

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE Division 10—Market Development Chapter 5—Price Reporting

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under sections 277.200 through 277.215, RSMo Supp. 1999, the director hereby adopts a rule as follows:

2 CSR 10-5.010 Price Reporting Requirements for Livestock Purchases by Packers is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2676-2679). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on December 16, 1999 from 10:00 a.m.-11:30 a.m. in the third floor conference room of the Missouri Department of Agriculture Building. No comments were received during the public hearing. No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on Oct. 1, 1999 (24 MoReg 2318). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2318-2319). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received written comments from several sources. The Commission also made a minor grammatical change to the rule by inserting the word "the" before the words "Public Counsel" in section (16).

COMMENT: In section (2), the "certificate of service" refers to "the name of the party served." One comment suggested that this should be "attorney of record served or the name of the party served."

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the suggested wording does clarify the intent. The Commission will amend the provisions to include "attorney of record served" as suggested.

COMMENT: The proposed rule adds a definition, section (2), for "certificate of service," meaning a "document showing the caption of the case, the name of the party served, the date and manner of service, and the signature of the serving party or attorney." One comment states that the Commission should clarify that as long as the certificate of service contains the information required by the new definition, the certificate could be incorporated into a pleading (e.g., at the end of the pleading as is customarily done today).
RESPONSE: The Commission agrees that as long as the certificate of service contains the information required, the certificate could be incorporated into a pleading. The Commission will clarify this intent by adding the words "or page of a document" to the definition.

COMMENT: One comment recommends that section (9) be revised as discussed in the provision regarding section (17). There is a need to balance the public policy preference for open records and the need of the company to protect confidential information.

Highly confidential (HC) information is information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation relating to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations where the party seeking protection from the disclosure of this information has made a showing that the detriment to the party outweighs the public interest in public disclosure.

RESPONSE: The Commission has reviewed the comment and has determined that, although the comment contains some merit, it requires further review. In addition, the proposed changes would be of such a substantial nature that they would best be addressed in a new proposed rulemaking. The Commission will keep the comments in mind for possible future revisions. No changes were made to the proposed rule as a result of this comment.

COMMENT: One comment states that the terms “highly confidential information” and “proprietary information,” found in sections (9) and (17), have been included in the Commission’s “standard” protective order for many years. It is a waste of natural resources for the Commission to issue a separate, multipage protective order in each instance where the text of the protective order has not changed in many years. Therefore, the Commission should adopt a rule containing the text of the protective order. Then, when the Commission decides to issue an order making the protective order apply in a particular case, the Commission can simply issue a one-page order saying the protective order, as provided in the rule, is in effect. If the Commission wishes to issue a non-standard protective order, it can at least incorporate by reference the provisions in the rule that would still apply. This suggestion could save potentially thousands of pieces of paper.

RESPONSE: The Commission has reviewed the comment and has determined that, although the comment contains some merit, further review is necessary. In addition, the matter would best be addressed in a separate rulemaking provision and not in the definitions rule. No changes were made to this rule as a result of this comment.

COMMENT: One comment states that although section (12) purports to define “person,” the term “person” is already statutorily defined and the Commission does not have the statutory authority to expand on a statutorily defined term. There are numerous court cases which say that any rule which expands on or conflicts with a statute is void. See, e.g., *Missourians for Honest Elections v. Missouri Elections Commission*, 536 S.W.2d 766, 772 (Mo. App. E.D. 1976). The rule should simply reference the statutory section.

RESPONSE: The Commission disagrees with the comment’s interpretation and applicability of the cited case. The Commission notes that the proposed definition of “person” is very similar to the current rule’s definition of “person.” The proposed definition substitutes the term “natural person” for the previous term of “individual.” The proposed definition also added the phrase “state or federal agency.” These changes were made to clarify the rule. The Commission finds that these changes are appropriate procedural changes and do not change any substantive rights. No changes were made to the rule as a result of this comment.

COMMENT: One comment indicates that the “Pleading” definition in section (13) should specify that the “staff recommendation” is a pleading so that the response time rule applies. A Staff recommendation is always signed by an attorney for the General Counsel’s Office and is treated in every significant way as if it were a pleading.

COMMENT: Another comment suggests that the Commission should add “staff recommendation” to the enumerated documents

considered to be a pleading in section (13), or at least clarify in its discussion of the final rule that it considers recommendations from the Staff of the Missouri Public Service Commission to be “pleadings.”

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees to amend the definition of pleading to include Staff recommendation.

COMMENT: One comment indicates that section (13) should specify whether a Staff “recommendation” is a pleading or not, or the Commission should direct the Staff to cease filing “recommendations” which are not in the commonly recognized form of a pleading. The most problematic recommendations are those which are issued by the Staff in Actual Cost Adjustment proceedings. Sometimes these recommendations are complex and require more than ten days in which to formulate a response; they are also not in the form of a pleading with numbered paragraphs to which a response either admitting or denying the allegations can be made. If Staff recommendations are to continue in the current form, they should not be considered pleadings for purposes of the rule because the response time would be too short in most cases, and thus the Commission should issue orders specifying the response time in each instance.

RESPONSE AND EXPLANATION OF CHANGE: As previously noted, the Commission finds that the definition of pleading should be amended to include Staff recommendation. If a party believes that in a particular case the standard response time is inadequate, it may file a motion requesting additional time. As a result of this and other comments, the Commission will amend the definition of pleading to include Staff recommendations.

COMMENT: A comment states that section (17) should be revised. It appears that the standard protective order mixes the scope of protection for proprietary and highly confidential (HC) information. Suggested language is as follows: “Proprietary Information - information concerning trade secrets, as well as confidential or private technical, financial and business information where the party seeking protection from the disclosure of this information has made a showing that public disclosure of the information would be detrimental to the party’s marketing and strategic planning of competitive products or services.”

RESPONSE: The Commission has reviewed this comment and determines that the rule is appropriate as written. However, if the Commission later decides to promulgate a new rule addressing protective orders, as suggested by another comment, the Commission will then reevaluate the definitions of “highly confidential information” and “proprietary information.” No changes were made to the rule as a result of this comment.

COMMENT: The Commission received a comment suggesting that although section (18) purports to define “public utility,” the term “public utility” is already defined in Section 386.020(42), RSMo 1994. The comment contends that the Commission does not have the statutory authority to expand on a statutorily defined term. There are numerous court cases which say that any rule which expands on or conflicts with a statute is void. See, e.g., *Missourians for Honest Elections v. Missouri Elections Commission*, 536 S.W.2d 766, 772 (Mo. App. E.D. 1976). The rule should simply reference the statutory section.

RESPONSE: The Commission disagrees with the comment’s interpretation and applicability of the cited case. The Commission notes that proposed definition of “public utility” is very similar to the current rule’s definition of this term. The changes are appropriate procedural changes intended to clarify the rule and are not intended to change any substantive rights. No changes were made to the rule as a result of this comment.

