

**John R. Ashcroft**

**Secretary of State  
Administrative Rules Division**

**RULE TRANSMITTAL**

Administrative Rules Stamp

**RECEIVED**

**JUL 06 2017**

**SECRETARY OF STATE  
ADMINISTRATIVE RULES**

**COPY**

Rule Number 4 CSR 240-123.040

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

Name of person to call with questions about this rule:

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

Email address nancy.dippell@psc.mo.gov

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

Email address Christine.koenigsfeld@psc.mo.gov

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

**TYPE OF RULEMAKING ACTION TO BE TAKEN**

- ☐ Emergency rulemaking, include effective date  
☒ Proposed Rulemaking  
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration  
☐ Request for Non-Substantive Change  
☐ Statement of Actual Cost  
☐ Order of Rulemaking

Effective Date for the Order \_\_\_\_\_

☐ Statutory 30 days OR Specific date \_\_\_\_\_

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

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

**Small Business Regulatory  
Fairness Board (DED) Stamp**

**SMALL BUSINESS  
REGULATORY FAIRNESS BOARD**

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**JCAR Stamp**

**JOINT COMMITTEE ON**

**JUL 06 2017**

**ADMINISTRATIVE RULES**



ERIC R. GRETTENS  
GOVERNOR

GOVERNOR OF MISSOURI  
JEFFERSON CITY  
65102

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

June 29, 2017

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

Dear Chairman Hall:

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

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

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

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

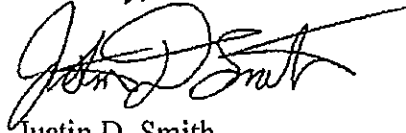
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Justin D. Smith", with a long horizontal flourish extending to the right.

Justin D. Smith  
Deputy Counsel



**Commissioners**

**DANIEL Y. HALL**  
Chairman

**STEPHEN M. STOLL**

**WILLIAM P. KENNEY**

**SCOTT T. RUPP**

**MAIDA J. COLEMAN**

***Missouri Public Service Commission***

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

**SHELLEY BRUEGGEMANN**  
General Counsel

**MORRIS WOODRUFF**  
Secretary

**LOYD WILSON**  
Director of Administration

**NATELLE DIETRICH**  
Staff Director

July 6, 2017

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

Re: 4 CSR 240-123.040 Approval of Manufacturing Programs

Dear Secretary Ashcroft,

**CERTIFICATION OF ADMINISTRATIVE RULE**

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

The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2016 that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of 1.310, RSMo, regarding user fees.

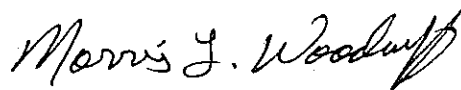
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Mr. John Ashcroft  
July 6, 2017  
Page 2

Statutory Authority: section 700.040, RSMo 2016.

If there are any questions regarding the content of this proposed rule, please contact:

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



Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT  
PUBLIC COST**

STATE OF MISSOURI )  
                                  )  
COUNTY OF COLE    )

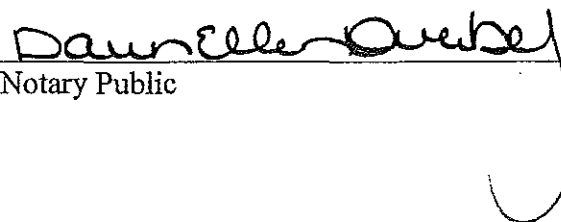
I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-123.040, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
Mike Downing  
Director  
Department of Economic Development

Subscribed and sworn to before me this 30<sup>th</sup> day of August, 2016, I am commissioned as a notary public within the County of Moniteau State of Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY  
My Commission Expires  
December 13, 2019  
Moniteau County  
Commission #15456865

  
\_\_\_\_\_  
Notary Public



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

Proposed Amendment

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

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**4 CSR 240-123.040 Approval of Manufacturing Programs.** The Commission is amending sections (1), (2), (3), (4), (7), (9), and (11); rescinding sections (5) and (8); and proposing sections (5) and (8).

