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| <h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p> | | <p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>RECEIVED</p> <p>SEP 05 2023</p> <p>Independent Regulatory Review Commission IRRC Number: 3382</p> | |
| (1) Agency Department of Community and Economic Development | | | |
| (2) Agency Number: 4 Identification Number: 100 | | | |
| (3) PA Code Cite: 12 Pa. Code. Chapter 145 | | | |
| (4) Short Title: Industrial Housing and Components | | | |
| (5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Michael Moglia, Housing Division Director, (717) 720-7416, mmoglia@pa.gov Secondary Contact: Robert F. Teplitz, Special Counsel, (717) 783-8452, rteplitz@pa.gov | | | |
| (6) Type of Rulemaking (check applicable box): | | | |
| <input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation | | <input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General | |
| (7) Briefly explain the regulation in clear and nontechnical language. (100 words or less) | | | |
| <p>The proposed rulemaking would change the inspection cycle for factories and manufacturing facilities with approved building system documentation from annual to biennial. It would also increase the fees collected from in-state manufacturers for the purchase of insignias of certification for each module of an industrialized housing and each industrialized housing component from \$40 per insignia to \$60 per insignia.</p> | | | |
| (8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation. | | | |
| <p>The act of May 11, 1972 (P.L. 286, No. 70), 35 P.S. § 1651.1 <i>et seq.</i>, known as the Industrialized Housing Act (Act), authorizes the Department of Community and Economic Development (Department) to promulgate rules and regulations to interpret and make specific the provisions of the Act. 35 P.S. § 1651.5. <i>See also</i> 35 P.S. § 1651.2(5), (6); 35 P.S. § 1651.7.</p> | | | |
| (9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action. | | | |
| No. | | | |

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The proposed rulemaking will serve the public interest by generating budgetary and staffing resources that will allow the Department to continue to carry out its responsibilities under the Act without reducing the effectiveness of the program. The program is solely funded by revenue generated by the sale of insignias that are purchased by the manufacturers; no other funding sources are provided to support the program.

The proposed rulemaking changes the inspection cycle for factories and manufacturing facilities with approved building system documentation. The current inspection cycle was set in 1988; it must be updated so the Department can conduct inspections within its current resource constraints. Staffing was reduced by half in 2017 when the employee responsible for the industrialized housing program retired, leaving only the director of the Department's Housing Standards Division to oversee the program along with performing his other duties.

However, reducing the inspection cycle from annual to biennial will not reduce the effectiveness of the Department's oversight. Pursuant to 12 Pa. Code § 145.91(a), the Department receives monthly reports from contracted third-party agencies that conduct inspections of the manufacturers. The Department reviews those reports and follows up with the third-party agencies and manufacturers as appropriate, while still retaining the right to inspect the manufacturers directly. In addition, the Department provides training to local government employees who inspect industrialized housing and, in turn, report their findings back to the Department.

The proposed rulemaking also increases the fees collected from in-state manufacturers for the purchase of insignias of certification for each module of an industrialized housing and each industrialized housing component. The current fee level was set in 2004; it must be updated to help support the Department's current costs of administering and enforcing the Act. The new fee level will mirror the fee level applicable to in-state manufacturers for the insignias of certification for industrialized commercial buildings, building modules and building components. It will provide additional funding to hire more staff so the Department can meet its program obligations. Otherwise, due to the implementation of a separate program regarding commercial buildings, the Department will struggle to meet its obligations for industrialized housing with its current staff complement.

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

There are no provisions that are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Many states operate their industrialized housing inspection programs similar to Pennsylvania. For example, Georgia and North Carolina operate similar programs, while Minnesota, New Jersey, North Dakota, and Rhode Island are members of the Interstate Industrialized Buildings Commission, which also operates a program similar to that of Pennsylvania.

In other words, due to budgetary and staffing issues, they do not always conduct in-plant inspections,

relying instead on contracted third-party agencies to perform those tasks on their behalf. Even the Interstate Industrialized Building Commission, which serves states that do not maintain their own industrialized housing programs, relies on third-party inspection agencies.

