

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
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6 TRANSCRIPT OF PROCEEDINGS  
7 Rulemaking Hearing  
8 September 22, 2017  
9 Jefferson City, Missouri  
10 Volume I  
11  
12 In the Matter of the )  
13 Proposed Amendments of the )  
14 Missouri Public Service ) File No. MX-2016-0317  
15 Commission's Rules )  
16 Relating to Manufactured )  
17 Housing )  
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20 NANCY DIPPELL, Presiding,  
21 REGULATORY LAW JUDGE.  
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FOR: Staff of the Missouri Public  
11 Service Commission.

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1 P R O C E E D I N G S

2 (WHEREUPON, the rulemaking hearing  
3 began at 10:00 a.m.)

4 JUDGE DIPPELL: It's September 22nd,  
5 2017, and the Commission has set this time for a  
6 comment hearing in File No. MX-2016-0317, In the  
7 Matter of the Proposed Amendments of the Missouri  
8 Public Service Commission's Rules Relating to  
9 Manufactured Housing.

10 My name is Nancy Dippell and I'm the  
11 Regulatory Law Judge assigned to this matter. I  
12 wanted to welcome everybody here today. Thank you  
13 all for being here and participating in this. The  
14 procedure we're going to follow is that basically  
15 I'm going to start with Staff and let them give  
16 some comments. I think they have some additional  
17 changes to the comments that they filed. And then  
18 I'm going to open it up to those of you that want  
19 to give additional comments, and I would ask that  
20 if you're able, come down to this podium and speak  
21 into the microphone, or if you'd rather sit, you  
22 can sit at one of the tables, just so long as  
23 you're talking in the microphone.

24 So we are not only taking this down  
25 with the court reporter who's taking a transcript

1 so that we can put that in the record, but also it  
2 is being recorded and broadcast on our Internet,  
3 except that I did not start the camera. Sorry  
4 about that. For those of you wanting to listen in,  
5 I think I have now unmuted the microphone.

6 So I'll ask you to come to the front  
7 and either stand at the podium or sit at the front  
8 table and speak into a microphone. If you have  
9 specific comments about the rule amendments, if you  
10 can give me the section number, that would be  
11 appreciated. If you just have general comments  
12 about the rules as a whole, you can tell me that as  
13 well. That will just help me to summarize your  
14 comments later. If I know specific rule numbers,  
15 that's always helpful.

16 I may have some additional clarifying  
17 questions for you, so if you would stay at the  
18 microphone until you're excused. Afterwards, I may  
19 ask the Staff to come back up and give additional  
20 comments, and if you feel that you'd like to have  
21 another comment about something else, you can let  
22 me know that also.

23 Are there any questions before we  
24 start about the procedure or anything? Okay. Then  
25 I'd like to go ahead and start with the Staff. If

1 you could just state your name and your position  
2 and so forth and then begin with your comments.

3 MR. JOHNSON: Thank you, Judge. My  
4 name is Mark Johnson, and I'm here today on behalf  
5 of the Staff of the Public Service Commission. I  
6 have with me our Staff Director, Natelle Dietrich,  
7 and the manager of the Manufactured Housing and  
8 Modular Units Program, Justin Smith, also available  
9 for any questions anyone may have.

10 Before I get started, I do have a few  
11 I guess housekeeping issues to take care of.  
12 First, State Senator Sandy Crawford representing  
13 District 28 filed comments in the docket yesterday,  
14 I believe, expressing opposition to a couple of the  
15 rules to be amended. Unfortunately, it was  
16 submitted past the closing date for comments, but  
17 nonetheless I think the Commission should have an  
18 opportunity to review. So just to make sure, I  
19 would like to enter Senator Sanders -- or  
20 Crawford's, excuse me, comments into the record.

21 JUDGE DIPPELL: Thank you. I'll go  
22 ahead and mark that as Exhibit 1, just for  
23 identification purposes. I thank you for doing  
24 that.

25 MR. JOHNSON: Thank you, Judge. I'd

1 also like to point out that a couple of the  
2 comments that were entered in the case file  
3 recently were actually entered as public comments  
4 earlier. I think the individuals that submitted  
5 those were Daniel Farrell and Bryan Crump. Those  
6 comments were submitted timely. They were just  
7 entered as public comments as opposed to in the  
8 EFIS docket.

9 JUDGE DIPPELL: And the Commission's  
10 aware of that, so those are fine. We've got those.

11 MR. JOHNSON: Thank you. Otherwise,  
12 we're here today to provide comments on the  
13 proposed amendments to the manufactured housing and  
14 modular units rules. These amendments really came  
15 as a result of an audit of the Commission performed  
16 by the State Auditor's Office in 2015, and really  
17 the Commission earned pretty high marks. They  
18 received a rating of good, and that is out of four  
19 possible ratings, poor, fair, good or excellent.  
20 From my experience, you don't normally see a lot of  
21 excellents, so good is -- it's a very solid rating.

22 Unfortunately, though, the auditor  
23 did prepare findings on the Manufactured Housing  
24 and Modular Units Program, and in those findings  
25 the auditor stated that the program had not been

1 ensuring identified deficiencies during inspections  
2 were corrected in a timely manner, the program had  
3 failed to take action against entities that had  
4 filed late monthly reports, and the program was not  
5 charging a \$30 inspection fee on new homes.

6 In response to these findings, there  
7 was a review of the rules conducted and a workshop  
8 was held and there was an informal discussion and  
9 now formal discussion and a proposed amendments --  
10 proposed amendments to the rules were created.

11 Now, these proposed amendments not  
12 only kind of cleaned up some references to federal  
13 statutes and regulations but they also updated the  
14 title of the head of the program from director to  
15 manager and changed language to ensure that the  
16 assessment of certain fees were mandatory or was  
17 mandatory absent a waiver of the Commission.

