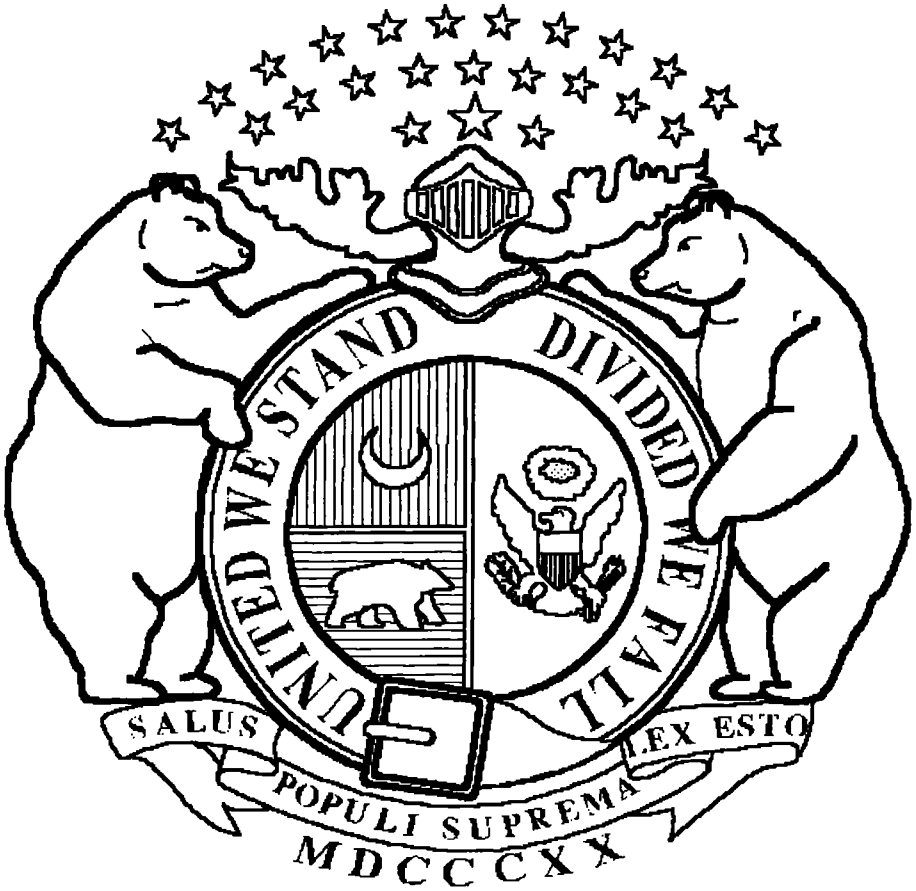
State of Missouri

Administrative Hearing Commission



Procedure for All Contested Cases Under Statutory Jurisdiction

Effective February 28, 2011

Rules of
Office of Administration
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested Cases Under Statutory Jurisdiction

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Title 1—OFFICE OF ADMINISTRATION

Division 15—Administrative Hearing Commission

Chapter 3—Procedure For All Contested Cases Under Statutory Jurisdiction

1 CSR 15-3.010 Definitions
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.010. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.020 Powers and Duties
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.020. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.030 Practice by Attorneys
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.030. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Amended: Filed Oct. 16, 1987, effective Jan. 19, 1988. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.035 Expedited Filing
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. Emergency rule filed Aug. 18, 1989, effective Aug. 28, 1989, expired Dec. 25, 1989. Original rule filed Aug. 31, 1989, effective Dec. 28, 1989. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.040 Complaints
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.040. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.050 Answers and Supplementary Pleadings
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.050. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Emergency amendment filed Nov. 14, 1986, effective Dec. 1, 1986, expired March 1, 1987. Amended: Filed Nov. 14, 1986, effective March 2, 1987. Amended: Filed Oct. 16, 1987, effective Jan. 19, 1988. Emergency amendment filed Aug. 18, 1989, effective Aug. 28, 1989, expired Dec. 25, 1989. Amended: Filed Aug. 31, 1989, effective Dec. 28, 1989. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.060 Petition for Stay
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.060. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.070 Prehearing Conference
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.070. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.080 Discovery
(Rescinded February 6, 1992)

AUTHORITY: sections 536.073 and 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.080. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Amended: Filed May 29, 1986, effective Dec. 1, Emergency amendment filed Aug. 18, 1989, effective Aug. 28, 1989, expired Dec. 25, 1989. Amended: Filed Aug. 31, 1989, effective Dec. 28, 1989. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.090 Hearing
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.090. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Emergency amendment filed Nov. 14, 1986, effective Dec. 11, 1986, expired March 1, 1987. Amended: Filed Nov. 14, 1986, effective March 2, 1987. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.100 Final Decisions
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.100. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.110 Judicial Review
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.090. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Emergency amendment filed Nov. 14, 1986, effective Dec. 1, 1986, expired March 1, 1987. Amended: Filed Nov. 14, 1986, effective March 2, 1987. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.120 Availability of Commission's Rules
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.120. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.130 Waiver of Hearing
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.130. Emergency rule filed Aug. 11, 1978, effective Aug. 23, 1978, expired Dec. 20, 1978. Original rule filed Aug. 11, 1978, effective Dec. 20, 1978. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.140 Dismissal
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. This rule was previously filed as 4 CSR 20-3.140. Original rule filed July 15, 1980, effective Nov. 13, 1980. Amended: Filed Oct. 16, 1987, effective Jan. 19, 1988. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.150 Disposition of Contested Case Without Hearing
(Rescinded February 6, 1992)

