

# PROPOSED RULEMAKING

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 145]

### Industrial Housing

The Department of Community and Economic Development (Department), under the authority of section 5 of the Industrialized Housing Act (act) (35 P. S. § 1651.15) proposes amendments to Chapter 145 (relating to industrial housing and components). The purpose of this proposed rulemaking is to further clarify and strengthen the Department's and third party's roles in monitoring the installation of industrialized housing; to adopt the "ICC International Building Code"; to update definitions to bring them into conformance with current terminology and with proposed changes to the placement of insignia of certification; to place the determination regarding the frequency of inspection reports on the inspection agency; to require manufacturers to ensure that instructions for installation are given to those installing industrialized housing; and to increase the fees charged by the Department to offset increases in the cost of administering and enforcing the industrialized housing program.

#### *Introduction*

The act authorizes the Department to establish uniform State standards and procedures for the identification, inspection of, manufacture and assembly, and certification of industrialized housing and those components forming integral parts of housing structures for use in communities in this Commonwealth. The purpose of this proposed rulemaking is to ensure that industrialized housing and housing components intended for sale, lease or installation for use in this Commonwealth will be manufactured, transported and installed onsite in compliance with the uniform standards set forth in the chapter.

#### *Analysis*

Section 145.1 (relating to definitions) is amended to include within the definition of "building system documentation" the installation component; to delete the term "mobile home" and replace it with the updated term "manufactured home"; to add the term "module" which permits the further delineation of the broader term "industrialized housing"; and to include a definition for "ICC."

Section 145.36 (relating to applicability of locally-enacted codes and ordinances) is amended to prevent local authorities from prohibiting the installation of industrialized housing unless the local authorities show a legitimate threat to the public health, safety or welfare.

Section 145.41 (relating to adoption of standards) is amended to recognize the adoption of the "ICC International Building Code" and to further control the identification of materials used in the construction of industrialized housing.

Section 145.42 (relating to alternate standards) is amended to recognize the adoption of the "ICC International Residential Code."

Section 145.47 (relating to acquisition of adopted codes and amendments) is amended to add the address from which copies of the ICC codes can be obtained.

Section 145.53 (relating to variations) is amended to include a requirement that "as built" production plans and specifications for each variation be approved by the evaluation agency prior to the start of construction.

Section 145.60 (relating to insignia of certification) is amended to require insignia of certification on each module of industrialized housing, rather than requiring only one insignia of certification for the entire industrialized housing structure. Under the existing regulations, one fee is paid regardless of the size of the structure. The proposed amendment seeks to evenly distribute the cost based upon the number of modules used in the industrialized housing structure. The larger the structure, the larger the fee.

Section 145.61 (relating to insignia of inspection agencies) is amended to require the inspection agency to attach insignia of certification on each module of industrialized housing.

Section 145.62 (relating to data plates) is amended to reflect the existence of multiple insignia of certification numbers to be affixed to the data plate in an industrialized housing structure.

Section 145.72a (relating to frequency of inspections) is amended to replace the minimum required number of inspections to be made by inspection agencies with a subjective determination to be made by the inspection agencies, and to include a requirement that documentation of onsite inspections be on file in each manufacturing facility and be provided to the Department upon request.

Section 145.82 (relating to issuance of building permits) is amended to require, among other things, that the application for a building permit be consistent with the approved building system documentation.

Section 145.91 (relating to reports to the Department) is amended to require the preparation and submission of a site installation inspection report, which form will now be required to be furnished by the manufacturer as part of their approved compliance control program, for all installations of industrialized housing or housing components for use on a site in this Commonwealth. The report is currently required only when installation occurs on a site in this Commonwealth without a local enforcement agency.

Section 145.94 (relating to fees) is amended to increase the fees charged by the Department for the industrialized housing program; to place within the discretion of the Department the charging of fees where the Department is authorized to monitor, inspect or evaluate industrialized housing; and to delete the \$15 per housing component produced fee for inspection and follow-up services.

#### *Fiscal Impact*

*Commonwealth.* Increased fees generated from this proposed rulemaking will allow the Department to continue to effectively administer and enforce the industrialized housing program. Funds are currently insufficient to run the program.

*Political Subdivisions.* There will be no fiscal impact on political subdivisions.

*Public.* Evaluation and inspection agencies will be required to pay higher application and reapproval fees. Manufacturers will be required to pay higher fees for insignia of certification for each module of industrialized housing and housing components. However, the current fees are low in comparison to other states and have not been increased since 1979.

*Paperwork*

The proposed rulemaking will require persons installing industrialized housing to prepare and submit a site installation inspection report in all cases, not just in jurisdictions without local enforcement.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 9, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the House and Senate Commerce and Economic Development Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days after the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the agency, the General Assembly and the Governor of objections raised.

*Effective Date/Sunset Date*

The amendments will become effective 180 days after final publication in the *Pennsylvania Bulletin*. The regulations are monitored on a regular basis and updated as needed.

