



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 10153
Date Printed: 4/6/2009
Rule Number: 4 CSR 240-126.010
Rulemaking Type: Proposed Rule
Date Submitted to Administrative Rules Division: 4/6/2009
Date Submitted to Joint Committee on Administrative Rules: 4/6/2009

Name of Person to Contact with questions concerning this rule:

Content: Morris Woodruff	Phone: 751-2849	Email: morriswoodruff@psc.mo.gov	Fax: 526-6010
RuleDataEntry:	Phone:	Email:	Fax:

Included with Rulemaking:

Cover Letter	4/06/2009
Affidavit for public cost	4/06/2009

Print Close

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-126.010

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

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data Entry same Phone FAX

Email address

Interagency mailing address Public Service Commission, 9th Fl, Gov.Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

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
SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

APR 06 2009

ADMINISTRATIVE RULES



Commissioners
ROBERT M. CLAYTON III

Chairman
CONNIE MURRAY
JEFF DAVIS
TERRY JARRETT
KEVIN D. GUNN

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

DANA K. JOYCE
Director, Administration

ROBERT SCHALLENBERG
Director, Utility Services

NATELLE DIETRICH
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

April 6, 2009

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: Proposed Rule 4 CSR 240-126.010

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission for filing on this 6th day of April, 2009.

Statutory Authority: Sections 700.040, RSMo 2000, and Section 700.041, RSMo Supp. 2008.

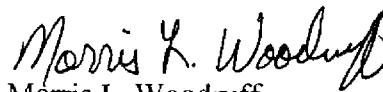
Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rulemaking in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. Adopting the proposed rulemaking does not implicate the takings clause of the U.S. Constitution, because the proposed rulemaking does not involve the taking of real property.

Section 536.300, RSMo Supp. 2008, requires state agencies to "determine whether the proposed rule amendments affect small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking." Executive Order 03-15, which similarly addresses the impacts of rulemakings on small businesses, defines a small business to be "a for-profit

enterprise consisting of fewer than one hundred full- or part-time employees” and elaborates that a proposed rule “affects” a small business if it “impose[s] any potential or actual requirement” that “will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business.” Section 536.300.3, RSMo Supp. 2008, in part, provides: “If the state agency determines that its proposed rule does not affect small business, the state agency shall so certify this finding in the transmittal letter to the secretary of state, stating that it has determined that such proposed rule will not have an economic impact on small business . . .”

Proposed rule 4 CSR 240-126.010 does not impose requirements that have an economic impact on small businesses, that “will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business.” The Commission certifies that it has determined that the proposed rule will not have an economic impact on small businesses.

If there are any questions, please contact: Morris L. Woodruff, Deputy Chief Regulatory
Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov



Morris L. Woodruff
Deputy Chief Regulatory Law Judge

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
DIVISION 240 – Public Service Commission
Chapter 126– Manufactured Housing Consumer Recovery Fund**

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PROPOSED RULE

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

4 CSR 240-126.010 Definitions

PURPOSE: This rule defines various terms as used in this chapter.

- (1) "Advisory Committee" is the committee created to assist the Commission with the evaluation of all claims filed by consumers;
- (2) "Applicant" is any consumer who completes a claim form;
- (3) "Claim form" is the form developed and provided by the Commission and which is used for reimbursement from the Manufactured Housing Recovery Fund;
- (4) "Commission" is the Missouri Public Service Commission;
- (5) "Consumer" is any individual who has purchased from a Missouri registered manufacturer or dealer any "home" as that term is defined in this in this rule;
- (6) "Home" means any new manufactured home built according to the federal standards in 24 CFR Part 3280, 3282 and 4 CSR 240-120.100, and/or any Modular unit used as a residential home and built according to the Code for modular units as that Code is defined in 4 CSR 240-123.080;
- (7) "Manufactured Housing Consumer Recovery Fund" (Recovery Fund) means the fund administered by the Commission for the purpose of paying consumer claims under procedures the Commission may promulgate by rule.
- (8) "Program Director" is the Director of the Commission's Manufactured Housing and Modular Units Program.
- (9) "Unsatisfied Claim" is any claim for the actual cost of damages or repairs arising from a violation of Chapter 700, the Commission's rules, or the federal standards in 24 CFR Part 3280 and 3282, and which a consumer has not been able to recover.

AUTHORITY: Section 700.040, RSMo 2000. Section 700.041 RSMo. Supp. 2008. Original rule filed _____, 2009, effective, 2009.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) annually in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) annually in the aggregate.

JOINT COMMITTEE ON

APR 06 2009

ADMINISTRATIVE RULES

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement including reference to Case No. MX-2009-0326 in support of or in opposition to this proposed rule with the Public Service Commission, Colleen M. Dale, Secretary, P.O. Box 360, Jefferson City, Missouri 65102. Comments may also be submitted by using the Commission's electronic information filing and information system at <http://psc.mo.gov/case-filing-information>. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: March 30, 2009

Rule Numbers: 4 CSR 240-126.010 & 4 CSR 240-126.020.

Proposed rules establish the guidelines for the implementation of the Manufactured Housing Consumer Recovery Fund established in section 700.041, Senate Bill 788 passed during the 2008 legislative session.

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Ron Pleus

Phone Number: 573-751-7119

Email: ron.pleus@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff

Please describe the methods your agency considered or used to reduce the impact on small businesses (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

No additional costs will be incurred by small business's, money for the Recovery Fund will be appropriated from the existing Manufactured Housing Fund established in section 700.040. No additional costs or fees will be assessed to the Industry.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The agency regularly conducts informational meetings throughout the state to obtain feedback from manufacturers, local retailers and installers who manufacture, sell and install manufactured and modular structures and the Missouri Manufactured Housing Association.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	Type of Rulemaking
4 CSR 240-126.010 Definitions	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimated number of entities that will likely be affected by adoption of the rule.	Types of entities that will likely be affected by adoption of the rule.	Estimated aggregate cost of compliance with the rule by the affected entities.
Unknown - Small number of Manufactured Home Owners	Manufactured Home Owners	Less than \$500.

III. WORKSHEET

Not Applicable

IV. ASSUMPTIONS

Rule will only apply to entities who have new home defects or deficiencies that cannot be repaired by the home manufacturer, dealer or installer who installed the home and all other legal remedies have been exhausted.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name	Type of Rulemaking
4 CSR 240-126.010 Definitions	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

State agencies or political subdivisions that will likely be affected by adoption of the proposed rule.	Estimated aggregate cost of compliance with the proposed rule by the affected entities.
Public Service Commission	Less than \$500.

III. WORKSHEET

Not Applicable

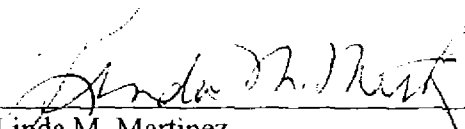
IV. ASSUMPTIONS

Rule will only apply to entities who have new home defects or deficiencies that cannot be repaired by the home manufacturer, dealer or installer who installed the home and all other legal remedies have been exhausted.

**AFFIDAVIT
PUBLIC COST**

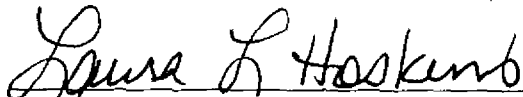
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Linda M. Martinez, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed rule 4 CSR 240-126.010, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Linda M. Martinez
Director
Department of Economic Development

Subscribed and sworn to before me this 1st day of April, 2009, I am
commissioned as a notary public within the County of Cole, State of
Missouri, and my commission expires on 2-1-2012.



Notary Public

