

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Proposed Amendments to)
Commission Rule 4 CSR 240-123,)
Modular Units)

Case No. MX-2008-0033

NOTICE OF STAFF COMPLIANCE COST REVIEW

COMES NOW the Director of the Manufactured Housing and Modular Units Program (the Director) of the Missouri Public Service Commission (the Commission), by and through counsel, and for his Notice of Staff Compliance Cost Review (Notice) states as follows:

1. Effective April 30, 2008, Commission Rules 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 240-123.065, and 4 CSR 240-123.080 were amended to reflect changes to the Commission's regulations dealing with modular units.

2. Section 536.200.2, RSMo (2000)¹ mandates that a review of the fiscal impact of these amendments be conducted by the Commission within one year of their implementation in order to determine if the actual costs of the rules have exceeded certain thresholds. Specifically, Section 536.200.2 states as follows:

2. If at the end of the first full fiscal year after the implementation of the rule, amendment, or rescission the cost to all affected entities has exceeded by ten percent or more the estimated cost in the fiscal note or has exceeded five hundred dollars if an affidavit has been filed stating the proposed change will cost less than five hundred dollars, the original estimated cost together with the actual cost during the first fiscal year shall be published by the adopting agency in the Missouri Register within ninety days after the close of the fiscal year. Such costs shall be determined by the adopting agency. If the adopting agency fails to publish such costs as

¹ Unless otherwise noted all references to statute refer to the Missouri Revised Statutes (2000), as currently supplemented.

required by this section, the rule, amendment, or rescission shall be void and of no further force or effect.

3. In the attached Memorandum, labeled Appendix A and incorporated by reference herein, the Director indicates that he has conducted a review of the fiscal impact of the above-listed amendments and states that the cost of compliance therewith did not exceed \$500 during the first year since their implementation. (Appendix A, p. 2). For this reason, and pursuant to Section 536.200.2, the Commission is not required to submit any additional information for publication

WHEREFORE, the Director, in compliance with Section 536.200.2, submits this Notice for the Commission's information.

Respectfully submitted,

/s/ Eric Dearmont

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 2nd day of July, 2010.

/s/ Eric Dearmont

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. MX-2008-0033; Rules 4 CSR 240-123.010 through .050,
4 CSR 240.123.065 and 4 CSR 240.123.080

FROM: /s/ Ron Pleus 6/29/2010
Director, Manufactured Housing Date
and Modular Units Program

/s/ Eric Dearmont 6/29/2010
Staff Counsel's Office Date

SUBJECT: Staff Review of Rule Compliance Costs

DATE: June 29, 2010

On August 3, 2007, the Missouri Public Service Commission (MPSC) issued a Notice of New Case, creating Case No. MC-2008-0033 for the purpose of amending rules 4 CSR 240-123.010 through .050, 4 CSR 240.123.065 and 4 CSR 240.123.080 (referred to hereinafter as the "proposed rules"). On October 15, 2007, the MPSC filed the proposed rules with the Office of the Missouri Secretary of State. These proposed rules were published in the November 15, 2007 edition of the *Missouri Register*. The rule became effective on April 30, 2008.

Section 536.200 of the *Missouri Revised Statutes (RSMo)* requires that a state agency file a fiscal note if the adoption, amendment, or rescission of the rule would result in \$500 of increased costs or decreased revenues for public entities. Section 536.205 *RSMo* requires a state agency to file a fiscal note if the adoption, amendment, or rescission of the rule would result in \$500 of increased costs or decreased revenues for private entities. The proposed rulemaking in MX-2008-0033 included statements about estimated costs to public and private entities as required by statute and as described in further detail below.

Section 536.205 *RSMo* does not address a future review of actual costs to private entities, but Section 536.200 does mandate a review for public entity fiscal notes, stating in specific as follows:

2. If at the end of the first full fiscal year after implementation of the rule, amendment, or rescission the cost to all affected entities has exceeded by ten percent or more the estimated cost in the fiscal note or has exceeded five hundred dollars if an affidavit has been filed stating the proposed change will cost less than five hundred dollars, the original estimated cost together with the actual cost during the first fiscal year shall be published by the adopting agency in the *Missouri Register* within ninety days after the close of the fiscal year. Such costs shall be determined by the adopting agency. If the

adopting agency fails to publish such costs as required by this section, the rule, amendment, or rescission shall be void and of no further force or effect.

As required by Section 536.200 *RSMo*, the Staff has reviewed the public entity cost during the first full fiscal year after implementation of the rulemaking in Case No. MX-2008-0033. MPSC General Procedure GP-1 states that the Staff should investigate the cost to all affected entities and prepare a memorandum showing the investigation results within thirty (30) days after the first full fiscal year. This Memorandum is intended to meet these provisions in GP-1, and to fulfill the statutory requirement shown above, for the rulemakings in Case NO. MX-2008-0033.

1) Staff Review of Amendment to Rules 4 CSR 240-123.010 through .050, 4 CSR 240-123.065 and 4 CSR 240-123.080

The proposed rules were published with statements that neither the public entity cost nor the private entity cost would exceed \$500 in the aggregate. The proposed rule was to make changes to existing rules concerning modular buildings. These changes did not involve costs to public or private entities in excess of those costs already required prior to the revision of the rule. For this same reason, the Staff states that the costs of compliance with the above amendments did not exceed \$500 during the first full fiscal year.

In conclusion, the Staff states that the actual costs did not exceed \$500 during the first full fiscal year after implementation of the rulemaking in Case No. MX-2008-0033. Therefore, the Staff believes that the MPSC is not required by Section 536.200 of the *Missouri Revised Statutes* to publish the estimated and actual costs in the *Missouri Register*. GP-1 specifies that if the investigation shows that the costs have not exceeded \$500, then the Staff's memorandum shall be entered into EFIS under the rulemaking's docket number and for this reason this Memorandum is filed in Case No. MX-2008-0033. No further action by the MPSC is necessary.