The new fee level of \$60 per insignia for each module of industrialized housing and each industrialized housing component will mirror the fee level for the insignias of certification for industrialized commercial buildings, building modules and building components. The proposed rulemaking would only impact production destined for Pennsylvania and would not affect Pennsylvania's ability to compete with other states. The proposed fee level compares favorably with nearby states:

Delaware: No fees.

Maine: \$200 per dwelling, plus \$200 warranty label.

Maryland: \$50 per module (residential) and \$90 per module (commercial), plus \$500 plan review.

Massachusetts: \$50 per transportable unit.

New Hampshire: \$100 per module for the first four residential modules and \$50 for each additional module.

New Jersey: \$90 per module; \$45 per component.

New York: \$125 per label (minimum of 5).

Ohio: \$50 per module.

Rhode Island: \$90 per module; \$45 per component.

Virginia: \$75 per module.

West Virginia: No state insignia; third-party insignia fee: \$42.

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

The proposed regulation will not affect any other regulations of the Department or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department will hold a formal public hearing pursuant to 35 P.S. § 1651.5(b). The hearing will be held on February 6, 2024, 10:00 a.m. to 12:00 p.m., in PUC Hearing Room 2, Commonwealth Keystone Building, 400 North Street, Harrisburg, Pennsylvania 17120-0225.

In addition, pursuant to 12 Pa. Code § 145.97, the Department is providing separate notice of the proposed rulemaking to third-party agencies and to manufacturers with approved building system documentation. They will be invited to provide input through the public comment and public hearing process.

The Department has already sought comments and feedback informally from several large manufacturers of industrialized housing as well as third-party inspection agencies. They expressed their understanding that the proposed changes were needed in order to support and maintain the current program. They asked not to be identified by name unless and until they testify at a formal public hearing.

The Department did not consult with the Industrialized Housing Advisory Commission (Commission) in

drafting or promulgating this proposed rulemaking as required by Act, 35 P.S. §§ 1651.5(a), 1651.8, because the Commission has not been in existence since 2012. However, the Department welcomes comments from the regulated community, the general public and other interested parties through the public comment and public hearing processes.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The proposed rulemaking will affect 39 manufacturing facilities (28 in the Commonwealth and 11 outside of the Commonwealth) due to the change to the inspection cycle. In addition, the 28 facilities located in the Commonwealth will be affected by the fee increase because a \$20 fee increase in 2017 applied only to facilities located outside of the Commonwealth. The Department believes that a few of the affected facilities may be “small businesses” as defined by the Regulatory Review Act for this industry (NAICS code 236117), but the Department cannot be more specific or definitive on this issue given that it is not privy to the facilities’ annual revenues.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

See answers to Q. 15 and Q. 24(a).

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The change to the inspection cycle from annual to biennial will provide a cost savings to the Department of approximately \$6,000 per fiscal year due to less frequent travel. Those cost savings, along with the increase in the insignia fee collected from in-state manufacturers, will provide funding to support an additional staff member to help the Department fulfill its statutory obligations under the Act.

The proposed rulemaking will help establish parity between out-of-state manufacturers and in-state manufacturers because out-of-state manufacturers currently pay \$60 per insignia and in-state manufacturers currently pay \$40 per insignia. The industrialized housing program at DCED does not receive any additional funding because it is funded solely by insignia fees collected.

The total economic impact per fiscal year is projected to be as follows based on current insignia orders:

FY 2022-23: additional \$42,000 impact among 28 facilities (approximately \$1,500 per facility)
FY 2023-24: additional \$42,000 impact among 28 facilities (approximately \$1,500 per facility)
FY 2024-25: additional \$42,000 impact among 28 facilities (approximately \$1,500 per facility)
FY 2025-26: additional \$42,000 impact among 28 facilities (approximately \$1,500 per facility)

Total: Generate an additional \$168,000 in revenue for the enforcement of the regulations.

