

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on	)	Rule and Regulation No. 174
its own motion, seeking to amend	)	
Title 291, Chapter 13, Modular	)	
Housing Unit Construction Rules and	)	
Regulations, to adopt the 2009	)	
edition of applicable code books	)	ORDER OPENING DOCKET,
and update related provisions,	)	RELEASING PROPOSED RULES, AND
update definitional sections, add	)	SEEKING COMMENT
rules regarding alternating tread	)	
devices, update procedures	)	
regarding seal issuance,	)	
inspections, and plan review,	)	
general language clean up, and	)	
delete certain forms.	)	Entered: July 27, 2010

BY THE COMMISSION:

O P I N I O N   A N D   F I N D I N G S

The Commission, on its own motion, hereby opens this proceeding to amend Title 291, Chapter 13, Modular Housing Unit Construction Rules and Regulations, to adopt the 2009 edition of applicable code books and update related provisions, update definitional sections, add rules regarding alternating tread devices, update procedures regarding seal issuance, inspections, and plan review, general language clean up, and delete certain forms.

The Commission proposes to amend Title 291, Chapter 13, Modular Housing Unit Construction Rules and Regulations as seen in the attached Appendix A, incorporated herein by this reference.

Comments on the proposed amendments shall be filed by interested parties on or before **3:00 p.m., September 24, 2010**. Parties filing comments should file one original and eight (8) paper copies and one (1) electronic copy emailed to **[lisa.polivka@nebraska.gov](mailto:lisa.polivka@nebraska.gov)**.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this rulemaking amending Title 291, Chapter 13, Modular Housing Unit Construction Rules and Regulations, to adopt the 2009 edition of applicable code books and update related provisions, update definitional sections, add rules regarding alternating tread devices, update procedures regarding seal issuance, inspections, and plan review, general language clean up, and delete certain forms be, and it is hereby, open for public comment.

IT IS FURTHER ORDERED that interested parties file comments on or before **3:00 p.m., September 24, 2010**. Commenting parties shall file one original and eight paper copies along with one electronic copy emailed to **[lisa.polivka@nebraska.gov](mailto:lisa.polivka@nebraska.gov)**.

MADE AND ENTERED at Lincoln, Nebraska, this 27<sup>th</sup> day of July,  
2010.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

APPENDIX

1. Make the following revisions to Rule 001, subsections 001.01, 001.02G, 001.02H, 001.03 and renumber existing subsections.

001 SCOPE, DEFINITIONS, AND STATE CODES:

001.01 Scope and Application: All rules, regulations, and orders of the Department of Health and Human Services Regulation and Licensure or its predecessor agency adopted prior to May 1, 1998, in connection with the powers, duties, and functions transferred to the Nebraska Public Service Commission under the Nebraska Uniform Standards for Modular housing Units Act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

001.02G Initial Package shall mean the materials required for submission to the Department by a manufacturer who plans to market or manufacture modular housing units in Nebraska and is applying for seals to put on them, based on a showing that its use of proposed plans and specifications will produce modular housing units which meet the applicable standards. Each initial package shall consist of:

001.02G1 Two copies of the compliance assurance manual (subsection 003.01B);

001.02G2 Two copies of the plans and specifications for each modular housing unit model (subsections 003.04);

001.02G3 A completed Application for ~~Modular Housing Units~~ Plan Approval Form (MOD-01) prescribed by the Commission;

001.02G4 Completed application for seals ~~(MOD-02)~~ on a form prescribed by the Commission; and

001.02G5 A check or money order for applicable fees.

~~001.02H Living unit shall mean any portion of a modular housing unit which contains living facilities including provisions for sleeping, eating, cooking, and sanitation for no more than one family.~~

001.03 Standards for Modular Housing Units: Except as provided by statute, the following standards are hereby adopted as the State of Nebraska Standards governing all ~~the~~ construction ~~of~~ and ~~all the~~

installation of plumbing, heating, and electrical systems in modular housing units.

001.03A INTERNATIONAL RESIDENTIAL CODE - ~~2000~~ 2009 EDITION, as published by the International Code Council, Inc., ~~5203~~ ~~Leesburg Pike Suite 708, Falls Church, Virginia, 22041-3401~~ 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington DC 20001, and made a part hereof by reference with the following revisions and amendments. A copy of this code is available to be viewed at the Nebraska Public Service Commission office at 300 The Atrium, 1200 N Street, Lincoln, Nebraska, during normal business hours.

