

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Department of Community and Economic Development

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

4-84

IRRC Number: 2521

(3) Short Title

Manufactured Housing

(4) PA Code Cite

12 Pa. Code Chapter 143

(5) Agency Contacts & Telephone Numbers

Primary Contact: Lisa Maiorana, 717-720-7330

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.

Pursuant to the Manufactured Housing Construction and Safety Standards Authorization Act, the final regulation establishes fees charged to manufacturers and retailers for the costs of extraordinary/follow-up monitoring and inspections incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development.

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

The act of November 17, 1982 (P.L. 676, No. 192), known as the Manufactured Housing Construction and Safety Standards Authorization Act, 35 P.S. §1656.1 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.

No.

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

The US Department of Housing and Urban Development (HUD) funds this Department with an established monitoring fee as we carry out our responsibilities as the State Administrative Agency, enforcing the Manufactured Home Construction and Safety Standards. In cases where we are required to perform additional monitoring as a result of the manufacturer or retailer failing to take appropriate corrective measures, the funds received from HUD are insufficient to cover the costs incurred by the department. This regulation will establish fees to cover the costs of extraordinary monitoring beyond that which is presently funded.

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

Enforcement of the Manufactured Home Construction and Safety Standards is at times impeded by manufacturers or retailers who fail to take appropriate action to correct deficiencies not only in their construction activities but also their record keeping and remedial action requirements. These fees will not only better assure Departmental oversight, but will act as a motivator for those regulated parties that fail to properly respond.

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

This regulation will better assure Departmental oversight of the Manufactured Home Construction and Safety Standards, ultimately providing improved consumer protection.

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.)

Only manufacturers and retailers of manufactured homes that fail to take corrective steps after they have been informed of failures to comply with the applicable standards or regulations.

(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 30 manufactured home producers and 300 manufactured home retailers will be required to comply with these 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 several informal discussions with the Pennsylvania Manufactured Housing Association. Additionally, this has been discussed with HUD and with the Manufactured Housing Association for Regulatory Reform.

(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.

None.

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(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 will have the ability to recover the costs associated with extraordinary monitoring when it is found that either a manufacturer or retailer fails to take remedial action when failures to comply are identified.

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(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	\$6,084	\$6,084	\$6,084	\$6,084	\$6,084	\$6,084
Total Savings						
COSTS:						
Regulated Community	\$6,084	\$6,084	\$6,084	\$6,084	\$6,084	\$6,084
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

We currently perform 12 follow-up monitoring activities per year. Each follow-up activity requires one full day of staff time as well as travel expenses. Travel expenses are arrived at by determining the average distance traveled per trip (220 miles round trip) multiplied by the current mileage rate (48.5).

12 follow-up visits x (\$400+ \$107) = \$6084

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
Manufactured Housing Program	\$220,187	\$82,692	\$153,302	\$154,718

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

DCED will have the ability to recover the costs associated with extraordinary monitoring when it is found that either a manufacturer or retailer fails to take remedial action when failures to comply are identified.

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

Nonregulatory alternatives to encourage improved compliance have been utilized over the past several years with limited success. The Department's only alternative when compliance is not forthcoming is to require legal action which is costly and untimely.

(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?

Eleven of the 39 states that operate similar programs presently charge fees for monitoring activities. Our proposed fees are slightly higher than most other states. California's fee is higher at \$233 per hour. Oregon's fee is similar to ours at \$55 per hour. Minnesota charges \$45 per hour, while Alabama and Florida charge \$30 per hour. Other states charge a flat fee. Our fee is identical to the fee we charge in our industrialized housing program.

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

No.

(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.

No.

(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?

January 1, 2006 or 60 days after publication of the final regulation in the Pennsylvania Bulletin.

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

The regulations should be reviewed yearly to adjust the fee structure as needed.