The proposed rulemaking will have no other fiscal impact on the regulated community, the general public, the Commonwealth or local governments. It will also have no social impact.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

These changes will generate budgetary and staffing resources that will allow the Department to continue to carry out its responsibilities under the Act without reducing the effectiveness of the program. The change to the Department's inspection cycle will not result in a significant overall reduction in inspections due to the inspections already conducted by local governments and contracted third-party agencies and reported to the Department. The fee increase for in-state manufacturers of industrialized housing and components is minimal, and the new fee level mirrors the level for industrialized commercial buildings, building modules and building components in Pennsylvania. The new fee level is also reasonable as compared with other states.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The \$20 per insignia fee increase for in-state manufacturers of industrialized housing and components is minimal, and the new fee level of \$60 per insignia mirrors the level for industrialized commercial buildings, building modules and building components in Pennsylvania. The new fee level is also reasonable as compared with other states. While most of the surrounding states have significantly increased their fees over the past several years, Pennsylvania has not.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

DCED does not anticipate any cost increase or savings to local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The change to the inspection cycle from annual to biennial will provide a cost savings to the Department of approximately \$6,000 per fiscal year due to less frequent travel. Those cost savings, along with the increase in the insignia fee collected from in-state manufacturers, will provide funding to support an additional staff member to help the Department fulfill its statutory obligations under the Act. No additional legal, accounting, or consulting procedures will be required.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping, or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The proposed rulemaking does not impose any additional reporting, recordkeeping or other paperwork requirements on the regulated community, the Commonwealth or local governments.

(22a) Are forms required for implementation of the regulation?

The Department will need to update its printed and online insignia order forms to note the fee increase.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If

your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

See Q. 22a above and the attached form identifying current program fees. The Department has already modified the form to include commercial buildings. The only change to the form as a result of this proposed rulemaking would be to the dollar amounts for items 1 and 2. However, there will be no additional printing costs because the form is only provided electronically.

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

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|-----------------------------|----------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| SAVINGS: | | | | | | |
| Regulated Community | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| State Government | \$0 | \$6,000 | \$6,000 | \$6,000 | \$6,000 | \$6,000 |
| Total Savings | \$0 | \$6,000 | \$6,000 | \$6,000 | \$6,000 | \$6,000 |
| COSTS: | | | | | | |
| Regulated Community | \$0 | \$42,000 | \$42,000 | \$42,000 | \$42,000 | \$42,000 |
| Local Government | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| State Government | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Total Costs | \$0 | \$42,000 | \$42,000 | \$42,000 | \$42,000 | \$42,000 |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| State Government | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Total Revenue Losses | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

| Program | FY 2019 | FY 2020 | FY 2021 | Current FY |
|------------------------|----------------|----------------|----------------|-------------------|
| Industrialized Housing | \$212,492 | \$239,513 | \$319,259 | \$363, 111 |

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the regulation.

According to the Regulatory Review Act, 71 P.S. § 745.3 (incorporating 13 C.F.R. § 121.201), a small business in this industry (NAICS Code 236117, New Housing For-Sale Builders) is a business with annual receipts of \$39.5 million or less. It is possible that at least some of the manufacturers subject to the proposed regulation meet this definition, but the Department is not privy to the information needed to make that determination. To the extent that any small businesses are impacted by the proposal regulation, the effect would be only in the form of less frequent inspections by the Department and a minimal increase in the insignia fee.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

The proposed regulation will impose no additional reporting, recordkeeping or other administrative costs on small businesses.

- (c) A statement of probable effect on impacted small businesses.

See answer to Q. 24(a) above.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Because the program receives no additional funding, there are no less intrusive, costly, or burdensome options. Furthermore, a less frequent cycle of inspections by the Department reduces burdens on the regulated community.

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

The Department has not developed any special provisions to meet the particular needs of affected groups or persons.

- (26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

See answer to Q. 24(d) above.

- (27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;

There are no less stringent compliance or reporting requirements for small businesses.

- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

There are no less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

See answer to Q. 24(a) above.

d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and

See answer to Q. 24(a) above.

e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

See answer to Q. 24(a) above.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data is not the basis for this regulation.