*Contact Person*

Interested persons are invited to submit in writing within 30 days of publication comments, suggestions or objections regarding the proposed rulemaking to Jill Busch, Deputy Chief Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, Harrisburg, PA 17120-0225.

SAMUEL A. MCCULLOUGH,  
*Secretary*

**Fiscal Note:** 4-72. No fiscal impact; (8) 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**

**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:

\* \* \* \* \*

*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).

\* \* \* \* \*

*Housing component*—A [major] manufactured subsystem or subassembly, designed for use as an integral component part of a structure designed primarily for residential occupancy, which contains concealed parts or processes of manufacture that cannot be inspected at the site without disassembly, damage or destruction and which is identified in § 145.35 (relating to applicability of Fire and Panic Act) as being subject to this chapter.

\* \* \* \* \*

**ICC—International Code Council.**

\* \* \* \* \*

**Manufactured home—**

(i) A structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected onsite, is 320 or more square feet, 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 includes the plumbing, heating, air-conditioning and electrical systems contained therein.

(ii) The term includes a structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standard (42 U.S.C.A. §§ 5401—5424).

(iii) The term does not include any self-propelled recreational vehicle.

\* \* \* \* \*

[ *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.

\* \* \* \* \*

**SCOPE**

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

\* \* \* \* \*

(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 ] this Commonwealth, except when the local codes, ordinances or regulations preclude the siting of industrialized housing in a manner that does not show a reasonable relationship to legitimate public health, safety or welfare considerations.

\* \* \* \* \*

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, ] "ICC International Building Code," with the following exceptions:

\* \* \* \* \*

(2) The [ International Code Council ] ICC International Mechanical Code.

(3) The [ International Code Council ] ICC International Plumbing Code.

\* \* \* \* \*

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

\* \* \* \* \*

§ 145.47. Acquisition of adopted codes and amendments.

(a) Copies of the ICC International Building Code, ICC International Residential Code, ICC International Mechanical Code and ICC International Plumbing Code adopted under §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards) may be obtained from:

International Code  
5203 Leesburg Pike  
Suite 708  
Falls Church, Virginia 22041-3401

(b) \* \* \*

[ (b) ] (c) Copies of the 1993 BOCA National codes adopted in part under [ § ]§ 145.41 [ and 145.42, including supplements ], may be obtained from:

\* \* \* \* \*

[ (c) ] (d) Copies of [ the ] other alternate standards adopted under § [ § 145.41 and ] 145.42, including supplements, may be obtained from:

Standard Address  
CABO One and Two Family Dwelling Code Building Officials and Code Administrators International, Inc.  
([ latest ] 1992 edition) 4051 West Flossmoor Road  
Country Club Hills, Illinois  
60477

\* \* \* \* \*

CERTIFICATION

§ 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 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. "As built" production plans and specifications for each variation shall be approved by the evaluation agency, consistent with this chapter, prior to the start of construction.

§ 145.60. Insignia of certification.

(a) Certified industrialized housing constituting a single dwelling unit shall bear [ an ] insignia of certification for each module. The insignia of certification shall 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 to the data plate located in a visible location in the utility room or utility area or other area identified in the building system documentation and in the Building System Approval Report as provided in § 145.62(a) (relating to data plates). Each insignia of certification shall bear an insignia serial number furnished by the Department and shall contain the following language:

\* \* \* \* \*

§ 145.61. Insignia of inspection agencies.

(a) The inspection agency shall attach its label, seal or other insignia to the data plate for each industrialized housing [ and to each separate element, if any, of industrialized housing which is transported to the building site for assembly and installation ] module.

\* \* \* \* \*

§ 145.62. Data plates.

(a) A dwelling unit of certified industrialized housing shall contain a data plate. The data plate shall be

furnished by the manufacturer and shall 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 building system documentation. The data plate shall contain sufficient space to permit the attachment of [ the ] insignia of certification as provided in § 145.60(a) (relating to insignia of certification) 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 shall contain [ , but not be limited to, ] the following information:

\* \* \* \* \*

(7) Department insignia of certification [ number ] numbers.

(8) Serial or other identifying numbers of each [ element, if any, of the ] module of industrialized housing [ separately transported to the building site for assembly and installation ].

\* \* \* \* \*

THIRD-PARTY AGENCIES

§ 145.72a. Frequency of inspections.

\* \* \* \* \*

(d) In carrying out its monitoring responsibilities under § 145.72(1) and (2) an inspection agency [ should ] shall inspect industrialized housing at the site after installation is complete [ a minimum of 5% of each manufacturer's dwelling units installed in this Commonwealth. The dwelling units to be inspected should be selected on a random basis to insure verification of the system approval process ] in a manner and frequency 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 shall be on file in each manufacturing facility and shall be provided to the Department as requested.

\* \* \* \* \*

LOCAL ENFORCEMENT AGENCIES

§ 145.82. Issuance of building permits.

\* \* \* \* \*

(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 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.

ADMINISTRATIVE PROVISIONS

§ 145.91. Reports to the Department.

