

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION

3  
4 PROPOSED RULE HEARING

5 November 17, 2000  
6 Jefferson City, Missouri  
7 Volume 1

8 In the Matter of a Proposed )  
New Rule 4 CSR 240-121.185 - )  
9 Inspection Fee. ) Case No. MX-2000-437  
10 In the Matter of a Proposed )  
New Rule 4 CSR 240-120.135 - ) Case No. MX-2000-438  
11 Inspection Fee. )  
12 In the Matter of a Proposed )  
New Rule 4 CSR 240-123.075 - ) Case No. MX-2000-439  
13 Inspection Fee. )

14

15

16 BEFORE: KEITH THORNBURG, Presiding,  
REGULATORY LAW JUDGE.  
17 CONNIE MURRAY,  
18 ROBERT G. SCHEMENAUER,  
KELVIN SIMMONS,  
19 M. DIANNE DRAINER, Vice-Chair,  
COMMISSIONERS.

20

21

22 REPORTED BY:

23

24 PATRICIA A. STEWART, RMR, RPR, CSR, CCR  
ASSOCIATED COURT REPORTERS, INC.  
714 West High Street  
Post Office Box 1308  
JEFFERSON CITY, MISSOURI 65102  
25 (573) 636-7551

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

2 (Written Entries of Appearance filed.)

3 JUDGE THORNBURG: Good morning. My name is  
4 Keith Thornburg. We are convening hearings today on  
5 November 17th, 2000 for hearings on three proposed rules  
6 affecting the manufactured housing and modular unit  
7 industries.

8 The notices for these hearings were published  
9 in the October 16, 2000 issue of the Missouri Register.

10 We are meeting in the matter of the proposed  
11 Rule 4 CSR 240-121.185, inspection fee for re-sold  
12 manufactured homes, Case No. MX-2000-437.

13 And the second rule is in the matter of  
14 proposed Rule 4 CSR 240-120.135, new manufactured home  
15 inspection fee, Case No. MX-2000-438.

16 And the third rule is in the matter of the  
17 proposed Rule 4 CSR 240-123.075, modular unit inspection  
18 fee, Case No. MX-2000-439.

19 The Commission has previously provided for the  
20 submission of written comments regarding these proposed  
21 rules pursuant to the notices of proposed rulemaking.

22 Today's hearing is a further opportunity to  
23 provide public comments. The hearing is going to be  
24 transcribed. The Commission, including those  
25 Commissioners who are unable to attend today's hearings,

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1 will consider the full rulemaking record, including the  
2 written comments and the transcript of today's hearing,  
3 before they act on these proposed rules.

4           Anyone wishing to testify, including the Staff  
5 and including attorneys, who intends to appear in a  
6 representative capacity, should sign in.

7           There is a sign-in sheet for each of the three  
8 rules under consideration. Even if your comments will be  
9 directed to two or all three of the rules collectively, I  
10 ask that you sign in for each sheet.

11           The sign-in sheets have columns for you to  
12 print your name and to indicate whether you are appearing  
13 to support or oppose the rules under consideration.

14           If you are not certain you will offer comments  
15 today but might do so, or if you anticipate that you might  
16 desire to appear and respond to questions that the  
17 Commission may have, I would like you to sign in also.

18           The sign-in sheets also provide a column for  
19 you to indicate whether you're appearing as an attorney or  
20 as a witness.

21           Attorneys appearing in a representative  
22 capacity will not be sworn but will be required to conform  
23 to the Missouri Supreme Court rules that are applicable to  
24 your appearance and participation in this hearings.

25           Attorneys appearing in a representative

1 capacity should also complete a written entry-of-  
2 appearance form. That way the court reporter will be able  
3 to provide you with a transcript if you choose to order  
4 one.

5               Witnesses will be sworn.

6               There will be a single transcript for today's  
7 hearings. I anticipate we'll just have one volume. You  
8 may intend that your comments apply to each of the three  
9 rules; and if that's your intention, you may indicate that  
10 when you testify.

11              You may also direct particular comments to a  
12 specific rule. If your position is similar to comments  
13 that others have presented, you may indicate that you  
14 share the same position.

15              Witnesses and attorneys may offer comments in  
16 support or in opposition to the rules, as well as neutral  
17 comments and suggestions.

18              Before a witness or an attorney is excused,  
19 there may be questions for you from the Commission, so I  
20 would ask that you wait a minute to see if we have any  
21 questions.

22              The purpose of the hearing is to provide an  
23 opportunity for public comment regarding the proposed  
24 rules. This is not a contested case proceeding. The only  
25 questioning of witnesses will be by the Commissioners or

1 by me.

2 At this time I'd like to take entries of  
3 appearance on the record for attorneys that are here  
4 today.

5 I'll start with Staff.

6 MR. BATES: Good morning, Your Honor.

7 Bruce Harrison Bates representing the Staff of  
8 the Missouri Public Commission. My address is Post Office  
9 Box 360, Jefferson City, Missouri, 65102-0360.

10 JUDGE THORNBURG: Mr. Bates, did you bring any  
11 witnesses with you today that will be testifying or  
12 offering comments or available for questions?

13 MR. BATES: Yes, Your Honor. Mr. Steven  
14 Jungmeyer is here, and he will be available for any  
15 questions that the Commission or that you had might have.

16 JUDGE THORNBURG: Any other attorneys?

17 MR. GALLAHER: Yes, Your Honor. Jim Gallaher  
18 representing the Missouri Manufactured Housing  
19 Association. My address is 515 East High, Jefferson City,  
20 Missouri, 65101.

21 There are two witnesses that will testify: Tom  
22 Hagar and Tracy Gaffney. They are officers of the  
23 Association. Also present is Joyce Baker, the Executive  
24 Director of the Association, and she may have comments or  
25 be available to answer questions posed by the Commission.

1                   Thank you.

2                   JUDGE THORNBURG: Thank you.

3                   Do we have any other attorneys?

4                   Okay. All right.

5                   Does anyone have any questions?

6                   Okay. We'll adjourn and we'll reconvene at --

7 I mentioned to the Commissioners 10:15. So we'll come

8 back at 10:15.

9                   Thank you.

10                  (A recess was taken.)

11                  JUDGE THORNBURG: Good morning. You may be

12 seated.

13                  We're going to reconvene the hearing.

14                  And we'll begin with Staff.

15                  Mr. Bates, did you have a statement for us

16 today?

17                  MR. BATES: Good morning, Commissioners, Your

18 Honor. I have a very brief statement.

19                  The three rules in front of the Commission

20 today deal with fees on manufactured homes, resold

21 manufactured homes and modular homes.

22                  These are rules that the Staff supports, that

23 the Commission -- and prays that the Commission adopt.

24                  And Mr. Stephen Jungmeyer, the Division

25 Director, is here today to answer any questions that the

1 Commission or Your Honor may have of him.

2 JUDGE THORNBURG: Does Mr. Jungmeyer have a  
3 statement to present to the Commission today?

4 MR. JUNGMEYER: I --

5 JUDGE THORNBURG: If so, I'll need to swear you  
6 in.

7 MR. JUNGMEYER: I have no statement. If there  
8 is any questions, you know, I'm willing to answer those.

9 JUDGE THORNBURG: Commissioner Drainer, do you  
10 have any questions at this time for Mr. Jungmeyer?

11 COMMISSIONER DRAINER: I will have some  
12 questions but not at this time.

13 JUDGE THORNBURG: Not at this time.

14 Commissioner Murray?

15 COMMISSIONER MURRAY: Not at this time.

16 JUDGE THORNBURG: Commissioner Simmons?

17 COMMISSIONER SIMMONS: I'll also pass.

18 JUDGE THORNBURG: Okay.

19 We would ask that you remain because we may  
20 call you later.

21 Mr. Gallaher, would you like to present a  
22 statement to the Commission regarding the rules?

23 MR. GALLAHER: Thank you, Judge, and good  
24 morning to the Commission.

25 I will not have a normal statement to give, but

1 I think the Commission has received the statement in  
2 opposition which I filed on behalf of the Association, and  
3 there are two witnesses which we will offer statements  
4 from. Mr. Tom Hagar and Mrs. Tracy Gaffney will speak.  
5 They are officers of the Missouri Manufactured Housing  
6 Association. They are dealers. They have -- they sort of  
7 live and breathe the rules and regulations under which you  
8 operate.

9 And so they're on the ground floor, and I think  
10 they can give you a lot of insight into why the  
11 Association opposes the rules. And I would turn the  
12 floor, shall we say, over to them. Thank you.

13 JUDGE THORNBURG: Thank you.

14 And, likewise, the Commission may have some  
15 follow-up questions for you if the witnesses don't address  
16 all of the issues.

