

RULES AND REGULATIONS

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 145]

Industrial Housing

The Department of Community and Economic Development (Department), under section 5 of the Industrialized Housing Act (act) (35 P. S. § 1651.5), amends Chapter 145 (relating to industrialized housing and components). The purpose of this final-form rulemaking is to further clarify and strengthen the Department's and third-party's role in monitoring the production of industrialized housing; to eliminate redundant requirements; to update definitions to conformance with current terminology; to provide builders and code officials with documentation to clearly identify the manufacturer as approved to produce industrialized housing.

Introduction

The act established 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 any and all communities in this Commonwealth, and reciprocity in the recognition of certification of such industrialized housing and housing components, as standards for performance of industrialized housing and housing components are developed and adopted by the United States Department of Housing and Urban Development, other states, and the Commonwealth. The act authorized the Department to promulgate and amend rules and regulations to interpret and make specific the provisions of the act. The purpose of the proposed regulations is to update the regulations to bring them into conformance with current industry standards, codes and practices.

The Department received two comments. The first came from the Modular Building Systems Association, which indicated its support for the proposed regulation as drafted. The second came from the Independent Regulatory Review Commission (IRRC), which queried why public hearings were not held in contradiction of section 5(a) of the act which provides that the Department hold public hearings on rules and regulations proposed to be promulgated, amended or repealed, consistent with 2 Pa.C.S. Chapter 5, Subchapter A and Chapter 7 Subchapter A (relating to the Administrative Agency Law) and the act of July 31, 1968 (P. L. 769, No. 240) known as Commonwealth Documents Law. Although it has not been the practice of the Department to hold the hearings, due to the lack of interest by the public in the regulations, the Department did advertise and hold a public meeting on the proposed amendments on October 28, 2009, at 10 a.m. in Pennsylvania Public Utility Commission Hearing Room 5 of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120. No members of the public attended the meeting. No revisions were made as a result of the comments received.

Section 145.1 (relating to definitions) has been amended to: update the definitions of "industrialized housing" and "residential occupancy" to reflect the changes in the use and occupancy groups as defined by the International Building Code; remove the definitions of "BOCA" and "CABO" as both are obsolete terms; add a definition of the term "Notice of Approval" which has been included into these regulations in § 145.82 (relating to issuance of building permits); and add a definition for the term "Site Installation Inspection Report Form" that has been required under § 145.91(e) (relating to reports to the Department) but not defined.

Section 145.33 (relating to manufactured homes excluded) has been expanded to provide clarity in regards to excluding industrialized homes from the Federal program for manufactured housing in an effort to assure that both consumers and local zoning and code officials are clear as to the type of housing product with which they are dealing.

Section 145.34 (relating to housing components) has been amended to reflect the current industry terminology for a structural insulated panel which in the past was referred to as a sandwich panel.

Section 145.41(c) (relating to adoption of standards) has been amended to eliminate the need for duplicative paper work. By addressing floor insulation in the Site Installation Inspection Report Form (§ 145.91(e)), the Assignment of Responsibility Form is no longer needed and eliminates a redundant paperwork burden from the manufacturers.

Section 145.47 (relating to acquisition of adopted codes and amendments) has been amended to correct the address for the International Code Council; eliminate the reference to BOCA and CABO as these organizations no longer exist; and include information for the Pennsylvania Housing Research/Resource Center.

Section 145.54 (relating to building system approval report and summary) has been amended to require the manufacturer to revise its Building System Approval Report monthly if needed. Current regulation requires this report be updated every 2 years, which severely undermines the ability to effectively monitor the quality process at the manufacturing facility.

Sections 145.60 and 145.61 (relating to insignia of certification; and insignia of inspection agencies) have been revised to reflect the current industry practice of placing required insignias of certification and inspection agency insignias under the kitchen sink.

Section 145.62 (relating to data plates) has been amended to require the applicable code and edition be included on the data plate. This will correct an omission from the current regulation as this information is always provided by the industry as a practical matter in spite of the omission in the regulation.

Section 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification) has been revised to allow for electronic reporting to the Department and to achieve consistency with the reporting process established by other states.

Section 145.72(a) (relating to frequency of inspections) has been amended to provide clarity to the current factory certification process which is confusing and as a result misapplied. The revised process is consistent with

the process used by other states. Additionally, the requirement for periodic inspection for storage and transportation methods and facilities has been clarified to require a monthly inspection.

Section 145.78(e) (relating to contractual arrangements) has been added to require a factory to seek approval from the Department prior to changing from one third-party agency to another. This will allow third-party agencies who provide inspection and evaluation services to the factories, to operate free from fear of losing a client as a result of enforcing these regulations.

Section 145.82 has been amended to require the Notice of Approval (see § 145.1) be included with the other documentation needed to receive a building permit from the local enforcement agency. This Notice of Approval is similar to notices required by our neighboring states and serves to eliminate confusion regarding the type of housing being installed.

Section 145.91 has been amended to allow for electronic submission of the Site Installation Inspection Report Form and require the manufacturer receive this form as opposed to the inspection agency. The inspection agency has no relationship with the person installing the industrialized home and as a result compliance with this requirement was weak.

Section 145.94 (relating to fees) has been amended to recognize the industrialized housing components are more logically addressed as projects as opposed to individual pieces.

Fiscal Impact

There is no fiscal impact on the Commonwealth, political subdivisions and the public.

Paperwork

The final-form rulemaking does not impose new or different paperwork requirements. The Assignment of Responsibility Form that was required prior to shipment of every industrialized home is no longer required. Insignia reporting, which all agreed was cumbersome and confusing, has been streamlined consistent with the reporting required by other states. The existing requirement for the Site Installation Inspection Report Form to be submitted to the third-party agencies was unenforceable. The new requirement, that the form be returned to the manufacturer, is more logical and adds value to the process.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the agency submitted a copy of the proposed rulemaking, published at 39 Pa.B. 4423 (August 1, 2009), to IRRC, the House Urban Affairs Committee and the Senate Community, Economic and Recreational Development Committee (Committees). In compliance

with section 5(c), the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing this final-form rulemaking, the Department has considered all comments received from IRRC, the Committees and the public.

This final-form rulemaking was deemed approved by the Committees on February 24, 2010. IRRC met on February 25, 2010, and approved the final-form regulations in accordance with section 5(c) of the act.

Effective Date/Sunset Date

(a) The regulations will become effective July 7, 2010.

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

Contact Person

For an explanation of these regulations, contact Mark Conte, Chief, Housing Standards Division, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120, (717) 720-7416.

Findings

The Department finds that:

(1) Public notice of intention to adopt the final-form regulations has been given under sections 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The regulations are necessary and appropriate for the Industrialized Housing Program.

Order

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

(a) The regulations of Department, 12 Pa. Code Chapter 145, are amended by amending §§ 145.1, 145.33, 145.34, 145.41c, 145.47, 145.54, 145.60—145.63, 145.72a, 145.78e, 145.82, 145.91 and 145.94 to read as set forth at 39 Pa.B. 4423 (August 1, 2009).

(b) The Department shall submit this order, and 39 Pa.B. 4423 to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(c) This order shall take effect July 7, 2010.

GEORGE E. CORNELIUS,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 1471 (March 13, 2010).)

Fiscal Note: Fiscal Note 4-91 remains valid for the final adoption of the subject regulations.

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