

**ARTICLE 108-02
THIRD-PARTY INSPECTIONS PROGRAM**

Chapter
108-02-01 Third-Party Inspections Program

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108-02-01-01. History.

The fifty-seventh legislative assembly, in House Bill No. 1210, directed the division of community services to develop rules to certify third-party inspection agencies and to develop procedures for these agencies to follow in inspecting the construction of modular residential and commercial structures built in a factory. To implement this program, the division of community services has elected to become a "participating state" under the industrialized buildings commission. The industrialized buildings commission provides for the certification of third-party agencies and the procedures for these agencies to follow in assuring that industrialized modular buildings are designed, manufactured, handled, stored, delivered, and installed according to adopted state construction standards. In 2003, the fifty-eighth legislative assembly, in House Bill No. 1345, amended North Dakota Century Code section 54-21.3-07 to make the law mandatory for manufacturers producing six or more modular residential and commercial structures per year. In addition, House Bill No. 1345 amended North Dakota Century Code section 54-21.3-03, requiring that modular residential structures or prebuilt homes placed in the state must be constructed in compliance with the state building code and amendments to the state building code adopted by the jurisdictions in which the modular residential structure or prebuilt home is placed.

History: Effective July 1, 2003; amended effective July 16, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-02. Administration.

The administration of this program is the responsibility of the division of community services as a participating state under the industrialized buildings commission.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-03. Inquiries.

Inquiries about this program may be addressed to:

Third-party Inspections Program Manager
North Dakota Department of Commerce
Division of Community Services
Phone: 701-328-3698
E-mail: *rgray@state.nd.us*

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-04. Scope.

This chapter governs the process for certification of third-party inspection agencies for those manufacturers of industrialized modular residential and commercial buildings built in a factory. It also governs the procedures to be employed for approving the design, manufacture, inspection, handling, storage, delivery, and installation of industrialized modular buildings built in a factory. Industrialized modular buildings certified according to this chapter shall be deemed to comply with all requirements of this chapter and shall not be subject to required state or local inspections for any building component in the factory. This chapter does not govern manufactured homes built in a factory under the United States department of housing and urban development code pursuant to the Manufactured Housing and Safety Standards Act, nor does it cover any onsite construction, including construction related to the installation of industrialized modular buildings.

History: Effective July 1, 2003; amended effective July 16, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-05. Effective date.

This chapter is applicable to all modular residential and commercial structures intended for siting anywhere in North Dakota on or after July 1, 2003.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-06. Applicability of state or local law.

Land use and zoning requirements, building setback requirements, side and rear yard requirements, property line requirements, and onsite development, construction, and inspection requirements are specifically and entirely reserved for state or local government, except as provided by or pursuant to these rules. Upon installation, state or local government code enforcement agencies may conduct nondestructive walkthrough inspections of any industrialized modular building or building component certified in accordance with this chapter, for the purpose of identifying and reporting to the division of community services any code violation. If a person or agency shall deliver, sell, lease, or install any industrialized modular building or building component in any jurisdiction in North Dakota that is not certified in accordance with this chapter, the state and local code enforcement agencies may inspect the building and all building components according to state and local codes and amendments or other related procedures and requirements.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-07. Definitions.

For purposes of this chapter:

