

**T**his section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

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

**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:

4 CSR 240-120.011 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1145-1146). 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 (5) 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 (5) 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 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 (1) 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:

### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 240—Public Service Commission Chapter 120—New Manufactured Homes

#### 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:

#### 4 CSR 240-120.031 Administration and Enforcement is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1146). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

COMMENT #1: 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 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 #2: 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to clearly set out the powers and responsibilities that are and are not delegated to the Program Manager.

RESPONSE: The commission agrees with staff that this proposed amendment will clarify the Program Manager's powers and responsibilities.

### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 240—Public Service Commission Chapter 120—New Manufactured Homes

#### 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:

#### 4 CSR 240-120.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1146-1147). 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments

about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes to this particular rule have been made as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendments to this rule with some further changes. Staff explained that the amendments as originally proposed would have corrected the title of the individual responsible for the commission's manufactured housing department from "director" to "manager." Staff explained that the proposed amendments would have also required the manager to file a complaint with the commission as the method for rejecting an application for registration or refusing to renew or suspend a registration. Staff also explained that the proposed amendments would require a manufactured housing dealer to keep a bill of sale on file for five (5) years. Staff proposed an additional amendment in furtherance of the Governor's Executive Order 17-03, to make the rule less restrictive by making the inspection of books and records discretionary.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff and will make the rule less restrictive by amending the language as suggested.

#### 4 CSR 240-120.060 Inspections

(1) The manager may inspect the books, records, inventory, and

premises of manufacturers and dealers of new manufactured homes, from time-to-time during normal business hours, to ascertain if a manufacturer or dealer is complying with Chapter 700, RSMo as it relates to new manufactured homes, this chapter, the federal standards, and the Housing and Urban Development regulations and also to ascertain if grounds exist under section 700.100, RSMo to file a complaint with the commission to reject an application for registration filed under section 700.090, RSMo or to refuse to renew, suspend, revoke, or place on probation a registration which has been made under section 700.090, RSMo.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 240—Public Service Commission Chapter 120—New Manufactured Homes

#### 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:

4 CSR 240-120.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1147-1150). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees and "re-inspections" would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

**RESPONSE AND EXPLANATION OF CHANGE:** Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the fee implementation discretionary after consultation with the staff director and reports to the commission of the monetary effect of the changes on the industry.

**COMMENT #4:** Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, Mr. Hagar, and the MMHA made written and oral comments opposing the amendments for similar reasons. In general, the commenters stated that the amendments were burdensome to the industry, would ultimately cause additional expense to the consumers, and would deter manufacturing in the state. Specifically, the industry objected to the one- (1-) year and two- (2-) year inspection periods as set out in proposed subsections (2)(B) and (2)(C). Some of the industry representatives stated that the period for the manager to conduct his inspections should be limited to one hundred twenty (120) days, although the general consensus of the industry was that there should be no more than one (1) year to conduct an inspection.

The commenters stated that most "stick built" homes in Missouri do not have to comply with any building codes and at most have only a one- (1-) year warranty. They explained that manufactured homes must comply with Housing and Urban Development (HUD) regulations on building, which are very strict. For these reasons, the manufactured housing industry stated it is at a competitive disadvantage. Additionally, the manufactured housing representatives stated that allowing the manager to conduct an initial setup inspection up to two (2) years after the home was setup was too long. They stated that they had no control over changes to the yard or home that homeowners would do or the effects that weather would have on the setup and thus, it would be unfair to have an inspection after one hundred twenty (120) days. The industry representatives stated that, in essence, this was requiring the dealers to give the consumers a two- (2-) year warranty on the home.

Additionally, the commenters stated that Missouri does more inspections and enforcement than its neighboring states, which only inspect homes due to consumer complaints and not on their own initiative. The commenters indicated that in general the industry wanted the inspection and regulatory process, but that the inspections should be in response to complaints, not be done for the sake of creating work for the inspectors. Further, the commenters stated that under the current rules, the industry was accelerating their reporting to the manager and, therefore, the manager should have the information necessary to conduct inspections sooner.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission has considered the comments with regard to the one- (1-) year and two- (2-) year inspection periods. The manager currently only inspects about forty percent (40%) of new manufactured homes. The

commission finds that these inspections are a benefit and enhance safety for the manufactured house homeowners. Thus, the commission determines that a one- (1-) year period to conduct an initial setup inspection is not unreasonable. Further, subsection (2)(C) is being amended such that the two- (2-) year period only applies to inspections related to code violations. The commission finds that consumers will be protected from potentially dangerous code violations if the timeframe to conduct an initial setup inspection based on a written consumer complaint remains at two (2) years. However, to reduce the potential burden on the industry, the commission will further amend subsection (2)(C) to limit fees and inspections to situations where an initial inspection was not performed.

**COMMENT #5:** Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested in its comments set out below, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. The commission has also deleted a proposed requirement for the manager to open an investigation in subsection (1)(D). Further, in response to the industry's concern that inspections not just be done in order to employ inspectors and in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsection (1)(D) and paragraph (2)(A)1. of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended subsection (1)(D) and paragraph (2)(A)1. of the rule.

**COMMENT #6:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to comply with a report of the state auditor by removing the discretion to impose fees from the manager and placing it with the commission. The reporting period for submitting property locator forms was also extended from forty-eight (48) hours to five (5) days and the enforcement of the fee for late filing became mandatory with a procedure for waiver by the commission. After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that the mandatory nature of the fees be removed and the discretion be left with the manager, but only after consultation with the staff director and consideration of specific criteria set out in the rule. Staff also recommended that the one- (1-) year and two- (2-) inspection periods remain; however, it suggested language to clarify that the two- (2-) year inspection period was only applicable if there had been no initial inspection. Staff stated that this would avoid fees and inspections where an initial inspection had been completed.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsection (1)(D) and paragraph (2)(A)1. of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended subsection (1)(D) and paragraph (2)(A)1. of the rule.

The commission has also considered the comments with regard to the one- (1-) year and two- (2-) year inspection periods. The manager currently only inspects about forty percent (40%) of new manufactured homes. The commission believes that these inspections are a benefit and enhance safety for the manufactured house homeowners. Thus, the commission determines that a one- (1-) year period to conduct an initial set-up inspection is not unreasonable. Further, the commission finds that consumers will be protected from potentially dangerous code violations if the timeframe to conduct an inspection based on a written consumer complaint, where no initial inspection was completed, remains at two (2) years. Therefore, to reduce the potential burden on the industry, the commission will further amend subsection (2)(C) to avoid duplicate fees and inspections.

COMMENT #7: Mr. Crump also commented that the reporting requirements need to be further reduced as they were too onerous.

RESPONSE: The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any changes to the rule at this time as a result of this comment.

#### **4 CSR 240-120.065 Manufactured Home Dealer Setup Responsibilities**

##### **(1) Manufactured Home Dealer Setup.**

(C) If a dealer fails to arrange for the proper initial setup of a manufactured home, the commission may discipline the dealer's registration by suspending, revoking, or placing the registration on probation, pursuant to the provisions of section 700.100, RSMo, if the manager provides evidence to the commission, incident to an inspection, under subsections (2)(B) or (2)(C) of this rule, of set up deficiencies.

(D) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a two hundred dollar (\$200) inspection fee to dealers that fail to hire commission licensed installers to set up a home. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

##### **(2) Manufactured Home Inspections.**

(A) A dealer who sells a new manufactured home shall submit to the manufactured housing and modular units program a property locator indicating the destination of the home within five (5) business days of the date the home leaves the dealer's location or the manufacturer's location if the home is shipped directly to the consumer. For multi-section homes the five (5) business days begins when the first section leaves the dealer's or manufacturer's location. The dealer shall use the property locator form provided by the commission.

1. The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a fifty dollar (\$50) per home inspection fee to dealers who fail to submit the property locator within five (5) business days from the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

2. The manager may commence an action to discipline a dealer's registration for failure to timely report property locators or make payment upon property locator home inspection fees if the commission has assessed no fewer than two (2) property locator home inspection fees against the dealer within the previous twelve (12) months of the due date of the property locator at issue.

(C) Within two (2) years of the delivery date of the home to the consumer, if no initial inspection was performed pursuant to subsection (2)(B) of this rule, the manager may conduct an inspection of the home for code violations upon the receipt of a formal written complaint by the consumer.