17 MR. GALLAHER: I appreciate that.

18 JUDGE THORNBURG: At this time I'm going to  
19 work down the sign-in list, and we'll start with  
20 Mr. Hagar, if you'd come forward.

21 MR. HAGAR: Tracy first, please.

22 JUDGE THORNBURG: Okay. We'll start with  
23 Ms. Gaffney then.

24 Would you come forward to the witness stand.

25 MS. GAFFNEY: Sure.



1 (Witness sworn.)

2 JUDGE THORNBURG: Thank you. You may be  
3 seated.

4 I'd ask that you begin your comments with an  
5 introduction, your name and your address and if you're  
6 affiliated with any entity today, for the court reporter,  
7 please.

8 TRACY GAFFNEY, having been sworn, testified as follows:

9 MS. GAFFNEY: My name is Tracy Gaffney. And my  
10 company is Coachman Homes. Our main office is located in  
11 Lake St. Louis, 14-5 Edgewater Point, Suite 405, Lake  
12 St. Louis, Missouri, 63367.

13 JUDGE THORNBURG: You may proceed.

14 MS. GAFFNEY: My company, I'm a retailer and I  
15 have seven locations throughout the state. And I'm here  
16 today just to kind of present a retailer's point of view,  
17 as well as our State Association's point of view on these  
18 proposed rules.

19 And in looking through them, it's cited as an  
20 inspection fee, and the way that it's done, it ends up  
21 being sort of an assessment because it's not done per  
22 inspection. It's done on each of the homes that we sell.  
23 Which if there is not an inspection associated with that,  
24 it does become just an assessment.

25 One of the concerns that we have is it creates

1 unlimited funding. There is not truly a cap on it. So in  
2 the future, if things should change, it doesn't allow  
3 provision for the fund -- for the amount of the inspection  
4 fee to be rolled back if things change, or they can always  
5 keep increasing, which would make it difficult for us to  
6 price it into our homes, because it will be passed on to  
7 the consumer.

8           Also, there is not a Sunset Clause on it, so  
9 there is no way to have it terminated at some point in the  
10 future.

11           There are -- the relationship has improved  
12 between the State Association and the retailers and the  
13 governing body, the PSC, on our inspections. And I think  
14 it can improve even more.

15           I think we all have the same mission here. And  
16 as a retailer, our mission is to provide affordable  
17 housing, quality, safe housing for the consumers in  
18 Missouri that choose to live in manufactured homes. And I  
19 believe that we share that same goal. They want to make  
20 sure that the consumers are safe in their houses as well.

21           One of the concerns is that as a State  
22 organization, we provide education. We try to train our  
23 retailers. We have certification courses for installers  
24 so they can learn how to install a house properly.

25           And I think that through -- through additional

1 monies being brought into the PSC, what we'd like to see  
2 happen with that is some additional services, not simply  
3 just an inspection.

4 But if we're all working towards the goal,  
5 maybe some education, education to the consumers,  
6 education to the retailers. Maybe some more communication  
7 on how things can -- how we can all strive to do better.

8 I mean, with some of these inspections, maybe  
9 put out a newsletter saying, this is what we're commonly  
10 finding when we're going through these inspections. This  
11 is something that we see all of the time, and let us know  
12 as retailers, instead of always getting called on an  
13 inspection-by-inspection basis.

14 And I think part of the -- part of the  
15 assessment -- or the fee that would be instilled here  
16 would be better used for things like that, if the fee was  
17 to go through. But again, there are some -- some concerns  
18 that we have on that.

19 That's -- I think that with time we can come up  
20 with a different way of funding the organization and  
21 getting the funds that the PSC requests without having an  
22 inspection assessment or an inspection fee.

23 I think that we can work together, given some  
24 additional time, to try make it mutually agreed upon so  
25 that it's a win-win situation.

1 JUDGE THORNBURG: Thank you.  
2 We may have questions.  
3 Commissioner Drainer?  
4 QUESTIONS BY COMMISSIONER DRAINER:  
5 Q. Yes. Good morning.  
6 A. Good morning.  
7 Q. I noticed in the opposition to the proposed  
8 rules that was filed by your attorney, that it was  
9 mentioned that there was no upper limit placed on the  
10 amount of the inspection fee.  
11 Did you have an amount that you thought it  
12 should be capped at?  
13 A. I personally don't. I -- I think that we  
14 agreed that maybe \$100 would be more than -- more than  
15 enough at this point in time. And that's what we talked  
16 about as the original fee.  
17 But as the year goes on, I just don't think we  
18 know. I think Mr. Hagar will address some of the issues  
19 that we have.  
20 Sales are not up. They're down over this year,  
21 and they're expected to decrease again next year. So the  
22 inspections are going to be fewer -- or we expect the  
23 inspections to be fewer.  
24 Q. So the \$100 is probably the cap. You don't  
25 see --

1           A.       That would be my estimate. I don't. And,  
2   again, Mr. Hagar may be better able to address that.

3           Q.       All right. Okay.

4                   And also -- I don't know whether you need to  
5   answer this or Mr. Gallaher, but the point three was that  
6   the proposed rules do not contain a roll-back provision so  
7   as to reduce the inspection fees to be charged and -- by  
8   the amount of the inspection fees remaining unspent during  
9   the present fiscal year.

10                  And I was wondering if you-all had proposed  
11   language that you thought needed to be in the rule that  
12   provided for roll-back?

13          A.       I would defer to the attorney for that.

14                  MR. GALLAHER: I can answer that now.

15                  JUDGE THORNBURG: Mr. Gallaher, I think you can  
16   respond now. Please do so.

17                  MR. GALLAHER: Thank you, Judge.

18                  As the Commission knows, there is a statute  
19   where you regulate utilities that has a very similar  
20   provision in it. I've read that. And I think it's  
21   386.300 or 320 to 340, something in that range.

22                  And it has language that I find very agreeable,  
23   and that is already there, I think would be what I would  
24   use since it's already been used by the Commission in the  
25   past.

1                   It addresses this very problem, and that is,  
2   whatever is left over in one year must be taken into  
3   consideration in setting the appropriation for the next  
4   succeeding fiscal year.

5                   COMMISSIONER DRAINER: Okay. So you basically  
6   are saying from the language that we have in our statute  
7   on our overall assessment in the roll-back, that you would  
8   see that similar language needed to be put in a roll?

9                   MR. GALLAHER: That is right.

10                  And I offer that as kind of an alternative  
11   position, and that is, the Association believes that the  
12   inspection fee is not a good idea in its present form, but  
13   if it would be enacted, at least it ought to have this  
14   roll-back provision in it, which is similar to what the  
15   PSC uses in its regulation of public utilities.

16                  COMMISSIONER DRAINER: Okay. Thank you.

17   BY COMMISSIONER DRAINER:

18       Q.       And if you can answer this, my final question  
19   is, that I noticed that in point six, the Association  
20   opposed the proposed rule, would ask that should the  
21   Commission still believe in the proposed rule, to wait for  
22   basically another year to go to another legislative  
23   session so they could work with the Staff. And I believe  
24   that was done last year.

25                  What would be new or what ideas have been

1 brought forward that would make it appropriate for us to  
2 hold these rules while there is further discussion?

3 A. Some of the ideas that have been brought  
4 forward are to an increase in some of the registration  
5 fees that we've discussed as well, and then also maybe  
6 come one a plan, that if it's an inspection fee -- that's  
7 where -- we've made the progress to where an inspection  
8 fee, and we discussed that, and now let's -- I think  
9 our -- our opposition is because it's an assessment.

10 Let's narrow it down to what an inspection is,  
11 and let's try to determine how many inspections there will  
12 be and which homes will be inspected and how much that  
13 would cost and how many -- project out exactly how many  
14 homes will there be.

15 And I think we're moving in the right  
16 direction. I think that's what we would need to button  
17 down for next year.

18 Q. So you believe there has been a lot of movement  
19 and more time would allow for further development?

20 A. Yes, I do.

21 Q. All right. And the services I heard you state  
22 was that you'd like to take this opportunity to have more  
23 communications, such as a newsletter, from the PSC  
24 Manufactured Housing Department to the Association, the  
25 dealers, that is educational?

1           A.       Well, more -- more communication in the fact  
2   that right now my -- my main -- my main communication as a  
3   retailer is with the inspectors that go out and inspect a  
4   house that a consumer has called up on.

5                   And I think that the system is in place. I  
6   think we need to refine the system together to make sure  
7   it works on both ends.