(29) Include a schedule for review of the regulation including:

- | | |
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| A. The length of the public comment period: | 30 days |
| B. The date or dates on which any public meetings or hearings will be held: | February 6, 2024 |
| C. The expected date of delivery of the final-form regulation: | Spring of 2024 |
| D. The expected effective date of the final-form regulation: | 60 days after final-form publication in the <i>Pennsylvania Bulletin</i> |
| E. The expected date by which compliance with the final form regulation will be required: | 60 days after final-form publication in the <i>Pennsylvania Bulletin</i> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | N/A |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department continuously monitors the effectiveness of its regulations on a fiscal year basis. Therefore, no sunset date has been assigned.



MANUFACTURER'S APPLICATION

for Insignia of Certification

for Pennsylvania Industrialized Housing, Building or Component

| SECTION I | |
|--|---|
| 1. MANUFACTURER: | 2. MANUFACTURER'S ID NUMBER: |
| 3. ADDRESS OF PLANT REQUESTING INSIGNIAS | |
| 4. TELEPHONE NUMBER: | |
| 5. INSPECTION AGENCY: | 6. INSPECTOR SIGNATURE: |
| 7. MANUFACTURER'S INSIGNIA MANAGER (PRINT NAME): | 8. MANUFACTURER'S INSIGNIA MANAGER SIGNATURE: |

| SECTION II | | | | |
|------------|---|---------------------------------|---------------------------|-----|
| ITEM # | TYPE OF HOUSING | QUANTITY ORDERED (MANUFACTURER) | QUANTITY SENT (DCED ONLY) | FEE |
| #1 | Industrialized Housing in PA\$40 | | | |
| #2 | Industrialized Housing Component in PA \$40 | | | |
| #3 | Industrialized Housing out of PA \$60 | | | |
| #4 | Industrialized Housing Component out of PA\$60 | | | |
| #5 | Industrialized Building in PA\$60 | | | |
| #6 | Industrialized Building Component in PA \$60 | | | |
| #7 | Industrialized Building out of PA \$90 | | | |
| #8 | Industrialized Building Component out of PA\$90 | | | |
| TOTAL: | | | | |

| DCED USE ONLY | | |
|----------------------|----------------|--------------------------|
| ITEM # | TYPE REQUESTED | SERIAL NUMBERS (XX - XX) |
| | | |
| | | |
| | | |
| | | |
| | | |
| REQUEST APPROVED BY: | | DATE: |

MANUFACTURER'S APPLICATION INSTRUCTIONS
for Insignia of Certification
for Pennsylvania Industrialized Housing, Building or Component

This application must be used each time insignias are requested; and this is the only vehicle for requesting the insignias. The authority for the insignias is defined in Act 70 of 1972. Failure to utilize the insignias, as required by the Act and the regulations, may lead to penalties.

MANUFACTURER'S REQUIREMENTS

This application will not be processed unless all signatures are present.

SECTION I

Complete items 1 through 8 on the face of this application.

SECTION II

Enter the number of insignias desired in the appropriate box. Multiply the quantity by the indicated fee and enter the total for each type in the box under "Fee" column.

- a. Check or money order shall be attached in the amount of the sum totals.
- b. Checks or money orders shall be payable to: *Comptroller, PA Department of Community & Economic Development*
- c. The application and payment shall be forwarded to:
Commonwealth of Pennsylvania
Department of Community & Economic Development
Housing Standards Division
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
- d. The "Manufacturer's" copy shall be retained by the requesting plant for a minimum of two (2) years.

Sufficient time must be allowed for application processing by the Department. No less than 5 insignias or more than a 30 day supply of insignias shall be ordered per application. A new application will be forwarded with each shipment of insignias. Questions or information concerning insignias should be directed to:

Commonwealth of Pennsylvania
Department of Community & Economic Development
Housing Standards Division
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
717.720.7417

DCED USE ONLY

This section is reserved for DCED. Do not complete any information in this section.