(E) Should an initial inspection identify no code violations, or any re-inspection verify that corrections have been made to address code violations identified on an initial inspection report, the manager shall issue a notice of completion indicating no outstanding issues remain to be addressed. Such notice shall be issued to each responsible entity. A complainant shall also be issued a notice of completion should an initial inspection occur subsequent to a consumer complaint. Such notice shall be issued within twenty (20) days from the date of the final inspection or re-inspection. This notice is intended to notify parties when the manager has completed an inspection process, and will not serve to indemnify any responsible party from any future liability.

(3) Manufacturers shall mail or deliver to the manager by the tenth day of each month a report that identifies, by make, model, and serial number, the new manufactured homes to which certification labels have been affixed since the previous report. Such report shall also include the certification label number for each such manufactured home.

*REVISED PRIVATE COST: The cost to private entities is estimated to be twenty-three thousand four hundred dollars (\$23,400) in the aggregate over a three- (3-) year life of the rule. The private entity cost for three (3) years was previously estimated as thirty-two thousand dollars (\$32,000).*

**REVISED 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 240-120.065 Inspections
<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 as to the cost of compliance with the rule by the affected entities in the aggregate over a three-year life of the rule:
156 per year	Regulated dealers of new manufactured homes	\$23,400.00

**III. WORKSHEET**

Under the existing rule, the Manager may seek to enforce a fee for failure to report a property locator within forty-eight (48) hours of a modular unit leaving a dealer or manufacturers' location in route to a consumer. Had penalties been assessed as provided by rule, regulated parties would have been assessed nearly \$2,650 per quarter or \$10,600 annually. When projected over three years, the fee collected could have been nearly \$32,000.

The additional proposed amendments extend compliance deadlines by three (3) business days, extend fee assessment timelines by eight (8) business days.

Based on historical records, it is estimated there will be 156 annual occurrences where fees could be assessed.

$$156 \text{ occurrences} * \$50 \text{ fee} * 3 \text{ years} = \$23,400$$

The amount of the fee proposed is the same amount currently applied in the existing rule.

**IV. ASSUMPTIONS**

The estimated aggregate cost assumes that the \$50 fee is assessed in every instance where there is a rule violation. The proposed amendment establishes a process that will be used to determine whether a fee will be assessed or waived, and includes a quarterly review process by the Commission. These processes are expected to reduce the estimated fiscal impact of this rule.

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

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

**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:

4 CSR 240-120.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1151). 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 four (4) 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.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) 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 on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed significant changes to the rules.

**COMMENT #1:** Mr. Crump commented that the reporting requirements need to be further reduced as they were too onerous.

**RESPONSE:** The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any changes to the rule at this time as a result of this comment.

**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 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 commission is removing its reporting requirement from this rule and the remaining requirements are federal requirements, no changes have been made as a result of these comments.

**COMMENT #4:** 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 #5:** Staff filed comments suggesting that section (2) be deleted. Staff stated that it was recommending putting the revised language from section (2) in rule 4 CSR 240-120.065, and therefore, it was no longer needed. Staff also suggested deleting section (1) of the rule because it was merely a restatement of a federal requirement.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff that section (2) should be deleted as the language is better suited for rule 4 CSR 240-120.065 and the commission has made the corresponding change to that rule. Therefore, the commission will delete section (2). However, because section (1) was not published for amendment, the commission cannot delete that section at this time. Thus, the commission will begin a new rulemaking process to rescind this rule once these changes are final. The commission will amend the purpose of the rule to reflect the deletion of section (2).

**4 CSR 240-120.070 Manufacturers and Dealers Reports**

*PURPOSE: This rule provides that manufacturers and dealers shall file reports with the secretary of Housing and Urban Development as may be required under Section 614 of the Act, 42 U.S.C. 5413.*

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

**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:

4 CSR 240-120.080 Commission Reports is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1151). No changes have been made to the text of the proposed amendment, so it is not 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 one (1) written comment regarding this rule from the staff of the commission. Staff explained the original amendment and proposed complete rescission of the rule as unnecessary.

**COMMENT #1:** Staff commented that originally, amendments were proposed to change the title of the person responsible for the program. However, upon further review of the rules in conjunction with



Executive Order 17-03, staff recommends that this rule be rescinded in its entirety because it simply restates a federal requirement imposed on the manager.

RESPONSE: The commission cannot rescind the rule at this time, because it was not noticed as a rescission in the *Missouri Register*. Thus, the commission will make the original proposed changes and consider a rescission once these changes are final.

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

**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:

4 CSR 240-120.085 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1151-1155). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees and "re-inspections" would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

**RESPONSE AND EXPLANATION OF CHANGE:** Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the fee implementation discretionary after consultation with the staff director and reports to the commission of the monetary effect of the changes on the industry.

**COMMENT #4:** Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, Mr. Hagar, and the MMHA made written and oral comments opposing the amendments for similar reasons. In general, the commenters stated that the amendments were burdensome to the industry, would ultimately cause additional expense to the consumers, and would deter manufacturing in the state. Specifically, the industry objected to the one- (1-) year and two- (2-) year inspection periods as set out in 4 CSR 240-120.065, and those comments were addressed in that rule. The industry also expressed concern for having a home setup inspected initially by the manager on his own volition and then possibly being subject to a second inspection because of a customer complaint.

Additionally, the commenters stated that Missouri does more inspections and enforcement than its neighboring states, which only inspect homes due to consumer complaints and not on their own initiative. The commenters indicated that in general the industry wanted the inspection and regulatory process, but that the inspections should be in response to complaints, not be done for the sake of creating work for the inspectors.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission has considered the comments of the industry in conjunction with the comments of staff. Subsections (1)(C) and (2)(B) are being amended to remove the mandatory nature of the fees and creating a process for consideration of specific criteria by the manager in consultation with the staff director. Additionally, in order to maintain proper oversight of the implementation of fees, the commission is adding reporting requirements for the manager.

**COMMENT #5:** Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested in its comments set out below, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this

consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and responsiveness to commission requirements should be considered. Further, in response to the industry's concern that inspections not just be done in order to employ inspectors and in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsections (1)(C) and (2)(B) of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended subsections (1)(C) and (2)(B) of the rule.

**COMMENT #6:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to comply with a report of the state auditor by removing the discretion to impose fees from the manager and placing it with the commission. A fee schedule was implemented to add clarity where multiple inspections were needed. Additionally, a section was added for suspension of a registration for failure to pay the re-inspection fees and make corrective action and a section was added to govern the process of requesting a waiver of fees.

After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that minor wording changes be made to proposed subsection (1)(B) and sections (5), (6), (7), and (8). Staff recommended that subsection (5) be changed to remove the reference to a commission form. Staff recommended changes to section (7) to remove a sentence detailing the length of suspension and recommended deleting section (9) because it was unnecessary. Additionally, at the hearing and in written comments, staff recommended that proposed subsections (1)(C) and (2)(B) be changed so that the mandatory nature of the fees is removed and discretion remains with the manager. Staff also recommended that the manager be required to consult with the staff director and that the rule set out specific criteria to be considered.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsections (1)(C) and (2)(B) of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended those subsections.

The commission has also considered the other changes suggested by staff and finds them to be appropriate. Thus, the commission will further amend proposed subsection (1)(C) and proposed sections (6), (7), and (8) and will delete proposed section (9). The commission rejects certain language changes proposed by staff because further clarification is needed. The commission adds clarifying language so that some sections are reworded and unnecessary language is deleted. Additionally, proposed section (5) is deleted and the following sections are renumbered.

#### **4 CSR 240-120.085 Re-Inspection and Re-Inspection Fee**

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

(C) The manager, in consultation with the commission staff direc-

tor, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess re-inspection fee(s) of two hundred dollars (\$200) 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. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

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

(B) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may 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 shall 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. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

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

(5) The fee for all inspections requested by third parties is four hundred dollars (\$400), except the fee for third party inspection requests for the purpose of serial number verification is two hundred dollars (\$200). Requests for inspections by third parties must be submitted in writing to the manufactured housing and modular units program along with the associated inspection fee. Licensed manufacturers or dealers are not considered third parties.

(6) If the manufacturer, installer, or dealer has not paid the re-inspection fee within thirty (30) days of the prescribed date, the manager may file a complaint and the commission may suspend the manufacturer, installer, or dealer certificate or registration.

