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MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Missouri Public
Service Commission

ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-123.070
 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 700.460 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

<u>Y</u>	Cover Letter	_____
<u>Y</u>	Affidavit	_____
<u>Y</u>	Cost Statements	_____
_____	Public Entity Fiscal Note	OTHER _____
<u>Y</u>	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.)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 123.070

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 Rule 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 240-123.070-Monthly Report Requirement for Registered Modular Unit Dealers

Statutory authority: 700.460, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-446

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 Rule 4 CSR 240-123.070(hard copy and electronic copy on diskette); Rule Transmittal; Takings Analysis; Small Business Impact Analysis; Private Entity Fiscal Note



Commissioners

SHEILA LUMPE
Chair

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Vice Chair

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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 Rule 4 CSR 240-123.070

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

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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 Rule 4 CSR 240-123.070

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.

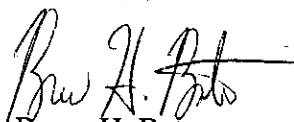
The proposed rule prescribes monthly report requirements for registered modular unit dealers.

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 123-Modular Units

(PROPOSED RULE)

4 CSR 240-123.070 Monthly Report Requirement for Registered Modular Unit Dealers

PURPOSE: This rule outlines the information that registered modular unit dealers must file with the Missouri Public Service Commission and the form and manner of this filing.

(1) Each entity registered as a modular unit dealer must file a monthly sales report with the Commission within ten days of the end of each month.

(2) Monthly sales reports may be filed only upon the commission's monthly sales reports form. Sales report forms may be obtained from the Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102. A copy of the required form is appended to this rule.

(3) The Director of the Manufactured Housing and Modular Units Program may reject monthly sales reports that are incomplete, and require dealers to submit corrected reports.

(4) Failure to submit timely and complete monthly sales reports could result in suspension or revocation of the dealer's registration under section 700.100, RSMo.

(5) A monthly sales report must be filed for each month or part of a month for which the dealer is registered to sell modular units by the Public Service Commission's Manufactured Housing and Modular Units Program. If no sales are made in a given month, the dealer must file the usual form within ten days of the end of the month.

(6) The report must be signed by an officer of the dealership if the dealership is a corporation; by a partner of the dealership if the dealership is a partnership; or by an owner if the dealership is neither a corporation nor a partnership.

(7) Every monthly sales report shall contain the following information:

- (A) Dealer certificate number and name;
- (B) The street address and telephone number at the actual dealership location as well as the city, state and zip code;
- (C) The date of sale for each modular unit sold;
- (D) The sale price of each unit sold;
- (E) The size of each unit sold;
- (F) The name of the manufacturer of each unit sold as well as the year of manufacture;
- (G) The serial number from the certificate of origin for each unit sold;
- (H) The new or used status of each unit sold;
- (I) The total number of new units sold;
- (J) The total number of used units sold;
- (K) The total sale price for all new units; and
- (L) The total sale price for all used units.

Auth: section 700.460, RSMo 2000

PUBLIC COST:

This proposed rule would cost state agencies or political subdivisions less than \$500.00 in the aggregate for the life of the rule.

PRIVATE COST:

This proposed rule will cost private entities approximately \$550.00 in the first year and a similar amount in succeeding years.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule 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.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4

Division: 240 Public Service Commission

Chapter: 123 Modular Units

Type of Rulemaking: Proposed Rule
070 – Monthly Report Requirement for

Rule Number and Name: Registered Modular Unit Dealers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
There are approximately 132 active modular unit dealers.	Modular unit dealers	Approximately \$550.00 in the first year and a similar amount in succeeding years

III. WORKSHEET

1. Modular unit dealers will be required to submit monthly sales reports specifying the number of units sold each month.
2. Ensuring compliance with this rule will not require additional staff.
3. The estimated cost of compliance is based on the number of active modular unit dealers and the estimated cost of postage and miscellaneous expense for submitting the monthly sales reports.

IV. ASSUMPTIONS

1. Fiscal Year 2000 data was used to estimate costs in this summary. No adjustment for inflation has been applied.
2. Actual cost of compliance in succeeding years will vary depending on cost of postage and miscellaneous expense.
3. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

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 Rule, 4 CSR 240-123.070, Monthly Report Requirement for Registered Modular Unit Dealers***, 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 2nd 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

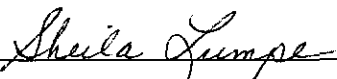
DATE: May 31, 2001

RE: Authorization to File Proposed Rule 4 CSR 240-123.070 With
the Office of Secretary of State

CASE NO: MX-2000-446

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 240-123.070 -Monthly Report Requirement for Registered Modular Unit Dealers



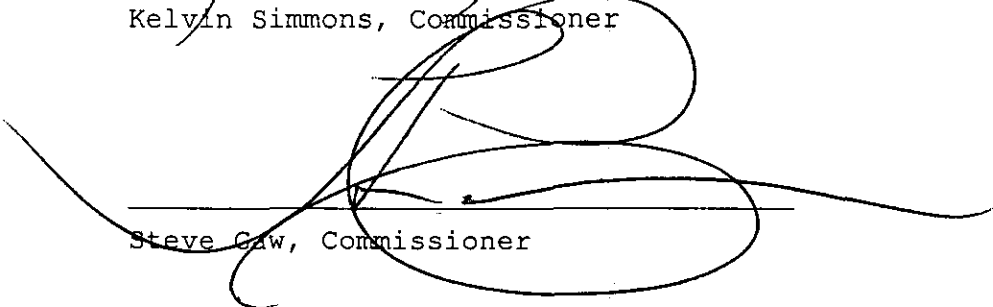
Sheila Lumpe, Chair



Connie Murray, Commissioner



Kelvin Simmons, Commissioner



Steve Gaw, Commissioner