8                   But I would like to see additional  
9   communications, because it's my understanding -- and  
10  please let me know if I'm out of step here -- that it's to  
11  protect the consumer, the safety issues, and that's  
12  what -- that's what the manufactured housing division is  
13  to do.

14                  And in doing so, inspection of homes is one  
15  step, but I think that there are other steps that -- the  
16  MHA, the State Association, we do a lot of education. And  
17  I think together with the PSC, with more proactive type of  
18  communications, rather than -- reactive is an inspection.

19                  A proactive would be, this is what we found,  
20  you know, just a blanket statement to all of the  
21  retailers, because all of the retailers are registered and  
22  licensed through -- through this organization, saying this  
23  is what we found in our inspections and trying to --  
24  trying to, I guess, push the bar up and keep communication  
25  open.



1                   Because I have seven sales centers, so I get  
2   the benefit -- or not necessarily always a benefit. I  
3   have quite a few inspections because of the volume that I  
4   do.

5                   I can see -- I can see a trend. When there is  
6   a problem, I can see that trend. Now, a lot of other  
7   retailers probably don't see that unless they're just  
8   doing something wrong.

9                   Because I have the volume, I can go actually --  
10   I can go through and look at my inspections and determine  
11   that.

12                  I don't think retailers -- other retailers get  
13   the benefit of what I do wrong, which would help them as  
14   well, because they don't have as many inspections. They  
15   don't do the same kind of volume.

16         Q.       Okay. And I guess, finally, I heard you say in  
17   the beginning that you believed that the rule establishing  
18   an inspection fee is really not an inspection fee but is  
19   an assessment.

20         A.       Yes, I do.

21         Q.       Because?

22         A.       Because it's -- when we sell a unit, the way  
23   the rule is currently written, when we sell a home, an  
24   inspection fee, it's \$100, or whatever that amount would  
25   be, on that home.

1                   That doesn't necessarily mean that that home  
2   will have an inspection. What starts an inspection is  
3   when a consumer picks up the phone and says, I request  
4   one.

5                   So it's an assessment because it's given on  
6   every home that is sold in the state.

7                   COMMISSIONER DRAINER: Okay. Thank you.

8                   MS. GAFFNEY: Thank you.

9                   JUDGE THORNBURG: Commissioner Murray?

10                  COMMISSIONER MURRAY: Thank you.

11   QUESTIONS BY COMMISSIONER MURRAY:

12                  Q.       Good morning.

13                  A.       Good morning.

14                  Q.       Would it be accurate to say that you wouldn't  
15   object to an inspection fee of something like \$100 if, in  
16   fact, there were an inspection on every new -- or each  
17   time a home was set up prior to occupancy?

18                  A.       You mean like a blanket -- an inspection of  
19   every single home before?

20                  Q.       Yes.

21                  A.       I wouldn't object to that. I think -- I think  
22   it would take a lot of time and a lot of attention to  
23   detail to make sure that we all have -- you know, we're  
24   all on the same page as far as how homes are set, because  
25   right now there is not a standard in our state. And it

1 would take a lot of attention to detail.

2 No, I would not be against that.

3 Q. Okay. And how are -- what progress are we  
4 making in terms of a standard for the state?

5 A. Well, right now in Chapter 700 -- and this is  
6 my understanding, and this gets blurry in my mind at  
7 times. It's according to the manufacturer's manual. So  
8 each home is set up a little bit differently.

9 We have a -- we've gone through, like I said,  
10 certification of installers. So that's been one standard.  
11 And we've looked at what other states have done too. But  
12 we've done this as a State organization.

13 Q. And when did the certification of installers go  
14 into effect?

15 A. Last -- well, it's not -- it's not mandatory,  
16 but we provided the training and the education, and -- for  
17 all of our members. And it was very, very well attended.  
18 And all last year and the year before.

19 They received a certificate, but it's not --  
20 it's not given by the State, and there is not a list that  
21 says who is a certified installer. Our manufacturers  
22 also -- also provide some of that education too.

23 Q. But all of your members go through the  
24 training. Is that correct?

25 A. All of mine have. Like I said, it's a

1 voluntary program.

2 Q. Okay. And there is no list maintained even by  
3 the organization?

4 A. The State organization maintains a list. Yes,  
5 our organization does.

6 Q. Available to the public, I assume?

7 A. Yes.

8 Q. There was a suggestion -- I think you made it  
9 earlier -- that the rules have no Sunset Clause.  
10 What would you recommend as a Sunset?

11 A. How far out?

12 Q. Yes.

13 A. And I'm just pulling this. I would assume  
14 maybe every two years just to revisit it and then find --  
15 find out, is it still working the way that it should be  
16 working or how can we try to revamp it?

17 Because we just don't know what the industry is  
18 going to hold. You know, we've had seven years of growth,  
19 which has been incredible, and there was a huge boom.

20 And that is part of the reason why, I think, in  
21 the last couple of years the inspection -- the number of  
22 inspections have decreased.

23 But in '96, '97, sales were just incredible. I  
24 think that's why there was a resurgence right then.

25 What we're finding right now is we are down

1 close to 30 percent. So it's inevitable that more than  
2 likely there will be fewer inspections, because there are  
3 fewer homes sold. So there is always -- it's a very  
4 cyclic industry.

5 COMMISSIONER MURRAY: Okay. I think that's all  
6 of the questions. Thank you.

7 JUDGE THORNBURG: Commissioner Schemenauer, do  
8 you have any questions for Ms. Gaffney?

9 COMMISSIONER SCHEMENAUER: Just a few.

10 QUESTIONS BY COMMISSIONER SCHEMENAUER:

11 Q. The inspection fee, I think you've said, is  
12 more like an assessment instead of a fee?

13 A. Uh-huh.

14 Q. You know, the rest of the industries that we  
15 regulate are -- finance the Commission to an assessment  
16 based on the amount of work that each segment of that  
17 industry generates during the year, how much time we spend  
18 on it.

19 If the manufactured housing industry is one  
20 industry and if we assessed the dealers, I guess we'd have  
21 to assess the dealers based on something, and I would  
22 assume units sold.

23 And then the assessment each year would be for  
24 the budget requirements for the following year, less the  
25 balance in the fund. And I think that's how we do it for

1 all of other industries.

2                   Would you object to that type of financing for  
3 your industry?

4           A.       I would like to have additional input when it  
5 comes to the budgeting, because I know right now there  
6 is -- there is -- they were requesting -- you know, right  
7 now it doesn't seem like there is a set standard for how  
8 calls come in or how they're prioritized or whenever a  
9 consumer calls.

10                   And I think that I would -- I would like more  
11 input or more feedback to how that system is working, more  
12 accountability, just to understand what -- what is  
13 happening.

14           Q.       So that you have some idea of the workload that  
15 the people have --

16           A.       The work --

17           Q.       -- or the work that they accomplish?

18           A.       Correct, the workload that they have and where  
19 the money is going. You know, if we're funding this, I'd  
20 like to know how it's being spend and how many -- how many  
21 calls.

22                   And I'm not asking that I mandate it. But I  
23 would just be curious as to how many calls inspectors are  
24 doing and what kind of calls -- what kind of concerns are  
25 they having.

1                   I know -- like I said, I know when I have an  
2   inspection, I know what is wrong on my house, but I don't  
3   know what other people out there are experiencing, and I  
4   don't know how many inspections they have, and what  
5   they're finding. And are they finding something every  
6   time? Which usually they are.

7                   I don't know -- and this is just -- you know,  
8   I'm sure that had I asked they would have answered, but I  
9   don't know what they look -- I know what they look for,  
10   because I know what an initial proper setup is.

11                  But I don't know, you know, the reason why the  
12   consumer called. I don't always know that. And that's  
13   just information that I would like to have too.

14         Q.        So if you had a monthly report that showed the  
15   number of complaints and what they were, it may help you  
16   prevent those same problems when you set up a trailer?

17         A.        Definitely.

18         Q.        I mean, a manufactured home.

19         A.        Thank you.

20         Q.        But it would an informational thing. Right?

21         A.        Right. It would be additional information.

22   And, you know, we certainly don't want to create more  
23   workload or more paperwork for the people that are doing  
24   these, because it's our understanding, and what we're  
25   hearing, is that they need additional monies because they

1 are so overworked and there is so many -- there is so many  
2 inspections.

3 But I think we're -- we're just running  
4 backwards if we just keep going out and doing inspections  
5 and not providing feedback.

