

FILED

MX-2000-447
Administrative Rules Stamp

JUN 12 2001

Missouri Public
Service Commission

RECEIVED

JUN 12 200001

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

- A. Rule Number 4 CSR 240-122.040
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 700.040 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
Y Cover Letter _____
Y Affidavit _____
Y 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.)

15

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-122.040

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 Rescissions 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 240-122.010 – Definitions
4 CSR 240-122.020 – Administration and Enforcement
4 CSR 240-122.030 – Seals
4 CSR 240-122.040 – Approval of Manufacturing Program
4 CSR 240-122.050 – Inspection of Manufacturer Books, Records, Inventory and Premises
4 CSR 240-122.060 – Inspection of Dealer's Books, Records, Inventory and Premises
4 CSR 240-122.070 – Inspection of Preowned Recreational Vehicles Rented, Leased or Sold or Offered for Rent, Lease or Sale by Persons Other than Dealers
4 CSR 240-122.080 – Code
4 CSR 240-122.090 – Complaints and Review of Director Action

Statutory authority: 700.040, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-447

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 Rescissions to existing rules 4 CSR 240-122.010, 4 CSR 240-122.020, 4 CSR 242-122.030, 4 CSR 240-122.040, 4 CSR 240-122.050, 4 CSR 240-122.060, 4 CSR 240-122.070, 4 CSR 240-122.080, and 4 CSR 240-122.090(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
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

May 2, 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 Rescission of Existing Rule 4 CSR 240-122.040

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.

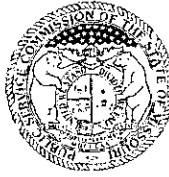
The proposed rescission will not have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

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

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

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>

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

May 2, 2001

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

Re: Proposed Rescission of Rule 4 CSR 240-122.040

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 rule rescission. 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 rescission deals with an existing rule covering recreational vehicles.

The proposed rescission 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 2, 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 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 122-Recreational Vehicles

PROPOSED RESCISSION

4 CSR 240-122.040 Approval of Manufacturing Program. This rule establishes the procedure under which a manufacturing program may be approved and the circumstances under which an approval of a manufacturing program will lapse, expire or be withdrawn.

PURPOSE: This rule is being rescinded as a result of the passage of Senate Bill No. 19, effective August 28, 1999, which repealed all recreational vehicle regulations.

AUTHORITY: section 700.040, RSMo 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 Nov. 20, 1990, effective April 29, 1991. Rescinded:_____.

PUBLIC COST: The proposed rescission of this rule will not cost state agencies or political subdivisions more than \$500.00 in the aggregate.

PRIVATE COST: The proposed rescission of this rule will not cost private entities more than \$500.00 in the aggregate.

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

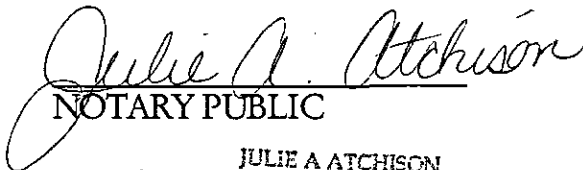
I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the *Proposed Rescission to 4 CSR 240-122.040, Approval of Manufacturing Program*, is less than five hundred dollars (\$500) in the aggregate to this 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 24th 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 2, 2004



NOTARY PUBLIC

JULIE A ATCHISON
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. SEPT 21, 2004