4 CSR 240-2.010 Definitions

(2) Certificate of service means a document or page of a document showing the caption of the case, attorney of record served or the name of the party served, the date and manner of service, and the signature of the serving party or attorney.

(13) Pleading means any application, complaint, petition, answer, motion, staff recommendation, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition.

(16) Public counsel means the Office of the Public Counsel as created by the Omnibus State Reorganization Act of 1974, and includes the assistants who represent the public before the commission.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.015 Waiver of Rules is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2319). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received one comment regarding the proposed rule.

COMMENT: One comment indicated opposition to this revision, stating that the rule is too broad and does not provide adequate due process safeguards, including notice and opportunity to be heard on the proposed waiver. At a minimum, the rule should provide that the Commission may waive or modify a rule upon application of a party, with proper notice and an opportunity to intervene, and with adequate and reasonable opportunity to be heard, for good cause shown. It is error for the Commission not to follow its own rules. The broad, open-ended waiver provision leaves the rules and their application solely at the Commission's discretion and whim and does not provide the predictability and protection that the rules of procedure are designed to provide.

RESPONSE: The Commission has reviewed the comment and finds that it is in the public interest to include a waiver provision in the rules. No changes were made to the rule as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.040 Practice Before the Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2320). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.040 Practice Before the Commission is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2320). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received two comments, one in support and one in opposition to the proposed rule.

COMMENT: One comment simply notes support of the proposed rule.

RESPONSE: The Commission appreciates the comment in support of the rule. The comment does not propose any changes and none were made as a result of this comment.

COMMENT: The new Section (6) allows an attorney to withdraw from a case at the Commission only with leave of the Commission. Attorneys in this state are governed as to their conduct by rules adopted by the Missouri Supreme Court. The Public Service Commission is not a court, and has no inherent authority over the ethical conduct of attorneys. While rule 4-1.16 of the Supreme Court Rules indicates that a "tribunal" can order an attorney to continue representing a client notwithstanding good cause for terminating the representation, there do not appear to be any provisions similar to proposed Section (6). Further, the comments to rule 4-1.16 indicate that there are situations where a client has a right to terminate a lawyer, and there are situations where a lawyer must withdraw from representation (mandatory withdrawal). There appears to be a conflict between Supreme Court Rule 4-1.16, e.g., a client's right to dismiss a lawyer at any time, and the Commission's unauthorized attempt to inject itself into that relationship. There is little, if any, authority for the Commission to promulgate rules regarding attorney conduct in this situation. Additionally, the Commission has provided no explanation in the Purpose section as to why this new provision is necessary. For these reasons, the Commission should not adopt this provision.

RESPONSE: The Commission has reviewed the comment and the rule and has determined that the requirement is within the Commission's authority. No changes were made to the rule as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.050 Computation of Effective Dates is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2320–2321). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. Although most of the comments received were directed to the proposed rule, some comments are pertinent to the rescission and are noted here.

COMMENT: One comment notes that the former section (2) relating to the calculation of time if the allowed time is less than seven days should not be deleted. Deleting this provision would effectively reduce the time to respond by two or three days under the present rule practice. Clearly, four or five days is an unreasonable response time in many situations.

COMMENT: Another comment indicates that this proposed rule describes how periods of time prescribed by the Commission are to be computed. Section (2) of the current version of the rule provides an exception in such computations for periods of time less than seven days. In such cases, Saturdays, Sundays or legal holidays falling within the period are excluded from computation and the period is extended accordingly. The new rule eliminates this exception. Eliminating this exception will unduly shorten the time for a party to perform the required act (e.g., prepare and submit a responsive filing). As it is, parties routinely lose two to four days due to delay in mail delivery. In some cases, the delay has been five to seven days. Eliminating the current computational exception in section (2) could cause a party to lose most (and in some cases all) of its time to prepare and file a responsive pleading. The commenter requests that the Commission retain section (2) of the current rule 2.050.

RESPONSE: The Commission has reviewed these comments and finds that the deletion of former section (2) is appropriate. Section (12) of 4 CSR 240-2.080, Pleadings, specifically addresses the time allowed for responses to motions or other pleadings. However, the Commission has determined that 4 CSR 240-2.050 should be clarified by deleting the word “order” in the section (1). Section (2) shall be clarified by adding the phrase “the day the order was issued shall not be included, and” after the words “In computing the effective date of any order of the commission.” In addition, the rule is more properly titled “Computation of Time” and not “Computation of Effective Dates,” so the title has been revised. Therefore, the Commission has amended the rule but not in the manner requested by the comments.

COMMENT: One comment opposes the deletion of the phrase “except after the effective date of a tariff” in subsection (3)(B). Once a tariff is effective, it becomes law and cannot be modified without restarting the tariff process. The Public Service Commission cannot do by rule what the general law does not permit it to do.

RESPONSE: The Commission believes the deleted phrase is unnecessary. No changes were made to the rule as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2321). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received several written comments on this rule.

COMMENT: One comment indicates that the former section (2) relating to the calculation of time if the allowed time is less than seven days should not be deleted. Deleting this provision would effectively reduce the time to respond by two or three days under the present rule practice. Clearly, four or five days is an unreasonable response time in many situations.

COMMENT: another comment notes that this proposed rule describes how periods of time prescribed by the Commission are to be computed. Section (2) of the current version of the rule provides an exception in such computations for periods of time less than seven days. In such cases, Saturdays, Sundays or legal holidays falling within the period are excluded from computation and the period is extended accordingly. The new rule eliminates this exception. Eliminating this exception will unduly shorten the time for a party to perform the required act (e.g., prepare and submit a responsive filing). As it is, parties routinely lose two to four days due to delay in mail delivery. In some cases, the delay has been five to seven days. Eliminating the current computational exception in section (2) could cause a party to lose most (and in some cases all) of its time to prepare and file a responsive pleading. The commenter requests that the Commission retain section (2) of the current rule 2.050.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed these comments and finds that the deletion of former section (2) is appropriate. Section (12) of 4 CSR 240-2.080, Pleadings, specifically addresses the time allowed for responses to motions or other pleadings. However, the Commission has determined that 4 CSR 240-2.050 should be clarified by deleting the word “order” in the section (1). Section (2) shall be clarified by adding the phrase “the day the order was issued shall not be included, and” after the words “In computing the effective date of any order of the commission.” In addition, the rule is more properly titled “Computation of Time” and not “Computation of Effective Dates,” so the title has been revised. Therefore, the Commission has amended the rule but not in the manner requested by the comments.

COMMENT: One commenter opposes the deletion of the phrase “except after the effective date of a tariff” in subsection (3)(B). Once a tariff is effective, it becomes law and cannot be modified without restarting the tariff process. The Public Service

Commission cannot do by rule what the general law does not permit it to do.