(7) The following situations constitute grounds for the denial, revocation, or placing on probation of a manufacturer, installer, or dealer certificate of registration:

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

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

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

#### **Division 240—Public Service Commission Chapter 120—New Manufactured Homes**

#### **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:

4 CSR 240-120.090 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1156-1158). 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 regarding this rule from two (2) manufactured housing industry representatives: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); and Timothy L. DeVine, Your Home Center L.L.C. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters about this rule: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA; Bryan Crump, Cedar Creek Homes; and Tom Hagar. The industry representatives opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, but not specifically the proposed changes to this rule.

**RESPONSE:** Numerous changes have been made to this and other manufactured housing rules in response to industry and staff comments. However, no changes have been made to this particular rule as a result of these comments.

**COMMENT #4:** Staff filed comments generally supporting the amendments, but also made suggestions for additional changes. Staff explained that the original amendments propose expanding from eight (8) days to fifteen (15) days the time within which the manager

can perform an inspection after receiving an application to alter new manufactured homes. Staff also suggested removing subsections (2)(A)-(D) in order to remove information required on the commission form, and suggested removing the form from the rule. Staff suggested adding a reference to the commission's website where the form is located.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff the commission determines that the rule should be further amended as staff suggests. Therefore, the commission will further amend section (2).

#### **4 CSR 240-120.090 Inspection and Approval of Alterations**

(2) Manager approval of alterations shall be requested by a written application executed on a commission approved form available on the commission's website at [www.psc.mo.gov](http://www.psc.mo.gov), or from the manager upon request. Applications may be submitted only by the person or entity who owns the new manufactured home to which the alteration for which approval is sought has been made.

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

#### **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:

#### **4 CSR 240-120.100 Code is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1158). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes have been made to this particular rule as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to add the federal statutory citation of the law to be applied to new manufactured homes.

**RESPONSE:** The commission agrees that the amendment is appropriate.

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

**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:

**4 CSR 240-120.110 Complaints and Review of Manager Action(s)  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1158–1159). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors

of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes have been made to this particular rule as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to add the federal statutory citation of the law to be applied and to change the name of the head of the manufactured housing program at the commission.

**RESPONSE:** The commission agrees that the amendments are appropriate.

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

**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:

4 CSR 240-120.120 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1159). 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 regarding this rule from two (2) manufactured housing industry representatives: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); and Timothy L. DeVine, Your Home Center L.L.C. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters about this rule: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA; Bryan Crump, Cedar Creek Homes; and Tom Hagar. The industry representatives opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, but not specifically the proposed changes to this rule.

**RESPONSE:** Numerous changes have been made to this and other manufactured housing rules in response to industry and staff comments. However, no changes have been made to this particular rule as a result of these comments.

**COMMENT #4:** Staff filed comments supporting the amendments, but also made suggestions for an additional change to make the denial of an application discretionary instead of mandatory. Staff explained that the original amendments were also proposed to remove

the mandatory nature of the rule.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff the commission determines that the rule should be further amended as staff suggests. Therefore, the commission will further amend section (3).

#### **4 CSR 240-120.120 Criteria for Good Moral Character for Registration of Manufactured Home Dealers**

(3) If the commission finds an applicant lacks good moral character as outlined in subsection (1)(A) or (1)(B) of this rule, the commission may deny the application for registration.

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

#### **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:

4 CSR 240-120.130 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1159–1160). 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 regarding this rule from six (6) 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) 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 on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

**RESPONSE AND EXPLANATION OF CHANGE:** Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the fee implementation discretionary after consultation with the staff director and reports to the commission of the monetary effect of the changes on the industry.

**COMMENT #4:** Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested in its comments set out below, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under this rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended proposed section (8) and deleted proposed section (11).

**COMMENT #5:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to comply with a report of the state auditor by removing the discretion to impose fees from the manager and placing it with the commission. Additionally, as originally proposed, actions against a dealer's registration were added for monthly reports not filed within sixty and ninety days of the due dates. After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that the mandatory nature of the fees be removed and the discretion be left with the manager, but only after consultation with the staff director and consideration of specific criteria set out in the rule. Staff also recommended wording changes and a reference to where the form was located in section (2) and the removal of sections (5) and (7) as they duplicated what was on the form. Staff also recommended the deletion of proposed section (11) because it was not needed when the other changes were made.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under this rule and provide a report on a quarterly basis to the commission.

The commission also accepts the other changes suggested by staff. Therefore, the commission has further amended proposed sections (2) and (8), deleted proposed sections (5), (7), and (11), and renumbered the sections accordingly.

**COMMENT #6:** Mr. Crump also commented that the reporting requirements need to be further reduced as they were too onerous.

**RESPONSE:** The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any changes to the rule at this time as a result of this comment.

#### **4 CSR 240-120.130 Monthly Report Requirement for Registered Manufactured Home Dealers**

(2) Manufactured home dealers may only use the commission's form for monthly sales reports. This form may be obtained from the Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102, or at the website <http://psc.mo.gov>.

(5) The manager may reject monthly sales reports that are incomplete and require dealer's to submit corrected reports.

(6) The manager, in consultation with the commission staff director, after attempting to contact the entity and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a late submission fee of fifty dollars (\$50) against a manufactured home dealer for each monthly sales report filed sixty (60) days after the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration, and compile a quarterly report summarizing such information for review by the commission.

(7) The commission may suspend the dealer's registration for any report not submitted within sixty (60) days of the due date.

(8) Failure to submit a completed monthly report within ninety (90) days of due date and/or to pay any required fees could result in revocation of the dealer's registration under section 700.098, RSMo.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 120—New Manufactured Homes**

#### **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:

4 CSR 240-120.140 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1160-1161). 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 regarding this rule from six (6) 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) 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 on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine and Mr. Taylor filed written comments opposing the rule changes in general, and specifically stating that the changes with regard to fees would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

**RESPONSE:** The fee and reporting structure for this rule have not changed because of the amendments. Additionally, the commission, at the suggestion of staff discussed below, is adding a provision of granting waiver of the fees. Therefore, no additional changes are made in response to Mr. DeVine's comment.

**COMMENT #4:** Staff filed comments generally supporting the

amendments, but also suggested some changes. Staff explained the reason for the original proposed amendments was to clarify the intent of the rule and to add a section setting out a process for the manager to request waiver of fees from the commission. Staff recommended changes to section (2) and proposed sections (4) and (5) to remove restrictive language.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended. The commission accepts the clarifications made by staff to proposed sections (4) and (5). However, the commission rejects the wording change to section (2) as it does not add clarity or make the provision less restrictive. Therefore, the commission has further amended proposed sections (4) and (5).

**COMMENT #5:** Mr. Crump also commented that the reporting requirements need to be further reduced as they were too onerous.

**RESPONSE:** The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any changes to the rule at this time as a result of this comment.

#### **4 CSR 240-120.140 New Manufactured Home Manufacturer's Inspection Fee**

(4) The following situations constitute grounds for the denial, revocation, or placing on probation of a manufacturer's certificate of registration:

(A) Failure to pay the inspection fee by the prescribed due date for two (2) consecutive months; or

(B) Failure to pay the inspection fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

(5) 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.

### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

#### **Division 240—Public Service Commission**

#### **Chapter 121—Pre-Owned Manufactured Homes**

### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

#### **4 CSR 240-121.010 Definitions is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1161). This proposed amendment is withdrawn.

**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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; 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 (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the entire chapter of rules rather than amending. Public Counsel made a 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 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. 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 #4: Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 121—Pre-Owned Manufactured Homes**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

**4 CSR 240-121.020 Administration and Enforcement  
is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1161-1162). This proposed amendment is withdrawn.

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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the entire chapter of rules rather than amending.

COMMENT #1: 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 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 #2: 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 #3: Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured



housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 121—Pre-Owned Manufactured Homes**

#### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

#### **4 CSR 240-121.030 Seals is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1162-1163). This proposed amendment is withdrawn.

**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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the entire chapter of rules rather than amending.

**COMMENT #1:** 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 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 #2:** 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 #3:** Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 121—Pre-Owned Manufactured Homes**

#### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

#### **4 CSR 240-121.040 Inspection of Dealer Books, Records, Inventory and Premises is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1163). This proposed amendment is withdrawn.

**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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the

entire chapter of rules rather than amending.

