

Regulatory Analysis Form

This space for use by IRRC

2006 APR 13 AM 11:17

INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number:

2507

(1) Agency

Department of Community and Economic Development

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

4-82

(3) Short Title

Manufactured Housing Improvement Program

(4) PA Code Cite

12 Pa. Code Chapter 149

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jill Busch, 717-720-7314

Secondary Contact: Mark Conte, 717-720-7416

(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 Manufactured Housing Improvement Act requires DCED to promulgate regulations that will provide the Commonwealth with an installation standard for new manufactured homes being installed in the Commonwealth; certification of those who install manufactured housing; and training for those who install and those who inspect the installation of manufactured housing.

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

The Manufactured Housing Improvement Act (35 P.S. § 1658.1 et seq.)

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.

The Manufactured Housing Construction and Safety Standards Act of 1974 (P.L. 93-383, 42 U.S.C.A. § 5401 *et seq.*) as amended by the Manufactured Housing Improvement Act of 2000 (P.L. 106-569) requires that each state establish in state law an installation program that includes an installation standard, as well as the certification of manufactured home installers and the training of those installers and those who inspect such installations. This program was required to be in place by December 27, 2005.

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

These regulations will provide a uniform approach to proper installation of new manufactured homes assuring compliance with the Manufactured Home Construction and Safety Standards as well as the PA Uniform Construction Code. Current regulations are insufficient to meet the requirements of the Manufactured Housing Improvement Act. Ultimately, these regulations will provide a level enforcement for all manufactured home installations to assure consumers receive conforming homes and protect the affordable nature of manufactured housing.

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

Without this regulation, there is no assurance that manufactured housing will be properly installed. Therefore, the risk to consumers is great. Additionally, this regulation requires that the manufacturers provide designs for proper installation, maintaining accountability for the performance of the home with the manufacturer.

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

Building code officials will benefit from this regulation as they will receive training for proper installation of the home. Over 6,000 Pennsylvania consumers will benefit each year as they will have assurance of a properly installed home while protecting the affordability of manufactured housing by eliminating unnecessary building code requirements. Over 300 manufactured home installers / retailers will benefit as some building code officials unnecessarily required the manufacturer's approved designs be submitted to a professional engineer. This regulation will make clear that this added expense is not needed.

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.)

Installers will be required to take training courses and pay an annual certification fee. Manufactured housing retailers and installers will be required to submit certifications of compliance for all new manufactured homes they install. However, this mechanism for compliance with the federal requirements is the least intrusive and costly when compared to the programs in other states.

(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.)

Approximately 300 manufactured home retailers and installers will be required to comply with these regulations. Building Code Officials, who already are inspecting manufactured homes, will also be assisted by the regulations.

(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 two formal meetings with the Pennsylvania Manufactured Housing Association (PMHA) membership and several meetings with PMHA director and legal council to discuss the proposed regulation. Informal discussions occurred with the Manufactured Housing Institute, and Manufactured Housing Association for Regulatory Reform as well as staff from the US Department of Housing and Urban Development as the federal superintendent of the manufactured housing program.

(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.

These regulations will require that a person submit an annual fee for certification as a manufactured home installer. Also those involved in installing new manufactured homes will be required to successfully complete a designated training program every three years. While savings are impossible to measure, these regulations will eliminate any unnecessary construction and plan review costs that may be applied by building code officials that are unfamiliar with the manufactured housing product.

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.

DCED has sufficient staff to carry out its obligations under these regulations. Additionally, fees generated from these regulations will be sufficient to address any additional clerical or record keeping costs.

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						
COSTS:						
Regulated Community	\$25,800	\$51,600	\$51,600	\$51,600	\$51,600	\$51,600
Local Government						
State Government						
Total Costs	\$25,800	\$51,600	\$51,600	\$51,600	\$51,600	\$51,600
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

Although the fees will be established not by regulation, but by notice in the Pennsylvania Bulletin, the Department anticipates the following fee rates on which the above numbers are calculated.

Training 100 participants per year x \$50=	\$5,000
Four Training provider submittal fees per year x \$400=	\$1,600
300 Installer certification fees x \$150=	<u>\$45,000</u>
Total	\$51,600

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

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

The current program does not meet the new federal mandate. This regulation will provide training for those involved in the installation of new manufactured homes, which has proven to be problematic for the manufactured housing industry since its inception. These regulations will prevent federal oversight of manufactured housing installations in the Commonwealth, which is certain to be more costly than a state based program.