18 Since the proposed rulemaking was  
19 initiated, Staff's had an opportunity to  
20 contemplate the concerns raised in the formal and  
21 informal proceedings of the rulemaking, and we have  
22 made substantial suggested modifications in our  
23 written comments. In making those suggestions,  
24 we've not only looked at the concerns raised by the  
25 industry, but we've also taken into account the

1 Governor's Executive Order 1703 that directed state  
2 agencies to review their rules and identify those  
3 that are ineffective, unnecessary or unduly  
4 burdensome.

5               Like I said, Staff did file pretty  
6 substantial recommended modifications, and I won't  
7 go over those in detail today, but I will hit on  
8 some of the main points. And really the largest  
9 change Staff has is we've -- we are suggesting, not  
10 necessarily stating a mandatory nature of these  
11 fees. Instead, in our initial suggestion we've  
12 suggested requiring consultation -- or requiring  
13 the manager of the program consult with the Staff  
14 Director to determine if a fee was necessary. Our  
15 intent was to have an internal procedure in  
16 addition to these rules kind of clarifying that.  
17 But after rethinking it, I believe maybe a little  
18 more detail in the rule is probably necessary. So  
19 we have suggested further language to add in every  
20 instance where we are requiring consultation with  
21 the director, those rules will now state something  
22 to the effect of the manager in consultation with  
23 the Commission Staff Director, after attempted  
24 contact with the entity at issue and documented  
25 consideration of potential mitigating factors,



1 including but not limited to the number of similar  
2 noncompliance issues, circumstances beyond the  
3 entity's control and responsiveness to Commission  
4 requirements, may assess the dealer, installer  
5 manufacturer or other entity a fee.

6           There's a little variation between  
7 each and every individual rule, but that language  
8 is found in every instance in substantially the  
9 same form. And the individual rules where that  
10 change is now being suggested are

11 4 CSR 240-120.065, 4 CSR 240-120.085, 4 CSR  
12 240-120.130, 4 CSR 240-123.065, CSR 240-123.070,  
13 4 CSR 240-123.095, and that is the entirety of the  
14 rules that we suggest that language be applied.

15           Additionally, as I said earlier,  
16 we've sought to implement the -- or further the  
17 Governor's Executive Order. So throughout these  
18 proposed amendments we've looked at them seeking to  
19 remove any other unnecessarily restrictive  
20 language. And in that review we've also proposed  
21 rescinding a few sections, and those sections are  
22 those in which they restate an already required  
23 federal standard, restate a statute, something to  
24 that effect.

25           We do have a few items to clean up on

1 that front, though. One, Staff recommended  
2 rescinding 4 CSR 240-121.030, and this rule  
3 pertains to seals for preowned manufactured homes.  
4 After we looked at it a little closer, we realized  
5 not every subsection of the rule was actually  
6 published for amendment, so we can't necessarily  
7 recommend rescission at this time.

8                   However, the nature of preowned  
9 manufactured homes in general, regulating them may  
10 be potentially unnecessary. So Staff would  
11 recommend that the Commission consider rescinding  
12 the entire chapter of 121, which pertains to  
13 preowned manufactured homes, in a future  
14 rulemaking.

15                   In addition, Staff has recommended  
16 rescinding 4 CSR 240-124.045. Staff still  
17 recommends rescinding that. However, in our  
18 initial suggestions pertaining to 4 CSR  
19 240-124.040, Staff recommended a modification to  
20 paragraph 5A3. Through multiple versions of our  
21 modifications and suggestions, we -- that was a  
22 mistake we did not catch. There actually is no  
23 paragraph 5A3 under 040. That paragraph is  
24 included in 045. And that suggested modification  
25 should be disregarded as it is covered in the

1 recommended rescission of 045.

2 JUDGE DIPPELL: So are there then  
3 changes to 040 that you're recommending?

4 MR. JOHNSON: There are, and if you  
5 take a look at our initial comments, our  
6 recommendation for 040 should have stopped after  
7 Staff supports this proposed section as originally  
8 published with the exception of the change from  
9 installation instructions to manufactured --  
10 manufacturer's installation manual. Oh, actually,  
11 pardon me. Sorry. It should stop after "as  
12 proposed".

13 Staff also has two more recommended  
14 modifications outside of its initial comments. The  
15 first proposed change is to the price of  
16 installation decals. The proposed rulemaking  
17 recommends increasing the price per decal from \$25  
18 to \$35, and the rule pertaining to these decals is  
19 4 CSR 240-125.070.

20 Staff initially recommended this  
21 price based off the amount charged in surrounding  
22 states. However, going back and analyzing the  
23 necessary amount of money to continue to administer  
24 this program, we feel like it would be more proper  
25 just simply to increase the price in the same

1 amount the actual decal prices increased to the  
2 Commission. So we are now recommending the decals  
3 to be increased to \$27 as opposed to 35.

4 I believe the final recommendation  
5 that we would like to make pertains to Rule  
6 4 CSR 240-120.065, and this recommended change,  
7 there's two of them. One to subsection 1C of the  
8 rule, and the change includes modifying sub C at  
9 the end of it, at the end of the paragraph to  
10 state, If the manager provides evidence to the  
11 Commission incident to an inspection under  
12 subsections 2B and 2C of this rule of setup  
13 deficiencies.

14 That is a change from setup -- excuse  
15 me. That's a change from if the manager provides  
16 evidence to the Commission incident to an  
17 inspection of setup deficiencies and initiates an  
18 action to discipline the registration within two  
19 years after the delivery date of a new manufactured  
20 home.