6 And on an overall basis, you know, this is what  
7 is happening. And, of course, I don't want to -- I don't  
8 want to be -- you know, I would hate to have a published  
9 list of the retailers who have the most complaints. I'm  
10 going to be up there because I have seven sales centers,  
11 and I'm one of the big -- if you combine them all, I'm one  
12 of the biggest retailers in the state; I am. So my name  
13 would be up there because of the sheer volume. But I  
14 would like, you know --

15 Q. The report wouldn't have to list the dealers;  
16 it would just list the complaints and the type, so that --

17 A. Correct.

18 Q. -- you have an idea --

19 A. Correct.

20 Q. -- of trends and problems?

21 A. Correct. And maybe knowing what -- maybe  
22 training by the PSC inspectors, coming out and working  
23 with our State Association, and this is what -- when we go  
24 out on an inspection, this is what we do and this is where  
25 we go and this is how we look at things.



1                   Or even having them -- and I wouldn't mind  
2   this: When I have one of my subcontractors setting up a  
3   house, having the inspector show up and watching them do  
4   it, and say, you know, look, this is what we look for,  
5   this is where I see a problem.

6                   Because it's always after the fact. Like I  
7   said, it's reactive. And I think as long as we're  
8   reacting, it's not going to get any better.

9                   If we can try to learn from what we're finding  
10   out here and be a little more proactive, I think we can  
11   make more groundwork, more better efforts.

12                  COMMISSIONER SCHEMENAUER: Okay. That's all I  
13   have. Thanks.

14                  MS. GAFFNEY: Thanks.

15                  JUDGE THORNBURG: Commissioner Simmons?

16                  COMMISSIONER SIMMONS: Thank you, Your Honor.

17   QUESTIONS BY COMMISSIONER SIMMONS:

18       Q.       Good morning, Ms. Gaffney.

19       A.       Good morning.

20       Q.       I, too, had questions about your definition of  
21   assessment, and I think that my colleagues were able to  
22   ask those questions and I have a better understanding of  
23   that.

24                  I want to go back to some testimony that you  
25   had earlier today which talked about additional services,

1 educational components and not just inspections.

2 Do you feel that the current inspection fee as  
3 proposed with this particular rule, I guess, exceeds the  
4 cost of the inspection that is proposed?

5 Is there some additional costs that you believe  
6 that with this particular inspection fee, that there's  
7 other costs out there that could be placed with this  
8 educational component?

9 A. I think -- I think that part of this inspection  
10 fee should cover -- what I'm asking, I think, is that part  
11 of this inspection fee should cover not only the  
12 inspection of that home but should provide enough funding  
13 to create more educational-type opportunities.

14 And when I say "educational," I mean -- I'm  
15 going back to what the other Commissioner said.

16 Being proactive and just sending out reports  
17 and telling us, you know, these are some of the most  
18 commonly found mistakes we have.

19 More education that can just be based off of  
20 the information that they have right in front of them. It  
21 doesn't necessarily meaning going out and even providing  
22 seminars. Just taking the information that they have and  
23 compiling it and getting it out there so that everyone can  
24 benefit from it.

25 And I do think the inspection fee would cover

1     that.  And it is a little bit more of additional  
2     paperwork, but I think the information is here.  We just  
3     need to get it out.

4                 COMMISSIONER SIMMONS:  Okay.  I think that's  
5     all of the questions I have, Your Honor.

6                 JUDGE THORNBURG:  Thank you.

7                 Ms. Gaffney, I just wanted to confirm with you  
8     that your comments and responses today to questions were  
9     directed at each of the three rules.  Is that correct?

10                MS. GAFFNEY:  Correct.

11                JUDGE THORNBURG:  Any further questions?

12                (No response.)

13                JUDGE THORNBURG:  You may be excused.

14                MS. GAFFNEY:  Thank you.

15                JUDGE THORNBURG:  Mr. Hagar, would you come  
16     forward, please.

17                (Witness sworn.)

18                JUDGE THORNBURG:  Thank you.  You may be  
19     seated.

20                I would also like you to introduce yourself for  
21     the record and for the court reporter, and if you are  
22     affiliated with a company or an organization, please let  
23     us know that.

24     TOM HAGAR, having been sworn, testified as follows:

25                MR. HAGAR:  My name is Tom Hagar.  I'm

1 President of Mid-America Home Center, Incorporated in  
2 Lee's Summit, Missouri, P. O. Box 796, 64063, zipcode.

3 I'm also President of the Missouri Manufactured  
4 Housing Board of Directors. And some of my comments will  
5 also have something to do with my affiliation of the  
6 National Association of Manufactured Housing Institute in  
7 Washington.

8 JUDGE THORNBURG: Thank you.

9 MR. HAGAR: A lot of the issues that we're  
10 talking about and we're trying to address in our  
11 opposition to this rule is based upon the role or purpose  
12 of a State administrative agency that was established by  
13 HUD back in 1974.

14 Consumer complaint handling was certainly part  
15 of that. Also, making sure that Subpart I, which can --  
16 mainly affects imminent safety hazards, defects and so  
17 forth as they may exist in a manufactured home, are  
18 addressed at a State level with the manufacturer, as well  
19 as the retailers.

20 And I say that to put those two together.  
21 Okay?

22 The -- part of the -- the issue that we have is  
23 we're talking about accountability. That is a major  
24 concern of our association.

25 Oftentimes we -- we get into talking about the

1 proactive state that we would like to see, but oftentimes  
2 that -- that turns into rather adversarial instead of  
3 proactive.

4           And in talking about the inspection fees and  
5 talking about the -- versus assessment, when we have  
6 people reporting their monthly sales at the end of the  
7 month and being charged an assessment on those sales,  
8 there is no inspection. There is no inspection on  
9 probably 90 percent of the retailers in the state.

10           We have, I believe, last count, 376 registered  
11 retailers. Of those 376, we're probably talking less than  
12 a dozen receive 90 to 95 percent of the consumer  
13 complaints in the state. We're not -- we're not talking  
14 about 376 retailers.

15           There are some areas of the states that are  
16 very seldom visited because there are no complaints and so  
17 forth received.

18           So when we're talking about a true inspection,  
19 what the Association is saying and offering is to say that  
20 those people that receive the complaints should help. Not  
21 fund the entire program. We're not proposing that. And  
22 we didn't propose that in our proposed legislation.

23           We proposed to increase the dealer dues, we  
24 proposed to increase the manufactured dues, and we  
25 proposed to implement a true inspection fee that would be

1 split between the manufacturer and the retailers. In our  
2 industry that buys everyone into the process.

3 Oftentimes you may have a manufacturer that  
4 uses an excuse of the retailer didn't do something right  
5 or this happened or that happened, because they don't want  
6 to fix something.

7 On the other hand, the retailer can take the  
8 approach of, well, I don't need to do that because that is  
9 something the manufacturer should have done.

10 In our proposal it brings both of them in. And  
11 it accomplishes the end result of lowering consumer  
12 complaints, because those people that are receiving the  
13 complaints are the ones that are paying that portion of  
14 the bill.

15 Not everyone across the -- across the state  
16 that is -- that are installing their homes properly, that  
17 handle an excellent manufacturer, take care of their  
18 customers and provide good service and so forth and so  
19 forth, where they are charged, as it is written in the  
20 proposed rule, an unlimited amount. There is no  
21 limitation. There is no end to where that can go.

22 We talk about some of the things that -- as far  
23 as the accountability portion. We're not suggesting self-  
24 regulation. We're not suggesting that we want to tell the  
25 Department how to do their job.

1                   But some of the concerns that we have are, for  
2     example, modular homes are included in the rules. And  
3     that there would be, as we term it, an assessment, of  
4     those that are sold during the month.

5                   However, modular homes under the statutes are  
6     not required to file monthly reports. So that makes it  
7     totally impossible to keep track of the modular sales and  
8     so forth that take place in the state.

9                   We also have problems under the present system  
10    with those retailers that are licensed in the state  
11    reporting.

12                  There is a substantial delinquency factor.  
13    That's already in the rules. They should be reporting.  
14    Many are not reporting.

15                  You know, we can have rules and we can have  
16    assessments and we can have inspections, but we also need  
17    enforcement. And that's something that our Association  
18    and the retailers of the state firmly believe that if you  
19    break the rules, that you should pay the appropriate  
20    consequences and so forth for what you do.

21                  And that in our opinion has not been the case,  
22    at least up until now.

23                  The sales in the state, that was addressed  
24    earlier with Ms. Gaffney. We've seen a decline in the  
25    Year 2000 by approximately 20 percent, 20 percent of

1 shipments in the state.

2 We're expecting in 2001 for that to decline  
3 probably somewhere in the neighborhood of 7 to 10 percent  
4 in the coming year.

5 The complaints have also went down in the last  
6 two years, which would, of course, make sense, along with  
7 the shipments.

