

agreement." The commission agreed with that objection and indicated it would move the objected to portion of the definition to this rule. The language in question limited the duration of such payment agreements to twelve (12) months unless the customer and utility agree to a longer period.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission will insert that time limitation at the end of section (2).

**COMMENT #3:** Public Counsel objects to the proposed elimination of section (4), which authorizes the utility and its customer to enter into an extension agreement when the customer claims an inability to pay their bill on time.

**RESPONSE:** The amendment is not eliminating authority to enter into an agreement to extend time to pay a utility bill. Rather, it is eliminating the term "extension agreement" here, and in 4 CSR 240-13.015, as an unnecessary duplication of a "payment agreement." The commission will not make the change proposed by Public Counsel.

#### **4 CSR 240-13.060 Settlement Agreement and Payment Agreement**

(2) Every payment agreement resulting from the customer's inability to pay the outstanding bill in full shall provide that service will not be discontinued if the customer pays the amount of the outstanding bill specified in the agreement and agrees to pay a reasonable portion of the remaining outstanding balance in installments until the bill is paid. For purposes of determining reasonableness, the parties shall consider the following: the size of the delinquent account, the customer's ability to pay, the customer's payment history, the time that the debt has been outstanding, the reasons why the debt has been outstanding, and any other relevant factors relating to the customer's service. Such a payment agreement shall not exceed twelve (12) months duration, unless the customer and utility agree to a longer period.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 13—Service and Billing Practices for Residential  
Customers of Electric, Gas, Sewer, and Water Utilities**

#### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under sections 386.250(6) and 393.140(11), RSMo 2000, the commission amends a rule as follows:

#### **4 CSR 240-13.070 Commission Complaint Procedures is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1376-1377). 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 7, 2013, and the commission held a public hearing on the proposed amendment on October 10, 2013. The commission received timely written comments from Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Laclede Gas Company, Ameren Missouri, and The Empire District Electric Company (collectively the Missouri Utilities); the Office of the Public Counsel; Jacqueline Hutchinson, Vice President of Operations for People's Community Action Corporation in St. Louis

Missouri; AARP, the Consumers Council of Missouri, and Legal Services of Eastern Missouri, Inc. (collectively the AARP group); Missouri-American Water Company; and the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Rick Zucker, representing Laclede Gas Company and Missouri Gas Energy; Jim Fischer, representing Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Alison Erickson on behalf of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCP&L and GMO); Russ Mitten, representing The Empire District Electric Company; Sarah Giboney, representing Ameren Missouri; Kathy Hart on behalf of Ameren Missouri; Tim Luft, on behalf of Missouri-American Water Company; Marc Poston, representing the Office of the Public Counsel; John Coffman, representing AARP and Consumers Council of Missouri; Jacqueline Hutchinson on behalf of Community Action Corporation in St. Louis Missouri; Jackie Lingum, representing Legal Services of Eastern Missouri, Inc.; Akayla Jones, representing the staff of the Missouri Public Service Commission; and Gay Fred and Lisa Kremer on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eleven (11) other rules within Chapter 13. Not all persons offering comments addressed this particular rule.

**COMMENT:** The commission's staff offered a written comment indicating that it continues to support the amendment as proposed.  
**RESPONSE:** The commission thanks staff for its comment.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 120—New Manufactured Homes**

#### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-120.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1480). Those sections with changes 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 October 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments.

In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects.

**COMMENT #3:** Darrell Myers indicated that the commission's representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the

commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The commission's staff offered a written comment suggesting additional changes to the amendment as published in the *Missouri Register*. Subsection (4)(A) of the amendment as published allows the director one (1) year to conduct an initial inspection of the set-up of a home. The amended rule would measure that one- (1-) year inspection period from the date the dealer reports the delivery of the home to the consumer, or if not reported, from the date the commission becomes aware of the delivery. Staff proposes to simplify the start of the one- (1-) year inspection period to the date the home is installed. Staff believes this would provide a more definite "trigger" date for the inspection. The persons commenting on behalf of the manufactured housing industry did not respond to this additional change proposed by staff.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission is concerned that the representatives of the manufactured housing business and other interested persons did not have a substantial opportunity to respond to this proposed modification of the amendment as published in the *Missouri Register* since staff did not propose it until it filed its written comments nine (9) days before the hearing. However, the commission shares staff's concern that the amendment as published would start the one- (1-) year inspection period from the inherently uncertain date of when the dealer reports the delivery of the home to the consumer or, even less certainly, when the commission becomes aware of the delivery. Staff's revised proposal to measure the inspection period from the date the home is installed will provide a more definite "trigger" date and should benefit both consumers and dealers. The commission will revise subsection (4)(A) as proposed by staff.

**COMMENT #5:** New subsection (4)(C) requires the dealer to submit a property locator form to the commission indicating the destination of the home within forty-eight (48) hours of the date the home leaves the dealer's location. The subsection, as published in the *Missouri Register*, states that the property locator form will be provided by the commission. In its written comments, the commission's staff attaches a draft of the locator form dealers will be required to use.

Darrell Myers objected to the cost of completing this new paperwork and complained that the form would require him to violate the privacy of his customers by providing the customer's name and address to the state.

Staff replied to Mr. Myers by explaining that prompt submission of the property locator form is needed to allow its inspectors to schedule their inspections of the setup of the home. Staff also explains that any customer information submitted to the commission must remain confidential by Missouri statute.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission believes the requirement to submit a property locator form imposed by the new subsection (4)(C) as published in the *Missouri Register* is appropriate. The privacy of customer information will be maintained and the additional cost to dealers is reasonable in light of the need to efficiently schedule required inspections.

The revision proposed by staff in its October 16 comment that would require dealers to use the locator form provided by the commission is an improvement that will make the form more accessible to dealers and to the public. The commission will incorporate that revision into the rule.

**COMMENT #6:** New subsection (4)(D) as published in the *Missouri Register* indicates the commission may assess a fifty dollar (\$50) per home inspection fee against dealers who fail to submit the property locator form by the due date. In its comments filed on October 16,

staff proposes to change the "may" to "shall," thereby removing the commission's discretion about whether to impose the fee.

Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, and Darrell Myers both objected to the proposal to remove the director's discretion about imposing an inspection fee. Hager complains that this change was not discussed with the association and that he was unaware of the proposed change until he spoke with staff just before the hearing. Mr. Myers complains that imposing a mandatory fee would unfairly penalize good dealers who happen to occasionally miss a short deadline.

**RESPONSE:** New subsection (4)(D) as published in the *Missouri Register* allows the commission to impose an additional inspection fee as a reasonable means to ensure compliance with the requirement to submit a property locator form in a timely manner. However, staff's proposal to modify that subsection to remove the commission's discretion regarding the assessment of that fee is not necessary. The commission has the expertise to exercise its reasonable discretion in such circumstances and there is no need to circumscribe that discretion. Most importantly, since staff did not propose this significant change until after the proposed amendment was published in the *Missouri Register*, interested persons have not had a reasonable opportunity to comment on that change. The commission will not change "may" to "shall" in the subsection.

#### **4 CSR 240-120.065 Manufactured Home Dealer Setup Responsibilities**

(4) The commission shall not so discipline the dealer's registration unless the director of the commission's manufactured housing and modular units program finds, incident to an inspection, setup deficiencies and initiates action to discipline the registration within five (5) years after the date of sale, subject to the following, effective the first day of the month after the effective date of this amendment:

(A) The director will have a period of one (1) year from the date the home is installed to conduct the initial inspection of the home setup;

(C) Dealers shall submit to the commission a property locator indicating the destination of the home within forty-eight (48) hours of the date the home leaves the dealer's location or the manufacturer's location if the home is shipped directly to the consumer. For multi-section homes the forty-eight (48) hours begins when the first section leaves the dealer's or manufacturer's location. The dealer shall use the property locator form provided by the commission;

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 120—New Manufactured Homes**

##### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

##### **4 CSR 240-120.085 Re-Inspection Fee is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1481). 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 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission

received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects. Mr. Hager did not object to any specific provision of this rule so no further comment is necessary.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects. Mr. Myers did not object to any specific provision of this rule so no further comment is necessary.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed \$500 in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The commission's staff offered a written comment supporting the amendment as published in the *Missouri Register*.