21 The reason for this change is Staff  
22 is also recommending a change to subsection 2C, and  
23 as proposed 2C states, within two years of the  
24 delivery date of the home to the consumer, the  
25 manager may conduct an inspection of the home for

1     setup -- or excuse me, for code violations upon the  
2     receipt of a formal written complaint by the  
3     consumer.

4                     Staff's recommending this paragraph  
5     be changed to say, within two years of the delivery  
6     date of the home to the consumer, if no initial  
7     inspection was performed pursuant to subsection 2B  
8     of this rule, the manager may conduct an inspection  
9     of the home for code violations upon the receipt of  
10    a formal written complaint by the consumer.

11                    Staff's recommending this change  
12    after discussions with industry representatives.  
13    The feeling is that this change better represent --  
14    better represents what this paragraph was intended  
15    to say and, in effect, provide a longer window if a  
16    home had no initial installation inspection.

17                    And that's the entirety of my  
18    comments today. Be happy to attempt to answer any  
19    questions you might have.

20                    JUDGE DIPPELL: Did you have another  
21    copy of your written comments? I was just going to  
22    give that and the copy of Senator Crawford's  
23    comments for the court reporter to have.

24                    MR. JOHNSON: I do. Do you need  
25    another copy of the Senator's comments?

1 JUDGE DIPPELL: No. You know, I can  
2 use this one. That's fine. And then I'll mark  
3 your additional written comments as Exhibit 2. Oh,  
4 I just meant the new ones. That's fine.

5 Okay. So I'll mark your new changes,  
6 written changes as Exhibit 2, then.

7 MR. JOHNSON: Thank you, Judge.

8 JUDGE DIPPELL: All right. I don't  
9 have any additional questions. Thank you.

10 MR. JOHNSON: Thank you.

11 JUDGE DIPPELL: Okay. Then I'll open  
12 it up for any other members of the public that  
13 would like to speak. If you could just give us  
14 your name and spell it for the court reporter.

15 MR. AUBUCHON: Good morning, Judge.

16 JUDGE DIPPELL: Good morning.

17 MR. AUBUCHON: My name is Rich  
18 Aubuchon. I'm an attorney here in Jefferson City.  
19 I have had the pleasure of working on many rules  
20 over the years. When I worked at the Office of  
21 Administration, we did quite a few over the years.

22 So I first would like to comment just  
23 on the process itself. My client is the Missouri  
24 Housing Manufacturers Association. I have been  
25 retained just recently on this matter in part due

1 to frustration by the association, if I may say so.  
 2 The association feels as though -- they're not here  
 3 to complain about process today. That's not the  
 4 issue. That said, there was a significant delay in  
 5 contact between the association that I think was  
 6 healed in large part yesterday with a very good  
 7 meeting with Staff.

8 But this association operated in many  
 9 ways like any other association where they work  
 10 directly with contact with Staff and I think were  
 11 hoping that there might have been more direct  
 12 contact from the Staff. That was acknowledged by  
 13 the Staff and very much appreciated by the Missouri  
 14 Housing -- Manufactured Housing Association in  
 15 large part because we don't treat all these  
 16 rulemakings like cases. A lot of times they're  
 17 much more informal. It's much more like a  
 18 discussion.

19 And I think that's what my client in  
 20 many ways expected, that there might have been a  
 21 more cordial back and forth rather than appearing  
 22 in court, which is more customary to something that  
 23 I'm doing, and it doesn't bother me at all, or to  
 24 use EFIS or to do E-filing. But for my client,  
 25 it's much more difficult. They're just not tuned

1 that way, and that's okay. That doesn't -- that  
2 doesn't mean they can't participate in this  
3 process, and I think that they're very happy to do  
4 so and glad that they're here.

5 But I just wanted to make that brief  
6 comment, that there was some disconnect for months.  
7 And part of it had to do with the Executive Order,  
8 in all fairness, that there was a time when nothing  
9 happened. This also was a continuation of a  
10 discussion I would say over the last five years  
11 where Staff had changed, and it's not the fault of  
12 Staff that are currently here, that the people  
13 moved on or that maybe discussions were not  
14 remembered or memorialized.

15 But I'd be remiss not to point out  
16 that my client felt as though they've had fruitful  
17 discussions in the past and then that didn't follow  
18 through in the future.

19 That said, we do want to point out  
20 that we're very glad to see some of the changes  
21 that have been proposed by Staff, particularly with  
22 the fees. And I see this all the time, where  
23 associations point out something like this of the  
24 nature of fees. Agencies struggle with fees versus  
25 fines. We have this constitutional mandate that



1 otherwise says we're not supposed to fine without  
2 some sort of due process.

3 And I think when you start admitting  
4 that you're supposed to have some sort of internal  
5 discussion about whether a fine is appropriate or  
6 not, that is a good thing. And if you start making  
7 from the prospect that this fee that is charged  
8 automatically, that's when you start seeing people  
9 stand up and say, what's going on here? Are we  
10 just being fatted so that we can extract more cash  
11 from an industry, or are we actually getting toward  
12 the bad actors? Are we actually using some mental  
13 process to go after the people who did the wrong?  
14 And that's that struggle between fee versus fine.

15 So I think what we see here is a very  
16 good development towards at least assessing those  
17 fees when they're most appropriate so that they're  
18 not automatic. That was a major concern for the  
19 Missouri manufactured housing industry.

20 I will point out just briefly, and I  
21 do appreciate the comments that were made in regard  
22 to Chapter 121, which is the preowned manufacturing  
23 housing. I won't go into detail because it's not  
24 something that could be changed at this point in  
25 time, but a further review of that entire chapter I

1 think is necessary by the Commission in the future.