(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 as the federal program requires an installation program based on state law and regulations.

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

N/A

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?

These regulations are the least intrusive approach to the federal mandate. States such as West Virginia, Maine and Ohio are going to license the home installer and provide for a state written installation code. We propose to certify the home installer and utilize the manufacturer's designs for the installation of the home. Other states, such as Delaware, Maryland and New Jersey are likely to have HUD take over the installation program which will result in overlapping requirements and confusing lines of authority.

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

These regulations will provide clarity to building code officials performing under the Pennsylvania Uniform Construction Code by pointing to the home manufacturer's designs as the proper method of installation.

(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.

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. Each installer of manufactured homes will be required to complete an application form for submittal to the Department. Also, upon completion of the installation of every new home, a certificate of compliance will be completed and submitted to the building code official, the Department and the homeowner. The industry and the Department will have record keeping responsibilities in these areas.

(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 regulation will become effective 60 days after final publication in the Pennsylvania Bulletin.

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

The regulations will be reviewed on an annual basis.

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

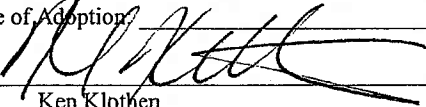
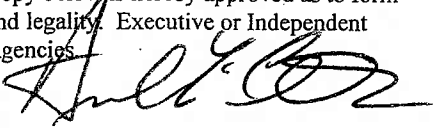
2507

RECEIVED

2006 APR 13 AM 11:17

INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

<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</p> <p>Document/Fiscal Note No.: 4-82/ Date of Adoption: _____</p> <p>By:  Ken Klothen</p> <p>Title: _____ Deputy Secretary for Community Affairs and Development</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p> By: _____</p> <p>4-12-06 _____ Date of Approval</p> <p>(Deputy General Counsel)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
--	--	--

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

SUBPART C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 149. MANUFACTURED HOUSING IMPROVEMENT PROGRAM

PREAMBLE

By this order, the Department of Community and Economic Development (the "Department"), under the authority of Section 5 of the Act of November 29, 2004 (P.L. 1282, No. 158), known as the Manufactured Housing Improvement Act, 35 P.S. § 1658.1 et seq. (the "MHI Act"), hereby amends Title 12 of the Pennsylvania Code by adding Chapter 149. The purpose of the final regulation is to establish an installation standard for new manufactured homes being installed in the Commonwealth; certify manufactured home installers; provide training to manufactured home installers and installation inspectors; ensure the construction, installation and completion of new manufactured homes is consistent with the manufacturer's DAPIA approved designs; establish a mechanism to verify that manufactured homes are completed and installed by a Department certified installer and are compliant with the Manufactured Home Construction and Safety Standards and applicable building codes; establish appropriate fees for education programs, testing and certification of manufactured home installers; and establish procedures pursuant to which the Department will issue warnings, suspensions, revocations or monetary fines for violations of the MHI Act or regulations.

Introduction

The Manufactured Housing Construction and Safety Standards Act of 1974 (P.L. 93-383), 42 U.S.C.A. § 5401 et seq., as amended in 2000, provides for the establishment of practical, uniform and, to the extent possible, performance-based construction standards for manufactured homes. The MHI Act was passed in response to the amendments in 2000 which require each state to establish an installation program by December 27, 2005. The MHI Act requires the Department to promulgate regulations to establish an installation standard for new manufactured homes being installed in the

Commonwealth, certify manufactured home installers, and provide training to manufactured home installers and installation inspectors. In response to the publication of proposed regulations, the Department received comments from the Pennsylvania Association of Building Code Officials, Inc.; the Pennsylvania Manufactured Housing Association; and the Independent Regulatory Review Commission.

The Pennsylvania Association of Building Code Officials, Inc. had concerns regarding the use of the term "Building Code Official"; the need to test and certify inspectors; the lack of a requirement that installers obtain a Uniform Construction Code permit prior to installation of the manufactured home; lack of a requirement that installers forward the Certification of Completion to the inspector; and the possibility that inspectors could be fined.

The Pennsylvania Manufactured Housing Association had concerns regarding the lack of the issuance of a warning prior to suspension or certification revocation, as well as the lack of clarity regarding the number and amount of any penalty.

