

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

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JUL 06 2017

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

Rule Number 4 CSR 240-123.070

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

Name of person to call with questions about this rule:

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

Email address nancy.dippell@psc.mo.gov

Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address Christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

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

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☐ Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

JUL 06 2017

ADMINISTRATIVE RULES



ERIC R. GRETTENS
GOVERNOR

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

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

June 29, 2017

Daniel Hall
Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102

Dear Chairman Hall:

This office has received your rulemaking for new manufactured homes: 4 CSR 240-120.011; 4 CSR 240-120.031; 4 CSR 240-120.060; 4 CSR 240-120.065; 4 CSR 240-120.070; 4 CSR 240-120.080; 4 CSR 240-120.085; 4 CSR 240-120.090; 4 CSR 240-120.100; 4 CSR 240-120.110; 4 CSR 240-120.120; 4 CSR 240-120.130; and 4 CSR 240-120.140.

This office also has received your rulemaking for pre-owned manufactured homes: 4 CSR 240-121.010; 4 CSR 240-121.020; 4 CSR 240-121.030; 4 CSR 240-121.040; 4 CSR 240-121.050; 4 CSR 240-121.060; and 4 CSR 240-121.180.

This office also has received your rulemaking for modular units: 4 CSR 240-123.010; 4 CSR 240-123.020; 4 CSR 240-123.030; 4 CSR 240-123.040; 4 CSR 240-123.050; 4 CSR 240-123.060; 4 CSR 240-123.065; 4 CSR 240-123.070; 4 CSR 240-123.080; 4 CSR 240-123.090; and 4 CSR 240-123.095.

This office also has received your rulemaking for manufactured home tie-down systems: 4 CSR 240-124.010; 4 CSR 240-124.020; 4 CSR 240-124.030; 4 CSR 240-124.040; 4 CSR 240-124.045; 4 CSR 240-124.050; and 4 CSR 240-124.060.

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

This office also has received your rulemaking for the manufactured housing consumer recovery fund: 4 CSR 240-126.010 and 4 CSR 240-126.020.

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

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations. After our review of this rulemaking, we approve the rules' submission to JCAR and the Secretary of State.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin D. Smith", with a long horizontal flourish extending to the right.

Justin D. Smith
Deputy Counsel



Commissioners

DANIEL Y. HALL
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

SCOTT T. RUPP

MAIDA J. COLEMAN

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

SHELLEY BRUEGGEMANN
General Counsel

MORRIS WOODRUFF
Secretary

LOYD WILSON
Director of Administration

NATELLE DIETRICH
Staff Director

July 6, 2017

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

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

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

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

The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2016 that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of 1.310, RSMo, regarding user fees.

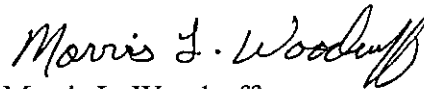
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Mr. John Ashcroft
July 6, 2017
Page 2

Statutory Authority: section 700.040, RSMo 2016.

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

Nancy Dippell, Senior Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8518
Nancy.Dippell@psc.mo.gov

A handwritten signature in cursive script, reading "Morris L. Woodruff".

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-123.070, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

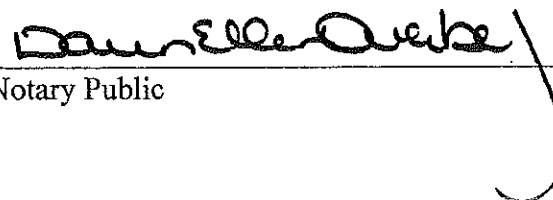


Mike Downing
Director
Department of Economic Development

Subscribed and sworn to before me this 3rd day of August, 2016, I am commissioned as a notary public within the County of Moniteau, State of Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY
My Commission Expires
December 13, 2019
Moniteau County
Commission #15456865



Notary Public

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

Proposed Amendment

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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

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

The Commission is amending sections (1), (2), (5), (6) and (7); rescinding sections (3) and (4); and proposing (6), (7), (8), (9), and (10) of this rule.

PURPOSE: This amendment modifies the information that registered modular unit dealers shall file with the Missouri Public Service Commission and the form and manner of this filing and the submission requirements for monthly sales reports.

(1) Each entity registered as a modular unit dealer *[must]* shall file a monthly sales report with the *[commission]* **manufactured housing and modular units program** within ten (10) days of the end of each month.

(2) *[Monthly sales reports may be filed only upon]* **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/ManufacturedHousing/Dealer_Forms.**

[(3) The director of the Manufactured Housing and Modular Units Program may reject monthly sales reports that are incomplete, and require dealers to submit corrected reports. An inspection fee of fifty dollars (\$50) per report may be assessed for each report that is submitted sixty (60) days after the due date.

(4) Failure to submit timely and complete monthly sales reports and/or to pay any required fees could result in suspension or revocation of the dealer's registration under section 700.100, RSMo.]

[(5)] (3) A monthly sales report must be filed for each month or part of a month for which the dealer is registered to sell modular units by the Public Service Commission's Manufactured Housing and Modular Units Program. If no sales are made in a given month, the dealer must file the usual form within ten (10) days of the end of the month.

[(6)] (4) The report must be signed by an officer of the dealership if the dealership is a corporation; by a partner of the dealership if the dealership is a partnership; or by an owner of the dealership if the dealership is neither a corporation nor a partnership.

[(7)] (5) Every monthly sales report shall contain the following information:

(A) Dealer certificate number and name;



(B) The street address and telephone number at the actual dealership location as well as the city, state, and zip code;

(C) The date of sale for each modular unit sold;

(D) The sale price of each unit sold;

(E) The size of each unit sold;

(F) The name of the manufacturer of each unit sold as well as the year of manufacture;

(G) The serial number for each unit sold;

(H) The new or used status of each unit sold;

(I) The total number of new units sold;

(J) The total number of used units sold;

(K) The total sale price for all new units; and

(L) The total sale price for all used units.

(6) 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.

(7) A late submission fee of fifty dollars (\$50) shall be assessed against a modular unit dealer for each monthly sales report filed sixty (60) days after the due date.

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

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

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

*AUTHORITY: section 700.040, RSMo [2000]2016. * Original rule filed June 12, 2001, effective Jan. 30, 2002. Amended: Filed Aug. 15, 2013, effective March 30, 2014.*

**Original authority: 700.040, RSMo 1973, amended 1976, 1978, 1982, 1984, 1989, 1993, 1995, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be

considered, comments must be received no later than September 15, 2017, and should include a reference to Commission Case No. MX-2016-0317. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for 10:00 a.m., September 22, 2017, in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TOO Hotline 1-800-829-7541.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: May 24, 2016

Rule Number: 4 CSR 240-123.070

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Natelle Dietrich

Phone Number: 573-751-7427 **Email:** natelle.dietrich@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

Simplification; the proposed amendment clearly defines the program administrator's delegated authority and the authorities maintained by the Commission.

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

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

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

The Commission held a workshop and received comments from affected stakeholders and representatives from the Missouri Manufactured Housing Association, including small businesses.

To address concerns raised regarding the compulsory assessment of fees, the proposal has been amended to include Section (10) that permits entities to request a waiver of the fee by the Commission for good cause shown. This

solution provides recourse for Commission discretion in the application of the fee, while also seeking to reduce any administrative expense associated with requesting a waiver.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

Staff believes in the aggregate it will collect less than \$500 in fees annually, and any fees paid shall be applied towards the program.

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

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

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

No new direct or indirect costs are created in this filing – fifty dollars (\$50) for failure to submit a required monthly sales report within sixty (60) days.

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

Registered modular unit dealer.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.