001.03A1 Omit Chapter 1 entirely.

001.03A2 In Chapter 3, Section R301.2, remove the last sentence.

001.03A3 In Chapter 3, Table R301.2 (1), the value for "~~Roof~~ Ground Snow Load" shall be 30 psf, "Wind Design Speed (mph)" shall be 90 mph, ~~and~~ "Wind Design Topographic Effects" shall be "No", "Seismic Design Category" shall be "C". "Winter Design Temp" shall be "-4", "Ice Barrier Underlayment Required" shall be "Yes" and "Air Freezing Index" shall be "2500", and "Mean Annual Temp" shall be "50".Footnote ~~"e"~~ "d", second sentence shall read, "Wind exposure category shall be "C".

001.03A4 In Chapter 3, Table R301.~~45~~, change the value for "Sleeping rooms" to 40.

001.03A5 In Chapter 3, Section R311.7.9, add "alternating tread devices" immediately after "Spiral stairways".

001.03A5a In Chapter 3, add a new section R311.7.9.3 to read, "R311.7.9.3 Alternating Tread Devices. Alternating tread devices are limited to providing access to a space of not more than 70 square feet and such space shall not provide access to any other space or habitable room. Construction of handrails and treads shall be in conformance with the International Building Code, 2009 Edition, Sections 1009.10.1 and 1009.10.2 (Delete the "Exception" in Section 1009.10.2)."

001.03A6 In Chapter 3, omit Section R313 entirely.

001.03A47 In Chapter 9, Section R905.2.7.1, remove all words prior to and including the first comma (,) and capitalize the "a" in "an".

001.03A58 In Chapter 11, Section N1101.2, retain only the section's first sentence and replace the remainder of the section with, "The climate zone for all of Nebraska is "13" "5". The climate zone for homes to be located outside of Nebraska shall be determined by the site's authority having jurisdiction".

~~001.03A6 In Chapter 31, Section P3103.1, the number "12" shall be placed where the section's first "[number]" appears and delete the language "... or [number] inches above the anticipated snow accumulation, ...".~~

001.03A79 In Chapter 24, omit exceptions 3 and 4 in Section G2406.2.

~~001.03A810 Omit Chapters 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 and 43.~~

~~001.03A911 Adopt Appendix A, B, and C and K.~~

001.03B INTERNATIONAL BUILDING CODE, ~~2000~~ 2009 Edition, as published by the International Code Council, Inc., ~~5203 Leesburg Pike Suite 708, Falls Church, Virginia, 22041-3401~~ 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington DC 20001, made part hereof by reference with the following revisions and amendments. This code shall be used only for buildings that are not detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress. A copy of this code is available to be viewed at the Nebraska Public Service Commission office at 300 The Atrium, 1200 N Street, Lincoln, Nebraska, during normal business hours.

001.03B1 In Chapter 1, omit Sections 101.1, ~~101.4.1~~ 101.2, 103, 104, 105, ~~106~~, 107, 108, 109, 110, 111, 112, 113, 114, ~~and~~ 115 and 16.

001.03C INTERNATIONAL PLUMBING CODE, ~~2000~~ 2009 Edition, as published by the International Code Council, Inc., ~~5203 Leesburg Pike Suite 708, Falls Church, Virginia, 22041-3401~~ 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington DC 20001, made a part hereof by reference with the following revisions and amend-ments. This code shall be used only for buildings that

are not detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress. A copy of this code is available to be viewed at the Nebraska Public Service Commission office at 300 The Atrium, 1200 N Street, Lincoln, Nebraska, during normal business hours.

001.03C1 In Chapter 1, omit Sections 101.1, 102, 103, 104, 105, 106, 107, 108, and 109 and 110.

001.03C2 Adopt Appendix D, F and G.

001.03D NATIONAL ELECTRICAL CODE, adopted by the Nebraska State Electrical Board in 100 NAC 18 pursuant to Nebraska Revised Statutes Section 81-2104, issued and adopted by the National Fire Protection Association in Publication Number 70 is made a part hereof by reference. A copy of this code is available to be viewed at the Nebraska Public Service Commission office at 300 The Atrium, 1200 N Street, Lincoln, Nebraska, during normal business hours.

