee would increase from \$500 to \$1000 for each function (i.e. design and inspection). When the Department provides third party services (primarily for vocational technical schools) engineering services would increase from \$200 per day or \$25 per hour to \$400 per day or \$60 per hour and administrative services would increase from \$100 per day or \$15 per hour to \$175 per day or \$25 per hour.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

None.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:						
Regulated Community						
Local Government						
State Government						
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$155,300	\$155,300	\$155,300	\$155,300	\$155,300	\$155,300
Local Government						
State Government						
Total Costs	\$155,300	\$155,300	\$155,300	\$155,300	\$155,300	\$155,300
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the cost estimates listed above were derived.

Manufacturers:	Current costs:	2200 homes x \$35 =	\$77,000		
		200 components x \$17.50 =	+ \$3,500		
			\$80,500	\$228,000	
	Proposed costs:	2200 homes x \$100 =	\$220,000	- \$80,500	
	(average home has 2.5 modules x \$40 = \$100)			\$147,500	\$147,500
		200 components x \$40.00 =	+ \$8,000		\$6,000
			\$228,000		\$1,800
				\$155,300	
				\$6,000	
Third Party Agencies:	Current costs:	6 preapprovals x \$500 =	\$3,000	- \$3,000	
	Proposed costs:	6 preapprovals x \$1000 =	\$6,000	\$6,000	
Vo-Tech Schools	Current costs:	9 DCED charges x \$250 =	\$2,250	\$4,050	
	Proposed costs:	9 DCED charges x \$450 =	\$4,050	- \$2,250	
				\$1,800	

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Industrialized Housing	\$309,121	\$394,317	\$127,979	\$249,162

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Current label fee costs are significantly outdated (last changed in 1979) and low by comparison to similar programs in other states. (See paragraph 25). In 1979 the fees were actually reduced from \$50 per house to \$35 per house and from \$25 per component to \$17.50 per component. Escalating administrative costs, including funding of Penn College of Technology for Modular Housing Training Institute curriculum and recently assessed indirect costs have required fee increases.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives have not been considered. The proposed regulation amends existing regulations. Nonregulatory measures would not be appropriate.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Other states have similar laws and regulations to oversee the manufacture and siting of industrialized housing. The Industrialized Building Commission (IBC) covers New Jersey, Rhode Island and Minnesota. IBC label fees are \$48 per module. Other states label fees are as follows:

Maryland	\$50 per module
New York	\$125 per house
Massachusetts	\$100 per house
Georgia	\$60 per module
Virginia	\$50 per house
Maine	\$50 per house

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation will amend 12 Pa. Code §145. It will not affect existing or proposed regulations of other agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department does not anticipate scheduling any public hearings or informational meetings. The regulated community is accustomed to being contacted in writing regarding changes in program administration.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes. Persons installing industrialized housing will be required to prepare and submit a site installation inspection report in all cases, not just those in jurisdictions without local enforcement as now required. The form to be used would be part of each manufacturer's quality assurance program, furnished by each manufacturer.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The proposed regulations would take effect 90 days after final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The regulations are monitored on a regular basis and updated as needed.

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable. Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of Community and Economic Development (Agency)</p> <p>Document/Fiscal Note No. 4-76⁷²</p> <p>Date of Adoption: 4-30-04</p> <p>By: <u><i>[Signature]</i></u></p> <p>Title: Deputy Secretary, Community Affairs & Development</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>By: <u><i>[Signature]</i></u></p> <p>6/9/04 Date of Approval</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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Final Form

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

SUBPART C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 145. INDUSTRIALIZED HOUSING AND COMPONENTS

PREAMBLE

By this order, the Department of Community and Economic Development, under the authority of Section 5 of the act of Section 5 of the act of May 11, 1972 (P.L. 286, No.70), (35 P.S. § 1651.1 et seq.), known as the Industrialized Housing Act, hereby amends Title 12 of the Pennsylvania Code by revising Chapter 145. The purpose of the final regulation is to further clarify and strengthen the Department's and third party's role in monitoring the installation of industrialized housing; to adopt the ICC International Building Code; to update definitions to bring them into conformance with current terminology and with proposed changes to the placement of insignia of certification; to place the determination regarding the frequency of inspection reports on the inspection agency; to require manufacturers to ensure that instructions for installation are given to those installing industrialized housing; and to increase the fees charged by the Department to offset increases in the cost of administering and enforcing the industrialized housing program.

