

# RULES AND REGULATIONS

## Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 145]

### Industrial Housing and Components

The Department of Community and Economic Development (Department) under the authority of section 5 of the Industrialized Housing Act (act) (35 P.S. § 1651.5), amends Chapter 145 (relating to industrial housing and components) to read as set forth in Annex A. (*Editor's Note:* When submitted as proposed, these amendments were located in 16 Pa. Code Chapter 29. Since that time, those chapters issued under the authority of the Department of Community Affairs contained in Title 16 and those chapters issued under the authority of the Department of Commerce contained in Title 13 have been moved into Title 12. This is a result of the merger of the two departments into the Department of Community and Economic Development.)

#### Introduction

The Department has the responsibility to promulgate regulations, including construction standards, for industrialized housing and components covered by the act. These standards are required to be reasonably consistent with recognized and accepted model codes. The regulations were last amended in 1991. The new regulations permit manufacturers to utilize either the new or previous BOCA or CABO stair geometry standards. The new regulations also seek to clarify the dates on which the Department adopts amendments to the model codes and on which the amendments become effective.

The Department received comments on the proposed regulations from the Independent Regulatory Review Commission (IRRC), the Pennsylvania Builders Association (Association) and the Mid-Atlantic Building Systems Council (Council). IRRC made the following suggestions: (1) define the acronym "CABO"; (2) add a new subsection to §§ 145.41 and 145.42 to clarify that the language "all codes shall be the latest edition..." applies to all the model codes and not just the National Electrical Code; and (3) clarify through formatting changes the sections regarding the dates on which the Department adopts amendments to the model codes and on which the amendments become effective and provide for public notification of the dates when they are shortened or lengthened by the Department. The Association offered its support of the amendments, but suggested no changes. The Council also supports the amendments and suggested that the Department add the BOCA stair geometry standard exception to the regulations, since the new BOCA standards went into effect after the proposed amendments were published. All of these suggestions were implemented by the Department.

#### Analysis

*Section 145.1. Definitions.* The terms "CABO" and the "Department" have been added to this section.

*Section 145.41. Adoption of standards.* This section was reformatted to clarify that the language "all codes

shall be the latest edition..." applies to all the model codes and not just the National Electrical Code. This language now appears in a new paragraph (b) and existing paragraphs (b), (c) and (d) become paragraphs (c), (d) and (e). Additionally, this section was changed to permit a manufacturer to utilize the 1993 BOCA National Building Code with regard to stair geometry. This section was also changed to reflect the name change of the BOCA National Mechanical Code and the BOCA National Plumbing Code to the International Code Council International Mechanical Code and the International Code Council International Plumbing Code.

*Section 145.42. Alternate standards.* As in § 145.41, this section was reformatted to clarify that the language "all codes shall be the latest edition..." applies to all the model codes and not just the Electrical Code for One and Two Family Dwelling, NFPA No. 70. This language now appears in a new paragraph (b).

*Section 145.43. Amendment policy.* This section was reformatted to break out one lengthy paragraph into three subsections. Subsection (a) sets forth the general policy under which changes to the model code are adopted by the Department. Subsection (b) sets forth those instances when changes to the model code will not be adopted by the Department. The language in subsection (b) was changed to delete the "clear and convincing evidence standard" and replace it with a "necessary to protect" standard. The language in subsection (c) is completely new and clearly states that the procedures in § 145.97 (relating to amendments to this chapter) will be followed in the event changes to the model code are not adopted or are changed by the Department.

*Section 145.44. Adoption and effective dates—Model Code amendments.* This section, including the title of this section, was deleted in its entirety and replaced with subsections (a)—(e). These changes are primarily formatting changes which breakout the various components of § 145.44 into separate, more easily read and understood, sections. Subsection (a) establishes the date on which the Department will be deemed to have adopted changes to the model code. Subsection (b) permits the Department to move the adoption date to a later date if necessary to implement the purposes of the act and this chapter and requires publication of the later date in the *Pennsylvania Bulletin*. Subsection (c) sets forth the standard effective date for changes to the model code which have been adopted by the Department. Subsection (d) permits the Department to move the effective date to an earlier date if necessary to protect the health, safety and welfare of the citizens of this Commonwealth and requires publication of the earlier date in the *Pennsylvania Bulletin*. Subsection (e) permits the Department to move the effective date to a later date if necessary to avoid unreasonable hardship on a manufacturer and again requires publication of the later date in the *Pennsylvania Bulletin*.

