

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Manufactured Homes Commission

Regulation/Package Title: 2017 3rd Quarter Rule Revisions

Rule Number(s): 4781-1-02, 4781-4-01, 4781-7-01, 4784-7-02, 4781-7-03, 4781-7-04,
4781-7-08, 4781-7-09, 4781-7-10, 4781-8-01, 4781-8-02, 4781-8-04, 4781-8-05, 4781-8-06
4781-8-07, 4781-8-08, 4781-8-10, 4781-8-11, 4781-11-01, 4781-11-04, 4781-11-05,
4781-11-12, 4781-12-04.2, 4781-12-07.1, 4781-12-07.3

Date: 5-31-17

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

The MHC proposes to amend the stated rules above as part of the 5 year rule review:

Organization and Administration

[4781-1-02](#): Headquarters

- Amend the requirement that the office must be located in Dublin Ohio

[4781-4-01](#): Administration; executive director

- Changes the word installer to licensee to ensure rules are applied to all licensees and not just installers
- Broadens the scope of staff at the Commission

Installation Inspection

[4781-7-01](#): Inspections

- Corrects grammatical errors
- Adds requirement of entering temporary occupancy issuance onto seal report
- Removes the fee paid to the Commission for temporary occupancy permits
- Cleans up the notification process for violations found during inspections
- Removes the language allowing inspection agencies to set the fees for inspections

[4781-7-02](#): Certified manufactured home inspectors and/or plans reviewers

- Clarifies the fee charged for credit card payments

[4781-7-03](#): Inspection requirements

- Correct grammatical errors
- Added additional inspector discretion for existing footings
- Removes the ability for the inspection agency to charge for not requesting a final inspection
- Removes the ability to charge additional fees for permits not obtained prior to the commencement of an installation
- Clarifies when a home can legally be occupied

[4781-7-04](#): Building departments and health departments; requirements for certification to perform inspections of manufactured homes

- Removes the requirement that building departments send their operating budget and population data to the Commission

[4781-7-08](#): Duties and powers of the inspector

- Removes the ability for inspection agencies to charge additional fees for permits, inspections and plans review
- Clarifies the record retention policy
- Removes the reference to the Residential Code of Ohio and the ICC code

[4781-7-09](#): Permits and plans review for manufactured homes

- Added language clarifying installing a home prior to obtaining a permit is a violation
- Added language that will set the fees permitted to be charged for installation permits and inspection services

[4781-7-10](#): Commission plans review and installation inspections

- Restructured the fees charged by the Commission for installation inspections to align with the newly set fees that may be charged by all other certified agencies

Installer Licensing

[4781-8-01](#): Installer licenses; application; identification cards and certificates

- Corrected grammatical errors
- Removes the fee charged for replacing ID cards
- Reduces the fee charge to obtain or renew an installer license from \$250 to \$150

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[4781-8-02](#): Non-resident installers

- Corrects grammatical errors

[4781-8-04](#): License renewal

- Removes duplicate language
- Clarifies the notice of renewal that is sent to installers

[4781-8-05](#): Supervision of non-licensed persons

- Clarifies who can set a home without a license
- Clarifies when it is permitted to legally occupy a home

[4781-8-06](#): Education for applicants

- Clarifies credit card payment fees
- Increases the amount of time allowed between breaks during CE classes

[4781-8-07](#): Examination for installers or inspectors

- Removes the 6 month requirement in regards to when the exam is taken and passed

[4781-8-08](#): Complaints against licensees

- Cleans up the process of complaints against licensees

[4781-8-10](#): Code of ethics for licensed manufactured home installers

- Changes licensee to installer

[4781-8-11](#): Adjudication hearings

- Changes the language so that it correlates with RC 4781.121

Dealers, Brokers and Salesperson

[4781-11-01](#): General provisions and requirements for manufactured housing dealer, manufactured housing broker, and manufactured housing salesperson licensure

- Reduces the fee to obtain or renewal a salesperson license from \$150 to \$100
- Removes the fee for a replacement license
- Removes the fee for certified copies of a license
- Removes the fee for business info change
- Removes the fee for transferring a salesperson license

[4781-11-04](#): Replacement license

- Removes the fee for a replacement of a license

[4781-11-05](#): License renewal

- Corrects grammatical errors

[4781-11-12](#): Salesperson license suspension, reinstatement and transfer

- Removes the reinstatement fee

Manufactured Home Park Regulations

[4781-12-04.2](#): Manufactured home park license fee categories

- Reduces the fee charged for the license to operate a park from \$4.15 per site to \$3.55 per site

[4781-12-07.1](#): Flood plain management development permits

- Reduces the fee charged for flood plain permits from \$120 to \$50

[4781-12-07.3](#): Flood plain management elevations; floodway regulations

- Allows homes to be placed in a floodway with exceptions

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Revised Code 4781.04 <http://codes.ohio.gov/orc/4781>

Revised Code 4781.05 <http://codes.ohio.gov/orc/4781.05v1>

Revised Code 4781.25 <http://codes.ohio.gov/orc/4781.25v1>

Revised Code 4781.26 <http://codes.ohio.gov/orc/4781.26v1>

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3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

Yes. The Housing and Urban Development branch of the Federal Government requires that all new manufactured homes installed across the nation be installed in accordance with the minimum standards set forth by HUD. HUD further requires that all installers of said homes be licensed in accordance with the minimum requirements set forth by HUD and that all installations be inspected to verify that the proper installation standards were met.

