

ARTICLE 108-02

THIRD-PARTY INSPECTIONS PROGRAM

Chapter
108-02-01 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. In 2011, the sixty-second legislative assembly passed Senate Bill No. 2284 enacting the interstate compact on industrialized or modular buildings becoming a "compacting state" which is codified as North Dakota Century Code section 54-21.4. 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. 4345, In 2011, the sixty-second legislative assembly, in Senate Bill No. 2366, amended North Dakota Century Code section 54-21.3-07 to make the law mandatory for manufacturers producing six two or more modular residential and commercial structures per year. In addition, In 2003, the fifty-eighth legislative assembly, in 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; April 1, 2020

General Authority: NDCC 54-21.3-07

Law Implemented: NDCC 54-21.3-07, 54-21.4

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: 701-328-5300
E-mail: rgray@state.nd.us

History: Effective July 1, 2003; amended effective April 1, 2020

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~~ two 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 non-compacting state acting under the purview of an interim reciprocal agreement.

History: Effective July 1, 2003; amended effective July 16, 2003; April 1, 2020

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.~~ Energy conservation standards as adopted and amended in the North Dakota state building code.

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; April 1, 2020

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 2018 version of 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~~ 20170.
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; amended effective April 1, 2020

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

ARTICLE 108-03

DEPARTMENT OF COMMERCE

Chapter
108-03-01 Manufactured Home Installation Program

CHAPTER 108-03-01

MANUFACTURED HOME INSTALLATION PROGRAM

Section

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108-03-01-01. History.

In 2003 the legislative assembly created North Dakota Century Code section 54-21.3-08, to establish a manufactured home installation program. The law requires the division of community services to adopt rules establishing a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under 24 CFR 3280, adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.]. The law is in response to the 2000 Manufactured Housing Improvement Act that requires a state to have a manufactured home installation program, or to have the federal government impose an installation program.

In 2005 the legislative assembly amended North Dakota Century Code section 54-21.3-08, renaming it adoption of an installation program and providing a penalty.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-02. Scope.

This administrative chapter pertains to the first-time installation of each manufactured home installed in North Dakota in a temporary or permanent location and which is designed and commonly used for occupancy by persons for residential purposes beginning July 1, 2006. Each installed manufactured home must display an insignia issued by the department of commerce division of community services, certifying that the home is installed in compliance with this chapter.

Temporary installations for the purpose of home display or office use which will be relocated to another location to use as a residence are exempted from this chapter.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-03. Definitions.

1. "Certified inspector" means an employee of a participating jurisdiction, individual, employee of a private firm, employee of a manufacturer, housing inspector, or a North Dakota licensed engineer or architect who has been approved by the division to perform or enforce installation inspections.
- ~~2. "Certified installer" means an installer of manufactured homes who is registered with the division, has installed at least five manufactured homes consecutively in compliance with the manufacturer's installation instructions, and is currently approved as a certified installer by the division.~~
- ~~3-2.~~ "Conflict of interest" means when there is a personal or private interest sufficient to influence or appears to influence the proper exercise of duties and responsibilities.
- ~~4-3.~~ "Division" means the division of community services.
- ~~5-4.~~ "Insignia" means a certificate or label of installation issued by the division to indicate compliance with the manufacturer's installation instructions and this chapter.
- ~~6-5.~~ "Installation" means assembly, at the site of occupancy, of all portions of the manufactured home, connection of the manufactured home to existing utility connections that may not require licensing by other state agencies and installation of support or anchoring systems, in accordance with the manufacturer's installation instructions or the alternate standards adopted in this chapter.
- ~~7-6.~~ "Installation authorization" means a notice posted on the site of an installation indicating that the installer has authorization to install. Also called installation permit.
- ~~8-7.~~ "Installation committee" means the committee to assist in the development and implementation of the manufactured home installation program. Represented on the committee are the division of community services, 2 representatives from the North Dakota building official's association, 2 representatives from the North Dakota league of cities, and the board of directors of the North Dakota manufactured housing association.
- ~~9-8.~~ "Installer" means any person who attaches the manufactured unit sections together and ties

the home to its foundation support and anchoring system.

