

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-120.011

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

COPY

Name of person to call with questions about this rule:

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

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TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking ☐ Rule ☐ Amendment ☐ Rescission ☐ Termination

Effective Date for the Emergency

☐ Proposed Rulemaking ☐ Rule ☐ Amendment ☐ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking ☐ Withdrawal ☐ Adopt ☒ Amendment ☐ Rescission

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:

Section (1)

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

NOV 16 2017

ADMINISTRATIVE RULES



ERIC R. GREITENS
GOVERNOR

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

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

November 9, 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.

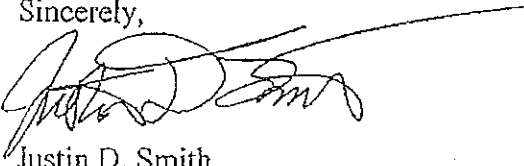
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

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.

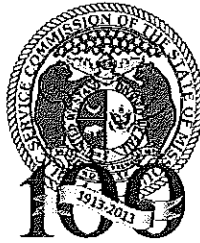
Finally, this office has received your rulemaking for manufactured homes and modular units, 4 CSR 240-127.010.

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 line extending from the end of the signature.

Justin D. Smith
Deputy Counsel



Commissioners

DANIEL Y. HALL
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

SCOTT T. RUPP

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Missouri Public Service Commission

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LOYD WILSON
Director of Administration

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

Re: 4 CSR 240-120.011 Definitions

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

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

Statutory Authority: section 700.040, RSMo 2016.

If there are any questions regarding the content of this order of rulemaking, 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

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

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ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission amends a rule as follows:

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4 CSR 240-120.011 is amended.

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1145). Changes to the proposed amendment 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 September 15, 2017, and the commission held a public hearing on the proposed amendment on September 22, 2017. The commission received timely written comments from five manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Timothy L. DeVine, Your Home Center L.L.C.; Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA; and the MMHA. The commission also received timely written comments from the Staff of the Missouri Public Service Commission (staff) and the Office of the Public Counsel (Public Counsel). At the public hearing testimony was received from five commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. The industry representatives opposed many of the proposed amendments in other rules being promulgated simultaneously with this rule on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and supported these amendments. Staff also proposed a change to the rule. Public Counsel made a general comment about citation.

COMMENT #1: Public Counsel suggested in a written comment that "Chapter 127" be identified as an administrative rule so that it was not mistaken as a statute.

RESPONSE: Public Counsel may have been commenting on a draft of the amended rule. The suggested change was made prior to publication.

COMMENT #2: Mr. Hagar made a general written comment regarding the amendments proposed to the entire package of manufactured housing rules. He expressed concern that the date set for the hearing did not allow the MMHA members sufficient time to

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review and prepare comments on the rule amendments. Mr. Hagar requested the hearing be delayed.

RESPONSE: The date for the hearing had already been published in the *Missouri Register* when the comment was received, and could not be postponed. Members of the MMHA participated in the hearing and filed written comments.

COMMENT #3: Mr. Smith and Mr. DeVine filed written comments opposing the complete package of rule changes in general, though not specifically the changes in this rule. The commenters stated that the changes to manufactured housing rules would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

RESPONSE: Numerous changes have been made to other manufactured housing rules in response to industry and staff comments. However, because the changes proposed to this rule relate only to defining terms and adding citations, no changes have been made as a result of these comments.

COMMENT #4: An "official statement" was received from the MMHA regarding the proposed amendments to all the manufactured housing rules. However, MMHA referred only to 4 CSR 240-120.011. Specifically, with regard to this rule, MMHA indicated that it disagreed with the private cost statement. MMHA suggested that this amendment would cost small businesses thousands of dollars.

RESPONSE: The amendments being made to this rule will add a citation to 4 CSR 240-127, replace the word "code" with "commission rules" and remove defined terms that will be placed in another chapter of manufactured housing regulations. Thus, the private cost of this particular rule continues to be estimated at no more than five hundred dollars (\$500) in the aggregate. Therefore, no changes have been made to this rule as a result of this comment. The commission will consider MMHA's written comment in the context of other manufactured housing rules being amended simultaneously with this rule.

COMMENT #5: Mr. AuBuchon commented at the hearing on behalf of the MMHA. Mr. Crump and Mr. Smith commented at the hearing that they agreed with Mr. AuBuchon's comments. Mr. AuBuchon gave general comments about and a history of the rulemaking process for all the manufactured housing rules that are being simultaneously promulgated with this rule. Mr. AuBuchon also made suggestions about how the commission could have communicated better with the industry.

RESPONSE: The comments of the manufactured housing industry representatives are appreciated by the commission. However, because the process was completed in accordance with the statutory requirements and the comments were general in nature, no changes to the rules were made as a result of these general comments. The comments specific to other manufactured housing rules are addressed in the context of those rules.

COMMENT #6: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to streamline all of the commission's manufactured housing regulations. These particular amendments would consolidate most definitions into one location. Staff also recommended deleting the word "shall" in section (1) as it was superfluous.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff that consolidating these definitions will streamline the regulations. It will also adopt the recommended deletion of the word "shall" in section (1).

4 CSR 240-120.011 Definitions.

(1) The following definitions, as well as those set out in section 700.010, RSMo, and 4 CSR 240-127 apply to this chapter: