

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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JUL 06 2017

SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-125.070

COPY

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, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

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

☐ 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

JUL 06 2017

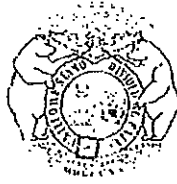
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JOINT COMMITTEE ON

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 stylized, flowing script.

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 240-125.070 Installation Decals

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.

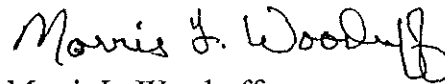
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary 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 700.692, 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

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "W" at the end.

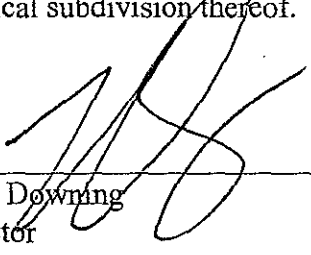
Morris L. Woodruff
Chief Regulatory Law Judge

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 240-125.070, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

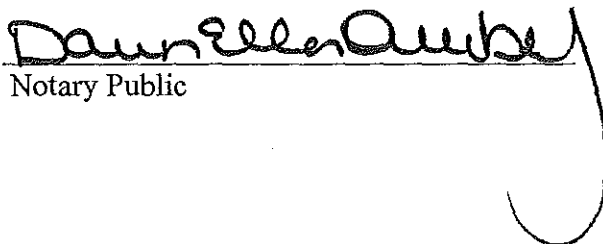


Mike Downing
Director
Department of Economic Development

Subscribed and sworn to before me this 3rd 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

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JUL 06 2017

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

SECRETARY OF STATE
ADMINISTRATIVE RULES
JOINT COMMITTEE ON

JUL 06 2017

ADMINISTRATIVE RULES

Proposed Amendment

4 CSR 240-125.070 Installation Decals. The Commission is amending sections (1), (2) and (3) of this rule; and proposing Section (4).

PURPOSE: This amendment modifies installation decal requirements and fees for manufactured home installers.

(1) Requirements for Installation Decals.

(A) An installation decal issued by the [commission] **manufactured housing and modular units program** shall be a permanent stick-on decal to be attached to the exterior of the home and shall also include a sign-off portion of the decal, which must be attached next to the data plate inside the home with the initials and license number of each installer involved with the **initial** setup and installation of the home.

(B) The primary installer who is responsible for the **initial setup and** installation [and setup] of the manufactured home which includes site preparation and foundation and any portion of the blocking, leveling, or roof installation is responsible for affixing the installation decal and the sign-off portion of the decal to the manufactured home upon completion of blocking, leveling, or roof installation.

(C) A decal shall be affixed to the manufactured home in a permanent manner in a visible location within two feet (2') of the [Housing and Urban Development (HUD)] **HUD** label.

(D) Decals may be purchased by licensed installers by submitting an application to the [commission] **manufactured housing and modular units program**, in duplicate together with the appropriate [twenty-five dollars (\$25)] **thirty-five dollars (\$35)** for each decal.

(E) Only licensed installers may be issued installation decals by the [commission] **manufactured housing and modular units program** and decals shall be affixed only by licensed installers upon completion of the blocking and leveling.

(F) The licensed installer purchasing decals from the [commission] **manufactured housing and modular units program** shall be responsible for decal security, use, and reporting.

(G) **Decals** assigned to licensed installers may only be transferred by the [commission] **manufactured housing and modular units program**.

(H) If an installer license is suspended, revoked, or expires, or the installer is no longer in business, all unused decals issued to that person shall be returned to the [commission] **manufactured housing and modular units program**. The decal fee may be refunded by the [commission] **manufactured housing and modular units program**, if a refund application is completed by the applicant as provided by the [commission] **manufactured housing and modular units program**.

(I) 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] **shall** be subject to a two hundred dollar (\$200) inspection fee. The fee shall be paid and submitted to the [Manufactured Housing and Modular Units Program] **manufactured housing and modular units program** within ten (10) days after notification by the [director] **manager**.

(2) The *[commission]* **manager** may deny any request for decals when:

(A) An inspection reveals that a manufactured home or tie-down installation is not installed according to the manufacturer's installation manual or setup standards and no corrective action, or insufficient corrective action is taken by the installer as required by this program; or

(B) An installer's license has expired, or has been suspended or revoked, or there is evidence of failure to comply with the requirements described in the program; or

(C) The applicant has failed to file the monthly installation decal report.

(3) Monthly Installation Decal Report.

(A) A licensed installer who has purchased installation decals directly from the *[commission]* **manufactured housing and modular units program** shall submit a monthly report with the *[commission]* **manufactured housing and modular units program** no later than the tenth of the month following the month when the decals were placed.

(B) The report shall be filed on the *[commission's]* Installation Decal Report Form provided by the *[commission]* **manufactured housing and modular units program**. The forms may be obtained from the Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102 or online at www.psc.mo.gov.

