

FILED

JUN 12 2001

Administrative Rules Stamp

RECEIVED

JUN 12 2001

MATT BLUNT

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

**Missouri Public
Service Commission**

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-124.010
 Diskette File Name _____
 Name of Person to call with questions about this rule: Bruce H. Bates
 Context Associate General Counsel Phone 573-751-7434 FAX 573-751-9285
 Data Entry Same as above Phone Same as above FAX Same as above
 Interagency Mailing Address Governor Office Bldg., 200 Madison St., Room 831, Jefferson City, MO

Statutory Provision for Rulemaking
 Authority 700.076 Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo Supp. 1998, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages
☒ Y Cover Letter _____
☒ Y Affidavit _____
☒ Y Cost Statements _____
 _____ Public Entity Fiscal Note OTHER
 _____ Private Entity Fiscal Note _____

C. RULEMAKING ACTION TO BE TAKEN
 _____ Emergency Rulemaking, Must Specify Effective Date
☒ X Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)
 _____ Order of Rulemaking (MUST complete page 2 of this transmittal)
 _____ Withdrawal (Rule, Amendment, Rescission or Emergency)
 _____ Rule Action Notice
 _____ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc:)

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-124.010

1a. Effective Date for the Order

Statutory 30 days X or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

YES _____ NO X

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Honorable Matt Blunt
Secretary of State
600 West Main Street
Jefferson City, Missouri 65101

Missouri Public Service Commission

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

June 11, 2001

BRIAN D. KINKADE
Executive Director

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Proposed Amendment lawfully submitted by the Missouri Public Service Commission for filing this 11th day of June, 2001, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-124.010-Definitions

Statutory authority: 700.076, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-435

If there are any questions, please contact: **Bruce H. Bates**
Associate General Counsel
Missouri Public Service Commission
200 Madison St.
Post Office Box 360
Jefferson City, Missouri 65102
(573) 751-7434

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts", is written over the printed name and title.
Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures:

Proposed Amendment to existing rule 4 CSR 240-124.010(hard copy and electronic copy on diskette);
Rule Transmittal; Takings Analysis; Small Business Impact Analysis



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Missouri Public Service Commission

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

May 7, 2001

BRIAN D. KINKADE
Executive Director

WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Re: Proposed Amendment of Existing Rule 4 CSR 240-124.010

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rulemaking will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

Replacing the existing rule with the proposed new rule will not have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have any questions on this issue

Sincerely,

Bruce H. Bates

Associate General Counsel

(573) 751-7434

(573) 751-9285 (Fax)

bbates@mail.state.mo.us (E-Mail)

BHB/



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Missouri Public Service Commission

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

BRIAN D. KINKADE
Executive Director

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

May 7, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Re: Proposed Amendment to Existing Rule 4 CSR 240-124.010

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme Court decision in *Lucas v. South Carolina Coastal Council*, 112 S.Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed amended rule sets forth definitions applicable to this chapter.

Replacing the existing rule with the proposed new rule does not implicate the takings clause of the U.S. Constitution, because neither rule involves the taking of real property.

Mr. Dale Hardy Roberts

May 7, 2001

Page 2

Please let me know if you have any questions on this issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Bruce H. Bates", with a stylized flourish at the end.

Bruce H. Bates

Associate General Counsel

(573) 751-7434

(573) 751-9285 (Fax)

bbates@mail.state.mo.us (E-Mail)

BHB

Enclosure

Title 4-DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240-Public Service Commission
Chapter 124-Manufactured Home Tiedown Systems

(PROPOSED AMENDMENT)

4 CSR 240-124.010 Definitions: This proposal amends the following sections of this rule: Section (1) subsection (A); subsection (B); subsection (C); subsection (D); add a new subsection (E); and delete Section (2).

PURPOSE: This rule defines the terms used in this chapter and is amended to reflect the de-regulation of recreational vehicles in addition to adding new definition text.

(1) The following definitions, as well as those set out in section 700.010, RSMo [(1986)] 2000 apply to this chapter:

(A) Approval means a written approval of a manufactured home tie down system issued by the commission under section 700.080, RSMo [(1986)] 2000;

(B) Director means the director of the [Division of Manufactured Homes, Recreational Vehicles and Modular Units] **Manufactured Housing and Modular Units Program** of the Public Service Commission and those working under his/her supervision;

(C) Manufactured home as defined by section 700.010, RSMo [(1986)] 2000 shall include units which are in two (2) or more separately towable components designed to be joined into one (1) integral unit capable of being again separated into the components and also includes two (2) manufactured home units joined into a single residential or business unit which are kept on a separate chassis for repeated towing. Manufactured home shall not include a recreational vehicle; and

(D) Standards means the manufactured home tie down systems standards adopted by the commission under section 700.076, RSMo [(1986)] 2000.

(E) Authorized representative means the approved testing agency who certified the tie down system test.

[(2) All sections of Chapter 700, RSMo (1986), cited in this rule are contained in Senate Substitute for House Committee Substitute for House Bill No. 1393, 78th General Assembly, Second Regular Session. Unless otherwise noted, all references to RSMo are to RSMo (1986).]

Auth: Section 700.076, RSMo 2000. Original rule filed Nov. 12, 1976, effective Feb. 11, 1977. Emergency rule filed Dec. 7, 1976, effective Dec. 17, 1976, expired April 16, 1977. Amended: Filed Oct. 12, 1982, effective Jan. 13, 1983. Amended: Filed _____.

PUBLIC COST: This proposed amendment would cost state agencies or political subdivisions less than \$500.00 in the aggregate.

PRIVATE COST: This proposed amendment would cost private entities less than \$500.00 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the *Proposed Amendment to 4 CSR 240-124.010, Definitions*, is less than five hundred dollars (\$500) in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director

Department of Economic Development

Subscribed and sworn to before me this 23RD day of May, 2001. I
am commissioned as a notary public within the County of Callaway,
State of Missouri, and my commission expires on September 21, 2004



NOTARY PUBLIC

JULIE A. ATCHISON
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. SEPT 21, 2004

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

DATE: May 31, 2001

RE: Authorization to File Proposed Amendment to Existing Rule 4
CSR 240-124.010 With the Office of Secretary of State

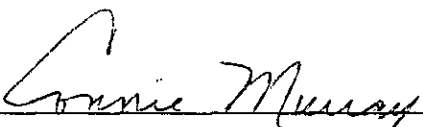
CASE NO: MX-2000-435

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file with the Office of Secretary of State, to wit:

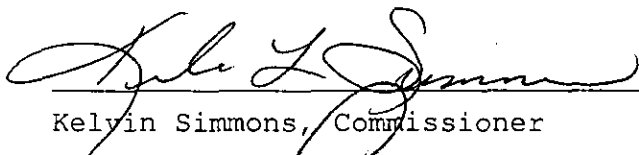
4 CSR 240-124.010 -Definitions



Sheila Lumpe, Chair



Connie Murray, Commissioner



Kelyin Simmons, Commissioner



Steve Gaw, Commissioner