

Administrative Rules Stamp

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JUL 26 1999

SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION

COPY

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 240-2.020Diskette File Name 2.020 proposed amendment (Word 97 format)

Name of Person to call with questions about this rule:

Context Morris Woodruff Phone (573) 751-2849 FAX (573) 751-1847Data Entry Judy Pope Phone (573) 751-6526 FAX (573) 751-1847Interagency Mailing Address Truman Bldg., 301 W. High St., Room 530, Jefferson City, MO

Statutory Provision for Rulemaking

Authority § 386.410Provide Most Current RSMo Year 1998Date 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



Cover Letter



Affidavit

Cost Statements

Public Entity Fiscal Note

Private Entity Fiscal Note

OTHER Takings AnalysisSmall Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

Emergency Rulemaking, Must Specify Effective Date

Proposed Rulemaking (**Proposed Amendment to 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 N/A

1a. Effective Date for the Order

Statutory 30 days _____ or later specific date _____

405

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
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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.

AFFIDAVIT

STATE OF MISSOURI

COUNTY OF COLE

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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 Amendment to 4 CSR 240-2.020 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 24, 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

PROPOSED AMENDMENT

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SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION

4 CSR 240-2.020 Meetings and Hearings.

PURPOSE: This amendment changes the reference from executive secretary to secretary and clarifies the types of documents to be addressed to the secretary. The amendment deletes the reference to the date and time when regular meetings shall be held by the commission, and deletes the provision establishing the location of hearings conducted by the commission. The amendment also deletes the reference to a quorum of the commission. Minor grammatical changes are also made.

(1) The principal office of the Public Service Commission is located in the Harry S Truman State Office Building, Floor 5A, 301 W. High St., Jefferson City, Missouri. All general inquiries to the commission, cover letters, [motions, responses, and other] **briefs, and** pleadings shall be addressed to the [Executive Secretary] **Secretary of the Commission**, Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, **unless otherwise ordered by the commission.**

(2) Regular meetings for the purpose of conducting public business [before the commission are scheduled to be held in the agenda room of the commission at 9:00 a.m., Monday through Friday except holidays, unless otherwise posted] **shall be held by the commission.** The time of each meeting and the matters to be discussed [will] **shall** be posted at the commission offices and [are] **shall be** available to the public by contacting the commission.

(3) [Hearings conducted by the commission will be held in Room 520B of the Harry S Truman State Office Building unless otherwise ordered by the commission.] **The commission may change the principal office of the commission and may also change the time and place of meetings or hearings of the commission with reasonable prior notice to the public.**

[(4) Three (3) commissioners constitute a quorum for the transaction of business, the performance of any duty or the exercise of any power of the commission.]

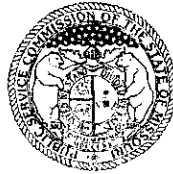
AUTHORITY: section 386.410, RSMo [1994] Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed July 26, 1999.*

** Original authority 1939, amended 1947, 1977, 1996.*

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

PRIVATE ENTITY COST: This proposed amendment 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, (573) 751-3234. To be considered, the comments shall be filed on or before August 16, 1999. Comments should refer to Case No. OX-2000-12, and be filed with an original and fourteen (14) copies. No public hearing is scheduled.



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

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DANA K. JOYCE
General Counsel

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**SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION**

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

RE: Proposed Amendment to Rule 4 CSR 240-2.020

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 changes the reference from executive secretary to secretary and clarifies the types of documents to be addressed to the secretary. The amendment deletes the reference to the date and time when regular meetings shall be held by the Commission, and deletes the provision establishing the location of hearings conducted by the Commission. The amendment also deletes the reference to a quorum of the Commission. Minor grammatical changes are also made.

Amending rule 4 CSR 240-2.020 does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

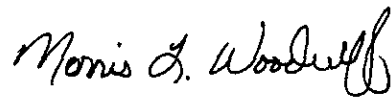
Mr. Dale Hardy Roberts

Page two

July 26, 1999

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

Very truly yours,

A handwritten signature in cursive script, reading "Morris L. Woodruff". The signature is written in dark ink and is positioned above the printed name and title.

Morris Woodruff

Regulatory Law Judge

MW:jp



Commissioners

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Chair

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ADMINISTRATIVE RULES DIVISION

RE: Proposed Amendment to Rule 4 CSR 240-2.020

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 240-2.020 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 Woodruff
Regulatory Law Judge

MW:jp

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

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DATE: July 13, 1999

JUL 26 1999

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

SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION

CASE NO: OX-2000-12

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:

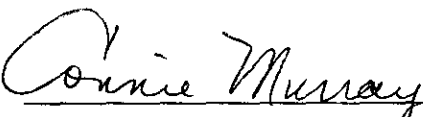
4 CSR 240-2.020 Meetings and Hearings




Sheila Lumpe, Chair



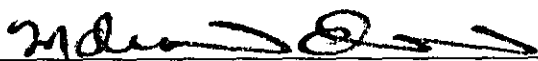
Harold Crumpton, Commissioner



Connie Murray, Commissioner



Robert Schemenauer, Commissioner



M. Dianne Drainer, Vice Chair

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Division 240—Public Service Commission
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