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APR 26 2001

SECRETARY OF STATE
ADMINISTRATIVE RULES

MATT BLUNT
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 240-120.100
 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 700.010 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 | _____ |
| | Affidavit | _____ |
| <u>Y</u> | Cost Statements | _____ |
| | Public Entity Fiscal Note | <u>OTHER</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:)
- _____
- _____
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E. ORDER OF RULEMAKING: Rule Number _____

APR 26 2001

1a. Effective Date for the Order

Statutory 30 days _____ or later specific date _____

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ADMINISTRATIVE RULES

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.)

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.



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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

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>

April 25, 2001

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

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 25th day of April, 2001, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-120.100 - Code

Statutory authority: 700.010, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-589

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 Amendments to existing rule 4 CSR 240-120.100, (hard copy and electronic copy on diskette); Rule Transmittal; Takings Analysis; Small Business Impact Analysis

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



Commissioners

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Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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March 12, 2001

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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 240-120.100

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 the existing 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/



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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 240-120.100

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 establishes the code for new manufactured homes.

Amending the existing rule does not implicate the takings clause of the U.S. Constitution, because neither rule involves the taking of real property.

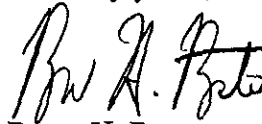
Mr. Dale Hardy Roberts
March 12, 2001
Page 2

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

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Sincerely yours,



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ADMINISTRATIVE RULES

Bruce H. Bates
Associate General Counsel
(573) 751-7434
(573) 751-9285 (Fax)
bbates@mail.state.mo.us (E-Mail)

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Enclosure


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STATE OF MISSOURI)
COUNTY OF COLE)

APR 27 2001
SECRETARY OF STATE
ADMINISTRATIVE RULES

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 240-120.100, Code*, 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 30th day of March, 2001. I
am commissioned as a notary public within the County of Callaway
State of Missouri, and my commission expires on July 5, 2004.


NOTARY PUBLIC

SHELIA A HELZER
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. JULY 5, 2004

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Title 4-DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240-Public Service Commission
Chapter 120-New Manufactured Homes

(PROPOSED AMENDMENT)

4 CSR 240-120.100 Code: This proposal amends the following sections of this rule: Section (1); and adds a new section (2).

PURPOSE: This rule established the code for new manufactured homes and is amended to incorporate by reference the federal standards for manufactured housing codes and to establish set up and installation requirements for new manufactured homes.

113280-290 (1) The federal standards [set out] **as incorporated by reference** in 24 CFR 290 constitute the code to be applied to new manufactured homes which entered the first stage of production after November 22, 1976 which are rented, leased or sold or offered for rent, lease or sale in this state.

(2) All new manufactured homes shall be set up or installed according to the manufacturer's installation instructions.

Auth: section 700.010, RSMo [(1986)] 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 would cost state agencies or political subdivisions less than \$500.00 in the aggregate.

PRIVATE COST: This proposed amendment would 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.