Introduction

The Industrialized Housing Act authorizes the Department to establish uniform state standards and procedures for the identification, inspection of, manufacture and assembly, and certification of industrialized housing and those components forming integral parts of housing structures for use in communities in the Commonwealth. The purpose of this regulation is to ensure that industrialized housing and housing components intended for sale, lease or installation for use in the Commonwealth of Pennsylvania will be manufactured, transported and installed on site in compliance with the uniform standards set forth in the regulation.

The Department received comments from the Modular Building Systems Association and the Independent Regulatory Review Commission. The Modular Building Systems Association voiced concerns that changes made to §145.53 could be interpreted to require a third party to

review and approve plans for every model that goes on line. This was not the Department's intent and the language has been revised to clarify that only material deviation from variations contained within the approved building system documentation have to be approved prior to the start of construction. The Independent Regulatory Review Commission voiced several concerns. The first involved an exception added to §145.36 which would have permitted these regulations to apply to local codes, ordinances or regulations where local codes, ordinances or regulations would preclude the siting of industrialized housing in a manner that does not show a reasonable relationship to legitimate public health, safety or welfare considerations. Because this exception was added for the sole purpose of alerting consumers and local governments that such preclusions are unconstitutional, the Department has removed this exception, even though the Department is confident that it has the statutory authority to create such an exception based upon the decision rendered in *Geiger v. Zoning Hearing Board of the Township of North Whitehall*, 507 A. 2d 361 (1986). The second concern was the same as that voiced by the Modular Building Systems Association. The third involved a perceived failure on the part of the Department to set criteria to be used to judge "in a manner and frequency necessary" in §145.72(a), as well as the lack of a specified timeframe for production of onsite inspection documentation. In response to these concerns, the Department has added language referencing the criteria set forth in §145.72(a)(e), as well as language indicating that the onsite inspection documentation shall be provided within thirty days of the Department's request for such information. The final concern involves the deletion of the word "shall" and the insertion of the words "may be required to" in §145.94(e) and the necessity of the unchanged language appearing in §145.94(f). In response the Department has changed the language back to its original state so that the payment is now mandatory, but has decided that the language appearing in §145.94(f) should remain.

Additionally, the Department received some informal comments from the Department of Labor and Industry ("L & I"). L&I's first concern involved a possible conflict between the stair geometry provided for in the Pennsylvania Construction Code Act (35 P.S. §§7210.301(a)(6) and 7210.304(a)(2)) and that which is permitted under this regulation, even though the current amendment to this regulation did not change the stair geometry requirement for industrialized

housing. This issue has been resolved because the Pennsylvania Construction Code Act has been amended by Act 13 of 2004 to provide for the same stair geometry as specified in the industrialized housing regulations. L&I's next concern involved the inclusion of the ICC International Building Code at §145.41(a)(1) as the ICC does not apply to residential construction. Industrialized Housing is defined as a structure primarily for residential occupancy, and classified within Use Group R. Use Group R is defined in the ICC as including boarding houses, hotels, and motels. The ICC International Building Code sets the requirements for these structures. L&I requested that the Department incorporate the International Residential Code for One and Two Family Dwellings into this regulation. This code is already incorporated at §145.42, Alternate Standards. L&I's last concern was that this regulation should include reference to the Uniform Construction Code in the definition of Building System Documentation found in §145.1 of this regulation and in §145.36 (Applicability of locally enacted codes and ordinances). The Industrialized Housing Act and these regulations do not preclude the activities provided for in the Uniform Construction Code such as permitting and inspection, alterations, repairs or additions to the industrialized housing unit after delivery to the site and connection to required utilities. However, blanket citation of the Uniform Construction Code could be a cause of confusion. Activities not addressed in these regulations are subject to the Uniform Construction Code. For the reasons outlined above, none of L&I concerns resulted in changes to this regulation as proposed.

Analysis

Section 145.1 is amended to include within the definition of "building system documentation" the installation component; to delete the term "mobile home" and replace it with the updated term "manufactured home"; to add the term "module" which permits the further delineation of the broader term "industrialized housing"; and to include a definition for the acronym "ICC".