1. "Act" means the laws of the participating state governing industrialized modular construction as amended and supplemented by the enabling legislation of the interstate compact on industrialized modular buildings.
2. "Approved" means approved by the industrialized buildings commission, a participating state, or a designated evaluation inspection agency.
3. "Building component" means any subsystem, subassembly, or other system of closed construction designed for use in or as part of a structure, which may include structural, electrical, mechanical, plumbing, and fire protection systems and other systems affecting health and safety.
4. "Building system" means the method of constructing a type of industrialized modular building or building component described by plans, specifications, and other documentation which together establish a set of limits meeting the building codes, standards, and other requirements of these regulations for that type of industrialized modular building or building component, which may include structural, electrical, mechanical, plumbing, and fire protection systems and other systems affecting health and safety.
5. "Certification" means the process by which participating states and local building inspection agencies are assured that elements of closed construction, not practical to inspect at the building site, conform to the building codes.
6. "Certification label" means an approved insignia or seal evidencing certification in accordance with the uniform administrative procedures.
7. "Closed construction" means any building, building component, assembly, or system manufactured in such a manner that concealed parts or processes of manufacture cannot be inspected at the building site without disassembly, damage, or destruction. The definition shall not include products, such as structural, electrical, and plumbing fixtures and equipment which are tested, listed, labeled, and certified by a nationally recognized testing laboratory.
8. "Code" means the codes, standards, specifications, and requirements adopted pursuant to section 108-02-01-08.
9. "Commission" means the industrialized buildings commission.
10. "Compliance assurance documents" means approved building system documents, an approved compliance assurance manual, and approved onsite installation instructions.
11. "Compliance assurance program" means the policies and procedures which assure that industrialized modular buildings and building components, including their manufacture, storage, delivery, assembly, handling, and installation, conform with these model rules and regulations and the uniform administrative procedures.
12. "Designated" means selected by the commission to perform one or more of the inspection or evaluation, or both, functions described under the uniform administrative procedures.
13. "Evaluation agency" means a designated person or organization, private or public, determined by the commission to be qualified by reason of facilities, personnel, experience, and demonstrated reliability and independence of judgment, to investigate and evaluate industrialized modular buildings, building components, building systems, or compliance assurance programs.

14. "Factory" means an individual or entity that manufactures six or more residential or commercial industrialized modular buildings per year. Residential industrialized modular buildings manufactured by high schools, vocational technical centers, and colleges or universities as part of a bona fide educational program are excluded. A manufacturer that does not meet this definition must provide a yearly certification to the division of community services that is exempt from this definition. Any industrialized modular building that is excluded from the modular residential and commercial structure third-party inspection program is subject to inspection from state or local enforcement agencies.
15. "Independence of judgment" means not being affiliated with or influenced or controlled by building manufacturers or by producers, suppliers, or vendors of products or equipment used in industrialized modular buildings and building components, in any manner which is likely to affect capacity to render reports and findings objectively and without bias.
16. "Industrialized modular building" means any building of closed construction, i.e., constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage, or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. Industrialized modular building includes modular housing which is factory-built single-family and multifamily housing, including closed-wall panelized housing, and other modular, nonresidential buildings. Industrialized modular building does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.
17. "Inspection agency" means a designated person or organization, private or public, who is determined by the commission to be qualified by reason of facilities, personnel, experience, and demonstrated reliability and independence of judgment, to monitor compliance assurance programs.
18. "Installation" means the process of affixing, or assembling and affixing, industrialized modular buildings or building components on the building site.
19. "Interim reciprocal agreement" means a formal reciprocity agreement as defined in the enabling legislation of the interstate compact on industrialized modular buildings.
20. "Local enforcement agency" means the agency or agencies of the participating states or local government with authority to inspect buildings and enforce the law, ordinances, and regulations which establish standards and requirements applicable to the construction, installation, alteration, repair, or relocation of buildings.
21. "Modular residential or commercial structure" means an industrialized modular building.
22. "Module" means a closed-wall structure or substantial part of a closed-wall structure incorporating one or more rooms used as habitable, occupiable, or mechanical or equipment space.
23. "Nonconformance" means the failure to adhere to the requirements of an approved building system or, where the building system is not specific, to the code.
24. "Participating state" means any compacting state or any noncompacting state acting under the purview of an interim reciprocal agreement.

History: Effective July 1, 2003; amended effective July 16, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-08. Standards.