CDL-1

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

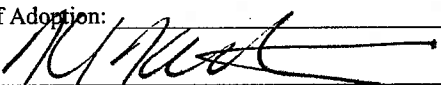

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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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. 4-84 Date of Adoption: _____</p> <p>By: <u></u> Kenneth Kloth</p> <p>Title: Deputy Secretary for Community Affairs and Development</p> <p>2521</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>By: <u></u> Deputy General Counsel Andrew C. Clark</p> <p>JUL 13 2006 _____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

SUBPART C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 143. MANUFACTURED HOUSING

PREAMBLE

By this order, the Department of Community and Economic Development, under the authority of Section 6 of the Act of November 17, 1982 (P.L. 676, No. 192), known as the Manufactured Housing Construction and Safety Standards Authorization Act, 35 P.S. § 1656.1 et seq., hereby amends Title 12 of the Pennsylvania Code by revising Chapter 143. The purpose of the final regulation is to establish fees charged to manufacturers and retailers to cover the costs of extraordinary/follow-up monitoring and inspections incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development and to update the existing regulation with the term "Housing Standards Division".

Introduction

Under the Manufactured Housing Construction and Safety Standards Authorization Act, 35 P.S. § 1656.1 et seq., the United States Department of Housing and Urban Development (HUD) funds the Department of Community and Economic Development with a monitoring inspection fee in an amount authorized by HUD, pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, as amended (P.L. 93-383), 42 U.S.C.A. § 5401 et seq. When the Department is required to perform additional monitoring because the manufacturer or retailer fails to take appropriate corrective measures, the funds received from HUD are insufficient to cover the costs of the same. Pursuant to section 1656.6 of the Manufactured Housing Construction and Safety Standards Authorization Act, the final regulation will establish fees to cover the costs of extraordinary/follow-up monitoring beyond that which is presently funded.

The Department received comments from the Independent Regulatory Review Commission, voicing two concerns. Both involved Section 143.15 added to cover "Fees", allowing the Department to charge manufacturers or retailers fees to cover the costs of extraordinary/follow-up monitoring and inspection incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development. The first concern involved a perceived failure on the part of the Department to

clarify which of the included daily or hourly fees the manufacturer or retailer would be charged for "Follow-up inspection or monitoring services" and "Administrative services associated with follow-up inspection or monitoring services". In response to this concern, the Department has added the language suggested by the Commission, "whichever is less", to the fees under both categories. The second concern involved the addition of a cross reference to where the manufacturer or retailer can find the current rates for "Travel and per diem expenses". In response, the Department added the language that the manufacturer or retailer may contact the Department for this information, since no cross reference was located.

Analysis

Section 143.4 is amended to delete the term "Division of Manufactured Housing" and replace it with the updated term "Housing Standards Division".

Section 143.12 is amended to delete the term "Division of Manufactured Housing" and replace it with the updated term "Housing Standards Division".

Section 143.13 is amended to delete the term "Division of Manufactured Housing" and replace it with the updated term "Housing Standards Division".

Section 143.14 is amended to delete the word "held".

Section 143.15 is amended, covering "Fees", allowing the Department to charge manufacturers or retailers fees to cover the costs of extraordinary/follow-up monitoring and inspection incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development, adding the language, "whichever is less", after the listed daily or hourly fees; and adding the language that the manufacturer or retailer may contact the Department for the current rates for "Travel and per diem expenses", since no cross reference for this information was located.

Fiscal Impact

(a) Commonwealth. The additional fees allowed under this final regulation will enable DCED to recover the costs associated with extraordinary/follow-up monitoring, when it is determined that either a manufactured home manufacturer or retailer fails to remediate failures to comply with applicable standards or regulations.

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

(c) Public. Only manufacturers and retailers of manufactured homes that fail to take corrective steps after they have been informed of failures to comply with applicable standards or regulations will incur the additional fees allowed under this final regulation.

Paperwork

The final regulation will not change existing paperwork requirements.

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 36 Pa. B. 559, on January 23, 2006 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. The Department received no comments from the public with regard to the proposed regulation.

