

**Title 1—OFFICE OF
ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested
Cases Under Statutory Jurisdiction,
Except Cases [Under Section 621.040, RSMo]
Where Procedure Is Otherwise Provided For By Law**

1 CSR 15-3.320 Stay of Action under Review

PURPOSE: This amendment recognizes that the name of the Division of Liquor Control has been changed by executive order, clarifies certain requirements for a motion for stay or suspension of an agency's actions, and eliminates the requirement for multiple copies.

(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 **name, address and telephone number of the respondent and any attorney representing 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)]***(2) 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) Division of Liquor Control **or any successor thereof**, 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)](3)~~ 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)](2)(B)~~ and ~~[(3)](2)(C)~~ of this rule.

~~[(5)](4)~~ The commission may condition its stay order on the posting of a bond or other security, except as provided in subsection ~~[(3)](2)~~ (B) of this rule. A bond or other security is posted when the commission receives it.

~~[(6)](5)~~ The denial of a motion for stay shall not prejudice the movant's complaint on the merits.

~~[(7)](6)~~ 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)](2)(C)~~ of this rule.

~~[(8)](7)~~ 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)](2)(C)~~ of this rule.

AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2013. 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. Amended: Filed _____, 2016, effective _____, _____.*

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

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.