001.03E INTERNATIONAL MECHANICAL CODE, ~~2000~~ 2009 Edition, as published by the International Code Council, Inc., ~~5203 Leesburg Pike Suite 708, Falls Church, Virginia, 22041-3401~~ 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington DC 20001, made a part hereof by reference with the following revisions and amendments. This code shall be used only for buildings that are not detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress. A copy of this code is available to be viewed at the Nebraska Public Service Commission office at 300 The Atrium, 1200 N Street, Lincoln, Nebraska, during normal business hours.

001.03E1 In Chapter 1 omit, Sections 101.1, 102, 103, 104, 105, 106, 107, 108, and 109 and 110.

001.03E2 Adopt Appendix A.

001.03F INTERNATIONAL FUEL GAS CODE, ~~2000~~ 2009 Edition, as published by the International Code Council, Inc., ~~5203 Leesburg Pike Suite 708, Falls Church, Virginia, 22041-3401~~ 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington DC 20001, made a part hereof by reference with the following revisions and amendments. This code shall be used only for buildings that are not detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress. A copy of this code is available to be viewed at the Nebraska Public Service

Commission office at 300 The Atrium, 1200 N Street, Lincoln, Nebraska, during normal business hours.

001.03F1 In Chapter 1 omit, Sections 101.1, 102, 103, 104, 105, 106, 107, 108, ~~and 109~~ and 110.

001.03F2 Adopt Appendix A, B and C.

001.03G These standards shall have the same force and effect as rules and regulations of the Nebraska Public Service Commission as if set out verbatim in this section, and shall be considered the State standards in regard to modular housing units.

2. Make the following revisions to Rule 002, Seals, subsections 002.02, 002.04, 002.05, 002.06, and 002.07.

002.02 Application for Seals: Any person who has met the applicable requirements of Subsection 002.01 shall apply for seals on ~~the~~ a form prescribed ~~herein~~ by the Commission. ~~The application shall be accompanied by the seal fee set forth in Section 005, the number of seals requested and a check, payable to the Nebraska Public Service Commission. The seal application form provided by the Commission shall be Attachment 2 (MOD-02).~~

002.04 Lost or Damaged Seals:

002.04A When a seal becomes lost or damaged, the Commission shall be notified immediately in writing by the manufacturer or dealer. The manufacturer or dealer shall specify the state seal number lost or damaged.

002.04B All damaged seals shall be promptly returned. Damaged ~~and lost~~ seals shall be replaced by the Commission with a new seal at Commission cost.

002.05 Placement of Seals:

002.05A Each seal shall be assigned and affixed to a ~~living~~ modular housing unit before its shipment from the manufacturing plant and a record of each seal assignment shall be submitted as set forth in Subsection 002.06.

002.05B The seal shall be securely affixed to a lower corner of a window.

002.06 Records: ~~The manufacturer shall submit a construction compliance certificate for each unit manufactured within Nebraska, or for an out of state manufacturer, all modular housing units destined for Nebraska, on the certificate prescribed by the Commission. The reporting forms prescribed by the Commission shall be Attachments #2, #3 and #4 which are made a part hereof by reference and shall be submitted to the Commission within 7 working days after the seal is affixed to the home. A construction compliance certificate, prescribed by the Commission, shall be submitted to the Commission by the 10th of each month after the seal is affixed to the home. This rule applies to all Nebraska manufacturers for each unit manufactured in Nebraska and to all out of state manufacturers with housing units destined for Nebraska.~~

002.07 Unit Identification: Each modular housing unit shall be assigned a serial number and each major transportable section of the house shall carry this serial number. The serial number shall be readily visible. The following information shall be placed directly or by reference on one or more permanent ~~manufacturer's~~ data plates as prescribed by the Commission (attachment #3) in the vicinity of the electrical distribution panel or in some other designated location that is readily accessible for inspection.

002.07A Manufacturer's name and address.

002.07B Serial number of the unit.

002.07C Model designation and name of manufacturer of major factory-installed appliances.

002.07D Where applicable, identification of permissible type of gas for appliances.

002.07E Name and date of standards complied with.

002.07F State seal number.

002.07G Design loads.

002.07H Special conditions or limitations of the unit.

002.07I Date of manufacture.

002.07J Electrical Ratings - instructions and warnings on voltage, phase, size, and connections of units and grounding requirements.

002.07K Insulation Values.