2 And while I hesitate to say that a  
3 complete deletion at this point in time is  
4 necessary, I think that Staff is pointing out  
5 correctly and the Missouri Manufactured Housing  
6 Association would like to also point out that that  
7 may be superfluous, a discussion for another day.

8 But I think to get to the meat of  
9 what I'd like to point out, we also have other  
10 members of the association with us here today who  
11 could speak more appropriately to what is going on  
12 in their industry, can speak from experience rather  
13 than just as a lawyer representing the association.

14 But there are two other issues that  
15 I'd like to point out, Judge, both of which -- I  
16 should say one of which we've had extensive  
17 discussion with Staff, and the other, not at all.

18 First was in regard to this one  
19 versus two-year period. The industry that is the  
20 Missouri Manufactured Housing Association sees this  
21 as a perspective of having a hard deadline. One  
22 year would be best. And the reason they say that I  
23 think that you can glean from some of the testimony  
24 that might be offered further on from some of the  
25 members of the association. But the fact is that

1 being on the hook for two years may be too long,  
2 and a hard deadline of one year they believe is  
3 most appropriate.

4                   Staff discussions have been good, and  
5 I believe that their change is a change in the  
6 right direction that they proposed. The  
7 association, however, would like to see a hard  
8 one-year deadline for warranty, however. Not a  
9 two-year but a one-year. Not ending up with some  
10 convoluted exception, but rather one simple year  
11 for which individuals who purchase a home, have it  
12 delivered and installed, can have that issue  
13 remedied. That I think is an issue that many  
14 people can get behind, knowing that there is a hard  
15 date for that warranty and for that inspection  
16 period.

17                   One of the other things that recently  
18 came to light, and part of the discussion that  
19 flowed from yesterday's meeting, again which was  
20 very good with Staff, was a matter of this timeline  
21 for which an inspection should be done.

22                   The industry's moving in the  
23 direction of accelerating their reporting, and  
24 certainly the department here at the Public Service  
25 Commission is doing the same, division, with the

1 program hoping to advance towards a more  
2 technologically feasible way of doing its  
3 reporting.

4 We would like to also see that  
5 changed from a one-year inspection period to be  
6 accelerated to resolve the issue as soon as  
7 possible that might be present at that piece of  
8 property to that installation within 120 days of  
9 its delivery and setup, I think is a good approach,  
10 so that at that point in time the issue can be  
11 remedied as fast as possible.

12 If that were to be delayed out to  
13 another year, up to a year, certainly the ground  
14 can change, everything can change around it,  
15 modifications can be made by the individual that  
16 modified the otherwise proper installation. And  
17 those things, the person's living there. They're  
18 changing it. They're constantly changing it, and  
19 it doesn't represent the installation at the time  
20 that the dealer or the installer actually put the  
21 product in place.

22 So we think that it would be a good  
23 change for the future should that installation  
24 requirement -- and, Judge, if I could, it's on  
25 pages 1147 in 4 CSR 240-120.065(2), (2)(b), and on

1 pages 1170, 4 CSR 240-123.065(2)(b). Those  
2 requirements are set out so that there can be up to  
3 a year for the initial setup. We think that should  
4 be 120 days for the reason that I pointed out and I  
5 believe that may be expanded upon by our folks from  
6 the industry as well.

7 And I didn't make the reference  
8 earlier, your Honor, as to the one versus two year.  
9 That's also found in the same pages that I  
10 referenced, 1147, 1170, and those are in 120.065  
11 and 123.065. That's the one versus two-year issue.

12 But the 120-day inspection, I  
13 believe, and from the industry's perspective would  
14 be a very good change for the future as well. With  
15 that, I'll end my comments if there's any  
16 questions.

17 JUDGE DIPPELL: I don't have any  
18 questions. Thank you very much. Thank you for  
19 your comments.

20 MR. AUBUCHON: My pleasure.

21 JUDGE DIPPELL: Would anyone else  
22 like to give comments?

23 MR. CRUMP: Hello. My name is Bryan  
24 Crump. I own Cedar Creek Homes, so I'm a retailer.  
25 I also serve as president for the Manufactured

1     Housing Association.

2                     Now, I'm going to be honest, I'm not  
3     going to quote a single one of your-all's numbers  
4     because that gives me a migraine. So I'm just  
5     going to keep it down to earth from my perspective  
6     as a dealer and also from the words of our  
7     association.

8                     I do take the time to visit with a  
9     lot of our retailers. To be honest, with this, we  
10    only had about two weeks to kind of get ready for  
11    this. We didn't know it was quite coming this  
12    quick. So we scurried. We tried to get as much  
13    input as we could. Honestly, everybody's the same  
14    way we are with this.

15                    I believe that our attorney did a  
16    well job of explaining what we think and what we're  
17    wanting to see. Some of the things that I did want  
18    to hit on from my perspective as a dealer. One of  
19    the things was a \$30 inspection fee. That was  
20    something that expired and went away. It was then  
21    reimposed.

22                    And I think that that's skewed just a  
23    little bit -- and I know I'm talking about  
24    something that may be old news because it's already  
25    reinstated. But when you add that and with our

1 current sales volume of 1,300 to 1,500 a year, the  
2 fiscal impact of that alone is 39,000 to \$45,000 a  
3 year to the consumer, keep in mind. We pass this  
4 along. This is on our invoices of our houses. The  
5 consumer ultimately pays that.

6 Now we have fiscal impacts that's  
7 going to be coming, and I don't agree with some of  
8 the numbers that were stated, honestly. I think  
9 that they were skewed in certain different  
10 directions. I see the impact as being 30 to  
11 \$40,000 or more of what's going to happen.

12 The fees that they're showing are the  
13 direct fees that their -- or that this program is  
14 going to receive. They're not looking on our end  
15 of the spectrum. They're not looking at the extra  
16 time and effort we have to do to comply with  
17 everything that they want from us, the amount of  
18 paperwork that's asked of us.