The Independent Regulatory Review Commission voiced concerns regarding the lack of statutory citations in some parts of the regulation; the definition of the term "Manufacturer's approved design"; the use of the term "should" in section 149.3(d); the vagueness of the words "other information" in section 149.4(a)(2); the need for the training provider to consult with the Department on tuition costs; the lack of clarity regarding the entity to provide the application forms for certification; the lack of clarity with respect to the training of building code officials; the lack of clarity regarding those items covered by the certificate of compliance; the lack of a requirement that the building code official receive a copy of the certificate of compliance; the inconsistency of the mechanism established to set fees; the failure of the Department to address the issuance of warnings; the lack of clarity with respect to receipt of complaints; and the lack of clarity regarding the amount and number of penalties. The Department reviewed and considered each comment in the drafting of these final regulations.

Analysis

Section 149.1 defines the terminology used in the proposed regulation. The terms “construction code official” and “utility connections” have been removed as neither was used within the text of the proposed regulation, except for the definition section. Statutory citations appeared in the proposed regulation as submitted by the Department, but were removed by the Legislative Reference Bureau when published. The statutory citations appear again in these final regulations.

The Department also removed language from the definition of “manufacturer’s approved design” which was substantive in nature, as suggested by the Independent Regulatory Review Commission.

The definition of “building code official” remains unchanged. The MHI Act clearly defines this term, which cannot be replaced by the term “construction code official, as suggested by the Pennsylvania Association of Building Code Officials, Inc.

Section 149.2 describes the purpose of the regulation, which is to establish administrative procedures for the implementation of the MHI Act. The Department removed language from subparagraph 149.2(6) which erroneously extended the establishment of fees, testing and certification to those who inspect the installation of manufactured homes.

Section 149.3 sets forth the installation standard. This section requires the manufacturer to provide DAPIA approved designs and installation instructions for all new manufactured homes. It also provides that all new manufactured homes be installed pursuant to the manufacturer’s DAPIA approved designs for the particular home. This section prohibits a building code official from rejecting a manufacturer’s approved design and provides a procedure to be followed if a building code official believes a design was approved by a DAPIA in error or questions the validity of a DAPIA approved design.

Section 149.3(a) was changed to specify that a copy of the manufacturer's approved design must be provided with each home. Reference to the actual entity to which the manufacturer's approved design must be provided was deleted.

The Department also changed the word "should" to "may" in the last sentence of section 149.3(d).

Section 149.4 sets forth the process for installer training and certification. Under this section, the Department is required to develop or designate acceptable training curricula and approve trainers. This section requires training providers to provide the Department with a list of those successfully completing the training course along with the required fee for each participant. This section provides that the approved training curriculum will be published annually in the Pennsylvania Bulletin and can be obtained directly from the Department. This section provides that installer applicants must successfully complete the designated training curriculum and pay the required fee to the Department, in order to be certified as installers of new manufactured homes. This section establishes that certification will be valid for one year from the date of Department issuance and an installer will be required to successfully complete a specified training curriculum at least every three years. This section also permits those individuals who successfully completed a Department approved training curriculum prior to the effective date of this chapter to be certified initially without taking additional training curriculum.

Section 149.4(a)(ii) was revised to clarify that the Department may request additional information from those submitting training applications during the application evaluation process.

Cross references regarding fees were added to section 149.4(a)(iii) and 149.4(b)(i) as requested by the Independent Regulatory Review Commission. Section 149.4(b)(i) was also revised to add language specifying that the application form for installer certification would be provided by the Department.

The language appearing in section 149.5, which addressed the training requirements for building code officials who inspect new manufactured home installation, was deleted in its entirety and replaced with language which more closely resembles that found in section 149.4(a) (relating to Installer Training). Under this section, the Department is required to develop or designate acceptable training curricula and approve trainers. This section requires training providers to provide the Department with a list of those successfully completing the training course and provide a certificate of course completion to the course participant. This section also provides that the approved training curriculum will be published annually in the Pennsylvania Bulletin and can be obtained directly from the Department. Unlike section 149.4(a), there are no required fees and no requirement that the building code official submit any paperwork to the Department. As in the proposed regulations, building code officials must successfully complete a Department approved course or workshop and must do so every three years to continue inspecting new manufactured home installations. This section also provides that the Department will accept a copy of a written certificate signed by the training provider as evidence that the building code official has complied with the training requirements established in this section.