RESPONSE: The Commission believes the deleted phrase is unnecessary. No changes were made to the rule as a result of this comment.

COMMENT: One comment contends that the Commission should expand the grounds for permitting late action to include both excusable neglect and *force majeure* in subsection (3)(B). If uncontrollable events preclude action, the failure to meet the deadline really does not qualify as neglect.

RESPONSE: The Commission notes that both the proposed rule and the current rule refer to "excusable neglect." The Commission determines that "excusable neglect" is an appropriate standard and declines to make the suggested change.

4 CSR 240-2.050 Computation of Time

(1) In computing any period of time prescribed or allowed by the commission, the day of the act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. This rule does not apply when the commission establishes a specific date by which an action must occur, nor does it operate to extend effective dates which are established by statute.

(2) In computing the effective date of any order of the commission, the day the order was issued shall not be included, and the order is considered effective at 12:01 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.060 Applications is rescinded.

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2321). No changes were made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule and are summarized there.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.060 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2321–2324). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment was received which stated that Section (1) required too much information and that the rule should only apply to Subsections (1)(A), (I), and (J).

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

COMMENT: One comment suggested that the language in Subsection (1)(A) which requires a "statement of the nature of each applicant" was too vague and suggested using the phrase "a brief description of the legal organization of each applicant."

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment suggested that the Commission does not have the authority to require an applicant to have and to provide an electronic mail address. The comment also stated that "In the case of a corporate applicant, it may have thousands of electronic mail addresses, or it may have none."

RESPONSE: The Commission has considered this comment and has made no change in response thereto. The Commission adds that if an applicant has no electronic mail address, it is not required to obtain one. The Commission also adds that an applicant with many electronic mail addresses need only choose one, similar to choosing one street address for an applicant with offices located in many different locations.

COMMENT: One comment stated that Subsection (1)(F) requires a political subdivision to include a cite to or a copy of the statutory provision(s) or other authority(ies) under which it operates. The comment stated that this provision might cause applicants to file a lot of citations or a lot of pages of photocopied materials.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: There were several comments on Subsection (1)(K). Most of the comments described the difficulty with which applicants would have in keeping track of judgements against such applicants. Several comments suggested deleting the subsection altogether or, if the subsection were not deleted, then restricting its application time-wise.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and has made a change in response thereto. The Commission also notes that the subsection merely calls for a statement concerning the existence of such a case or cases, not a list of the cases.

COMMENT: One comment on Subsection (1)(L) stated that the Commission should already know if any applicant has any overdue annual reports or assessment fees, thus this subsection is unnecessary.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made no change in response thereto. However, the Commission has removed the word "verified" from the subsection since the statement concerning reports or fees must be made in an application which is verified; the use of the word in the subsection is redundant.

COMMENT: One comment suggested that the requirement in Subsection (8)(E) for an applicant to include a list of all documents generated relative to the analysis of a merger and acquisition should be deleted since it could result in very large applications.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment suggested that the distinction between "variance" and "waiver" should be made in Subsection (14). Another comment stated that the Commission had no authority to waive any statutory provisions.

RESPONSE: The Commission has considered these comments and has made no change in response thereto.

COMMENT: One comment suggested that in Subsection (15)(A), the phrase "description of the structure" should be changed to "brief description of the type of structure." The comment also suggested that the phrase "if any" should be added following the phrase "the street address of the structure."

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and has made a change in response thereto.

COMMENT: Two comments suggested that Subsection (16) should be expanded to show that the Commission can only recognize name changes, not approve them.

RESPONSE: The Commission has considered these comments and has made no change in response thereto.

NOTE AND EXPLANATION OF OTHER CHANGES: A typographical error has been corrected in sections (3) and (4).

4 CSR 240-2.060 Applications

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(A) The legal name of each applicant, a brief description of the legal organization of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;

(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to the statutory provision and a specific reference to any other authority, if any, under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)-(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application;

(L) A statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized.

(3) Competitive telecommunications companies are exempt from subsections (7)(A)-(E), (8)(A)-(E), and (11)(C)-(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

(4) In addition to the requirements of section (1), applications for a certificate of convenience and necessity by a gas, electric, water, sewer or heating company shall include the following information:

(8) In addition to the requirements of section (1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) For gas, electrical, water, sewer and telecommunications companies, a statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(15) In addition to the requirements of section (1), applications for commission authority for a change of electrical suppliers shall include:

(A) A description of the type of structure where the change of supplier is sought, and the street address, if any, of the structure;

(B) The name and address of the electrical supplier currently providing service to the structure;

(C) The name and address of the electrical supplier to which the applicant wishes to change;

(D) The applicant's reasons for seeking a change of supplier;

(E) If the applicant's reasons involve service problems, a description of the problems and dates of occurrence, if known;

(F) If the applicant's reasons involve service problems, a description of the contacts which applicant has had with the current supplier regarding the problems, if any, and what efforts the current supplier has made to solve the problems, if any;

(G) The reasons a change of electrical suppliers is in the public interest;

(H) If the current electrical supplier and the requested electrical supplier agree to the requested change, a verified statement for each supplier with the application, indicating agreement; and

(I) If the applicant is an electrical supplier, a list of the names and addresses of all customers whose electrical supplier is proposed to be changed.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.065 Tariff Filings Which Create Cases is rescinded.

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2324). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule and are summarized there.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.065 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2324–2325). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: There were several comments on Subsection (1). One comment stated that the proposed rule would add a burden to a company, i.e., making the same people who are involved in the preparation of the filing also responsible for the filing of the direct testimony. Other comments stated that the term “general rate increase” needs to be defined. Some comments stated that if the Commission wants an accelerated process in general rate increase cases that it should benefit all parties, e.g., by not suspending the tariffs for the full statutory period.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered all these comments. One change was made in response thereto.

COMMENT: One comment on Subsection (2) stated that the phrase, “Except when the Commission orders the filing of a tariff . . .” should be added at the beginning of that Subsection to make it clearer that it does not apply to compliance tariff filing.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment on Subsection (2) opposed deleting the “good cause” part of the expedited portion of the former rule.

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

COMMENT: One comment on Subsection (3) stated that the requirement of attaching a copy of the subject tariff could be burdensome and unnecessary.

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

COMMENT: One comment on Subsection (5) stated that the rule should provide that the copy should be served upon the Office of the Public Counsel pursuant to Section 386.710.2 RSMo.

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

4 CSR 240-2.065 Tariff Filings Which Create Cases

(1) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility’s tariffs. When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) Except when the Commission orders the filing of a tariff, when a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.070 Complaints is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2325). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.070 Complaints is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2325-2326). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received two written comments to section (1) and one written comment each to sections (3), (5), (6) and (9). In addition, the Commission received one written comment not related to a particular section of the rule.