19 Currently, right now, they get almost  
20 four times the paperwork what they should even be  
21 getting, in my opinion, but we not only give  
22 them -- and I know that honestly the Commissioners,  
23 I don't know how much they know about this end of  
24 it, but we have to supply them with the property  
25 locator. Then at the end of the month we have to

1 send them a monthly report that then verifies all  
2 of our daily reports. Then our installers have to  
3 send them a report to verify what we did on our  
4 monthly report to verify what we did on our daily  
5 report. Then the manufacturers have to send them a  
6 report to verify all the other reports.

7 Good Lord. Come on. I mean, you  
8 know, we're past sending pigeons to do our work,  
9 and there's no reason for this much work. So we've  
10 asked to simplify that process. It's fallen on  
11 deaf ears. I've asked repeatedly, our association  
12 has asked repeatedly, and we don't seem to be  
13 getting anywhere with that.

14 The other part of it is that when it  
15 comes to this what we're asking for the one-year  
16 warranty and the 120-day warranty -- or 120 days  
17 for their inspections, I'm sorry, the reason that  
18 we're asking for this is -- and we've been asking  
19 for this for quite some time. The one year part of  
20 this, us asking at least, is no new news to this  
21 program.

22 The reason that we're asking for it  
23 and I find funny is, we're required when we set  
24 these homes up to use a state-licensed installer.  
25 You-all are the ones that license them. They're



1 your people that we hire. When we went to that, I  
2 had to start paying them more money. The consumer  
3 had to start paying them more money. Most of the  
4 installers told us at the time they were going to  
5 raise their prices 3 to \$500 per unit when we made  
6 this change maybe ten years ago. The consumers  
7 paid that.

8 Now moving forward, we're -- again,  
9 we're using your trained installers. They go  
10 through their courses. Every three years I believe  
11 they have to go through a continuing education  
12 course. They have to go through, to get their  
13 license, go through this Commission to get it done.

14 So I hire them and I use them, but  
15 for some reason there's doubt in their abilities to  
16 set a home even though you-all are licensing them.  
17 That to me I don't understand. And the way it is  
18 written and the way that this program believes is  
19 even though I hire their installer that they  
20 trained, if he fails for some reason, I am somehow  
21 liable. But I hired your person. Now, how does  
22 that work?

23 And so there's a lot of times we're  
24 chasing our tail between paperwork and dealing with  
25 stuff that I don't feel should be the dealer's

1 responsibility, but we're hiding behind words is  
2 what we're doing when it comes to that.

3           The thing about the one-year warranty  
4 is that there -- I don't know of anything else out  
5 there that a longer warranty is imposed on.  
6 Stick-built housing, and I'm willing to bet there's  
7 plenty of people in this building that live in a  
8 home that has never even been inspected, 3, 4,  
9 \$500,000 stick-built homes that have never been  
10 inspected because Missouri, majority of Missouri  
11 does not have an inspection process for  
12 stick-built.

13           I guarantee it. I used to be a part  
14 of that industry before I got into th is. I know  
15 of builders out there that are using economy grade  
16 lumber that's not fit to build a doghouse, but  
17 there's probably some people in this building  
18 that's living in economy grade.

19           Our manufacturers have to live up to  
20 a HUD inspection at the factory that they have to  
21 use No. 2 or greater lumber, meet all these  
22 different codes, then we have to meet codes to set  
23 houses and do everything, but for some reason we  
24 fall under a two-year warranty. That makes no  
25 sense.

1                   We have a car industry that's so  
2   huge, unreal, and they can put out a product and  
3   the State of Missouri even says, well, because it's  
4   new we don't even have to inspect it for five  
5   years. You can go out there and drive the lug nuts  
6   off your car and kill a family of six, but if you  
7   do it within five years, it never had to be  
8   inspected.

9                   But yet my house, because of the  
10   industry that we're in and the stereotype,  
11   unfortunately, I feel, that we fall under from  
12   years gone by -- most likely some of the  
13   Commissioners here have dealt with disciplining bad  
14   apples, but those bad apples, they're not part of  
15   our group. They're not what we represent. And  
16   that's your-all's job to discipline those that  
17   don't do it right.

18                  But the bulk of our group, we do it  
19   right. Most of us are owners, operators. I wear  
20   every hat in the building. I literally wear every  
21   one of them. I'll go from cleaning a toilet to  
22   going out sometimes doing service on one of my own  
23   homes because we're too busy for my crew to get to  
24   it and I go do it. I wear every hat. So I take  
25   every little dollar amount that they want to impose

1 on us personally because it's my money and I work  
2 hard for it.

3 One of the things, too, that sets us  
4 apart from other states is that this particular  
5 program has five inspectors. That's literally  
6 about five times what all the surrounding states  
7 have. I mean, and I know that most people don't  
8 even know that. We do.

9 I sell into other states. Most of  
10 the other states are using a fire marshal to handle  
11 it on consumer complaint driven situations.  
12 They're not doing pre-inspections. They're not  
13 doing all the stuff we're doing to get things  
14 corrected at the very beginning.

15 And so with us having five inspectors  
16 that are running around the state and also giving  
17 them a 120-day window to go do their inspections  
18 and handle them, we're providing them with property  
19 locaters, we're giving them our monthly reports, I  
20 mean, we're giving them everything except a blood  
21 sample every month, they have the ability to do  
22 what they need to do, make sure that we are  
23 complying with the rules and regulations. There is  
24 no reason we should have to go farther than a year.

25 The other part of is, and our

1 attorney did bring this up, that I have no control  
2 over the consumer after they move into their home.  
3 Conditions change.