Section 149.6 sets forth the certificate of compliance process. Section 149(6)(a) provides that an installer must complete a certificate of compliance upon completion of a new manufactured home installation. Section 149.6(a) was revised to clarify what may not be included in the certificate of compliance. Section 149.6(b) requires the certificate of compliance to be completed by the installer and forwarded to the Department within five calendar days of completion of the new manufactured home installation. Section 149.6(b) was revised to require the installer to forward the certificate of compliance to the appropriate building code official, if known. Section 149.6(c) prohibits a building code official from issuing a certificate of occupancy for a new manufacture home, unless he has received a completed copy of the certificate of compliance filed with the Department. Section 149.6(d) requires the new manufactured home installer to attach the original completed certificate of compliance to the installation instructions that remain

with the home or hand deliver to the purchaser the certificate of compliance and installation instructions. Section 149.6(e) provides that if the manufacturer or retailer has not agreed in writing to be responsible to the purchaser for the new manufactured home installation before the execution of the sales documents, the manufacturer or retailer must provide the purchaser with a written statement that the home must be installed pursuant to section 149.3(b) and (c), and that the Certificate of Compliance must be completed and signed by an installer certified under section 149.4(b). At the same time, the manufacturer or retailer must provide the purchaser with a list of installers known to him or obtained from the Department. Section 149.6(e) also provides that by providing the list, the manufacturer or retailer does not warrant the quality of the installers' work, nor is the purchaser under any obligation to use any particular installer.

Section 149.7 sets forth the types of fees to be charged by the Department under the MHI Act. Section 149.7 was revised to remove any reference to the amount of each fee and to include a provision permitting the Department to set the fee rates by publication of a notice in the *Pennsylvania Bulletin*.

Section 149.8 sets forth penalties. Section 149.8(a) provides that the Department may suspend or revoke the certification of any person who violates the provisions of the Act or the regulations or from whom the Department receives adverse performance information and sets forth the procedures for such actions. Language was added to section 149.8(a) to set forth the acceptable method of receiving complaints. Language was added to section 149.8(b) to permit the Department to issue written warnings and to set forth the requirements for such warnings. Language originally appearing in section 149.8(b) was moved to section 148.8(c). Section 148.8(c) provides that the Department may impose a civil penalty on anyone who violates the provisions of the MHI Act. The language was revised in final form to clarify that the \$1,000 penalty which could be imposed by the Department was the amount per violation and establish that the aggregate amount of penalties on any person may not exceed \$1,000,000.

Fiscal Impact

(a) Commonwealth. The impact upon the Commonwealth is minimal. The Department will incur costs associated with the creation, printing and processing of applications and certificates of compliance by existing Department staff. Fees generated from the regulation will be sufficient to address any additional clerical or record keeping costs to the Department.

(b) Political Subdivisions. There will be no fiscal impact on political subdivisions.

(c) Public. Upon submission of training curricula for evaluation by the Department, training providers must submit a fee to the Department. Also, a training provider must submit a fee per enrollee. A person seeking certification as a manufactured home installer must submit an annual fee and successfully complete a designated training program every three years. The fees will be established by publication of a notice in the *Pennsylvania Bulletin*.

Paperwork

The proposed regulation will require manufactured home installers to complete an application form for submittal to the Department. Upon completion of each new home installation, a certificate of compliance will be submitted to the building code official, Department and homeowner.

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 at __ Pa. B. __, on (date) to the Independent Regulatory Review Commission, the Chairperson of the House Commerce 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 60 days after final publication in the Pennsylvania Bulletin.

(b) The regulation will be 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, 400 North Street, Harrisburg, PA 17120 (717-720-7314); and/or Mark Conte, Chief, Housing Standards Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120 (717-720-7416).

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 for the implementation of the Manufactured Housing Improvement Act Program.

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

(1) That the regulations of the Department of Community and Economic Development, 12 Pa. Code, are amended by adding Chapter 149 to read as set forth at 35 Pa.B. 6902, as amended by Annex A hereto.

(2) That the Department of Community and Economic Development shall submit this order, 35 Pa.B. 6902 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 60 days after 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

SUBPART C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 149. MANUFACTURED HOUSING IMPROVEMENT PROGRAM

§149.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act - The Manufactured Housing Improvement Act (35 P.S. § 1658.1 et seq.).

