

In the Matter of a Proposed Rulemaking to)
Revise Manufactured Housing Rules Regarding) **File No. MX-2013-0432**
Installation and Monthly Reporting Requirements)

WHEREFORE, Staff respectfully submits the attached *Staff Comments*.

Respectfully Submitted,

**STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION**

/s/ John D. Borgmeyer

John D. Borgmeyer
Deputy Legal Counsel
Missouri Bar No. 61992

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
Telephone: (573) 751-5472
Fax: (573) 751-9285
Email: john.borgmeyer@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 16th day of October, 2013.

/s/ John D. Borgmeyer

In the Matter of a Proposed Rulemaking to)
Revise Manufactured Housing Rules Regarding) **File No. MX-2013-0432**
Installation and Monthly Reporting Requirements)

The Proposed Amendments (“Amendment” or “Amendments”) to the Public Service Commission’s (“Commission”) manufactured housing rules were promulgated to improve provisions related to the installation of new manufactured homes and modular units and to enhance monthly reporting requirements. The Manufactured Housing and Modular Units Program Staff (“Staff”) met with the industry in drafting the proposed amendments and incorporated suggestions and comments as appropriate. Staff provides the following comments in support of the proposed amendments.

The Amendment clarifies the time Staff has to conduct an inspection of new home setup, allowing one year from either the date the dealer notifies Staff of delivery, or one year from the date the Commission or Staff becomes aware of the delivery. The Amendment also allows an additional two-year period for Staff to conduct inspections related to home setup and code violations upon receipt of a formal written consumer complaint.

The Amendment includes a requirement for dealers to submit a property locator form indicating the destination of the home and allows the Commission to assess a \$50 per home inspection fee to dealers who fail to submit the property locator by the due date. If a dealer fails to submit a dealer locator form, either timely or otherwise, Staff will be unaware of the movement of the home. Staff is aware of concerns related to release of customer proprietary information related to the property locator prior to dealers finalizing delivery of the units. Therefore, Staff proposes to make it mandatory that the dealer use the Commission-provided property locator form, which includes language explaining the confidentiality of customer information. Further, there are no parameters for determining when the Commission “may” assess the \$50 per home inspection fee to dealers who fail to submit the property locator form. Staff recommends the language be further modified to make the \$50 inspection fee mandatory for any locator form not submitted within 48 hours of the date the home leaves the dealer’s or manufacturer’s location.

A copy of the draft property locator form, containing notice to the customer of the intended use of the form is attached as Attachment A.

Finally, the Amendment includes a requirement that the commission assess a \$200 inspection fee to dealers who hire unlicensed installers to set up a home.

With the proposed modifications, the Amendment will read:

(A) The director will have a period of one (1) year from the date the home is installed to conduct the initial inspection of the home setup.

(C) Dealers shall submit to the commission a property locator indicating the destination of the home within forty eight (48) hours of the date the home leaves the dealer's location or the manufacturer's location if the home is shipped directly to the consumer. For multi-section homes, the forty eight (48) hours begins when the first section leaves the dealer's or manufacturer's location. The dealer shall use the property locator form provided by the commission.

(D) The commission shall assess a fifty dollar (\$50) per home inspection fee to dealers who fail to submit the property locator within forty eight (48) hours as required by subsection (C) above. The fifty dollar (\$50) per home inspection fee shall be assessed when the director is aware the property locator form was not timely submitted.

Staff supports the Amendment as modified.

4 CSR 240-120.085 Re-Inspection Fee

In various subsections of the Amendment, "installer" is added to the list of entities that may be assessed a \$200 re-inspection fee by the Commission. The Amendment clarifies that, while the fee for third-party inspections is generally \$400, the amount for third-party inspection requests related to verifying serial numbers will only be \$200. The reduced \$200 assessment is sufficient to cover Commission expenses associated with the limited inspection needed to verify serial numbers.

Staff supports this Amendment.

4 CSR 240-120.130 Monthly Report Requirement for Registered Manufactured Home Dealers

The Amendment sets forth the inspection fee that may be charged if a dealer is late in filing monthly sales reports. The Amendment adds "failure to pay" any required fees as a means by which a dealer's registration could be suspended or revoked. Finally, the Amendment adds an additional item to be included in monthly sales reports.