COMMENT: One comment in opposition of part of section (1) was received. The commenter stated that the Commission's proposal to allow the Commission Staff through its general counsel to file a complaint with the Commission would be an attempt to extend or modify a statute by rule which is specifically prohibited in the case of *Missourians for Honest Elections v. Missouri Elections Commission*, 536 SW2d 766, 772 (Mo.App.E.D. 1976). The commenter states that the parties who are authorized to file a complaint before the Commission are listed in section 386.390, RSMo 1994, which does not include the Commission Staff. One comment in support of this part of section (1) was also received. RESPONSE: The Commission disagrees with the commenter's interpretation and applicability of *Missourians for Honest Elections v. Missouri Elections Commission*, 536 SW2d 766, 772 (Mo.App.E.D. 1976). The Commission has authority under section 386.390, RSMo, to make a complaint and the authority under section 386.240, RSMo, to delegate that authority to the Commission Staff. The Commission finds that the rule is appropriate as proposed and no changes are necessary.

COMMENT: One comment was received which suggested that the first sentence of Section 2.070(3) should read as follows: If a complainant does not choose to pursue the informal complaint process, or if the complainant is not satisfied with the outcome of the informal complaint process, a formal complaint may be filed.

RESPONSE: Section (1) of the proposed rule clearly states that the complainant "has the option to file either an informal or a formal complaint." Therefore, the Commission finds that no changes are needed to this rule as a result of this comment.

COMMENT: One commenter proposed the following additional language be added to section (5): "The Commission secretary shall make available complaint forms and distribute the forms upon request to assist and simplify the filing of complaints."

RESPONSE: The Commission makes its complaint forms available to the general public upon request. The Commission will be revising its procedures in the near future to allow for electronic filing of some documents. Electronic filing may require that the Commission's forms be updated into a format which is compatible with its new system. Therefore, the Commission did not include these forms in this rule as they would have been cumbersome and would not easily have been revised or updated. No changes were made to this rule as a result of this comment.

COMMENT: One commenter filed a comment in support of the language of section (6) which requires notice before dismissing a complaint. The commenter supports this notice requirement because this allows the complainant an opportunity to present arguments as to why the complaint should not be dismissed.

RESPONSE: The Commission finds that no changes to this rule are necessary as a result of this comment.

COMMENT: One comment expressed support of section (9) which provides procedures for default and for setting aside the default. The commenter's remarks indicated that this would allow a complaint to proceed in a timely fashion even if a utility chooses to ignore the complaint or otherwise fails to respond.

RESPONSE: The Commission finds that no changes to this rule are necessary as a result of this comment.

COMMENT: One comment was received which recommended that the Commission adopt additional rules to provide for an expedited complaint resolution.

RESPONSE: The Commission has procedural rules that provide for motions for expedited treatment. Furthermore, the Commission finds that these suggested changes are very extensive and would amount to an entire new rule being promulgated without the benefit of public notice and comment. The Commission has procedures set out under 4 CSR 240-2.180(3) for parties to submit a petition for the promulgation of a new rule. Therefore, the Commission has determined that no changes will be made as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.075 Intervention is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2326). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.075 Intervention is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2326–2327). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment was received regarding each of sections (2), (5) and (6). Two written comments were received regarding section (4).

COMMENT: A comment was received which proposed that a new subsection be added, or subsection (2) be amended to allow persons who request intervention immediate status as a party pending a ruling by the presiding officer. The commenter proposed the following new language: Rights of persons with pending motions to intervene. Persons who have filed motions to intervene shall have all the rights and obligations of a party pending the presiding officer's ruling on the motion to intervene.

RESPONSE: The Commission finds that no changes are necessary as a result of the comment. Intervention is not always a matter of right and therefore, the potential intervenors should not be given rights and burdens should not be placed on the parties to the case, until a determination regarding the request for intervention has been made. There are also provisions within the Commission's procedural rules for requests for expedited treatment, if a potential intervenor seeks expedited consideration.

COMMENT: One commenter suggests that in section (4) the phrase "The commission may on application permit any person to intervene" be changed to "The commission shall. . ." The commenter argues that if the required showing is made under subsection (4), that the intervenor should be granted intervention as a matter of right.

RESPONSE: Intervention is not always a matter of right, but is sometimes a discretionary function of the Commission. Therefore, the Commission finds that no changes are necessary to this rule as a result of the comment.

COMMENT: One comment was received in opposition to section (4). The commenter disagrees with requiring the applicant to show at the very early stages of the case that it may be adversely affected by a final order. Sprint states that this may preclude the participation of many parties which have an interest or which will have an interest as the case progresses because it is often not known when notice is first provided of the case precisely what issues will be addressed.

RESPONSE: The rule as proposed does not require that a potential intervenor show that it will be adversely affected by the final order of the Commission. The proposed rule requires only a showing that the potential intervenor "may be adversely affected." Therefore, the Commission determines that no changes to this rule are needed as a result of this comment.

COMMENT: One commenter suggested that section (5) should be amended to provide criteria for determining when a late intervention should be granted.

RESPONSE: The Commission has considered the criteria for determining when a late intervention should be granted as suggested in the comment. However, the Commission finds that the standard of "good cause" is sufficient. Therefore the Commission finds that no changes are needed to this rule as a result of this comment.

COMMENT: One written comment suggested that "the Commission adopt a[n] *amicus curiae* procedure like in the Missouri Rules of Civil Procedure 84.05(f)(2). The rule should provide for an application for *amicus curiae* to set out the reasons why the PSC should grant the party relief to file a brief. The application should include the nature of the party's interest and the facts or questions of law the party proposes to address." The commenter also stated that it supports the replacement of the "participant without intervention" as provided in the current rule with an "*amicus curiae*" as provided in the proposed rule.

RESPONSE: In the Commission's experience, the numbers of persons making application to participate without intervention have been relatively few. The Commission anticipates that there will be relatively few parties asking to enter cases as an *amicus curiae*, as well. Therefore, the Commission finds that the procedure as proposed in section (6) will provide sufficient information and the more strict standards of Civil Rule 84.05(f)(2) are not necessary. No changes to this rule were made as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.080 Pleadings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2327). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.080 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2327-2328). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment each was received to sections (2), (6), (7), (10), two written comments each to sections (8) and (18), eight written comments to section (16), and three written comments to section (17) were received. One commenter suggested a new section (21). The Commission also made one change to section (5) upon its own review.

COMMENT: One commenter stated that section (2) should not require the signing of a pleading or brief to provide its electronic mail address because none of the statutes governing the means of communication by the Commission authorizes it.