*Section 145.56. Amendments to building system documentation following changes in standards.* This section, including the title of this section, was deleted in its entirety and replaced with subsections (a)—(f). As in § 145.44, these changes are primarily formatting changes which breakout the various components of § 145.56 into separate, more easily read and understood, subsections. Subsection (a) requires the evaluation agencies to notify manufacturers with whom they then have implementing

contracts of changes to the model codes. Subsection (b) establishes the time frame in which the manufacturers must be in compliance with the changes to the model codes. Subsection (c) establishes the time frame in which the manufacturers must be in compliance with changes in the application of the model codes made by the Department under § 145.97. Subsection (d) permits the Department to move the compliance effective date to an earlier date if necessary to protect the health, safety and welfare of the citizens of this Commonwealth and requires publication of the earlier date in the *Pennsylvania Bulletin*. Subsection (e) permits the Department to move the compliance effective date to a later date if necessary to avoid unreasonable hardship on a manufacturer and again requires publication of the later date in the *Pennsylvania Bulletin*. Subsection (f) clarifies that § 145.55 (relating to general requirements for approval of amendments to building system documentation) applies to the amendments to building system documentation required by § 145.56.

*Section 145.122. Effective date.* Subsection (b) is amended to consistently reflect the new adoption and effective dates established under §§ 145.44 and 145.56.

*Fiscal Impact*

These amendments continue the regulation of industrialized housing and component construction standards required by the act. No new costs have been added.

*Paperwork*

The amendments impose no new or different paperwork requirements.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 26 Pa.B. 4432 (August 28, 1996) to IRRC, the Chairperson of the House Business and Economic Development Committee and the Chairperson of the Senate Community and Economic Development Committee for review and comment. In compliance with section 5.1(a) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House Committee on August 13, 1997, and deemed approved by the Senate Committee on August 13, 1997. IRRC met on August 22, 1997, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

*Effective Date/Sunset Date*

(a) The amendments will become effective upon publication in the *Pennsylvania Bulletin*.

(b) The amendments will be monitored on a regular basis and will be updated as needed.

*Contact Person*

For an explanation of these amendments, contact John Boyer, Community Development Housing Office, Department of Community and Economic Development, 358 Forum Building, Harrisburg, PA 17120, (717) 787-5327, or Carol Webber, Office of Chief Counsel, Department of Community and Economic Development, 524 Forum Building, Harrisburg, PA 17120, (717) 720-7314.

*Findings*

The Department finds that:

(1) Public notice of intention to adopt the amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).

(2) The amendments are necessary and appropriate.

*Order*

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 12 Pa. Code Chapter 145, are amended by amending §§ 145.1, 145.41—145.44, 145.56 and 145.122 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Council for approval as to legality as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

SAMUEL A. MCCULLOUGH,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 4596 (September 6, 1997).)

**Fiscal Note:** Fiscal Note 5-60 remains valid for the final adoption of the subject regulations.

**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:

\* \* \* \* \*

*CABO*—The Council of American Building Officials.

\* \* \* \* \*

*Department*—The Department of Community and Economic Development of the Commonwealth.

\* \* \* \* \*

**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 for purposes of this chapter:

(1) The BOCA National Building Code, with the following exceptions:

(i) The specific article on energy conservation.

(ii) A manufacturer may elect to utilize the 1993 BOCA National Building Code, section 1014.6, exception #8, with regard to stair geometry (rise & run).

(2) The International Code Council International Mechanical Code.

(3) The International Code Council International Plumbing Code.

(4) The National Electrical Code (NFPA No. 70).

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

(c) Insulation requirements shall have the following minimum thermal resistance ("R" values) through building sections—the total "R" value of a building section may be calculated by simply adding the individual "R" values of building components—with the exception that the stated "R" value of one assembly, such as roof/ceiling, or wall or floor, may be increased and the "R" value for other components decreased if the overall heat loss for the building envelope does not exceed the total heat loss which would result from conformance to the following individual requirements or the standards:

(1) Ceilings adjacent to unheated areas: R=30.

(2) Exterior walls and partition walls between heated and unheated areas: R=16.

(3) Foundation walls applicable to heated basements and crawl spaces: R=10.

(4) Partition walls between apartments and other heated areas: R=11.

(5) Floors over areas open to the outside and crawl spaces if foundation walls are not insulated in accordance with paragraph (3): R=19.

(6) Floors over unheated basements: R=11.

(7) Entrance doors: R=4.

(8) Supply ducts in unheated areas: R=5.

(9) Return ducts in unheated areas: R=3.5.

(10) Edge insulation for concrete slabs: R=8.

(11) Windows shall be double glazed or single glazed plus storm windows.

(12) Vapor barriers, weather stripping and still sealer shall be used where applicable.

(13) Ventilation shall be provided for the air spaces between insulated ceilings and roofs.

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

or foundation wall insulation. Assignment of responsibility shall be on forms provided by the Department which will conform to the following:

#### ASSIGNMENT OF RESPONSIBILITY

To: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

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

DEALER NAME: \_\_\_\_\_

CUSTOMER NAME: \_\_\_\_\_

MODEL: \_\_\_\_\_

SERIAL NO.: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

AUTHORIZED SIGNATURE  
 DEALER, BUILDER, CONTRACTOR

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

(e) 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 shall prevail.