COMMENT #1: 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 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 #2: 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 #3: Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 121—Pre-Owned Manufactured Homes**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

**4 CSR 240-121.050** Inspection of Preowned Manufactured Homes Rented, Leased or Sold or Offered for Rent, Lease or Sale by Persons Other Than Dealers **is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1163-1164). This proposed amendment is withdrawn.

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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA);

Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the entire chapter of rules rather than amending.

COMMENT #1: 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 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 #2: 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 #3: Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 121—Pre-Owned Manufactured Homes**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section

700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

**4 CSR 240-121.060 Complaints and Review of Director Action is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1164). This proposed amendment is withdrawn.

**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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the entire chapter of rules rather than amending.

**COMMENT #1:** 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 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 #2:** 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 #3:** Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative rec-

ommended that this chapter of rules be rescinded.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 121—Pre-Owned Manufactured Homes**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

**4 CSR 240-121.180 Monthly Report Requirement for Registered Manufactured Home Dealers is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1164). This proposed amendment is withdrawn.

**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 regarding the entire package of rule amendments filed simultaneously from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. In written comments, staff explained the reason for the original proposed amendments and generally supported those amendments with changes. However, at hearing, staff proposed rescinding the entire chapter of rules rather than amending.

**COMMENT #1:** 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 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 #2:** 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 #3: Staff and the industry representatives testified at the hearing that 4 CSR 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 123—Modular Units**

#### **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:

4 CSR 240-123.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1164–1165). 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 four (4) 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.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of 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 (5) 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 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: 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 #5: 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 (1) 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 240-123.010 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:

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 123—Modular Units**

#### **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:

**4 CSR 240-123.020 Administration and Enforcement is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1165-1166). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes have been made to this particular rule as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to clearly set out the powers and responsibilities that are and are not delegated to the Program Manager.

**RESPONSE:** The commission agrees with staff that this proposed amendment will clarify the Program Manager's powers and responsibilities.

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

**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:

4 CSR 240-123.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1166-1167). 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 (5) 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). At the public hearing testimony was received from five (5) 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.

**COMMENT #1:** 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 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 #2:** Mr. Smith, Mr. Hagar, Mr. Crump, and Mr. DeVine gave oral and written comments opposing the complete package of rule changes in general, though not specifically the changes in this rule. No commenters were opposed to changing the name of the commission personnel to "manager" or the other name and citation changes in this rule.

**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 #3:** 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 #4:** Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to clarify the rules. Staff also recommended changing the word "shall" in section (5) to "will", and the word "shall" in section (6) to "may."

**RESPONSE AND EXPLANATION OF CHANGE:** In order to make the rule less restrictive, the commission will adopt staff's change to section (6). However, staff's proposed change does not add clarity to section (5) and therefore, will not be adopted.

#### 4 CSR 240-123.030 Seals

(6) Seals may be delivered by one (1) of the following methods:

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

#### 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:

4 CSR 240-123.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1167-1168). 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 (5) 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). At the public hearing testimony was received from five (5) 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 additional changes to the rule.

**COMMENT #1:** 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 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 #2:** Mr. Smith, Mr. Hagar, Mr. Crump, and Mr. DeVine gave oral and written comments opposing the complete package of rule changes in general, though not specifically the changes in this rule. No commenters were opposed to changing the name of the commission personnel to "manager" or the other amendments to this rule.

**RESPONSE:** Numerous changes have been made to other manufactured housing rules in response to industry and staff comments. However, no changes have been made as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported many of the proposed amendments to this rule and explained that the amendments were being proposed in order to clarify the rules. At the hearing, however, staff recommended additional changes to simplify the rule and remove requirements that repeat information found in the form. Staff recommended changes to sections (1), (3), (4), and (7) and to proposed section (8). Staff also recommended rejecting proposed subsections (1)(A) through (1)(F) and deleting original subsections (1)(A) through (1)(D). Staff stated that these changes would provide clarification and would be consistent with Executive Order 17-03 by reducing unnecessary regulatory requirements.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff's proposed deletions of proposed subsections (1)(A) through (1)(F) and original subsections (1)(A) through (1)(D) to reduce unnecessary regulations. The commission also will adopt the proposed changes to original sections (1) and (4). The commission will make the withdrawal of approval discretionary instead of mandatory in order to lessen the restrictive nature of proposed section (8). The commission will also make further changes to sections (3) and (4) to add clarity and reduce the time for the manager to consider a request for approval of a manufacturing program. However, the commission will not make additional changes to section (7).

#### 4 CSR 240-123.040 Approval of Manufacturing Programs

(1) To have a manufacturing program considered for approval, the manufacturer who will use the program for which approval is sought

shall submit a completed application, along with the following, to the manufactured housing and modular units program. The application may be obtained from the manager upon request, or from the commission's website at [www.psc.mo.gov](http://www.psc.mo.gov):

(A) 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 applicable code(s) for every procedure relating to the manufacturing of modular units for which the code contains a requirement;

(B) Third party inspection for compliance with required codes; and

(C) 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 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.

(4) The manager has ten (10) days to consider a request for approval of a manufacturing program submitted pursuant to sections (1)–(3) above. A notice of refusal shall specify the reason for refusal.

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

(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 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 non-load bearing interior wall.

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

#### **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:

4 CSR 240-123.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1169). 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service

Commission (staff) and the Office of the Public Counsel (Public Counsel). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich Aubuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments. Public Counsel made a suggested amendment.

**COMMENT #1:** 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 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 #2:** 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, no changes to this particular rule have been made as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendments to this rule with some further changes. Staff explained that the amendments as originally proposed would have corrected the title of the individual responsible for the commission's manufactured housing department from "director" to "manager." Staff also explained that the proposed amendments would add that a manufacturer must maintain a copy of the bill of sale when a home is sold directly to a consumer, which was not previously addressed in the rule. Staff proposed additional changes in furtherance of the Governor's Executive Order 17-03, to make the rule less restrictive by making the inspection of books and records discretionary.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff's comment and will make the rule less restrictive by amending the language as suggested.

**COMMENT #5:** Public Counsel commented that section (2) should include a length of time to make record-keeping requirements uniform.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with Public Counsel's comment and will further amend

proposed section (2) to include a five- (5-) year time for keeping the bill of sale.

**4 CSR 240-123.050 Inspection of Manufacturer's Books, Records, Inventory and Premises**

(1) The manager may inspect the books, records, including a copy of the data plate and all service records for each modular unit, inventory, and premises of a manufacturer during normal business hours to ascertain—

(2) Should a manufacturer sell directly to a consumer, the manufacturer shall maintain a copy of the bill of sale in its files for no less than five (5) years at the location where it sold the modular unit to the purchaser, if possible; otherwise at its principal office.

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

**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:

4 CSR 240-123.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1169). 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich Aubuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes to this particular rule have been made as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendments to this rule with some further changes. Staff explained that the amendments as originally proposed would have corrected the title of the individual responsible for the commission's manufactured housing department from "director" to "manager." Staff also explained that the proposed amendments would add that a manufacturer must maintain a copy of the bill of sale when a home is sold directly to a consumer, which was not previously addressed in the rule. Staff proposed additional changes in furtherance of the Governor's Executive Order 17-03, to make the rule less restrictive by making the inspection of books and records discretionary.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff's comment and will make the rule less restrictive by amending the language as suggested.

**4 CSR 240-123.060 Inspection of Dealer's Books, Records, Inventory and Premises**

(1) The manager may inspect the books, records, inventory, and premises of a dealer from time-to-time during normal business hours to ascertain if grounds exist under 700.100, RSMo to file a complaint with the commission to reject an application for registration filed under section 700.090, RSMo or to refuse to renew, suspend, revoke, or place on probation a registration which has been made under section 700.090, RSMo.

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

**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:

4 CSR 240-123.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1170-1173). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) 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 on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees and "re-inspections" would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

**RESPONSE AND EXPLANATION OF CHANGE:** Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the fee implementation discretionary after consultation with the staff director and reports to the commission of the monetary effect of the changes on the industry.

**COMMENT #4:** Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, Mr. Hagar, and the MMHA made written and oral comments opposing the amendments for similar reasons. In general, the commenters stated that the amendments were burdensome

to the industry, would ultimately cause additional expense to the consumers, and would deter manufacturing in the state. Specifically, the industry objected to the one- (1-) year and two- (2-) year inspection periods as set out in proposed subsections (2)(B) and (2)(C). Some of the industry representatives stated that the period for the manager to conduct his inspections should be limited to one hundred twenty (120) days, although the general consensus of the industry was that there should be no more than one (1) year to conduct an inspection.