~~40.9.~~ "Manufactured home" means a federal housing and urban development (HUD) labeled structure, transportable in one or more sections that, in its traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected on site, is three hundred twenty or more square feet [29.73squaremeters]; that is built on a permanent chassis; that is designed to be used as a dwelling; that may or may not have a permanent foundation; that is connected to the required utilities; and that contains the plumbing, heating, air-conditioning, and electrical systems; except that such term shall include any structure that meets the size requirements and for which the manufacturer has voluntarily filed a certification required by the secretary of housing and urban development and that complies with the manufactured home construction and safety standards.

NOTE: This definition should not be interpreted to include any type of recreational vehicle that may equal or exceed the body length or width specified herein.

~~41.10.~~ "Owner" means the owner of a manufactured home or property.

~~42.11.~~ "Participating jurisdiction" means a local government entity with a building code department which has agreed to administer and inspect manufactured housing installations within the legal and extraterritorial boundaries of the jurisdiction by employing or contracting with a certified inspector.

~~43.12.~~ "Registered installer" means an installer that has registered with the division and is in compliance with the manufactured home installation program requirements.

~~44.13.~~ "Standards" means the manufacturer's installation instructions or alternate federal standards adopted by the division. The division may issue interpretations of the standards to be followed during installations and inspections. A local jurisdiction may enact additional standards concerning unique public safety requirements, such as weight restrictions for snow loads or wind shear factors but must provide these requirements in writing to the division of community services before enacting and enforcing them.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-04. Inquiries.

Inquiries about this program may be addressed to:

Manufactured Home Installation Program Manager
North Dakota Department of Commerce
Division of Community Services
~~Department of Commerce~~
1600 East Century Avenue, Suite 2
Bismarck, ND 58503

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-05. Administration.

The administration of this program is the responsibility of the division of community services.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-06. Installers of manufactured homes - Registration.

Manufactured home installers in North Dakota shall first register with the division. If any of the application information for the registered installer changes after issuance of the registration, the registered installer shall notify the division in writing within thirty days from the date of the change. ~~The division may suspend, revoke, or deny renewal of a registration if the registered installer fails to notify the division of any change in the application.~~ A registration shall not be transferred nor assigned to another person.

At the time that an initial application for registration is filed, the following must be submitted:

1. Name of the installer and company;
2. Proof in the form of a copy of a valid driver's license or certificate of birth that the applicant is at least eighteen years of age;
3. Evidence from the applicant of attendance at training provided by the state or state approved on-line course in conjunction with the North Dakota manufactured housing association and passage of the North Dakota installation program examination at the next available training provided by the state. ~~except for installers in business prior to the effective date of this chapter.~~
4. ~~Existing installers may, in lieu of the above, provide evidence of at least three years of experience or equivalent training and testing in the installation of manufactured homes and attendance at training provided by the state in conjunction with the North Dakota manufactured housing association;~~
- 5.4. Proof of contractor's liability insurance in an amount not less than ~~one hundred thousand dollars.~~ two hundred fifty thousand dollars. This insurance policy shall contain a provision for the immediate notification of the division upon cancellation; and
- 6.5. A letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in the amount of ten thousand dollars for the performance of installation pursuant to the manufacturer's installation instructions. A provision shall be included for the immediate notification of the division upon cancellation.

The application for registration as a manufactured home installer shall be submitted on a form provided by the division and shall be notarized and verified by a declaration signed under penalty of perjury by the applicant. The division shall make the application and declaration available for public inspection.

The registration period is from July first of each year through June thirtieth of the following year. All registrations expire on the same date of each year, whether or not the registration is issued

for all or a portion of the registration period, and registration fees will be prorated based on the date of approval for registration. A registered installer will be required to attend ~~yearly training~~ every three years provided by the state ~~in conjunction with the North Dakota manufactured housing association~~ and pass the written test that is given every three years. ~~after initial registration.~~

Persons employed by a registered installer, as well as persons employed by an entity employing a registered installer, are not required to register when performing installation functions under the direct onsite supervision of a registered installer. The registered installer shall be responsible for supervising all employees and for the proper and competent performance of all employees working under the registered installer's supervision.

