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COMMONWEALTH OF PENNSYLVANIA JUL -1 PM 2: 35  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

3063

June 29, 2015

Independent Regulatory Review Commission  
c/o John F. Mizner, Esq.  
14th Floor, Harristown II  
333 Market Street  
Harrisburg, PA 17101

RE: Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking - 4-95 – Industrial Housing and Components - 12 PA. Code Chapter 145

Dear Mr. Mizner:

Enclosed for your review is a copy of an Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking relating to the above-referenced regulation published in the Pa Bulletin on June 27, 2015.

Concurrently with delivery to you of a copy of the Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking, a copy of the Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking has also been submitted to the House Commerce Committee and the Senate Community, Economic and Recreational Development Committee for their respective review.

Sincerely,

Lisa Maiorana  
Assistant Counsel

Enclosure

cc: Barry Wickes, Legislative Liaison  
Stephen D'Ettorre, Policy  
Mark Conte, Factory Housing & Building Standards



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2015 JUL -1 PM 2: 35

**COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

June 29, 2015

Honorable Adam Harris, Chair  
Commerce Committee  
Pennsylvania House of Representatives  
115 Ryan Office Building  
PO Box 202082  
Harrisburg, PA 17120-2082

RE: Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking - 4-95 – Industrial Housing and Components – 12 PA. Code Chapter 145

Dear Representative Harris:

Enclosed for your review is a copy of an Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking relating to the above-referenced regulation published in the Pa Bulletin on June 27, 2015.

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**COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

June 29, 2015

Honorable W. Curtis Thomas, Minority Chair  
Commerce Committee  
Pennsylvania House of Representatives  
Room 214 Irvis Office Building  
PO Box 202181  
Harrisburg, PA 17120

RE: Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking - 4-95 – Industrial Housing and Components – 12 PA. Code Chapter 145

Dear Representative Thomas:

Enclosed for your review is a copy of an Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking relating to the above-referenced regulation published in the Pa Bulletin on June 27, 2015.

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John F. Mizner, Esq., IRRC



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2015 JUL -1 PM 2:35

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

June 29, 2015

Honorable Lawrence Farnese Jr., Minority Chair  
Community, Economic and Recreational Development Committee  
Senate of Pennsylvania  
Room: 543 Main Capitol  
Senate Box 203001  
Harrisburg, PA 17120-3001

RE: Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking - 4-95 – Industrial Housing and Components - 12 PA. Code Chapter 145

Dear Senator Farnese:

Enclosed for your review is a copy of an Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking relating to the above-referenced regulation published in the Pa Bulletin on June 27, 2015.

Concurrently with delivery to you of a copy of the Advanced Notice and Draft Final-Form Rulemaking, a copy of the Advanced Notice and Draft Final-Form Rulemaking has also been submitted to the Independent Regulatory Review Commission for its review.

Sincerely,

Lisa Maiorana  
Assistant Counsel

Enclosure

cc: Barry Wickes, Legislative Liaison  
Stephen D'Ettore, Policy  
Mark Conte, Factory Housing & Building Standards  
John F. Mizner, Esq., IRRC



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COMMONWEALTH OF PENNSYLVANIA 2015 JUL -1 PM 2: 36  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

June 29, 2015

Honorable Kim L. Ward, Chair  
Community, Economic and Recreational Development Committee  
Senate of Pennsylvania  
Room 168 Main Capitol Building  
Senate Box 203039  
Harrisburg, PA 17120

RE: Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking - 4-95 – Industrial Housing and Components - 12 PA. Code Chapter 145

Dear Senator Ward:

Enclosed for your review is a copy of an Advanced Notice of Final Rulemaking and Draft Final-Form Rulemaking relating to the above-referenced regulation published in the Pa Bulletin on June 27, 2015.

Concurrently with delivery to you of a copy of the Advanced Notice and Draft Final-Form Rulemaking, a copy of the Advanced Notice and Draft Final-Form Rulemaking has also been submitted to the Independent Regulatory Review Commission for its review.

Sincerely,

Lisa Maiorana  
Assistant Counsel

Enclosure

cc: Barry Wickes, Legislative Liaison  
Stephen D'Ettoire, Policy  
Mark Conte, Factory Housing & Building Standards  
John F. Mizner, Esq., IRRC

# NOTICES

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Advanced Notice of Final Rulemaking

[12 PA. CODE CH. 145]

### Industrial Housing and Components

The Department of Community and Economic Development (Department) is soliciting comments on changes it recommends be made to Chapter 145, Industrial Housing and Components proposed rulemaking published in the Pennsylvania Bulletin at 44 Pa.B. 5026 (July 26, 2014). The public comment period closed on August 25, 2014. The Department received nine comments from eight commentators.

The draft final-form rulemaking, which follows this Advanced Notice of Final Rulemaking, satisfies amendments to the Industrialized Housing Act, requiring the Department to promulgate regulations to administer a certification program to oversee the production, installation and inspection of new commercial modular buildings. Commercial modular buildings that are produced under this certification program will be deemed to comply with the Pennsylvania Construction Code Act.

#### A. *Summary of Advance Notice of Final-Form Rulemaking Changes*

In response to comments received during the official public comment period on the proposed rulemaking for Chapter 145, Industrial Housing and Components, the Department has prepared a draft final-form rulemaking for public comment. The draft final-form rulemaking contains changes in several areas. These changes include:

- *Definitions*—Section 145.1 was revised to delete the definition of “permanent foundation”.
- *Scope*—Section 145.3 was revised to state that the regulation applies to new industrialized housing, buildings and housing or building components.
- *Requirements of certification*—Section 145.31 was revised to provide that the regulation applies to industrialized housing, buildings or housing or building components produced after the effective date of the regulation.

- *Manufactured homes excluded*—Section 145.33 was revised to provide a definition of the term “permanent foundation”, which term was previously undefined.

While there is no legal requirement to provide an opportunity to comment upon the Department’s recommendations for final-form rulemaking, the Department believes this Advanced Notice of Final Rulemaking provides for the opportunity to serve the public interest in building consensus on the language of the regulation prior to submittal of the final-form regulation, as recommended by the Independent Regulatory Review Commission in its comments.

#### B. *Contact Persons*

For further information or to request a copy of the draft final-form rulemaking contact Mark Conte, Department of Community and Economic Development, 400 North Street, 4<sup>th</sup> Floor, Harrisburg, PA 17120-0225, 717-720-7416, [mconte@pa.gov](mailto:mconte@pa.gov).

Electronic or written comments should be sent to Mark Conte at the previously listed address. Comments must be received by July 27, 2015. A subject heading of the rulemaking and a return name and address must be included in each letter or transmission. Comments will not be accepted by facsimile or voicemail.

Dennis Davin,

Secretary

Draft Final-Form Rulemaking

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

GENERAL PROVISIONS

§ 145.1. Definitions.

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

\* \* \* \* \*

*Approved*—Approved by the Department, or agent of the Department, under this chapter.

*Building system*—[The industrialized housing or housing components described in the building system documentation.] The method of constructing a type of industrialized home, building, or housing or building component described by plans, specifications and other documentation which together establish a set of limits meeting the building standards in §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards), as well as the compliance control program requirements of § 145.58 (relating to basic requirements for a compliance control program), including installation details.

*Building system documentation*—[The plans, specifications and other documentations which together describe industrialized housing or a housing component, including variations and installation detail, consistent with § 145.41 or § 145.42 (relating to adoption of standards; and alternate standards).] The plans, specifications, procedures and other documentation, approved by an evaluation agency under § 145.52 (relating to approval of building system documentation), which together describe industrialized home, building, or housing or building components, including any variation, installation detail and instruction consistent with this chapter.

*Certification or certified*—Conforming to the requirements of this chapter.

*Compliance assurance program*—The system of policies and procedures implemented by the manufacturer and the inspection agency to assure that industrialized housing, buildings, or housing or building components are manufactured, transported and installed at the site in accordance with the approved building system documentation.

*Compliance control program*—The system of policies and procedures utilized by the manufacturer to assure that industrialized housing, buildings, or housing or building components, as the case may be, are manufactured, transported and installed at the site in accordance with the approved building system documentation.



\* \* \* \* \*

ICC—International Code Council.

***Industrialized building or industrialized commercial building***—A structure designed for commercial occupancy classified within nonresidential use groups in accordance with the standards in § 145.41. The structure is wholly or in substantial part made, constructed, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on the building site so that concealed parts or processes of manufacture cannot be inspected at the site without disassembly, damage or destruction.

***Industrialized building component or industrialized commercial building component***—A closed wall subsystem or subassembly designed for use as a structure or a part of a structure which is classified within the nonresidential use groups in accordance with the standards in § 145.41. The closed wall subsystem or subassembly is fabricated in a manufacturing facility to be separately transported to the building site and cannot be inspected at the site without disassembly. Components may be installed with or without a permanent foundation.

***Industrialized commercial building module***—

(i) A closed wall structure or substantial part of a closed wall structure incorporating or designed to be assembled to form one or more rooms used as habitable, occupiable or mechanical/equipment space which is classified within nonresidential use groups in accordance with the standards in § 145.41. The structure is fabricated in a manufacturing facility to be separately transported to the building site and cannot be inspected at the site without disassembly.

(ii) The term includes industrialized building components that are subsystems or assemblies, or other systems of closed construction designed for use in or as a part of an industrialized commercial building.

***Industrialized housing***—

(i) A structure designed primarily for residential occupancy or classified within Residential Group R in accordance with the standards adopted under § 145.41 and which is wholly or in substantial part made, constructed, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on the building site so that concealed parts or processes of manufacture cannot be inspected at the site without disassembly, damage or destruction.

(ii) The term does not include a structure or building classified as an institutional building or manufactured home, as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426).

**Industrialized housing module**—Each section of an industrialized housing structure which is fabricated in the manufacturing facility to be separately transported to the building site.

**Insignia of certification**—The label[, emblem or mark] conforming to the requirements of this chapter which, when attached to industrialized housing [or], housing components, **industrialized building or building components** under this chapter, evidences that the industrialized housing [or housing], **buildings, or industrialized housing or building components** have been certified.

**Inspection agency**—An agency, private or public, which is approved by the Department under § 145.73 to perform the functions assigned by this chapter to an inspection agency. If the Department performs the functions of the inspection agency under § 145.70, the Department will be the inspection agency for the purposes of this title.