3. Make the following revisions to Rule 003, subsection 003.01.

003 PLAN APPROVAL:

003.01 General Requirements: Applications, plans, and specifications, and other documentation shall be submitted as indicated below:

003.01A All plans and specifications of basic systems or variations thereof, including all elements relating to specific



components and properly identified as relating to said components, shall be submitted in duplicate and accompanied by an application for review on a form supplied by the Commission. ~~The application form prescribed by the Commission shall be Attachment 1 (MOD-01).~~ When required by Nebraska Revised Statutes, §81-3401 to 81-3455, all plans and specifications submitted to the Commission shall be prepared only by persons who are registered as professional engineers and architects in Nebraska.

003.01B A compliance assurance manual (two copies each) shall be provided with index including but not limited to the following:

003.01B1 Standards: The manual shall identify which of the following standards are adhered to by the manufacturer as adopted by the State of Nebraska:

003.01B1a INTERNATIONAL RESIDENTIAL CODE, ~~2000~~ 2009 Edition.

003.01B1b INTERNATIONAL PLUMBING CODE, ~~2000~~ 2009 Edition.

003.01B1c INTERNATIONAL MECHANICAL CODE, ~~2000~~ 2009 Edition.

003.01B1d NATIONAL ELECTRICAL CODE, adopted by the Nebraska State Electrical Board.

003.01B1e INTERNATIONAL FUEL GAS CODE, ~~2000~~ 2009 Edition.

003.01B1f INTERNATIONAL BUILDING CODE, ~~2000~~ 2009 Edition.

4. Make the following revisions to Rule 004, subsections 004.01, 004.02, 004.04, 004.05 and renumber existing subsections.

004 COMPLIANCE ASSURANCE QUALITY CONTROL PROGRAM:

004.01 General: ~~The compliance assurance program consists of an application form MOD-01 (Attachment 1) and a compliance assurance manual. It shall be the manufacturer's responsibility to execute every aspect of this the compliance assurance program. The manufacturer shall continue to be responsible for all corrective actions required. Each manufacturer must obtain approval of his their compliance assurance program from the Commission.~~

004.02 Requirements of Manufacturer: The manufacturer of modular housing units shall submit the following, at a minimum, in duplicate:

004.02D A statement identifying who is responsible directly, or by means of ~~his~~ an agent, for timely and effective performance of service and repairs related to code compliance.

004.04 Initial and Monitoring In-Plant Inspection by Inspection Agencies:

004.04A Initial In-Plant Inspection: Once a manufacturer's compliance assurance manual and plans have been approved, the inspection agency shall perform the initial inspection. The initial inspection shall consist of the inspection agency making a station-by-station thorough evaluation of the manufacturer's operation to assure that the manufacturer is operating in accordance with the criteria set forth in the previously approved compliance assurance manual and plans. In so doing, the inspection agency shall utilize the in-plant inspection checklist specified in Subsection 004.03.

If the manufacturer during the initial inspection is found to be producing units in accordance with the approved compliance assurance manual and plans, the inspection agency shall notify the manufacturer, in writing, with a copy being forwarded to the Nebraska Public Service Commission.

The notification letter to the manufacturer from the inspection agency shall be ~~in the following form~~ signed by an authorized agent of the inspection agency and shall include the following:

This is to notify that \_\_\_\_\_  
 \_\_\_\_\_ Name of Inspector(s)  
 representing \_\_\_\_\_ on  
 \_\_\_\_\_ Name of Inspection Agency  
 \_\_\_\_\_, 20\_\_\_\_, made a thorough evaluation of  
 \_\_\_\_\_  
 \_\_\_\_\_ Name of Manufacturer  
 \_\_\_\_\_,  
 \_\_\_\_\_ Address of Manufacturer  
 involving a complete station-by-station inspection process that  
 \_\_\_\_\_ was found  
 \_\_\_\_\_ Name of Manufacturer  
 to be performing in conformance with its approved plans and  
 compliance assurance manual and Nebraska's standards for modular  
 housing units, and the  
 \_\_\_\_\_  
 \_\_\_\_\_ Name of the Inspection Agency  
 is satisfied that \_\_\_\_\_  
 \_\_\_\_\_ Name of Manufacturer  
 can produce modular housing units in conformance with Nebraska's  
 standards for modular housing units.

004.04A1 Name of inspection agency.

004.04A2 Name of inspector(s).

004.04A3 Date(s) inspection was performed.

004.04A4 Name and address of manufacturer.