HUD's participating program requirements <https://www.law.cornell.edu/cfr/text/24/3286.803>

Rules affected by federal requirement in this package are:

4781-7-01, 4781-7-02, 4781-7-03, 4781-7-04, 4781-7-08, 4781-7-09, 4781-7-10, 4781-8-01, 4781-8-02, 4781-8-04, 4781-8-05, 4781-8-06, 4784-8-07, 4781-8-08, 4781-8-10, 4781-8-11

FEMA and the NFIP also has federal requirements that must be met which impacts rules **4781-12-07.1** and **4781-12-07.3**.

FEMA's regulation and requirements <https://www.fema.gov/media-library/assets/documents/2574>

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Regulation of the installation of manufactured homes is required by the federal government and is done so to ensure the safety of all residents that live in and around manufactured homes. Revised Code 4781.04 requires the manufactured homes commission to adopt rules that “establish uniform standards that govern the installation of manufactured housing, govern the inspection of manufactured housing, and govern the training, experience and education requirements of manufactured housing installers, dealers, brokers and salespersons”.

Regulation of dealers, brokers and salespeople is required pursuant to Revised Code 4781.04 and is done so to protect consumers from unfair, deceptive and fraudulent business practices of dealers, brokers and salespeople.

Regulation of manufactured home parks is required pursuant to Revised Code 4781.26 and is done so to help provide a safe and affordable place for hundreds of thousands of Ohioans

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to call home. It is also required to protect the surrounding businesses and individuals of the manufactured home parks.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The enforcement of these rules will be implemented by the Manufactured Homes Commission as well as the agencies contracted with the MHC to provide rule enforcement. Rules 4781-4-01, rule section 4781-7, 4781-8-08, 4781-8-10, rule section 4781-10, 4781-11-01.1, and 4781-11-14 outline the procedures that must be followed to determine compliance with agency regulations. Pursuant to Revised Code 4781.27, all manufactured home parks shall be inspected annually to ensure compliance with the laws and rules adopted governing the operation of manufactured home parks in Ohio.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

The Commission maintains a stakeholder distribution list that includes all licensees, county building and health departments and professional associations. The stakeholder list is available upon request. On May 9, 2017, the Commission sent an email to all agency stakeholders informing them of the intent to review/revise rules. A notice was attached to the email that identified each rule that was being reviewed along with the proposed amendments to those rules. Stakeholders were notified that public comment regarding the rule review and proposed amendments would be received until May 26, 2017 by way of email, phone call, fax, or regular mail. Stakeholders were also given a short summary of the rule review process which outlines several more opportunities for public comment.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

A copy of all correspondences received in response to the May 9, 2017 Early Stakeholder Notice is attached as Exhibit A. Comments were reviewed by the Executive Director and no changes were made to the proposed amendments. The substantive comments were in regards to regulations set forth by the federal government which are not under review and open to public comment at this time.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

All proposed amendments were done so based on the outcome of the impact of the rules since their existence of greater than 10 years. The proposed amendments were drafted under the guidance of licensed installers, manufactured home retailers and salespeople,

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manufactured home park owners, a representative of the Department of Commerce, Board of Building Standards and the professional association for manufactured housing. Data was obtained through the experience of those professionals listed and their history in the industry.

- 10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

Most regulations set forth by the agency are pre-determined by the federal government and alternative regulations are not permitted. A minimum of standards, laws and rules must be in place in order for the state to qualify for the federal program.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain.**

To ensure the desired outcome is achieved, it has been proven through years of operating without regulation, it is not possible to have performance-based regulation. Regulation must be in place that also controls steps B – Y to reach Z in the appropriate manner. Prior to 2007, manufactured home installation standards were not in place. Therefore, consumer complaints skyrocketed to an average of over 800 complaints annually. Since regulations went into effect, consumer complaints have dropped drastically to on average 10 per year.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

Revised Code 4781.14 and 4781.26 provides the Commission exclusive authority to adopt rules and regulations of manufactured home installations, manufactured home installers, inspectors, dealers, brokers and salespeople and manufactured home parks. Therefore all rules adopted by the Agency is pre-emptive to any existing Ohio regulation.

- 13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

See the answer to question #6

Adverse Impact to Business

- 14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**

- Manufactured home installers
- Manufactured home inspectors and Inspection Agencies
- County building and health departments

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- Manufactured home dealers, brokers and salespeople
 - Manufactured home park owners
 - Consumers of manufactured home products
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- Becoming familiar with the changes as proposed and adjusting business practices to align with those changes
 - Adjusting to paying *less* for license fees – All fee amendments that are being proposed is a *reduction* in licensing costs and permits
- c. Quantify the expected adverse impact from the regulation.**
- Due to the variance in allowed permit fees, it is difficult to ascertain, in dollars a financial impact that inspection agencies may experience. Current rules allow an inspection agency to set their own fees with no ceiling. Proposed changes will place a ceiling on those fees. Many inspection agencies were already charged fees that were at or below the listed ceiling. The inspections that charged fees above the proposed limit will need to adjust their business practices.
 - All other regulation proposed will not have an adverse impact on the business community as it is a reduction in fees

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Decreased cost in permit fees ensures that all Ohioans who are installing manufactured homes in Ohio can do so at a more affordable price while still maintaining the high standard of safety and quality.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses?

County health and building departments are not required to pay a fee to be certified as inspection agencies. They are permitted to obtain certification if they desire but at no cost.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Licensees who engage in paperwork violation and first-time offenders receive a written warning in lieu of a formal violation notification. No fines or penalties are assessed on for written warnings.

18. What resources are available to assist small businesses with compliance of the regulation?

Classes and seminars are held throughout the year for licensees who would like to learn more about ways to become or maintain compliance with rules and regulations administered by the Manufactured Homes Commission. Information is also made available on our website as it becomes available.