Attachment - Wind storm protection accomplished by

(a) securing the manufactured home to the foundation;

(b) an alternative system, which is approved for use by the manufacturer through its DAPIA approved design, to secure the manufactured home to the foundation; or

(c) other requirements of the manufacturer necessary to provide an integrated, fully compliant manufactured home.

Building code official – As defined in the Act (35 P.S. § 1658.3).

Certificate of Compliance - A form developed by the Department which bears the signature of the installer of a new manufactured home and certifies that the new manufactured home was installed in accordance with the manufacturer's approved design and complies with all non-construction requirements of the Uniform Construction Code, relating to the installation of a new manufactured home, which are not addressed by the Manufactured Home Construction and Safety Standards.

[*Construction code official* - As defined in the Pennsylvania Construction Code Act (35 P.S. §7210.103).]

DAPIA – Design Approval Primary Inspection Agency as defined in the Manufactured Home Procedural and Enforcement Regulations (24 CFR § 3282.361).

Department - The Department of Community and Economic Development of the Commonwealth.

HUD - The United States Department of Housing and Urban Development.

Installation - As defined in the Act (35 P.S. § 1658.3).

Installer - As defined in the Act (35 P.S. § 1658.3).

Manufactured Home Construction and Safety Standards - As defined in the Act (35 P.S. § 1658.3).

Manufactured housing or manufactured home – As defined in the Act (35 P.S. § 1658.3).

Manufacturer - A person engaged in manufacturing or assembling manufactured homes, including a person engaged in importing manufactured homes for resale.

Manufacturer's approved design - As defined in the Act (35 P.S. § 1658.3). The term includes drawings, instructions, illustrations, documentation or procedures submitted by a manufacturer and approved by the manufacturer's DAPIA[, which assures that the new manufactured home, or any part thereof, including the support, stabilization and assembly, is in compliance with the Manufactured Home Construction and Safety Standards].

Purchaser - The first person purchasing a new manufactured home for purposes other than resale.

Retailer - A person engaged in the sale, leasing or distribution of a new manufactured home directly to a purchaser.

Uniform Construction Code or UCC - The Uniform Construction Code adopted under section 7210.301 of the Pennsylvania Construction Code Act (35 P.S. § 7210.101 et seq.).

[*Utility connections* – Connections not provided by the manufacturer of the new manufactured home which connect the new manufactured home to the utility service provider.]

§149.2 Purpose.

This chapter interprets and makes specific the provisions of the Act. This chapter establishes administrative procedures for the implementation of the Act, which procedures comply with the National Manufactured Housing Construction and Safety

Standards Act of 1974 as amended and the Manufactured Home Construction and Safety Standards. More specifically, this chapter is intended to achieve the following objectives:

- (1) Designate appropriate training programs for those persons that install new manufactured homes, in order to provide them with a thorough understanding of manufactured home construction and to assure that the manufactured homes they install comply with the Act, the Manufactured Home Construction and Safety Standards, and the UCC as applicable.
- (2) Establish a system to certify those persons who successfully complete the training program as installers of new manufactured homes.
- (3) Provide training for those persons who inspect new manufactured home installations under the Act, the Manufactured Home Construction and Safety Standards and the UCC.
- (4) Provide that all new manufactured home construction, installations and completion on site be performed in a manner consistent with the home manufacturer's DAPIA approved designs.
- (5) Establish a mechanism to verify to the Department, building code officials and purchasers that new manufactured homes are completed and installed by an installer of manufactured homes who was certified by the Department and that the homes comply with the Manufactured Home Construction and Safety Standards and applicable building codes.
- (6) Establish appropriate fees for the educational programs, testing and certification of installers of manufactured homes[, as well as those who inspect the installation of manufactured homes].
- (7) Establish procedures for the Department to issue warnings, suspensions, revocations or monetary fines against persons who violate the Act or this Chapter.

§149.3 Installation Standard.

(a) In accordance with the Manufactured Housing Construction and Safety Standards Act of 1974 (P.L. 93-383), 42 U.S.C.A. § 5401 et seq., as amended in 2000, a manufacturer of a new manufactured home shall provide a copy of the manufacturer's approved design, which includes instructions for the installation of the new manufactured home, [to the purchaser, retailer or installer of the new manufactured home] with each home.