4 To be perfectly honest, an inspector  
5 showed up at one of mine yesterday conveniently  
6 while I was here doing my work, and there's  
7 coaching that goes on with these inspectors. The  
8 customer ran them off, would not allow them to do  
9 an inspection. They were very aggravated by the  
10 fact he didn't even bother to call. He just showed  
11 up at nine o'clock in the morning, knocked on her  
12 door and said, I'm going to climb underneath your  
13 house.

14 It made her mad. She was in a bad  
15 mood. She worked the night shift all night long,  
16 come home, wanted to relax, and now she's got a guy  
17 wants to crawl around her house. And her biggest  
18 thing was he didn't even bother to call. He just  
19 showed up.

20 But after I set the home, monsoons  
21 pounded. You know, we had severe rains this past  
22 spring. We set the house in the heart of all that.  
23 The rains continued and continued. Well, in the  
24 middle of those rains he decided to show up and do  
25 his inspection. And when you dig a foundation,

1     there's what's called an over-dig period. It's  
2     three foot wider than the rest of it so the workers  
3     can get down in there and work and build their  
4     walls and do what they've got to do. Called an  
5     over-dig.

6                     Over-digs typically do compact more.  
7     You can't compact the earth as much as what Mother  
8     Nature can do herself. So she's naturally  
9     compacting it later after we're long gone. But  
10    when we get there, we initially review the site, we  
11    review everything, make sure -- I even go and do a  
12    pre-site inspection myself to look at these  
13    properties to make sure they're conducive for us to  
14    set a home.

15                    After these rains hit, the dirt  
16    settled. When the dirt settled, it leveled out,  
17    and plus she hadn't had time to put gutters on her  
18    house yet because it had been raining so much and  
19    it was muddy. So needless to say, water got inside  
20    of her foundation. She was fully aware of it at  
21    the time of the inspection. Her and I had already  
22    spoke.

23                    But when he did the inspection, he  
24    informed her at that point, and once again  
25    yesterday, that that was all my responsibility.

1 Now, she knew different, and we've got paperwork to  
2 back it up. And honestly, I'm being kind of  
3 bullheaded with them because I'm very upset about  
4 the situation, and so I'm not complying the way  
5 they want me to on this particular one because I  
6 knew it was going to come up and I wanted to use  
7 it.

8 And so that's the kind of  
9 responsibilities they're throwing on us long after  
10 we've set a house and been gone. This house was  
11 set early in the spring, and here we are, they're  
12 still trying hold me accountable for dirt. You  
13 know, people add flower beds. They build decks.  
14 They build slabs. You name it, they do them to  
15 their houses. You have the right. You own your  
16 home. You can do what you want to to your house.

17 But if you do something a year later  
18 that somehow affects the home and then they come  
19 out and do an inspection 16, 18, 24 months later,  
20 you've done something that's caused it, they will  
21 coach the customer and let them know that falls  
22 back on the dealer.

23 And I'll gladly have a letter from  
24 her stating that information. I had a long talk  
25 with Shelly last night about this. And that's the

1 kind of stuff that is aggravating to our industry.  
 2 It doesn't happen all the time. Don't get me  
 3 wrong. This is not a daily occurrence. It happens  
 4 just enough to frustrate us.

5 And I'm all for the inspections. I  
 6 was behind the whole, you know, or backed it I  
 7 should say, I backed the whole idea of licensing  
 8 our installers. I back a lot of what our program  
 9 stands for because I understand if we don't have  
 10 this, people are going to get treated bad and they  
 11 don't need to.

12 To be perfectly honest, there's a few  
 13 of the bad apples out there that you-all have dealt  
 14 with that I prefer wasn't part of our industry. I  
 15 don't control that. All I can do is do the best I  
 16 can do.

17 But I've got fellow people that feel  
 18 like they have been picked on. I've got people  
 19 that -- I get phone calls at my office, because I  
 20 am president, venting to me about the way things  
 21 have been handled. I think overall the program  
 22 does a good job. I do. You just get those rare  
 23 instances that ruffles our feathers.

24 But by believing it as a two-year  
 25 warranty, it opens it up so much more. It doesn't



1 need to. One year is plenty, and that's more than  
2 what our stick-built house industry is required.  
3 Most of them don't have anything at all.

4 One of the things also is that I'd  
5 like to hit on that is kind of skewed numbers that  
6 you-all have received is on the consumer complaint  
7 side of things. We talked about this yesterday  
8 actually in our meeting, and I do agree, I feel our  
9 meeting yesterday was very good. We got a lot done  
10 there, I felt like. Obviously found out this  
11 morning we didn't get as far as I wanted us to.

12 In 2013, based on -- these are  
13 your-all's numbers. In 2013 there was 44 consumer  
14 complaints. I do believe that was when the last  
15 round of the regulations, our rules were changed  
16 and implemented. So 44 consumer complaints in  
17 2013. But on your-all's numbers, the way that they  
18 divide it out, and I don't understand because they  
19 do not correlate, they show how many inspections  
20 they did versus how many consumer complaints and  
21 then figured up a fractional amount.

22 That makes no sense to me. The  
23 consumer complaints needs to be based on how many  
24 units did we ship that year, how many units are  
25 sitting out here, not how many they inspected

1 because these may be houses they didn't even  
2 inspect. So how do they correlate?

3 But the biggest thing about this is  
4 for me is that we went from 44 consumer complaints,  
5 which keep in mind then that's still even a low  
6 number when you're talking about a thousand plus  
7 homes being put in in the state of Missouri.  
8 44 complaints? That's pretty good because a  
9 complaint can be literally, hey, my house kind of  
10 got cold yesterday when it dropped down to zero,  
11 and they get to run out and do an inspection.