**Installation**—The assembly of industrialized housing or **buildings** onsite and the process of affixing industrialized housing [or], housing components, **industrialized buildings or components** to land, a foundation, footings, utilities or an existing building, and may include the process of affixing housing or **building** components to or within the [housing] structure for which they are designed.

**Manufacturing facility**—A place, other than the building site, at which machinery, equipment and other capital goods are assembled and operated for the purpose of making, fabricating, constructing, forming or assembling industrialized housing or housing components, **industrialized buildings or building components**.

\* \* \* \* \*

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

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

**NCSBCS**—National Conference of States on Building Codes and Standards.

**NFPA**—The National Fire Protection Association.

**Notice of Approval**—A notice issued by the Department to each manufacturer of industrialized housing [or], housing components, **industrialized buildings or building components** that indicates the approval of the manufacturer's building systems documentation, compliance assurance program, and the authority to receive and attach insignias of certification to

industrialized housing [or], housing components, industrialized building or building components as applicable.

**Permanent foundation—**

~~(i) A permanent foundation shall be constructed in accordance with the prescriptive provisions of the adopted building code or, when required, designed by a licensed professional engineer.~~

~~(ii) A permanent foundation must have attachment points to anchor and stabilize the home to transfer all code required loads to the underlying soil or rock. A permanent foundation shall:~~

~~(A) Be designed for vertical stability.~~

~~(I) Footings properly sized to prevent overloading of the soil.~~

~~(II) Minimum depth of footings below undisturbed ground surface must be 12 inches or as required by the local code, whichever is greater.~~

~~(III) Shallow foundation footings must be constructed of cast-in-place concrete.~~

~~(IV) Masonry walls and piers must be mortared.~~

~~(B) Be designed for lateral stability.~~

~~(I) Anchorage capacity to prevent uplift, sliding and overturning or other movement of the structure.~~

~~(II) May not utilize tension-only steel straps.~~

~~(III) May not utilize screw-in soil anchors.~~

~~(C) Be constructed of durable materials, that is, concrete, mortared masonry or treated wood. This includes precast foundation systems.~~

~~(D) A permanent foundation does not include alternative systems or components labeled only for use under one or more of the following standards:~~

~~(I) 24 CFR Part 3280 (relating to manufactured home construction and safety standards).~~

~~(II) 24 CFR Part 3286 (relating to Manufactured Home Installation Program).~~

~~(III) NFPA 225 Model Manufactured Home Installation Standard.~~

~~(IV) ANSI A225.1 NFPA 501A Manufactured Home Installations.~~

~~(V) International Residential Code, Appendix E.~~

*Person*—An individual or organized group of any character, including partnerships; corporations; other forms of associations; Federal, State and local instrumentalities, political subdivisions[,] or officers, including the Department when indicated by the context.

*Residential occupancy*—Occupancy of a structure or building, or part thereof, classified as a **[one or two family] one-family or two-family** dwelling, townhouse or within Residential Group R in accordance with the standards adopted under § 145.41, by families, households or individuals for purposes of shelter and sleeping, without regard to the availability of cooking or dining facilities.

*Site Installation Inspection [Report Form]*—**The element of the compliance control program that will identify** *Checklist*—**A part of the manufacturers building system documentation or design package that identifies** the various aspects of construction that **[must] shall** be completed **[on site by the builder or contractor] onsite, for inspection by the local code official**, that when properly completed will result in a conforming home or building.

*Site or building site*—The entire tract, subdivision or parcel of land on which industrialized housing **[or]**, housing components, **industrialized building or industrialized building components** are installed.

\* \* \* \* \*

§ 145.2. Purpose.

This chapter interprets and makes specific the provisions of the **[Industrialized Housing Act] act**, as provided in section 5 of the act (35 P. S. § 1651.5). This chapter establishes administrative procedures for the implementation of the act which will facilitate the use of industrialized housing, **buildings**, and housing or **building** components in this Commonwealth consistent with safeguarding the health, safety and welfare of citizens of **[the] this** Commonwealth and will carry out the purposes set forth in the legislative findings in section 2 of the act (35 P. S. § 1651.2). More specifically, this chapter is intended primarily to achieve the following objectives:

- (1) Establish uniform standards affecting health, safety and welfare for the design, use of materials and methods of construction for industrialized housing, **buildings**, and housing or **building** components intended for sale, lease or installation for use in this Commonwealth.
- (2) Establish uniform procedures to assure that industrialized housing, **buildings**, and housing or **building** components intended for sale, lease or installation for use in this Commonwealth will be manufactured, transported and installed in compliance with the uniform standards adopted by this chapter. In particular, this chapter establishes procedures under which the essential structural, electrical, mechanical and plumbing elements of industrialized housing, **buildings**, and housing or **building** components are subjected to compliance assurance procedures,

including inspections, in the manufacturing facilities during the manufacturing process, thereby eliminating the need for subsequent inspections at the building site of those elements which are enclosed within the walls which might otherwise be subjected to disassembly, damage or destruction in the course of onsite inspections.

(3) Establish procedures which will facilitate the movement of industrialized housing, **buildings**, and housing **or building** components between the Commonwealth and the other States for the mutual benefit of the manufacturers and citizens of this Commonwealth.

(4) Preserve for local governments within this Commonwealth responsibilities and functions specifically reserved to local governments by the act and otherwise not inconsistent with the achievement of the purposes of the act.

### § 145.3. Scope.

Except to the extent otherwise stated in the act and the provisions of this chapter and in other applicable laws of the Commonwealth which are not inconsistent with or superseded by the act and this chapter, this chapter governs the design, manufacture, storage, transportation and installation of industrialized housing, **buildings**, and housing **or building** components which are sold, leased or installed, or are intended for sale, lease or installation, for use on a site in this Commonwealth. This chapter applies to **NEW** industrialized housing, **buildings**, and housing **or building** components manufactured in manufacturing facilities located within or outside this Commonwealth.

## SCOPE

### § 145.31. Requirement of certification.

(a) **[Except as otherwise provided in § 145.121(b) (Reserved), after January 1, 1975, no]** A person may **not** sell, lease or install for use on a site in this Commonwealth **[an]** industrialized housing **[or housing component]**, **buildings**, **or housing or building components** unless the industrialized housing, **building**, or housing **or building** component is certified and bears insignia of certification issued by the Department. The insignia of certification issued by the Department shall be attached to the industrialized housing, **building**, or housing **or building** component under this chapter, and **[they shall be]** it is subject to subsequent removal **[from the industrialized housing and housing component]** in accordance with this chapter.

(b) Industrialized housing, **buildings**, and housing **or building** components of the manufacturer which have never been occupied and which serve for model or demonstration purposes for the manufacturer do not have to bear insignia of certification under this chapter, until the time that the industrialized housing, **building**, or housing **or building** components are first offered for sale or lease.

**[(c) The sale or lease of an industrialized housing or housing structure in which housing components have been installed, which sale or lease occurs after the completion of installation may not be subject to this chapter, unless the person offering the industrialized**

housing or housing structure for sale or lease made an offer to a person prior to the completion of installation or unless the sale or lease was by or on behalf of or for the benefit of the manufacturer of the industrialized housing or housing components for the purpose of avoiding the certification requirements of this chapter. Nothing in this section shall be construed to prevent the application of this chapter to the installation of an industrialized housing or housing components.]

**(C) THIS CHAPTER APPLIES TO INDUSTRIALIZED HOUSING, BUILDINGS OR HOUSING OR BUILDING COMPONENTS PRODUCED AFTER THE EFFECTIVE DATE OF THE REGULATION.**

**§ 145.33. Manufactured homes excluded.**

\* \* \* \* \*

**(C) FOR THE PURPOSE OF THIS CHAPTER, PERMANENT FOUNDATION MEANS A FOUNDATION CONSTRUCTED IN ACCORDANCE WITH THE PRESCRIPTIVE PROVISIONS OF THE ADOPTED BUILDING CODE OR, WHEN REQUIRED, DESIGNED BY A LICENSED PROFESSIONAL ENGINEER. A PERMANENT FOUNDATION MUST HAVE ATTACHMENT POINTS TO ANCHOR AND STABILIZE THE HOME TO TRANSFER ALL CODE REQUIRED LOADS TO THE UNDERLYING SOIL OR ROCK. WHETHER A FOUNDATION IS CONSTRUCTED IN ACCORDANCE WITH THE PRESCRIPTIVE PROVISIONS OF THE ADOPTED BUILDING CODE OR, WHEN REQUIRED, DESIGNED BY A LICENSED PROFESSIONAL ENGINEER, IT MUST MEET THE FOLLOWING CRITERIA:**

**(1) A PERMANENT FOUNDATION MUST BE DESIGNED FOR THE FOLLOWING:**

**(I) VERTICAL STABILITY:**

**(A) FOOTINGS MUST BE PROPERLY SIZED TO PREVENT OVERLOADING OF THE SOIL.**

**(B) MINIMUM DEPTH OF FOOTINGS BELOW UNDISTURBED GROUND SURFACE MUST BE 12 INCHES OR AS REQUIRED BY THE LOCAL CODE, WHICHEVER IS GREATER.**

**(C) SHALLOW FOUNDATION FOOTINGS MUST BE CONSTRUCTED OF CAST-IN-PLACE CONCRETE.**

**(D) MASONRY WALLS AND PIERS MUST BE MORTARED.**

**(II) LATERAL STABILITY:**

**(A) ANCHORAGE CAPACITY MUST BE SUFFICIENT TO PREVENT UPLIFT, SLIDING, AND OVERTURNING OR OTHER MOVEMENT OF THE STRUCTURE.**

**(B) MAY NOT UTILIZE TENSION-ONLY STEEL STRAPS.**

**(C) MAY NOT UTILIZE SCREW-IN SOIL ANCHORS.**

**(2) A PERMANENT FOUNDATION MUST:**

**(I) BE CONSTRUCTED OF DURABLE MATERIALS I.E., CONCRETE, MORTARED MASONRY, OR TREATED WOOD. (THIS INCLUDES PRECAST FOUNDATION SYSTEMS).**

**(II) NOT INCLUDE ANY ALTERNATIVE SYSTEMS OR COMPONENTS LABELED ONLY FOR USE UNDER ONE OR MORE OF THE FOLLOWING STANDARDS:**

**(A) 24 CFR 3280, MANUFACTURED HOME AND SAFETY STANDARDS (MHCSS)**

**(B) 24 CFR 3286, MANUFACTURED HOME INSTALLATION PROGRAM (MIS)**

**(C) NFPA 225 MODEL MANUFACTURED HOME INSTALLATION STANDARD**

**(D) ANSI A225.1 NFPA 501A MANUFACTURED HOME INSTALLATIONS**

**(E) INTERNATIONAL RESIDENTIAL CODE, APPENDIX E**

**§ 145.36. Applicability of locally-enacted codes and ordinances.**

(a) Industrialized housing **[and]**, housing components, **industrialized buildings or building components** bearing **[insignia] insignias** of certification issued under this chapter **[shall]** will be deemed to comply with the requirements of building and related codes and ordinances enacted by local governments of the Commonwealth which codes and ordinances conform with the following:

(1) Are applicable to **[housing or home building in] residential or commercial** construction, plumbing, heating, electrical and other related codes pertaining to the construction and equipment contained within.

