

**Robin Carnahan**  
Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

Administrative Rules Stamp

**RECEIVED**

NOV 29 2012

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**COPY**

Rule Number 4 CSR 240-40.080

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

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@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

☐ 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

NOV 29 2012

**RECEIVED**

JCAR Stamp

JOINT COMMITTEE ON

NOV 29 2012

ADMINISTRATIVE RULES



**Commissioners**

**KEVIN D. GUNN**  
Chairman

**TERRY M. JARRETT**

**ROBERT S. KENNEY**

**STEPHEN M. STOLL**

***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>

**WESS A. HENDERSON**  
Director of Administration  
and Regulatory Policy

**STEVEN C. REED**  
Secretary/General Counsel

**CHERLYN D. VOSS**  
Director of Regulatory Review

November 29, 2012

Robin Carnahan  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Re: 4 CSR 240-40.080 Drug and Alcohol Testing

Dear Secretary Carnahan,

**CERTIFICATION OF ADMINISTRATIVE RULE**

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

The Public Service Commission has determined and hereby certifies that this proposed rulemaking 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 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo Supp. 2010, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2010, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five 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 Supp 2010, by exempting any small business consisting of fewer than twenty-five 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.

Statutory Authority: sections 386.250 and 386.310 and 393.140, RSMo 2000

Woodruff  
November 29, 2012  
Certification of Administrative Rule

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

Morris L. Woodruff, Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-2849  
[morris.woodruff@psc.mo.gov](mailto:morris.woodruff@psc.mo.gov)

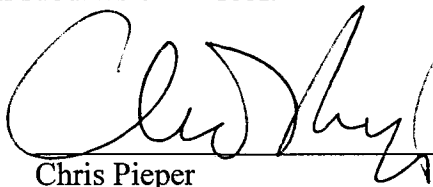
A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "B" at the end.

Morris L. Woodruff  
Chief Regulatory Law Judge


**AFFIDAVIT  
PUBLIC COST**

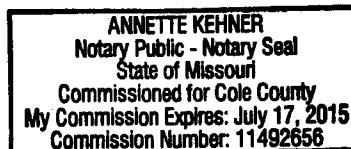
**STATE OF MISSOURI )**  
**)**  
**COUNTY OF COLE     )**

I, Chris Pieper, Acting 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 rule, 4 CSR 240-40.080, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
Chris Pieper  
Acting Director  
Department of Economic Development

Subscribed and sworn to before me this 20<sup>th</sup> day of November, 2012, I am commissioned as a notary public within the County of COLE, State of Missouri, and my commission expires on 17 July 2015

  
Notary Public



RECEIVED

NOV 29 2012

SECRETARY OF STATE  
ADMINISTRATIVE RULES

COPY

Title 4—Rules of Department of Economic Development  
Division 240—Public Service Commission  
Chapter 40—Gas Utilities and Gas Safety Standards

JOINT COMMITTEE ON

NOV 29 2012

ADMINISTRATIVE RULES

PROPOSED AMENDMENT

**4 CSR 240-40.080 Drug and Alcohol Testing.** The Commission is amending sections (1) and (6) of this rule.

*PURPOSE: This amendment proposes to amend the rule to conform to amendments of 49 CFR parts 40 and 199.*

(1) As set forth in the *Code of Federal Regulations* (CFR) dated October 1, [2006] **2011**, 49 CFR parts 40 and 199 are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR parts 40 and 199. The *Code of Federal Regulations* is published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, [2006] **2011** version of 49 CFR parts 40 and 199 is available at [[www.access.gpo.gov/nara/cfr/cfr-table-search.html](http://www.access.gpo.gov/nara/cfr/cfr-table-search.html)] [www.gpo.gov/fdsys/search/showcitation.action](http://www.gpo.gov/fdsys/search/showcitation.action).

(6) The federal procedures for transportation workplace drug and alcohol testing programs (49 CFR part 40) adopted by reference in section (3) of this rule contain subparts on administrative provisions; employer responsibilities; urine collection personnel; collection sites, forms, equipment and supplies used in DOT urine collections; urine specimen collections; drug testing laboratories; medical review officers and the verification process; split specimen tests; problems in drug tests; alcohol testing personnel; testing sites, forms, equipment, and supplies used in alcohol testing; **alcohol screening tests**; alcohol confirmation tests; problems in alcohol testing; substance abuse professionals and the return-to-duty process; confidentiality and release of information; roles and responsibilities of service agents; and public interest exclusions.

*AUTHORITY: sections 386.250 and 386.310 and 393.140, RSMo 2000. Original rule filed Nov. 29, 1989, effective April 2, 1990. Rescinded and readopted: Filed Jan. 9, 1996, effective Aug. 30, 1996. Rescinded and readopted: Filed April 9, 1998, effective Nov. 30, 1998. Amended: Filed Oct. 15, 2007, effective April 30, 2008. Amended: Filed \_\_\_\_\_, 2012, effective \_\_\_\_, 2013.*

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

*PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered,*

*comments must be received at the Commission's offices on or before February 1, 2013, and should include a reference to Commission Case No. GX-2013-0092. 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 regarding this proposed rule is scheduled for February 5, 2013, at 10:00 a.m., in Room 305 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 (voice) or Relay Missouri at 711.*

# **Small Business Regulator Fairness Board**

## **Small Business Impact Statement**

**Date:** August 31, 2012

**Rule Number:** 4 CSR 240-40.080

**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).*

Since the proposed rule adopts already-effective federal rules there is no impact imposed on small businesses from promulgation of the state rule/

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

N/A

**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.**

None that do not have to comply with the already-effective federal rules.

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

N/A

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

None that do not comply with the already-effective federal rules.

**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.*