Any registered installer seeking to renew registration shall, at the time of applying for renewal, provide proof of liability insurance and letter of credit, certificate of deposit, or surety bond to run concurrent with the registration period.

Registered installers shall allow and pay for periodic oversight inspections arranged by the division to monitor the installer's performance in complying with the program and registration requirements. The frequency of oversight inspections will be based on the findings of the inspections. The division may also arrange for the inspection of any manufactured home installation performed by a registered installer. This may also occur as the result of a consumer complaint.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-07. Installation by owner.

A person who owns the manufactured home or the real property where the home is to be installed is not required to register as an installer if that person does that person's own installation but shall comply with all provisions of this chapter other than the registration provision.

A person who installs more than one manufactured home in any twelve-month period, either owned or on real property owned by such person, must register as an installer and shall comply with the registration provisions.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-08. City, county, or township requirements.

A political subdivision may not issue a building or zoning permit for the first-time installation of a manufactured home to an unregistered installer. The political subdivision is required to report any such person attempting to obtain a permit to the division. Any building or zoning permit issued must contain the registration number of the installer issued by the division.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

~~108-03-01-09. Certified installer.~~

~~Any registered installer who has performed five consecutive installations that pass inspection by a certified inspector may apply to the division to be a certified installer. Evidence of complying installations shall include copies of all inspection reports made for each installation. The division will review the reports and decide if the registered installer should be granted certification. The division may require additional installations to be performed before granting certification. No fee will be charged by the division for this certification. A certified installer shall be authorized to post the installation authorization on the installation site. A certified installer shall also be authorized to purchase and attach installation insignias from the division. These insignias will be completed by the certified installer upon completion of the installation and attached to the manufactured homes. The certified installer shall complete and submit a required installation authorization and insignia report each month to the division. Installations by a certified installer do not require an inspection by a certified inspector. If a certified installer is performing work in a jurisdiction that is a participating jurisdiction, the installer must request the permission of the participating jurisdiction to issue its own installation authorization and to purchase and attach installation insignias. The division, or a certified inspector at the request of the division, may inspect the installation of any manufactured home performed by a certified installer.~~

~~Certified installers shall allow and pay for periodic oversight inspections arranged by the division to monitor the installer's performance in complying with the program requirements and applicable installation standards. The frequency of oversight inspections will be based on the findings of the inspections.~~

~~**History:** Effective January 1, 2006~~

~~**General Authority:** NDCC 54-21.3-08~~

~~**Law Implemented:** NDCC 54-21.3-08~~

108-03-01-10. Certified installation inspector.

The division may authorize individuals to perform inspections and enforce the proper installation of manufactured homes. Enforcement shall include issuance of installation authorizations and permanent insignias certifying compliance with the manufacturer's installation instructions.

Applicants for certified installation inspector shall furnish written evidence of a minimum of six months of manufactured home installation experience or equivalent training or related experience or state of North Dakota professional licensing in engineering. Applicants must have attended training provided by the state and passed the installation program examination or passed a state approved on-line course, in conjunction with the North Dakota manufactured housing association and must pass the installation program examination. Certified inspectors will be required to attend yearly training every three years provided by the state in conjunction with the North Dakota manufactured housing association and pass a written test that is given every three years after initial certification. The certification period is from July first of each year through June thirtieth of the following year.

All registrations expire on the same date of each year, whether or not the registration is issued for all or a portion of the registration period, and registration fees will be prorated based on the date of approval for registration as set in the policies and procedures. Certification is valid for one year, and each certification will expire on the same date, regardless of the effective date, whether or not the certification is issued for all or a portion of the certification period.

The application for registration as a certified installation inspector shall be submitted on a form provided by the division and shall be notarized and verified by a declaration signed under penalty of

perjury by the applicant. The division shall make the application and declaration available for public inspection.