(2) Would otherwise be applicable to the industrialized housing **[and]**, housing components, **industrialized buildings or building components** certified under this chapter as described in their building system documentation.

(b) (Reserved).

(c) If the building site is within a fire district designated by an ordinance of the local government, the requirements of the codes and standards adopted under §§ 145.41, 145.42 and 145.44 (relating to adoption of standards; alternate standards; and **[procedure for adoption of**

**amendments] adoption and effective dates—code amendments)** for the fire district is applicable to the industrialized housing [or], housing components, **industrialized buildings or building components**. If the fire district designated by the ordinance of the local government is different from a fire district described in the applicable codes and standards adopted under §§ 145.41, 145.42 and 145.44 the requirements for that fire district described in the applicable codes and standards which in the judgment of the evaluation agency bears the closest similarity to the description of the applicable fire district under the locally enacted ordinance is applicable.

(d) Industrialized housing and [housing structures in which housing] buildings in which **industrialized housing or building** components have been installed shall comply with codes and ordinances of the local governments with jurisdiction over the building site which apply to the design, installation and maintenance of waterline connections from the exterior walls of housing to their main source of supply, sewer drainage connections from the exterior walls of housing to main sewers or septic systems, and electrical line connections or other energy supply connections from the exterior walls of housing to their main source of power, notwithstanding [that the industrialized housing and housing components bear] the appropriate insignia of certification as provided for in § 145.60 (relating to insignia of certification).

(e) Nothing in the act or this chapter shall be construed as amending, repealing or superseding a local zoning ordinance, subdivision regulation, designation of fire districts or related land development code, regulation or ordinance enacted by a local government of the Commonwealth.

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

## STANDARDS

### § 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, **industrialized buildings or building components** for purposes of this chapter:

- (1) The ICC International Building Code.
- (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)[.] **except:**

(i) **Section R313.2, regarding automatic fire sprinkler systems in one-family and two-family dwellings, of the 2009 International Residential Code. Successor triennial revisions are excluded.**

(ii) **Sections R602.10—R602.12.1.6, regarding wall bracing requirements, are excluded and replaced by §§ R602.10—R602.11.3 of the 2006 International Residential Code.**

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

(c) Insulation technique and installation applicable to the floor or foundation wall is not always practical at the manufacturing facility. [~~Industrialized-modular-housing builders or contractors~~] **Builders or contractors of industrialized houses or buildings** may supply and install the required floor or foundation wall insulation. If the floor or foundation wall insulation is not installed at the manufacturing facility, the manufacturer shall indicate on the Site Installation Inspection **[Report] Checklist** referenced in § 145.91(e) (relating to reports to **the** Department) that the insulation must be installed **[on site] onsite**.

(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.

(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) As an alternate to the ICC International Residential Code, Chapter 11, regarding energy efficiency, the manufacturer may use **the appropriate edition** of one of the following:

(i) 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<sup>TM</sup>).

(ii) 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, regarding building planning, in regards to stairway construction, the manufacturer may use the following standard:

\* \* \* \* \*

(v) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stairway.

**(3) As an alternate to the ICC International Building Code, Chapter 13, regarding energy efficiency, the manufacturer may use the appropriate edition of prescriptive methods for buildings or structures in the current version of the International Energy Conservation Code compliance guide containing state maps, prescriptive packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (COMcheck™).**

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

## CERTIFICATION

### § 145.51. General requirements for certification.

Industrialized housing [and], housing components, **industrialized buildings or building components** shall be certified if the building system documentation [for the industrialized housing or housing components] and the compliance assurance program relating to its design, materials, manufacture, transportation and installation have been approved by an evaluation agency under contractual arrangement with the Department as provided in § 145.78(b) (relating to contractual arrangements), and if the industrialized housing [or], housing components, **industrialized buildings or building components** have been manufactured under approved building system documentation [and an approved compliance assurance program], inspected and approved by an inspection agency. Certification shall be evidenced by insignia of certification which conform to the requirements of this chapter and which shall be issued for each [dwelling unit] module of industrialized housing, **industrialized building** and for each housing or building component or set of [housing] components that, upon installation, are incorporated in a [single-dwelling unit] dwelling unit or building as applicable.

### § 145.53. Variations.

Building system documentation approved under § 145.52 (relating to approval of building system documentation) may contain variations or a range of variations for one or more elements of the industrialized housing [or], housing components, **industrialized buildings or building**

**components** described in the building system documentation, provided that the approved building system documentation conforms to all of the applicable requirements of the applicable codes and standards under each variation or set of variations within the range of variations. Any material deviation from variations contained within the approved building system documentation must be approved by the evaluation agency, consistent with this chapter, prior to the start of construction.

#### **§ 145.54. Building System Approval Report and Summary.**

At the time that an evaluation agency approves a set of building system documentation under § 145.52 (relating to approval of building system documentation) and the related compliance assurance program under § 145.57 (relating to approval of compliance assurance program), it **[must]** shall prepare a Building System Approval Report (BSAR) and a Building System Approval Summary. The BSAR **[shall]** **must** contain a list of the identification numbers of each sheet constituting the approved building system documentation, the Compliance Control Manual of the manufacturer, an Index of Code Compliance in the form specified by the Department for industrialized housing **or buildings**, a statement of the fire districts, if any, in which the industrialized housing **or buildings** can be installed, and the additional information relating to the building system documentation and the compliance assurance program as the evaluation agency deems necessary or as the Department may require. The Building System Approval Summary shall be prepared on a form furnished by the Department. The evaluation agency shall furnish to the Department and to the manufacturer one copy each of the BSAR and the Building System Approval Summary, clearly stating the date it is effective. The BSAR shall be revised monthly as needed.

#### **§ 145.57. Approval of compliance assurance program.**

An evaluation agency shall approve a compliance assurance program for purposes of this chapter if the evaluation agency determines that the manufacturer's compliance control program, described in the compliance control manual, meets the requirements of this chapter, and the compliance control program will be monitored by an approved inspection agency. The evaluation agency shall review the manufacturer's building system documentation, the manufacturer's compliance control manual and the manufacturer's proposed implementing contract with an inspection agency, shall inspect each of the manufacturer's manufacturing facilities where the industrialized housing **[or]**, housing components, **industrialized buildings or building components** are to be manufactured for installation on sites in this Commonwealth, and shall review the other data and information as the evaluation agency may deem necessary.

#### **§ 145.58. Basic requirements for a compliance control program.**

(a) An evaluation agency shall approve a compliance control program if it determines that the implementation of the compliance control program will assure that the industrialized housing **[or]**, housing components, **industrialized buildings or building components**, when installed at the site, will conform to the approved building system documentation, the manufacturer possesses the facilities, personnel and organization to implement its compliance control program properly, and the requirements of this section are met. It is the policy of the Department to

recognize that the level of sophistication of a compliance control program of a manufacturer will depend on many factors, including the level of sophistication and technological characteristics of the building system and the manufacturing process. It is further the policy of the Department that the maximum respect shall be accorded to a manufacturer's customary business practice consistent with achievement of the purposes of the act and this chapter. It is further the policy of the Department that the approval of a compliance control program under this chapter does not relieve the manufacturer and the inspection agency of responsibility for assuring that industrialized housing **[and]**, housing components, **industrialized buildings or building components** manufactured for sale, lease or installation for use on sites in this Commonwealth conform in every material respect to the approved building system documentation.

(b) To facilitate review and approval, the manufacturer's compliance control program shall present an overview of its policies and procedures on the following:

- (1) The placement, storage and handling of construction materials.
- (2) The manufacturing process within the manufacturing facilities, including the jigs and fixtures necessary for production.
- (3) The storage and transportation of industrialized housing **[and]**, housing components, **industrialized buildings or building components** to the site, including detailed lifting calculations.
- (4) The installation of industrialized housing **[and]**, housing components **[at the site]**, **industrialized buildings or building components at the site, including the Site Installation Inspection Checklist, referenced in § 145.91 (e) (relating to reports to the Department), identifying specific functions and techniques that are of critical importance.**

(c) For approval, except as modified under subsection (e), the compliance control program shall include requirements on the following items:

- (1) Specific assignments of responsibility to designated divisions or **[employees] employees** of the manufacturer for every significant phase in the production, transportation and installation of the industrialized housing **[or]**, housing components, **industrialized buildings or building components**.
- (2) Procedures under which **[employees] employees** of the manufacturer inspect and approve each significant process in every significant phase of the manufacture, transportation and installation of the industrialized housing **[or]**, housing components, **industrialized buildings or building components**.
- (3) Procedures for marking identified deficiencies—such as serialized colored tags that can be attached to the deficiency—and for assuring their correction or the disposal of the deficient item.
- (4) Procedures to assure that the fabrication or shop drawings for the industrialized housing **[and]**, housing components, **industrialized buildings or building components** conform to the

approved building system documentation or to the drawings approved by the third-party agency with whom the manufacturer has an implementing contract.

(5) Procedures to maintain, file and control fabrication or shop drawings and documents constituting the building system.

(6) Procedures to maintain complete and reliable records of the manufacture, transportation and installation of the industrialized housing **[and]**, housing components, **industrialized buildings or building components**, each unit of which shall be assigned a manufacturer's serial number to facilitate identification.

(7) Procedures employed by the manufacturer to request, store and attach the insignia of certification issued to it by the Department under § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification).

(8) Procedures for controlling the storage and transportation of industrialized housing **[and]**, housing components, **industrialized buildings or building components** from the manufacturing facilities to the site, identifying specific functions and techniques that are of critical importance.

(9) Procedures for controlling the installation of industrialized housing **[and]**, housing components, **industrialized commercial buildings or industrialized commercial building components** at the site **[, identifying specific functions and techniques that are of critical importance]**.

