

MX-2000-444

Administrative Rules Stamp

FILED

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JUN 12 2001

JUN 12 2001

MATT BLUNT

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

Missouri Public  
Service Commission

SEP 13 2001  
ADMINISTRATIVE RULES DIVISION

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

A. Rule Number 4 CSR 240-124.040

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

Private Entity Fiscal Note

OTHER

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.):

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-124.040

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 240-124.040-Commission Approval of Manufactured Home Tie Down Systems

Statutory authority: 700.076, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-444

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

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

Enclosures:

Proposed Amendment to existing rule 4 CSR 240-124.040(hard copy and electronic copy on diskette);  
Rule Transmittal; Takings Analysis; Small Business Impact Analysis



Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

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May 4, 2001

BRIAN D. KINKADE  
Executive Director

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Director, Utility Operations

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DONNA M. KOLILIS  
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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 240-124.040**

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 the existing 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](mailto: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

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JEFFERSON CITY, MISSOURI 65102  
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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

May 4, 2001

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

Re: Proposed Amended Rule 4 CSR 240-124.040

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.

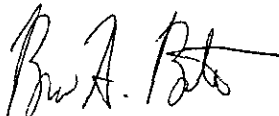
The proposed amended rule describes the manner in which an approval of manufactured home tie down systems may be obtained.

Amending the existing 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 4, 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](mailto:bbates@mail.state.mo.us) (E-Mail)

BHB  
Enclosure

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

(PROPOSED AMENDMENT)

4 CSR 240-124.040 Commission Approval of Manufactured Home Tie down Systems:

This proposal amends the following sections of this rule: Section (2); Section (2) subsection (E), new text added as subsection (E)(1) through (7). *PURPOSE: This rule describes the manner in which an approval of manufactured home tie down systems may be obtained and is amended to clarify text and to include new text concerning anchor tests and approvals.*

(2) Applications for an approval shall be submitted to the director and shall be executed by the owner or seller of the system on forms [which] that shall be provided by the director upon request. To be complete, the applications shall include:

(1) Detailed drawings of each type of anchor system and for each type of component for which approval is sought must accompany the submittal;

(a) Each drawing shall show model identification, all dimensions, types of welds or fastening, types of material, methods of securing strap, methods of attachment, orientation, after installation in soil, direction(s) of applied load(s), and location of model number on the system and each component.

(b) Each drawing shall bear the seal of a registered professional engineer, registered in the State of Missouri.

(2) Each anchor system model must be tested and certified by an approved testing agency to be in conformance with the standards promulgated by the Commission and accepted engineering practice.

(a) Pull out tests shall be performed on three samples of each anchor system model and the failure load for all three tests must equal or exceed 4,725 pounds. The authorized representative must certify that three pullout tests were performed on each anchor system model. The anchor shall be installed with the specified tie attached, in a soil type for which the anchor is designed and pulled at a 45-degree angle. The device shall be set up as required by the installation instructions. The test report shall include a photograph or drawing. The load at failure and the type of failure shall be described. The anchoring system must be capable of meeting or exceeding the Zone 1 wind load requirements of the federal Manufactured Home Construction and Safety Standards 24 CFR 3280.306.

(b) Failure and ultimate load capacity tests shall be performed on three samples of each component part and must also be witnessed by the authorized representative.

(c) Laboratory destruction tests shall be performed on each anchor system model and the failure load must equal or exceed 4,725 pounds. These tests are needed to establish the required strengths of the components and component connections of an anchor. The anchor will be approved for all soil test probe values at or above the soil test probe value in which the anchor is tested.

(3) The result from each test will indicate:

- (a) point and mode of failure
- (b) force required for failure
- (c) description of test procedure
- (d) test equipment used

(4) The report of the results of the test in specified soil or rock groups will also include:

- (a) method of installation
- (b) date of installation
- (c) date of test
- (d) soil profile description and soil test probe values

(5) The anchor manufacturer shall furnish and ship with each anchoring system, information on the types of soil in which the anchor has been tested and certified for installation, instructions on the method of installation, and procedure for identifying soil types. A copy of the installation instructions must be filed with the Director.

(6) The Director, upon receipt of new or additional information relating to the performance of any anchoring system, or a similar anchoring system, may request from the manufacturer of that anchoring system, additional testing or supplemental information.

(7) Rock anchors shall be tested in specified rock. Rock anchors shall be field-tested in natural rock strata or in a rock sample. There must be 12-inch minimum radius of rock around the drilled hole. The natural rock strata or rock sample must be geologically described.

*Auth: section 700.076, RSMo [(1986)] 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.



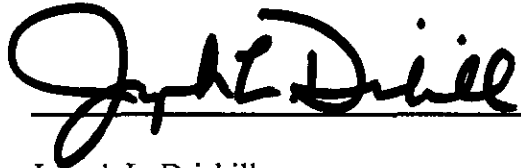
(Public Entity - No Cost)

**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 Proposed Amendment to 4 CSR 240-124.040 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  
Director  
Department of Economic Development

Subscribed and sworn to before me this 14<sup>th</sup> 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

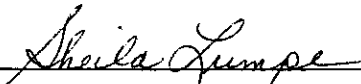
**DATE:** May 31, 2001


**RE:** Authorization to File Proposed Amendment to Existing Rule 4  
CSR 240-124.040 With the Office of Secretary of State


**CASE NO:** MX-2000-444

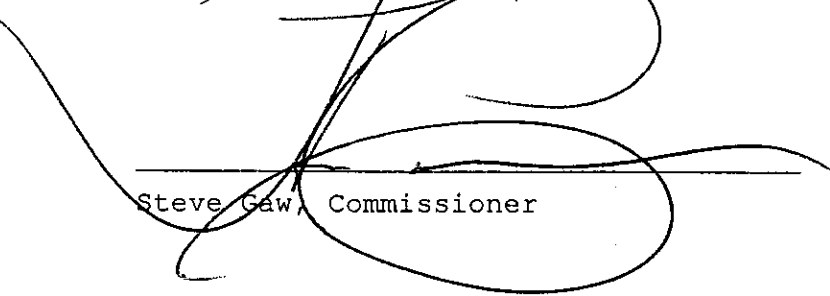
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file with the Office of Secretary of State, to wit:

4 CSR 240-124.040 -Commission Approval of Manufactured Home Tie Down Systems

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

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

  
\_\_\_\_\_  
Kelvin Simmons, Commissioner

  
\_\_\_\_\_  
Steve Gaw, Commissioner