AUTHORITY: section 536.073 and 621.198, RSMo 1986. Original rule filed May 29, 1986, effective Dec. 1, 1986. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.160 Bench Rulings and Memorandum Decisions
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. Emergency rule filed Aug. 18, 1989, effective Aug. 28, 1989, expired Dec. 25, 1989. Original rule filed Aug. 31, 1989, effective Dec. 28, 1989. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.170 Applications for Attorney's Fees
(Rescinded February 6, 1992)

AUTHORITY: section 621.198, RSMo 1986. Emergency rule filed Aug. 18, 1989, effective Aug. 28, 1989, expired Dec. 25, 1989. Original rule filed Aug. 31, 1989, effective Dec. 28, 1989. Rescinded: Filed Aug. 5, 1991, effective Feb. 6, 1992.

1 CSR 15-3.200 Subject Matter

PURPOSE: This rule sets out the matters to which this chapter applies.

This chapter 1 CSR 15-3 contains all procedural regulations for all contested cases assigned to the Administrative Hearing Commission by statute. For cases under sections 621.040 and 621.250, RSMo specific statutory provisions may apply in place of these regulations. This chapter does not apply to cases not assigned to the Administrative Hearing Commission by statute, including cases in which the Administrative Hearing Commission acts as a hearing officer for another agency by interagency agreement.

AUTHORITY: sections 226.008.4 and 621.198, RSMo Supp. 2005 and 536.073.3, 621.035 and 622.027, RSMo 2000. Original rule filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Emergency amendment filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. Amended: Filed Nov. 26, 2002, effective May 30, 2003. Amended: Filed May 30, 2006, effective Nov. 30, 2006.*

**Original authority: 226.008, RSMo 2002; 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; 621.198, RSMo 1965, amended 1978, 2001; and 622.027, RSMo 1985, amended 1993, 1995.*

1 CSR 15-3.210 Definitions

PURPOSE: This rule sets out the definitions of terms used in the rules of the Administrative Hearing Commission.

(1) As used in this chapter, the following terms mean:

(A) Agency—any governmental entity subject to the jurisdiction of the commission;

(B) Aggrieved person—any person, other than an agency, the attorney general, a licensee or an applicant, whom the law allows to file a complaint relating to a license;

(C) Applicant—any person whom an agency refuses to permit to be examined upon the person's qualifications, or who has passed an examination for licensure but as to whom an agency refuses to issue or renew a license, or who possesses the qualifications for licensure without examination;

(D) Commission—the Administrative Hearing Commission or any commissioner;

(E) Commissioner—any administrative hearing commissioner, including any acting commissioner;

(F) Commission's office—the Administrative Hearing Commission's official residence in Jefferson City, MO 65101;

(G) Complaint—the petition, application, or other initial pleading other than a motion for a stay, or any amended complaint;

(H) Hearing—any presentation to, or consideration by, the commission of evidence or argument on a complaint, motion or application;

(I) License—any permit to engage in a licensed activity or certificate of registration;

(J) Licensee—any person holding a license;

(K) Person—any individual, corporation, or other legal entity;

(L) Petitioner—the party filing the complaint;

(M) Pleading—a complaint or a responsive pleading;

(N) Respondent—the party against whom the complaint is filed, and any person later joined as respondent;

(O) Responsive pleading—an answer, and any motion directed to the contents or form of the complaint, including, without limitation, motions to dismiss, motions for more definite statement or to make more definite and certain, motions to strike or any combination of these pleadings; and

(P) Stay—any stay or a suspension of any action from which petitioner is appealing.

AUTHORITY: section 621.198, RSMo Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.230 Computation of Time

PURPOSE: This rule sets forth the manner in which time periods will be computed.

(1) In computing any period of time prescribed or allowed by these rules or by order of the commission, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(2) The commission may extend the time set by these rules or by order of the commission either before or after the time period has expired.

(3) A party may move for an extension of the time set by these rules or by order of the commission. The motion shall be in writing and shall state whether any party objects to the extension or that efforts to contact the parties have been futile.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992.*

**Original authority: 621.198, RSMo 1965, amended 1978.*

1 CSR 15-3.250 Practice by a Licensed Attorney; When Required

PURPOSE: This rule states when and how a party must be represented by a licensed attorney.

(1) Any individual may present that individual's own case without a licensed attorney.

(2) Any individual may file a complaint on behalf of another person, including a corporation or other legal entity.

(3) Except as set forth in section (2) of this rule, only a licensed attorney may represent any other person, including a corporation or other legal entity. The filing of any document with the commission by a licensed attorney shall be deemed an entry of appearance. An attorney not authorized to practice in Missouri shall enter an appearance in accordance with Missouri Supreme Court Rules.

AUTHORITY: section 621.198, RSMo Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.270 Service of Filings Other Than the Original Complaint

PURPOSE: This rule requires that anyone filing anything other than a complaint with the commission send copies to all parties.

(1) Unless otherwise provided by these rules or by other law, any party to a proceeding before the commission or any person who seeks to become a party shall serve upon all attorneys of record and unrepresented parties a copy of any document or item the party files.

(2) Methods of Service.

(A) A person may serve a document on an attorney by—

1. Delivering it to the attorney;

2. Leaving it at the attorney's office with a secretary, clerk or attorney associated with or employed by the attorney served;

3. Mailing it to the attorney's last known address; or

4. Facsimile transmitting (faxing) it to the attorney's last known fax number.

(B) A person may serve a document on an unrepresented party by—

1. Delivering it to the party;

2. Mailing it to the party's last known address; or

3. Faxing it to the party's last known fax number.

(C) Service by mailing is complete upon placing in the mail. Service by fax is complete upon its transmission.