(10) A brief identification and description of physical testing to be performed at a point during a phase of manufacture, transportation and installation, the frequency of its performance, and the identification and qualifications of the persons performing the testing.

(d) The list of topics set forth in subsection (c) is not exclusive and is not intended to preclude additional items and greater details prior to approving a compliance control program.

(e) If a manufacturer transfers title to and effective control over its industrialized housing **[or]**, housing components, **industrialized buildings or building components** to other, unrelated persons at a point prior to its installation at the site, the manufacturer shall be responsible for furnishing to the persons responsible for transportation and installation adequate information **[and]**, manuals, **checklists, Notices of Approval, and the like**, relating to the transportation and installation of the industrialized housing **[and]**, housing components, **industrialized buildings or building components**, including the relevant portions from its compliance control program referred to in subsections (c)(8)—(10), but the manufacturer may not be responsible for implementation after the transfer of title and effective control.

(f) An evaluation agency's approval of a compliance control program shall be evidenced by the stamp of approval of the evaluation agency affixed to the title page of the compliance control manual and signed and dated by a designated **[employee] employee** of the evaluation agency.

#### § 145.60. Insignia of certification.

(a) Certified industrialized housing **[constituting a single dwelling unit]** must bear an insignia of certification for each module. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification). The manufacturer shall permanently attach the insignia of certification for each module adjacent to the data plate located in a visible location in a cabinet under the kitchen sink, or if this cabinet is not available, the location must be clearly identified on the Site Installation Inspection **[Report] Checklist** referenced in § 145.91(e) (relating to reports to the Department). Insignias may not be attached to doors or other easily removable features of the home. Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

### **INSIGNIA OF CERTIFICATION FOR INDUSTRIALIZED HOUSING**

#### **Serial No.**

This insignia certifies that this dwelling unit of industrialized housing has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act[, **Title 35 of the Purdon's Pennsylvania Statutes Annotated, §§ 1651.1 to 1651.12,**] and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(b) Each certified housing component or components comprising a **[project in] single unit or added to** a single dwelling unit must bear an insignia of certification for housing components. The insignia of certification **[must]** will be furnished by the Department to the manufacturer under the procedures of § 145.63. The manufacturer shall permanently attach the insignia of certification to the housing component in a visible location identified in the building system documentation and **[in the Building System Approval Report] must be clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e)**. Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

### **INSIGNIA OF CERTIFICATION FOR HOUSING COMPONENTS**

#### **Serial No.**

This insignia certifies that this housing component has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act[, **Title 35 of the Purdon's Pennsylvania Statutes Annotated, §§ 1651.1 to 1651.12,**] and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(c) **[Insignia of certification issued by the Department will be of a size and design and of materials and will provide for the methods of attachment as determined by the**

Department.] Certified industrialized commercial buildings must bear insignia of certification for each module. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63. The manufacturer shall permanently attach the insignia of certification for each module in a visible location adjacent to the electrical panel box. If this area is unavailable, the location must be clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e). The insignia may not be attached to a door or other easily removable feature of the building. Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

**INSIGNIA OF CERTIFICATION FOR INDUSTRIALIZED COMMERCIAL BUILDINGS**

Serial No.

This insignia certifies that this industrialized building module has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(d) Certified industrialized commercial building components, comprising a single building or unit, must bear insignia of certification for building components. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63. The manufacturer shall permanently attach the insignia of certification for each module in a visible location identified in the building system documentation and clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e). Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

**INSIGNIA OF CERTIFICATION FOR INDUSTRIALIZED COMMERCIAL BUILDING COMPONENTS**

Serial No.

This insignia certifies that this industrialized building component has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(e) An insignia of certification issued by the Department will be of a size and design and of materials and provide for the methods of attachment as determined by the Department.

§ 145.61. Insignia of inspection agencies.

(a) The inspection agency shall attach **[to a housing component]** its label, seal or other insignia adjacent to the data plate for each industrialized housing or building module.

(b) The inspection agency shall attach its label, seal or other insignia or other identification for certified housing **[components comprising a project in a single dwelling unit] or building components, or group of components, that are transported separately to the building site.**

(c) The label, seal or other insignia of the inspection agency must identify the name **[and address]** of the inspection agency and have a serial number. In other respects, the inspection agency may design its label, seal or other insignia as it wishes, provided that the label, seal or other insignia does not contain statements which the Department determines are inconsistent with the act or this chapter. **[Each label, seal or other insignia must be attached in a clearly visible location to the housing component or element of the industrialized housing or housing component, as applicable, by the time of its arrival at the building site, but the]** The label, seal or other insignia may be covered up during the process of assembly and installation at the building site so that it is not permanently visible.

#### § 145.62. Data plates.

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

\* \* \* \* \*

**[(8) Serial or other identifying numbers of each module of industrialized housing.**

**[(9)] (8) Minimum Btu output of furnace needed to maintain average 70° F interior temperature at outside design temperature of \_\_\_ F.**

**[(10)] (9) Annual degree days for which the house has been designed.**

**[(11)] (10) Snow loads—maximum.**

**[(12)] (11) Wind loads—maximum.**

**[(13)] (12) Floor loads—maximum, sleeping/nonsleeping.**

**[(14)] (13) Other special environmental factors.**

**[(15)] (14) Tests required and actually conducted.**



[(16)] (15) Applicable codes, including name of code, edition or year of publication.

(b) **[A housing structure containing certified]** Certified housing components shall **[contain]** be provided with a data plate. The data plate shall be furnished by the manufacturer and be permanently attached by the manufacturer in a visible location **[in the utility room or utility area, if feasible, and otherwise in other areas identified in the plans for the housing structure]** identified in the Site Installation Inspection Checklist referenced in § 145.91(e) (relating to reports to the Department). If attachment in the factory is not possible, the data plate may be tethered to the certified housing components for attachment at the site. The manufacturer shall provide instructions for attachment along with the data plate. The insignia of certification of the Department may not be attached to the data plate. The data plate must contain, but not be limited to, the following information relating to the housing components:

\* \* \* \* \*

- (5) Manufacturer's serial number and date of manufacture for housing components.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) **[Serial number of Department's insignia of certification attached to each housing component.]** Department insignia of certification numbers.
- (8) Snow loads—maximum.
- (9) Wind loads—maximum.
- (10) Other special environmental factors, if applicable.
- (11) **[Applicable codes, including name of code, edition, year of publication and applicable supplement, if any.]** Tests required and actually conducted.
- (12) **[Date data plate attached to dwelling unit.]** Thermal transmittance values.
- (13) **[Tests required and actually conducted.]** Applicable codes, including name of code, edition, year of publication and applicable supplement, if any.

(c) Additional information may be included on the data plate for dwelling units of certified industrialized housing and housing structures containing certified housing components if there is no conflict with the requirements of the act or this chapter. If less than the minimum data required in this section is deemed necessary, prior approval shall be obtained from the Department.

(d) To insure that proper installation equipment is utilized for the lifting of industrialized housing units or housing components, a manufacturer shall indicate on the data plate the total shipping weight in tons per component.

**(e) Certified industrialized commercial buildings must contain a data plate. The data plate shall be furnished by the manufacturer and be permanently attached by the manufacturer in a visible location as specified in § 145.60(c). The data plate must contain, but not be limited to, the following information:**

- (1) Name of manufacturer.**
- (2) Address of principal office of manufacturer.**
- (3) Address of manufacturing facility where the industrialized building or its principal elements were produced.**
- (4) Manufacturer's model name.**
- (5) Manufacturer's serial number and date of manufacture.**
- (6) Inspection and evaluation agencies' serial numbers.**
- (7) Department insignia of certification numbers.**
- (8) Occupancy classification as provided for in § 145.41 (relating to adoption of standards).**
- (9) Construction classification.**
- (10) Snow loads—maximum.**
- (11) Wind loads—maximum.**
- (12) Floor loads—maximum.**
- (13) Thermal transmittance values.**
- (14) Other special environmental factors.**
- (15) Tests required and actually conducted.**
- (16) Applicable codes, including name of code, edition or year of publication.**

**(f) Certified industrialized commercial building components must contain a data plate. The data plate shall be furnished by the manufacturer and be permanently attached by the manufacturer in a visible location identified in the Site Installation Inspection Checklist referenced in § 145.91(e). If attachment in the factory is not possible, the data plate may be tethered to the certified building component for attachment at the site. The manufacturer shall provide instructions for attachment along with the data plate. The insignia of**

certification of the Department may not be attached to the data plate. The data plate must contain, but not be limited to, the following information:

- (1) Name of manufacturer.
- (2) Address of principal office of manufacturer.
- (3) Address of manufacturing facility where the industrialized housing or its principal elements were produced.
- (4) Manufacturer's model name.
- (5) Manufacturer's serial number for dwelling unit and date of manufacture.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) Department insignia of certification numbers.
- (8) Occupancy classification as provided for in § 145.41.
- (9) Construction classification.
- (10) Snow loads—maximum.
- (11) Wind loads—maximum.
- (12) Floor loads—maximum.
- (13) Thermal transmittance values.
- (14) Other special environmental factors.
- (15) Tests required and actually conducted.
- (16) Applicable codes, including name of code, edition or year of publication.

**§ 145.63. Procedures for requesting, controlling and attaching insignia of certification.**

(a) A manufacturer with an approved building system documentation and related approved compliance assurance program may request the Department to issue to it insignia of certification, in a quantity not less than five and not more than the quantity needed for the manufacturer's reasonably estimated production during a 1-month period. The manufacturer's request shall be made on a Request for Insignia of Certification Form furnished by the Department and shall be accompanied by a check [or], money order[,] or **electronic payment** in an amount calculated in accordance with the fee schedule in § 145.94 (relating to fees). If the manufacturer's request is complete and the fee payment is correct **and the manufacturer and its third-party agency**

have fulfilled all of their obligations under this chapter, the Department will promptly issue to the manufacturer the requested number of insignia of certification. Each individual insignia of certification shall bear a separate insignia serial number written thereon by the Department. The insignia of certification issued to the manufacturer shall be accompanied by an Insignia of Certification Inventory Control List, on a form furnished by the Department, **on which the Department has written the serial number of each insignia and the date of shipment to the manufacturer, and with space to permit additional information to be recorded regarding the storage and disposition of each insignia of certification**. The Department will send a copy of the Insignia of Certification Inventory Control List to the appropriate inspection agency.

