

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 20 CSR 4240-123.040

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

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TYPE OF RULEMAKING ACTION TO BE TAKEN

Emergency Rulemaking Rule Amendment Rescission Termination

Effective Date for the Emergency _____

Proposed Rulemaking Rule Amendment Rescission

Rule Action Notice In Addition Rule Under Consideration

Request for Non-Substantive Change

Statement of Actual Cost

Order of Rulemaking Withdrawal Adopt Amendment Rescission

Effective Date for the Order _____

Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? NO

YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

RECEIVED

By JCAR at 1:44 pm, Nov 12, 2021



Missouri Public Service Commission

MAIDA J. COLEMAN
Commissioner

RYAN A. SILVEY
Chairman

JASON R. HOLSMAN
Commissioner

SCOTT T. RUPP
Commissioner

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GLEN KOLKMEYER
Commissioner

John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 20 CSR 4240-123.040 Approval of Manufacturing Programs

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 386.250, 386.310, and 393.140, *RSMo*

If there are any questions regarding the content of this order of rulemaking, please contact:

Morris Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
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Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures



Michael L. Parson

GOVERNOR
STATE OF MISSOURI

November 8, 2021

Mr. Ryan Silvey
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

Dear Ryan:

This office has received your Final Order of Rulemaking for the following regulations:

- 20 CSR 4240-120.140 New Manufactured Home Manufacturer's Inspection Fee
- 20 CSR 4240-123.030 Seals
- 20 CSR 4240-123.040 Approval of Manufacturing Programs
- 20 CSR 4240-125.040 Manufactured Home Installer License
- 20 CSR 4240-125.050 Limited Use Installer License

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review, we approve the submission to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew T. Bailey".

Andrew T. Bailey
General Counsel

**Title 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 123 – Modular Units**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission amends a rule as follows:

20 CSR 4240-123.040 Approval of Manufacturing Programs is amended

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2021 (46 MoReg 1628). No changes have been made in the text of the proposed amendment so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended October 1, 2021, and the commission held a public hearing on the proposed amendment on October 4, 2021. The commission received a timely written comment from the Manager of the Manufactured Housing and Modular Units of the Missouri Public Service Commission (Manager). Justin Smith and Karen Bretz, representing the Manager, appeared at the hearing and offered comments. In addition, Thomas Hagar and Jamie Smith, representing the Missouri Manufactured Housing Association, appeared at the hearing and offered comments.

COMMENT #1: The Manager’s written comment explains that the current rule requires the manufacturer of a manufactured home to obtain approval of modular unit plans in production, and to renew that approval annually. To do so, the manufacturer must pay a fee of \$75 for each such modular unit plan. The proposed amendment will increase that per plan fee to \$150. The Manager anticipates this fee increase will generate an additional \$24,000 per year to help fund the Manufactured Housing Program (Program). The Manager further explained that the Program is primarily funded through the imposition of fees, which by law, must be sufficient to cover all costs incurred in the administration of the Program. The fees established in this rule have not been increased in nearly twenty years, and in recent years annual fee collections have not been sufficient to cover the costs of the Program. The Program has operated at a deficit for fiscal years 2015 through 2020. As a result, the Manager has had to draw down the balance of the Manufactured Housing Fund, which stands at \$228,204 as of June 30, 2021.

RESPONSE: The commission will make no change in response to this comment.

COMMENT #2: Jamie Smith, current president of the Missouri Manufactured Housing Association, and Thomas Hagar, also associated with the Missouri Manufactured Housing Association, opposed the increase in fees. Mr. Hagar questioned the need for a fee increase at this time. He believes that the industry is recovering from a period of decreased sales and that as sales increase in the coming years, the Manager will collect more fee dollars, even without an increase in the fee rate. He point out that in the most recent fiscal year, 2021, the Program was able to operate without a deficit and he expects that trend to continue into the future. Mr. Smith, who is also general manager of Clayton Homes of Lebanon, a manufactured housing dealership, expressed particular concern about the proposal to increase the fees charged to manufactured home installers. (That proposed fee increase for installers is pending in the proposed amendment of commission rule 20 CSR 4240-125.040.) He explained that there is a shortage of licensed installers and he opposes a fee increase that might make it more difficult to find people willing to undergo the training and financial cost of becoming a licensed installer.

RESPONSE: The commission is mindful of the concerns expressed by representatives of the Missouri Manufactured Housing Association. However, the commission believes that the Manager has established that there is a need for the additional revenue that will be collected through the proposed increase in fees. The Commission will proceed with the proposed amendment to increase this fee.