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**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

RECEIVED

SEP 05 2023

Independent Regulatory
Review Commission

DO NOT WRITE IN THIS SPACE

| | | |
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| <p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>Amy M. Elliott <small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, ou=Massachusetts Office of Attorney General, ou=Chief Deputy Attorney General, email=amelliott@stateattorneygeneral.gov, c=US Date: 2023.06.14 15:48:51 -0400</small></p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p><u>6/14/2023</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p> | <p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of Community and Economic Development</p> <p>_____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>4-100</u></p> <p>DATE OF ADOPTION _____</p> <p>BY: <u><i>F C S</i></u> Frederick C. Siger</p> <p>TITLE <u>Acting Secretary</u></p> | <p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: <u><i>[Signature]</i></u></p> <p><u>May 23, 2023</u> DATE OF APPROVAL</p> <p>Deputy General Counsel (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p> |
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NOTICE OF PROPOSED RULEMAKING

**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**

ADMINISTRATIVE PROVISIONS

§ 145.93. Factory inspections; right of entry.

§ 145.94. Fees.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 145]

Inspections and Fees

The Department of Community and Economic Development (Department) proposes to amend §§ 145.93 and 145.94 (relating to factory inspections; right of entry; and fees) to read as set forth in Annex A.

Effective Date

The amendments will be effective 60 days after final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 5 of the Industrialized Housing Act (act) (35 P.S. § 1651.5) authorizes the Department to promulgate rules and regulations to interpret and make specific the provisions of the act. As stated in section 2(5) and (6) of the act (35 P.S. § 1651.2(5) and (6)), the purpose of the act is to set uniform State standards and procedures for inspections. Section 7 of the act (35 P.S. § 1651.7) requires the Department to establish a schedule of fees reasonably related to the costs of administering and enforcing the act.

Background and Purpose of Amendments

This proposed rulemaking changes the inspection cycle for factories and manufacturing facilities with approved building system documentation from annual to biennial. The current

inspection cycle was set in 1988; it must be updated for the Department to conduct inspections within its current resource constraints but without reducing the effectiveness of the Department's oversight.

In addition, this proposed rulemaking increases the fees collected from in-State manufacturers for the purchase of insignias of certification for each module of an industrialized housing and each industrialized housing component. The current fee level was set in 2004; it must be updated to help support the Department's current costs of administering and enforcing the act. The new fee level will mirror the fee level applicable to in-State manufacturers for the insignias of certification for industrialized commercial buildings, building modules and building components.

Currently, the program is solely funded by revenue generated by the sale of insignias that are purchased by the manufacturers; no other funding sources are provided to support the program. This proposed rulemaking will provide additional funding to hire more staff so the Department can meet its program obligations. Otherwise, due to the implementation of a separate program regarding commercial buildings, the Department will struggle to meet its obligations for industrialized housing with its current staff complement.

Description of Proposed Amendments

The Department proposes to amend § 145.93(b) to change the inspection cycle for factories and manufacturing facilities with approved building system documentation from at least once each year to at least once every other year.

The Department also proposes to amend § 145.94(e)(1) and (2) to increase the fees collected from in-State manufacturers for the purchase of insignias of certification for each

module of an industrialized housing and each industrialized housing component from \$40 per insignia to \$60 per insignia.

The Department further proposes to amend § 145.94(e)(2) to state that the fee payable under paragraph (2) for industrialized housing components installed in or on a single dwelling unit may not exceed \$60.

Fiscal Impact

A less frequent inspection cycle will provide a cost savings to the Department of approximately \$6,000 per fiscal year due to less frequent travel expenses. Those cost savings, along with the increase in the insignia fee collected from in-State manufacturers, will provide funding to support an additional staff member to help the Department fulfill its statutory obligations under the act.

This proposed rulemaking will help establish parity between out-of-State manufacturers and in-State manufacturers because out-of-State manufacturers currently pay \$60 per insignia and in-State manufacturers currently pay \$40 per insignia. The industrialized housing program does not receive any additional funding and is funded solely by insignia fees collected.

Based on current insignia orders, the total economic impact per fiscal year from the fee increase is projected to be an additional \$42,000 among 28 facilities (approximately \$1,500 per facility). This proposed rulemaking will have no other fiscal impact on the Commonwealth, the regulated community, the general public or local governments.

Paperwork Requirements

The Department will need to update its printed and online insignia order forms to note the fee increase. The amendments will not create additional paperwork for the regulated community, the general public or local governments.