There are no parameters for determining when the Commission "may" assess the \$50 per report inspection fee for each report that is filed 60 days after the due date. Staff recommends the

language be further modified to make the \$50 per report inspection fee mandatory for any reports submitted 60 days after the due date.

With the proposed modification, the Amendment will read:

(3) The director may reject all monthly sales reports that are incomplete **and shall assess an inspection fee of fifty dollars (\$50) per report for each report that is filed 60 days after the due date.**

Staff supports this Amendment as modified.

4 CSR 240-123.065 Modular Unit Dealer/Selling Agent Setup Responsibilities

The Amendment clarifies the time Staff has to conduct an inspection of residential one- and two-family modular unit home setups, allowing one year from either the date the dealer notifies Staff of delivery, or one year from the date the Commission or Staff becomes aware of the delivery. The Amendment also allows an additional two-year period for Staff to conduct inspections related to home setup and code violations upon receipt of a formal written consumer complaint.

The “date the dealer reports delivery” or the “date Staff becomes aware of a delivery” are vague time periods, with no clear trigger. Staff recommends the language be clarified to indicate the director will have one year from the date the modular unit is installed to complete the inspection. This trigger will provide a more definitive and absolute time period and will be easier for Staff to monitor.

The Amendment includes a requirement for dealers to submit a property locator form indicating the destination of the modular unit, and allows the Commission to assess a \$50 per home inspection fee to dealers who fail to submit the property locator by the due date. If a dealer fails to submit a dealer locator form, either timely or otherwise, Staff will be unaware of the movement of the modular unit. Staff is aware of concerns related to release of customer proprietary information related to the property locator prior to dealers finalizing delivery of the units. Therefore, Staff proposes to make it mandatory that the dealer use the Commission-provided property locator form, which contains notice to the customer of the intended use of the form. Further, there are no parameters for determining when the Commission “may” assess the \$50 per home inspection fee to dealers who fail to submit the property locator form. Staff recommends the language be further modified to make the \$50 inspection fee mandatory for any locator form not submitted within 48 hours of the date the unit leaves the dealer’s location of the manufacturer’s location.

A copy of the draft property locator form, containing a “customer authorization to release” statement, is attached as Attachment A.

With the proposed changes, the Amendment will read:

(5) For dealers selling residential one and two family modular units built pursuant to the International Residential Code (IRC) to consumers: The

director will have a period of one (1) year from the date the unit is installed to conduct the initial inspection of the home setup.

(C) Dealers shall submit to the commission a property locator indicating the destination of the residential modular unit(s) within forty eight (48) hours of the date the unit leaves the dealer's location of the manufacturer's location if the unit is shipped directly to the consumer. For multi-section residential modular units the forty eight (48) hours begins when the first section leaves the dealer's or manufacturer's location. The dealer shall use the property locator form provided by the commission.

(D) The commission shall assess a fifty dollar (\$50) per home inspection fee to dealers who fail to submit the property locator within forty eight (48) hours as required by subsection (C) above. The fifty dollar (\$50) per home inspection fee shall be assessed when the director is aware the property locator form was not timely submitted.

Staff supports the Amendment as modified.

4 CSR 240-123.070 Monthly Report Requirement for Registered Modular Unit Dealers

The Amendment sets forth the inspection fee that may be charged if a dealer is late in filing monthly sales reports. The Amendment adds "failure to pay" any required fees as a means by which a dealer's registration could be suspended or revoked. There are no parameters for determining when the Commission "may" assess the \$50 per report inspection fee for each report that is filed 60 days after the due date. Staff recommends the language be further modified to make the \$50 per report inspection fee mandatory for each report that is filed 60 days after the due date.

With the proposed modification, the Amendment will read:

(3) The director of the Manufactured Housing and Modular Units Program may reject monthly sales reports that are incomplete, and require dealers to submit corrected reports. An inspection fee of fifty dollars (\$50) per report shall be assessed for each report that is submitted 60 days after the due date.

Staff supports this Amendment as modified.

4 CSR 240-123.095 Re-Inspection Fee

The Amendment clarifies when a re-inspection fee will be assessed and further clarifies that the re-inspection fee will be in the amount of \$200 to be paid by the manufacturer, dealer or installer responsible for making the correction.

Staff supports this Amendment.