If a local government entity has a building code department, the jurisdiction may make a written request to be the exclusive independent installation inspection agency within the jurisdiction's legal and extraterritorial boundaries as a participating jurisdiction. When approved, all manufactured home installation inspections will be made by that participating jurisdiction's certified inspector or by a certified inspector under contract to the jurisdiction. In the event of a consumer complaint, the division will make arrangements to conduct the complaint inspection within the participating jurisdiction. ~~A participating jurisdiction may permit a certified installer to issue an installation authorization and install insignias.~~ If a local government entity decides not to be a participating jurisdiction, its authority with respect to the installation of a manufactured home is limited to inspecting the construction of a permanent foundation for the home. It may not inspect the actual installation of the home.

A certified inspector shall not make inspections if the inspector has a conflict of interest that may affect the inspector's responsibility to make fair and impartial inspections.

A certified inspector and a participating jurisdiction with a certified inspector shall be authorized to issue an installation authorization and to purchase and affix insignias after the installation is completed and inspected. A certified inspector shall complete a monthly report of installation authorizations issued.

Certified inspectors shall allow and pay for periodic oversight inspections arranged by the division to monitor installations that have been inspected to monitor the certified inspector's compliance with program requirements. The frequency of oversight inspections will be based on the findings of the inspections. The division may also arrange for the inspection of the installation of any manufactured home inspected by a certified inspector.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-11. Standards.

Since this program pertains only to the first-time installation of a manufactured home, the primary standards are the specifications provided in the manufacturer's installation instructions. However, alternate standards developed by the federal department of housing and urban development and adopted by the state may also be utilized. ~~The standards do not pertain to the construction of permanent foundations.~~ Standards for construction of permanent foundations are the responsibility of the local jurisdiction in which a manufactured home is installed if it varies from the manufacturer's installation instructions. Variations may require approved engineered or architectural plans.

Nothing in this section shall preclude a local government from enacting standards for manufactured homes concerning unique public safety requirements, ~~such as weight restrictions for snow loads or wind shear factors,~~ as otherwise permitted by law.

From time to time the division, in consultation with the installation committee, may issue interpretations of the standards to be followed during the course of manufactured home installations and inspections.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-12. Inspection procedures.

The division shall adopt a standard installation authorization form to be used statewide by the division and certified inspectors, a standard inspection form, and minimum inspection requirements. Inspection forms shall be maintained for a minimum of three years from the date of the attachment of the installation insignia. The number of inspections required to be performed to determine compliance with the manufacturer's installation instructions or alternate standards adopted by the division will be determined by the inspector based on the inspector's ability to properly inspect all areas required on the minimum inspection requirements and the work performed by the registered installer. Generally, however, there will be a minimum of one inspection on a single-wide and two inspections on multi-section homes.

Prior to beginning the installation of a manufactured home, the owner or registered installer of a manufactured home shall make an application for an installation authorization from a participating jurisdiction or certified installation inspector. ~~Certified installers may issue their own installation authorizations.~~ The installation authorization is valid for thirty days from the date of issuance and may be extended for an additional thirty days upon written approval by the issuing entity.

Owners, and registered installers, ~~and certified installers~~ shall display an installation authorization at the site of the manufactured home to be installed until an installation insignia is attached certifying compliance with the manufacturer's installation instructions. The authorization will contain the identity of the installer and owner, a telephone number and contact person, and whether or not the installer is the owner, or a registered installer, ~~or a certified installer~~. The authorization will also include the name, address, and telephone number of the issuing entity.

During installation and inspection, a copy of the manufacturer's installation instructions or alternate standards shall be available at all times onsite. The installer shall be responsible to maintain the copy of the manufacturer's installation instructions onsite. If the manufacturer's installation instructions or alternate standards are not present at the time of the inspection, the inspector may fail the inspection and require a re-inspection. All costs of the inspection and any re-inspection will be borne by the installer.