**RESPONSE:** The commission thanks staff for its comments.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 120—New Manufactured Homes**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

**4 CSR 240-120.130 Monthly Report Requirement for Registered  
Manufactured Home Dealers is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1481-1482). 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 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will

reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to

obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The proposed amendment to section (3) as published in the *Missouri Register* indicates the director may assess a fifty dollar (\$50) per report inspection fee against dealers who fail to submit a monthly sales report within sixty (60) days of the date such report is due. In its comments filed on October 16, staff proposes to change the "may" to "shall," thereby removing the director's discretion about whether to impose the fee.

Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, and Darrell Myers both objected to the proposal to remove the director's discretion about imposing an inspection fee. Hager complains that this change was not discussed with the association and that he was unaware of the proposed change until he spoke with staff just before the hearing. Mr. Myers complains that imposing a mandatory fee would unfairly penalize good dealers who happen to occasionally miss a deadline.

**RESPONSE:** The amendment to section (3) as published in the *Missouri Register* allows the director to impose an additional inspection fee as a reasonable means to ensure compliance with the requirement to submit a monthly sales report in a timely manner. However, staff's proposal to modify that subsection to remove the director's discretion regarding the assessment of that fee is not necessary. The director has the expertise to exercise reasonable discretion in such circumstances and there is no need to circumscribe that discretion. Most importantly, since staff did not propose this significant change until after the proposed amendment was published in the *Missouri Register*, interested persons have not had a reasonable opportunity to comment on that change. The commission will not change "may" to "shall" in the section.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 123—Modular Units**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-123.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1482-1483). Those sections with changes 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 October 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri*

*Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission

is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The commission's staff offered a written comment suggesting additional changes to the amendment as published in the *Missouri Register*. New section (5) of the amendment as published allows the director one (1) year to conduct an initial inspection of the set-up of a home. The amended rule would measure that one- (1-) year inspection period from the date the dealer reports the delivery of the home to the consumer, or if not reported, from the date the commission becomes aware of the delivery. Staff proposes to simplify the start of the one- (1-) year inspection period to the date the home is installed. Staff believes this would provide a more definite "trigger" date for the inspection. The persons commenting on behalf of the manufactured housing industry did not respond to this additional change proposed by staff.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission is concerned that the representatives of the manufactured housing business and other interested persons did not have a substantial opportunity to respond to this proposed modification of the amendment as published in the *Missouri Register* since staff did not propose it until it filed its written comments nine (9) days before the hearing. However, the commission shares staff's concern that the amendment as published would start the one- (1-) year inspection period from the inherently uncertain date of when the dealer reports the delivery of the home to the consumer or, even less certainly, when the commission becomes aware of the delivery. Staff's revised proposal to measure the inspection period from the date the home is installed will provide a more definite "trigger" date and should benefit both consumers and dealers. The commission will revise section (5) as proposed by staff.

**COMMENT #5:** New subsection (5)(B) requires the dealer to submit a property locator form to the commission indicating the destination of the home within forty-eight (48) hours of the date the home leaves the dealer's location. The subsection, as published in the *Missouri Register*, states that the property locator form will be provided by the commission. In its written comments, the commission's staff attaches a draft of the locator form the dealers will be required to use.

Darrell Myers objected to the cost of completing this new paperwork and complained that the form would require him to violate the privacy of his customers by providing the customer's name and address to the state.