Benefits

This proposed rulemaking will generate budgetary and staffing resources that will allow the Department to continue to carry out its responsibilities under the act without reducing the effectiveness of the program. Although the inspection cycle would be reduced from annual to biennial, the Department has instituted other methods to maintain appropriate oversight. Under § 145.91(a) (relating to reports to the Department), the Department receives monthly reports from contracted third-party agencies that conduct inspections of the manufacturers. The Department reviews those reports and follows up with the third-party agencies and manufacturers as appropriate, while still retaining the right to inspect the manufacturers directly. In addition, the Department provides training to local government employees who inspect industrialized housing and, in turn, report their findings back to the Department.

The fee increase for in-State manufacturers of industrialized housing and components is minimal, and the new fee level mirrors the level for industrialized commercial buildings, building modules and building components in this Commonwealth. The new fee level is also reasonable as compared with other states.

Affected Persons

This proposed rulemaking will affect 39 manufacturing facilities (28 in this Commonwealth and 11 outside of this Commonwealth) due to the change to the inspection cycle.

In addition, the 28 facilities located in this Commonwealth will be affected by the fee increase because a \$20 fee increase in 2017 applied only to facilities located outside of this Commonwealth.

Sunset Date

The Department continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 1, 2023, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Community, Economic and Recreational Development Committee and the House Commerce Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, (71 P.S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to this proposed rulemaking within 30 days from the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking by e-mail to RA-housingstandards@pa.gov or by United States mail to Michael Moglia, Director, Housing Standards Division, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225, within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 4-100 when submitting comments.

In addition, under § 145.97 (relating to amendments to this chapter), the Department is providing separate notice of this proposed rulemaking to third-party agencies and to manufacturers with approved building system documentation. They will be invited to provide input through the public comment and public hearing process.

The Department has already sought comments and feedback informally from several large manufacturers of industrialized housing as well as third-party inspection agencies. They expressed their understanding that the proposed changes were needed to support and maintain the current program.

The Department did not consult with the Industrialized Housing Advisory Commission (Commission) in drafting or promulgating this proposed rulemaking as required by section 5(a) and section 8 of the act (35 P.S. §§ 1651.5(a) and 1651.8), because the Commission has not been in existence since 2012. However, the Department welcomes comments from the regulated community, the general public and other interested parties through the public comment and public hearing processes.

Public Hearing

Under section 5(b) of the act, the Department will hold a public hearing for the purpose of accepting comments on this proposal. The hearing will be held on February 6, 2024, 10 a.m. to 12 p.m., in PUC Hearing Room 2, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225.

Persons wishing to present testimony at a hearing are requested to contact the Department by e-mail to RA-housingstandards@pa.gov, at (717) 720-7416, or by Unites States mail to Michael Moglia, Director, Housing Standards Division, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

FREDERICK C. SIGER,
Secretary

Fiscal Note: 4-100. No fiscal impact; recommends adoption.

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

ADMINISTRATIVE PROVISIONS

§ 145.93. Factory inspections; right of entry.

* * * * *

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

* * * * *

§ 145.94. Fees.

* * * * *

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

(1) \$[~~40~~] 60 per insignia for each module of an industrialized housing.

(2) \$~~40~~ 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 \$~~40~~ 60.

(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.

* * * * *

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

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* * * * *



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

TO: IRRC

FROM: Britt Muniz
Assistant Counsel
Department of Community and Economic Development

SUBJECT: Proposed Rulemaking, Inspections and Fees (No. 4-100)

DATE: September 1, 2023

Accompanying this memorandum are copies of a Preamble, Annex A, Regulatory Analysis Form, and a memorandum on Significant Legal and Policy Issues with respect to a proposed rulemaking of the Department of Community and Economic Development.

This proposed rulemaking changes the inspection cycle for factories and manufacturing facilities with approved building system documentation from annual to biennial. It also increases the fees collected from in-state manufacturers for the purchase of insignias of certification for each module of an industrialized housing and each industrialized housing component.

Please review the regulation package at your earliest convenience and, if acceptable as submitted, forward it through the proper channels. Thank you in advance for your assistance.