The commenters stated that most "stick built" homes in Missouri do not have to comply with any building codes and at most have only a one- (1-) year warranty. They explained that manufactured homes must comply with Housing and Urban Development (HUD) regulations on building, which are very strict. For these reasons, the manufactured housing industry stated it is at a competitive disadvantage. Additionally, the manufactured housing representatives stated that allowing the manager to conduct an initial setup inspection up to two (2) years after the home was setup was too long. They stated that they had no control over changes to the yard or home that homeowners would do or the effects that weather would have on the setup and thus, it would be unfair to have an inspection after one hundred twenty (120) days. The industry representatives stated that, in essence, this was requiring the dealers to give the consumers a two- (2-) year warranty on the home.

Additionally, the commenters stated that Missouri does more inspections and enforcement than its neighboring states, which only inspect homes due to consumer complaints and not on their own initiative. The commenters indicated that in general the industry wanted the inspection and regulatory process, but that the inspections should be in response to complaints, not be done for the sake of creating work for the inspectors. Further, the commenters stated that under the current rules, the industry was accelerating their reporting to the manager and, therefore, the manager should have the information necessary to conduct inspections sooner.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission has considered the comments with regard to the one- (1-) year and two- (2-) year inspection periods. The manager currently only inspects about forty percent (40%) of new manufactured homes. The commission finds that these inspections are a benefit and enhance safety for the modular unit owners. Thus, the commission determines that a one- (1-) year period to conduct an initial setup inspection is not unreasonable. Further, the commission finds that consumers will be protected from potentially dangerous code violations if the timeframe to conduct an initial setup inspection based on a written consumer complaint remains at two (2) years. However, to reduce the potential burden on the industry, the commission will further amend subsection (2)(C) to limit fees and inspections to situations where an initial inspection was not performed.

**COMMENT #5:** Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested in its comments set out below, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further,

in response to the industry's concern that inspections not just be done in order to employ inspectors and in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under paragraph (2)(A)1. of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended paragraph (2)(A)1. of the rule.

**COMMENT #6:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to comply with a report of the state auditor by removing the discretion to impose fees from the manager and placing it with the commission. The reporting period for submitting property locator forms was also extended from forty-eight (48) hours to five (5) days and the enforcement of the fee for late filing became mandatory with a procedure for waiver by the commission. After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that the mandatory nature of the fees be removed and the discretion be left with the manager, but only after consultation with the staff director and consideration of specific criteria set out in the rule. Staff also recommended that the one- (1-) year and two- (2-) inspection periods remain.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under paragraph (2)(A)1. of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended paragraph (2)(A)1. of the rule and eliminated proposed section (4) regarding a waiver process.

The commission has also considered the comments with regard to the one- (1-) year and two- (2-) year inspection periods. The manager currently only inspects about forty percent (40%) of new manufactured homes. The commission believes that these inspections are a benefit and enhance safety for the modular unit owners. Thus, the commission determines that a one- (1-) year period to conduct an initial set-up inspection is not unreasonable. Further, the commission finds that consumers will be protected from potentially dangerous code violations if the timeframe to conduct an inspection remains at two (2) years. However, the commission will rewrite subsection (2)(E) for clarity.

Additionally, because the manager has two (2) years in which to conduct an inspection on a complaint, the commission finds that proposed subsection (1)(C) should be amended to eliminate the two- (2-) year period in which the manager may take action on a violation. The original intent was to eliminate the five- (5-) year period set out in original section (4), but not to exclude the possibility of recourse on a violation found at the end of the two- (2-) year inspection period as this limitation would do.

**COMMENT #7:** Mr. Crump also commented that the reporting requirements need to be further reduced as they were too onerous.

**RESPONSE:** The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any

changes to the rule at this time as a result of this comment.

#### **4 CSR 240-123.065 Modular Unit Dealer or Selling Agent Setup Responsibilities**

##### **(1) Modular Unit Dealer Setup.**

(C) If a dealer, unless the dealer obtains the waiver of initial setup referred to in subsection (A) above, fails to arrange for the proper initial setup of a modular unit, the commission may discipline the dealer's registration by suspending it, revoking it, or placing it on probation, pursuant to the provisions of section 700.100, RSMo, if the manager provides evidence to the commission, incident to an inspection under subsections (2)(B) or (2)(C), of setup deficiencies.

##### **(2) Modular Unit Inspections.**

(A) Dealers shall submit to the manufactured housing and modular units program a property locator indicating the destination of the new residential modular unit(s) or new or used classroom modular unit(s) within five (5) business days to the date the unit leaves the dealer's location or the manufacturer's location if the unit is shipped direct to the consumer. For multi-section new residential or new or used classroom modular unit(s) the five (5) business days begins when the first section leaves the dealer's or manufacturer's location. The dealer shall use the property locator form provided by the manufactured housing and modular units program.

1. The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a fifty dollar (\$50) per home inspection fee to dealers who fail to submit the property locator within five (5) business days from the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

2. The manager may commence an action to discipline a dealer's registration for failure to timely report property locators or make payment upon property locator home inspection fees if the commission has assessed no fewer than two (2) property locator home inspection fees against the dealer within the previous twelve (12) months of the due date of the property locator at issue.

(C) Within two (2) years of the delivery date of the home to the consumer, if no initial inspection was performed pursuant to subsection (2)(B) of this rule, the manager may conduct an initial inspection of the home for setup and code violations upon the receipt of a formal written complaint by the consumer.

(E) If an initial inspection identifies no code violations or any re-inspection verifies that corrections have been made to address code violations identified on an initial inspection report, the manager will issue, within twenty (20) days of the final inspection or re-inspection, a notice of completion to each responsible entity, and the complainant if the initial inspection occurs subsequent to a consumer complaint, indicating no outstanding issues remain to be addressed. This notice is intended to notify parties when the manager has completed an inspection process, but does not serve to indemnify any responsible party from any future liability.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 123—Modular Units**

#### **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:

4 CSR 240-123.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1174). 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 regarding this rule from six (6) 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) 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 on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

**RESPONSE AND EXPLANATION OF CHANGE:** Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the fee implementation discretionary after consultation with the staff director and reports to the commission of the monetary effect of the changes on the industry.

**COMMENT #4:** Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested in its comments set out below, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under this rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended proposed section (7) and deleted proposed section (10).

**COMMENT #5:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to comply with a report of the state auditor by removing the discretion to impose fees from the manager and placing it with the commission. Additionally, as originally proposed, actions against a dealer's registration were added for monthly reports not filed within sixty and ninety days of the due dates. After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that the mandatory nature of the fees be removed and the discretion be left with the manager, but only after consultation with the staff director and consideration of specific criteria set out in the rule. Staff also recommended wording changes and a reference to where the form was located in section (2) and the removal of section (5) as it duplicated what was on the form. Staff also recommended the deletion of proposed section (10) because it was not needed when the other changes were made.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under this rule and provide a report on a quarterly basis to the commission.

The commission also accepts the other changes suggested by staff. Therefore, the commission has further amended proposed sections (2), (7), and (9), deleted proposed sections (5) and (10), and renumbered the sections accordingly.

**COMMENT #6:** Mr. Crump also commented that the reporting requirements need to be further reduced as they were too onerous.

RESPONSE: The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any changes to the rule at this time as a result of this comment.

**4 CSR 240-123.070 Monthly Report Requirement for Registered Modular Unit Dealers**

(2) The modular unit dealer shall only use the commission's monthly sales reports form. Sales report forms may be obtained from the Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102, or at the website <http://psc.mo.gov>.

(5) The manager of the manufactured housing and modular units program may reject monthly sales reports that are incomplete and require dealers to submit corrected reports.

(6) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a late submission fee of fifty dollars (\$50) against a modular unit dealer for each monthly sales report filed sixty (60) days after the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration, and compile a quarterly report summarizing such information for review by the commission.

(7) The commission may suspend the dealer's registration for any report not submitted within sixty (60) days of the due date.

(8) Failure to submit timely and complete monthly sales reports within ninety (90) days of the due date and/or to pay any assessed fees could result in revocation of the dealer's registration under section 700.098, RSMo.

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

**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:

**4 CSR 240-123.080 Code for Modular Units is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1174-1175). No changes have been made to the proposed amendment, so it is not 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 one (1) written comment regarding this rule from the staff of the commission. Staff explained the original amendment and proposed complete rescission of the rule as unnecessary.

