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Administrative Rules Stamp

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JUL 26 1999

SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

REBECCA MCDOWELL COOK  
Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL

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

A. Rule Number 4 CSR 240-2.030  
Diskette File Name 2.030 proposed amendment (Word 97 format)  
Name of Person to call with questions about this rule:  
Context Morris Woodruff Phone (573) 751-2849 FAX (573) 751-1847  
Data Entry Judy Pope Phone (573) 751-6526 FAX (573) 751-1847  
Interagency Mailing Address Truman Bldg., 301 W. High St., Room 530, Jefferson City, MO

Statutory Provision for Rulemaking

Authority §§ 386.300 and 386.410 Provide Most Current RSMo Year 1998  
Date Filed With the Joint Committee on Administrative Rules Exempt per sections 536.024 and 536.037, Supp. 1998, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages  
☒ Cover Letter  
☒ Affidavit  
\_\_\_\_ Cost Statements  
\_\_\_\_ Public Entity Fiscal Note OTHER Takings Analysis  
\_\_\_\_ Private Entity Fiscal Note Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

\_\_\_\_ Emergency Rulemaking, Must Specify Effective Date  
☒ Proposed Rulemaking (**Proposed Amendment to 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 N/A

1a. Effective Date for the Order  
Statutory 30 days \_\_\_\_\_ or later specific date \_\_\_\_\_

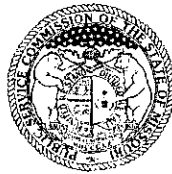
1b. Does the Order of Rulemaking contain changes to the rule text?  
YES \_\_\_\_\_ NO \_\_\_\_\_

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.

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

**HAROLD CRUMPTON**

**CONNIE MURRAY**

**ROBERT G. SCHEMENAUER**

**M. DIANNE DRAINER**  
Vice Chair

## Missouri Public Service Commission

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

July 26, 1999

**GORDON L. PERSINGER**  
Acting Executive Director  
Director, Research and Public Affairs

**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

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**SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION**

Honorable Rebecca McDowell Cook  
Secretary of State  
600 West Main Street  
Jefferson City, Missouri 65101

ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Proposed Amendments lawfully submitted by the Missouri Public Service Commission for filing this 26th day of July, 1999, and that a takings analysis and small business impact analysis have occurred.

Rules: 4 CSR 240-2.020 Meetings and Hearings  
4 CSR 240-2.030 Records of the Commission

Statutory authority: Sections 386.300 and 386.410, RSMo Supp. 1998

Missouri Public Service Commission Case Nos.: OX-2000-12 (4 CSR 240-2.020)  
OX-2000-13 (4 CSR 240-2.030)

If there are any questions, please contact: Morris Woodruff, Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Room 530  
Post Office Box 360  
Jefferson City, Missouri 65102  
(573) 751-2849

**BY THE COMMISSION**

**Dale Hardy Roberts**  
Secretary/Chief Regulatory Law Judge

DHR:MW:jp

Enclosures: Proposed Amendments, transmittal forms, affidavits and Proposed Amendments on diskette in Word 97 format.

2

AFFIDAVIT

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STATE OF MISSOURI }

COUNTY OF COLE }

JUL 26 1999

SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

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 Rule 4 CSR 240-2.030 is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

*Joseph L. Driskill for*

Joseph L. Driskill

DIRECTOR

Department of Economic Development

Subscribed and sworn to before me this 22nd day of July,  
1999. I am commissioned as a notary public within the County of Cole,  
State of Missouri, and my commission expires on April 26, 2003.

*Laura L. Hoskins*  
NOTARY PUBLIC

LAURA L. HOSKINS  
NOTARY PUBLIC STATE OF MISSOURI  
COLE COUNTY  
MY COMMISSION EXP. APR. 26, 2003

Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT

Division 240—Public Service Commission

Chapter 2—Practice and Procedure

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PROPOSED AMENDMENT

SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

**4 CSR 240-2.030 Records of the Commission.**

*PURPOSE: This amendment replaces references to secretary with the phrase secretary of the commission. The amendment clarifies the charge for copies of briefs and facsimile transmissions. The provision regarding the availability of records for public inspection is updated.*

(1) The secretary of the commission shall keep a full and true record of all the proceedings of the commission, of all books, maps, documents and papers ordered filed by the commission, of all orders made by each of the commissioners, and of all orders made by the commission or approved and confirmed by it and ordered filed. In addition, the secretary of the commission shall maintain a docket of all [proceedings] cases filed and [proceedings] cases set for hearing and shall assign each matter an appropriate [docket] case number. These records shall be available for public inspection in the office of the secretary of the commission, [from 8:00 a.m. to 5:00 p.m.,] during reasonable business hours, Monday through Friday, except for legal holidays. The specific hours the records are available shall be posted at the principal office of the commission.

