

**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 15-3.431 Voluntary Dismissal, Settlement, and Consent Orders

PURPOSE: This amendment accommodates the repeal and reenactment of section 620.149 as section 324.038, RSMo, in S.B. 788 (2008).

(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 refile—

(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]**324.038**, RSMo, or contested cases under section 621.045, RSMo.

(B) Cases Under Section [620.149]**324.038**, RSMo, and Contested Cases Under Section 621.045, RSMo. A consent order in a case under section [620.149]**324.038**, 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. 2013. Original rule filed July 2, 2008, effective Jan. 1, 2009. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011. Amended: Filed _____, 2016, effective _____.*

*Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 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.