8 But from a funding standpoint, you know, this  
9 is a totally industry funded program. And where we -- and  
10 we have tried for many, many years to receive lists of  
11 actual complaints, not by dealer, not by identifying who  
12 or -- and so forth they come from, but for us to identify  
13 exactly what the complaints are, exactly what the  
14 consumers that are having problems with, with their  
15 houses, so that we can inform our membership, provide  
16 further training in areas.

17 We did that this past year. Every month we  
18 sent out an article and so forth advising them of the top  
19 ten problems that we had with consumer complaints.

20 I think that went a long way in educating a lot  
21 of people as to how they were to do something.

22 There needs to be more education by the  
23 manufacturers. There needs to be more education in the  
24 field. There needs to be more proactive approach by the  
25 Public Service Commission when they're out there



1 inspecting a home and advising the people of what they  
2 should do or shouldn't do.

3           We -- again, from a national level down through  
4 the states, there is a general consensus that everyone in  
5 this is a partner and that everyone has a role to make  
6 sure that our consumer is protected and our consumer is  
7 taken care of.

8           And that's what we're wanting to do, is we're  
9 wanting to place this in -- or take the people's -- or  
10 affect the people's pocketbooks and so forth that are  
11 receiving the complaints, fund the program accordingly,  
12 but not give unlimited funding and basically an open  
13 checkbook of our money. And I don't believe that any of  
14 us like that idea very much.

15           Finally, I would say that -- on behalf of the  
16 Association, and for the reasons that I've stated in our  
17 opposition to proposed rules, that as an alternative, that  
18 the Commission delay consideration of the rules until the  
19 end of the 2001 Missouri legislative session.

20           That would give all of us, including the PSC  
21 Staff, an opportunity to work with us in moving this  
22 initiative forward that we started last year, in having a  
23 true inspection fee, not an assessment, and, in turn,  
24 funding the Department as it needs to be funded.

25           We have, as I understand it, a two-year window,

1 or a two-year surplus as it presently exists. Our goal is  
2 to get the complaints and so forth down to such a level  
3 that there isn't a whole lot to do.

4 And ultimately, the only way we're going to do  
5 that is through education and proper enforcement and  
6 taking those people that violate the rules and don't  
7 follow the rules of finally enforcing the rules of the  
8 State and the Federal government on those people.

9 Thank you.

10 JUDGE THORNBURG: Thank you.

11 Commissioner Drainer, did you have any  
12 follow-up questions?

13 COMMISSIONER DRAINER: Yes. Thank you.

14 QUESTIONS BY COMMISSIONER DRAINER:

15 Q. And thank you for your position.

16 I want to be clear. What I'm hearing you say,  
17 and what was filed by Mr. Gallaher, is you're really  
18 wanting an inspection fee -- that's the complaint  
19 inspection fee? I mean, it would be a complaint  
20 inspection fee.

21 The fee would be after a complaint has been  
22 initiated and the PSC inspectors would go out and address  
23 that complaint and there would be a fee for that type of  
24 service. Correct?

25 A. That's correct. And that would be 50 -- a

1 50/50 responsibility between whoever the manufacturer of  
2 that particular home is and the retailer, whether it was a  
3 retailer problem or a manufacturer problem. Each of them  
4 have a responsibility to -- to more or less take care of  
5 the other for the sake of the consumer.

6           So we feel that should be a 50/50 split, and  
7 it's very easy to account for; whereas, on the other hand,  
8 if you're dealing with assessments and you have a problem  
9 with people reporting or reporting accurately, we could  
10 end up not having any time to handle consumer complaints  
11 and we'd be spending all of our time doing accounting.

12       Q.       Okay. Thank you.

13           So that really is what the accountability, by  
14 putting it on the complaint, it makes -- it makes the  
15 industry and the dealers and manufacturers accountable for  
16 where the problems are, getting it fixed, and then that  
17 would help in the reduction of the complaints?

18       A.       Yes, ma'am.

19       Q.       And the questions I asked earlier, can you tell  
20 me, do you believe that there should be an upper limit?

21           Whether it's an inspection fee or a complaint  
22 inspection fee, that there needs to be an upper limit  
23 placed on that?

24       A.       We all deal with budgets. We all deal with  
25 need, depending upon the situation at the -- at the time.

1 Most of us project that over a year.

2 The State deals with a budget, the Federal  
3 government, we do.

4 I think it's something that we -- it has to be  
5 based upon the -- the funding needs of the Department and  
6 not just something open ended, since it is an entirely  
7 industry-funded program.

8 Q. Okay.

9 A. So it's -- that's a -- you know, to say there  
10 should be a cap on it, I mean, that's -- yeah, it makes  
11 sense that there should be, but I don't know anyone that's  
12 brilliant enough to come up with that number. It's, you  
13 know, pie in the sky.

14 COMMISSIONER DRAINER: Okay. Thank you. I  
15 appreciate your answers and I appreciate your comments.  
16 I'm finished.

17 JUDGE THORNBURG: Commissioner Murray?

18 COMMISSIONER MURRAY: Thank you.

19 QUESTIONS BY COMMISSIONER MURRAY:

20 Q. Good morning.

21 A. Good morning.

22 Q. You said you were active in the national  
23 organization. Is that correct?

24 A. Yes.

25 Q. I was just wondering, you said you've tried for

1 years to receive a list of complaints. You don't want  
2 names; you just want to know what types of things are  
3 problems that the inspectors are finding. Is that  
4 correct?

5 A. That's correct.

6 Q. Your experience through the national  
7 organization with other states, do you know whether those  
8 types of reports are available in other states?

9 A. Yes, they are.

10 Q. Specifically, do you know which states or do  
11 you know percentagewise roughly how many?

12 A. I can name several. I've attended COSAA  
13 meetings, which the Manufactured Housing Department  
14 personnel here have also attended those meetings. And  
15 also in talking to State executives from other states:  
16 Florida, which is not real popular right now, but the  
17 State of Florida, Georgia, North Carolina, South Carolina,  
18 Texas, Tennessee, Ohio, Pennsylvania, numerous states out  
19 west who have a very close working relationship between  
20 the SAA and the State Association.

21 A lot of -- it's a major -- it's a major  
22 difference -- and I don't know whether we want to get into  
23 those here. But it's a major difference in even the  
24 approach of consumer complaints.

25 You know, they don't spend time handling

1 cosmetic problems, in going out, you know, on cosmetic  
2 inspections and things like that. They have Staff that  
3 identify those problems upfront and provide those lists of  
4 imminent safety hazards that have to be dealt with to the  
5 Association, so they can, in turn, deal with them amongst  
6 their member retailers. And from what they say, it works  
7 very well.

8 Q. Is there one particular -- or one or two  
9 particular states that you say we could look to as a  
10 model?

11 A. I would say that North Carolina has an  
12 excellent program, and I would say probably the -- one of  
13 the other major shipment states, probably the State of  
14 Texas.

15 Q. Okay. And then in terms of what other states  
16 do regarding inspections, do you know of other states that  
17 require an inspection prior to occupancy of every home  
18 that is set up?

19 A. There are, I believe -- and I can't name them  
20 all. I believe that there are 16 states that require an  
21 inspection. Those inspections vary from a 10 percent  
22 level, and in different increments, up to 100 percent.

23 Q. Let me stop you there and ask you: When you  
24 say 10 percent up to 100 percent, are you talking about  
25 random inspections or are you talking about inspections

1     only as a result of compliance?

2           A.       No.   Random inspections.

3           Q.       Random inspections?

4           A.       Yes.

5           Q.       Okay.

6           A.       You know, the inspection -- or the random  
7     inspection, for example, in -- in Missouri, there are  
8     those retailers that do this now in their own  
9     organizations.

10                  My company, we do 100 percent.  We do it with  
11     the consumer.  We do it with the customer.

12                  Now, whether you do that through -- and a lot  
13     of these states do this through a private inspection  
14     agency which is endorsed by the State administrative  
15     agency.  Because you've got to get quick response.

16                  You know, you've got a consumer that has been  
17     waiting for six, eight weeks to get into their new home.  
18     They've got the moving trucks backed up.  They don't want  
19     to be sitting there waiting three weeks for somebody to  
20     come by and inspect the home before they can get their  
21     keys.

22                  So you have to get pretty immediate response to  
23     that, and that's where a lot of them are not doing it  
24     through the State administrative agency in and of itself,  
25     but they're doing it through a private inspection agency

1 that is endorsed by the State administrative agency.

2 Q. Can you tell me if there is information  
3 compiled on a national basis to compare the various  
4 states -- this would be something compiled either by HUD  
5 or by the national organization -- that would indicate any  
6 kind of a trend in the various states for safety problems?