Building systems must comply with:

1. **Primary codes.**

- a. Building codes - International building code (IBC) and international residential code (IRC) published by the international code council (ICC), as adopted and amended in the North Dakota state building code and any local amendments to the North Dakota state building code submitted by July first of each year to the division of community services for distribution to the industrialized buildings commission and manufacturers on or about July first of each year.
- b. Mechanical code - International mechanical code (IMC) published by the international code council (ICC), as adopted and amended in the North Dakota state building code and any local amendments to the North Dakota state building code submitted by July first of each year to the division of community services for distribution to the industrialized buildings commission and manufacturers on or about July first of each year.
- c. Fuel gas code - International fuel gas code (IFGC) published by the international code council (ICC), as adopted and amended in the North Dakota state building code and any local amendments to the North Dakota state building code submitted by July first of each year to the division of community services for distribution to the industrialized buildings commission and manufacturers on or about July first of each year.
- d. Plumbing code - Uniform plumbing code (UPC) published by the international association of plumbing and mechanical officials (IAPMO), as adopted and amended as the North Dakota state plumbing code.
- e. Electrical code - National electrical code (NEC) published by the national fire protection association (NFPA), as adopted and amended as the laws, rules, and wiring standards of North Dakota.
- f. Barrier-free code - Americans with Disabilities Act accessibility guidelines.
- g. Energy code - 1993 model energy code published by the council of American building officials.

2. **Alternates.** The provisions of this chapter are not intended to prevent the use of any technologies, techniques, or materials not specifically prescribed by these codes, standards, specifications, and requirements, provided any such alternate has been approved.

- a. Applications for such alternates must be filed in writing with the evaluation agency. This application must contain the current requirements of the codes, standards, or specifications from which an alternate is sought and a statement of how the proposed alternate would adequately protect the health, safety, and welfare of both the occupants and the public.
- b. The evaluation agency may approve any such alternate, provided that it determines that the proposed design is satisfactory and that the material, method, or work offered is, for the purpose intended, consistent with the adopted codes and standards as to quality, strength, effectiveness, fire resistance, durability, and safety. The evaluation agency shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding the use of any such alternate. The evaluation agency shall notify the applicant of the determination. If the application is denied, the notification shall state the reasons for the denial.

History: Effective July 1, 2003; amended effective July 16, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-09. Manufacturer's data plate.

The following information must be typewritten on a smudge-proof, permanent manufacturer's data plate located in the vicinity of the certification label:

1. Name and address of manufacturer;
2. Serial numbers (manufacturer's identification numbers);
3. Manufacturer's plan approval designation (model number or name);
4. Certification label numbers;
5. Construction classification;
6. Occupancy classification or use group;
7. Seismic zone;
8. Wind velocity load;
9. Roof and floor live load;
10. Fire rating for exterior walls;
11. Thermal transmittance values;
12. Date of manufacture;
13. The name and date of the building codes complied with; and
14. Service panel size.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-10. Serial number.

The manufacturer shall apply a serial number to each unit at the beginning of the production process. The serial number shall not be applied to a feature of the industrialized building or building component that is readily removable. The location of the serial numbers must be identified in the manufacturer's compliance assurance program.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-11. Compliance assurance documents.

1. **Building systems documents.** The building systems documents consist of plans, specifications, calculations, test results, or other documents which describe in detail the product and manufacturing processes employed to produce industrialized modular buildings or building components. The documents need only show details for equipment provided by the manufacturer. The documents must be comprehensively indexed and shall treat the material

listed in this section in detail. For the building systems to be evaluated, the following must be provided:

- a. General requirements.
 - (1) All plans, specifications, and other documentation must be submitted in three copies.
 - (2) All documents submitted with the application must be identified to indicate the manufacturer's name.
 - (3) A clear space must be provided on all sheets of plans near the title box for the stamps of approval.
 - (4) Manufacturers shall submit plans showing all elements relating to specific systems on properly identifiable sheets.
 - (5) Structural connections and connection of systems, equipment, and appliances to be performed onsite must be identified, detailed, and distinguished from work to be performed in the manufacturing facility.
 - (6) Method of interconnection between industrialized modular buildings or building components and location of connections.
 - (7) Design calculations or test reports, or both, must be submitted when required by the evaluation agency. The manufacturer shall cross-reference all designs to appropriate calculations or test reports, or both.
 - (8) Documents must indicate the location of the certification label.
 - (9) Drawings must be dated and identified and include an index that can be used to determine that the package is complete.
 - (10) Documents must provide or show, as appropriate, occupancy or use; area, height, and number of stories; type of construction; and wind, floor, snow, and seismic loads.
- b. Required construction details. Documents for industrialized modular buildings or building components must provide or show, as appropriate, the details listed below. Only the minimum documentation necessary to demonstrate each alternative possible within the system is required.
 - (1) General.
 - (a) Details and methods of installation of industrialized modular buildings or building components on foundations or to each other.
 - (b) Floor plans and typical elevations.
 - (c) Cross-sections necessary to identify major building components.
 - (d) Details of flashing, such as at openings and at penetrations through roofs and subcomponent connections, including flashing material and gauge to be used.
 - (e) Attic access and attic ventilation, when required by the code.
 - (f) Exterior wall, roof, and soffit material.
 - (g) Interior wall and ceiling material.