COMMENT #1: Staff commented that these amendments were proposed to change the title of the person responsible for the program, add clarity, and cite to the current building code edition. Staff supported the amendments as proposed.

RESPONSE: The commission finds the original amendments appropriate and amends the rule accordingly.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 123—Modular Units**

**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:

**4 CSR 240-123.090 Complaints and Review of Manager's Action(s) is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1175-1176). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

COMMENT #1: 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 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 #2: 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, no changes to this particular rule have been made as a result of these comments.

COMMENT #3: 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 #4: Staff explained that the amendments correct the title of the individual responsible for the commission's manufactured housing department from "director" to "manager" and add clarification to the rule. Staff supported the proposed amendments to this rule.

RESPONSE: The commission agrees with staff and makes no further changes as a result of this comment.

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

**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:

4 CSR 240-123.095 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1176-1179). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

COMMENT #1: Mr. Hagar made a general written comment regard-

ing 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 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 #2: 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 #3: Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees and "re-inspections" would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

RESPONSE AND EXPLANATION OF CHANGE: Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the fee implementation discretionary after consultation with the staff director and reports to the commission of the monetary effect of the changes on the industry.

COMMENT #4: Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, Mr. Hagar, and the MMHA made written and oral comments opposing the amendments for similar reasons. In general, the commenters stated that the amendments were burdensome to the industry, would ultimately cause additional expense to the consumers, and would deter manufacturing in the state. Specifically, the industry objected to the one- (1-) year and two- (2-) year inspection periods as set out in 4 CSR 240-123.065, and those comments were addressed in that rule.

Additionally, the commenters stated that Missouri does more inspections and enforcement than its neighboring states, which only inspect homes due to consumer complaints and not on their own initiative. The commenters indicated that in general the industry wanted the inspection and regulatory process, but that the inspections should be in response to complaints, not be done for the sake of creating work for the inspectors.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments of the industry in conjunction with the comments of staff. Subsections (1)(C) and (2)(B) are being amended to remove the mandatory nature of the fees and creating a process for consideration of specific criteria by the manager in consultation with the staff director. Additionally, in order to maintain proper oversight of the implementation of fees, the commission is adding reporting requirements for the manager.

COMMENT #5: Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory

fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested in its comments set out below, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and responsiveness to commission requirements should be considered. Further, in response to the industry's concern that inspections not just be done in order to employ inspectors and in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsections (1)(C) and (2)(B) of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended subsections (1)(C) and (2)(B) of the rule.

**COMMENT #6:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to comply with a report of the state auditor by removing the discretion to impose fees from the manager and placing it with the commission. A fee schedule was implemented to add clarity where multiple inspections were needed. Additionally, a section was added for suspension of a registration for failure to pay the re-inspection fees and make corrective action and a section was added to govern the process of requesting a waiver of fees.

After meeting with industry representatives and considering their comments and Executive Order 17-03, in written comments staff recommended that changes be made to proposed subsections (1)(B), (1)(C), and (2)(B) to change the mandatory nature of the fees, leaving discretion with the manager after consultation with the staff director. Staff also recommended minor wording changes to proposed sections (3) and (4), as well as a rewrite of proposed sections (6), (7), and (8). Staff recommended additional changes to proposed section (8) to remove a sentence detailing the length of suspension and recommended deleting "shall" from proposed section (9) and deleting proposed section (10) because they are unnecessary.

Additionally, at the hearing staff presented additional written comments recommending that proposed subsections (1)(C) and (2)(B) be changed to add the criteria to be considered when the manager consults with the staff director.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, as staff has suggested, the enforcement of fees or discipline should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsections (1)(C) and (2)(B) of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended those subsections.

The commission has also considered the other changes suggested

by staff. The commission rejects the change proposed in proposed subsection (1)(B) and sections (3), (4), and (6) as they do not add clarification or other changes make them unnecessary. The commission does find staff's other changes to be appropriate with some rewording for clarification and unnecessary language deleted. Thus, the commission will further amend proposed sections (6), (7), and (8) and will delete proposed section (6). The commission is also combining proposed sections (3) and (4) for clarity and renumbering the sections accordingly.

#### 4 CSR 240-123.095 Re-Inspection and Re-Inspection Fee

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

(C) The manager, in consultation with the commission staff director, after attempting to contact the entity at issue and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a two hundred dollar (\$200) 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. The manager will track fees assessed or waived under this provision, along with any documented consideration, and compile a quarterly report summarizing such information for review by the commission.

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

(B) The manager in consultation with the commission staff director, after attempting to contact the entity at issue and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may 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 shall not be charged to the dealer, installer, or the manufacturer who was 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 receipt of the consumer complaint. The manager will track fees assessed or waived under this provision, along with any documented consideration, and compile a quarterly report summarizing such information for review by the commission.

(3) The re-inspection shall address all violations listed in the initial inspection report. A copy of the report shall be forwarded, within ten (10) days of the re-inspection, to the manufacturer, dealer, or both, and the customer, if applicable.

(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 and each dealer shall submit along with the fee a written plan of action to be taken by each to correct any remaining violations identified and, unless otherwise approved by the manager, corrections shall be completed within thirty (30) days of the re-inspection.

(5) The fee for all inspections requested by third parties four hundred dollars (\$400). Requests for inspections by third parties must be submitted in writing to the manufactured housing and modular units program along with the associated fee. Licensed manufacturers or dealers are not considered third parties.

(6) If the manufacturer, installer, or dealer has not paid the re-inspection fee within thirty (30) days of the prescribed date, the manager

may file a complaint and the commission may suspend the manufacturer, installer, or dealer certificate or registration.

(7) The following situations constitute grounds for commission denial, revocation, or placing on probation of a manufacturer or dealer certificate of registration:

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

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

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission**

##### **Chapter 124—Manufactured Home Tie-Down Systems**

#### **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:

4 CSR 240-124.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1180). 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 four (4) 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.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of 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 (5) 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 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:** 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 #5:** Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to streamline 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 240-124.010 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:

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission**

##### **Chapter 124—Manufactured Home Tie-Down Systems**

#### **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:

#### **4 CSR 240-124.020 Administration and Enforcement is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1180). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas



Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

COMMENT #1: 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 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 #2: 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to clearly set out the powers and responsibilities that are and are not delegated to the Program Manager.

RESPONSE: The commission agrees with staff that this proposed amendment will clarify the Program Manager's powers and responsibilities.

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

**4 CSR 240-124.030 Determination of Applicable Manufactured Home Systems Standards is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1180-1181). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

COMMENT #1: 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 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 #2: 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to add clarification to the applicable standards.

RESPONSE: The commission agrees with staff that this proposed amendment is appropriate and adopts it.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission**

##### **Chapter 124—Manufactured Home Tie-Down Systems**

#### **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:

#### **4 CSR 240-124.040 Commission Approval of Manufactured Home Tie-Down Systems is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1181-1182). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

COMMENT #1: 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 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 #2: 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed in order to reorganize the rule, add clarification, and extend the time frame for inspection of newly submitted anchoring systems.

RESPONSE: The commission agrees with staff that this proposed amendment is appropriate and adopts it.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission**

##### **Chapter 124—Manufactured Home Tie-Down Systems**

#### **ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed amendment as follows:

#### **4 CSR 240-124.045 Anchoring Standards is withdrawn.**

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1182-1184). This proposed amendment is withdrawn.

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 one (1) written comment regarding this rule from the staff of the commission. Staff explained the original amendment and proposed complete rescission of the rule as unnecessary.

COMMENT #1: Staff commented that originally, amendments were proposed to remove definitions and change the title of the person responsible for the program. However, upon further review of the rules in conjunction with Executive Order 17-03, staff recommends that this rule be rescinded in its entirety because it simply restates federal requirements.

RESPONSE: The commission agrees with staff. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw this proposed amendment and begin a new rulemaking to consider the rescission of this rule.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 124—Manufactured Home Tie-Down Systems**

**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:

**4 CSR 240-124.050 Standards is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1184–1185). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes have been made to this particular rule as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendment to this rule and explained that the amendment was to correct an error in the statutory citation.

**RESPONSE:** The commission agrees that the amendment is appropriate.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 124—Manufactured Home Tie-Down Systems**

**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:

**4 CSR 240-124.060 Complaints is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1185). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2: 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff supported the proposed amendments to this rule and explained that the amendments were to clarify who may file complaints and to change the title of the person responsible for the manufactured housing program.