(b) In accordance with the Manufactured Housing Construction and Safety Standards Act of 1974 (P.L. 93-383), 42 U.S.C.A. § 5401 et seq., as amended in 2000, a new manufactured home must be installed consistent with the manufacturer's approved

design. The manufacturer's approved design must be current, complete, easily understood and compatible with the home being installed. The manufacturer's approved design must fully address the support, attachment, assembly and all other aspects of manufactured home construction and installation to assure that the manufactured home performs as a fully integrated structure and complies with all elements of the Manufactured Home Construction and Safety Standards.

(c) A design other than the manufacturer's approved design may not be utilized in the installation of a new manufactured home without authorization of the manufacturer and evaluation and approval by the manufacturer's DAPIA.

(d) A building code official may not reject a manufacturer's approved design for any reason, including but not limited to, the fact that the material was not reviewed, approved, sealed or certified by an engineer, architect or similar person licensed in the Commonwealth of Pennsylvania. In the event that a building code official believes a manufacturer's approved design was approved by a DAPIA in error or questions the validity of a manufacturer's approved design, the building code official [should] may contact the Department, which will investigate the matter.

§149.4 Installer Training and Certification.

(a) Training.

(i) The Department will develop or designate acceptable training curricula for individuals seeking certification as an installer. The Department will annually review the training curricula.

(ii) Those desiring to provide training should submit an application to the Department. The application must contain the application fee, and the proposed curriculum[and any other information the Department requests to evaluate the submittal]. During the application evaluation process, the Department may request the submission of additional information from those desiring to provide training.

(iii) Upon approval of a training curriculum, a training provider shall coordinate the scheduling of courses with the Department. [A training provider shall set the tuition for such training, after consultation with the Department.] Upon completion of each course, a training provider shall submit to the Department a list of course participants and the required fee, established in §149.7, for each participant. A training provider shall indicate on the list of course participants which participants successfully completed the course.

(iv) The Department will publish annually a list of approved curriculum in the Pennsylvania Bulletin. Individuals seeking certification as an installer may also contact the Department to obtain a listing of such approved curriculum.

(b) Certification.

(i) Individuals seeking certification as an installer shall successfully complete the designated training curriculum; provide evidence of the successful completion of the designated training curriculum at the time of application; and pay the required fee, established in §149.7, to the Department. Application will be made on a form provided by the Department. An individual does not qualify as and may not represent himself to be an installer until such time as he has received written certification from the Department.

(ii) Certification as an installer is valid for one year from the date of issuance by the Department. Installers shall reapply for certification each year.

(iii) An installer is required to successfully complete a specified training curriculum at least every three years.

(iv) A person who has successfully completed a training curriculum approved by the Department as described in paragraph (a) of this section, prior to the effective date of this chapter, may apply for certification as an installer in the manner provided in this section without successfully completing an additional training curriculum. However, if the training curriculum was successfully completed more than two years before the effective date of this chapter, the applicant has twelve months to comply with subparagraph (iii) above.

§149.5 Building Code Official Training.

[Building code officials who inspect the installation of new manufactured homes shall successfully complete a course or workshop approved by the Department and shall do so every three years in order to continue inspecting the installation of new manufactured homes.]

(a) The Department will develop or designate acceptable workshops and training programs for those persons that inspect the installation of new manufactured homes. The Department will annually review the content of the workshops or training programs.

(b) Those desiring to provide training should submit an application to the Department. The application must contain the proposed elements that address Manufactured Housing. During the application evaluation process, the Department may request the submission of additional information from those desiring to provide training.

(c) Upon approval of a workshop or training program, a training provider shall coordinate the scheduling of workshops or training programs. Upon completion of each workshop or training program, a training provider shall submit to the Department a list of workshop or training program participants. A training provider shall indicate on

the list of workshop or training program participants which participants successfully completed the workshop or training program. A training provider shall provide each participant who successfully completed the workshop or training program with a written certificate signed by the training provider. The written certificate must specify the title of the workshop or training program and the date of successful completion.

(d) The Department will publish annually a list of approved workshops and training programs in the Pennsylvania Bulletin. Building code officials may also contact the Department to obtain a listing of approved workshops and training programs.

(e) Building code officials who inspect the installation of new manufactured homes shall successfully complete a workshop or training program approved by the Department and shall do so every three years in order to continue inspecting the installation of new manufactured homes.

(f) The Department will accept a copy of a written certificate signed by the training provider as evidence that the building code official successfully completed a workshop or training program required under §149.5(e).

§149.6 Certificate of Compliance.