Attachments: Original Signed Face
Preamble
Annex A
Regulatory Analysis Form (with attachment referenced therein)

=

From: Clepper, Derek
To: Quinn, Eileen
Subject: RE: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Date: Tuesday, September 5, 2023 9:01:22 AM

Received. THANK YOU.

Derek R. Clepper, Esq.
Counsel, Senate Republican Caucus
350 Main Capitol
Harrisburg, PA 17120
dclepper@pasen.gov

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SEP 05 2023

Independent Regulatory
Review Commission

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From: Quinn, Eileen <equinn@pa.gov>
Sent: Tuesday, September 5, 2023 7:23 AM
To: Gebhard, Senator Chris <cgebhard@pasen.gov>
Cc: Muniz, Britt <bmuniz@pa.gov>; Clepper, Derek <dclepper@pasen.gov>
Subject: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Importance: High

Ⓢ CAUTION : External Email Ⓢ

To the Honorable Chris Gebhard:

Please see the attached: *DCED Proposed Rulemaking – Inspections and Fees (No. 4-100)*. As previously indicated, this shall be delivered to the IRRC today. In order to do so, we kindly request written (email) confirmation that the regulation has been received.

Thank you,

Eileen Quinn | Office Manager
Office of Chief Counsel | PA Department of Community & Economic Development
Governor's Office of General Counsel
400 North Street, 4th Floor | Harrisburg, PA 17120-0225
Phone: 717-720-7465 | Fax: 717-772-3103
equinn@pa.gov | dced.pa.gov

From: [Taylor, Jerome](#)
To: [Quinn, Eileen](#); [Williams, Senator Anthony](#)
Cc: [Muniz, Britt](#)
Subject: RE: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Date: Tuesday, September 5, 2023 9:06:40 AM

Eileen

This is to confirm receipt DCED Proposed Rulemaking – Inspections and Fees (No. 4-100).

Jerome “Al” Taylor

Legislative Director

State Senator Anthony H. Williams

11 East Wing, Capitol Building | Harrisburg, PA 17021

Ph. 717-787-5970 | Fax 717-772-0574

Email: Jerome.Taylor@pasenate.com

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Independent Regulatory
Review Commission

From: Quinn, Eileen <eiquinn@pa.gov>
Sent: Tuesday, September 5, 2023 7:23 AM
To: Williams, Senator Anthony <anthony.williams@pasenate.com>
Cc: Muniz, Britt <bmuniz@pa.gov>; Taylor, Jerome <jerome.taylor@pasenate.com>
Subject: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Importance: High

■ EXTERNAL EMAIL ■

To the Honorable Anthony Williams:

Please see the attached: *DCED Proposed Rulemaking – Inspections and Fees (No. 4-100)*. As previously indicated, this shall be delivered to the IRRC today. In order to do so, we kindly request written (email) confirmation that the regulation has been received.

Thank you,

Eileen Quinn | Office Manager

Office of Chief Counsel | PA Department of Community & Economic Development

Governor’s Office of General Counsel

400 North Street, 4th Floor | Harrisburg, PA 17120-0225

Phone: 717-720-7465 | Fax: 717-772-3103

eiquinn@pa.gov | dced.pa.gov

From: [Horne-Beachy, Beth](#)
To: [Quinn, Eileen](#); [Galloway, John](#)
Cc: [Muniz, Britt](#)
Subject: RE: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Date: Tuesday, September 5, 2023 7:27:26 AM

Good morning Ms. Quinn.

On behalf of Chairman Galloway, I am writing to affirm that the DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) was received in the Chairman’s Harrisburg office. It will be printed and kept in committee files.

Thank you.