(b) The manufacturer shall entrust the custody of the insignia of certification received from the Department only to employees designated in the compliance control program as responsible for the custody and control of the insignia of certification. The manufacturer shall attach the insignia **[to dwelling units of industrialized housing or to housing components]** only in the circumstances prescribed in the compliance control program and only with the prior specific authorization from the inspection agency. The manufacturer shall attach the insignia of certification in the manner specified by the Department intended to assure that the insignia cannot be removed without destroying the insignia. The manufacturer shall promptly record the attachment of each insignia of certification on the Insignia of Certification Inventory Control List. A copy of the Insignia of Certification Inventory Control List, with all columns filled out by the manufacturer, shall be sent by the manufacturer to the Department and to the inspection agency promptly following the use of all the insignias listed on the list. The manufacturer shall report to the Department and to the inspection agency the status of all insignias issued to them on a monthly basis, utilizing a method approved by the Department.

(c) The manufacturer shall return to the Department unused insignia of certification that have been issued to it within 10 days following the suspension of approval under § 145.66(a) (relating to emergency suspension) of previously approved building system documentation or compliance assurance programs of the manufacturer, or following the suspension under § 145.66(b) of the manufacturer's right to receive or attach insignia of certification, or following recall under § 145.69 (relating to suspension of certificate of approval of out-of-State manufacturer for lack of activity) or following the manufacturer's discontinuance of the manufacture of industrialized housing, **buildings, or housing or building components** for sale, lease or installation for use in this Commonwealth, or following the bankruptcy or dissolution of the manufacturer or the discontinuance of the manufacturer's business for whatever reason, or following the manufacturer's determination that the insignia of certification is no longer needed. The Department will cause the manufacturer to be refunded a portion of the fee already paid for the insignia equal to the product of the number of insignia of certification returned by the manufacturer and the fee per insignia paid by the manufacturer, less \$50 to be retained by the Department for handling expenses. Insignia returned to the Department under § 145.69 will not be subject to the charge for handling expenses.

(d) A manufacturer may not use, transfer, sell or otherwise dispose of insignia of certification issued to it by the Department in any manner not specifically authorized of this chapter.

§ 145.64: Modification **[of industrialized housing or housing components]** after certification.

(a) Certified industrialized housing, **buildings** and certified housing or **building** components bearing the insignia of certification may not be modified after the insignia of certification has been attached, unless the modification is approved in advance by the evaluation agency on the basis that the industrialized housing, **building**, or housing or **building** component, as so modified, will still conform to the approved building system documentation. Approvals of modifications which are consistent with the approved building system documentation may be by oral authorization by an officer or **[employee] employee** of the evaluation agency, but in **[such] this** event each approval shall be subsequently evidenced by a letter from the evaluation agency to the manufacturer within 10 days after the oral authorization. Proposed modifications which are inconsistent with the approved building system documentation shall be treated as proposed amendments to the building system documentation subject to the approval of the evaluation agency under § 145.55 (relating to general requirements for approval of amendments to building system documentation).

(b) Modifications of certified industrialized housing, **buildings**, or certified housing or **building** components are not prohibited under the act or **[the provisions of]** this chapter if the modifications are made after the issuance of a certificate of occupancy[, or other similar permit,] by the local enforcement agency **[or, if the industrialized housing or housing components have been installed for use in a jurisdiction of local government which does not issue certificates of occupancy, or other similar permit, after occupancy of such industrialized housing or housing structure containing the housing components by a person intending to reside therein for a continuous period of 6 months, unless the modifications are made by the manufacturer or other person with an intent to evade the requirements of the act or this chapter].** The modifications referred to in this subsection **[shall be]** are subject to other applicable laws, codes and ordinances of the Commonwealth and of the local government of the jurisdiction in which the industrialized housing or **[housing] building** structure is located.

(c) Nothing in this section shall prevent a manufacturer, on its own motion or at the order of the inspection agency or of the Department, from repairing damage to or remedying a defect found in an industrialized housing component.

#### § 145.66. Emergency suspension.

\* \* \* \* \*

(d) No industrialized housing **[or]**, housing components, **industrialized building or building components** may be certified and insignia of certification attached thereto while an emergency suspension under this section pertaining to the manufacturer shall remain in effect, unless otherwise permitted by order of the Department.

#### § 145.67. Revocation of certification **[of industrialized housing and housing components]**.

(a) The Department or the appropriate third-party agency may send by certified mail a notice of intent to revoke:

\* \* \* \* \*

(2) The authority of the manufacturer to receive and to attach insignia of certification to industrialized housing [or], housing components, **industrialized building or building components** following a determination by the agency that the manufacturer is possibly failing in any material respect to conform with its approved building system documentation or to meet its responsibilities under the approved compliance assurance program or that the manufacturer is in violation in any material respect of the act or this title.

\* \* \* \* \*

(c) If the manufacturer fails to correct the violations within the time allowed, the Department will schedule a hearing to consider revocation of:

(1) The certification of industrialized housing [and], housing components, **industrialized building or building components**.

\* \* \* \* \*

**§ 145.69. Suspension of certificate of approval of out-of-State manufacturer for lack of activity.**

A manufacturer certified to ship industrialized housing [or], housing components, **industrialized buildings or building components** into this Commonwealth and whose plant is located in another state will have its certificate suspended if it fails to [ship any units into] **manufacture units for installation on a site in this Commonwealth** for 2 consecutive years. Written notice of this suspension will be provided to the manufacturer. If the manufacturer desires to ship a unit into this Commonwealth within 1 year of its suspension, approval may be reinstated through a letter submitted by an approved third-party agency to the Department which provides that the manufacturer meet the requirements of the laws and this title, including the submission to the Department of its current approved building system documentation and compliance assurance program if the previous submissions to the Department have been revised. The Department will review the third-party evaluation and then conduct an inspection of the plant. If a manufacturer has not made shipments into this Commonwealth for 1 year from the date of the suspension of its certificate, the certificate will lapse. To be reapproved, the manufacturer shall comply with this title in the same manner as would another manufacturer applying for initial approval.

**THIRD-PARTY AGENCIES**

**§ 145.70. Departmental evaluation and inspection.**

A manufacturer producing industrialized housing [or], housing components, **industrialized buildings or building components** for installation in this Commonwealth has the option of electing the Department to evaluate or inspect, or both, its products for certification. The

Department will provide the services requested subject to the availability of staff. The following are applicable:

(1) The manufacturer shall enter into an implementing contract with the Department which shall include, but not be limited to, a specific time period for the contract, a mutual termination clause with a minimum of 45 days of notice to terminate period, the services to be provided, and the fees to be charged to the manufacturer for services in accordance with § 145.94(e) (relating to fees).

(2) Evaluation services by the Department will include:

(i) Investigation, evaluation, testing, and, if justified, approval of each set of building system documentation, and each amendment thereto submitted to it by a manufacturer for compliance with all of the applicable requirements of the codes and standards adopted under §§ 145.41, 145.42 and 145.43 (relating to adoption of standards; alternate standards; and amendment policy).

(ii) Investigation, evaluation, and, if justified, approval of the compliance assurance program and each amendment thereto—relating to the manufacture, transportation and installation of industrialized housing [or], housing components, **industrialized buildings or industrialized building components** described in each set of building system documentation approved under this section—submitted by the manufacturer for compliance with the requirements of this title.

(iii) Preparation and periodic revisions as necessary of the Building System Approval Report for each set of approved building system documentation and related compliance program.

(3) Inspection services by the Department will include:

(i) Monitoring the manufacturer's compliance control program for the manufacture, transportation and installation of industrialized housing [or], housing components, **industrialized buildings or building components** of each manufacturer having an implementing contract.

(ii) Verification that the industrialized housing [or], housing components, **industrialized buildings or building components** have been manufactured under approved building documentation and an approved compliance assurance program and authorization to the manufacturer for the attachment of insignia of certification to the industrialized housing [or], housing components, **industrialized buildings or building components**.

(4) Procedure for requesting, controlling and attaching insignia of certification shall be the same as detailed in § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification). Manufacturers shall purchase their insignia of certification at fees indicated in [§ 145.94(c) and (d)] § 145.94(e) and (f), and the cost of the insignia is not included in their evaluation or inspection, services, or both, provided by the Department under [paragraphs (1)—(3)] § 145.94(e).

(5) The specification document defining the requirements for submission of drawings, specifications, calculations and related material for Departmental approval will be provided upon request of the manufacturer.

**§ 145.71. Responsibilities of evaluation agencies.**

Each evaluation agency shall discharge under [these regulations] this chapter the following responsibilities:

\* \* \* \* \*

(2) Investigation, evaluation and, if justified, approval of the compliance assurance program, and each amendment thereto, relating to the manufacture, transportation and installation of the industrialized housing [or], housing components, **buildings or building components** described in each set of building system documentation approved under subsection (a), submitted to it by a manufacturer with which it has an implementing contract for compliance with the requirements of this chapter.

\* \* \* \* \*

**§ 145.72. Responsibilities of inspection agencies.**

Each inspection agency shall discharge under this chapter the following responsibilities:

(1) Monitoring the manufacturer's compliance control program for the manufacture, transportation and installation of industrialized housing [or], housing components, **buildings or building components** of each manufacturer with which it has an implementing contract.

(2) Verification that industrialized housing [or], housing components, **buildings or building components** have been manufactured under approved building system documentation and an approved compliance assurance program and authorization to the manufacturer of the attachment of insignia of certification to the industrialized housing [or], housing components, **buildings or building components**.

(3) Preparation of reports to the Department as are required by this chapter or as may be required by the Department in carrying out its responsibilities under the act and this chapter.

(4) Performance of its obligations under its contract with the Department.

**§ 145.72a. Frequency of inspections.**

(a) In carrying out its monitoring responsibilities under § 145.72 (relating to responsibilities of inspection agencies), an inspection agency shall observe the [following] minimum frequency of inspection requirements[:] in this subsection. **During the inspection agency's initial work at the factory or after revocation under § 145.67 (relating to revocation of certification), the inspection agency shall monitor the manufacturer's approved compliance control program**



by inspecting industrialized housing, buildings, or housing or building components until it can be certified that the manufacturer is producing conforming industrialized housing, buildings, or housing or building components on an ongoing basis. Due to the varied nature and complexities of these products prior to beginning this certification process, the third-party agency shall submit to the Department its recommendation as to the minimum inspection frequency required to certify, and the frequency of inspections for routine inspection surveillance to assure the manufacturer is producing conforming housing or building components on an ongoing basis. The Department will review and determine if the third-party agency's proposal is adequate to grant the manufacturer authority to receive and attach insignias of certification. At any time during the certification process, the inspection agency may modify the proposal and submit the revised proposal to the Department for further review.