12 Swear to you, it's a very simple process. They  
13 fill it out, and all they've got to do is complain  
14 about the simplest thing, that triggers an  
15 inspection. So we don't even know what these  
16 complaints were and how many of them were legit.

17 Let's say they were all legit. 44  
18 out of a thousand plus homes, that's very small.  
19 But in 2016 it's not reported, so I'm going to  
20 report it for you, that in 2016, out of an  
21 approximate 1,300 units, 15 consumer complaints.  
22 We are now approaching less than 1 percent of the  
23 houses out there sold have a triggered complaint.  
24 Keep in mind, anything can trigger a complaint. It  
25 can be anything. Literally one shingle blows up in

1 the air in a 90 mile an hour wind, we have to go  
2 through a complaint and an inspection process.

3 You know, and so it really -- in  
4 closing, I do think that one of the other things I  
5 need to hit on is that, you know, Governor  
6 Greitens, you know -- and I voted for you, buddy --  
7 one of his biggest things was no negative impacts  
8 on small business.

9 I am small business, and every person  
10 that we represent is small business. A lot us were  
11 born in this. We no longer have blood. We have  
12 formaldehyde in our veins. We are true to this, we  
13 believe in it, and the impacts from these rules and  
14 regulations that are passed down are having  
15 negative impacts on our industry and are affecting  
16 the quantity of sales that we will have.

17 That's all I've got.

18 JUDGE DIPPELL: Thank you very much,  
19 Mr. Crump. Is there anyone else that would like to  
20 speak?

21 MR. SMITH: Thank you, Judge. My  
22 name is Jamie Smith, and I also represent the  
23 Missouri Manufactured Housing Association,  
24 currently serving as vice president. I have served  
25 in Bryan's role as president in the past.

1 Likewise, I'm also a dealer. I am general manager  
2 at Clayton Homes in Lebanon, Missouri. And so a  
3 lot of the things we're talking about do affect me  
4 and our consumer side on a daily basis.

5 I agree with everything Mr. Crump  
6 said as well as our counsel, so I'll be very brief  
7 with everything, honestly, but a couple things I  
8 want to touch on. In regards to the fees we're  
9 talking about, obviously as an industry nobody's  
10 ever excited about potentially increased fees, but  
11 it's something we'll have to monitor.

12 Some areas they can probably look at  
13 being stricter on, to be honest. Like the fees for  
14 using unlicensed installers, I think that fee could  
15 be higher than what they're proposing, to be honest  
16 with you.

17 We don't want an unregulated  
18 industry. That's not what our goal is, but we do  
19 want a fairly regulated industry. And what we  
20 don't want in regards to the fees is for it to end  
21 up having an adverse effect on the consumer at the  
22 end. Any time you do something that's going to  
23 increase the cost of doing business can potentially  
24 have an adverse effect on the consumer. So that's  
25 something we're going to have to obviously take a

1 wait and see approach and see how it shakes out.

2 Our biggest concern is in regards to  
3 the time frame for the inspections. Again, we're  
4 proposing the initial inspection be done within 120  
5 days. Like Mr. Crump stated, that's still far  
6 excessive over other types of housing. Again, most  
7 stick-built housing is not regulated whatsoever.

8 There's three parties within the  
9 process really. You have the dealer, installer and  
10 manufacturer. Our responsibilities as dealer is to  
11 arrange for a proper initial setup. To get out  
12 there as quickly as possible I think is going to be  
13 beneficial for us in regards that if there is  
14 something there, it's going to give a true window.  
15 There's no way we can determine if something was  
16 properly initially set up 23 months down the road  
17 or even eight or nine months down the road.

18 There's many things can affect the  
19 setup process. The consumers are homeowners. We  
20 cannot stop them from planting flower beds, digging  
21 out ditches, installing driveways, all sorts of  
22 numerous things that could affect something that  
23 was initially properly set up.

24 Likewise, if there is a true problem  
25 with the installation of the home, it will allow us

1 to attack that or the manufacturer to attack that  
2 issue and get it resolved as quickly as possible,  
3 versus 9, 10, 12 months down the road. That's why  
4 we see the need for a more prompt initial  
5 inspection.

6 Where the year comes into play is,  
7 it's honestly consistent with everything else. The  
8 Missouri Manufactured -- sorry. The Missouri  
9 Public Service Commission's role in this whole  
10 thing is to oversee the mandates for the federal  
11 HUD program in regards to manufactured housing.  
12 That statute has a year, has a year for  
13 manufactured warranty. So it's consistent with  
14 that.

15 It's still above that and beyond most  
16 of our states that we're talking about, our  
17 surrounding states. Again, Arkansas, which has a  
18 far greater number of dealers and thus number of  
19 homes sold, there's one installer for the state.  
20 They do nothing but inspect consumer complaints for  
21 a year. Other states, Kansas, Iowa, likely the  
22 same thing. And again, it's just consumer  
23 complaint driven is all, not the routine  
24 inspections that we're talking about.

25 so the one year is consistent with

1 the surrounding states, it's consistent with the  
2 actual federal program. Two years, there's just --  
3 there's no significance for it whatsoever honestly.  
4 Doesn't correlate to anything out there. It is  
5 excessive. It's not a true measure if the home was  
6 properly set up.

7 And beyond that, it goes past the  
8 manufacturer's warranty. HUD regulates -- all  
9 manufacturers, any property we sell has a one-year  
10 manufacturer's warranty. So two years does go  
11 beyond that period as well. So it's just not  
12 consistent with everything.

13 And again, we want to be fairly  
14 regulated. We don't seek for a non-regulated  
15 industry, but it does need to be consistent. And I  
16 think the one year mark is fair and consistent with  
17 everything. And that's really all the comments I  
18 have.