\* \* \* \* \*

(e) A person installing industrialized housing or housing components for use on a site in a jurisdiction in this Commonwealth [ without a local enforcement agency ] shall prepare and mail to the inspection agency a Site Installation Inspection Report on a form furnished by the [ Department ] manufacturer as part of the

person's approved compliance control program. [ If the manufacturer is not installing the industrialized housing or housing components, the ] The manufacturer shall be responsible for furnishing to the person performing the installation a copy of the Site Installation Inspection Report form and instructions as to its intended use.

§ 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 evaluation agency or inspection agency shall pay a fee of [ \$500 ] \$1,000. If the person seeks approval as both an evaluation agency and an inspection agency, the combined fee shall be [ \$1,000 ] \$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 evaluation agency or inspection agency shall pay a fee of [ \$250 ] \$500. If the person seeks reapproval as both an evaluation agency and an inspection agency, the combined fee shall be [ \$500 ] \$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 [ \$35 ] \$40 for the insignia of certification for each [ dwelling unit ] module of industrialized housing.

(d) Each manufacturer requesting the Department under § 145.63 to issue insignia of certification for housing components shall pay a fee of [ \$17.50 ] \$40 for each housing component which will bear insignia of certification; provided that the fee payable under this subsection for housing components to be installed in a single-dwelling unit may [ in no event ] not exceed [ \$35 ] \$100.

(e) [ A manufacturer requesting the Department to ] 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) [ shall ], the manufacturer may be required to pay to the Department the following fees:

(1) Engineering services—[ \$200 ] \$400 per day or [ \$25 ] \$60 per hour.

(2) Administrative services—[ \$100 ] \$175 per day or [ \$15 ] \$25 per hour.

(3) [ Inspection and follow-up services—\$15 per housing component produced.

(4) ] Travel and per diem expenses—current Commonwealth travel and per diem expenses.

\* \* \* \* \*

[Pa.B. Doc. No. 02-1774. Filed for public inspection October 11, 2002, 9:00 a.m.]

**DEPARTMENT OF LABOR  
AND INDUSTRY**

[34 PA. CODE CH. 101]

[Correction]

**Appeals from Determinations of Department**

An error occurred in the preamble to the document which appeared at 32 Pa.B. 4720, 4722 (September 28, 2002). The Secretary of the Department of Labor and Industry's name was incorrect. The correct information is as follows:

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-1678. Filed for public inspection September 27, 2002, 9:00 a.m.]

**PENNSYLVANIA PUBLIC  
UTILITY COMMISSION**

**Advance Notice of Proposed Rulemaking Order**

Public Meeting held  
September 25, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson;  
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;  
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Advance Notice of Proposed Rulemaking for Revision of 52 Pa. Code Chapters 29 and 31 Pertaining to Regulation of Motor Carriers of Passengers and Property; Doc. No. L-00020157*

**Advance Notice of Proposed Rulemaking Order**

*By the Commission:*

The Commission's regulations governing motor carriers of passengers and property, including household goods, are found in 52 Pa. Code Chapters 29 and 31, respectively. In recent years, the Commission's oversight of these industries has changed in response to Federal preemption mandated by the Federal Aviation Authorization Act of 1994 and the Transportation Equity Act for the 21st Century, P. L. 105-178. Further, these industries have responded to changes mandated by market forces. In

light of these changes, the Commission has determined that it is appropriate to examine its regulations governing the passenger and property (including household goods) carrier industries. Toward this end, we are initiating this Advance Notice of Proposed Rulemaking. We encourage members of the regulated industry, the public, and any other interested parties to file comments with the Commission. The comments should include specific section references to the Commission regulations. Comments should delineate the rationale for the proposed change as well as specific proposed language for the regulations.

Due to the comprehensive nature of this rulemaking and the sheer number of regulatory sections which are open for review, interested parties will be given 60 days from the date of publication of the Advance Notice of Proposed Rulemaking in the *Pennsylvania Bulletin* for the submission of comments. The Commission is committed to completing the revisions to its procedural regulations in a timely fashion. Since the comment period is a generous one, no extensions will be granted for the filing of comments; *Therefore,*

*It Is Ordered That:*

1. A rulemaking proceeding is hereby initiated at this docket to consider the revision of the regulations appearing in 52 Pa. Code Chapters 29 and 31, relating to the Commission's rules governing the passenger and property carrier industries.

2. This Advance Notice of Proposed Rulemaking be published in the *Pennsylvania Bulletin*.

3. Interested parties shall have 60 days from the date of publication in the *Pennsylvania Bulletin* of the Advance Notice of Proposed Rulemaking to file written comments.

4. Comments should include, when appropriate, a numerical reference to the existing regulations which the comments address, the proposed language for revision, and a clear explanation for the recommendation.

5. That interested parties should file an original plus ten copies of each comment with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. The Commission's contact person is Assistant Counsel, John Herzog, (717) 783-3714.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1775. Filed for public inspection October 11, 2002, 9:00 a.m.]