The owner, installer, manufacturer, or retailer shall have the right to be present at any inspection.

When the installation of a manufactured home is found to be in compliance with the manufacturer's installation instructions or alternate standards, an insignia will be permanently attached by the inspector making the inspection. ~~A certified installer may inspect that person's own installation and permanently attach the insignia.~~ The insignia will be placed ~~within thirty inches [76.2 centimeters]~~ of the expected location of the electric meter housing, electric service entry, or on the meter housing, within six inches of the HUD label.

When a manufactured home installation is found not to be in compliance by a certified inspector with the manufacturer's installation instructions, the installer shall be notified in writing by the inspector. At the time of the inspection, the inspector may include in the inspection report instructions for the installer to call for a re-inspection at any stage of installation to prevent cover-up of any part of the installation requiring re-inspection by the inspector.

The installer shall pay for any repair required to bring the installation into compliance and shall

pay for any subsequent inspections.

If an installation or subsequent repair of an installation by an installer fails to meet the manufacturer's installation instructions within the time limit allowed by the inspector, the inspector shall notify the installer that the installation is in default. The installer shall be given ten working days after notification of default to bring the installation into compliance. Any independent inspector that knows of an installation that is in default and has not been corrected by subsequent repair shall request that the division arrange for an investigation of the installation.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-13. Complaints.

The division may cause to be investigated any complaint concerning the installation of a manufactured home filed in writing by an owner, dealer, manufacturer, installer, or certified inspector. The division may designate a certified inspector or other qualified entity to make complaint inspections on behalf of the division. The initial costs of processing complaints will be paid through a fund established from a portion of the registration, certification, and insignia fees. If a complaint is determined to be valid, the installer and inspector must reimburse the division for the costs incurred investigating the complaint and any re-inspections.

If a participating jurisdiction or a certified inspector finds an installation of a manufactured home to be in default, the jurisdiction or inspector shall file a written complaint with the division against the installer. Complaints received by telephone shall be confirmed in writing.

If the installation of a manufactured home fails the complaint inspection, the registered installer must make and pay for the repairs to bring the installation into compliance and the installer and inspector shall pay the costs associated with the complaint inspection and with any subsequent inspections. Failure of the installer to pay for repairs and failure of the installer and inspector to pay subsequent inspections shall result in the revocation of registration and certification.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-14. Suspension or revocation.

The division may permanently revoke or temporarily suspend ~~or fail to renew~~ the registration or certification of an installer or inspector. ~~if the person or entity fails to:~~

Suspension can occur, but is not limited to, the following:

1. Failure to file each year and keep current, a letter of credit, certificate of deposit, or surety bond as required;
 - a. License may be reinstated when bond is brought up to date
2. Failure to file each year and keep current, the required liability insurance;
 - a. License may be reinstated when insurance is brought up to date
3. Failure to notify the division of changes in application information;
 - a. License may be reinstated when information is corrected

4. Failure to pay all assessed inspection fees;
 - a. License may be reinstated when fees are paid in full
5. Failure to make all required repairs that are needed to bring the installation into compliance with the manufacturer's installation instructions;
 - a. License may be reinstated when all repairs are completed
6. Failure to pass periodic oversight inspections;
 - a. The installer has the opportunity to make needed repairs found during the oversight inspection. If the needed repairs are not made in the time allowed, the installers' license can be suspended.
7. Failure to pay all necessary training and registration fees;
 - a. License may be reinstated when fees are paid in full
8. Failure to file required monthly reports with correct information;
 - a. Inspectors may not purchase insignias if their reports are overdue
 - b. License may be reinstated when reports are up to date

Permanent revocation can occur, but is not limited to, the following:

1. Failure to correct any defects in the installation in the time period established by the division;
2. If there are multiple problems with homes found during oversight inspections or from complaints;
3. Multiple suspensions or problems caused by not following the rules

The division will track suspensions and revocations.