Section 145.36 is amended to delete the language originally proposed, which attempted to prevent local authorities from prohibiting the installation of industrialized housing unless the local authorities show a legitimate threat to the public health, safety or welfare.

Section 145.41 is amended to recognize the adoption of the ICC International Building Code and to further control the identification of materials used in the construction of industrialized housing.

Section 145.42 is amended to recognize the adoption of the ICC International Residential Code.

Section 145.47 is amended to add the address from which copies of the ICC codes can be obtained.

Section 145.53 is amended to include a requirement that any material deviation from variations contained within the approved building system documentation shall be approved by the evaluation agency, consistent with this chapter, prior to the start of construction.

Section 145.60 is amended to require insignia of certification on each module of industrialized housing, rather than requiring only one insignia of certification for the entire industrialized housing structure. Under the existing regulations, one fee is paid regardless of the size of the structure. The proposed amendment seeks to evenly distribute the cost based upon the number of modules used in the industrialized housing structure. The larger the structure, the larger the fee.

Section 145.61 is amended to require inspection agency to attach insignia of certification on each module of industrialized housing.

Section 145.62 is amended to reflect the existence of multiple insignia of certification numbers to be affixed to the data plate in an industrialized housing structure.

Section 145.72a(d) is amended to replace the minimum required number of inspections to be made by inspection agencies with a subjective determination, based on factors established in section 145.72a(e), to be made by the inspection agencies, and to include a requirement that documentation of on-site inspections be on file in each manufacturing facility and be provided to the department within thirty days of the department's request for such documentation.

Section 145.82 is amended to require, among other things, that the application for a building permit be consistent with the approved building system documentation.

Section 145.91 is amended to require the preparation and submission of a site installation inspection report, which form will now be required to be furnished by the manufacturer as part of

their approved compliance control program, for all installations of industrialized housing or housing components for use on a Pennsylvania site. Such a report is currently required only when installation occurs on a Pennsylvania site without a local enforcement agency.

Section 145.94 is amended to increase the fees charged by the Department for the industrialized housing program; to delete proposed language which would have given the department the discretion not to charge fees where the Department is authorized to monitor, inspect or evaluate industrialized housing; and to delete the "\$15 per housing component produced" fee for inspection and follow-up services.

Fiscal Impact

(a) Commonwealth. Increased fees generated from this proposed regulation will allow the Department to continue to effectively administer and enforce the industrialized housing program. Funds are currently insufficient to run the program.

(b) Political Subdivisions. None.

(c) Public. Evaluation and inspection agencies will be required to pay higher application and reapproval fees. Manufacturers will be required to pay higher fees for insignia of certification for each module of industrialized housing and housing components. However, the current fees are low in comparison to other states and have not been increased since 1979.

Paperwork

The proposed regulation will require persons installing industrialized housing to prepare and submit a site installation inspection report in all cases, not just in jurisdictions without local enforcement

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§745.1 - 745.15), the agency submitted a copy of the Notice of Proposed Rulemaking, published in the 32 Pa. B. 41, on August 9, 2002 to the Independent Regulatory Review Commission, the Chairperson of the House Commerce and Economic Development

Committee, and the Chairperson of the Senate Community and Economic Development Committee for review and comment. In compliance with Section 5(b.a), the agency also provided the Commission and the Committees with copies of all comments received, as well as other documentation.

In preparing this final form regulation the agency has considered all comments received from the Commission, the Committees and the public.

This final form regulation was [deemed] approved by the House Committee on (date) and [deemed] approved by the Senate Committee on (date). The Commission met on (date) and [deemed] approved the regulation in accordance with Section 5(c) of the Act.

Effective Date/Sunset Date

(a) The regulation will become effective within ninety (90) days after final publication in the Pennsylvania Bulletin.

(b) The regulations are monitored on a regular basis and updated as needed.

Contact Person

For an explanation of these regulations contact Jill Busch, Deputy Chief Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, Harrisburg, PA 17120-0225, (717) 720-7314.

Findings and Order

The Department of Community and Economic Development finds:

- (1) That public notice of intention to adopt the regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202).
- (2) That the regulation is necessary and appropriate.