RESPONSE: The Commission has the statutory authority to adopt procedural rules. The Commission finds that its ability to communicate quickly and efficiently with counsel for parties before it will be enhanced by having an electronic mail address for counsel if one exists. The Commission notes that in the same document this commenter applauds the Commission's attempts to reduce paper filings and recommends the Commission utilize electronic filing as much as possible and recommends that service by facsimile be added to the methods of service on parties' attorneys. The Commission fails to see why the commenter would not also want the Commission to communicate with the parties or their attorneys in the most expedient manner possible. Therefore, the Commission finds that no changes are necessary to this rule as a result of this comment.

COMMENT: One comment was received supporting the restatement of general ethical responsibilities of counsel in section (7).

RESPONSE: No changes to this rule are necessary as a result of this comment.

COMMENT: Two commenters applauded the Commission for reducing its filing requirements from 14 copies to 8 copies. One of those commenters encouraged the Commission to reduce paper filings even more by utilizing electronic filing as much as possible.

RESPONSE: The Commission expects to have ready a system by which electronic filings can be possible in the near future. When that system is ready, it will be necessary for the Commission to revise its procedural rules to accommodate that method of filing. However, until the Commission has the systems and technology in place, the Commission has reduced the number of paper copies required. The Commission finds that no changes to this rule are necessary as a result of this comment.

COMMENT: One comment in support of the Commission's reduction in the number of copies needed for filing a complaint was received.

RESPONSE: No changes to this rule are necessary as a result of this comment.

EXPLANATION OF OTHER CHANGES: Upon review of the proposed rule, the Commission finds that the word "stricken" is incorrect and should be replaced by the word "rejected" in section (5). In this context, "stricken" would incorrectly imply that the pleading or brief was accepted by the Commission to be filed and then removed from the record. The term "rejected" would correctly mean that the pleading or brief was never accepted for filing with the Commission.

COMMENT: One comment was received suggesting that for grammatical reasons, the phrase "By signing a pleading," should be added to the beginning of section (6).

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the comment and for clarity and consistency the Commission will make the change as recommended.

COMMENT: Seven comments were received objecting to the shortening of the time to respond from ten days to seven days in proposed section (16) and one comment supported the shortened response time with an amendment. The commenters cited holidays and weekends, postal service delays, and the ability of parties to request a shortened response time where necessary under other rules of the Commission, as reasons for objecting to this proposed rule. Two commenters suggested that the response period in section (16) could be seven days if the Commission allowed an additional three days where service of the pleading was made by mail. Two commenters also suggested that requiring or permitting service by facsimile would help to shorten the response time.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments and has determined that the time period for filing a response should be ten days. However, the Commission notes that by operation of law, when the tariff effective date or operation of law date occurs sooner than ten days from the filing of the pleading, the responsive party may not have a full ten days available to respond before the Commission takes action. Therefore, the Commission finds that section (16) should be amended.

COMMENT: Two identical comments were received which stated that the requirement of subsection (17)(C) is inappropriate. The commenter stated that the information was not relevant to the issue of whether expedited treatment should be granted. The commenter stated that the information could only be used to assign blame that is not an appropriate consideration in making a determination of whether expedited treatment is in the public interest.

RESPONSE: Proposed section (17) of this rule, sets up a procedure for requesting expedited consideration of a case. The Commission does not intend to use subsection (C) as a means of punishing parties who might suffer harm, or where failure to expedite might cause harm to the general public, because the party has caused a delay in requesting expedited treatment. However, the Commission also does not intend to reward bad actors or take extraordinary measures in cases where the requesting party has orchestrated, by intent or neglect, its own emergency. Therefore, the Commission finds that no change to this rule is needed as a result of this comment.

COMMENT: One commenter suggested that section (17) regarding motions for expedited treatment should also include a requirement for disclosure of any negative effect the request may have on the company's customers or the public.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter. Knowing the negative effect, if any, on the public of expediting the request is important to the Commission. Therefore, the Commission will amend this rule to include this recommendation.

COMMENT: One commenter stated that proposed subsection (17)(C) should be amended by changing the words "An attestation by the moving party" to "A statement in the pleading by the moving party or counsel."

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed this subsection and agrees that an amendment should be made. When read in conjunction with the opening phrases of section (17) and with the Commission rule requiring pleadings to be verified, the Commission determines that the only revision necessary to this rule is to strike the words "An attestation by the moving party" because they are unnecessary.

COMMENT: Two commenters suggested that section (18) be amended to allow for service by facsimile. One commenter also suggested that service be allowed by electronic mail.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees that electronic communication should be utilized as much as possible and where practicable. Several comments were received indicating a desire for service by facsimile. The Commission will amend this rule to include service by facsimile. The Commission also believes that service by electronic mail where possible is an efficient manner of obtaining service. Therefore, the Commission will also amend this rule to allow for service by electronic mail.

COMMENT: One commenter suggested that a section for amending pleadings be added.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter that a procedure for amending pleadings should be added. The Commission finds it reasonable to include a procedure similar to the one found in Missouri Supreme Court Rule 55.33. Therefore, the Commission will amend this rule to include a procedure for amending pleadings as new section (21).

COMMENT: Two comments were received suggesting that the Commission's choice to propose a new rule rather than amend the old rule made evaluation of the rule too difficult. The commenter stated that if the Commission had used a method of deletions and additions "the cost and efficiency of the presentation would be more than outweighed by the cost and efficiency of the analyses by affected parties."

RESPONSE: The comment was not addressed to the specific provisions of the rule, but rather to the method by which the Commission chose to complete its rulemaking. The Commission considered the commenter's method before proposing this rule. However, because of the numerous changes being made, the Commission determined that it would be less confusing for the general public to see the rule in its entirety when published in the *Missouri Register*, than if a series of deletions and additions was published. Therefore, the Commission determines that no changes are necessary as a result of this comment. The Commission will consider these comments in future rulemaking proceedings.

4 CSR 240-2.080 Pleadings, Filing, and Service

(5) An unsigned pleading or brief shall be rejected.

(6) By signing a pleading, the signer represents that he or she is authorized to so act, and that the signer is a licensed attorney-at-law in good standing in Missouri or has complied with the rules below concerning any attorney who is not a Missouri attorney or is appearing on his or her own behalf.

(16) Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

(17) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." The pleading shall also set out with particularity the following:

(A) The date by which the party desires the commission to act;

(B) The harm that will be avoided, or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party's customers or the general public, if the commission acts by the date desired by the party; and

(C) That the pleading was filed as soon as it could have been or an explanation why it was not.

(18) Methods of Service.

(A) Any person entitled by law may serve a document on a represented party by—

1. Delivering it to the party's attorney;
 2. Leaving it at the office of the party's attorney with a secretary, clerk or attorney associated with or employed by the attorney served;
 3. Mailing it to the last known address of the party's attorney;
- or
4. Facsimile transmission to the current facsimile machine of the party's attorney.

(B) Any person entitled by law may serve a document on an unrepresented party by—

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

(C) Completion of Service.