(3) Any document or item filed shall contain or be accompanied by a certification of how and when the filing party has met the provisions of section (1) of this rule.

(4) The commission, after due notice, may waive the requirements of section (1) of this rule either on its own motion or on the motion of any party.

(5) The requirements of this rule shall not apply to an original complaint.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992.*

**Original authority: 621.198, RSMo 1965, amended 1978.*

1 CSR 15-3.290 Filing of Documents; Fax Filing; Posting Bond

PURPOSE: This rule establishes procedures for filing documents and when they are deemed filed and clarifies the requirement for posting bonds.

(1) A party may file a document by—

(A) Registered or Certified Mail. A document filed by registered or certified mail is deemed filed on the date shown on the United States Post Office records;

(B) Electronic Facsimile Transmission (Fax). A document filed by fax is deemed filed at the time the commission receives a fax of the document. If a document arrives by fax after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday, or legal holiday, it is filed on the commission's next business day, unless the commission orders otherwise; or

(C) Any Other Method. A document filed by any method other than registered mail, certified mail, or fax is deemed filed on the date the commission receives the document.

(2) A party filing by fax shall—

(A) Fax the document to the commission's dedicated fax number;

(B) Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in writing. A good faith attempt at compliance shall satisfy the requirements of this subsection;

(C) If the commission so orders, send the original signed document to the commission;

(D) Certify in the documents the method of notice used to fulfill the requirements of subsection (2)(B) of this rule; and

(E) Send a copy of the document to all parties as provided in 1 CSR 15-3.270. The commission may order the party to send a copy of the document to any party by overnight mail.

(3) Bonds. A bond is posted when the commission receives the original bond, unless the commission orders otherwise.

AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2010. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 621.035, RSMo 1978 and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.320 Stay of Action under Review

PURPOSE: This rule describes the form and content of a motion for stay or suspension of an agency's actions, and the number of copies required.

(1) Scope and Content. The commission may stay or suspend any action of an administrative agency pending the commission's findings and determination in the cause.

(A) All motions for stay of the action from which petitioner is appealing shall be in writing.

(B) The movant shall include in the motion:

1. The full name, address and telephone number of movant, any attorney representing movant and the respondent;

2. Suitable space in the caption for the commission to affix a case number;

3. A clear heading, Motion for Stay;

4. Facts showing why the commission should grant the stay, set forth in numbered paragraphs, each of which shall contain, as far as practical, a single set of circumstances; and

5. A copy of any written notice of the action from which the petitioner is appealing.

(C) The movant or movant's legal counsel shall sign the motion.

(2) The movant shall file the original and one (1) copy of the motion for stay with the commission.

(3) Specific Cases.

(A) International Fuel Tax Agreement (IFTA) Cases. The commission, with or without the filing of a motion, may stay any suspension or revocation of an IFTA license if the licensee files a complaint on that action.

(B) Department of Social Services Cases Under Section 208.156, RSMo. The commission shall not grant a stay until after a full hearing on the motion.

1. The movant must show:

A. That immediate and irreparable injury, loss, or damage will result if such stay order is denied; or

B. That such person has a reasonable likelihood of success upon the merits of the claim; and

2. No stay order shall be issued without the movant posting a bond in such sum as the commission finds sufficient to protect and preserve the interest of the Department of Social Services or its divisions.

3. In no event may the commission grant such stay order where the claim arises under a program or programs funded by federal funds or by any combination of state and federal funds, unless it is specified in writing by the financial section of the appropriate federal agency that federal financial participation will be continued under the stay order and petitioner has met any other statutory conditions.

(C) Franchise Cases under Sections 407.822.1 and 407.1031.1, RSMo. The commission's notice of hearing shall contain a stay of the action from which the petitioner seeks relief. The stay shall dissolve only as set forth in section (7) and not section (8) of this rule.

(D) Liquor Control Cases. The commission, with or without the filing of a motion, may stay any order of the supervisor of the Division of Liquor Control if the licensee files a complaint.

(4) The commission, upon either party's request, shall hold or, on its own initiative, may hold an evidentiary hearing on whether to issue a stay order, except as provided in subsections (3)(B) and (3)(C) of this rule.

(5) The commission may condition its stay order on the posting of a bond or other security, except as provided in subsection (3)(B) of this rule. A bond or other security is posted when the commission receives it.

(6) The denial of a motion for stay shall not prejudice the movant's complaint on the merits.

(7) The commission's stay order shall remain effective until the commission finally disposes of the case unless the commission orders otherwise. The commission shall not order otherwise as to a case under subsection (3)(C) of this rule.

(8) The commission, upon either party's request, shall hold or, on its own initiative, may hold an evidentiary hearing on whether to dissolve a stay order, except as provided in subsection (3)(C) of this rule.

AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2007. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 16, 2003, effective Nov. 30, 2003. Amended: Filed July 2, 2008, effective Jan. 1, 2009.*

**Original authority: 621.035, RSMo 1978 and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.350 Complaints

PURPOSE: This rule describes the form and content of the complaints, the number of copies required, how the complaints are served, and how they are amended.

(1) In General. The commission shall construe the provisions of this rule liberally if petitioner has prepared the complaint without legal counsel.

(A) All complaints shall be in writing.

