

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

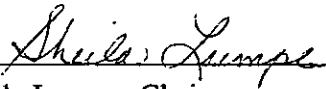
DATE: September 5, 2000

RE: Authorization to File Proposed Amendment to Rule 4 CSR 240-121.180 with the Office of Secretary of State

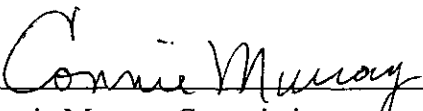
CASE NO: MX-2000-440


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

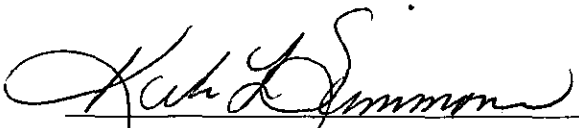
**Proposed Amendment to Rule 4 CSR 240-121.180—Monthly Report
Requirement for Registered Manufactured Home
Dealers**


Sheila Lumpe, Chair


M. Dianne Drainer, Vice Chair


Connie Murray, Commissioner


Robert Schemenauer, Commissioner


Kelvin L. Simmons, Commissioner

COPY

RECEIVED

REBECCA MCDOWELL COOK

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

SEP 05 2000

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

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

A. Rule Number 4 CSR 240-121.180

Diskette File Name: 4 CSR 240-121.180

Name of Person to call with questions about this rule:

Content David Stueven Phone (573)751-6726 FAX (573)751-9285

Data Entry Steve Jungmeyer Phone (573)751-7351 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 832,
Jefferson City, MO

Statutory Provision for Rulemaking

Authority §700.460, RSMo 1994 Provide Most Current RSMo Year 1994

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024.6 and
536.037.3, RSMo Supp. 1999, 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 Takings Analysis

 Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

 Emergency Rulemaking, Must Specify Effective Date

Y 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 _____

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.

(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.)

Changes are proposed to 4 CSR 240-121.180(3) to clarify that improperly completed reports will be rejected and revisions are proposed to 4 CSR 240-121.180(4) to clarify that failure to submit a properly completed report may lead to Commission action and to update a statutory citation.

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

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

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>

September 5, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
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

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 Rule Amendment lawfully submitted by the Missouri Public Service Commission for filing this 5th day of September, 2000, and that a takings analysis and small business impact analysis have occurred.

Proposed Amendment to Rule: 4 CSR 240-121.180—Monthly Report Requirement for Registered
Manufactured Home Dealers

Statutory authority: §700.460, RSMo 1994.

Missouri Public Service Commission Case No.: MX-2000-440.

If there are any questions, please contact: David J. Stueven, Assistant General Counsel
Missouri Public Service Commission
200 Madison Street, Suite 832
Post Office Box 360
Jefferson City, Missouri 65102
(573) 751-6726

BY THE COMMISSION

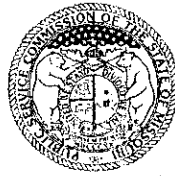
Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

DHR:lfb

Enclosures:

Proposed Amendment to Rule, 4 CSR 240-121.180—Monthly Report Requirement for Registered Manufactured Home Dealers (hard copy and electronic copy on diskette); Rule Transmittal Form; Takings Analysis; Small Business Impact Analysis; and Public Entity Cost Affidavit.

Informed Consumers, Quality Utility Services, and a Dedicated Organization for Missourians in the 21st Century



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/>

April 27, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
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

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 240-121.180—Monthly Report Requirement for
Registered Manufactured Home Dealers**

Dear Mr. Roberts:

Section 536.017, RSMo. and Executive Order 93-13 require state agencies to undertake a "takings analysis" of each proposed rule or regulation to determine if the proposed rule on its face constitutes a taking of real property under relevant state and federal law. The leading case on this issue is *Lucas v. South Carolina Coastal Council*, 112 S.Ct. 2886 (1992). In *Lucas*, the Court held that state regulation that deprived an owner of real property of all beneficial economic use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U. S. Constitution, for which the owner must be compensated.

Pursuant to the statute and order, I have completed a "takings analysis" of the above referenced proposed amended rule. The proposed amended rule clarifies the entities that must comply with the registration requirements for dealers of manufactured homes and changes a statutory citation to comport with current statutes. Nothing in this proposed amended rule deprives a regulated utility of all beneficial economic use of real property. Thus, the proposed amended rule does not implicate the takings clause of the U.S. Constitution, since it does not involve the deprivation of beneficial economic use of real property.