1. Service by mail is complete upon mailing.
2. Service by facsimile transmission is complete upon actual receipt.

3. Service by electronic mail is complete upon actual receipt.

(21) Any pleading may be amended within ten (10) days of filing, unless a responsive pleading has already been filed, or at any time by leave of the commission.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.085 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2328-2329). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received from two people.

COMMENT: One comment was received which indicated that proposed section (2) creates a problem when used in conjunction with proposed 4 CSR 240-2.065. Section (1) of proposed rule 2.065 requires that a public utility filing a general rate case must file its direct testimony along with the proposed tariff. The commenter explains that when the tariff is filed, there will be no protective order in place to protect highly confidential or proprietary information included in that direct testimony. Thus the commenter suggests that the Commission allow some time between when the direct testimony is due and the tariff filing so that a motion for a protective order can be filed with the tariff and issued before the testimony is due. The commenter also states that this will conform with the requirement in section (15) of proposed 4 CSR 240-2.130 which requires a protective order to be obtained before the filing of documentary evidence.

RESPONSE AND EXPLANATION OF CHANGE: The commenter points out a conflict in the procedural rules as originally proposed. The Commission will revise section (2) of this rule to include the testimony required in section (1) of proposed rule 4 CSR 240-2.065. The Commission is also revising section (15) of proposed rule 4 CSR 240-2.130 to reflect this change.

COMMENT: Two commenters recommended that the highly confidential and proprietary copies of pleadings in proposed section (2) should be served on the attorneys of record rather than the parties in order to protect the confidentiality of those pleadings.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter. The proposed rule inadvertently required service on the parties rather than on the parties' attorneys. The Commission will amend section (2) as recommended.

COMMENT: One general comment in support of this rule was received. The commenter indicated that the Commission should move away from blanket protective orders and tailor each protective order to the specific information sought to be protected and justified in the motion for protective order.

RESPONSE: No changes to this rule are necessary as a result of this comment.

COMMENT: One general comment was received recommending that the Commission adopt the text of its standard protective order in the body of this rule. The commenter stated that "[i]t is a waste of natural resources for the Commission to issue a separate, multi-page protective order in each instance when the text of the protective order has not changed in many years." The commenter states that the Commission can save thousands of pieces of paper by issuing a single page order saying that the protective order as set out in the rule is in effect. The commenter states that the Commission would also be able to issue non-standard protective orders when necessary.

RESPONSE: The Commission has reviewed the "standard" protective order to which the commenter refers. Contrary to the statement of the commenter, the Commission's "standard" protective order has changed in recent years. The Commission has determined that additional revisions may be needed as well. The Commission finds that inclusion of the text of that "standard" order should only be done after careful consideration and with a chance for comments on the specific language included. Furthermore, inclusion of the protective order language would be cumbersome in this rule. The Commission's current practice of issuing a protective order on a case-by-case basis remains the appropriate method for establishing protective orders. Therefore, the Commission finds that no changes to this rule are needed as a result of this comment.

4 CSR 240-2.085 Protective Orders

(2) Pleadings, testimony, or briefs shall not contain highly confidential or proprietary information unless a protective order has been issued by the commission; except that if the pleading which initiates a case or testimony accompanying a pleading initiating a case contains highly confidential or proprietary information, then the party shall file one (1) original, and eight (8) copies of the public version; and one (1) original, and eight (8) copies of the complete version containing the information to be protected, together with a Motion for Protective Order. A highly confidential or proprietary copy of the pleadings shall be served on the attorneys of record, including general counsel and the public counsel.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.090 Discovery and Prehearings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2329). No changes were made in the proposed rescis-

sion, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.090 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2329-2330). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received regarding sections (1), (2), (5), (7) and (8).

COMMENT: One comment was received objecting to proposed section (2). The commenter stated that data requests should not be required to be signed by a person who could attest to the truthfulness and correctness of the answers. The commenter explains that parties to proceedings before the Commission have three basic methods of obtaining information through discovery. Two of these methods are identical to those used in circuit courts as provided by Rule 57, Interrogatories and Depositions, under the Rules of Civil Procedure. Both interrogatories and depositions are provided under oath. The third method, data requests, are provided for in the current and proposed rules of the Commission. This method has not been required to be submitted under oath. The commenter suggests that requiring the data requests to be signed as proposed, will not insure greater accuracy in the answers provided in the data requests, but will only slow down the process by requiring the party answering the request to track down a person who will be able to swear to the statement's truthfulness. The commenter also does not believe this is necessary because under section 386.560, *Revised Statutes of Missouri*, it is a criminal act to make a false statement required to be made to the Public Service Commission. The commenter also disagrees with the proposal in section (2) that requires the answering party to promptly notify the requesting party of any changes to the answers previously given to a data request. The commenter states that this requirement is too burdensome and is not required due to the process of prefiled written testimony used in most Commission proceedings.

RESPONSE AND EXPLANATION OF CHANGE: The purpose of the discovery process is to provide accurate information to the requesting party. The Commission utilizes the discovery methods of interrogatories and depositions as found in the Civil Rules of Procedure. In addition, the Commission's current rules and the proposed rule, provides for an additional method of discovery known as data requests. Data requests are meant to provide information to the requesting party in a more expedited fashion than interrogatories and depositions. However, data requests are not intended to provide less accurate information. After reviewing the comments and analyzing the rule as proposed, the Commission determines that a change to proposed section (1) is necessary to clarify the methods of discovery. The Commission determines that a change to proposed section (2) is necessary to clarify that the

person signing the data requests not only can, but will, attest to the truthfulness of the reply if necessary. The Commission also determines upon review of the rule that the language referring to sanctions for misconduct involving data requests should be clarified. Therefore, the Commission will amend section (1) and (2) of this rule.

COMMENT: One comment was received suggesting that proposed section (5) be amended to include a reference to being excused for good cause, identical to the language for hearings in proposed rule 2.110(2)(B).

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed the suggested amendment and finds that it is reasonable to amend section (5) so that it is consistent with other rule proposed by the Commission.

COMMENT: One comment was received suggesting that proposed section (7) specify that settlement offers are also privileged.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that settlement offers should be added to the items which are privileged during prehearing conferences. Therefore, the Commission will amend section (7).

COMMENT: One commenter suggested that proposed section (8) be amended by adding a sentence stating, "No party shall file a motion to compel or motion for sanctions without first making a good faith effort to resolve the dispute informally." A similar comment was received from another commenter suggesting that section (8) of the rule be clarified to make it clear that the Commission is requiring a moving party to make informal good faith attempts to resolve discovery disputes prior to seeking a Commission order. The commenter points out that this would be similar to the "golden rule" followed by many circuit courts.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments to section (8) and determines that it would be appropriate for parties to Commission cases to follow a "golden rule" regarding discovery motions, similar to that followed by parties to cases in the United States District Court, Western District of Missouri, Rule 37.1 Discovery Motions. Therefore, the Commission will revise section (8) to include a "golden rule" for discovery motions.