(B) Petitioner shall include in the complaint:

1. The full name, address, and telephone number of—

A. Petitioner; and

B. Any attorney representing petitioner;

2. Suitable space in the caption for the commission to affix a case number; and

3. As far as practical, facts in numbered paragraphs stating the relief sought and the reason for granting it; however, the failure to include facts in numbered paragraphs shall not be a reason for involuntary dismissal of a complaint.

(C) Petitioner or petitioner's legal counsel shall sign the complaint.

(D) Petitioner shall file the original of the complaint at the commission's office with sufficient copies for all parties.

(2) Specific Cases. In addition to the other requirements of this rule—

(A) An agency's complaint shall set forth—

1. The full name, address, and telephone number of any person whom petitioner names as a respondent;

2. Any licenses the licensee holds from the agency and their status;

3. Any fact supporting the relief that the agency seeks, including any conduct that a licensee has committed that is cause for discipline, with sufficient specificity to enable the licensee to address the charge at hearing; and

4. Any provision of law that allows discipline for such facts.

(B) A complaint by any person other than an agency—

1. Shall include a copy of any notice of the action of which petitioner seeks review; and

2. May include a motion for stay.

(C) An applicant's complaint shall, in addition to the other requirements of this section, set forth facts that show that the applicant is entitled to be licensed or examined for licensure.

(D) In a case arising pursuant to Chapter 407, RSMo, including cases relating to the protest of an action taken by a motor vehicle, motorcycle, or all-terrain vehicle manufacturer, distributor, or representative pursuant to a franchise agreement, the petition shall include a filing fee in the amount of one hundred five dollars ($105).

(E) In a case arising pursuant to section 36.280, 36.370, 36.380, or 36.390, RSMo, the petition shall include a copy of any notice of the action of which the employee seeks review and shall state—

1. The action being appealed; and

2. In the case of a dismissal, suspension for greater than five (5) days, or demotion,

the reason the employee alleges that the dismissal, suspension, or demotion was—

A. For political reasons;

B. For religious reasons;

C. For racial reasons; or

D. Not for the good of the service.

The petitioner may, but is not required to, utilize a form provided by the commission for purposes of appeals covered by this subsection.

(3) Notice.

(A) The commission shall serve notice of the complaint on the respondent and the petitioner.

(B) Except in cases arising under section 407.822, RSMo, the commission shall serve a copy of the complaint on the respondent.

(4) Petitioner may amend the complaint without the commission's leave any time before the respondent serves a responsive pleading. After the respondent serves a responsive pleading, petitioner shall amend the complaint only with the commission's leave. The motion shall include the amended complaint proposed to be filed. Petitioner shall not amend the complaint less than twenty (20) days before the hearing without respondent's consent.

(5) The provisions of this rule, except subsection (1)(D) and section (3), apply to amended complaints.

AUTHORITY: section 621.035, RSMo 2000 and sections 621.053 and 621.198, RSMo Supp. 2010. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 16, 2003, effective Nov. 30, 2003. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed May 30, 2006, effective Nov. 30, 2006. Amended: Filed May 31, 2007, effective Nov. 30, 2007. Amended: Filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 621.035, RSMo 1978; 621.053, RSMo 1997, amended 2001; and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.380 Answers and Other Responsive Pleadings

PURPOSE: This rule describes who is required to file a responsive pleading, how it shall be filed, the form and content of the answer, and how an answer is amended.

(1) The respondent shall file an answer in all cases except those arising pursuant to sections 36.280, 36.370, 36.380, and 36.390, RSMo, in which case respondent may, but is not required to, file an answer, unless the commission orders that an answer be filed.

(2) An answer to the complaint shall—

(A) Be in writing;

(B) Admit those portions of the complaint which the respondent believes are true and deny those portions that the respondent believes are not true and state that the respondent is without sufficient knowledge to admit or deny the portions not admitted or denied;

(C) Assert as a defense any specific failure of the complaint to comply with 1 CSR 15-3.350 or waive that defense by not asserting it;

(D) Be signed by the respondent or the respondent's attorney; and

(E) When the petitioner seeks review of respondent's action, include—

1. Allegations of any facts on which the respondent bases the action, with sufficient specificity to enable the petitioner to address such allegations;

2. Any provision of law that allows the respondent to base the action on such facts;

3. A copy of any written notice of the action of which petitioner seeks review, unless such written notice was included in the complaint; and

4. Facts that show that the respondent has complied with any provisions of law requiring the respondent to notify the petitioner of the action that petitioner is appealing.

(3) The respondent shall file any responsive pleading within the following times—

(A) Thirty (30) days after service of the notice of complaint, except when service is by certified mail or publication.

(B) When service is by certified mail, within thirty (30) days after acknowledgment of receipt of the notice of complaint or return certified mail receipt is filed in the case.

(C) When service is by publication, within forty-five (45) days of the first publication of notice.

(4) The filing of a responsive pleading, other than an answer, that requests the commission to take some action shall increase the time in which the respondent shall file an answer, as set by section (3) of this rule, as follows, unless the commission orders otherwise. In any case, the time allowed for filing an answer shall be no less than the time that remained when the responsive pleading was filed.

(A) If the commission denies the request, the respondent shall file the answer no later than ten (10) days after the commission so orders;

(B) If the commission issues an order postponing its ruling on the request until hearing, the respondent shall file the answer no later than ten (10) days after the commission so orders;

(C) If the commission issues an order granting the request, but the order does not dispose of the entire complaint, respondent shall file the answer no later than ten (10) days after the commission so orders; and

(D) If the commission orders petitioner to amend the complaint, the respondent shall file the answer no later than ten (10) days after service of the amended complaint.

(5) The respondent shall file an answer to an amended complaint within the latest of:

(A) Ten (10) days after service of the amended complaint; or

(B) The time remaining for filing answer to the original complaint; or

(C) Ten (10) days after the date of an order granting leave to file the amended complaint.

(6) Otherwise, the respondent shall amend the answer only with the commission's leave.

(7) Failure to File.

(A) The commission, on its own motion or that of any party, may order a remedy for respondent's failure to file an answer or other responsive pleading, or failure to otherwise comply with this rule, as set forth at rule 1 CSR 15-3.425.

(B) Except in cases under section 36.280, 36.370, 36.380, 36.390, 407.822.1, or 407.1031.1, RSMo, petitioner shall file the motion not fewer than thirty (30) days before the hearing on the complaint or the motion shall be waived. In cases under section 407.822.1 or 407.1031.1, RSMo, petitioner shall file a motion for a remedy only with the commissioner's leave and pursuant to a schedule ordered by the commission.

(C) In addition to the remedies set forth in rule 1 CSR 15-3.425, remedies under this section may include an order that respondent is deemed to have—

1. Admitted the facts pleaded in the complaint;

2. Waived any defense to the complaint; and

3. Defaulted on any issue raised in the

complaint.

(D) The commission may dispose of any issue on which it deems respondent to have defaulted. The commission shall determine the appropriate remedy based on the facts of the case. Respondent's failure to file an answer or other responsive pleading or otherwise comply with this rule shall not constitute the admission of any facts or entitle petitioner to the relief requested in the complaint unless the commission so orders.

AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2010. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 621.035, RSMo 1978 and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.390 Intervention

PURPOSE: This rule describes who may intervene in an action and how to intervene.

(1) The commission may permit any person to intervene if the person—

(A) Files a motion for intervention within such time as not to delay unduly the hearing on the complaint; and

(B) Has an interest in the action which is different from the general public interest and which cannot be represented adequately by the parties.

(2) A motion to intervene shall—

(A) Be in writing;

(B) Set forth facts showing that the person is entitled, or should be permitted, to intervene;

(C) Be signed by the person or the person's attorney;

(D) Be accompanied by a pleading.

(3) The commission's order, ruling on the motion to intervene, shall set the date on which intervenor's pleading is filed. When the commission grants a motion to intervene as petitioner, a responsive pleading to the intervenor-petitioner's complaint shall be due thirty (30) days after the date on which such intervenor-petitioner's complaint is filed, as set by the commission's order. A responsive pleading to the intervenor-petitioner's complaint shall be otherwise governed by rule 1 CSR 15-3.380.

AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2007. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed May 30, 2006, effective Nov. 30, 2006. Amended: Filed July 2, 2008, effective Jan. 1, 2009.*

**Original authority: 621.035, RSMo 1978 and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.410 Closing of Case Records and Hearings

PURPOSE: This rule describes the procedure for closing records or a hearing in a particular case, but does not constitute legal authority for closing a record or hearing.

Any party to a case may move to close any record or hearing in that case. The motion shall be in writing. The party shall file it no fewer than fourteen (14) days before the date the party wants the matter closed. The motion shall cite the legal authority under which the commission may close the record or hearing.

AUTHORITY: section 621.198, RSMo Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.420 Discovery

PURPOSE: This rule explains the manner in which discovery may be obtained.

(1) Any party may obtain discovery in the same manner, upon or under the same conditions and upon the same notice and other requirements as is or may be provided for with respect to discovery in civil actions by rule of the Supreme Court of Missouri for use in the circuit court, except as provided in this rule or by statute.

(2) Service and Responses.

(A) A party serving written interrogatories; requests for admissions, production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations, shall include a certificate of service in substantially the following form:

I served the original and (*number of*) copies of these (*written interrogatories/production of documents or things or permission to enter upon land or other property, for inspection and other purposes/physical and mental examinations/requests for admission*) on (*name of parties*) this _____ day of _____, 20_____.

(*Signature*)_____

The party shall file a copy of the certificate with the commission. The party shall serve the original discovery on the party to whom it is directed.

1. The party shall not file written interrogatories; requests for production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations with the commission unless the commission so orders.

2. The party may file requests for admissions with the commission.

(B) Requests for admission and interrogatories shall include appropriate spaces for answers or objections.

(C) The party responding to requests for admissions or interrogatories shall complete them by typewriting or printing the answer or objection to each question in the space provided. If the space is insufficient, the party shall reply by affidavit, clearly indicate so in the space provided, and attach the affidavit to the interrogatories or requests for admissions. Each response shall include a certificate of service in substantially the following form:

I served the original of these completed (*written interrogatories/requests for admission*) on (*name of party*) and sent (*number of*) copies to (*name of parties*) this _____ day of _____, 20_____.

(*Signature*)_____

The responding party shall file the certificate of service with the commission and shall not file the response unless the commission so orders. The responding party shall serve the original completed response on the interrogating party and copies on all other parties.

(D) The commission will not serve any discovery with the notice of complaint.

(3) Whenever a party files a motion to compel compliance with any discovery request, to

sanction another party for failing to respond or responding inadequately to any discovery request, or alleging violation of any discovery rule, the moving party shall certify in its motion that it has made reasonable efforts to contact the party who is the subject of the motion and inform the commission as to what steps the moving party has taken to resolve informally the discovery dispute or alleged discovery rule violation. The party seeking relief shall attach a copy of any disputed discovery to that motion.

(4) No discovery or response to discovery shall be considered as evidence unless it is admitted into evidence at hearing, or authenticated and attached to a motion for disposition without hearing, as an exhibit.

(5) No discovery order that requires a physical or mental examination, permits entrance upon land or inspection of property without permission of the owner, or purports to hold any person in contempt shall be enforceable, unless the party seeking such enforcement obtains an order of the circuit court of the county in which the hearing will be held, or the circuit court of Cole County, at the option of the person seeking enforcement. This section does not apply to a case filed under section 407.822, RSMo Supp. 2001.

AUTHORITY: sections 536.073 and 621.035, RSMo 2000 and 621.198, RSMo Supp. 2005. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed May 30, 2006, effective Nov. 30, 2006.*

**Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.425 Sanctions

PURPOSE: This rule combines provisions formerly found in separate regulations.

(1) The commission may impose a sanction on any party for conduct including, without limitation, such party's failure to:

(A) Comply with any order or rule of the commission, including failure to file an answer;

(B) Appear at any hearing; or

(C) Apprise the commission of a current mailing address.

(2) Sanctions available under this rule include without limitation:

(A) Striking all or any part of the party's pleading;

(B) Deeming all or any part of an opposing party's pleading admitted; or

(C) Barring or striking all or any evidence on any issue.

(3) The commission shall determine whether to impose any sanction, and the appropriate degree of such sanction, based on the facts of each case.

AUTHORITY: section 621.198, RSMo Supp. 2001. Original rule filed June 3, 2002, effective Nov. 30, 2002.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.430 Dismissal

(Rescinded November 30, 2002)

AUTHORITY: section 621.198, RSMo 1994. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Rescinded: Filed June 3, 2002, effective Nov. 30, 2002.

1 CSR 15-3.431 Voluntary Dismissal, Settlement, and Consent Orders

PURPOSE: This rule sets out the procedures for disposing of a case without a decision by the commission, including a motion to dismiss, settlement agreement, agreed settlement, and consent order.

(1) Voluntary Dismissal. Petitioner may voluntarily dismiss the complaint by filing a notice of dismissal stating that petitioner dismisses the complaint. A notice of dismissal dismisses the complaint and is effective as of the date on which petitioner files it, without any action by the commission. Petitioner may dismiss the complaint, subject to statutory time limits for refiling—

(A) Before the filing of a motion for decision without hearing under 1 CSR 15-3.446 or the introduction of evidence at the hearing, whichever is earlier, without the commission's leave; or

(B) After the filing of a motion for decision without hearing under 1 CSR 15-3.446 or the introduction of evidence at the hearing, whichever is earlier, only with leave of the commission or with written consent of respondent. The commission shall grant leave freely when justice so requires.

(2) Settlement. Settlement means the parties' agreed resolution of any issue in the complaint including a contested case under section 621.045, RSMo. The parties may settle all or any part of the complaint without any action by the commission, where such settlement is permitted by law. If the parties' settlement disposes of the entire complaint—

(A) Petitioner may file a notice of dismissal under section (1) of this rule; or

(B) The parties may jointly file a motion for consent order under section (3) of this rule; or

(C) Respondent may file a motion for involuntary dismissal under rule 1 CSR 15-3.436.

(3) Consent Orders.

(A) Generally. A consent order is the commission's dismissal, or recommended dismissal, and memorialization that all parties have agreed to dispose of the case without the commission's decision or recommended decision, except in cases under section 620.149, RSMo, or contested cases under section 621.045, RSMo.

(B) Cases Under Section 620.149, RSMo, and Contested Cases Under Section 621.045, RSMo. A consent order in a case under section 620.149, RSMo, or a contested case under section 621.045, RSMo, requires a decision by the commission. A motion for consent order in such a case is subject to rule 1 CSR 15-3.446.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2010. Original rule filed July 2, 2008, effective Jan. 1, 2009. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.436 Involuntary Dismissal

PURPOSE: This rule provides for motions to dismiss by someone other than petitioner.

(1) Involuntary dismissal means a disposition, or recommended disposition, against petitioner that does not reach the merits of the complaint. The commission may order involuntary dismissal on its own motion. Grounds for involuntary dismissal include:

(A) Lack of jurisdiction;

(B) Mootness; and

(C) Grounds for a sanction as set forth in rule 1 CSR 15-3.425.

(2) Respondent may file a motion for involuntary dismissal on all or any part of the complaint except that, unless the commission grants leave otherwise, respondent shall not file a motion for involuntary dismissal—

(A) In any case in which any legal authority, other than the commission, sets any maximum time for conducting a hearing on the merits of the complaint; and

(B) In any case less than forty-five (45) days before the hearing, except by leave of the commission for good cause.

(3) The commission may grant a motion for involuntary dismissal based on a preponderance of admissible evidence. Admissible evidence includes an allegation in the complaint, stipulation, discovery response of the petitioner, affidavit, or other evidence admissible under the law. In response to a motion for involuntary dismissal, petitioner shall not rely solely on the allegations in the complaint unless the motion relies solely on the allegations in the complaint.

(4) If a motion for involuntary dismissal relies on matters other than allegations in the complaint and stipulations, the commission shall either—

(A) Treat the motion for involuntary dismissal as a motion for summary decision under rule 1 CSR 15-3.446; or

(B) Convene an evidentiary hearing on the motion.

(5) On any motion under this rule, the commission may allow such written argument as it deems helpful and may rule on the motion without oral argument.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2010. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.440 Disposing of a Case Without a Hearing on the Complaint
(Rescinded January 1, 2009)

AUTHORITY: section 536.073, RSMo 2000 and section 621.198, RSMo Supp. 2003. Original rule filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Rescinded: Filed July 2, 2008, effective Jan. 1, 2009.

1 CSR 15-3.446 Decision on the Complaint without a Hearing

PURPOSE: This rule provides for disposition by stipulation, consent order, and relief in the nature of judgment on the pleadings and relief in the nature of summary and other procedures.

(1) Generally. Decision without hearing means a disposition, or recommended disposition, of the complaint on the merits. It includes a decision on the pleadings, summary decision, and consent order in cases under section 621.045, RSMo. The commission may grant a motion for decision without hearing in favor of any party, including a party who did not file the motion. On any motion under this rule, the commission may allow such written argument as it deems helpful and may rule on the motion without oral argument.

(2) Any party may file a motion for a decision without hearing on all or any part of the complaint except that, unless the commission grants leave otherwise, no party shall file a motion for decision without hearing—

(A) In any case in which any legal authority, other than the commission, sets any maximum time for conducting a hearing on the merits of the complaint.

(B) In any case, less than forty-five (45) days before the hearing, except by leave of the commission for good cause.

(3) Decision on Stipulated Facts. The parties may file a stipulation of facts and may waive hearing before the commission. The parties or their attorneys shall sign the stipulation.

(4) Decision on the Pleadings. A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party's pleading, taken as true, entitles another party to a favorable decision. Petitioner shall not file a motion for decision on the pleadings before the time for filing a responsive pleading has expired, except with the consent of all other parties.

(5) Consent Orders in Cases Under Section 620.149, RSMo, and Contested Cases Under Section 621.045, RSMo. A motion for a consent order shall contain stipulated facts necessary to support the relief sought under the cited legal authority. Parties seeking a consent order under this section shall jointly file a motion that includes substantially the following language:

> The parties stipulate that (*party*) committed the following conduct: (*Conduct*).
>
> (*Party*) admits that such conduct is cause for (*the relief sought*) under the following legal authority:
>
> (*Legal Authority*).
>
> Therefore, the parties agree to (*the relief sought*).

(6) Summary Decision. Summary decision is a motion for decision without hearing that relies on matters outside the pleadings and is not filed jointly by all parties.

(A) The commission may grant a motion for summary decision if a party establishes facts that entitle any party to a favorable decision and no party genuinely disputes such facts.

(B) Parties may establish a fact, or raise a dispute as to such facts, by admissible evidence. Admissible evidence includes a stipulation, pleading of the adverse party, discovery response of the adverse party, affidavit, or other evidence admissible under the law. A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact. A party may meet the requirements for the content of a motion, or for a response to a motion, under section (6) of this rule by complying with Missouri Supreme Court Rule of Civil Procedure 74.04.

(C) Petitioner shall not file a motion for summary decision before the time for filing a responsive pleading has expired, except with the consent of all other parties.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2010. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.450 Determination of Cases Without Hearing
(Rescinded November 30, 2002)

AUTHORITY: sections 536.073.2(2) and 621.198, RSMo 2000. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Rescinded: Filed June 3, 2002, effective Nov. 30, 2002.

1 CSR 15-3.470 Prehearing Conferences

PURPOSE: This rule describes the setting and subject matter of the prehearing conference.

On its own motion or that of any party, the commission may order a prehearing conference to discuss matters pertinent to the case.

AUTHORITY: sections 621.035, RSMo and 621.198, RSMo Supp. 2005. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed May 30, 2006, effective Nov. 30, 2006.*

**Original authority: 621.035, RSMo 1978; 621.035, RSMo 1978 and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.480 Motions

PURPOSE: This rule describes how a party may obtain oral argument or an evidentiary hearing on a motion.

The commission may rule upon any motion filed with it on the basis of the record before it and without oral argument. The commission shall hear oral argument or evidence only upon a party's written motion and for good cause shown or upon the commission's own motion. The commission need not rule on a motion that does not clearly request action by the commission.

AUTHORITY: section 621.198, RSMo Supp. 2010. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.490 Hearings on Complaints; Default

PURPOSE: This rule describes the procedures for the setting of, continuance of, and order of proof in hearings on complaints and meets the requirement of sections 536.060 and 536.073.3, RSMo 2000, which requires the commission to make rules providing for disposition in the nature of default judgment.

(1) Notice. The commission shall serve the initial notice of the place, date, and time upon which it will hold the hearing on an agency's complaint on all parties by certified mail, or by personal delivery, except where notice by publication is expressly authorized by statute. The commission may serve any other notice of hearing, or any notice resetting the hearing, by certified mail, regular mail, personal delivery, or any other method provided by law.

(2) Use of Telephone or Videoconferencing Equipment. Any party may, for good cause, request in writing that the hearing be conducted or certain testimony taken by telephone or videoconferencing equipment.

(3) Date.

(A) First Setting. Unless otherwise provided by statute or with the consent of the parties, the commission shall hold no hearing fewer than twenty (20) days after the first issuance of notice.

(B) Resettings. If the commission resets the hearing, it shall send out an amended notice. If the reset date is later than the first setting, the commission may hold the hearing fewer than twenty (20) days from the date of the issuance of the amended notice.

(4) Expedited Hearings and Continuances. The commission may expedite or continue the hearing date upon notice to the parties except as otherwise provided by law. Any party may file a motion for an expedited hearing or a continuance. The motion shall:

(A) Be in writing;

(B) State good cause; and

(C) State whether any party objects to the motion or that efforts to contact the parties have been futile.

