

**FILED**

Administrative Rules Stamp

JUN 12 2001

**RECEIVED**

JUN 12 2001

**MATT BLUNT**  
**Secretary of State**  
**Administrative Rules Division**  
**RULE TRANSMITTAL**

**Missouri Public**  
**Service Commission**

**SECRETARY OF STATE**  
**ADMINISTRATIVE RULES**

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

A. Rule Number 4 CSR 240-120.011  
 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 700.040 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 _____
_____	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 240-120.011

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 240-120.011-Definitions

Statutory authority: 700.040, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-434

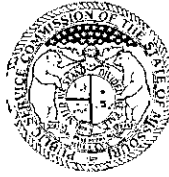
If there are any questions, please contact: **Bruce H. Bates**  
Associate General Counsel  
Missouri Public Service Commission  
200 Madison St.  
Post Office Box 360  
Jefferson City, Missouri 65102  
(573) 751-7434

BY THE COMMISSION

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

Enclosures:

Proposed Amendment to existing rule 4 CSR 240-120.011 (hard copy and electronic copy on diskette);  
Rule Transmittal; Takings Analysis; Small Business Impact Analysis



Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

## Missouri Public Service Commission

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
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573-751-1847 (Fax Number)  
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May 7, 2001

BRIAN D. KINKADE  
Executive Director

WESS A. HENDERSON  
Director, Utility Operations

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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 240-120.011**

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](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

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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 Amendment to Rule 4 CSR 240-120.011

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 set forth definitions applicable to this chapter.

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.

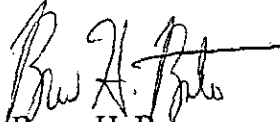
Mr. Dale Hardy Roberts

May 7, 2001

Page 2

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

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Bruce H. Bates", with a stylized flourish extending from 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 120-New Manufactured Homes

(PROPOSED AMENDMENT)

4 CSR 240-120.011 Definitions: This proposal amends the following sections of this rule: Section (1), and subsection (E).

PURPOSE: This rule defines the terms used in this chapter and is amended to reflect the de-regulation of recreational vehicles.

(1) The following definitions, as well as those set out in section 700.010, RSMo [(1986)] 2000, shall apply to this chapter:

(E) Director means the director of the [Division of Mobile Homes, Recreational Vehicles and Modular Units] **Manufactured Housing and Modular Units Program** of the Public Service Commission and those working under his/her supervision;

Auth: section 700.040, RSMo [(Cum. Supp. 1995)] 2000. Emergency rule filed Nov. 12, 1976, effective Nov. 22, 1976, expired March 22, 1977. Original rule filed Nov. 12, 1976, effective Feb. 11, 1977. Amended: Filed Oct. 12, 1982, effective Jan. 13, 1983. Amended: Filed \_\_\_\_\_.

PUBLIC COST:                      This proposed amendment will cost state agencies or political subdivisions less than \$500.00 in the aggregate.

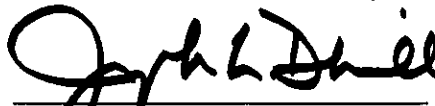
PRIVATE COST:                    This proposed amendment will cost private entities less than \$500.00 in the aggregate.

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.

# 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 Amendment to 4 CSR 240-120.011, Definitions*, 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 23<sup>RD</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 COM. EXPIRES SEPT 21, 2004



## MEMORANDUM

**TO:** Dale Hardy Roberts, Secretary

**DATE:** May 31, 2001

**RE:** Authorization to File Proposed Amendment to Existing Rule 4  
CSR 240-120.011 With the Office of Secretary of State

**CASE NO:** MX-2000-434

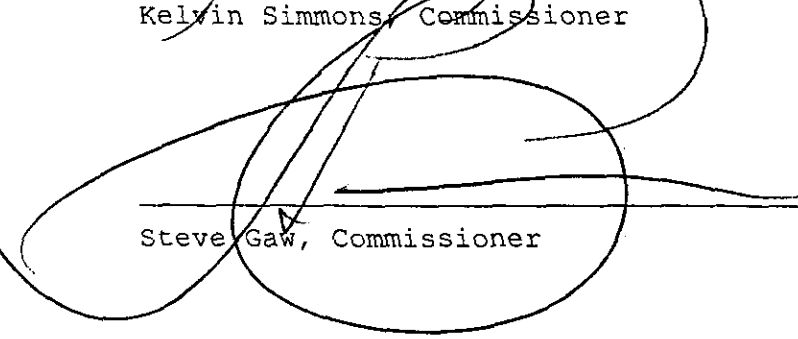
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file with the Office of Secretary of State, to wit:

4 CSR 240-120.011 -Definitions

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

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

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

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