

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)

4-85

IRRC Number: 2554

(3) Short Title

Industrial Housing and Components

(4) PA Code Cite

12 Pa. Code Chapter 145

(5) Agency Contacts & Telephone Numbers

Primary Contact: Matthew Speicher, 717-720-7317

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 purpose of this proposed regulation is to eliminate the exception to the adopted standard for energy conservation for industrialized homes and adopt the model code requirements for energy efficiency bringing Industrializes Housing on par with the Pennsylvania Construction Code and to reduce the number of required inspections by the Department.

(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, 35 P.S. § 1651.1 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?

Adoption of the IRC provision for energy efficiency of industrialized homes, or as an alternate Pennsylvania's Alternative Residential Energy Provisions will provide parity with conventional housing constructed under the Pennsylvania Uniform Construction Code as well as industrialized homes constructed for shipment to other states.

The required biannual inspections of every approved plant have proven problematic. Several approved manufacturing plants build relatively few homes for placement in Pennsylvania. Allowing the Department to reduce the number of inspections conducted at each plant will reduce operating costs and improve efficiency of the operation.

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

Without this regulation, industrialized housing will lag behind the rest of the housing industry in terms of an out of date energy standard. Adoption of the model energy standards will result in improved energy efficiency in the homes produced and allow manufacturers to utilize newer technology in designing heating and cooling systems.

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

The industrialized housing industry will benefit as they reach parity with site built homes constructed under the UCC. Also industrialized home producers will be able to utilize computer software programs for calculating the energy efficiency of the homes. This will result in cost savings for the consumer as the homes will become more energy efficient. The Department will benefit by being able to focus attention where it is needed rather than performing inspections at facilities that are superior performers or those that produce very few homes.

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.)

There will be no adverse affects from this regulation.

(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 65 modular home manufacturers 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 formal meetings with the Modular Building Systems Association (MBSA) and the Pennsylvania Manufactured Housing Association (PMHA) membership and several discussions with industrialized home manufacturers and approved inspection agencies regarding this regulation.

(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.

Any increase in costs to the industry would be negligible. The majority of manufacturers presently exceed the current provisions and build homes that comply with the proposed standard.

(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.

While the Department is looking to reduce the number of required inspections at each plant per year, we estimate the total number of inspections will remain unchanged. This is in part a result of additional production facilities seeking approval each year and, when granted the flexibility to focus

our inspection efforts, we are looking to increase inspections at specific plants when warranted.

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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						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

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

1) The vast majority of manufacturer's presently comply with the proposed energy conservation standards and have reported that this change will not impact the cost of the home.

2) While plant inspections would be reduced from twice per year to once per year, the total number of inspections would remain unchanged as every year additional plants seek approval and the additional inspections could be focused where needed.

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 Program	\$80,666	\$118,752	\$161,683	\$172,862

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

There are no measurable costs or savings to the program. Benefits would be realized by the Industrialized Housing producers as the homes produced would achieve a higher level of quality and the Department would incur the flexibility in terms of regulatory enforcement to better address problematic areas.

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

N/A.

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

N/A.

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(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?

The change to eliminate the exception to the adopted standard for energy conservation and adopt the IRC for energy conservation will raise the level of quality for Pennsylvania industrialized homes to the same level of quality required in other states. Nothing in these regulations will create a competitive disadvantage for the Pennsylvania industry.

(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. However, an informational meeting or teleconference will be held to discuss these changes with the industry.

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?

The regulation will become effective within 60 days after publication of the final regulation in the Pennsylvania Bulletin.

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

After the Pennsylvania industrialized housing program fully adopts the IRC as the primary standard, no further regulatory changes will be needed as the code will routinely update every three years.

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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**FACE SHEET
FOR FILING DOCUMENTS
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(Pursuant to Commonwealth Documents Law)**

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: <u>Amey M. Elliott</u> (Deputy Attorney General)</p> <p>JUN 08 2006 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. 04-85 Date of Adoption _____</p> <p>By: <u>Kenneth Klothen</u> Kenneth Klothen</p> <p>Title: Deputy Secretary for Community Affairs</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>By: <u>Andrew C. Clark</u> Andrew C. Clark</p> <p>MAY 16 2006 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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TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT
PART V. COMMUNITY AFFAIRS AND DEVELOPMENT
SUBPART C. COMMUNITY DEVELOPMENT AND HOUSING
CHAPTER 145. INDUSTRIAL HOUSING AND COMPONENTS

PREAMBLE

The Department of Community and Economic Development, under the authority 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 proposed regulation is to eliminate the exception for energy conservation for industrialized homes; to adopt the model code requirements for energy efficiency bringing Industrialized Housing on par with the Pennsylvania Construction Code; and to reduce the number of required inspections by the Department.

