

In the Matter of:

A REQUEST FOR A WAIVER FROM COMMISSION RULE 10 CSR 4240, etc.

MX-2020-0357, VOL. I

December 03, 2020



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Rulemaking Hearing

December 3, 2020

Jefferson City, Missouri

Volume 1

In the Matter of a Request)
for a Waiver from) File No. MX-2020-0357
Commission Rule)
10 CSR 4240-125.040(1)(C))

NANCY DIPPELL, Presiding
REGULATORY LAW JUDGE

RYAN A. SILVEY, Chairman,
MAIDA J. COLEMAN
COMMISSIONERS

REPORTED BY:
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A P P E A R A N C E S

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FOR: Staff of the Missouri Public Service Commission

P R O C E E D I N G S

JUDGE DIPPELL: We can go ahead and go on the record. Good morning. This is a hearing in File No. MX-2020-0357, In the Matter of a Request for a Waiver from Commission Rule 20 CSR 4240-125.040(1)(C). This is a manufactured home installer's license rule that the Commission is proposing an amendment to.

We've come here today for a rule comment hearing that was published in the Missouri Register. My name is Nancy Dippell. I'm the Regulatory Law Judge conducting this hearing. Because of COVID-19 pandemic, the Commission has set this comment hearing virtually and we are transmitting this hearing over our intranet site, as well as conducting the hearing live via WebEx video and telephone conference.

I would like to ask everyone to please mute if you are not speaking and be sure and identify yourself when speaking if you're not otherwise identified so that the court reporter can take down your comments. I have some of the Commissioners on the line with me. And there won't be cross-examination in a rulemaking hearing but the Commissioners may have some questions if there are comments.

I will begin. I'll go ahead and let the attorneys that are present make entries of appearance.

1 And I believe the only attorney we have is Ms. Bretz for
2 Staff. Ms. Bretz, would you like to make an entry of
3 appearance? I'm not sure if I can get you unmuted. I
4 think you may have to unmute yourself.

5 MS. BRETZ: Okay. I think you can hear me
6 now, right?

7 JUDGE DIPPELL: Yes.

8 MS. BRETZ: Okay. Karen Bretz, B-r-e-t-z, for
9 Staff of the Missouri Public Service Commission. My
10 office address is 200 Madison Street, Jefferson City,
11 Missouri 65101.

12 JUDGE DIPPELL: Thank you, Ms. Bretz. Again,
13 I haven't seen anyone from the general public join our
14 conference. I see only commissioners and staff from the
15 Commission. Did Staff want to make any additional
16 comments? You filed written comments. Was there
17 anything additional that you wish to comment on about
18 the rule?

19 MS. BRETZ: I have a short prepared statement,
20 if I could say that.

21 JUDGE DIPPELL: Go ahead.

22 MS. BRETZ: Good morning. May it please the
23 Commission. My name is Karen Bretz representing Staff
24 of the Missouri Public Service Commission. Staff law
25 requires manufactured home installers to be licensed by

1 the Commission. Part of maintaining this license is
2 completing a Commission-approved training program.
3 Commission Rule 20 CSR 4240-125.040(1)(C) states that an
4 installer must attend certification classes every three
5 years or as otherwise required by the manager. The
6 manager of the manufactured housing and modular units
7 program was concerned about holding this class during
8 this COVID pandemic. He believed that installers and
9 staff in a classroom would be at risk and could not meet
10 social distancing requirements.

11 On the other hand, if the class was
12 temporarily canceled, some installers would fall out of
13 compliance and lose their licenses. The Commission is
14 aware that according to 20 CSR 4240-2.205, the
15 Commission may grant a waiver from its rules upon a
16 finding of good cause. Staff initially requested a
17 waiver from the certification class requirement, but the
18 concern arose that a waiver may expose the Commission to
19 liability. Because all installers are required to take
20 the class, this might be considered rulemaking.

21 Therefore, Staff requested a Commission order
22 directing that an emergency amendment and a proposed
23 amendment be filed with the Secretary of State. The
24 emergency and permit amendments are the same and they
25 accomplish two things. The first is to extend the

1 certification class requirement beyond three years if
2 extenuating circumstances warrant. The extenuating
3 circumstances right now are obvious. However, if the
4 health situation continues after the temporary amendment
5 expires on April 12, 2021, or if future events make it
6 dangerous to hold in-person classes, the permanent
7 amendment gives the Commission authority to extend the
8 training requirements so installers can maintain their
9 licensure.

10 The second thing the proposed amendment does
11 is authorize classes to be held online. This is common
12 sense. We have all adapted to online meetings and
13 hearings since last March. There's no reason that the
14 training class cannot be held online.

15 The Commission found that an immediate danger
16 to the public health required emergency action and
17 ordered that both amendments be filed with the Secretary
18 of State.

19 Today the Commission will receive comments
20 from the public regarding the proposed permanent
21 amendment. No other party than Staff has filed comments
22 regarding this rule and Staff is unaware of any party
23 that may be adversely affected by it. Thank you.

24 JUDGE DIPPELL: Thank you very much, Ms.
25 Bretz. I appreciate the work that Staff has done on

1 this rulemaking and getting the emergency rule in place,
2 and so forth. Are there any Commissioner questions for
3 Ms. Bretz?

4 CHAIRMAN SILVEY: No questions from me, Judge.

5 JUDGE DIPPELL: Okay. Great. Well, I don't
6 see -- Is there anyone else present that wishes to
7 comment that I haven't asked? Okay. I'm not seeing any
8 additional comments. So I believe that that concludes
9 this rule hearing. Thank you all for your
10 participation. We can go off the record.

11 MS. BRETZ: Thank you.

12 (Off the record.)
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CERTIFICATE OF REPORTER

I, Beverly Jean Bentch, RPR, CCR No. 640,
Certified Court Reporter with the firm of Tiger Court
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Beverly Jean Bentch

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