

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

Rule Number 4 CSR 240-125.060

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

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-8518 FAX 573-526-6010

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Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

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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:

Section (3)

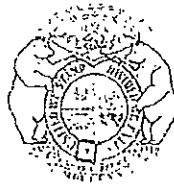
Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

NOV 16 2017

ADMINISTRATIVE RULES



ERIC R. GREJTENS
GOVERNOR

GOVERNOR OF MISSOURI
JEFFERSON CITY
65101

P.O. Box 720
(573) 751-3222

November 9, 2017

Daniel Hall
Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102

Dear Chairman Hall:

This office has received your rulemaking for new manufactured homes: 4 CSR 240-120.011; 4 CSR 240-120.031; 4 CSR 240-120.060; 4 CSR 240-120.065; 4 CSR 240-120.070; 4 CSR 240-120.080; 4 CSR 240-120.085; 4 CSR 240-120.090; 4 CSR 240-120.100; 4 CSR 240-120.110; 4 CSR 240-120.120; 4 CSR 240-120.130; and 4 CSR 240-120.140.

This office also has received your rulemaking for pre-owned manufactured homes: 4 CSR 240-121.010; 4 CSR 240-121.020; 4 CSR 240-121.030; 4 CSR 240-121.040; 4 CSR 240-121.050; 4 CSR 240-121.060; and 4 CSR 240-121.180.

This office also has received your rulemaking for modular units: 4 CSR 240-123.010; 4 CSR 240-123.020; 4 CSR 240-123.030; 4 CSR 240-123.040; 4 CSR 240-123.050; 4 CSR 240-123.060; 4 CSR 240-123.065; 4 CSR 240-123.070; 4 CSR 240-123.080; 4 CSR 240-123.090; and 4 CSR 240-123.095.

This office also has received your rulemaking for manufactured home tie-down systems: 4 CSR 240-124.010; 4 CSR 240-124.020; 4 CSR 240-124.030; 4 CSR 240-124.040; 4 CSR 240-124.045; 4 CSR 240-124.050; and 4 CSR 240-124.060.

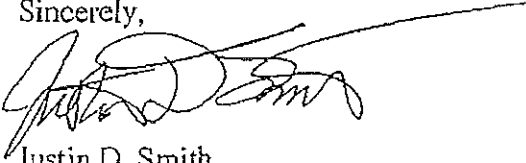
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

This office also has received your rulemaking for the manufactured housing consumer recovery fund: 4 CSR 240-126.010 and 4 CSR 240-126.020.

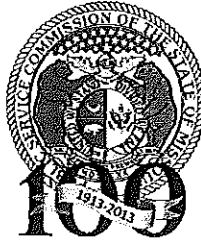
Finally, this office has received your rulemaking for manufactured homes and modular units, 4 CSR 240-127.010.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Justin D. Smith", with a long horizontal line extending from the end of the signature.

Justin D. Smith
Deputy Counsel



Commissioners

DANIEL Y. HALL
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

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MAIDA J. COLEMAN

Missouri Public Service Commission

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

Re: 4 CSR 240-125.060 Licensing

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 700.677 and 700.692, RSMo 2016.

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

Nancy Dippell, Senior Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8518
Nancy.dippell@psc.mo.gov

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 125 – Manufactured Home Installers**

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ORDER OF RULEMAKING

COPY

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

4 CSR 240-125.060 is amended.

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1188). Changes to the proposed amendment are 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 September 15, 2017, and the commission held a public hearing on the proposed amendment on September 22, 2017. The commission received timely written comments regarding this rule from seven manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; Timothy L. DeVine, Your Home Center L.L.C.; Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the Staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

COMMENT #1: Mr. Hagar made a general written comment regarding the amendments proposed to the entire package of manufactured housing rules. He expressed concern that the date set for the hearing did not allow the MMHA members sufficient time to review and prepare comments on the rule amendments. Mr. Hagar requested the hearing be delayed.

JOINT COMMITTEE ON
NOV 16 2017
ADMINISTRATIVE RULES

RESPONSE: The date for the hearing had already been published in the *Missouri Register* when the comment was received, and could not be postponed. Members of the MMHA participated in the hearing and filed written comments.

COMMENT #2: Mr. AuBuchon commented at the hearing on behalf of the MMHA. Mr. Crump and Mr. Smith commented at the hearing that they agreed with Mr. AuBuchon's comments. Mr. AuBuchon gave general comments about and a history of the rulemaking process for all the manufactured housing rules that are being simultaneously promulgated with this rule. Mr. AuBuchon also made suggestions about how the commission could have communicated better with the industry.

RESPONSE: The comments of the manufactured housing industry representatives are appreciated by the commission. However, because the process was completed in accordance with the statutory requirements and the comments were general in nature, no changes to the rules were made as a result of these general comments. The comments specific to other manufactured housing rules are addressed in the context of those rules.

COMMENT #3: Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

RESPONSE AND EXPLANATION OF CHANGE: Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the filing of a complaint against an installer discretionary, much like the commission decided to make the implementation of fees discretionary in other rules.

COMMENT #4: Mr. Crump did not comment specifically on this rule, but did generally note that there had been a reduction in consumer complaints since training and licensing for home installers was implemented in Missouri in 2009.

RESPONSE: The commission appreciates Mr. Crump's comments. The commission finds that the amendments to this rule will further clarify the requirements and enhance the installer licensing program. No changes were made as a result of this comment.

COMMENT #6: Staff filed comments generally supporting the amendments, but also suggested an additional change due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to change which part of the agency would receive the submission and notifications. That is, the submissions would now be made with the manager of the manufactured housing program. Additionally, a section was added describing actions to be taken against an installer's license for failure to comply.

After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that minor wording changes be made to

proposed subsection (3)(B) to make filing a complaint discretionary, rather than mandatory.

RESPONSE AND EXPLANATION OF CHANGE: In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that enforcement actions should not be automatic or mandatory in nature. Rather, as staff has suggested, complaints filed by the manager should be discretionary. Therefore, the commission has further amended subsection (3)(B).

4 CSR 240-125.060 Licensing

(3) License Suspension and Revocation.

(B) The commission may suspend an installer license for up to thirty (30) days for failure to comply with the provisions of Chapter 700 RSMo, the rules promulgated thereunder, or the act or the code(s) as adopted under this chapter. If conditions have not been remedied within thirty (30) days, the manager may file, with the commission, a complaint against the installer for failure to comply with a commission rule.