Staff replied to Mr. Myers by explaining that prompt submission of the property locator form is needed to allow its inspectors to schedule their inspections of the setup of the home. Staff also explains that any customer information submitted to the commission must remain confidential by Missouri statute.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission believes that the requirement to submit a property locator form imposed by the new subsection (5)(B) as published in the *Missouri Register* is appropriate. The privacy of customer information will be maintained and the additional cost to dealers is reasonable in light of the need to efficiently schedule required inspections.

The revision proposed by staff in its October 16 comment that would require dealers to use the locator form provided by the commission is an improvement that will make the form more accessible to dealers and to the public. The commission will incorporate that revision into the rule.

**COMMENT #6:** New subsection (5)(C), as published in the *Missouri Register*, indicates the commission may assess a fifty dollar (\$50) per home inspection fee against dealers who fail to submit the property locator form by the due date. In its comments filed on October 16, staff proposes to change the "may" to "shall," thereby removing the commission's discretion about whether to impose the fee.

Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, and Darrell Myers both objected to the proposal to remove the director's discretion about imposing an inspection fee. Hager complains that this change was not discussed with the association and that he was unaware of the proposed change until he spoke with staff just before the hearing. Mr. Myers complains that imposing a mandatory fee would unfairly penalize good dealers who happen to occasionally miss a short deadline.

**RESPONSE:** New subsection (5)(C), as published in the *Missouri Register*, allows the commission to impose an additional inspection fee as a reasonable means to ensure compliance with the requirement to submit a property locator form in a timely manner. However, staff's proposal to modify that subsection to remove the commission's discretion regarding the assessment of that fee is not necessary. The commission has the expertise to exercise its reasonable discretion in such circumstances and there is no need to circumscribe that discretion. Most importantly, since staff did not propose this significant change until after the proposed amendment was published in the *Missouri Register*, interested persons have not had a reasonable opportunity to comment on that change. The commission will not change "may" to "shall" in the subsection.

**COMMENT #7:** Darrell Myers expressed concern about section (6), which will become section (7) pursuant to the proposed amendment as published in the *Missouri Register*. The commission did not propose any change to this section, apart from the renumbering. Mr. Myers believes that subsection (6)(I), which requires the dealer of a modular unit to notify a purchaser of either a new or used unit if the unit has incurred any damages, unnecessarily increases the dealer's potential liability to dissatisfied purchasers.

**RESPONSE:** The commission appreciates Mr. Myers' concern. However, at this stage of the rulemaking process, the commission does not have an opportunity to properly consider the proposed change, nor would any other interested person have an opportunity to comment on such a change. The commission will not modify section (6) in this rulemaking, aside from the proposed renumbering. However, Mr. Myers is welcome to again bring his concern to the commission's attention in discussions leading to any future rulemaking proceeding.

#### 4 CSR 240-123.065 Modular Unit Dealer/Selling Agent Setup Responsibilities

(5) For dealers selling residential one (1) and two (2) family modular units built pursuant to the International Residential Code (IRC) to consumers: effective the first day of the month following the effective date of this amendment, the director will have a period of one (1) year from the date the unit is installed to conduct the initial inspection of the home setup.

(B) Dealers shall submit to the commission a property locator indicating the destination of the residential modular unit(s) within forty-eight (48) hours of the date the unit leaves the dealer's location or the manufacturer's location if the unit is shipped direct to the consumer. For multi-section residential modular units the forty-eight (48) hours begins when the first section leaves the dealer's or manufacturer's location. The dealer shall use the property locator form provided by the commission.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 123—Modular Units

#### ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

**4 CSR 240-123.070 Monthly Report Requirement for Registered Modular Unit Dealers is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1483). 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 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation

to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The proposed amendment to section (3), as published in the *Missouri Register*, indicates the director may assess a fifty dollar (\$50) per report inspection fee against dealers who fail to submit a monthly sales report within sixty (60) days of the date such report is due. In its comments filed on October 16, staff proposes to change the "may" to "shall," thereby removing the director's discretion about whether to impose the fee.

Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, and Darrell Myers both objected to the proposal to remove the director's discretion about imposing an inspection fee. Hager complains that this change was not discussed with the association and that he was unaware of the proposed change until he spoke with staff just before the hearing. Mr. Myers complains that imposing a mandatory fee would unfairly penalize good dealers who happen to occasionally miss a deadline.

**RESPONSE:** The amendment to section (3), as published in the *Missouri Register*, allows the director to impose an additional inspection fee as a reasonable means to ensure compliance with the requirement to submit a monthly sales report in a timely manner. However, staff's proposal to modify that section to remove the director's discretion regarding the assessment of that fee is not necessary. The director has the expertise to exercise reasonable discretion in such circumstances and there is no need to circumscribe that discretion. Most importantly, since staff did not propose this significant change until after the proposed amendment was published in the *Missouri Register*, interested persons have not had a reasonable opportunity to comment on that change. The commission will not change "may" to "shall" in the section.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 123—Modular Units**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

**4 CSR 240-123.095 Re-Inspection Fee is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1483-1484). 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 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects. Mr. Hager did not object to any specific provision of this rule so no further comment is necessary.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating.

Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects. Mr. Myers did not object to any specific provision of this rule so no further comment is necessary.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The commission's staff offered a written comment supporting the amendment as published in the *Missouri Register*.

**RESPONSE:** The commission thanks staff for its comments.

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

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040.5, RSMo 2000, the commission amends a rule as follows:

**4 CSR 240-125.010 Definitions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1484). 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 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of

Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects. Mr. Hager did not object to any specific provision of this rule so no further comment is necessary.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects. Mr. Myers did not object to any specific provision of this rule so no further comment is necessary.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic. **RESPONSE:** The commission continues to believe the public and

private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The commission's staff offered a written comment asking the commission to amend the purpose of the amendment and the definition of director found in section (9). That section was not proposed to be amended in the *Missouri Register*. Staff explains that the current definition describes director as used in throughout the regulation as the director of the manufactured housing program of the commission. The person in that role is now called manager, rather than director.

**RESPONSE:** The notice of proposed rulemaking as published in the *Missouri Register* did not propose to amend section (9). As a result, that section was not open for comment and cannot be amended in this order of rulemaking. The commission may address this change in a future rulemaking.

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

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.692, RSMo Supp. 2013, the commission amends a rule as follows:

4 CSR 240-125.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1484-1485). Those sections with changes 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 October 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments.

In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** In its written comment filed on October 16, the commission's staff commented that the listing of the work covered by an installer licensee in subsection (2)(A) is confusing in its current format. Staff proposes to break up the sixteen (16) paragraphs of subsection (2)(A) by creating a new subsection (B) for which the existing paragraphs (2)(A)10.-14. would become paragraphs (2)(B)1.-5. Staff does not propose to change the substance of any of these subsections.

**RESPONSE AND EXPLANATION OF CHANGE:** Staff's proposed re-denomination of the subsections will help improve the readability of the regulation and will be adopted.

**COMMENT #5:** Also in its written comment filed on October 16, the commission's staff commented in the proposed amendment as published in the *Missouri Register*, two (2) new paragraphs would have been created and denominated as paragraphs (2)(A)15. and 16. Staff now proposes to re-designate those two (2) paragraphs as subsections (3)(A) and (B).

**RESPONSE AND EXPLANATION OF CHANGE:** Staff's proposed re-denomination of the subsections will help improve the readability of the regulation and will be adopted.

**COMMENT #6:** The proposed amendment to what will be subsection (3)(B), paragraph (2)(A)16. as published in the *Missouri Register*, indicates a primary installer who fails to submit a property locator to the commission prior to placing a home on site may be subject to the fifty dollar (\$50) per home inspection fee as defined in 4 CSR 240.065(4)(D). In its comments filed on October 16, staff proposes to change the "may" to "shall," thereby removing the commission's discretion about whether to impose the fee.

Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, and Darrell Myers both objected to the proposal to remove the director's discretion about imposing an inspection fee. Hager complains that this change was not discussed with the association and that he was unaware of the proposed change until he spoke with staff just before the hearing. Mr. Myers complains that imposing a mandatory fee would unfairly penalize good dealers who happen to occasionally miss a deadline.

**RESPONSE:** The amendment to subsection (3)(B) (paragraph (2)(A)16. as published in the *Missouri Register*) allows the commission to impose an additional inspection fee as a reasonable means to ensure compliance with the requirement to submit a property locator in a timely manner. However, staff's proposal to modify that subsection to remove the commission's discretion regarding the assessment of that fee is not necessary. The commission has the expertise to exercise reasonable discretion in such circumstances and there is no need to circumscribe that discretion. Most importantly, since staff did not propose this significant change until after the proposed amendment was published in the *Missouri Register*, interested persons have not had a reasonable opportunity to comment on that change. The commission will not change "may" to "shall" in the subsection.

**COMMENT #7:** Staff also proposes that subsection (3)(B), paragraph (2)(A)16. as published in the *Missouri Register*, be further modified to require the submission of the property locator form supplied by staff.

**RESPONSE AND EXPLANATION OF CHANGE:** The revised language proposed by staff will help clarify the rule. The commission will incorporate that revision into the rule.

#### 4 CSR 240-125.040 Manufactured Home Installer License

##### (2) Installer Responsibilities and Limits.

(A) Work covered by an installer licensee shall include but not be limited to the following:

1. Installing manufactured home underfloor vapor retarder as required by the manufacturer's installation manual for proper ventilation and access;

2. Installing the support, tie-down, anchoring, and the structural connections and roof installation for manufactured homes;
3. Providing plumbing and electrical utility connections unless they are regulated by local jurisdictions;
4. Providing plumbing, electrical, and mechanical cross-over, appliance and fixture connections of and to the manufactured home, as permitted by these requirements;
5. Assuring that all appliance exhaust ducts are roughed in and terminations are complete when required;
6. Closing and securing all access panels and covers on or under the manufactured home;
7. Assuring all doors and windows are adjusted, secured in place, and operational;
8. Assuring all shipped loose flue vents and chimneys are installed, secured in place, and capped according to the manufacturer's installation manual; and
9. Where the installer also installs the skirting, complying with skirting requirements to ensure proper ventilation.

(B) An installer licensee shall also be responsible for—

1. Affixing the installation decal to each manufactured home;
2. Completing all reporting and application forms required by the program;
3. Leaving the manufacturer's installation manual at the installation site;
4. Assuring that all portions of the manufactured home installation are in compliance with the manufacturer's installation manual; and
5. Correcting all applicable nonconformances within thirty (30) days of receipt of a correction notice from the commission.

(3) Primary Installer Responsibilities in addition to (2)(A) and (B) above—

(A) Each primary installer shall be responsible for ensuring the site and foundation are correct before setting the home on the site or foundation. If the home is not correctly set on the site or foundation, the primary installer shall be responsible for making corrections to the site or foundation, pursuant to section 700.010(5) and (15), RSMo, and 4 CSR 240-125.010(12) and (13); and

(B) Primary installers who install new homes in Missouri from dealers, manufacturers, or other entities located in other states shall submit a property locator form provided by the commission prior to placing the home on the site. Failure to submit the property locator to the commission prior to placing the home on the site may subject the installer to the fifty dollar (\$50) inspection fee as defined in 4 CSR 240-120.065(4)(D).