(2) Copies of records, official documents, pleadings, transcripts, briefs, and orders filed with the commission may be requested from the secretary of the commission. Any such request [must] shall be made in writing. Copies of records, official documents, pleadings, transcripts, briefs, and orders furnished to public officers for use in their official capacity [will] may be provided without charge. Copies [will] shall be provided to all others as follows:

- (A) Records, official documents, pleadings, briefs, and orders, thirty-five cents (35¢) per page;
- (B) Certificate under seal, one dollar (\$1);
- (C) Transmittal by [electronic telephone] facsimile device, fifty cents (50¢) per page;
- (D) Copies of official transcripts, fifty cents (50¢) per page. A diskette shall be provided upon request with a request for a printed copy of the transcript.

*AUTHORITY: sections 386.300 and 386.410, RSMo [1994] Supp. 1998.\* Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed July 26, 1999.*

*\* Original authority: 386.300, RSMo 1939, amended 1947, 1984, 1995, and 386.410, RSMo 1939, amended 1947, 1977, 1996.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, the comments shall be filed on or before August 16, 1999. Comments should refer to Case No. OX-2000-13 and be filed with an original and fourteen (14) copies. No public hearing is scheduled.*



**Commissioners**

**SHEILA LUMPE**  
Chair

**HAROLD CRUMPTON**

**CONNIE MURRAY**

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**M. DIANNE DRAINER**  
Vice Chair

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Secretary/Chief Regulatory Law Judge

**DANA K. JOYCE**  
General Counsel

July 26, 1999

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

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ADMINISTRATIVE RULES DIVISION

RE: Proposed Amendment to Rule 4 CSR 240-2.030

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.

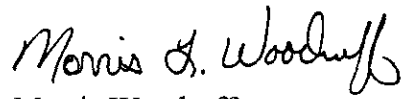
The proposed amendment clarifies that references to "secretary" mean "secretary of the commission". The amendment clarifies the charge for copies of briefs and faxes. The provision regarding the availability of records for public inspection is updated.

Amending rule 4 CSR 240-2.030 does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Mr. Dale Hardy Roberts  
Page two  
July 26, 1999

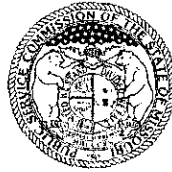
Please let me know if you have any questions on this issue.

Very truly yours,

  
Morris Woodruff  
Regulatory Law Judge

MW:jp





**Commissioners**

**SHEILA LUMPE**  
Chair

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**CONNIE MURRAY**

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ADMINISTRATIVE RULES DIVISION

RE: Proposed Amendment to Rule 4 CSR 240-2.030

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.

Amending rule 4 CSR 240-2.030 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.

Very truly yours,

*Morris G. Woodruff*  
Morris Woodruff  
Regulatory Law Judge

MW:jp

# MEMORANDUM

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SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

TO: Dale Hardy Roberts, Secretary

DATE: July 13, 1999

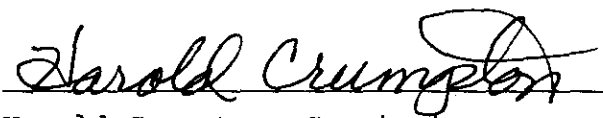
RE: Authorization to File Proposed Amendment with the Office  
of Secretary of State

CASE NO: OX-2000-13


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


4 CSR 240-2.030 Records of the Commission

  
\_\_\_\_\_  
Sheila Lumpe, Chair

  
\_\_\_\_\_  
Harold Crumpton, Commissioner

  
\_\_\_\_\_  
Connie Murray, Commissioner

  
\_\_\_\_\_  
Robert Schemenauer, Commissioner

  
\_\_\_\_\_  
M. Dianne Drainer, Vice Chair

Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT

Division 240—Public Service Commission  
Chapter 2—Practice and Procedure

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