7 A. The safety issues are more from a manufacturer  
8 standpoint, and that's part of the Subpart I, reporting  
9 responsibilities, that the manufacturers have  
10 individually.

11 If there is a repetitive problem that exists,  
12 they could get involved in some sort of a recall. They  
13 could get into a replacement of whatever that particular  
14 item was or problem was. These items are done through a  
15 lot of the third-party inspections.

16 It's part of our responsibilities as retailers  
17 under the law to report all problems and so forth that --  
18 and service complaints that we receive to our  
19 manufacturer. The manufacturer, in turn, has to report  
20 those and provide proper reporting to their third party,  
21 and also with HUD.

22 Now, I understand also it's part of the SAA's  
23 responsibility to report complaints and what they find in  
24 the field as part of their reporting process to HUD. I  
25 don't speak for -- for them, but I believe that's part of



1    their responsibility.  So there is a lot of cross-checking  
2    that would be with HUD.  And with HUD's downsizing Staff  
3    and so forth, how up to date those reports are is  
4    anybody's guess.

5                   COMMISSIONER MURRAY:  I appreciate your  
6    perspective.  Thank you.

7                   JUDGE THORNBURG:  Commissioner Schemenauer?

8                   COMMISSIONER SCHEMENAUER:  Thank you.

9    QUESTIONS BY COMMISSIONER SCHEMENAUER:

10       Q.        Good morning.

11       A.        Good morning.

12       Q.        I had maybe a comment and a couple of  
13    questions.

14                   But I think you said the consumers -- the  
15    program was set up to benefit the consumers, but also  
16    isn't the financial industry, the banks that finance  
17    manufactured homes, they're interested in an adequate  
18    inspection and enforcement program, the insurance  
19    companies, in addition to the consumer?

20                   Wouldn't they like to see an adequate program  
21    in place?

22       A.        Well, I think everyone would like to see a  
23    program in place that worked.

24       Q.        Okay.  And I guess that means this one doesn't  
25    work?

1           A.       No, I didn't -- sir, I didn't say that.

2           Q.       Okay. It just sounded like this one didn't

3       work.

4           A.       No. What I'm saying is that we're talking, I

5       believe, two different things. We're talking consumer

6       complaints, which is what we presently do.

7           Q.       Consumer complaints, you suggested a 50/50

8       assessment between the dealer and the manufacturer.

9                    How would the Staff -- how would the Staff --

10       Manufactured Housing Department Staff collect from an

11       out-of-state manufacturer that had no nexus in Missouri?

12                   How could they -- I mean, they could assess

13       them from now until the cows come home, but they could

14       just ignore it?

15          A.       They're licensed in Missouri, are they not?

16          Q.       I don't think -- are all of them licensed in

17       Missouri?

18          A.       If they're going to ship into the state, they

19       should be licensed in Missouri.

20          Q.       And then our enforcement leverage, then, would

21       be to take away their license?

22          A.       That would be our suggestion, sir.

23          Q.       And then if they didn't have a license, they

24       couldn't ship to any dealer in Missouri. Is that correct?

25          A.       That's my understanding.

1 Q. And if they did, what would we do?

2 A. Well, I believe that there has been precedent  
3 set for that in the past, in which the seals, or whatever,  
4 can be removed, the homes may be red-tagged, or whatever,  
5 in order to be removed from the state.

6 Q. So we do have some leverage over out-of-state  
7 manufacturers if the assessment were -- I mean, I'm just  
8 trying to think of the disputes that are going to arise  
9 between manufacturers and retailers. How on earth a  
10 retailer can say, okay, half of that, the manufacturers,  
11 and the manufacturers say, it's all of the retailers?

12 I mean, are we opening up a whole another field  
13 for trial attorneys to get involved in?

14 A. I don't think so. I think this is the -- I  
15 think this is part of the reason that we -- we suggested  
16 it the way that we did, is basically to eliminate the  
17 finger pointing.

18 We're not saying 50 percent of it is the  
19 manufacturer's responsibility and 50 percent is the  
20 retailer's responsibility as far as the complaint itself.

21 What we're saying is, the manufacturer has an  
22 obligation when they go out and set up a retailer -- when  
23 I started my business 20 years ago, I had no one that came  
24 to my retail center. I had no one that came out to the --  
25 to the delivery site that assisted me or helped me in any

1 way on how to install that manufactured home. I had to do  
2 that on my own. I had to learn it on my own.

3 Now, you know, I came out of the finance  
4 business after college and then came out of the insurance  
5 business. So I knew a little bit, but I sure the heck  
6 didn't know very much about how to install a manufactured  
7 home. I got no help at all.

8 What we're saying is, is that the  
9 manufacturers, part -- a good part of the problem that we  
10 have is the manufacturers making sure that if they have  
11 someone out there handling their product, that they know  
12 how to install that product and that they have to be a  
13 part of that process.

14 So if they have a retailer that is getting  
15 complaint after complaint after complaint because he's not  
16 doing it properly, then that manufacturer, because he  
17 elects to keep selling new homes, should pay some sort of  
18 a penalty.

19 And that penalty is, basically, you want him to  
20 do business and do business as usual, participate 50/50 in  
21 the -- in the inspection fee. That funds the program and  
22 it puts the responsibility where it is.

23 We feel that that's going to reduce the  
24 complaints in the state. If someone is getting  
25 150 complaints a year in one dealership, I'd say there is

1 a pretty good possibility that they're going to start  
2 maybe doing a few things a little bit better.

3 COMMISSIONER SCHEMENAUER: Okay. Thank you.  
4 That's all I have.

5 JUDGE THORNBURG: Commissioner Simmons?

6 COMMISSIONER SIMMONS: Yes.

7 QUESTIONS BY COMMISSIONER SIMMONS:

8 Q. Good morning, sir.

9 A. Good morning.

10 Q. I just have two lines of questioning. One, I'd  
11 like to follow up on a line of questioning that  
12 Commissioner Murray had, and that has to do with your  
13 participation in your national group.

14 Just to clarify for me, with your dealings with  
15 other states, are you familiar with any other states that  
16 have proposed a rule and an inspection fee that is similar  
17 to the State of Missouri?

18 A. There are several that are similar. I think  
19 there are deviations amongst most. We can get you those  
20 specifics as far as, you know, the programs. But for me  
21 to try to state them off the top of my head would be  
22 pretty difficult.

23 Q. You are aware of similarities but they may have  
24 dissimilarities in terms of how they are either  
25 implemented or how they work?

1           A.       Yes.  Different -- different levels,  
2   different -- different fee structures and so forth.  The  
3   skeleton of it or the basics of it are pretty much the  
4   same, but the -- but it encompasses -- you know, several  
5   states encompass the inspection process as a separate  
6   thing from -- as I said earlier, whether it be done by a  
7   private inspection agency of some sort, the consumer  
8   complaint handling process and how that's done, and then  
9   the -- the education certification installers is another  
10  area that several states are also addressing at this  
11  point.

12          Q.       Would you know whether or not these programs  
13  seem to be a new trend within the industry or is it  
14  something that has been ongoing for some time?

15          A.       A lot of the states have been doing it for some  
16  time.  I've been involved with the national since about  
17  1993.  Most of them have been in place since then.

18                 There is a movement and so forth for more  
19  states and so forth to define more clearly in statute and  
20  so forth exactly, you know, what is to be done.

21                 You know, we have that situation here, in that  
22  one of the things that we're wanting to propose in this  
23  upcoming session is to clarify that the retailers are  
24  responsible for installing the home according to the  
25  manufacturer's manual, which sounds pretty simple.

1           Q.       Actually what you've done is you've gone right  
2   into my next line of questioning, which was to talk  
3   about -- earlier I think in your testimony you wanted --  
4   or you stated that you would like for us to delay action  
5   until after the 2001 legislative session.

6                   And I guess my question would be, is that  
7   because there would be some kind of proposed legislation  
8   to deal with this issue? Is that why you would want to  
9   delay or --

10          A.       Delaying just for the sake of delaying doesn't  
11   do any of us any good, and that's not what we're wanting  
12   to do.

13                  What we are wanting to do is to -- and in the  
14   legislation, in the proposed legislation, it has a  
15   provision that increases the dealer registration fee, that  
16   increases the manufacturer registration fee.

17                  We are also proposing the consumer complaint  
18   inspection fee being included in that. And we are also  
19   proposing that 700 be defined clearly; that all retailers  
20   would be responsible to install the home according to the  
21   manufacturer's manual.