**[(1) During the inspection agency's initial work at the factory or after revocation under § 145.67 (relating to revocation of certification of industrialized housing and housing components), the inspection agency shall monitor the manufacturers approved compliance control program by inspecting industrialized homes throughout every work station, until it can be certified that the manufacturer is producing conforming homes on an ongoing basis.**

**(2) At a minimum, ten industrialized homes shall be inspected at every work station prior to granting the manufacturer authority to receive and attach insignias of certification for industrialized housing. At least one home through this certification process must be an industrialized house or housing component destined for a site in this Commonwealth.**

**(b) In carrying out its monitoring responsibilities under §§ 145.72(1), an inspection agency shall inspect every major subsystem of every dwelling unit produced which is to bear the insignia of certification when the inspection agency label is not being attached to every dwelling unit produced in the factory.]**

**[(c) (b) An inspection agency's monitoring responsibilities under § 145.72(1) [and (2)] include, at a minimum, the monthly inspection of the storage and transportation methods and facilities employed by or on behalf of the manufacturer for as long as the manufacturer retains title to or effective control over the [dwelling] units to insure that the units are not altered from the manner in which they were approved.**

**[(d) (c) In carrying out its monitoring responsibilities under § 145.72(1) [and (2)], an inspection agency shall inspect industrialized housing and buildings at the site after installation is complete in a manner and frequency, consistent with factors set forth in subsection [(e)] (d), necessary to confirm that the manufacturer's approved compliance control program is effective in assuring installation consistent with the manufacturer's approved building system documentation. Documentation of the onsite inspections must be on file in each manufacturing facility and be provided to the Department within 30 days of the Department's request for the documentation.**

**[(e) (d) The minimum frequency of inspection requirements of this section are not intended to substitute for the professional judgment of an inspection agency in determining whether a greater frequency of inspections is necessary to discharge its responsibilities properly. Factors that**

should be considered in establishing an appropriate frequency of inspection level for any manufacturer are the production volume of the factory, the design complexity of the [dwelling] units, the qualifications of the manufacturer's compliance control personnel and the experience record of the manufacturer.

**§ 145.73. Criteria for approval of evaluation and inspection agencies.**

(a) The Department will **[approve] accept** a written application from the designated **[employee] employee** of an agency who **[applies to it] wishes** to become an evaluation agency or an inspection agency **[if] for industrialized housing or industrialized buildings, or both**. If the Department determines, on the basis of the inquiry as the Department deems necessary and appropriate, that the agency possesses the capacity of discharging reliably, objectively and without bias the responsibilities assigned by this chapter to an evaluation agency or to an inspection agency, as the case may be, **the Department will approve the application**. In making the determination, the Department will consider that:

(1) There is a sufficient breadth of interest or activities so that the loss or award of a specific contract to an agency determining compliance of a product with this chapter would not be a substantial factor in the financial well-being of the agency performing the required functions.

(2) Employment security of personnel is free of influence or control by any manufacturer, supplier or vendor.

(3) The agency is not engaged in the promotion of products that they shall determine to be in compliance with this chapter.

(b) The Department will evaluate information on the following factors that relate to the ability of the applying agency to discharge the responsibilities that would be assigned to it as an approved evaluation agency or an approved inspection agency, as the case may be:

(1) The legal character and good standing of the applying agency.

(2) The financial strength of the applying agency.

(3) The **current** qualifications of the management and technical personnel of the applying agency. **A list of the required qualifications will be published in the *Pennsylvania Bulletin* annually.**

(4) The range of salaries and other compensation of the technical personnel, including inspectors of the applying agency, excluding principals, principal officers, and directors of the applying agency.

(5) The policies and procedures of the applying agency for the hiring, training and supervision of technical personnel, including education and training following changes in the codes and standards applicable under this chapter.

(6) The extent, if any, to which the applying agency will engage independent consultants and the functions the independent consultants will perform; in general, the Department will not approve an applying agency who utilizes as key technical or supervisory personnel anyone who is an independent consultant. Also, the Department will not permit the use, by an inspection agency, of part-time inspectors unless the inspection agency's present volume of business in designated geographic areas does not justify full-time personnel or unless there are other compelling justifications.

(7) The prior experience **and level of performance** of the applying agency in performing similar or related functions.

(8) The capability, if any, of the applying agency to perform testing, including the nature of the testing and the facilities and personnel to perform it, and the identity, facilities, experience and key personnel of an independent testing agency with which arrangements have been made for testing services and the nature of the testing services.

(9) The extent, if any, to which the applying agency is affiliated with or influenced or controlled by a producer, manufacturer, supplier or vendor of products, supplies or equipment used in industrialized housing or **[housing components] industrialized buildings**.

(10) The procedures to be used by the applying agency in discharging the responsibilities under this chapter of an evaluation agency or inspection agency, as the case may be. An applying agency seeking approval as an inspection agency **[should furnish representative examples of compliance assurance manuals] shall furnish the complete procedures for monitoring the manufacturer's compliance control program** it would use for each type of construction for which it seeks approval, and state its policy with respect to the frequency at which it will conduct inspections of each phase of the manufacture, transportation and installation of industrialized housing **[and], housing components, industrialized buildings or building components**.

(c) The Department may consider information with respect to other factors that it may deem relevant to its determination of approval or disapproval. In approving an evaluation or inspection agency, the Department may limit the scope of the agency's approved activities to particular types of industrialized housing, **buildings, or housing or building components**, geographic area or the number of manufacturers the Department determines an agency can effectively evaluate or inspect, or both.

#### **§ 145.74a. Prohibition on consulting services.**

A third-party agency may not perform consulting engineering services relating to industrialized housing **[or], housing components, industrialized buildings or building components** for a manufacturer for as long as the third-party agency has an implementing contract with the manufacturer or **related manufacturer** under § 145.78(c) (relating to contractual arrangements).

#### **§ 145.76. Reapprovals of third-party agencies.**

\* \* \* \* \*

(b) Within 30 days following the receipt by the Department of an application for reapproval, the Department will make its determination whether the applying third-party agency continues to meet the requirements of this chapter for an **industrialized housing evaluation agency or commercial building evaluation agency, or both**, or an **industrialized housing inspection agency or commercial building inspection agency, or both**. In the event of a disapproval, the Department will provide the applying third-party agency with a brief written explanation of the reasons for the disapproval. In the event of a reapproval, the Department will provide the applying third-party agency with a brief written letter of reapproval. A reapproval shall expire on the date of the next anniversary of the date of the scheduled expiration of the current approval from the Department.

(c) The Department may, on its own motion or at the request of an evaluation agency or inspection agency, grant a temporary reapproval of an evaluation agency or inspection agency for a period not to exceed 60 days. The applying third-party agency seeking reapproval shall be subject to procedures that satisfy the Department of its ability to perform its functions. The procedures shall require annual interviews of third-party agency personnel at their headquarters or by **teleconference** to assess the desired performance.

**§ 145.78. Contractual arrangements.**

\* \* \* \* \*

(c) A manufacturer seeking certification of industrialized housing [or], housing components, **industrialized buildings or building components** that it manufactures shall enter into implementing contracts with an evaluation agency and an inspection agency with contracts with the Department under subsection (b). Each third-party agency shall send a copy of each implementing contract to the Department.

(d) A manufacturer of industrialized housing [or], housing components, **industrialized buildings or building components** approved under this title shall have a current implementing contract with an approved evaluation agency and an approved inspection agency or have alternate arrangement for evaluation or inspection, or both, of its products with the Department under § 145.70 (relating to Departmental evaluation and inspection).

(e) A manufacturer of industrialized housing [or], housing components, **industrialized buildings or building components** operating under an implementing contract with an approved evaluation agency and an approved inspection agency, who wishes to enter into an implementing contract with a different evaluation or inspection agency, shall provide justification and receive approval from the Department prior to entering into the new contract, **except as provided for in § 145.79(e) (relating to suspension and revocation of third-party agencies)**.

**§ 145.79. Suspension and revocation of third-party agencies.**

\* \* \* \* \*

(f) If the Department determines that there is a substantial threat to the health, safety or welfare of the occupants of industrialized housing or housing structures containing housing components **[because the industrialized housing or housing components]** or **industrialized buildings or structures containing industrialized building components**, because they were manufactured in accordance with building system documentation and related compliance assurance program approved by an evaluation agency whose approval has been suspended or revoked by the Department under this section or were certified by an inspection agency whose approval has been suspended or revoked by the Department under this section, the Department may require the manufacturer to take the actions with respect to the industrialized housing or housing components, **industrialized buildings or building components** as may be necessary to eliminate substantially the threat to the health, safety or welfare of the occupants.

(g) Upon the suspension or revocation of an evaluation agency or inspection agency under this section, the Department will, upon the request of a manufacturer with an implementing contract with the suspended or revoked third-party agency, consult with the manufacturer to establish a temporary arrangement by which the manufacturer can continue to manufacture, sell, lease and install industrialized housing **[and]**, housing components, **industrialized buildings or building components** in conformity with the act and this chapter until the suspension or revocation is lifted or an implementing contract entered into with another third-party agency. For these purposes, the Department may in its sole discretion discharge some or all of the responsibilities of a third-party agency. The Department may also approve another temporary arrangement which the Department determines would best promote the purposes of the act and this chapter under the circumstances.

## LOCAL ENFORCEMENT AGENCIES

### § 145.81. Responsibilities of local enforcement agencies.

(a) Local enforcement agencies, **building code and construction code officials** can make an important contribution to the effective administration of the act and this chapter. In addition to discharging the responsibility under local law for the enforcement of applicable locally-enacted codes and ordinances governing site preparation work and water, sewer, electrical and other energy supply connections as described more particularly in § 145.36 (relating to applicability of locally-enacted codes and ordinances), and in view of the responsibilities of local enforcement agencies under State and local law and of the responsibilities of local governments to cooperate with agencies of the Commonwealth to protect the health, safety and welfare of the citizens of **[the]** this Commonwealth, local enforcement agencies shall assist the Department in enforcing the act and this chapter for industrialized housing **[and]**, housing components, **industrialized buildings or building components** at the time of installation in the jurisdiction of their local government in the following respects:

(1) Site inspections of industrialized housing **[and]**, housing components, **industrialized buildings or building components**, upon arrival at the site, **[but prior to installation,]** for apparent damage occurring during transportation from the manufacturing facilities to the site and other apparent nonconformity with the approved building system documentation.