RESPONSE: The commission agrees that the amendments are appropriate.

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

**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:

4 CSR 240-125.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1185–1186). 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 four (4) 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.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of 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 (5) 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 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: 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 #5: 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 (1) 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 240-125.010 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:

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

**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:

**4 CSR 240-125.020 General Provisions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1186–1187). No changes have been made to the text of the proposed amendment, so it is not 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes have been made to this particular rule as a result of these comments.

**COMMENT #3:** 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 #4:** Staff supported the proposed amendment to this rule and explained that the amendment was to change who issues the license.

**RESPONSE:** The commission agrees that the amendment is appropriate.

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

**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:

**4 CSR 240-125.040 is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1187). 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

**COMMENT #1:** 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 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 #2:** 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff explained that the amendments were being proposed in order to reorganize the rule, add clarification, and add a requirement for additional continuing education classes for installers every three (3) years. However, after further review, staff recommended additional reorganization and removing proposed paragraphs (1)(A)1. and (1)(A)2. because those requirements were not needed in the rule because they were set out in the statutes. Staff commented that it was proposing changes to clarify the rules and update them as needed.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff's proposed deletion of paragraphs (1)(A)1. and (1)(A)2. However, rather than make the reorganizational change proposed in staff's comments, the commission will further rewrite section (1) and add a new subsection (1)(C). Additionally, in response to staff's general comment regarding clarification and updating, a typographical error in subsection (3)(B) is corrected changing the word "manufactured" to "manufacturer."

#### 4 CSR 240-125.040 Manufactured Home Installer License

##### (1) Requirements for an Installer License.

(A) To be licensed as a manufactured home installer, an applicant shall meet all of the requirements of sections 700.650 to 700.692, RSMo, and submit to the manufactured housing and modular units program—

1. An application form and one hundred fifty dollar (\$150) application fee;
2. The certificate issued by the educational provider; and
3. Proof of liability and workman's compensation insurance coverage as required pursuant to section 700.659, RSMo.

(C) A manufactured home installer must attend certification classes every three (3) years or as otherwise required by the manager.

##### (3) Primary Installer Responsibilities in addition to (2)(A) and (B) above—

(B) Primary installers who install new manufactured homes in Missouri from dealers, manufacturers, or other entities located in other states shall submit a property locator form provided by the manufactured housing and modular units program prior to placing the manufactured home on the site. Failure to submit the property locator to the manufactured housing and modular units program prior to placing the manufactured home on the site may subject the

installer to the fifty dollar (\$50) inspection fee as defined in 4 CSR 240-120.065(4)(D).

### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 240—Public Service Commission Chapter 125—Manufactured Home Installers

#### 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:

4 CSR 240-125.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1187-1188). 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 regarding this rule from four (4) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; 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). At the public hearing testimony was received from five (5) 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 on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

COMMENT #1: 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 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 #2: 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 #3: Staff filed comments explaining that the reason for the original proposed amendments was to add requirements for limited use installers. After further review of the rules, however, staff recommends that most of the changes are unnecessary because they are already set out in the statute governing these installers. Thus, staff recommends that most of the proposed amendments to section (1) and proposed section (2) be rejected and original sections (2) and (3) not be deleted from the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and will make the changes proposed. Therefore, the commission rejects all but one (1) amendment to section (1), rejects proposed section (2), and will not delete original sections (2) and (3) from the rule.

#### 4 CSR 240-125.050 Limited Use Installer License

(1) To be licensed as a manufactured home limited use installer, an applicant shall submit to the manufactured housing and modular units program a completed application, signed and dated by the applicant, together with the required one hundred fifty dollar (\$150) fee and proof of general liability and workmen's compensation insurance. A limited use installer license allows the holder to perform all of the work performed by a licensed installer under the supervision of a licensed installer.

(2) A limited use installer license shall be valid for a period of one hundred eighty (180) days and may be renewed one (1) time.

(3) If needed, the commission may contact any person or entity to verify the experience of an applicant.

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

#### 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:

4 CSR 240-125.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1188-1189). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but

prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

COMMENT #1: 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 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 #2: 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 #3: Mr. DeVine filed written comments opposing the complete package of rule changes in general, and specifically stating that the changes with regard to fees would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

RESPONSE AND EXPLANATION OF CHANGE: Numerous changes have been made to this rule in response to the industry, including Mr. DeVine, and staff comments. Specific changes make the filing of a complaint against an installer discretionary, much like the commission decided to make the implementation of fees discretionary in other rules.

COMMENT #4: Mr. Crump did not comment specifically on this rule, but did generally note that there had been a reduction in consumer complaints since training and licensing for home installers was implemented in Missouri in 2009.

RESPONSE: The commission appreciates Mr. Crump's comments. The commission finds that the amendments to this rule will further clarify the requirements and enhance the installer licensing program. No changes were made as a result of this comment.

COMMENT #5: Staff filed comments generally supporting the amendments, but also suggested an additional change due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to change which part of the agency would receive the submission and notifications. That is, the submissions would now be made with the manager of the manufactured housing program. Additionally, a section was added describing actions to be taken against an installer's license for failure to comply.

After meeting with industry representatives and considering their comments and Executive Order 17-03, staff recommended that minor wording changes be made to proposed subsection (3)(B) to make filing a complaint discretionary, rather than mandatory.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that enforcement actions should not be automatic or mandatory in nature. Rather, as staff has suggested, complaints filed by the manager should be discretionary. Therefore, the commission has further amended subsection (3)(B).

#### 4 CSR 240-125.060 Licensing

##### (3) License Suspension and Revocation.

(B) The commission may suspend an installer license for up to thirty (30) days for failure to comply with the provisions of Chapter 700 RSMo, the rules promulgated thereunder, or the act or the code(s) as adopted under this chapter. If conditions have not been remedied within thirty (30) days, the manager may file, with the commission, a complaint against the installer for failure to comply with a commission rule.

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

#### 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:

4 CSR 240-125.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1189-1191). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 review and pre-

pare 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 #2:** 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 #3:** Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Hagar, and the MMHA made written and oral comments opposing the amendments for similar reasons. In general, the commenters stated that the amendments were burdensome to the industry, would ultimately cause additional expense to the consumers, and would deter manufacturing in the state. Specifically, the industry objected to the increased decal costs proposed in this rule. Mr. Crump stated that he believed the fiscal impact to be greater than estimated by the commission.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission has considered the comments in conjunction with the comments of staff as set out below. The commission finds that the fee for decals should be changed to twenty-seven dollars (\$27).

**COMMENT #4:** Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, the enforcement of fees for late submission of reports should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in response to the industry's concerns and in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsection (3)(G) of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended section (3).

**COMMENT #5:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to provide clarification about the process, to increase the fee for installation decals due

to increased costs, and to make enforcement of fees for late submissions mandatory rather than discretionary. After meeting with industry representatives and considering their comments and considering Executive Order 17-03, staff re-examined the proposed costs for fees and recommended increasing the fee by only two dollars (\$2) from twenty-five dollars (\$25) to twenty-seven dollars (\$27). Staff also recommended deleting certain subsections that merely restated the statutory requirements and deleting proposed section (4) if fees are not mandatory.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission determines that the rule should be further amended.

The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, the enforcement of fees for late submission of reports should be carried out after an attempt to communicate with the entity involved and after consultation with the staff director. During this consultation, potential mitigating factors, including, but not limited to, the number of similar noncompliance issues, circumstances that may have been beyond the entity's control, and the entity's responsiveness to commission requirements should be considered. Further, in response to the industry's concerns and in order to maintain oversight of the manager and the fee and waiver process, the commission determines that the manager should track any fees assessed or waived under subsection (3)(G) of the rule and provide a report on a quarterly basis to the commission. Therefore, the commission has further amended section (3) and has amended the fiscal note.

The commission has also considered the comments of staff and will make further alterations to the reporting requirements as found in proposed sections (3) and (4).

**COMMENT #6:** Mr. Crump also commented that the reporting requirements need to be further reduced as they were too onerous.

**RESPONSE:** The commission is in the process of implementing a new computerized reporting system that should greatly simplify reporting requirements. Therefore, the commission will not make any changes to the rule at this time as a result of this comment.