22                  That clears an awful lot of gray areas.

23          Q.       Okay.

24          A.       And it also -- from a Federal level on down, it  
25   moves Missouri to a level that -- where we say, we have a

1 State standard. Right now we don't have a State standard.

2 We don't have something specifically that we can do.

3 So that would be addressed. That's what we're  
4 proposing to do. And it would make it, of course, much  
5 easier if we do it on a united front with the Public  
6 Service Commission, as well as industry. I think we stand  
7 a pretty good chance of getting it done.

8 Q. That was going to be my last question, is when  
9 you use the word "we," did that entail industry, your  
10 Association and others when you say "we," we propose?

11 A. No. "We" would be our Association.

12 Q. Your Association?

13 A. Yes, sir.

14 COMMISSIONER SIMMONS: Thank you, sir. That's  
15 all of the questions I have. I appreciate it.

16 JUDGE THORNBURG: Mr. Hagar, as with the prior  
17 witness, I just wanted to clarify and be certain: Your  
18 comments and responses to questions today are addressed to  
19 all three of the rules regarding the fees that are under  
20 consideration today?

21 MR. HAGAR: Yes, sir.

22 JUDGE THORNBURG: Are there any further  
23 questions?

24 Okay. You may be excused.

25 JUDGE THORNBURG: Mrs. Baker, would you like to



1 appear today?

2 Thank you. Come up.

3 (Witness sworn.)

4 JUDGE THORNBURG: Thank you. You may be  
5 seated.

6 And I would also like you to introduce yourself  
7 today for the record and also give any affiliations that  
8 would be relevant with the organizations or companies  
9 you're appearing for.

10 Thank you.

11 JOYCE BAKER, having been sworn, testified as follows:

12 MS. BAKER: My name is Joyce Baker. I'm the  
13 Executive Director of the Missouri Manufactured Housing  
14 Association, Post Office Box 1365, Jefferson City, 65102.

15 She left. I'll go on to something else. I did  
16 want to answer one of her questions.

17 I wanted to go just briefly review the proposed  
18 legislation with you-all and the funding that we're  
19 proposing, so we get a little better understanding of what  
20 we're -- we are trying to fund it completely, and we hope  
21 that we're going to be able to do this.

22 We do feel good about being able to pass it  
23 this year. Last year was kind of an odd session, we  
24 thought. They didn't pass nearly all of the bills that  
25 they normally do. And I do believe that in a normal

1 session that bill would have passed.

2           What we have proposed to do is to take the  
3 dealers from their current -- their current registration  
4 fee of \$50 to \$200 and the manufacturer's fees from 200 --  
5 wait a minute -- from \$200 to 750.

6           We also have what I understand will be proposed  
7 rules coming out from the Department that raise  
8 inspection -- or seal fees from \$20 to \$40, and plan  
9 approvals from \$50 to 75.

10           In addition to that, the Association would like  
11 to put in the legislation that there be an inspection fee  
12 of \$100 to be split -- a true inspection fee, to be split  
13 50/50 between the dealer and the manufacturer. And we are  
14 hoping that that will fund the Department.

15           That's one of the reasons why we're asking that  
16 you-all consider suspending your ruling at least until the  
17 session is over with, so we can work with you on that.

18           And we're also hoping and asking for your  
19 support in that portion of the legislation.

20           So that basically tells you, I guess, what  
21 we're proposing to do.

22           Now, Commissioner Schemenauer had asked about  
23 what do we do with failure -- if these people don't pay  
24 their fees?

25           We have put in the proposed legislation, which

1 I can give you a copy of, that their license basically  
2 under 700.100 can be revoked or suspended or, you know,  
3 whatever, needs to be done if they don't -- fail to pay  
4 all necessary fees and assessments, is how it's worded,  
5 authorized pursuant to Section 700.010 to 700.115.

6 So that does give you authority to do something  
7 about it if they don't pay. That's the answer, I hope, to  
8 one of the questions.

9 And then I have another answer for  
10 Commissioner Murray.

11 You had asked, I believe, what other states had  
12 100 percent inspection of all homes. There are six. Off  
13 the top of my head, I only know four. I apologize. I can  
14 get those to you.

15 Arizona, California, Nevada, North Carolina.  
16 As I said, there are two more. And each of them has a  
17 different way of doing it. They -- some do it through  
18 third-party inspections. I think that the majority of  
19 them do. And then some do it through their State -- you  
20 know, directly through their State agencies. And they all  
21 seem to like it quite well.

22 The Association has developed a task force  
23 through the Board of Directors to look into this. And we  
24 would appreciate working, you know, with your Staff on  
25 this if they decide to pursue it.

1                   That's it.

2                   JUDGE THORNBURG:   Okay.

3                   Commissioner Drainer, did you have any

4   questions?

5                   COMMISSIONER DRAINER:   Well, first, good

6   morning.

7                   MS. BAKER:   Good morning.

8                   COMMISSIONER DRAINER:   And second, because I

9   know that you did want to respond to some of the

10   questions, do you believe you've covered everything?

11                  MS. BAKER:   Yes, I hope.

12                  COMMISSIONER DRAINER:   Then at this time I have

13   no questions for you.   I appreciate you coming in

14   response.

15                  JUDGE THORNBURG:   Commissioner Murray?

16                  COMMISSIONER MURRAY:   Yes, just a little bit.

17   QUESTIONS BY COMMISSIONER MURRAY:

18       Q.       Just a little bit of clarification on the task

19   force.

20                  That's the State Association --

21       A.       Yes.

22       Q.       -- that has developed a task force?

23       A.       Yes.

24       Q.       And that is specifically to look at?

25       A.       The prospect of being proactive and doing

1 inspections on 100 percent of all new homes placed in the  
2 state.

3 Q. Okay. And when did you set that task force up?

4 A. About three weeks ago.

5 Q. Have you approached Staff?

6 A. We had a meeting with Staff on Monday, I think,  
7 this last Monday, just recently, and we did discuss it.  
8 And they brought it up, as a matter of fact. And we let  
9 them know that we had a task force and that we'd like to  
10 work together.

11 Q. Okay. Do you think that would better address  
12 the safety concerns, to have inspections of every home  
13 prior to occupancy?

14 A. Yes, we do. We've discussed that and the fact  
15 that it would be also very -- it would be very good for  
16 the consumers. They'd feel very good about their homes,  
17 we believe.

18 It would also address some of the Board of  
19 Directors' requests and concerns about a statute of  
20 limitations. In other words, if the home was inspected  
21 from the very beginning, we would know five years down the  
22 road that that home was inspected and it was okay. And if  
23 a consumer complains, it does address the statute of  
24 limitations' issue.

25 COMMISSIONER MURRAY: Thank you.

1 JUDGE THORNBURG: Commissioner Schemenauer?

2 COMMISSIONER SCHEMENAUER: I don't think I have  
3 any questions. Thank you for coming though.

4 MR. THORNBURG: Commissioner Simmons?

5 COMMISSIONER SIMMONS: I have no questions  
6 either. Thank you for coming in.

7 JUDGE THORNBURG: Thank you.

8 And, Mrs. Baker, I just wanted to reiterate:  
9 As with the other witnesses, your comments and responses  
10 are directed to each of the three rules today?

11 MS. BAKER: Yes.

12 JUDGE THORNBURG: Thank you very much.

13 Mr. Gallaher, do you have any follow-up  
14 statements or any additional matters to bring to this?

15 MR. GALLAHER: Judge, I do not. The  
16 Association and myself appreciate your-all's questions.  
17 They were very good. We appreciate the opportunity to  
18 present our viewpoint.

19 Thank you very much.

20 JUDGE THORNBURG: Are there any other members  
21 of the public that desire to appear today either in  
22 opposition or in favor of the rule?

23 (No response.)

24 JUDGE THORNBURG: Okay. On behalf of the  
25 Staff, were there any questions that you felt you needed

1 to respond to today?

2 COMMISSIONER DRAINER: I have some questions  
3 for Staff.

4 JUDGE THORNBURG: We should call Mr. Jungmeyer  
5 up. Come forward.

6 (Witness sworn.)

7 JUDGE THORNBURG: You may be seated.

8 And for the record, I would also ask that you  
9 introduce yourself and give us a brief information about  
10 your position that you currently hold.

11 STEVE JUNGMEYER, having been sworn, testified as follows:

12 MR. JUNGMEYER: My name is Steve Jungmeyer.  
13 I'm the Director of the Manufactured Housing and Modular  
14 Unit Program for the Public Service Commission.

15 JUDGE THORNBURG: And do you have any opening  
16 statements or remarks before we begin questioning?

17 MR. JUNGMEYER: Yeah, I'll make an attempt to  
18 start from the beginning, actually.

19 Last year during legislation there was a bill  
20 that deregulated recreational vehicles, which was part of  
21 the jurisdiction of the Public Service Commission prior to  
22 that.