*PURPOSE: This amendment modifies the procedure under which a manufacturing program may be approved, the circumstances under which an approval of a manufacturing program will lapse, expire or be withdrawn, and changes the term "director" to "manager".*

(1) To have a manufacturing program considered for approval, the manufacturer who will use the program for which approval is sought shall submit the following information, documents and material to the *[director]* **manager**:

(A) The **legal** name and address of the manufacturer who will use the program;

*[(B) If the manufacturer who will use the program is a corporation, a copy of the corporation's articles of incorporation, bylaws and most recent annual registration filed under section 351.120, RSMo along with a copy of documents which verify that the officer who has executed the application has actual authority to have done so. As long as the original documents remain unchanged an applicant who has once submitted such copies shall not be required to resubmit them with subsequent requests for approval of a manufacturing program;]*

(B) A brief description of the legal organization of the manufacturer who will use the program, whether a Missouri corporation, foreign corporation, partnership, proprietorship or other business organization;

(C) If manufacturer is a Missouri corporation, a Certificate of Good Standing from the secretary of state and a copy of the corporation's articles of incorporation and bylaws;

(D) If manufacturer does business under a fictitious name, a copy of the fictitious name registration filed with the secretary of state;

(E) If manufacturer has submitted the applicable information as set forth in subsections (1)(C) and (D) of this rule in a previous request for approval of manufacturing program, a statement that the information was previously submitted and the status remains unchanged.

(F) If the information in (1)(C) and (D) above is not available, or not applicable, a statement as to the reason the information is not submitted. The manager, in consult with commission legal counsel, shall determine if the request for approval ~~can be processed~~ without the required information.

JOINT COMMITTEE ON

JUL 06 2017

ADMINISTRATIVE RULES

*[(C)]* **(G)** The make and *[style]* **model** of the modular units which will be produced under the manufacturing program;

*[(D)]* **(H)** The earliest date on which production will begin under the manufacturing program;

*[(E)]* **(I)** One (1) copy of the quality control manual under which the manufacturing program will be implemented. The manual shall at least include a description which is sufficient to demonstrate compliance with the *[code]* **applicable code(s)** for every procedure relating to the manufacturing of modular units for which the code contains a requirement;

*[(F)]* **(J)** Third party inspection for compliance with required codes; and

*[(G)]* **(K)** One (1) copy of detailed **manufacturer's** installation instructions for the assembly of the modular components for each modular unit shall be furnished with each modular unit to the *[dealer/selling agent]* **dealer or selling agent**, and one (1) set shall be submitted with each model plan for approval, such instruction shall reflect detailed instructions for the assembly of the unit(s), including the fastening of dormers if applicable, roof installation details, floor fastening, end wall fastening, king post installation, and any other on-site assembly of manufacturer supplied components.

(2) Both *[dealer/selling agent]* **dealer or selling agent** and manufacturer shall register with the Public Service Commission's Manufactured Housing and Modular Units Program before any sales are made by either party. A nonrefundable fee as set forth in section 700.090, RSMo, shall accompany each request for an approval or re-approval of such registration. The registration must be renewed annually.

(3) Approval of a manufacturing program shall be evidenced by the *[director's]* **manager's** stamp of approval on the quality control manual and detailed plans which comprise the program. Upon approval of a manufacturing program the *[director]* **manager** shall return to the manufacturer a copy of the plan approval form for the quality control manual and any plans approved which bear the *[director's]* **manager's** stamp of approval. A copy of the original of such approved quality control manual and detailed plans shall be retained at each location where the manufacturing program which they comprise is implemented.

(4) Within ten (10) working days of the submission to the *[director]* **manager** of the required registration fee and the information *[necessary]* **required in Sections (1)-(3) above** for the *[director]* **manager** to consider a request for approval of a manufacturing program, the *[director]* **manager** shall approve or refuse to approve the request. A notice of refusal shall specify the reason for refusal.

(5) **Modifications to or variances from any commission-approved plan that are related to the code under which a plan was approved shall be submitted in writing to the manager for written approval. The submission shall include a demonstration that the modifications or variances comply with the code. All unapproved modifications or variances from the commission-approved plan are grounds for revocation of approval of the commission-approved plan and may result in the manager filing a complaint with the commission.**



*[(5) The approval of a manufacturing program shall lapse when any changes, not approved in writing by the director, are made in any procedure, part or component for which the code includes a requirement. The director shall promptly provide written approval of such changes after the director has received a written description of the changes which is sufficient to demonstrate that the changes comply with the code.]*

(6) Approval of a manufacturing program shall expire when the code under which such program was approved is revised or replaced. Reapproval of a manufacturing program whose approval has expired shall be obtained in the same manner that approval of a manufacturing program is originally obtained.

(7) The *[director]* **manager** shall **file with the commission a request to withdraw approval of a manufacturing program if the *[director]* manager finds:**

(A) A manufacturer is failing to abide by this chapter or Chapter 700, RSMo 2000;

(B) Seals issued under an application for seals for modular units to be produced under an approved manufacturing program have been affixed to modular units which were not manufactured under an approved manufacturing program;

(C) Seals have been affixed to modular units after the approval for the manufacturing program for the units has lapsed or expired.

*[(D) A manufacturer fails to comply with annual registration requirements; and*

*(E) A manufacturer fails to renew plans of units produced under the manufacturing program.]*

(8) **The commission shall withdraw approval of a manufacturing program if the commission finds—**

(A) **A manufacturer fails to comply with annual registration requirements; and**

(B) **A manufacturer fails to renew plans of units produced under the manufacturing program.**

(C) **If the commission finds there are unapproved modifications or variances from a commission-approved plan.**

*[(8) If the director withdraws approval of a manufacturing program, the director shall provide written notice of such action to the manufacturer. The notice shall be mailed within five (5) working days of the withdrawal and shall be sent by prepaid certified mail to the last known address of the manufacturer requesting return receipt signed by addressee only. The notice shall state the reason for the withdrawal.]*

(9) An entity which produces modular units under an approved manufacturing program shall mail or deliver to the *[director]* **manager**, by the tenth day of each month, a report which identifies *[each modular unit by]* **the dealer's name and location; the make, [style, serial number and dealer's name and location] model and serial number of each modular unit** to which seals have been affixed since the previous report and the seal number of each unit **since the last report.**

(10) To receive approval of a manufacturing program the manufacturer must also submit one (1) copy of detailed plans and installation diagrams for each type of modular unit which will be produced under the manufacturing program. Such detailed plans shall at least include, for every part or component for which the code contains a requirement, a description which is sufficient to demonstrate compliance with the code.

(11) All subsequent modular unit plans and installation diagrams including foundation plans, if applicable, for each additional type of modular unit (or model) to be manufactured must also be submitted to the *[director]* **manager** for approval. Modular unit plan approvals shall be *[renewed annually]* **annually submitted for renewal** on all models still in production. Each submittal shall *[comply with the following requirements]* **include:**

(A) A nonrefundable fee of seventy-five dollars (\$75) shall accompany each request for approval of a modular unit plan;

(B) Each modular unit plan must be identifiable by model name or number or a combination of both;

(C) Approval of a new set of detailed plans is required for any change in the systems of an existing modular unit plan, such as electric, plumbing, gas, or change in the manner of construction to ensure the unit remains in compliance with the code. Request for approval shall be accompanied by the applicable fee. Examples of such changes include but are not limited to: adding or deleting a bathroom, utility room, living room or other structural changes in the roof or other exterior design of the unit.

(D) Approval of simple modular unit plan revisions that do not include changes in systems or the manner of construction that do not take the unit out of compliance with the code and do not include the examples in subsection (11)(C) require approval by the *[director]* **manager**, but do not require payment of a fee. Examples of such changes include but are not limited to: addition or deletion of an entry way closet, installation of fake dormers, movement of an approved stairwell, reversal of a previously approved floor plan, or movement of a *[nonload]* **non-load** bearing interior wall.

*AUTHORITY: section 700.040, RSMo [2000]2016. \* Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Amended: Filed Oct. 12, 1982, effective Jan. 13, 1983. Amended: Filed June 12, 2001, effective Jan. 30, 2002. Amended: Filed Oct. 15, 2007, effective April 30, 2008.*

*\*Original authority: 700.040, RSMo 1973, amended 1976, 1978, 1982, 1984, 1989, 1993, 1995, 1999.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be*

*considered, comments must be received no later than September 15, 2017, and should include a reference to Commission Case No. MX-2016-0317. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for 10:00 a.m., September 22, 2017, in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TOO Hotline 1-800-829-7541.*

# **Small Business Regulator Fairness Board**

## **Small Business Impact Statement**

**Date:** May 24, 2016

**Rule Number:** 4 CSR 240-123.040

**Name of Agency Preparing Statement:** Missouri Public Service Commission

**Name of Person Preparing Statement:** Natelle Dietrich

**Phone Number:** 573-751-7427      **Email:** natelle.dietrich@psc.mo.gov

**Name of Person Approving Statement:** Natelle Dietrich

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

Simplification; the proposed amendment clearly defines the program administrator's delegated authority and the authorities maintained by the Commission. In addition, the rule provides more transparent process with regard to the authority to withdraw approved manufactured programs, which shall now require a finding by the Commission rather than an act of discretion by the program administrator.

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

The Commission held a workshop and received comments from affected stakeholders and representatives from the Missouri Manufactured Housing Association, including small businesses.

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

None.

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

Registered modular unit manufacturers; no new standards for filing manufacturing programs is being identified, rather the rule is identifying existing filing requirements established in Chapter 2 and explicitly incorporating them into the rule for the ease of regulated parties.

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

None identified.

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

Registered modular unit manufacturers and dealers.

**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes\_\_\_ No\_X\_\_

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see §536.300, RSMo.*