Introduction

The Industrialized Housing Act authorizes the Department to promulgate rules and regulations to interpret and make specific the provisions of the Act. Such rules and regulations, inter alia, are to be amended to “assure the health, safety and welfare of the people of Pennsylvania by requiring safe and sanitary industrial housing and shall include provisions imposing requirements reasonably consistent with recognized and accepted model codes.” 35 P.S. § 1651.5. The purpose of this regulation is to provide parity with conventional housing constructed under the Pennsylvania Uniform Construction Code and industrialized housing constructed for other states. Adoption of the model energy standards will improve energy efficiency in housing produced and allow manufacturers to utilize newer technology in designing heating and cooling systems.

Analysis

Section 145.41 is amended to adopt the ICC International Energy Conservation Code and the ICC International Residential Code as additional standards applicable to the industrialized housing and housing components for purposes of this chapter and to remove the energy conservation and stair geometry exceptions to the ICC International Building Code.

Section 145.42 is amended to provide the International Energy Conservation Code and Pennsylvania's Alternative Residential Energy Provisions as the alternatives to Section 145.41 with respect to energy efficiency. The ICC International Residential Code is removed as an alternative because it will be adopted as a standard in Section 145.41. The amendment also provides alternate standards regarding stairway construction.

Section 145.93 is amended to replace the biannual inspection requirement with an annual inspection requirement.

Fiscal Impact

(a) Commonwealth. While striving to reduce the number of required inspections per year at each plant, the Department estimates the total number of inspections will remain unchanged. This is in part a result of additional production facilities seeking approval each year, and increased inspections at warranted plants once granted the ability to focus Department inspection efforts.

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

(c) Public. Any increased costs to the industry would be negligible. The majority of manufacturers presently exceeds the current provisions and builds homes that comply with the proposed standard. However, the current fees are low in comparison to other states and have not been increased since 1979.

Paperwork

The proposed 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 this proposed

regulation on July 7, 2006 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. In addition to submitting the regulation, the agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed regulation, it will notify the agency within thirty (30) days after the close of the public comment period. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the agency, the General Assembly and the Governor of objections raised.

Effective Date/Sunset Date

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

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

Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed regulation to Matthew Speicher, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120 (717-720-7317); 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).

ANNEX A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT PART V. COMMUNITY AFFAIRS AND DEVELOPMENT SUBPART C. COMMUNITY DEVELOPMENT AND HOUSING CHAPTER 145. INDUSTRIAL HOUSING AND COMPONENTS

§ 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 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 ICC International Mechanical Code.

(3) The ICC International Plumbing Code.

(4) The International Energy Conservation Code.

(5) The National Electric Code (NFPA No. 70).

(6) The ICC International Residential Code (for one and two family dwellings and town homes).

(b) Except as provided in §145.43 (relating to amendment policy), the codes must be the latest edition [including supplements]. The effective date of all code changes [or supplements] must be in accordance with §§145.44 and 145.122(b) (relating to adoption and effective dates—code amendments; and effective date).

(c) [Insulation requirements shall have the following minimum thermal resistance (“R” values) through building sections—the total “R” value of a building section may be calculated by simply adding the individual “R” values of a building components—with the exception that the stated “R” value of one assembly, such as roof/ceiling, or wall or floor, may be increased and the “R” value for other components decreased if the

overall heat loss for the building envelope does not exceed the total heat loss which would result from conformance to the following individual requirements or the standards:

- (1) Ceilings adjacent to unheated areas: $R=30$.
- (2) Exterior walls and partition walls between heated and unheated areas:
 $R=16$.
- (3) Foundation walls applicable to heated basements and crawl spaces:
 $R=10$.
- (4) Partition walls between apartments and other heated areas: $R=11$.
- (5) Floors over areas open to the outside and crawl spaces if foundation walls are not insulated in accordance with paragraph (3): $R=19$.
- (6) Floors over unheated basements: $R=11$.
- (7) Entrance doors: $R=4$.
- (8) Supply ducts in unheated areas: $R=5$.
- (9) Return ducts in unheated areas: $R=3.5$.
- (10) Edge insulation for concrete slabs: $R=8$.
- (11) Windows must be double glazed or single glazed plus storm windows.
- (12) Vapor barriers, weather stripping and still sealer must be used where applicable.
- (13) Ventilation must be provided for the air spaces between insulated ceilings and roofs.