Beth

Beth Horne-Beachy

Executive Director
House Commerce Committee
Rep. John T. Galloway, Majority Chairman
Local: 6176
Direct: 717-772-2007
Office: 717-787-1292
Cell: 717-856-7383

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Independent Regulatory
Review Commission

From: Quinn, Eileen <eiquinn@pa.gov>
Sent: Tuesday, September 5, 2023 7:23 AM
To: Galloway, John <JGallowa@pahouse.net>
Cc: Muniz, Britt <bmuniz@pa.gov>; Horne-Beachy, Beth <BBeachy@pahouse.net>
Subject: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Importance: High

To the Honorable John Galloway:

Please see the attached: *DCED Proposed Rulemaking – Inspections and Fees (No. 4-100)*. As previously indicated, this shall be delivered to the IRRC today. In order to do so, we kindly request written (email) confirmation that the regulation has been received.

Thank you,

Eileen Quinn | Office Manager
Office of Chief Counsel | PA Department of Community & Economic Development
Governor’s Office of General Counsel
400 North Street, 4th Floor | Harrisburg, PA 17120-0225
Phone: 717-720-7465 | Fax: 717-772-3103

From: [Joe Emrick](#)
To: [Quinn, Eileen](#)
Cc: [Cindy Sauder](#)
Subject: RE: [EXTERNAL]: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Date: Tuesday, September 5, 2023 9:34:13 AM

I'm sending confirmation of receipt for *DCED Proposed Rulemaking – Inspections and Fees (No. 4-100)*.

Thank you,

Joe Emrick
Republican Commerce Committee, Chairman
Pennsylvania House of Representatives
137th Legislative District

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SEP 05 2023

Independent Regulatory
Review Commission

From: Quinn, Eileen <equinn@pa.gov>
Sent: Tuesday, September 5, 2023 7:34 AM
To: Cindy Sauder <Csauder@pahousegop.com>
Subject: [EXTERNAL]: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Importance: High

To the Honorable Joe Emrick:

Please see the attached: *DCED Proposed Rulemaking – Inspections and Fees (No. 4-100)*. As previously indicated, this shall be delivered to the IRRC today. In order to do so, we kindly request written (email) confirmation that the regulation has been received.

Thank you,

Eileen Quinn | Office Manager
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Governor's Office of General Counsel
400 North Street, 4th Floor | Harrisburg, PA 17120-0225
Phone: 717-720-7465 | Fax: 717-772-3103
equinn@pa.gov | dced.pa.gov

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From: Bulletin
To: Quinn, Eileen
Cc: Muniz, Britt; Adeline E. Gaydosh
Subject: Re: [External] Re: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT
Date: Tuesday, September 5, 2023 8:55:47 AM

Good morning, Eileen,

Thank you for sending this proposed rulemaking. It is scheduled for publication in the 9.16 issue of the *Pennsylvania Bulletin*.

Have a terrific day!
Adeline

Adeline Gaydosh | Legal Assistant
agaydosh@palrb.us | 717.783.3984
Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120

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Review Commission

From: Quinn, Eileen <equinn@pa.gov>
Sent: Tuesday, September 5, 2023 8:51 AM
To: Bulletin <bulletin@palrb.us>
Cc: Muniz, Britt <bmuniz@pa.gov>; Code&Bulletin <codeandbulletin@palrb.us>
Subject: RE: [External] Re: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT

Thank you!

From: Bulletin <bulletin@palrb.us>
Sent: Tuesday, September 5, 2023 8:47 AM
To: Quinn, Eileen <equinn@pa.gov>
Cc: Muniz, Britt <bmuniz@pa.gov>; Code&Bulletin <codeandbulletin@palrb.us>
Subject: [External] Re: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).

Good morning, Eileen,

Please provide a word file for the preamble and annex. We will then schedule this for

publication.

RECEIVED

Have a good morning!

SEP 05 2023

Adeline

Independent Regulatory
Review Commission

From: Quinn, Eileen <equinn@pa.gov>

Sent: Tuesday, September 5, 2023 7:23 AM

To: Bulletin <bulletin@palrb.us>

Cc: Muniz, Britt <bmuniz@pa.gov>

Subject: DCED Proposed Rulemaking – Inspections and Fees (No. 4-100) - PLEASE KINDLY CONFIRM RECEIPT

Good day,

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Thank you,

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Office of Chief Counsel | PA Department of Community & Economic Development

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Phone: 717-720-7465 | Fax: 717-772-3103

equinn@pa.gov | dced.pa.gov

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