

Administrative Rules Stamp

FILED**RECEIVED**

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MATT BLUNT**Secretary of State****Administrative Rules Division****RULE TRANSMITTAL****Missouri Public
Service Commission**A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.A. Rule Number 4 CSR 240-123.080

Diskette File Name _____

Name of Person to call with questions about this rule: Bruce H. BatesContext Associate General Counsel Phone 573-751-7434 FAX 573-751-9285Data Entry Same as above Phone Same as above FAX Same as aboveInteragency 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 2000Date 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 _____

____ Private Entity Fiscal Note _____

OTHER _____

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 240-123.080

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 240-123.080-Code for Modular Units

Statutory authority: 700.010, RSMo (2000)

Missouri Public Service Commission Case No.: MX-2000-443

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 240-123.080(hard copy and electronic copy on diskette);
Rule Transmittal; Takings Analysis; Small Business Impact Analysis



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

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May 4, 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 Amendment of Existing Rule 4 CSR 240-123.080

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/



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

May 4, 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 240-123.080

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.

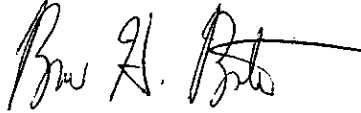
The proposed amended rule establishes the code for modular units.

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
May 4, 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 long horizontal flourish extending to the right.

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 AMENDMENT)

4 CSR 240-123.080 Code for Modular Units: This proposal amends the following sections of this rule: Section (2); Section (3) subsection (A) and (B); Section (4); and adds new text in Sections (5) through (7).

PURPOSE: This rule establishes the code for modular units and is amended to exhibit the correct reference to modular units; to reflect changes in code editions; and to clarify code compliance requirements.

(2) All [mobile] modular units shall be built in accordance with the FHA Structural Engineering Bulletin and FHA Minimum Property standards and be eligible for long-term financing under section 203(b) of the National Housing Act, 12 USC 1701.

(3) The structure shall be manufactured in accordance with and meet the requirements of either subsection (3) (A) or (B) of this rule--

(A) BOCA National Building Code-[1987] 1999; [BOCA National] International Mechanical Code-[1987] 1998; [BOCA National] International Plumbing Code-[1987] 1997; National Electrical Code NFPA-[1987] 1999; and
(B) Uniform Building Code-[1988] 1997; Uniform Mechanical Code-[1988] 1997; Uniform Plumbing Code-[1988] 1997; National Electric Code NFPA-[1987] 1999.

(4) All modular units shall comply with the CABO Model Energy Code-[1989] 1995.

(5) All modular units shall meet or exceed the Seismic Zone requirements (one, two, or three, as defined in the applicable code in paragraph (3) above,) for the area in which the modular unit is placed. Modular unit plans submitted by a manufacturer under 4 CSR 240-123.040 shall specify the Seismic Zone for which the unit is built as well as the location where the unit will be placed. If a unit is built for open placement throughout the State of Missouri, it must be built to Seismic Zone three requirements.

(6) Each modular unit shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location. Each data plate must be covered with a material that will make it possible to clean the data plate of ordinary dirt without obscuring the information. Each data plate shall include the following information at a minimum: name and address of manufacturer, serial and model number of the unit, date the unit was manufactured, code the unit was built to, seismic zone listing, name and address of third party engineering agency that reviewed and approved the plans submitted by the manufacturer under 4 CSR 240-123.040.

(7) All modular units manufactured on or after July 1, 1976, shall be set up or installed according to the manufacturer's installation manual.

Auth: section 700.010, RSMo [(1994)] 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Emergency amendment filed July 3, 1989, effective July 13, 1989, expired Nov. 9, 1989. Amended: Filed July 3, 1989, effective Nov. 1, 1989. 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.

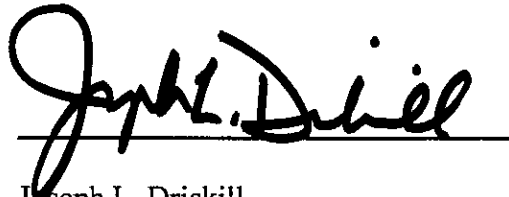
(Public Entity - No Cost)

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 Proposed Amendment to 4 CSR 240-123.080 is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



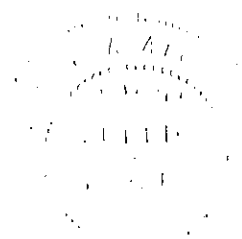
Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 14th 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 SEP 21, 2004



MEMORANDUM

TO: Dale Hardy Roberts, Secretary

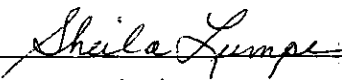
DATE: May 31, 2001

RE: Authorization to File Proposed Amendment to Existing Rule 4
CSR 240-123.080 With the Office of Secretary of State

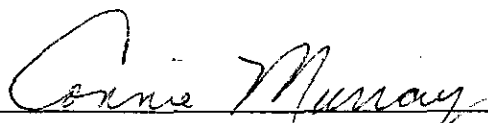
CASE NO: MX-2000-443

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 240-123.080 -Code For Modular Units



Sheila Lumpe, Chair



Connie Murray, Commissioner



Kelvin Simmons, Commissioner



Steve Gaw, Commissioner