4 CSR 240-2.090 Discovery and Prehearings

(1) Discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court. Sanctions for abuse of the discovery process or failure to comply with commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure.

(2) Parties may use data requests as a means for discovery. The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission. If the recipient asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons for its inability to answer. Upon agreement by the parties or for good cause shown, the time limits may be modified. As used in this rule, the term data request shall mean an informal written request for documents or information which may be transmitted directly between agents or employees of the commission, public counsel or other parties. Answers to data requests need not be under oath or be in any particular format, but shall be signed by a person who is able to attest to the truthfulness and correctness of the answers. Sanctions for failure to answer data

requests may include any of those provided for abuse of the discovery process in section (1) of this rule. The responding party shall promptly notify the requesting party of any changes to the answers previously given to a data request.

(5) Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(7) Facts disclosed in the course of a prehearing conference and settlement offers are privileged and, except by agreement, shall not be used against participating parties unless fully substantiated by other evidence.

(8) Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.100 Subpoenas is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2330). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2330). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three sets of comments were received suggesting changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: Two commenters suggested additional time should be allowed to file objections to a subpoena.

RESPONSE AND EXPLANATION OF CHANGE: The commission accepts this suggestion and has changed the time allowed to file an objection from 7 days to 10 days.

COMMENT: One commenter suggested that the proposed rule should apprise a party of the manner in which a subpoena may be enforced.

RESPONSE AND EXPLANATION OF CHANGE: The commission accepts this suggestion and has added a section to the rule.

COMMENT: One commenter suggested that the process to obtain a subpoena be streamlined by providing signed blank subpoenas to attorneys in order to accommodate “fast track” procedures presented in many commission proceedings.

RESPONSE: This suggested change is unnecessary. The proposed rule provides for signature by a law judge pursuant to a delegation of authority. Previously only the secretary of the commission or a commissioner signed subpoenas. This change should shorten the processing time to obtain the issuance of a subpoena.

4 CSR 240-2.100 Subpoenas

(3) Objections to a subpoena or subpoena duces tecum or motions to quash a subpoena or subpoena duces tecum shall be made within ten (10) days from the date the subpoena or subpoena duces tecum is served.

(5) If there is a failure to comply with a subpoena or a subpoena duces tecum after objections or a motion to quash have been determined by the commission, the commission by its counsel or the party seeking enforcement may apply to a judge of the circuit court of the county in which—the hearing has been held, is being held, or is scheduled to be held, or where the witness resides or may be found—for an order enforcing the subpoena or subpoena duces tecum.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.110 Hearings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2330–2331). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.110 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2331). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Six sets of comments were received suggesting changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: Two commenters suggested additional time should be allowed to file corrections or objections to corrections for a transcript.

RESPONSE AND EXPLANATION OF CHANGE: The commission accepts this suggestion and has changed the time allowed from 7 days to 10 days.

COMMENT: Two commenters suggested that requests for hearing should be made at least 15 days prior to the requested date and that any shorter period should be supported in the request.

RESPONSE: This suggested change is unnecessary. The commission will act according to applicable law and circumstances in setting and noticing hearings or responding to requests for hearing.

COMMENT: One commenter suggested that specific requirements should be stated in the rule for the timing of notices of hearing, method of service, content of notices; timing, method and content of customer notices; and, the method, manner and content of general public notices for hearings.

RESPONSE: This suggested change is unnecessary. The commission will act according to applicable law and circumstances in noticing hearings. Any party may request additional notice requirements in a particular matter.

COMMENT: Four commenters suggested that section (4) of the proposed rule should state a standard that a presiding officer should follow when limiting the number of witnesses, exhibits, or the time for testimony. The proposed standard would be “to avoid irrelevant or cumulative evidence.” One of the commenters viewed this provision as providing “carte blanche” to the presiding officer and as a threat to due process. One commenter suggested that the rule should provide for offers of proof and for referral to the commission.

RESPONSE AND EXPLANATION OF CHANGE: The commission, its law judges, staff attorneys and represented parties are aware of due process requirements and the need for full and fair hearings. Evidence to which there is a limitation or objection posed may be preserved unless it is wholly irrelevant, repetitious, privileged or unduly long. The commission’s rule on evidence addresses the concerns presented by these commenters. In

response to these comments the commission has added a reference to the application of evidentiary standards.

COMMENT: One commenter suggested an addition to the rule to address ex parte notices to ratepayers and consideration of written correspondence from ratepayers related to pending cases.

RESPONSE: A rule change is not necessary to address the form of a commission ex parte notice or letter. The comments concerning the form and content of commission correspondence to ratepayers will be considered when drafting future correspondence. Letters and correspondence from ratepayers regarding pending cases present sensitive issues that are better addressed in particular cases than in these rules.

COMMENT: One commenter suggested an addition to the rule to specify notices and timing, content and method of notices for public hearings.

RESPONSE: This addition to the rule is unnecessary. The commission provides for notice of public hearings as the law and circumstances require.

4 CSR 240-2.110 Hearings

(3) When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

(4) The presiding officer may limit the number of witnesses, exhibits, or the time for testimony including limitations consistent with the application of the rules of evidence.

(7) Suggested corrections to the transcript of record shall be offered within ten (10) days after the transcript is filed except for good cause shown. The suggestions shall be in writing and shall be served upon the presiding officer and each party. Objections to proposed corrections shall be made in writing within ten (10) days after the filing of the suggestions. The commission shall determine what changes, if any, shall be made in the record after a review of the suggested corrections and any objections.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.115 Nonunanimous Stipulations and Agreements is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2331-2332). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.115 Nonunanimous Stipulations and Agreements is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2332). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three sets of comments were received. One commenter supported the proposed rule. Two commenters suggested changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: One commenter thought that the time period allowed (7 days) to request a hearing concerning a nonunanimous stipulation and agreement was too long. One commenter thought that the time period allowed (7 days) to request a hearing concerning a nonunanimous stipulation and agreement was too short.

RESPONSE: The time period allowed in the proposed rule is adequate.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.116 Dismissal is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2332). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.116 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2332). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three sets of comments were received. One commenter supported the proposed rule. Two commenters suggested changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: Two commenters suggested similar additional clarifications to section (2) concerning dismissal of cases for a lack of prosecution to provide notice and to provide that cases would not be dismissed that had been submitted for decision, that had a pending hearing date, or that were following an established procedural schedule.

RESPONSE: These changes are not necessary. The circumstances described would not present a situation of a lack of prosecution. The rule itself provides notice to the parties that action on a case must occur.

COMMENT: One commenter suggested that section (4) which addresses a dismissal of a case for good cause should be clarified with respect to section (2) which addresses a dismissal of a case for a failure to prosecute.