(a) Upon completion of the installation of a new manufactured home, an installer shall complete a certificate of compliance. [An installer is not required to complete a certificate of compliance for installation of items such as, but not limited to, a porch or steps, if the items] A certificate of compliance may not reference items that are not part of the manufacturer's approved design or covered by the Manufactured Home Construction and Safety Standards.

(b) Within five calendar days of completion of the installation of a new manufactured home, the installer of the new manufactured home shall forward the certificate of compliance to the Department and the appropriate building code official, if known.

(c) A building code official may not issue a certificate of occupancy for a new manufactured home until he has received a completed copy of the certificate of compliance filed with the Department.

(d) The installer of a new manufactured home shall attach the original completed certificate of compliance to the installation instructions that remain with the home or hand deliver the certificate of compliance and the installation instructions to the purchaser.

(e) If the manufacturer or retailer has not agreed in writing to be responsible to the purchaser for the installation of the new manufactured home prior to the execution of the sales documents, the manufacturer or retailer shall provide the purchaser with a written statement that the home must be installed as described in section 149.3(b) and (c),

and that the certificate of compliance must be completed and signed by an installer certified under section 149.4(b). At that same time, the manufacturer or retailer shall provide the purchaser with a list of installers known to him or obtained from the Department. By providing the list, the manufacturer or retailer does not warrant the quality of the installers' work, nor is the purchaser under any obligation to use any particular installer.

§149.7 Fees.

(a) The Department will charge training providers [the following fees:] a fee for:

(i) [\$400 for] each curriculum evaluated by the Department payable upon submission of the application.

(ii) [\$50 for] each person registered to participate in an approved training curriculum.

(b) The Department will charge installers an annual fee [of \$150] for the issuance of an individual installer certification.

(c) The Department [may change the fee schedule] will establish the fee rates by publication of a notice in the Pennsylvania Bulletin.

§149.8 Penalties.

(a) The Department may suspend or revoke the certification of any person who violates the provisions of the Act or this chapter or for whom the Department receives:

(i) Homeowner complaints;

(ii) Complaints from building code officials regarding performance of duties;

(iii) Evidence of a conviction of moral turpitude or similar crime;

(iv) Information that indicates a repeated failure to properly install manufactured homes;

(v) Evidence of fraud;

(vi) Evidence of loss of licensure or certification issued by another state or HUD; or

(vii) Evidence of a violation of the Manufactured Home Procedural and Enforcement Regulations.

Persons who wish to lodge a complaint with the Department may do so by any means of communication; provided that if the complaint is made verbally, it must be followed up in writing. Before the Department suspends or revokes a certification, the Department will provide written notification to the certified person. The Department will specify in the notification the reason for the suspension or revocation and a time and place for a hearing on the matter, to be held within thirty days of notification.

(b) Prior to the issuance of written notification of suspension or revocation to the certified person, the Department may issue written warnings to the certified person. Written warnings must specify the alleged violations and may include a request for a written response to the allegations set forth in the written warnings from the certified person.

(c) Additionally, the Department may impose a civil penalty of up to \$1,000 per violation, not to exceed \$1,000,000 in the aggregate, on any person who violates the provisions of the Act or this chapter. The Department may impose the penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure).



DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT

April 13, 2006

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

Dear Mr. McGinley:

Pursuant to Section 745.5(a) of the Regulatory Review Act, enclosed for your review is a final regulation. The regulation submitted would amend Chapter 149 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, as well as those commentators who requested a copy.

Sincerely,



Jill B. Busch
Deputy Chief Counsel

Enclosures

cc: Ron Boston, Legislative Liaison

Office of Chief Counsel
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Tel: 717-783-8452 | Fax: 717-772-3103

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

I.D. NUMBER: 4-82
 SUBJECT: Manufactured Housing Improvement Program
 AGENCY: DEPARTMENT COMMUNITY & ECONOMIC DEVELOPMENT

TYPE OF REGULATION

- Proposed Regulation
- X 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

RECEIVED
 2006 APR 13 AM 11:17
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/13/06	<i>J. Floyd</i>	HOUSE COMMITTEE ON COMMERCE & ECONOMIC DEVELOPMENT
4/13/06	<i>Brenda Zablotsky</i>	
	<i>Jan R. Fyfe 4/13/06</i>	SENATE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT
	<i>Kelley Thomas 4/13/06</i>	
4/13/06	<i>Kathy Coops</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)