Please let me know if you have any questions concerning this proposed amended rule.

Sincerely yours,

Nathan Williams
Assistant General Counsel



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/>

May 23, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLLIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

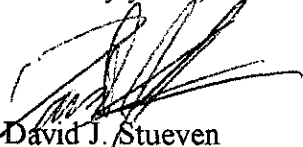
Joseph L. Driskill, Director
Department of Economic Development
301 West High Street
Jefferson City MO 65101

RE: Proposed Rulemaking Affidavit

Dear Mr. Driskill:

The Public Service Commission is proposing to amend rule 4 CSR 240-121.180 **Monthly Report Requirement for Registered Manufactured Home Dealers**. This proposed amended rule clarifies reporting requirements as well as revises a statutory citation to comport with current statutes. This agency anticipates that any fiscal impact on this agency, any other agency of state government or any political subdivision thereof will be less than five hundred dollars in the aggregate. Additionally, the agency anticipates that the fiscal impact on private entities will be less than five hundred dollars annually for the life of the rule. After reviewing the attached Proposed Amended Rule, please sign the corresponding Affidavit before a notary public and return it to me.

Sincerely yours,


David J. Stueven
Assistant General Counsel

Enclosures

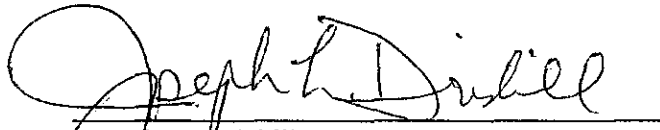
AFFIDAVIT

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 Amended Rule 4 CSR 240-121.180 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 12th day of June, 2000.
I am commissioned as a notary public within the County of Callaway, State of
Missouri, and my commission expires on 9-7-2003.



NOTARY PUBLIC

KATHIE M SMITH
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. SEPT 7, 2003



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/>

April 27, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLLIS
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 Amended Rule 4 CSR 240-121.180—Monthly Report Requirement for
Registered Manufactured Home Dealers

Small Business Analysis

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule will have a direct economic impact on small businesses of five hundred dollars (\$500) or more in the aggregate. A small business is defined to be an independently owned and operated business entity that employs fifty or fewer full-time employees. Pursuant to the order, I have completed a "small business analysis" of the above referenced proposed new rule. The proposed new rule will apply to approximately 346 manufactured home dealers falling within the foregoing definition of small business. It is estimated that there will be no direct economic impact on these small businesses.

Please let me know if you have any questions concerning this proposed rule.

Sincerely yours,

Nathan Williams
Assistant General Counsel

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-owned Mobile Homes

PROPOSED AMENDMENT

4 CSR 240-121.180 Monthly Report Requirement for Registered Manufactured Home Dealers

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

- (1) Each entity registered as a manufactured home dealer must file a monthly sales report (see 4 CSR 240-120.130) with the commission no later than the tenth of the month following the month when the sales were made.
- (2) The report may be filed only upon the commission's form for monthly sales reports. These 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 commission will reject all reports not completely and properly filled out.]* **The director may reject all monthly sales reports that are incomplete.**
- (4) Failure to *[properly complete this]* **submit a completed** monthly report *[and submit it]* by the due date could result in suspension or revocation of the dealer's registration under section 700.*[205]090*, RSMo.
- (5) A report must be filed for each month or part of a month for which the *[person]* **entity** is a registered manufactured home dealer. If no sales are made in a given month, the dealer must file the usual form no later than the tenth of the following month stating no sales were made.
- (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 of the dealership if the dealership is neither a corporation nor a partnership.
- (7) The dealer shall maintain a copy of this report for the records of the dealership.
- (8) 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 manufactured home 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) Whether each unit sold is new or used;

- (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.

*AUTHORITY: section 700.460, RSMo 1994. * Emergency rule filed Nov. 8, 1985, effective Nov. 18, 1985, expired March 18, 1986. Original rule filed Nov. 8, 1985, effective Feb. 24, 1986. *Original authority 1985.*

PUBLIC ENTITY COST: This proposed Amendment will not cost state agencies or political subdivisions more than \$500 annually for the life of the rule.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 annually for the life of the rule.

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, Missouri 65102. To be considered, comments must be received within thirty days after publication of the notice in the Missouri Register. Comments should refer to Case No. MX-2000-440, and be filed with an original and eight (8) copies. No public hearing is scheduled.