

**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 240-120.085

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**

**JUL 06 2017**

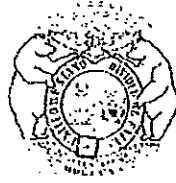
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**JCAR Stamp**

**JOINT COMMITTEE ON**

**JUL 06 2017**

**ADMINISTRATIVE RULES**



ERIC R. GRETTENS  
GOVERNOR

GOVERNOR OF MISSOURI  
JEFFERSON CITY  
65102

P.O. Box 730  
(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.

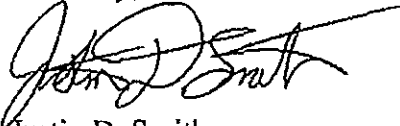
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

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 flourish extending from the end.

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 240-120.085 Re-Inspection and Re-inspection Fee

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.

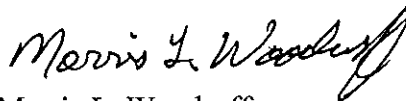
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary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

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

Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT  
PUBLIC COST**

**STATE OF MISSOURI )  
                                  )  
COUNTY OF COLE     )**

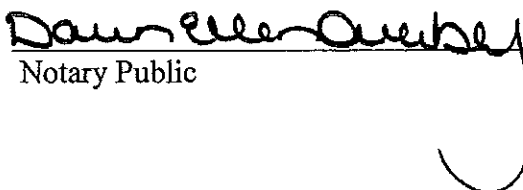
I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-120.085, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

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

Subscribed and sworn to before me this 3<sup>rd</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 #15458865

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

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

Proposed Amendment

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JUL 06 2017

SECRETARY OF STATE  
ADMINISTRATIVE RULES

COPY

**4 CSR 240-120.085 Re-Inspection and Re-inspection Fee.** The Commission is rescinding the existing Sections (3), (5), (6), (7), amending (1), (2), (4), (6), (9), (10), (11), and proposing (4), (8) and (10).

*PURPOSE: This amendment modifies the procedure for the re-inspection of manufactured homes and third party requests for inspections, the fees associated with re-inspections pursuant to section 700.040, RSMo, and also provides that certain fees may be waived for good cause shown.*

*[(1) The commission may conduct as needed re-inspections of new manufactured homes to verify corrections have been made as identified during the original inspection, where required corrections have not been completed by the dealer, installer, or manufacturer within sixty (60) days of receipt of the original written complaint from the consumer as filed with the commission.]*

**(1) Re-inspections subsequent to routine inspections of new manufactured homes.**

- (A) The manager may conduct re-inspections of new manufactured homes to verify corrections have been made to address code violations identified on the initial routine inspection report.**
- (B) The manager shall not assess the dealer, installer, or the manufacturer, or each entity, a fee for the first re-inspection.**
- (C) The manager shall assess re-inspection fee(s) for any re-inspection subsequent to the first re-inspection. The fee is charged to the dealer, installer, or the manufacturer who was responsible for making the corrections and completing the corrections.**

*[(2) The commission may assess the dealer, installer, or the manufacturer, or each entity, a fee for the re-inspection. The fee is charged to the dealer, installer, or the manufacturer who was responsible for making the corrections and completing the corrections in a timely manner as required in section (1).]*

**(2) Re-inspections subsequent to a consumer complaint.**

- (A) The manager may conduct re-inspections of new manufactured homes to determine if the required corrections have been completed by the dealer, installer, or manufacturer within sixty (60) days of the initial inspection.**

JOINT COMMITTEE ON

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ADMINISTRATIVE RULES



**(B) The manager shall assess the dealer, installer, or the manufacturer, or each entity, a fee for the re-inspection(s) if the dealer, installer, or the manufacturer responsible for making the required corrections fails to complete the required corrections within sixty (60) days of receipt of a consumer complaint. The fee will not be charged to the dealer, installer, or the manufacturer who is responsible for making the required corrections if, during the re-inspection, it is found that the required corrections have been corrected within sixty (60) days of the initial inspection.**

*[(3) The commission will not assess a reinspection fee to the dealer, installer, or the manufacturer if it is found during the reinspection that there is neither any material defect, nor material violation of Chapter 700, nor any material violation of Part 3280 of the Manufactured Home Construction and Safety Standards Code.]*

*[(4)]* **(3)** The re-inspection shall address all violations listed in the *[original consumer]* **initial** inspection report. A copy of the **re-inspection** report shall be forwarded to the manufacturer, installer, or dealer, or each responsible entity, **within ten (10) days from the date of the re-inspection**, for corrective action as well as an invoice for the *[reinspection]* **re-inspection** fee, if **applicable**. A copy shall also be forwarded to the consumer, if applicable.

*[(5) The manufacturer, installer, and dealer shall be sent a copy of the re-inspection report within ten (10) days from the date of the re-inspection.]*

*[(6)]***(4)** The assessed fee shall be paid to the commission within twenty (20) working days from the date the re-inspection is completed. Each manufacturer, installer, and dealer shall submit, along with the fee, a written plan of action to be taken by each to correct any **remaining** *[statutory, rule or code]* violations identified and, **unless otherwise approved by the manager**, corrections shall be completed within thirty (30) days of the re-inspection.