[(C)] The director may reject all monthly reports that are incomplete and may assess an inspection fee of fifty dollars (\$50) per report for each report that is filed sixty (60) days after the due date.

[(D)] Failure to submit a completed monthly report by the due date or failure to pay any required fees could result in suspension or revocation of the installer's license.]

[(E)] (C) A report shall be filed for each month or part of the month for which the installer is licensed. If no decals are placed or installed in a given month, the installer shall file the usual form no later than the tenth of the following month.

[(F)] (D) The licensed installer or a representative of the licensed installer shall sign the report.

[(G)] (E) The licensed installer shall maintain a copy of this report for his/her records.

[(H)] (F) Each installation decal report shall include the licensed installer's name and license number, as well as the licensed installer's street address, city, state, zip code, and telephone number. In addition, the report shall provide the following information for each installation:

1. The installation decal number;
2. The county, home address, and phone number of the homeowner;
3. The date of the installation;
4. The name of the home's manufacturer;
5. The manufactured home serial number and year built;
6. The size of the manufactured home;
7. The dealer's name; and
8. The total number of installation decals placed for the reporting period.

(G) The manager may reject all monthly reports that are incomplete and require the installer to submit corrected reports.

(H) A late submission fee of fifty dollars (\$50) per report will be assessed for each report that is filed sixty (60) days after the due date.

(I) The commission may suspend the installer's license for any report not submitted within sixty (60) days of the due date.

(J) Failure to submit a completed monthly report within ninety (90) days of the due date or failure to pay any required fees could result in revocation of the installer's license.

(4) The manager shall submit to the commission any written request for a waiver of fees identified in this Section, and the commission may grant such a waiver for good cause shown.

AUTHORITY: section 700.692, RSMo [Supp. 2013]2016. Original rule filed Jan. 14, 2005, effective June 30, 2005. Amended: Filed Aug. 15, 2013, effective March 30, 2014.*

**Original authority: 700.692, RSMo 2004.*

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 cost private entities twenty-six thousand eight hundred fifty dollars (\$26,850) 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 240-125.070

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).*

This rule, as well as the fee amount, currently exists in the rule with respect to delinquent filings of monthly reports. This amendment shifts the administration of the fee from the program administrator to the Commission and makes the fee compulsory for failure to file a monthly sales report within sixty (60) days.

In addition, the proposal increases the cost of decals issued to installers by ten dollars (\$10), from twenty-five dollars (\$25) to thirty-five dollars (\$35).

The fee structure is intended to provide less invasive noncompliance incentives than the statutorily authorized one thousand dollars (\$1,000) a day civil penalties, or seeking probation, suspension, or revocation of dealer licenses.

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.

To address concerns raised regarding the compulsory assessment of fees, the proposal has been amended to include Section (11) that permits entities to request a waiver of the fee by the Commission for good cause shown. This solution provides recourse for Commission discretion in the application of the fee,

while also seeking to reduce any administrative expense associated with requesting a waiver.

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.

The agency expects the estimated total amount to be less than \$8,950 in the aggregate associated with the increased fee amount applied to decals. The agency estimates the impact from the mandatory application of the fifty dollar (\$50) late filing fee to the monthly reports will be less than \$500 in the aggregate. All fees will be applied against the costs of administering the program.

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

Registered installers will be subject to an increase of ten dollars (\$10) for each decal.

Registered installers will be subject to a fee of fifty dollars (\$50) for failure to submit a required monthly sales report within sixty (60) days.

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

Registered installers will be subject to an increase of ten dollars (\$10) for each decal.

Registered installers will be subject to a fee of fifty (\$50) for failure to submit a required monthly sales report within sixty (60) days.

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

Installers.

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.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Missouri Department of Economic Development**
Division Title: Missouri Public Service Commission
Chapter Title: Chapter 123 – Modular Units

Rule Number and Title:	4 CSR 240- 125.070 Inspections
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
88	Regulated installers of manufactured homes	\$26,850 (over a 3-year life of the rule)

III. WORKSHEET

Installer decals are required to be affixed to a manufactured home by licensed installers upon completion of the blocking and leveling. These decals are purchased from the Manufactured Housing and Modular Units Program.

The Program has experienced approximately a 300% increase in the costs to purchase the decals from the supplier, coupled with increased operational expenses, so as to necessitate the increase of the existing fee from \$25 per decal to the proposed \$35 per decal.

The Program Manager reviewed the decal information for manufactured homes for calendar year 2015 and in applying the proposed rulemaking language, found the following:

There are 88 active installers. In 2015 there were 895 decals issued by the Missouri Manufactured Housing and Modular Units Program. By increasing the existing fee to \$35 per decal from \$25 per decal, the manager estimates a compliance cost of \$8,950 annually, or approximately \$100 per active installer.

IV. ASSUMPTIONS

The estimated aggregate cost of compliance assumes the projected cost over a three year period.