(2) Site inspections of the installation of the industrialized housing **[and housing components at the site for nonconformity with]**, housing components, **industrialized buildings or building components consistent with those elements of installation addressed in the Site Installation Inspection Checklist required under § 145.91(e) (relating to reports to the Department)** and the installation instructions in the Building System Approval Report.

(3) Notifications to the **Department and the manufacturer [and to the inspection agency with an implementing contract with the manufacturer]** of damage and nonconforming elements found in the industrialized housing **[and]**, housing components, **industrialized buildings or building components** as a result of the site inspections, as well as additional site inspections of efforts made to remedy or repair the damage and nonconforming elements shall be **[channelled] channeled** through the Department.

(4) Notification to the Department of violations of the act and this chapter by the manufacturer, inspection agency or other person, including instances in which industrialized housing **[and]**, housing components, **industrialized buildings or building components** are installed or are intended for installation without bearing the required insignia of certification.

(5) Cooperation with the Department in efforts to take action to remedy the violations and prevent future occurrences.

(b) Site inspections of industrialized housing and housing components which a local enforcement agency performs under this chapter shall include, and be limited to, any type of visual exterior inspection and monitoring of tests performed by other persons during installation in accordance with the installation requirements in the Building System Approval Report. Destructive disassembly of the industrialized housing **[or]**, housing components, **industrialized buildings or building components** may not be performed, and nondestructive disassembly may not be performed in the course of an inspection except to the extent of opening access panels and cover plates.

#### **§ 145.82. Issuance of building permits.**

(a) A person seeking a building permit from a local enforcement agency for industrialized housing or a housing structure in which will be installed housing components, **industrialized buildings or structures containing industrialized commercial building components** shall furnish **installation documentation required under § 145.58(b)(4) (relating to basic requirements for a compliance control program)** and a current Notice of Approval under **§ 145.92(a)(5) (relating to reports by the Department)** and a statement signed by the person seeking the building permit or, if a corporation, by an officer or authorized representative of the corporation, that the work to be performed under the building permit will include the installation of certified industrialized housing **[or certified]**, housing components, **industrialized buildings or building components** bearing the **appropriate** insignia of certification issued by the Department under the act and this chapter.

(b) The local enforcement agency may not withhold the issuance of a building permit for certified industrialized housing or a housing structure in which will be installed certified housing

components, **industrialized buildings or structures containing industrialized building components** if the applicant submits the documents required by this section, and the application for a building permit complies with applicable locally-enacted codes and ordinances with regard to set-up and site details, **[consistent with the approved building system documentation]** and **land use**.

**§ 145.83. Issuance of certificates of occupancy.**

The local enforcement agency may not withhold the issuance of a certificate of occupancy or other similar permit for certified industrialized housing or a housing structure in which has been installed certified housing components **[if the industrialized housing or housing], industrialized buildings or structures containing building components if the properly completed Site Installation Inspection Checklist required under § 145.91 (relating to reports to the Department) is submitted** and the structure was constructed and installed on the site under a validly issued building permit and in other respects complies with applicable locally-enacted codes and ordinances not preempted by the act and this chapter.

**ADMINISTRATIVE PROVISIONS**

**§ 145.91. Reports to the Department.**

\* \* \* \* \*

(e) A person installing industrialized housing **[or], housing components, industrialized buildings or building components** for use on a site in a jurisdiction in this Commonwealth shall **[prepare] complete** and return to the manufacturer **and provide a copy to the local building code official** a Site Installation Inspection **[Report] Checklist** on a form furnished by the manufacturer **[as part of the approved compliance control program]**. The manufacturer is responsible for furnishing to the person performing the installation a copy of the Site Installation Inspection **[Report] Checklist** Form and instructions as to its intended use.

**§ 145.92. Reports by the Department.**

(a) The Department will send **[periodic reports, no less frequently than once every calendar quarter,]-reports** to third-party agencies and manufacturers with approved building system documentation which **[reports shall] will** include all of the following:

\* \* \* \* \*

(4) A current list of the names and addresses of currently approved third-party agencies.

(5) A Notice of Approval to each manufacturer that is approved as provided for in §145.72a (relating to frequency of inspections).

(b) Each report may contain additional information relating to the administration of this chapter.

\* \* \* \* \*

**§ 145.93. Factory inspections; right of entry.**

(a) *Authorized inspections by Department.*

(1) The Department is authorized to inspect:

(i) A manufacturing facility of a manufacturer with approved building system documentation or to whom insignia of certification has been issued under § 145.103 (relating to issuance of insignia of certification).

(ii) The transportation facilities utilized for the transport of certified industrialized housing [or], housing components, **industrialized commercial buildings or industrialized commercial building components**.

(iii) The building sites on which certified industrialized housing [or], housing components, **industrialized commercial buildings or industrialized commercial building components** have been or are intended to be installed.

(iv) The books and records—wherever maintained—of a manufacturer with approved building system documentation or to whom insignia of certification has been issued under § 145.103 which relate to the manufacture, sale, lease or installation of industrialized housing [or], housing components, **industrialized commercial buildings or industrialized commercial building components** for use on a site in this Commonwealth.

(v) The facilities and the books and records of a third-party agency which relate to the discharge of its responsibilities under this chapter.

(2) A manufacturer with approved building system documentation or to whom insignia of certification has been issued under § 145.103 and every approved evaluation agency and approved inspection agency shall grant to authorized representatives of the Department the right of entry on its property at reasonable times during normal business hours for the purpose of conducting the inspections and examinations as authorized under this section.

(3) Persons selling, acquiring or leasing the industrialized housing [or], housing components, **industrialized buildings or building components**, and persons engaged in its transportation to and installation at the building site, shall grant to authorized representatives of the Department the same right of entry on their property as the manufacturer is required to grant under this chapter.

(b) *Yearly inspections.* A factory or manufacturing facility with approved building system documentation will be inspected at least 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.



(c) *Inspection upon complaints or suspected violations.* A manufacturer with approved building system documentation shall grant to authorized representatives of an evaluation and inspection agency with which it has an implementing contract the right of entry on its property at least twice per year during normal business hours and at other times upon complaint or a reasonable belief that violations of this chapter may exist, for the purpose of conducting inspections and examination as the evaluation or inspection agency deems necessary to discharge its responsibilities under this chapter and under its contract with the manufacturer. Persons selling, acquiring or leasing the industrialized housing [or], housing components, **industrialized buildings or building components**, and persons engaged in its transportation to and installation on the building site, shall grant to an evaluation and inspection agency with an implementing contract with the manufacturer the same right of entry on their property as the manufacturer is required to grant under this chapter.

(d) *Inspection restrictions.* Upon entry onto a manufacturer's property or other property for the purpose of conducting an inspection under this section, the Department's [employee] employee or representative will state the scope of the intended inspection and that the inspection will be conducted under the act.

#### § 145.94. Fees.

(a) A person submitting an application to the Department under § 145.75(a) (relating to procedures for obtaining approvals of evaluation and inspection agencies) for approval as an **industrialized housing** evaluation agency or inspection agency shall pay a fee of \$1,000. If the person seeks approval as both an **industrialized housing** evaluation agency and an inspection agency, the combined fee [shall be] is \$2,000.

(b) A third-party agency submitting an application to the Department under § 145.76 (relating to reapprovals of third-party agencies)[,] for reapproval as an **industrialized housing** evaluation agency or inspection agency shall pay a fee of \$500. If the person seeks reapproval as both an **industrialized housing** evaluation agency and an inspection agency, the combined fee [shall be] is \$1,000.

(c) [Each manufacturer requesting the Department under § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification) to issue insignia of certification shall pay a fee of \$40 for the insignia of certification for each module of industrialized housing.] A person submitting an application to the Department under § 145.75(a) for approval as an **industrialized buildings** evaluation agency or inspection agency shall pay a fee of \$1,000. If the person seeks approval as both an evaluation agency and an inspection agency, the combined fee is \$2,000.

(d) [Each manufacturer requesting the Department under § 145.63 to issue insignia of certification for housing components shall pay a fee of \$40 for each housing component which will bear insignia of certification.] A third-party agency submitting an application to the Department under § 145.76, for reapproval as an **industrialized buildings** evaluation agency or inspection agency shall pay a fee of \$500. If the person seeks reapproval as both

**an industrialized buildings evaluation agency and an inspection agency, the combined fee is \$1,000.**

**(e) For manufacturing facilities in this Commonwealth, the insignia of certification fee is:**

**(1) \$40 per insignia for each module of an industrialized housing.**

**(2) \$40 per insignia for each industrialized housing component. The fee payable under this paragraph for industrialized housing components installed in or on a single dwelling unit may not exceed \$40.**

**(3) \$60 per insignia for each transportable section of an industrialized building.**

**(4) \$60 per insignia for each industrialized building module or component. A manufacturer may request special consideration from the Department in the event the manufacturer believes that insignia placement on individual modules or components is unreasonable due to the unique scope of a particular project.**

**(f) For manufacturing facilities outside of this Commonwealth, the insignia of certification fee is:**

**(1) \$60 per insignia for each module of an industrialized housing unit.**

**(2) \$60 per insignia for each industrialized housing component. The fee payable under this paragraph for industrialized housing components installed in or on a single dwelling unit may not exceed \$60.**

**(3) \$90 per insignia for each transportable section of an industrialized building.**

**(4) \$90 per insignia for each industrialized building module or component. A manufacturer may request special consideration from the Department in the event the manufacturer believes that insignia placement on individual modules or components is unreasonable due to the unique scope of a particular project.**

**[(e)] (g) When the Department is authorized to monitor or inspect under § 145.93 (relating to factory inspections; right of entry) or otherwise, or provide evaluation or inspection services, or both, under § 145.70 (relating to Departmental evaluation and inspection), the manufacturer shall pay to the Department the following fees:**

**(1) Engineering services—~~[\$400 per day or \$60]~~ \$75 per hour.**

**(2) Administrative services—~~[\$175 per day or \$25]~~ \$40 per hour.**

**(3) Travel and per diem expenses—current Commonwealth travel and per diem expenses.**

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

**[(g) (i)]** Fees paid to the Department under this chapter are nonrefundable except as otherwise specifically set forth in this chapter. Fees must be paid **electronically (as determined by the Department)**, by check or money order.