4 CSR 240-125.010 Definitions

The Amendment clarifies that the various terms defined in this Chapter also apply to Chapters 120, 123 and 125. The Amendment clarifies the definition of “dealer” and adds a definition for “primary installer.”

Chapters 120, 123 and 125 reference the “director” of the Manufactured Housing and Modular Units Program (Program) yet this term is not defined by either statute or regulation except to say “director” means the Director of the Program; however, there is no Commission employee with the title of “Director-Manufactured Housing and Modular Units Program.” Therefore, Staff proposes the definition be modified as follows:

4 CSR 240-125.010 Definitions

*PURPOSE: This amendment clarifies [a] **two** terms and adds a new term to the definitions.*

(9) Director means the [director] **manager** of the Manufactured Housing and Modular Units Program of the Public Service Commission and persons working under his/her supervision.

Staff supports this Amendment as modified.

4 CSR 240-125.040 Manufactured Home Installer License

The Amendment adds “roof installation” to installer responsibilities and makes the “primary installer” (as that term is defined in 4 CSR 240-125.010) responsible for ensuring the site and foundation are correct before setting the home. The Amendment includes a requirement for primary installers who install new homes in Missouri from dealers, manufacturers and other entities outside the state to submit a property locator form prior to placing the home on the site and allows the commission to assess a \$50 inspection fee to primary installers who fail to submit the property locator before placing the home. Staff is aware of concerns related to release of customer proprietary information related to the property locator prior to finalizing delivery of the units. Therefore, Staff proposes to make it mandatory that the primary installer use the Commission-provided property locator form, which contains notice to the customer of the intended use of the information. Further, there are no parameters for determining when the Commission “may” assess the \$50 per home inspection fee to primary installers who fail to submit the property locator form. Staff recommends the language be further modified to make the \$50 per home inspection fee mandatory for installers who fail to submit the property locator form. Finally, the structure of this section of the rule is confusing. Staff recommends the Commission modify the structure of subsection (2)(A) as follows.

A copy of the draft property locator form, containing a “customer authorization to release” statement, is attached as Attachment A.

With the proposed changes, the Amendment will read:

(2) Installer Responsibilities and Limits.

(A) Work covered by an installer licensee shall include but not be limited to the following:

1. Installing manufactured home underfloor vapor retarder as required by the manufacturer's installation manual for proper ventilation and access;
2. Installing the support, tie-down, anchoring and the structural connections for manufactured homes;
3. Providing plumbing and electrical utility connections unless they are regulated by local jurisdictions;
4. Providing plumbing, electrical and mechanical cross-over, appliance and fixture connections of and to the manufactured home, as permitted by these requirements;
5. Assuring that all appliance exhaust ducts are roughed in and terminations are complete when required;
6. Closing and securing all access panels and covers on or under the manufactured home;
7. Assuring all doors and windows are adjusted, secured in place, and operational;
8. Assuring all shipped loose flue vents and chimneys are installed, secured in place and capped according to the manufacturer's installation manual;
9. Where the installer also installs the skirting, complying with skirting requirements to ensure proper ventilation;

(B) An installer licensee shall also be responsible for:

- 1[10].** Affixing the installation decal to each manufactured home;
- 2[11].** Completing all reporting and application forms required by the program;
- 3[12].** Leaving the manufacturer's installation manual at the installation site;
- 4[13].** Assuring that all portions of the manufactured home installation are in compliance with the manufacturer's installation manual; and
- 5[14].** Correcting all applicable nonconformances within thirty (30) days of receipt of a correction notice from the commission.

(3) Primary Installer Responsibilities in addition to (2)(A) and (B) above:

[15] (A) Each Primary Installer shall be responsible for ensuring the site and foundation are correct before setting the home on the site or foundation. If the home is not correctly set on the site or foundation, the primary installer shall be responsible for making corrections to the site or foundation, pursuant to 700.010(5) and (15) and 4 CSR 240-125.010(12) and (13).

[16.] (B) Primary Installers who install new homes in Missouri from dealers, manufacturers or other entities located in other states shall submit a property locator form provided by the commission prior to placing the home on the site. Failure to submit the property locator to the commission prior to placing the home on the site shall subject the installer to the fifty dollar (\$50) inspection fee.

Staff supports this Amendment as modified.

