

RULES AND REGULATIONS

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 143]

Manufactured Housing

The Department of Community and Economic Development (Department), under the authority of section 6 of the Manufactured Housing Construction and Safety Standards Authorization Act (act) (35 P. S. § 1656.6), amends Chapter 143 (relating to manufactured housing). The purpose of this final-form rulemaking is to establish fees charged to manufacturers and retailers to cover the costs of extraordinary/follow-up monitoring and inspections incurred by the Department beyond those covered by fees authorized by the United States Department of Housing and Urban Development (HUD) and to update the existing regulations with the term "housing standards division."

Introduction

Under the act, HUD funds the Department with a monitoring inspection fee in an amount authorized by HUD under the Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5424). When the Department is required to perform additional monitoring because the manufacturer or retailer fails to take appropriate corrective measures, the funds received from HUD are insufficient to cover the costs of the same. Under section 6 of the act, this final-form rulemaking establishes fees to cover the costs of extraordinary/follow-up monitoring beyond that which is presently funded.

The Department received comments from the Independent Regulatory Review Commission (IRRC), voicing two concerns. Both concerns involved new § 143.15 (relating to fees), which allows the Department to charge manufacturers or retailers fees to cover the costs of extraordinary/follow-up monitoring and inspection incurred by the Department beyond those covered by fees authorized by HUD. The first concern involved a perceived failure on the part of the Department to clarify which of the included daily or hourly fees the manufacturer or retailer would be charged for "follow-up inspection or monitoring services" and "administrative services associated with follow-up inspection or monitoring services." In response to this concern, the Department has added the language suggested by the Commission, "whichever is less," to the fees under both categories. The second concern involved the addition of a cross reference to when the manufacturer or retailer can find the current rates for "travel and per diem expenses." In response, the Department added the language that the manufacturer or retailer may contact the Department for this information, since no cross reference was located.

Analysis

Sections 143.4, 143.12 and 143.13 (relating to responsibility of the Department; consumer complaints; and investigations) are amended to delete the term "division of

manufactured housing" and replace it with the updated term "housing standards division."

Section 143.14 (relating to hearing) is amended to delete the word "held."

New § 143.15 allows the Department to charge manufacturers or retailers fees to cover the costs of extraordinary/follow-up monitoring and inspection incurred by the Department beyond those covered by fees authorized by HUD.

Fiscal Impact

Commonwealth. The additional fees allowed under this final-form rulemaking will enable the Department to recover the costs associated with extraordinary/follow-up monitoring when it is determined that either a manufactured home manufacturer or retailer fails to remediate failures to comply with applicable standards or regulations.

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

Public. Only manufacturers and retailers of manufactured homes that fail to take corrective steps after they have been informed of failures to comply with applicable standards or regulations will incur the additional fees allowed under this final-form rulemaking.

Paperwork

The final-form rulemaking will not change existing paperwork requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 23, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 559 (February 4, 2006), to IRRC and the Chairperson of the House Commerce Committee, and the Chairperson of the Senate Community and Economic Development Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 9, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 10, 2006, and approved the final-form rulemaking.

Effective Date/Sunset Date

This final-form rulemaking will become effective November 8, 2006. The regulations will be monitored on an annual basis and updated as needed.

Contact Person

For an explanation of this final-form rulemaking, contact Lisa Maiorana, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7330.

Findings

The Department finds that:

(1) Public notice of intention to adopt the amendments adopted by this order 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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The final-form rulemaking is necessary and appropriate.

Order

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

(a) The regulations of Department, 12 Pa. Code Chapter 143, are amended by amending §§ 143.4 and 143.12—143.14 to read as set forth at 36 Pa.B. 559 and by adding § 143.15 to read as set forth in Annex A.

(b) The Department shall submit this order, 36 Pa.B. 559 and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(c) The Secretary shall certify this order, 36 Pa.B. 559 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect November 8, 2006.

DENNIS YABLONSKY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 4801 (August 26, 2006).)

Fiscal Note: Fiscal Note 4-84 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT****PART V. COMMUNITY AND ECONOMIC DEVELOPMENT****Subpart C. COMMUNITY DEVELOPMENT AND HOUSING****CHAPTER 143. MANUFACTURED HOUSING****§ 143.15. Fees.**

To offset the costs of follow-up monitoring or inspections incurred by the Department beyond those provided for in the monitoring inspection fees authorized by the United States Department of Housing and Urban Development, the Department may charge the manufacturer or retailer the following fees:

Follow-up inspection or monitoring services	\$400 per day or \$60 per hour, whichever is less.
Administrative services associated with follow-up inspection or monitoring services	\$175 per day or \$25 per hour, whichever is less.
Travel and per diem expenses	Current Commonwealth travel and per diem expenses. (The manufacturer or retailer may contact the Department for this information.)

[Pa.B. Doc. No. 06-1751. Filed for public inspection September 8, 2006, 9:00 a.m.]