- (h) Barrier-free provisions, if applicable.
 - (i) Sizes, locations, and types of doors and windows.
 - (j) Suggested foundation plans, vents, and underfloor access.
 - (k) Details of any elevator or escalator system, including method of emergency operation, when provided.
- (2) Fire safety.
- (a) Details of fire-rated assemblies, including reference listing or test report for all stairway enclosures, doors, walls, floors, ceiling, partitions, columns, roof, and other enclosures.
 - (b) Means of egress, including details of aisles, exits, corridors, passageways, and stairway enclosures.
 - (c) Flame spread and smoke developed classification of interior materials.
 - (d) Location of required draftstops and firestops.
 - (e) Opening protectives in fire resistance-rated systems and assemblies.
 - (f) Drawings of fire suppression systems, standpipes, fire alarms, and detection systems, when required.
- (3) Structural detail requirements.
- (a) Calculations of structural members or test results, if appropriate, except when compliance can be demonstrated through code tables, accepted handbooks, and listing documents.
 - (b) Details of structural elements, including framing details, spacing, size, and connections.
 - (c) Grade, species, and specifications of materials.
 - (d) Typical foundation plans, details, and assumed design soil-bearing value.
 - (e) Schedule of roof, floor, wind, and seismic loads upon which design is based.
 - (f) Column loads and column schedule.
- (4) Mechanical detail requirements.
- (a) Location of all equipment, appliances, and baseboard radiation units.
 - (b) Energy conservation calculations.
 - (c) Indicate input and output rating of all equipment and appliances, as appropriate.
 - (d) Duct and register locations, sizes, and materials, as appropriate.
 - (e) Method of providing combustion air, if required.
 - (f) Method of providing ventilation air, if required.
 - (g) Method of providing makeup air, if required.

- (h) Location of flues, vents, and chimneys and clearances from air intakes, combustible materials, and other vents and flues.
- (5) Plumbing detail requirements.
 - (a) Schematic drawing of the plumbing layout, including size of piping, fittings, traps and vents, cleanouts and valves, and gas, water, and drainage systems.
 - (b) Plumbing materials and location of all equipment, appliances, and safety controls to be used. Indicate the rating and capacity of equipment and appliances.
- (6) Electrical detail requirements.
 - (a) Details of any service equipment provided by the manufacturer.
 - (b) Method of grounding service equipment.
 - (c) Load calculations for service and feeders.
 - (d) Sizes of branch circuit conductors.
 - (e) Size, rating, and location of main disconnect and overcurrent protective devices.
 - (f) Location of outlets, junction boxes, fixtures, and appliances.
 - (g) A single-line diagram of the entire electrical installation, with the exception of one and two family dwellings.

2. **Compliance assurance program.** The compliance assurance program is a system employed by the manufacturer to assure conformance with the approved building systems documents. The compliance assurance manual must be comprehensively indexed and must treat the material listed here in detail. The program must consist of the following:

- a. Organizational requirements.
 - (1) Manufacturer's name, corporate office address, and the address of each manufacturing facility shall be indicated in the compliance assurance manual.
 - (2) The compliance assurance manual shall have a table of contents with the evaluation agency's dated stamp of approval on the cover sheet and any revised pages.
 - (3) An organizational mechanism for implementing and maintaining the compliance assurance program and its functional relationship to other elements of the organizational structure of the manufacturer, which mechanism shall not be a part of the production department. Employees in charge of the compliance assurance program must be identified and their training and qualifications specified.
 - (4) A uniform system of monitoring and evaluation to ensure program effectiveness.
 - (5) A serial numbering system for industrialized modular buildings or building components.
 - (6) Requirements for issuance, possession of, attachment of, and accounting for all certification labels to assure that certification labels are attached only to buildings or

building components manufactured pursuant to an approved building system and inspected pursuant to an approved compliance assurance program.