4 CSR 240-125.070 Installation Decals

The Amendment clarifies requirements for installation of decals, and includes “blocking,” “leveling” or “roof installation” as additional stages of set-up completion upon which the decal, or sign-off portion of the decal, must be affixed to the manufactured home. The Amendment also allows the director to assess a \$50 fee per report for each report that is filed 60 days after the due date. Primary installers who fail to affix the decal or decal sign-off portion after completion of the blocking and leveling of the home will be subject to a \$200 inspection fee, which shall be due 10 days after notification by the director.

There are no parameters to define when the director “may” assess a \$50 fee per report for each report that is filed 60 days after the due date. Staff recommends the language be further modified to make the \$50 inspection fee mandatory. Further, subsection I, outlining requirements and inspection fees related to primary installers attaching the installation decal and/or the sign-off portion of the decal, is misplaced under “Monthly Installation Decal Report.” Staff recommends this language be moved to section (1) Requirements for Installation Decals.

With these proposed modification, the Amendment will read:

(1) Requirements for Installation Decals.

(A) An installation decal issued by the commission shall be a permanent stick-on decal to be attached to the exterior of the home and shall also include a sign-off *[sticker]* **portion of the decal**, which must be attached next to the data plate inside the home with the initials and license number of each installer involved with the setup and installation of the home.

(B) The *[licensed manufactured home installer (installing manufactured homes)]* **primary installer** who is responsible for the initial installation and setup of the manufactured home which includes **site preparation and foundation** *[all or]* **and** any portion of the blocking, leveling or roof *[setup or]* installation *[(capping)]* is responsible for affixing the installation decal and the sign-off **portion of the decal** *[sticker]* to the manufactured home upon completion of *[the installation]* **blocking, leveling or roof installation.**

(E) Only licensed installers may be issued installation decals by the commission and decals shall be affixed only by licensed installers upon completion of the *[installation]* **blocking and leveling.**

(I) Primary Installers who fail to attach the installation decal and/or the signoff portion of the decal to the home immediately after the completion of the blocking and leveling of the home will be subject to a two hundred dollar (\$200) inspection fee. The fee shall be paid and submitted to the commission within 10 days after notification by the director.

(3) Monthly Installation Decal Report.

(B) The report *[must]* **shall** be filed on the commission's Installation Decal Report Form. The forms may be obtained from the Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102.

(C) The director may reject all monthly reports that are incomplete[.] **and shall assess an inspection fee of fifty dollars (\$50) per report for each report that is filed sixty (60) days after the due date.**

(D) Failure to submit a completed monthly report by the due date **or failure to pay any required fees** could result in suspension or revocation of the installer's license.

(E) A report *[must]* **shall** be filed for each month or part of the month for which the installer is licensed. If no decals are placed or installed in a given month, the installer *[must]* **shall** file the usual form no later than the tenth of the following month.

(F) The licensed installer or a representative of the licensed installer *[must]* **shall** sign the report.

[(I) Primary Installers who fail to attach the installation decal and/or the signoff portion of the decal to the home immediately after the completion of the blocking and leveling of the home will be subject to a two hundred dollar (\$200) inspection fee. The fee shall be paid and submitted to the commission within 10 days after notification by the director.]

Staff supports this Amendment.



Missouri Public Service Commission
MANUFACTURED HOUSING AND MODULAR UNITS PROGRAM
<http://www.psc.mo.gov/ManufacturedHousing>

PROPERTY LOCATOR

Dealer Name: _____ Phone: _____

City, State, Zip: _____

Date and Time of Delivery: _____

Date and time of delivery is when the home (first section of a multi-section) leaves the dealer sales lot or manufacturer's facility if shipped directly to consumer's site.

Primary Installer name and license number: _____

Consumer Name* _____ Phone* _____

Delivery Address, City, State, Zip* _____

Manufacturer Name: _____

Complete Serial Number of Home: _____

Date of Manufacture: _____ HUD/Seal Number(s): _____

Size of Home: _____ Installation (check): Pier ☐ Footing ☐ Runners ☐ Crawlspace ☐ Basement ☐

**Consumer information provided to the Missouri PSC for inspection purposes. All consumer information is highly confidential*

Name/Title: _____ Directions from dealer sales lot to installation site: _____

Fax Property Locator to 573-522-2509 or Email to mhreports@psc.mo.gov
Property Locator must be completed and faxed or emailed within 48 hours of delivery or dealer
will be subject to an inspection fee.