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

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.692, RSMo Supp. 2013, the commission amends a rule as follows:

4 CSR 240-125.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1485-1486). Those sections with changes 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

October 16, 2013, and the commission held a public hearing on the proposed amendment on October 25, 2013. The commission received timely written comments from the staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Tom Hager, Director of the Missouri Manufactured Housing Association; Darrell Myers, New Castle Mobile Homes of Harrisonville, Missouri; and Natelle Dietrich, Blake Eastwood, and Ronnie Mann on behalf of the staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eight (8) other rules affecting manufactured housing. Not all persons offering comments addressed this particular rule.

**COMMENT #1:** Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, indicated his organization supports the proposed amendments as published in the *Missouri Register*. He indicated that the association has worked with the commission's staff over the last four (4) years to craft these amendments. In particular, the association appreciates the provision that will reduce the amount of time for consumers to file a complaint from five (5) years to one (1). However, Mr. Hager was concerned about the changes to the proposed amendments that staff offered in its written comments filed on October 16. He did not know that those changes had been proposed until he arrived for the hearing. In particular, Mr. Hager objected to staff's proposal to change "may" to "shall" in several penalty provisions so as to remove staff's discretion regarding the imposition of penalties against mobile home dealers who fail to comply with certain provisions of the rule.

**RESPONSE:** The commission thanks Mr. Hager for his general comments and will address his concerns in its response to the specific provisions to which he objects.

**COMMENT #2:** Darrell Myers, of New Castle Homes of Harrisonville, Missouri, indicated his dissatisfaction with the proposed amendments in particular, and with government regulation by this commission and by other governmental agencies in general. Mr. Myers explained that the manufactured housing sales industry is going through very hard financial conditions at this time. Many dealers have gone out of business and sales are down for those that continue to operate. Mr. Myers believes the commission and other regulatory bodies at the federal, state, and local level should be looking for ways to help the industry rather than add to the regulatory burden.

Mr. Myers recognizes the need for regulation of the manufactured housing industry, noting that there are some "bad guys" around. However, he wants the commission to take action against the "bad guys" without imposing expensive regulatory burdens on the responsible dealers. In particular, he is concerned about the staff proposal to change "may" to "shall" to remove discretion about imposition of a penalty against dealers who fail to turn in paperwork on time.

Mr. Myers objects that he has had no opportunity to prepare a response to the new changes proposed by staff in its October 16 comment filing. He was unaware of those proposed changes until he arrived for the hearing.

**RESPONSE:** The commission thanks Mr. Myers for his general comments. The commission is mindful of the need to consider the burden it is placing on those people and companies it is regulating. Certainly, the commission does not want to impose an undue burden on anyone. However, as Mr. Myers acknowledges, there are "bad guys" in every line of business and the commission has an obligation to establish regulations to rein in those bad guys. Unfortunately, even the "good guys" must then follow those regulations. In drafting these regulations the commission has consulted with representatives of the manufactured housing industry and it will continue to do so in the future. Through continued cooperation, the commission will seek to tailor its regulations to be as effective as possible while reducing the regulatory burden as much as possible. The commission will further address Mr. Myers' concerns in its response to the specific provisions to which he objects.

**COMMENT #3:** Darrell Myers indicated that the representation that the cost of these amendments to public and private entities would not exceed five hundred dollars (\$500) in the aggregate was unrealistic.

**RESPONSE:** The commission continues to believe the public and private cost of these amendments will not exceed five hundred dollars (\$500) in the aggregate. Much of Mr. Myers' compliance cost concerns were directed toward compliance with the rule as a whole, not with just the more limited portions of the rule that are the subject of these amendments. Certainly, the cost of complying with the entire suite of existing regulations may exceed five hundred dollars (\$500), but that is not the question at hand. The most significant new regulatory requirement resulting from these amendments is the requirement that dealers submit a property locator report to the commission within forty-eight (48) hours after the home leaves the dealer's property. The dealer will already be aware of the information the commission is requiring to be included on the form and much of that information must already be submitted to the Department of Transportation to obtain an oversize load permit. As a result, the only added cost would be the time it takes to complete the one (1) page form.