#### **§ 145.97. Amendments to this chapter.**

The Department may propose amendments to this chapter. The Department will **[mail a copy of]** publish each proposed amendment **in the *Pennsylvania Bulletin* and provide notice of the amendment** to third-party agencies and to manufacturers with approved building system documentation. The Department will hold public hearings on proposed amendments to this chapter. A proposed amendment shall become effective upon compliance with the applicable requirements of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102, 1201—1208 and 1602) and 45 Pa.C.S. **[Chapters 5, 7 and 9, known as the Commonwealth Documents Law] Part II (relating to publication and effectiveness of Commonwealth documents).**

#### **§ 145.99. Remedies.**

The Department may seek an order from a court of applicable jurisdiction in this Commonwealth for the enforcement of the act or this chapter, including without limitation an order for injunctive relief to enjoin the sale, lease, delivery or installation of **[an] industrialized housing [or], housing components, buildings or building components** which have not been manufactured, transported or installed in conformity with the requirements of the act or this chapter, or for the refusal of a party to comply with the act or this chapter.

### **INTERSTATE ACCEPTABILITY**

#### **§ 145.101. General authority.**

The Department is authorized under section 6 of the act (35 P. S. § 1651.6) to issue insignia of certification to **approved manufacturers [of industrialized housing and housing components] under this program** for their industrialized housing **[or], housing components, industrialized buildings or building components** which have been certified by any competent authority within a **[State] state** of the United States following a finding by the Department that the certifications have been granted on the basis of standards substantially equivalent to this chapter. Sections 145.102 and 145.103 (relating to determinations of acceptability of certifications of a competent **[State] state** authority; and issuance of insignia of certification) set forth more detailed criteria to support a finding by the Department that the standards are substantially equivalent to this chapter and establish additional procedures necessary to safeguard the health, safety and welfare of the citizens of this Commonwealth from noncomplying industrialized housing **[and], housing components, industrialized buildings or building components** certified by a competent **[State] state** authority.

§ 145.102. Determinations of acceptability of certifications of a competent [State] state authority.

(a) The Department may, on the basis of its review of the applicable statutes, regulations and administrative practices and experience and the other information as it may consider necessary for an informed finding, find that the standards of a competent authority of a [State] state of the United States under which industrialized housing [or], housing components, **industrialized buildings or building components** are certified, are substantially equivalent to the provisions of this chapter. The finding by the Department [shall] will be based on the following subsidiary findings:

(1) An agency, authority or division of the government of a [State] state of the United States has established and is actively administering under valid legislative authority a program for the certification of industrialized housing [or], housing components, **industrialized buildings or building components** or type of industrialized housing [or], housing components, **industrialized buildings or building components** similar in its purposes to the program authorized by the act.

(2) The codes and standards utilized by the competent authority of the other [State] state governing the design, materials and method of construction [of the industrialized housing or housing components] are substantially equivalent to the codes and standards adopted by the Department under §§ 145.41, 145.42 and 145.44 (relating to adoption of standards; alternate standards; and adoption and effective dates—code amendments). The determination of substantial equivalency [shall] will be based on a finding that the degree of protection to the health, safety and welfare of the citizens of this Commonwealth would not be materially less under other codes and standards than under the codes and standards adopted by the Department under §§ 145.41, 145.42 and 145.44. It is not intended that findings of substantial equivalency be limited to codes adopted by other jurisdictions which are identical or substantially identical with the codes adopted under §§ 145.41, 145.42 and 145.44. In addition, a finding of substantial equivalency may be limited to designated types of buildings or methods of construction for buildings.

(3) The competent [State] state authority will not certify industrialized housing [or], housing components, **industrialized buildings or building components** unless there has been a finding that the manufacturer is administering an acceptable compliance control program or, if third-party agencies are utilized, there is an acceptable compliance assurance program.

(4) The evaluation of the building system documentation of manufacturers for conformity with the adopted codes and standards and of the related compliance control program or compliance assurance program, as the case may be, is performed by personnel possessing satisfactory qualifications to assure determinations that are reliable, objective and without bias.

(5) The procedures adopted by the competent [State] state authority are satisfactory to assure effective enforcement of the regulations and standards adopted by that jurisdiction.

(b) If the Department makes a finding of substantial equivalency under subsection (a), it shall further determine whether there are procedures adopted by the competent [State] state authority with respect to which the finding of substantial equivalency is made under which the Department would be promptly notified in the event of the suspension or revocation of approval of any manufacturer or third-party agency or of any other approval issued by the competent [State] state authority relating to the enforcement of its applicable regulations: If there are no procedures for prompt notification to the Department, the Department may seek agreement from the competent [State] state authority for the establishment of notification procedures.

(c) Promptly after the Department makes a finding of substantial equivalency under subsection (a) with respect to the standards adopted by a competent [State] state authority under which industrialized housing or housing components are certified by the authority, and further determines that the competent [State] state authority has adopted the notification procedures prescribed in subsection (b), the Department will notify third-party agencies and manufacturers with approved building system documentation that, on compliance with the requirements of § 145.103 (relating to issuance of insignia of certification), the Department will issue to a manufacturer insignia of certification for attachment to industrialized housing [or], housing components, **industrialized buildings or building components** certified by the competent [State] state authority with respect to which the findings have been made.

#### § 145.103. Issuance of insignia of certification.

(a) A manufacturer, regardless of whether its building system documentation and related compliance assurance program have been approved under this chapter, may request that the Department issue to it insignia of certification for attachment to industrialized housing [or], housing components, **industrialized buildings or building components** which have been or will be certified by a competent [State] state authority with respect to which the Department has made the requisite findings required by § 145.102 (relating to determinations of acceptability of certifications of a competent [State] state authority). In addition to meeting all of the requirements of § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification), the manufacturer's request shall contain the following additional information:

(1) A list of the building system documentation which was approved by the competent [State] state authority for the industrialized housing [or], housing components, **industrialized buildings or building components** to which the insignia of certification are to be attached.

(2) Evidence that building system documentation and related compliance assurance program or compliance control program, as the case may be, was approved under the policies and procedures of the competent [State] state authority as conforming to the standards with respect to which the Department's determination of substantial equivalency was made.

(3) The name and address of an inspection agency, approved by the Department, which will participate in the compliance assurance program and authorize the attachment of the insignia of certification to the industrialized housing [or], housing components, **industrialized buildings or building components** to be sold, leased or installed for use on a site in this Commonwealth.

(b) If the competent [State] state authority uses its own personnel for monitoring a manufacturer's compliance control program and inspecting industrialized housing or housing components, the manufacturer seeking the issuance of insignia of certification under subsection (a) may eliminate the requirement of subsection (a)(3) for utilizing an inspection agency to monitor its compliance control program and authorize the attachment of insignia of certification, provided that the Department and the competent [State] state authority have entered into an agreement under which the competent [State] state authority will institute procedures, acceptable to the Department, for authorizing the attachment of the insignia of certification for industrialized housing [or], housing components, **industrialized buildings or building components** intended for sale, lease or installation for use on sites in this Commonwealth. The Department will enter into an agreement only if it determines that the procedures for controlling the use of the insignia of certification contain adequate safeguards and that the competent [State] state authority has the satisfactory organization and personnel to discharge its obligations under the agreement and will not charge the approval or reapproval fees as outlined in § 145.94(a) and (b) (relating to fees).

#### § 145.104. Reciprocal agreements.

(a) The Department is authorized to enter into agreements with the United States Department of Housing and Urban Development or with a competent authority within a [State] state of the United States which has established under valid legislative authority a program for the certification of industrialized housing [or], housing components, **industrialized buildings or building components** under which each party to an agreement will recognize the certification [of industrialized housing or housing components] issued under the laws, regulations and administrative procedures of the other party. An agreement shall establish procedures additional to those set forth in this chapter and shall in respects be consistent with the act.

(b) The reciprocal agreement may also establish that acceptability of the competent [State] state authority insignia of certification for industrialized housing units [or], components, **industrialized buildings or building components** shall be recognized by the Department [in lieu] instead of the provisions set forth in §§ 145.102 and 145.103 (relating to determinations of acceptability of certifications of a competent [State] state authority; and issuance of insignia of certification).

(c) The inspection and evaluation agency fees outlined in § 145.94(a) and (b) (relating to fees) will not be charged to a competent [State] state authority entering into a reciprocal agreement, as outlined in this chapter, using its own personnel for monitoring a manufacturer's compliance control program and inspecting industrialized housing [or], housing components, **industrialized buildings or building components**.

#### § 145.105. Suspension and revocation.

(a) The Department, on the basis of its review of the applicable statutes, regulations and administrative practices and experience and other information that it may consider necessary for an informed finding, determine that its finding that the standards of a competent [State] state

authority, previously found by the Department to be substantially equivalent to this chapter, is no longer justified under the criteria set forth in § 145.102(a) (relating to determinations of acceptability of certifications of a competent [State] state authority) or the procedures for notification set forth in § 145.102(b) are no longer effective. The Department will promptly notify third-party agencies and manufacturers with approved building system documentation or possessing insignia of certification issued to them under § 145.103 (relating to issuance of insignia of certification) of its finding. If requested by the Department, manufacturers possessing insignia of certification issued under § 145.103 shall promptly return the insignia to the Department and, upon receipt by the Department of the returned insignia, the fee paid by the manufacturer for the insignia **[shall] will** be refunded in full. No additional insignia of certification will be issued by the Department under § 145.103 with respect to industrialized housing or housing components certified by the competent [State] state authority with respect to which the finding by the Department was made. In addition, the Department will be authorized to remove, or cause the removal of, insignia of certification theretofore attached to industrialized housing **[or], housing components, industrialized buildings or building components** certified by the competent [State] state authority, if the Department determines that there is a substantial threat to the health, safety or welfare of the occupants of the industrialized housing or housing structures containing the housing components, **industrialized buildings or structures containing building components unless [such industrialized housing or housing components are]** brought into compliance with this chapter.

(b) The suspension or revocation of the certification of a manufacturer or third-party agency or of an industrialized housing **[or], housing components, industrialized buildings or building components** by a competent [State] state authority shall automatically suspend the right of a manufacturer affected in a material respect by the suspension or revocation to utilize an insignia of certification issued to it under § 145.103. The manufacturer may thereafter request the Department to determine in writing those circumstances in which it may continue to use the insignia of certification.

(c) Nothing in this section shall be construed to limit or restrict the rights of suspension and revocation of the Department under this chapter.