004.04A5 Statement from the inspection agency stating "A thorough, complete and station-by-station inspection and evaluation of the manufacturer's construction and inspection process was performed in conformance with its approved plans and compliance assurance manual and Nebraska's standards for modular housing units, and the inspection agency is satisfied that the manufacturer can produce modular housing units in conformance with Nebraska standards for modular housing units on an on-going basis."

004.04A6 Signed and dated by an authorized agent of the inspection agency.

004.04B If the initial inspection reveals deviations from the previously approved compliance assurance manual and plans, the inspection agency shall notify the manufacturer, in writing, of deviations, specifying in detail the observed deviations. A copy of this letter shall be sent to the Nebraska Public Service Commission. Upon notification from the plant that the specified deviations have been corrected, the inspection agency shall again make an initial inspection of the plant following the procedure previously outlined in ~~this~~ section 004.04A.

004.04BC ~~Monitoring In-Plant Inspections:~~ Following notification to a manufacturer under Part 004.04A, the inspection agency shall undertake monitoring in-plant inspections at a frequency sufficient to inspect every home that will receive the Nebraska modular housing unit seal and to assure continuing compliance with the manufacturer's compliance assurance program. Additional factors which the inspection agency shall take into consideration in determining frequency of monitoring in-plant inspections are as follows:

004.04BC1 Production Volume

004.04BC2 Design Complexity of Units

004.04BC3 The qualifications of the manufacturer's own in-house compliance control organization.

004.04BC4 The experience record of the manufacturer.

004.04D The ~~monitoring~~ in-plant inspection agency shall utilize the in-plant inspection check list in Subsection 004.03 to assure that each construction feature (structural, mechanical, plumbing, and electrical) is fully evaluated.

004.05 Seal Issuance: Upon satisfactory completion of the initial in-plant inspection and ~~the~~ notification letter issued to the manufacturer by the inspection agency, the manufacturer shall act in accordance with the provisions of Section 002.

5. Make the following revisions to Rule 005, subsection 005.01.

005.01 Fees for Seals: One seal is required per living-unit modular housing unit. A fee as established by the Commission of not less than eighty dollars (\$80) dollars and not more than four hundred dollars (\$400) per living unit shall be charged for each seal and issued by the Department. A fee shall be charged for each seal issued by the Commission for a modular housing unit as established at least annually after public notice and hearing by the Commission.

6. Make the following revisions to Rule 006, subsection 006.01.

006.01 Procedure to Determine Reciprocity: The Commission shall amend § section 006.02, and add to the reciprocity list a state, upon a showing that the standards, codes and enforcement practices are at least equal to or are more stringent than those established by the Commission. Any affected person, may petition the Commission including any state, may initiate for an amendment process under the rule making procedures set out in 184 NAC 1, Rules of Practice and Procedure pursuant to the Rules of Commission Procedure as codified by state law and Nebraska Administrative Code, Title 291, Chapter 1. of the Nebraska Public Service Commission. A modular housing unit which bears the seal of any state which has been placed on the reciprocity list shall not be required to bear the seal issued by this state.

7. Make the following revisions to Rule 007, subsection 007.02.

007.02 Hearings: Any hearings held before the Commission shall be governed by the Rules of Commission Procedure as codified by state law and Nebraska Administrative Code, Title 291, Chapter 1. in accordance with the Administrative Procedures Act and the Rules of Commission Procedure of the Nebraska Public Service Commission, Title 291, Chapter 1.

8. Make the following revisions to Rule 008, subsection 008.01.

008.01 Ad Hoc Committee: The Commission shall utilize an ad hoc advisory committee of four (4) 4 members to review any proposed revisions to these rules. All ad hoc committee members shall be selected by the Commission and meet in person, through via video or telephone conference, through telephone conference call, or through any combination of the aforementioned methods as determined to be convenient to the Commission and the ad hoc committee members. The membership shall consist of, when possible, of no more than one person from each of the following groups (modular housing unit manufacturer, modular housing unit retailer, professional engineer or architect, city building official). Committee members are ineligible for expense reimbursement.

9. Delete the following Attachments in their entirety:

Attachment #1 (MOD-01), Application for Modular Housing Unit Plan Approval;  
Attachment #2 (MOD-02), Seal Request Form;  
Attachment #3 (MOD-03), Manufacturer's Data Plate;  
Attachment #4 (MOD-04), Construction Compliance Certificate