The Department of Community and Economic Development, acting under the authorizing statute, orders:

- (1) That the regulations of Department of Community and Economic Development, 12 Pa. Code, are amended by revising Chapter 145 to read as set forth at 32 Pa. B. 41, as amended by Annex A hereto.
- (2) That the Department of Community and Economic Development shall submit this order, 32 Pa. B. 41 and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.
- (3) That this order shall take effect upon publication in the Pennsylvania Bulletin.

By the Department of Community and Economic Development

Dennis Yablonsky,
Secretary

ANNEX A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

CHAPTER 145. INDUSTRIAL HOUSING AND COMPONENTS

§ 145.1 Definitions.

Building system documentation --- The plans, specifications and other documentations which together describe industrialized housing or a housing component including variations and installation detail, consistent with § 145.41 (relating to adoption of standards) or § 145.42 (relating to alternate standards).

Housing Component --- A [major] manufactured subsystem or subassembly, designed for use as an integral component part of a structure designed primarily for residential occupancy, which contains concealed parts or processes of manufacture that cannot be inspected at the site without disassembly, damage or destruction and which is identified in §145.35 (relating to applicability of Fire and Panic Act) as being subject to this chapter.

Housing structure --- A structure designed primarily for residential occupancy.

ICC --- International Code Council.

Manufactured Home --- A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the Manufactured Home Construction and Safety Standard (42 U.S.C.S. §§ 5401 et. seq.); and except that such term shall not include any self-propelled recreational vehicle.

[Mobile Home --- A structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 feet in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning and electrical system combined therein manufactured in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401-5426).]

Module --- Each section of an industrialized housing structure which is fabricated in the manufacturing facility to be separately transported to the building site.

§ 145.36 Applicability of locally-enacted codes and ordinances.

(e) Nothing in the act or this chapter shall be construed as amending, repealing or superseding a local zoning ordinance, subdivision regulation, designation of fire districts or a related land development code, regulation or ordinance enacted by a local government of the Commonwealth, except where such local codes, ordinances or regulations preclude the siting of industrialized housing in a manner that does not show a reasonable relationship to legitimate public health, safety or welfare considerations.

(f) A dispute between a person and a local enforcement agency with respect to the application of this section shall be referred to and decided by the Department under § 145.96 (relating to interpretation of this chapter).

§ 145.41 Adoption of standards.

(a) The following codes, which relate to the design, materials and method of construction of buildings, are adopted as the standards applicable to the industrialized housing and housing components for purposes of this chapter:

(1) The [BOCA National Building Code] ICC International Building Code, with the following exceptions:

(i) The specific article on energy conservation.

(ii) A manufacturer may elect to utilize the 1993 BOCA National Building Code, section 1014.6, exception #8, with regard to stair geometry (rise & run).

(2) The [International Code Council] ICC International Mechanical Code.

(3) The [International Code Council] ICC International Plumbing Code.

(f) Only listed and labeled materials listed for use as documented shall be used in all construction.

§ 145.42 Alternate standards.

(a) As an alternative to the primary codes specified in §145.41 (relating to adoption of standards), a manufacturer may elect to satisfy the requirements of the following alternate standards. Copies of these documents are available through the respective promulgating agencies as defined in § 145.47 (relating to acquisition of adopted codes and amendments):

(1) [CABO One and Two Family Dwelling] ICC International Residential Code except that with regard to stair geometry (rise and run), a manufacturer may elect to utilize the 1992 CABO One and Two Family Dwelling Code, Section R-213.1, Figure No. R-213.1; and HUD Minimum Property Standards for One and Two Family Dwellings (24 CFR 200.926 (relating to minimum property standards for one- and two-family dwellings)).

§ 145.47 Acquisition of adopted codes and amendments.

(a) Copies of the ICC International Building Code, ICC International Residential Code, ICC International Mechanical Code and ICC International Plumbing Code adopted under §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards) may be obtained from:

International Code Council
5203 Leesburg Pike
Suite 708
Falls Church, Virginia 22041-3401.

[(a)](b) Copies of the National Electrical Code, adopted under §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards), including supplements, may be obtained from:

National Fire Protection Association
Battery March Park
Quincy, Massachusetts 02269

[(b)](c) Copies of the 1993 BOCA National codes adopted in part under §[§] 145.41 [and 145.42, including supplements], may be obtained from:

Building Officials and Code
Administrators International, Inc.
4051 West Flossmoor Road
Country Club Hills, Illinois 60477

[(c)](d) Copies of [the] other alternate standards adopted under §[§] 145.41 and] 145.42, including supplements, may be obtained from:

Standard	Address
CABO One and Two Family Dwelling Code ([latest] <u>1992</u> edition)	Building Officials and Code Administrators International, Inc. 4051 West Flossmoor Road Country Club Hills, Illinois 60477

§ 145.53 Variations.