- (7) A system to document production changes in accordance with other provisions of this chapter.
 - b. Materials control.
 - (1) Procedures for inspection of materials, supplies, and other items at the point of receipt.
 - (2) Method of protection of materials, supplies, and other items at the point of receipt.
 - (3) Provision for disposal of rejected materials, supplies, and other items.
 - c. Production control.
 - (1) Procedures for timely remedial and preventive measures to assure product quality.
 - (2) Provision, maintenance, and use of testing and inspection equipment to assure compliance with the approved building system.
 - (3) Provision for frequency of sampling inspections.
 - (4) Provision of necessary authority to reject defective work and carry out compliance assurance functions, notwithstanding any conflict with production department goals and needs.
 - (5) A description of the manufacturing process showing the inspection and checkpoints for mandatory inspection characteristics.
 - (6) Inspection and test procedures, including accept and reject criteria and mandatory inspection characteristics.
 - (7) Provision for disposition of rejects.
 - d. Finished product control.
 - (1) Procedures for handling and storing all finished industrialized modular buildings or building components at the manufacturing plant or other storage point.
 - (2) Procedures for packing, packaging, and shipping operations and related inspections.
3. **Onsite installation procedures.** The onsite installation instructions consist of specific installation procedures provided by the manufacturer which specify the materials and procedures required to install the building in conformance with the code and standards. For purposes of this subsection, "specific installation procedures provided by the manufacturer" include:
- a. Connection details of industrialized modular buildings or building components to the foundation.
 - b. Structural connections between the industrialized modular building or building component.
 - c. Connections required to complete the mechanical or utility systems.
 - d. Any special conditions affecting other structural elements.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-12. Uniform administrative procedures.

1. The uniform administrative procedures of the industrialized buildings commission, hereby incorporated by reference, shall constitute the procedures by which the division of community services shall assure itself and the commission of the compliance of industrialized modular building construction with the state building, plumbing, electrical, and accessibility codes, assess the adequacy of the building systems, and verify and assure the competency and performance of evaluation and inspection agencies.
2. Copies of the uniform administrative procedures may be obtained from the industrialized buildings commission, suite 210, 505 huntmar park drive, Herndon, Virginia 22070.
3. The division of community services shall approve those evaluation or inspection agencies that the commission designates as meeting the requirements of part VI, section 1, of the uniform administrative procedures and that the commission finds otherwise qualified to perform the functions delegated to it.
4. The division of community services shall take such enforcement action against a manufacturer, inspection agency, or evaluation agency as recommended by the commission if, pursuant to the uniform administrative procedures, the commission determines that such manufacturer, inspection agency, or evaluation agency has failed to fulfill its responsibilities under the uniform administrative procedures.
5. Any notice or order issued pursuant to this chapter must be in writing and must be served upon the respondent party by certified mail and return receipt requested.
6. Any party aggrieved with an enforcement action taken by the division of community services may appeal under North Dakota Century Code chapter 28-32.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-13. Consumer complaints.

In accordance with the uniform administrative procedures of the industrialized buildings commission, a consumer may complain directly to a manufacturer for any alleged code violation. However, the consumer may also submit complaints in writing to the division of community services. Prior to submitting a complaint, the consumer should take every step possible to resolve problems with the manufacturer and indicate those efforts and results in the written complaint to the division of community services.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07

108-02-01-14. Fees for state inspections of sited structures.

If, as a result of a consumer complaint, the division of community services decides to arrange for an onsite inspection of an installed industrialized modular residential or commercial structure subject to these rules, the manufacturer will be responsible for paying all costs related to the inspection. For state inspections performed by the state plumbing board, state electrical board, or state fire marshal, the fees shall be paid according to their respective rates.

History: Effective July 1, 2003.

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07