#### § 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) CABO One and Two Family Dwelling Code except that with regard to stair geometry (rise and run), a manufacturer may elect to utilize the 1992 CABO One and Two Family Dwelling Code, Section R-213.1, Figure No. R-213.1; and HUD Minimum Property Standards for One and Two Family Dwellings (24 CFR 200.926 (relating to minimum property standards for one- and two-family dwellings)).

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

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

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

**§ 145.43. Amendment policy.**

(a) Except as provided in subsections (b) and (c), the Department will adopt amendments and additions to the provisions of the codes adopted under §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards) which relate to the design, materials or method of construction of buildings in accordance with the procedure called for in § 145.44 (relating to adoption and effective dates—code amendments).

(b) The Department will not adopt an amendment or addition to the codes adopted under §§ 145.41 and 145.42 which relate to the design, materials or method of construction of buildings unless the amendment or addition has been adopted by the organizations which publish the code or the Department determines that the amendment or addition is necessary to protect the health, safety or welfare of the citizens of this Commonwealth.

(c) If the Department does not adopt the latest version including supplements and additions of the codes adopted under § 145.41 or § 145.42 or adopts other standards not contained in the latest version including supplements and additions, the Department will amend this chapter under to § 145.97 (relating to amendments to this chapter).

**§ 145.44. Adoption and effective dates—code amendments.**

(a) Except as provided in subsection (b), if the code writing authority amends a provision of the code adopted under §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards), the Department will be deemed to have adopted the amendment on the first day of the month following the month in which the code writing authority adopted the amendment.

(b) If the Department determines that a later date for adoption is necessary to implement the purposes of the act and this chapter, the Department will publish the later date of adoption in the *Pennsylvania Bulletin*.

(c) Except as provided in subsections (d) and (e), the effective date of the amendment shall be the first day of the month 1 year from the date of adoption by the Department.

(d) If the Department determines that an earlier date is necessary to protect the health, safety and welfare of the citizens of this Commonwealth, the Department will publish the earlier effective date in the *Pennsylvania Bulletin* at least 30 days before the effective date.

(e) If the Department determines that a later effective date is necessary to avoid unreasonable hardship on a manufacturer, the Department will publish the later effective date in the *Pennsylvania Bulletin*.

**CERTIFICATION**

**§ 145.56. Amendments to building system documentation following changes in standards.**

(a) Evaluation agencies shall notify those manufacturers with whom they then have implementing contracts under § 145.78(c) (relating to contractual arrangements) of an amendment to a code or standard adopted by the Department under §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards).

(b) Within 1 year from the date of adoption by the Department of an amendment to a code or standard

adopted under §§ 145.41 and 145.42, the manufacturer shall have done one of the following:

(1) Amended its building system documentation, if necessary, to assure compliance with the amended codes and standards.

(2) Obtained the approval of the applicable evaluation agency of the amendments to its building system documentation or the determination from the applicable evaluation agency that its building system documentation requires no amendment.

(3) Ceased attaching insignia of certification to industrialized housing or housing components which have not been manufactured under the amendments to its building system documentation if the amendments are required to assure compliance with the amended codes and standards.

(c) Within 6 months from the date of final publication in the *Pennsylvania Bulletin* of an amendment to a code or standard adopted by the Department under § 145.97 (relating to amendments to this chapter), the manufacturer shall have amended its building system documentation, if necessary, to assure compliance with the amended codes and standards.

(d) If the Department determines that an earlier effective date is necessary to protect the health, safety and welfare of the citizens of this Commonwealth, the Department may establish a shorter compliance period. The Department will publish the earlier effective date in the *Pennsylvania Bulletin* at least 30 days prior to the earlier effective date.

(e) If the Department determines that a later effective date is necessary to prevent an unreasonable hardship on a manufacturer in comparison with the anticipated benefits to the health, safety or welfare of the citizens of this Commonwealth, the Department may establish a longer compliance period. The Department will publish the later effective date in the *Pennsylvania Bulletin*.

(f) Section 145.55 (relating to general requirements for approval of amendments to building system documentation) applies to the amendments to building system documentation required by this section.

**TRANSITIONAL PROVISIONS**

**§ 145.122. Effective date.**

(a) After January 1, 1976, no industrialized housing or housing components may be sold, leased or installed for use on a site in this Commonwealth unless the industrialized housing or housing components are certified as complying with this chapter.

(b) Six months after the effective date of an amendment to this chapter adopted under § 145.97 (relating to amendments to this chapter) or 1 year after the date of adoption by the Department of an amendment under § 145.44 (relating to adoption and effective dates—code amendments), no industrialized housing or housing components may be sold, leased or installed for use on a site in this Commonwealth unless the industrialized housing or housing components are certified as complying with the amendment.

[Pa.B. Doc. No. 97-1500. Filed for public inspection September 19, 1997, 9:00 a.m.]