#### **4 CSR 240-125.070 Installation Decals**

##### **(1) Requirements for Installation Decals.**

(D) Decals may be purchased by licensed installers by submitting an application to the manufactured housing and modular units program, in duplicate together with the appropriate twenty-seven dollars (\$27) for each decal.

##### **(3) Monthly Installation Decal Report.**

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

(G) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the installer's control, and the installer's responsiveness to commission requirements, may assess a late submission fee of fifty dollars (\$50) per report for each report that is filed sixty (60) days after the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

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

(I) 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.

*to be five thousand three hundred seventy dollars (\$5,370) in the aggregate over a three- (3-) year life of the rule. The private entity cost for three (3) years was previously estimated as twenty-six thousand eight hundred fifty dollars (\$26,850).*

**REVISED PRIVATE COST:** *The cost to private entities is estimated*



**REVISED FISCAL NOTE  
PRIVATE COST**

- I. Department Title:** Missouri Department of Economic Development  
**Division Title:** Missouri Public Service Commission  
**Chapter Title:** Chapter 125 – Manufactured Home Installers

<b>Rule Number and Title:</b>	4 CSR 240- 125.070 Inspections
<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:
88	Regulated installers of manufactured homes	\$5,370 (over a 3-year period)

**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 an increase of the existing fee from \$25 per decal to the proposed \$27 per decal.

Based on historical decal data, increasing the fee from \$25 to \$27 per decal results in an estimated fiscal impact of \$5,370.

$\$2 \text{ increase} * 895 \text{ decals} * 3 \text{ years} = \$5,370.$

**IV. ASSUMPTIONS**

There are 88 active installers

895 decals will be issued annually by the Missouri Manufactured Housing and Modular Units Program.

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

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

**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:

4 CSR 240-125.090 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1192). 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 regarding this rule from seven (7) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Bryan Crump, Cedar Creek Homes; Daniel Ferrell, MMHA; 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; Tony Taylor, Gifford Homes, Inc.; and the MMHA. The commission also received timely written comments from the staff of the Missouri Public Service Commission (staff). At the public hearing testimony was received from five (5) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump; Jamie Smith; and Tom Hagar. In addition, staff offered the written comment of Missouri Senator Sandy Crawford which was received after the comment period closed but prior to the hearing. The industry representatives and Senator Crawford opposed many of the proposed amendments on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and generally supported those amendments. However, staff also proposed additional significant changes to the rules.

**COMMENT #1:** 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 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 #2:** 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 #3:** Senator Crawford, Mr. Smith, Mr. AuBuchon, Mr. Crump, Mr. Ferrell, Mr. Taylor, and the MMHA opposed changing the imposition of fees for not complying with the statutes and regulations from discretionary to mandatory. The commenters stated that this change was too harsh and was unnecessary. The commenters stated that the industry had a few bad actors that needed to have regulatory fees applied, but the majority of the industry operated within the requirements and were upstanding businesses. Several of the commenters cited to a reduction in consumer complaints since training and licensing for home installers has been implemented in Missouri in 2009.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission determines that the enforcement actions and fees should not be automatic or mandatory in nature. Rather, the filing of complaints should be carried out only after the manager has consulted with the staff director. Therefore, the commission has further amended section (7).

**COMMENT #4:** Staff filed comments generally supporting the amendments, but also suggested some changes due to input from the industry and due to Executive Order 17-03. Staff explained the reason for the original proposed amendments was to add a process for staff counsel to send a letter to all responsible parties if repairs were not completed by the deadline and then a process for automatically filing a formal complaint. After meeting with industry representatives and considering their comments and considering Executive Order 17-03, staff recommended revising section (7) to make the filing of a complaint discretionary after the manager consults with the staff director.

**RESPONSE AND EXPLANATION OF CHANGE:** In consideration of the comments of staff in conjunction with the comments of the industry representatives, the commission finds that the rule should be further amended. The commission finds that the filing of a complaint should not be automatic or mandatory in nature but should be discretionary and only after the manager consults with the staff director. Therefore, the commission has further amended section (7).

**4 CSR 240-125.090 Dispute Resolution**

(7) If the repairs are not completed by the original or duly-extended deadline, the manager, after consultation with the commission staff director, may file a formal complaint with the commission.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 126—Manufactured Housing Consumer  
Recovery Fund**

**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:

4 CSR 240-126.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1192–1193). 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 four (4) 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.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of 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 (5) 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 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: 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 #5: 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 (1) 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 240-126.010 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:

### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 126—Manufactured Housing Consumer Recovery Fund

#### 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:

4 CSR 240-126.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1193-1194). 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 regarding this rule from three (3) manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four (4) commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed 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 the amendments.

COMMENT #1: 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 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 #2: 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, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: 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 #4: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed to add federal regulations to the list of governing standards that may constitute grounds for a claim, add how to address costs incurred as a result of a defunct entity, add the word "or" to section (6) to show that one (1) requirement must be met instead of all requirements, and to remove the sixty- (60-) day timeframe for the advisory committee to submit a recommendation because it was found to be unworkable in practice. Additionally, staff proposed further wording changes to sections (2), (4), and (5) in order to remove unnecessarily restrictive language and to clarify the sections. Staff commented that it was proposing changes to clarify the rules and update them as needed.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff's proposed changes except that, the commission has rewritten section (2) further for clarity. Therefore, the commission further amends sections (2), (4), and (5). Additionally, in response to staff's general comment regarding clarification and updating, the commission will correct a grammatical error in the proposed subsection (3)(H) changing the wording "as a result of" to "because."

#### 4 CSR 240-126.020 Consumer Recovery Fund

(2) The advisory committee shall consist of three (3) members to assist the commission in the administration and investigation of all claims submitted by consumers under this rule. The committee members shall include the manager, one (1) person from the commission's staff counsel's office, and one (1) member of the Missouri Manufactured Housing Association.

(3) In order to receive a disbursement of funds from the Recovery Fund, the following criteria shall be met:

(H) The amount requested by the consumer must reflect the actual cost of repairs or additional costs incurred because a manufacturer, dealer, or installer is out-of-business, bankrupt, closed, dissolved, or no longer subject to the jurisdiction of the commission. In no event shall a reimbursement amount be made from the Recovery Fund in excess of five thousand dollars (\$5,000) for single section homes and seven thousand five hundred (\$7,500) for multi-section homes. No claim shall include attorney's fees, double, treble, punitive, or exemplary damages.

(4) Upon receipt of a claim form, the advisory committee will inves-

tigate and determine whether the requirements of this rule have been met and shall present its findings to the commission in the form of a recommendation.

(5) Recommendations of the advisory committee for disbursement of funds from the Recovery Fund shall be subject to the approval of the commission.

### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 127—Manufactured Homes and Modular Units

#### ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 700.040 and 700.692, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-127.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1194-1196). Changes to the proposed rule are reprinted here. This proposed rule 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 four (4) 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.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of 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 (5) 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 rule and supported it. 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 proposed 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 review and prepare comments on the rule changes. 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 this proposed 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 this proposed rule relates only to defining terms, no changes have been made as a result of these comments.

COMMENT #4: 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 #5: Staff supported the proposed rule and explained that the rule was being proposed in order to streamline all of the commission's manufactured housing regulations. This particular rule would consolidate most definitions into one (1) 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 240-127.010 Definitions**

(1) The following definitions apply to Chapter 120, Chapter 121, Chapter 123, Chapter 124, Chapter 125, and Chapter 126:

### **Title 16—RETIREMENT SYSTEMS Division 10—The Public School Retirement System of Missouri Chapter 5—Retirement, Options and Benefits**

#### **ORDER OF RULEMAKING**

By the authority vested in the board of trustees under section 169.020, RSMo 2016, the board of trustees hereby amends a rule of The Public School Retirement System of Missouri as follows:

#### **16 CSR 10-5.010 Service Retirement is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 16, 2017 (42 MoReg 1552-1553). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

### **Title 16—RETIREMENT SYSTEMS Division 10—The Public School Retirement System of Missouri Chapter 6—The Public Education Employee Retirement System of Missouri**

#### **ORDER OF RULEMAKING**

By the authority vested in the board of trustees under section 169.610, RSMo 2016, the board of trustees hereby amends a rule of The Public School Retirement System of Missouri as follows:

#### **16 CSR 10-6.060 Service Retirement is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 16, 2017 (42 MoReg 1553-1554). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.