19 JUDGE DIPPELL: Thank you, Mr. Smith.

20 MR. HAGAR: I'm Tom Hagar. I'm the  
21 Executive Director of the Missouri Manufactured  
22 Housing Association.

23 JUDGE DIPPELL: Could you spell your  
24 last name, Mr. Hagar?

25 MR. HAGAR: H-a-g-a-r.

1 JUDGE DIPPELL: Go ahead.

2 MR. HAGAR: The position that we're  
3 in today as an industry when we look at consumer  
4 complaints, that was the benchmark in the previous  
5 30 years of the program.

6 Fortunately or unfortunately, I've  
7 had the opportunity to be involved with the  
8 industry since its inception back in 1974 when it  
9 started here with the Public Service Commission,  
10 and at times we had one inspector for the state.  
11 It was -- in a lot of cases it was strictly based  
12 on consumer complaints, and we had a lot of them.

13 But then through education, through  
14 development, in 2000 when the improvement act was  
15 passed by the United States Congress, it was --  
16 installation was made part of the program. Prior  
17 to that, it wasn't.

18 But after then, in 2005 is when it  
19 got implemented here in the state of Missouri, and  
20 since that time it has steadily gone down as far as  
21 the number of actual consumer complaints. And that  
22 is, just to clarify, where the individual consumer  
23 files a written complaint with the Public Service  
24 Commission for whatever reason, and then it's up to  
25 the parties involved to determine exactly what's



1 wrong and how to remedy it.

2                   Where we are now, and we've seen this  
3 continual decline in those -- in those inspections  
4 to 15 where we're at today, and for the last five  
5 years we're looking at anywhere from 5 percent or  
6 less of the total sales in the state.

7                   I think the bottom line is, and I  
8 believe -- I spent almost 30 years as a retailer  
9 here in Missouri. I've been with the association  
10 now for ten years and served on its board for close  
11 to 20 years. It's -- we've got some really good  
12 people, and to have a -- add more legitimacy I  
13 think to the program and so forth is where the one  
14 year comes into play.

15                   All warranties and so forth, if I  
16 build a house in most of the counties here, as  
17 Bryan mentioned, here in the state of Missouri, I  
18 don't have to have any code at all. I don't have  
19 to have a permit. But in our industry we do, and  
20 we all understand that and we support that. It's  
21 part of the HUD code and it adds legitimacy to our  
22 product.

23                   We don't want to do away with that,  
24 but just unilaterally -- and then part of this is,  
25 is that the original agreement, which was with

1 different people that we have today, was not a  
2 two-year. It was a matter -- we were going to try  
3 for going from five years at the time.

4 At one point it was unlimited, which  
5 there has been reference yesterday in our meeting  
6 to HUD code subpart I, which is eminent safety  
7 hazards that may exist with the manufacturer.  
8 There's no time limit on that. The consumer is  
9 protected in that regard.

10 But in our situation where we're  
11 looking at a one-year warranty on installation of  
12 the home is where you get all the other variables  
13 that come into play, what the consumer does, what  
14 the contract -- other contractors and so forth do  
15 that the consumer has hired can potentially create  
16 problems.

17 So I think everything else has pretty  
18 much been covered, and I appreciate the opportunity  
19 for us to speak here today.

20 JUDGE DIPPELL: Thank you, sir.  
21 Thank you for that history. Is there anyone else  
22 that wanted to give comments? Is there anything  
23 from Public Counsel or --

24 MR. SMITH: No, I don't think so.  
25 Thank you, though.

1 JUDGE DIPPELL: Thank you. Well,  
2 Mr. Johnson, did you want to --

3 MR. JOHNSON: If I may, could I  
4 inquire just a clarifying question to the  
5 association?

6 JUDGE DIPPELL: Sure.

7 MR. JOHNSON: When discussing the  
8 120-day timeframe, is that -- are you proposing  
9 from installation or delivery of the home?

10 MR. CRUMP: For clarification, right  
11 now the only information that they get from us is a  
12 delivery date. That's your-all's rule. We put on  
13 the date -- which I've never understood that, but I  
14 guess that's the only way it could really be truly  
15 tracked anyway.

16 When the first part of the unit  
17 leaves our facility is considered the delivery  
18 date, and that's what we put on our delivery part  
19 to you. That's the only information you have,  
20 unless you physically go there and do an inspection  
21 and then you can look on the decal to see an  
22 installation date.

23 But usually they're real close to one  
24 another. You're talking days. I mean, most of the  
25 time we actually even set the house the same day

1 it's delivered. So they're very close even if  
2 they're not.

3 MR. JOHNSON: Thank you.

4 JUDGE DIPPELL: Is that all?

5 MR. JOHNSON: Nothing further. Thank  
6 you, Judge.

7 JUDGE DIPPELL: So you didn't have  
8 any additional comments that you need to make?  
9 Okay, then. Again, I want to thank everybody for  
10 coming and participating. I know that, trust us,  
11 even from our side the rulemaking process is very  
12 frustrating. And while this particular proceeding  
13 seems very formal, it's all because it's mandated  
14 to us by statutes and so forth.

15 We're required to have a hearing like  
16 this and required to give notice in the Missouri  
17 Register and so forth. So therein lies some of the  
18 inflexibility of abilities to like extend the  
19 hearing and so forth. So we appreciate your  
20 patience. I definitely appreciate all of your  
21 comments today. Hopefully we can make these better  
22 rules that work better for everyone.

23 So with that, we can adjourn and go  
24 off the record.

25

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C E R T I F I C A T E

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STATE OF MISSOURI )  
 ) ss.

4

COUNTY OF COLE )

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I, Kellene K. Feddersen, Certified

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