(d)] Insulation technique and installation applicable to the floor or foundation wall is not always practical at the manufacturing facility. Industrialized-modular-housing [dealers,] builders or contractors may supply and install the required floor or foundation wall insulation. If the [dealer,] builder or contractor supplies and installs the required floor or foundation wall insulation, an assignment of responsibility shall be used. The assignment of responsibility shall be signed by the authorized respective [dealer,] builder or contractor prior to the industrialized-modular-housing unit leaving the manufacturing plant. A manufacturer is required to retain the copies of the assignment of responsibility sheets in his files for inspection by the Department. Periodic inspections will be made on units with [dealer,] builder or contractor-installed floor or foundation wall insulation.

Assignment of responsibility shall be on forms provided by the Department which will conform to the following:

ASSIGNMENT OF RESPONSIBILITY

To: _____

I HEREBY ASSUME FULL RESPONSIBILITY FOR COMPLYING WITH THE FLOOR AND/OR FOUNDATION WALL INSULATION REQUIREMENTS AS MANDATED BY AMENDMENT TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT RULES AND REGULATIONS UNDER THE PENNSYLVANIA INDUSTRIALIZED HOUSING ACT OF MAY 11, 1972.

THIS ASSIGNMENT OF RESPONSIBILITY SHALL APPLY TO THE FOLLOWING HOME(S):

[DEALER] BUILDER NAME: _____

CUSTOMER NAME: _____

MODEL: _____

SERIAL NO.: _____

_____ Date: _____

AUTHORIZED SIGNATURE

[DEALER,]BUILDER, CONTRACTOR

(TO BE COMPLETED AND RETURNED TO THE ABOVE ADDRESS WITH SIGNED CONFIRMATION.)

[(e)](d) The provisions of the codes in subsection (a) that relate specifically to the interpretation, administration and enforcement of the codes and to matters which are not within the authority conferred on the Department by the act and this chapter are not adopted under this chapter and are not applicable in the administration and enforcement of this chapter. If there is an inconsistency or conflict between the provisions of a code adopted under this chapter and this chapter, this chapter will prevail.

[(f)](e) 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) 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)).

(2) Insulation requirements and minimum requirements of § 145.41(c)(1)—(13).

(3) Electrical Code for One and Two Family Dwellings, NFPA No. 70.]

(1) As an alternate to the ICC International Residential Code, Chapter 11 regarding energy efficiency, the manufacturer may use either:

(a) the prescriptive methods for residential buildings in the International Energy Conservation Code compliance guide containing State maps, prescriptive energy packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (REScheck™) or

(b) Pennsylvania's Alternative Residential Energy Provisions developed by the Pennsylvania Housing Research Center at the Pennsylvania State University.

(2) As an alternate to the ICC International Residential Code, Chapter 3-Building Planning, in regards to stairway construction, manufacturer may use the following standard:

(a) The maximum riser height shall be 8 ¼ inches. There may be no more than 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(b) The minimum tread depth shall be 9 inches measured from tread nosing to tread nosing. There may be no more than 3/8 inch variation in tread depth within a flight of stairs.

(c) All treads may have a uniform projection of not more than 1 ½ inches when solid risers are used.

(d) Stairs may not be less than 3 feet in clear width and clear head room of 6 feet 8 inches shall be maintained for the entire run of the stair.

(e) Handrails may project from each side of a stairway a distance of 3 ½ inches into the require width of the stairway.

(b) Except as provided in §145.43 (relating to amendment policy), the codes must be the latest edition [including supplements]. The effective date of code changes [or supplements] must be in accordance with §§145.44 and 145.122(b) (relating to adoption and effective dates—code amendments; and effective date).

§ 145.93. Factory inspections; right of entry.

(a) Authorized inspections by Department.

(b) [~~Twice y~~]Yearly inspections. A factory or manufacturing facility with approved building system documentation shall be inspected at least [twice] once each year by the Department. The inspections are to verify the effectiveness of the sponsor's quality program and compliance with approved building systems documentation.



DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT

July 7, 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 5(a) of the Regulatory Review Act, enclosed for your review is a proposed 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,

A handwritten signature in blue ink, appearing to read "Matthew J. Speicher".

Matthew J. Speicher
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: 4-85
SUBJECT: COMMUNITY DEVELOPMENT & HOUSING - INDUSTRIAL
HOUSING & COMPONENTS
AGENCY: DEPARTMENT COMMUNITY & ECONOMIC DEVELOPMENT

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INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- X 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
7/7/06	J. Floyd	HOUSE COMMITTEE ON COMMERCE & ECONOMIC DEVELOPMENT
7/7/06	Brenda Zablotny	
7/7/06	Joselyn	SENATE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT
7/7/06	Allyson	
7/7/06	St. Helms	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
7/7/06	[Signature]	LEGISLATIVE REFERENCE BUREAU (for Proposed only)