

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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DEC 19 2017

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

Rule Number 4 CSR 240-123.040

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

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

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Interagency mailing address GOB 9th Floor

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking __ Rule __ Amendment __ Rescission __ Termination
Effective Date for the Emergency _____

☐ Proposed Rulemaking __ Rule __ Amendment __ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking __ Withdrawal __ Adopt x Amendment __ Rescission
Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

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

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:
Sections (1), (4), and (8)

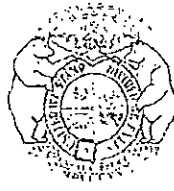
Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

NOV 16 2017

ADMINISTRATIVE RULES



ERIC R. GREITENS
GOVERNOR

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

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

November 9, 2017

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

Dear Chairman Hall:

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

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

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

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

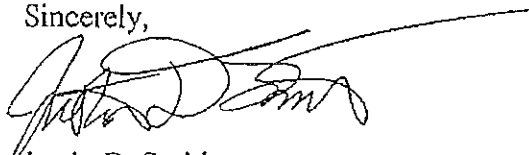
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Justin D. Smith", with a long horizontal line extending from the end of the signature.

Justin D. Smith
Deputy Counsel



Commissioners

DANIEL Y. HALL
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

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MAIDA J. COLEMAN

Missouri Public Service Commission

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LOYD WILSON
Director of Administration

NATELLE DIETRICH
Staff Director

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

Re: 4 CSR 240-123.040 Approval of Manufacturing Programs

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

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

Statutory Authority: section 700.040, RSMo 2016.

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

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

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

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

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

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:

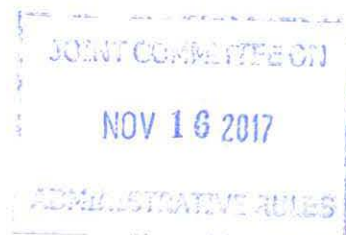
4 CSR 240-123.040 is amended.

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 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 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 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 #3: 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 #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 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.

(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.