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

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 sixty (60) days after final publication in the Pennsylvania Bulletin.

(b) The regulation will be monitored on an annual basis and updated as needed.

Contact Person

For an explanation of these regulations contact Lisa Maiorana, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120 (717-720-7330).

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 143 to read as set forth at 36 Pa. B. 559, as amended by Annex A hereto.
- (2) That the Department of Community and Economic Development shall submit this order, 36 Pa. B. 559 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 AND ECONOMIC DEVELOPMENT

CHAPTER 143. MANUFACTURED HOUSING

§ 143.4. Responsibility of the Department.

The [Division of Manufactured Housing] Housing Standards Division of the Department is responsible for enforcing the manufactured home standards of the Federal act, and may join with the Department of Housing and Urban Development and other States or public or private agencies for these purposes.

§ 143.12. Consumer complaints.

Individuals alleging wrongful acts by persons involved in the manufacture or sale of manufactured homes within this Commonwealth shall contact the Department of Community and Economic Development, [Division of Manufactured Housing, at Commonwealth Keystone Building] Housing Standards Division, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. An investigation will be conducted by the Division upon the receipt of a written and signed complaint. Complaints shall contain the writer's name and address, and contain sufficient detail to enable the Division to fully understand the nature and extent of the complaint. Copies of all documents shall be appended to the complaint.

§ 143.13. Investigations.

The Department, through the [Division of Manufactured Housing] Housing Standards Division, after investigation on its own initiative or upon the receipt of a verified complaint under § 143.12 (relating to consumer complaints) has the power, after notice and hearing, to order the payment of civil penalties not to exceed \$1,000 per violation for violations of this chapter, the act, the Federal act or regulations promulgated under the Federal act. The maximum civil penalty that may be imposed will not exceed \$1 million

for any related series of violations occurring within 1 year from the date of the first violation.

§ 143.14. Hearings.

Hearings [held] under this chapter will be conducted in accordance with 1 Pa.Code Part II (relating to general rules of administrative practice and procedure).

§ 143.15. Fees.

To offset the costs of follow-up monitoring or inspections incurred by the Department beyond those provided for in the monitoring inspection fees authorized by the United States Department of Housing and Urban Development, the Department may charge the manufacturer or retailer the following fees:

<u>Follow-up inspection or monitoring services –</u>	<u>\$400 per day or \$60 per hour, WHICHEVER IS LESS.</u>
------------------------------------------------------	-----------------------------------------------------------

<u>Administrative services associated with follow-up inspection or monitoring services –</u>	<u>\$175 per day or \$25 per hour, WHICHEVER IS LESS.</u>
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<u>Travel and per diem expenses –</u>	<u>Current Commonwealth travel and per diem expenses. (THE MANUFACTURER OR RETAILER MAY CONTACT THE DEPARTMENT FOR THIS INFORMATION).</u>
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DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT

July 18, 2006

Independent Regulatory Review Commission
c/o Alvin Bush
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Dear Mr. Bush:

Pursuant to Section 745.5a of the Regulatory Review Act, enclosed for your review is a final-form regulation. The regulation submitted would amend Chapter 143 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,

A handwritten signature in blue ink that reads "Lisa M. Maiorana".

Lisa M. Maiorana
Assistant 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**

RECEIVED

I.D. NUMBER: 4-84

SUBJECT: MANUFACTURED HOUSING

2006 JUL 18 PM 3:41

AGENCY: DEPARTMENT COMMUNITY & ECONOMIC DEVELOPMENT

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

7/18 *Robert Floyd*

HOUSE COMMITTEE ON COMMERCE & ECONOMIC
DEVELOPMENT

7/18 *Kelly Brown*

Jan R. Ruff 7/18/06

SENATE COMMITTEE ON COMMUNITY & ECONOMIC
DEVELOPMENT

Brenda Zappella 7/18/06

7/18/06 *Kathy Cooper*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

July 13, 2006