(5) Order of Proof. Regardless of which party has the burden of proof except where an agency has filed the complaint, respondent shall present evidence first unless the commission orders otherwise.

(6) Default. If a party fails to appear at hearing, the party shall be in default.

(A) If petitioner defaults, and petitioner has the burden of proof, the commission may dismiss the case for failure to prosecute.

(B) If any party defaults, any other party may present evidence, and the defaulting party shall have waived any objection to such evidence. Such evidence shall constitute the sole evidentiary basis for disposition of the case, unless the commission orders otherwise.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2010. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 536.073.3, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.500 Written Arguments

PURPOSE: This rule sets forth procedures for filing written arguments or proposed findings of fact and conclusions of law after the hearing.

The parties may request, or the commission may order them, to file written arguments, proposed findings of fact and conclusions of law, or both.

AUTHORITY: section 621.198, RSMo Supp. 2010. Original rule filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.510 Transcripts

PURPOSE: This rule sets forth procedures for the availability and correction of a transcript and when the hearing reporter may destroy records.

(1) The parties may request, or the commission may order, that the hearing reporter make a transcript of a hearing. The hearing reporter shall file the transcript with the commission. Any person may purchase a copy of the transcript through the hearing reporter.

(2) Any party may move to correct the transcript no more than ninety (90) days after the hearing reporter files the transcript. The commission on its own motion may order the hearing reporter to correct the transcript any time before the commission finally disposes of the case.

(3) The hearing reporter may destroy any shorthand notes, audio tapes or both of a hearing in any case in which neither the commission nor any party has—

(A) Requested that a transcript be made within sixty (60) days after the commission finally disposes of the case; or

(B) Moved to correct the transcript as provided in section (2) of this rule within ninety (90) days after the court reporter files the transcript.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992.*

**Original authority: 621.198, RSMo 1965, amended 1978.*

1 CSR 15-3.530 Bench Rulings and Memorandum Decisions

PURPOSE: This rule establishes a procedure for parties to obtain a bench ruling or a memorandum decision, as provided by section 536.068, RSMo (Cum. Supp. 1990).

(1) As used in this rule, a bench ruling is an announcement of the ultimate disposition of the case. As used in this rule, a memorandum decision is a writing setting forth the ultimate disposition of the case and the legal analysis supporting the disposition.

(2) The parties may move for either a bench ruling or a memorandum decision to dispose of all or any part of the case. The motion shall be in writing, shall be made jointly by all parties and shall include a waiver by all parties of the provisions of section 536.090, RSMo (1986), relating to the rendering of findings of fact and conclusions of law. The motion shall be accompanied by a brief from each party setting forth the operative facts the party expects to show, the issues those facts raise and the authorities which support the conclusion the party seeks.

(3) The commission may issue a bench ruling orally on the record. The commission shall issue a written form of the bench ruling no later than seven (7) days after the conclusion of the hearing or seven (7) days after the motion is filed, whichever is later. The commission shall deliver or send by certified mail to each party the written form of the bench ruling. The date of issuance is the date issued orally on the record or, if not issued orally, the date of the writing.

(4) The commission shall issue a memorandum decision no later than seven (7) days after the conclusion of the hearing or seven (7) days after the motion is filed, whichever is later. The commission shall deliver or send by certified mail a copy to each party.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992.*

**Original authority: 621.198, RSMo 1965, amended 1978.*

1 CSR 15-3.560 Fees and Expenses

PURPOSE: This rule establishes a procedure to allow parties to make application for fees and expenses when authorized by statute or other law.

A party may file a complaint for litigation fees and expenses as authorized by law. Such complaint shall be a separate contested case. The complaint for fees and expenses shall be governed by Chapter 536, RSMo.

AUTHORITY: section 621.198, RSMo Supp. 2010. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*

1 CSR 15-3.580 Certifications of Records

PURPOSE: This rule sets forth the content of the record and the procedure by which the commission shall cause the record to be certified to a court.

(1) Record Defined.

(A) As used in this rule, the term record has the meaning set forth in section 536.130.1(3), RSMo 1986, unless the parties agree otherwise as provided by section 536.130.1(1) or (2), RSMo.

(B) Unless a party specifically and in writing requests otherwise before the commission has certified the record, the record shall not include:

1. Briefs;
2. Proposed findings of fact; and
3. Proposed conclusions of law.

(2) The commission shall certify and transmit the record as follows.

(A) Agency. In any case under section 621.110, RSMo 2000, in which the commission finds that there is cause for discipline, the commission shall cause the record to be certified, and transmitted, to the agency.

(B) Circuit Court. The commission shall cause the record to be certified to, and filed with, a circuit court as provided in Supreme Court Rule 100.01 within thirty (30) days of the date on which it receives a copy of the petition for judicial review as set forth in section 536.110, RSMo 2000.

(C) Appellate Court. The commission shall cause the record to be certified to, and filed with, an appellate court of original jurisdiction as provided in Supreme Court Rule 100.02 within ninety (90) days of the date on which it receives a copy of the petition for judicial review or notice of appeal as set forth at Supreme Court Rule 100.02(d).

(3) Any party may file a motion with the commission for an amended certification. The commission may file an amended certification to include specified matters omitted from the certification. The commission shall not file an amended certification deleting matters included in the certification.

AUTHORITY: section 621.198, RSMo Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002.*

**Original authority: 621.198, RSMo 1965, amended 1978, 2001.*