**COMMENT #4:** The proposed amendment to subsection (3)(C), as published in the *Missouri Register*, indicates the director may assess a fifty dollar (\$50) per report inspection fee against dealers who fail to submit a monthly installation decal report within sixty (60) days of the date such report is due. In its comments filed on October 16, staff proposes to change the "may" to "shall," thereby removing the director's discretion about whether to impose the fee.

Tom Hager, speaking on behalf of the Missouri Manufactured Housing Association, and Darrell Myers both objected to the proposal to remove the director's discretion about imposing an inspection fee. Hager complains that this change was not discussed with the association and that he was unaware of the proposed change until he spoke with staff just before the hearing. Mr. Myers complains that imposing a mandatory fee would unfairly penalize good dealers who happen to occasionally miss a deadline.

**RESPONSE:** The amendment to subsection (3)(C), as published in the *Missouri Register*, allows the director to impose an additional inspection fee as a reasonable means to ensure compliance with the requirement to submit a monthly sales report in a timely manner. However, staff's proposal to modify that subsection to remove the director's discretion regarding the assessment of that fee is not necessary. The director has the expertise to exercise reasonable discretion in such circumstances and there is no need to circumscribe that discretion. Most importantly, since staff did not propose this significant change until after the proposed amendment was published in the *Missouri Register*, interested persons have not had a reasonable opportunity to comment on that change. The commission will not change "may" to "shall" in the subsection.

**COMMENT #5:** Staff's written comment filed on October 16 notes that new subsection (1) which appears under section (3) dealing with the monthly installation decal report should instead be placed under section (1) dealing with requirements for installation decals.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission will make that change.

#### 4 CSR 240-125.070 Installation Decals

##### (1) Requirements for Installation Decals.

(1) Primary installers who fail to attach the installation decal and/or the sign-off portion of the decal to the home immediately after the completion of the blocking and leveling of the home will be subject to a two hundred dollar (\$200) inspection fee. The fee shall be paid and submitted to the commission within ten (10) days after notification by the director.

## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

### Division 10—Commissioner of Education

#### Chapter 1—Organization of the Department

#### ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2013, the board amends a rule as follows:

##### 5 CSR 10-1.010 General Department Organization is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1527). 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:** No comments were received.

## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

### Division 20—Division of Learning Services

#### Chapter 300—Office of Special Education

#### ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2013, and section 162.685, RSMo 2000, the board hereby amends a rule as follows:

##### 5 CSR 20-300.110 is amended.

A notice of proposed rulemaking was not published because state program plans required under federal education acts or regulations are specifically exempt under section 536.021, RSMo. During October and November 2013, the Office of Special Education conducted two (2) public hearing webinars regarding proposed changes to the Part B State Plan implementing the Individuals with Disabilities Education Act (IDEA).

This rule becomes effective thirty (30) days after publication in the *Code of State Regulations*. This rule describes Missouri's services for children with disabilities, in accordance with Part B of the Individuals with Disabilities Education Act (IDEA).

**5 CSR 20-300.110 Individuals with Disabilities Education Act, Part B.** This order of rulemaking amends section (2) and amends the incorporated by reference material, *Regulations Implementing Part B of the Individuals with Disabilities Education Act*, to bring the program plan in compliance with federal statutes.

(2) The content of this state plan for the Individuals with Disabilities Education Act (IDEA), Part B, which is hereby incorporated by reference and made a part of this rule, meets the federal statute and Missouri's compliance in the following areas. A copy of the IDEA, Part B (revised December 2013) is published by and can be obtained from the Department of Elementary and Secondary Education, Office of Special Education, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

**AUTHORITY:** section 161.092, RSMo Supp. [2012] 2013, and section 162.685, RSMo 2000. This rule previously filed as 5 CSR 70-742.140. Original rule filed April 11, 1975, effective April 21, 1975. For intervening history, please consult the *Code of State*