23 With that deregulation the program lost over  
24 half of its funding. And, you know, the reason that we're  
25 in the position we are today and looking at this type of

1 rulemaking for the inspection fee has come from that.

2           The reasoning behind -- I think, if I can  
3 explain it properly, the inspection fee idea, is based on  
4 the fact that the current funding that we develop our  
5 fund -- our fees from and everything at this time is set  
6 in rules and regulations and in statutes.

7           And those fees, like I say, are set; and the  
8 only way to change them is through legislation or  
9 rulemaking.

10           Our funding is driven, in addition to that,  
11 through the activity of the industry. In other words, if  
12 there's -- today we've got 376 dealers within the state  
13 and approximately 144 manufacturers that are registered  
14 with the State. They're required to pay a fee annually.  
15 Those numbers fluctuate annually.

16           And we also develop funding from fees for plan  
17 approvals for modular units, and also for seals for  
18 modular units, and we receive a monthly funding from the  
19 housing and urban development, HUD, that is based on the  
20 number of units shipped into the state. And all of those  
21 fees fluctuate from time to time, definitely on an annual  
22 basis.

23           We feel -- or the Staff has felt that in order  
24 to make up a difference between what the appropriations  
25 and annual funding is for the State -- or for the program,



1     that it seemed reasonable to set a fee of some type that  
2     can fluctuate in order to make up the void.

3                 So based on that presumption, an assessment  
4     fee, if that's what you want to call it -- and it actually  
5     is a better fit, I think, than inspection fee -- could be  
6     developed, and that's the purpose of this rule.

7                 And the only thing we could really -- the Staff  
8     could come up with to apply that to would be the number of  
9     homes sold.

10                I guess that's in my explanation on the  
11     reasoning of the rule as it's written.

12                My comment, I think, on the proposal that the  
13     Association is making -- and it would be great if we could  
14     come up with annual fees to fund the whole program.

15                Based on the numbers that I was explaining a  
16     while ago that we have to deal with, the number of  
17     dealers, the number of manufacturers, how many seals are  
18     sold and how many plan approvals we do, based on those  
19     numbers, which fluctuate annually, the fees would have to  
20     be substantially higher than what's been proposed.

21                And that's -- it's excluding an inspection fee  
22     of any kind.

23                The problem, I guess, that myself and Staff, I  
24     think, have had with an inspection fee across the board,  
25     split, or even if it wasn't split, I mean, if it was just

1 an inspection fee applied to every inspection that we do,  
2 the problem we felt we had with that was that we're going  
3 to get -- I feel that we would get a lot of feedback -- a  
4 lot of negative feedback based on the fact that there is  
5 nothing wrong with the home.

6 Perhaps if we went and made an inspection and  
7 there is no deficiencies whatsoever, that they would not  
8 feel compelled to pay that fee.

9 And, you know, I can't honestly sit here today  
10 and say if that is going to happen or not. I don't know.  
11 Basically we do find some type of deficiency with every  
12 inspection.

13 But we felt that in the beginning that since we  
14 had lost over half of our funding, something had to be  
15 done, and at that time is when we started developing an  
16 idea of this rulemaking.

17 JUDGE THORNBURG: Commissioner Drainer?

18 COMMISSIONER DRAINER: Yes. I just wanted to  
19 follow up on a couple of points.

20 QUESTIONS BY COMMISSIONER DRAINER:

21 Q. With respect to the fee in the proposal for a  
22 complaint inspection fee, is there value in -- the  
23 Manufactured Housing Association has asked that we  
24 withdraw this rulemaking procedure at this time so that  
25 they can work through the legislative session on their

1 proposal, one of which would include in it the increases  
2 in the fee and adding the complaint inspection fee, and I  
3 would like your position on that.

4 A. Okay. Based on the proposal as it is today  
5 and -- the legislation proposal, it's -- you calculate the  
6 numbers, and it's not going to fund the program, minus the  
7 inspection fee, or the inspection charge.

8 With the inspection charge, it would have to be  
9 calculated to establish what it needs to be based on the  
10 number of inspections that we do.

11 There again, it's -- that number fluctuates  
12 annually.

13 And if I can go back real quickly to the  
14 reasoning behind the assessment fee, was that it's always  
15 going to fill the void.

16 I mean, it's going to be fluctuating up or  
17 down, whichever it needs to be. The inspection -- the  
18 number of inspections we do annually is going to change.

19 So if you've got set fees in rulemaking or in  
20 statute, you're going to have -- you're possibly going to  
21 have annual revenues short of what your appropriations  
22 are.

23 Q. Okay. And then with respect to point 6C of the  
24 comments by the Manufactured Housing Association, they  
25 state that a program could be established which would

1    require each and every manufactured home to be inspected  
2    prior to occupancy.  A reasonable fee to cover the cost of  
3    these inspections would fund the program.  And I would  
4    like for you to comment on that.

5           A.       Okay.  Yes, there has been some discussion and  
6    thought about a program that would involve inspecting  
7    every site or setting of a home.

8                    Just recently it's been discussed enough, I  
9    think, to make it sound a little more reasonable, because  
10   it will be a big job to tackle.

11                   The funding that comes from that -- which, I  
12   mean, it's just preliminary discussion -- that would be  
13   basically an installation permit fee, or whatever, however  
14   you'd want to phrase it, would actually be paid by the  
15   consumer.

16                   We'd have to develop a way to collect that, and  
17   then, obviously, come up with the number of Staff it would  
18   take to -- to actually pull that off and perform that many  
19   inspections.

20                   But it is encouraging.  And I know it's been  
21   mentioned earlier to think of ways to make the program  
22   proactive rather than reactive, which it is today, and  
23   that would certainly be one way to do it.  It would --

24           Q.       And couldn't you have outside contractors that  
25   would do the inspection so it would not have to be staffed

1 in the Department?

2 A. I'm not saying that would be impossible. I  
3 mean, it could happen.

4 Q. And you are working now with the task force  
5 that Mrs. Baker referenced? They have a task force and  
6 Staff is going to be working with that task force?

7 A. I understand that we will, yes.

8 Q. Did you attend the meeting?

9 A. Yes.

10 Q. Okay. And finally, with a proactive reporting  
11 with the manufactured housing, I heard it expressed that  
12 it would be very helpful that when you -- your Department  
13 does inspections and finds problems, that if those could  
14 be calculated and reported to the industry in Missouri to  
15 help them understand what you're seeing across the board.

16 Has that been discussed or is that something  
17 that you could do?

18 A. It has been discussed. I guess I really can't  
19 answer why that there hasn't been more communication in  
20 that area. There has been some in the past year, year and  
21 a half.

22 And I agree, we do need more. We're currently  
23 working on some articles to share with the Association in  
24 a newsletter. And I think we can make that, you know, a  
25 monthly program.

1 Q. Maybe a web page?

2 A. Yeah. Well, we have a very good web page now  
3 that has a lot of information in it.

4 Q. So additional information is something you  
5 would work with the industry on?

6 A. Yes.

7 COMMISSIONER DRAINER: I have no other  
8 questions. I appreciate your comments. Thank you.

9 JUDGE THORNBURG: Commissioner Simmons?

10 COMMISSIONER SIMMONS: I have no questions.

11 Thank you.

12 JUDGE THORNBURG: I have no questions.

13 I do want to confirm with you that your  
14 comments and responses today were directed to each of the  
15 three proposed rules. Is that correct?

16 MR. JUNGMEYER: Yes.

17 JUDGE THORNBURG: Are there any further  
18 witnesses that we haven't heard from today?

19 (No response.)

20 JUDGE THORNBURG: Okay. Mr. Gallaher, did you  
21 have an additional statement?

22 MR. GALLAHER: Judge, just very briefly.

23 In response to Commissioner Drainer's question  
24 about the use of private personnel to conduct the  
25 inspections, just for the record, I believe I'm correct to

1 say that the statute presently authorizes the use of  
2 private inspectors. So there is statutory authority  
3 already in place for that process.

4 COMMISSIONER DRAINER: All right. Thank you.

5 JUDGE THORNBURG: Mr. Bates, anything further  
6 on behalf of Staff?

7 MR. BATES: No, Your Honor. Thank you.

8 JUDGE THORNBURG: It appears there are no other  
9 participants here to speak today, so at this time we're  
10 going to adjourn the hearing.

11 Thank you very much. We appreciate everyone  
12 that appeared today.

13 Thank you.

14 WHEREUPON, the Proposed Rule Hearing was  
15 adjourned.

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