*[(7) The fee shall be implemented on all reinspections conducted after the effective date of the rule.]*

*[(8) The commission shall send written notification to each licensed manufacturer, installer, and dealer giving the effective date of the rule.]*

*[(9)]***(5)** The fee shall be two hundred dollars (\$200) per re-inspection as outlined in **this** section *[(1)]* to be paid by the manufacturer, dealer, or installer responsible for making the correction as identified in the original inspection report. The fee shall be submitted with a form provided by the commission. *[The commission shall make the determination of who shall be assessed the fee.]*



~~[(10)]~~**(6)** The ~~[commission]~~ **manufactured housing and modular units program** shall assess an inspection fee of four hundred dollars (\$400) for all third party requests for inspections except third party inspection requests for the purpose of serial number verification will be charged two hundred dollars (\$200). Third party requests for inspections must be submitted in writing to the ~~[commission]~~ **manufactured housing and modular units program** and the inspection fee must accompany the request. Third parties do not include licensed manufacturers or dealers.

**(7) If the manufacturer, installer or dealer has not paid the re-inspection fee within thirty (30) days of the prescribed date, the manager shall file a complaint and the commission shall suspend manufacturer, installer or dealer certificate or registration. The suspension shall last until the manufacturer, installer or dealer pays all assessed fees and provides proof satisfactory to the manager that the conditions causing the re-inspection have been remedied or the commission takes action pursuant to Section (8).**

~~[(11)]~~**(8)** The following situations shall constitute grounds for the denial, ~~[suspension,]~~ revocation, or placing on probation of a manufacturer, installer, or dealer certificate of registration:

~~[(A)]~~ *Failure to pay the inspection fees within twenty (20) days of the prescribed due date;]*

~~[(B)]~~**(A)** Failure to pay a ~~[the]~~ re-inspection fee by the prescribed due date for two (2) consecutive months; or

~~[(C)]~~**(B)** Failure to pay a ~~[the]~~ re-inspection fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

**(9) 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 700.040, RSMo [2000]2016. \* Original rule filed June 16, 2004, effective Jan. 30, 2005. Amended: Filed Aug. 15, 2013, effective March 30, 2014.*

*\*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 cost private entities sixteen thousand eight hundred (\$16,800) 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 240-120.085

**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; the amendment shifts the administration of the fee from the program administrator to the Commission and makes the fee compulsory.

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.

This rule establishes two separate instances in which a re-inspection fee is to be assessed. In the event of a re-inspection pursuant to consumer complaint, the fee is assessed on re-inspection occurring sixty (60) days after the receipt of the consumer complaint. The newly defined scenario, a re-inspection subsequent to a random or routine inspection, would only apply a fee on the second re-inspection.

To address concerns raised regarding the compulsory assessment of fees, the proposal has been amended to include Section (9) 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.

Furthermore, to address concerns related to consumer complaints, the current rule has been amended to require that Staff perform the initial inspection. Presently, the consumer completes a "consumer inspection form" that is filed with their complaint. Staff inspectors first visit to a consumer site is a re-inspection of the issues addressed by the consumer. Often times, however, the consumer includes alleged defects that are beyond the authority of the Commission. This proposal addresses that concern by requiring the initial inspection be conducted by Staff, and there is no fee for that initial inspection. Should a complaint be filed, and upon its inspection Staff discovers a violation of its rules, then a re-inspection will occur to ensure all repairs are made, and a fine shall be assessed pursuant to the proposed rules.

The proposal also provides greater due process to regulated entities against the discretionary acts of a program administrator with regard to its certificate of registration.

**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.**

Staff believes in the aggregate it will collect \$5,600 in fees annually, and any fees paid shall be applied towards the administration of the program.

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

Manufactured housing dealers or manufacturers may be subject to the fee should a re-inspection be authorized under this rule.

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

The direct cost facing manufactured housing dealers and manufactures two hundred dollars (\$200) for certain re-inspections identified in this rule.

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

Registered manufactured housing dealers and manufacturers.

**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 120 – New Manufactured Homes**

<b>Rule Number and Title:</b>	4 CSR 240-120.085 Re-Inspection and Re-inspection Fee
<b>Type of Rulemaking:</b>	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:
28 (annually)	Regulated dealers of new manufactured homes, regulated manufacturers of new manufactured homes, and regulated installers of new manufactured homes.	\$16,800.00 (over a 3-year life of the rule)

**III. WORKSHEET**

Under the existing rule, the Manager may seek to enforce a two hundred dollar (\$200) inspection fee for re-inspections conducted on manufactured home to address violations discovered during an initial inspection. This fee has not been applied at the discretion of the manager. The amount of the fee proposed is the same amount currently applied in the existing rule. The proposed amendment seeks to apply the existing fee on a consistent basis by implementing more specific terms of its application.

The Program Manager reviewed its records relating to re-inspections performed on manufactured homes in 2015 and found the following:

In 2015, 352 manufactured homes were subject to inspection by the Manufactured Housing and Modular Units Program. 117 of those homes inspected were subject to re-inspection; 100 re-inspections were performed subsequent to routine inspections, and seventeen (17) re-inspections occurred subsequent to a consumer complaint.

Of the 117 total re-inspections performed, the proposed rule would impose fines in twenty-eight (28) circumstances; nineteen (19) fees would be applied to re-inspections performed subsequent to routine inspections, and nine (9) fees would be applied to re-inspections occurring subsequent to a consumer complaint.

Our estimated aggregate cost is the sum of the estimated circumstances substantiating fee assessment in 2015 (28) multiplied by the amount of the fee (\$200).

#### **IV. ASSUMPTIONS**

The estimate aggregate cost assumes that all violators pay the \$200 fee and are not granted a waiver by the Commission for good cause shown.

The estimate projects an aggregate cost over three (3) years.