Building system documentation approved under §145.52 (relating to approval of building system documentation) may contain variations or a range of variations for one or more elements of the industrialized housing or housing components described in the building system documentation, provided that the approved building system documentation conforms to all of the applicable requirements of the applicable codes and standards under each variation or set of variations within the range of variations. “As built” production plans and specifications for each variation-ANY MATERIAL DEVIATION FROM VARIATIONS CONTAINED WITHIN THE APPROVED BUILDING SYSTEM DOCUMENTATION shall be approved by the evaluation agency, consistent with this chapter, prior to the start of construction.

§ 145.60 Insignia of certification.

(a) Certified industrialized housing constituting a single dwelling unit shall bear [an] insignia of certification for each module. The insignia of certification shall be furnished by the Department to the manufacturer under the procedures of § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification). The manufacturer shall permanently attach the insignia of certification for each module to the data plate located in a visible location in the utility room or utility area or other area identified in the building system documentation and in the Building System Approval Report as provided in § 145.62(a) (relating to data plates). Each insignia of certification shall bear an insignia serial number furnished by the Department and shall contain the following language:

§ 145.61 Insignia of inspection agencies.

(a) The inspection agency shall attach its label, seal or other insignia to the data plate for each industrialized housing module [and to each separate element, if any, of industrialized housing which is transported to the building site for assembly and installation.]

(b) *****

§ 145.62 Data plates.

(a) A dwelling unit of certified industrialized housing shall contain a data plate. The data plate shall be furnished by the manufacturer and shall be permanently attached by the manufacturer in a visible location in the utility room or utility area, if feasible, and otherwise in other areas identified in the building system documentation. The data plate shall contain sufficient space to permit the attachment of [the] insignia of certification as provided in § 145.60(a) (relating to insignia of certification) and of the label, seal or other insignia of the inspection agency as provided in § 145.61(a) (relating to insignia of inspection agencies). The data plate shall contain, but not be limited to, the following information:

- (1) Name of manufacturer.
- (2) Address of principal office of manufacturer.
- (3) Address of manufacturing facility where the industrialized housing or its principal elements were produced.
- (4) Manufacturer's model name.
- (5) Manufacturer's serial number for dwelling unit and date of manufacture.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) Department insignia of certification numbers.
- (8) Serial or other identifying numbers of each [element, if any, of the] module of industrialized housing [separately transported to the building site for assembly and installation].
- (9) *****

§ 145.72a Frequency of inspections.

(d) In carrying out its monitoring responsibilities under § 145.72(1) and (2) an inspection agency [should] shall inspect industrialized housing at the site after installation is complete [a minimum of 5% of each manufacturer's dwelling units installed in the Commonwealth. The dwelling units to be inspected should be selected on a random basis to insure verification of the system approval process] in a manner and frequency.

CONSISTENT WITH FACTORS SET FORTH IN SUBSECTION (E), necessary to confirm that the manufacturer's approved compliance control program is effective in assuring installation consistent with the manufacturer's approved building system documentation. Documentation of the on-site inspections shall be on file in each manufacturing facility and shall be provided to the Department as requested WITHIN THIRTY DAYS OF THE DEPARTMENT'S REQUEST FOR SUCH DOCUMENTATION.

(e) The minimum frequency of inspection requirements of this section are not intended to substitute for the professional judgment of an inspection agency in determining whether a greater frequency of inspections is necessary to discharge its responsibilities properly. Factors that should be considered in establishing an appropriate frequency of inspection level for any manufacturer are the production volume of the factory, the design complexity of the dwelling units, the qualifications of the manufacturer's compliance control personnel, and the experience record of the manufacturer.

§ 145.82 Issuance of building permits.

(b) The local enforcement agency may not withhold the issuance of a building permit for certified industrialized housing or a housing structure in which will be installed certified housing components if the applicant submits the documents required by this section, and the application for a building permit complies with applicable locally-enacted codes and ordinances with regard to set-up and site details, consistent with the approved Building System documentation.

§ 145.91 Reports to the Department.

(e) A person installing industrialized housing or housing components for use on a site in a jurisdiction in the Commonwealth [without a local enforcement agency] shall prepare and mail to the inspection agency a Site Installation Inspection Report on a form furnished by the [Department] manufacturer as part of their approved compliance control program. [If the manufacturer is not installing the industrialized housing or housing components, the] The manufacturer shall be responsible for furnishing to the person performing the installation a copy of the Site Installation Inspection Report form and instructions as to its intended use.

§ 145.94 Fees.

(a) A person submitting an application to the Department under § 145.75(a) (relating to procedures for obtaining approvals of evaluation and inspection agencies) for approval as an evaluation agency or inspection agency shall pay a fee of [\$500] \$1000. If

the person seeks approval as both an evaluation agency and an inspection agency, the combined fee shall be [~~\$1000~~] \$2000.

(b) A third-party agency submitting an application to the Department under § 145.76 (relating to reapprovals of third-party agencies), for reapproval as an evaluation agency or inspection agency shall pay a fee of [~~\$250~~] \$500. If the person seeks reapproval as both an evaluation agency and an inspection agency, the combined fee shall be [~~\$500~~] \$1000.

(c) Each manufacturer requesting the Department under § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification) to issue insignia of certification shall pay a fee of [~~\$35~~] \$40 for the insignia of certification for each [dwelling unit] module of industrialized housing.

(d) Each manufacturer requesting the Department under § 145.63 to issue insignia of certification for housing components shall pay a fee of [~~\$17.50~~] \$40 for each housing component which will bear insignia of certification; provided that the fee payable under this subsection for housing components to be installed in a single-dwelling unit may in no event exceed [~~\$35~~] \$100.

(e) Where the Department is authorized to monitor or inspect under § 145.93 or otherwise or [A manufacturer requesting the Department to] provide evaluation or inspection services, or both, under § 145.70 (relating to Departmental evaluation and inspection), the manufacturer may be required to [shall] pay to the Department the following fees:

- (1) Engineering services --- [~~\$200~~] \$400 per day or [~~\$25~~] \$60 per hour.
- (2) Administrative services --- [~~\$100~~] \$175 per day or [~~\$15~~] \$25 per hour.
- (3) [Inspection and follow-up services --- \$15 per housing component produced.
- (4)] Travel and per diem expenses --- current Commonwealth travel and per diem expenses.

(f) The Department may establish reasonable handling and other administrative fees as indicated elsewhere in this chapter, subject to the stated limitations in amount.

(g) Fees paid to the Department under this chapter shall be nonrefundable except as otherwise specifically set forth in this chapter. Fees shall be paid by check or money order.



**Pennsylvania Department of Community and Economic Development
Office of Chief Counsel**

July 20, 2004

Independent Regulatory Review Commission
c/o John R. McGinley, Jr.
14th Floor, Harrisstown II
333 Market Street
Harrisburg, PA 17101

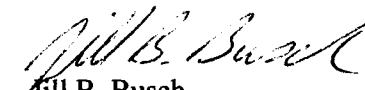
Dear Mr. McGinley:

Pursuant to Section 5a of the Regulatory Review Act, enclosed for your review is a final form regulation. The regulation submitted would amend Chapter 145 of Title 12 of the Pennsylvania Code.

Also enclosed is a regulatory analysis form pertaining to the regulation.

Concurrently with delivery of the regulation to you, the regulation has also been submitted to the House Commerce Committee and the Senate Community and Economic Development Committee for their respective review in accordance with the Regulatory Review Act.

Sincerely,


Jill B. Busch
Deputy Chief Counsel

Enclosures

cc: Ron Boston, Legislative Liaison
Mark Conte, Office of Community Development

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 4-72
SUBJECT: Industrialized Housing and Components
AGENCY: DEPARTMENT COMMUNITY & ECONOMIC DEVELOPMENT

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
7/20/04	<i>Kay O'Brien</i>	HOUSE COMMITTEE ON COMMERCE & ECONOMIC DEVELOPMENT
7/20/04	<i>Maria Santoro</i>	
7/20/04	<i>Keely A. H.</i>	SENATE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT
Jan 6 Rugh 7/20/04		
7/20/04	<i>Dr. Nelson</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)