1. ~~File with the division each year and keep in force a letter of credit, certificate of deposit, or surety bond as required;~~
2. ~~File with the division and keep in force the required liability insurance;~~
3. ~~Pay assessed inspection costs;~~
4. ~~Make any subsequent repairs that are necessary to bring the installation into compliance with the manufacturer's installation instructions;~~
5. ~~Correct any defects or deficiencies in the installation in the time period established by the division; and~~
6. ~~Pass periodic oversight inspections~~

~~The division may also revoke the certification of a certified installer and replace it, at its discretion, with the status of registered installer.~~

~~When the certification of a certified installer is revoked or suspended, the installer must immediately return to the division all unused installation insignias and the installer will lose the right to purchase and install insignias.~~

~~When the installer's or registration or certification is revoked, the installer may reapply as a registered installer one year after the date of revocation but must retest. To be considered as a certified installer, the installer will be subject to the conditions for obtaining certification.~~

~~The division may revoke, suspend, or fail to renew the certification of any certified inspector~~

~~who fails to maintain the minimum requirements for the certification, has a conflict of interest or as a result of investigation of complaints by the division, the inspector is found to repeatedly fail to enforce the requirements of the program. The division, or a certified inspector or other qualified entity at the request of the division, may inspect the installation of any manufactured home inspected by a certified inspector. When the certification of a certified inspector is revoked, suspended, or not renewed, the certified inspector must immediately return to the division all unused installation insignias and the inspector will lose the right to purchase and install insignias.~~

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-15. Appeal of revocation or suspension.

A registered installer or certified inspector subject to revocation, suspension, or nonrenewal may appeal the revocation or suspension to the director of the division of community services. Further appeal may be heard under the procedures found in North Dakota Century Code chapter 28-32.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-16. Installation insignias.

The division shall adopt a standard insignia to be used statewide indicating that a manufactured home is installed in compliance with the manufacturer's installation instructions.

The insignia shall include the name, address, and telephone number of the division, the date the installation was completed, and the name, address, telephone number, and registration number of the installer.

Insignias shall remain the property of the state of North Dakota and are not subject to refunds.

When an installation insignia is lost or damaged, the division must be notified in writing. ~~The division will issue a replacement insignia.~~

The division reserves the right to refuse to sell installation insignias to ~~certified installers or~~ certified inspectors based on findings of noncompliance with this chapter until findings are resolved.

The possession of unattached insignias is limited to the division and certified inspectors, ~~and certified installers.~~ Insignias must be kept secure. If an ~~installer's or inspector's~~ certification is revoked ~~or the certified installer or the certified inspector~~ is no longer in business, any labels in their possession must immediately be returned to the division.

~~Certified installers and certified inspectors may purchase a two-month supply of installation insignias.~~

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-17. Reports.

The division will establish and maintain a system of data bases and procedures for the following reports ~~reporting~~.

- ~~1. Each certified installer and certified inspector must submit a monthly report of installation authorizations issued.~~
2. Each certified inspector ~~and certified installer~~ must submit a monthly report accounting for insignias, both issued and on hand by serial number. The report is due by the fifteenth of the following month. A report is required even if no labels were issued during the month.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-18. Penalty.

Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

History: Effective January 1, 2006

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-19. Fees.

The following non-refundable fees apply:

1. Installer registration - \$150 per year.
2. Nonparticipating jurisdiction certified inspector - \$150 per year.
- ~~3. Participating jurisdiction certified inspector registration - \$50 per year~~
- ~~4.3. Installation insignia - \$50 per label.~~
- ~~4.5. Oversight inspection - \$225~~250 per inspection.
- ~~5. Replacement insignia - \$40.~~
- ~~6. Oversight reinspection fee - \$125 to both the installer and the certified inspector~~
- ~~7. Training registration - \$50~~
- ~~8. Training manual - \$25~~
- ~~9. Late registration fee - \$25~~

~~The division may charge other fees related to providing training based on the actual cost of the training materials and instructors.~~

Certified inspectors may charge their own reasonable fees for conducting compliance inspections and re-inspections.

History: Effective January 1, 2006; amended effective April 1, 2020

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08