RESPONSE AND EXPLANATION OF CHANGE: Failure to prosecute a case is good cause for dismissal. It is not the only basis on which a case might be dismissed. Section (4) recognizes that good cause for dismissal might be found on other basis on a case-by-case basis. However, the commission has added clarifying provisions to the rule at subsection (3) to illustrate circumstances supporting dismissal of a party that might also result in effectively dismissing the case.

4 CSR 240-2.116 Dismissal

(3) A party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a public hearing, pre-hearing conference, hearing, or mediation session.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.120 Presiding Officers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.120 Presiding Officers is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333). No changes were made to the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment was received during the comment period.

COMMENT: One comment stated that any party may request a change of the presiding judge in a case once without stating cause and that any subsequent request must be for cause.

RESPONSE: The Commission has considered these comments and no change is necessary.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.125 Procedures for Use of a Presiding Officer in Settlement Negotiations is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333). No changes were made to the proposed rescission, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.125 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333–2334). Those subsections with changes are

reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment opposed the proposed wording of section (2)(A), which says that “without prior notice or motion, the commission may order that mediation proceed in a complaint case before any further proceeding in such a case.” The comment suggested that there should be prior notice of the Commission’s intentions to afford the parties basic due process.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and the comment is well taken. While it was not the Commission’s intention to deny any due process, the Commission does believe that this phrase could be misinterpreted. Therefore, the Commission will strike the phrase “Without prior notice or motion,” from Section 2(A) of this rule and begin the sentence with the preposition “The” that followed the conditional phrase.

COMMENT: All the comments received generally supported the concept of alternative dispute resolution as provided for in this rule but two comments suggested that more specific time requirements might be necessary to ensure that the alternative dispute resolution process does not operate to seriously delay the resolution of matters. The suggestion was given that the rule should require a set period for mediation, not to exceed 30 days unless the parties agree to an extension of mediation. In addition, the presiding officer may also determine a shorter duration appropriate.

RESPONSE: The Commission has considered these comments and finds that no change in the rule is necessary. The Commission notes that no rule is necessary to give the Commission authority to terminate the mediation procedure in any case where mediation will not serve the parties or the Commission. If the mediation process is no longer appropriate in a case, any other party or the mediator may seek an order terminating mediation by filing its motion with the Commission for consideration.

COMMENT: One comment suggested that the Commission provide for supervision or setting of applicable time limits during the resolution process at the time the Commission issue the order referring the case to alternative dispute resolution. A similar comment suggested that if the Commission order does not specify the duration of the mediation, then the Commission’s rule should require the presiding officer to specify a period of duration at the outset of the mediation. It is suggested that the rule should provide specifically that any party to the mediation could file a motion with the Commission to terminate the mediation.

RESPONSE: The Commission has considered these comments and finds that no change in the rule is necessary. The Commission notes that no rule is necessary to give the Commission authority to set a period of duration for mediation or other time limitation in its orders directing parties to participate in mediation. If a party wishes to terminate mediation, the party may seek an order terminating mediation by filing its motion with the Commission for consideration. An additional rule is not necessary to give the parties the opportunity to file a motion to terminate mediation.

COMMENT: One comment specifically suggests that the tolling of procedural schedules should not occur unless both parties agree. The comment notes that recognition that the deadline for testimony and hearing is approaching can serve as an incentive for meaningful mediation.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and in reviewing the rule, the Commission has determined that it is not necessary to

automatically toll all other action in a case that has been referred to mediation. The Commission finds that the comments are well taken and finds that the Commission should decide whether the action in a case should be tolled on a case-by-case basis. Therefore, the Commission has modified the proposed rule to permit tolling of all action in a case referred to mediation instead requiring such in every case.

COMMENT: One comment suggested that mediation could be used in more cases than complaint cases, such as tariff filing cases other than general rate cases, where the mediation process would likely prove helpful. However, it was noted that the Commission does not have the authority to alter the statutory time frame for action on tariff filings or to unilaterally extend the “operation of law date.”

RESPONSE: The Commission has considered these comments and finds that no change is necessary to the rule.

COMMENT: It was suggested that the Commission reword proposed section (6) substituting the phrase “failure to appear” for the phrase “failure to participate” because whether a party appears or not is an objective test. It was noted that whether a party participated or not is a subjective test that is difficult to define and apply.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and finds that while this may be a difficult standard to apply, the Commission will apply the provision within reasonable standards of participation in good faith. If the Commission orders the parties to appear and participate in mediation, Commission Rule 4 CSR 240-2.116 would already permit dismissal of a party “from a case for failure to comply with any order issued by the commission.” The Commission does not expect that this provision would be used except in extreme circumstances. Based upon the comments, some modification should be made to the rule for clarification purposes.

4 CSR 240-2.125 Procedures for Alternative Dispute Resolution

(2) Mediation.

(A) The commission may order that mediation proceed in a complaint case before any further proceeding in such case.

(5) At any time, upon the request for mediation or upon the issuance of an order requiring mediation, the Commission may order that all other actions on the case cease and all time limitations be tolled pending the completion of mediation process.

(6) Failure to appear and participate in good faith in commission ordered mediation shall be grounds for sanctions including dismissal or default of the noncompliant party.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.130 Evidence is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999

(24 MoReg 2334). No changes were made to the proposed rescission, so it is not reprinted here.. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.130 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2334–2335). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment was received suggesting that the Commission clarify Section (16). Section (16) states “All testimony shall be taken under oath.” The comment refers to the affidavits which are often attached to prefiled written testimony. If an affidavit is not attached to the prefiled testimony, Section (16)’s requirement may cause difficulty. Requiring all testimony to be given under oath may be a problem because the witnesses who have filed prefiled testimony are not always present, especially when no cross-examination is expected or when the parties have entered into a stipulation which includes the admission of evidence. It is suggested that Section (16) not be applied to prefiled testimony and that Section (16) does not preclude the acceptance of prepared testimony into an evidentiary record, by stipulation, that is not under oath.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and finds that all testimony, oral or written, should be taken under oath. Therefore, the Commission has made changes to Section (6) of this rule to require the attachment of an affidavit in which the witness shall recite the oath or affirmation as to the testimony given in the written document. The Commission also added to Section (6) the requirement that the prefiled testimony cover sheet provide the date the testimony is prepared for clarification purposes.

COMMENT: One comment was received suggesting that the proposed time period of seven days to object to a late-filed exhibit be changed to ten days for the reasons mentioned in other cases commenting on these proposed rules regarding the seven day response period.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and the Commission finds that the period for filing objection to a late-filed exhibit should be changed to ten (10) calendar days to give parties adequate time to file an objection, if they wish to do so.

COMMENT: One comment received indicated support for the proposed changes which make only minor test changes in the rule. RESPONSE: The Commission has considered these comments and finds that no additional changes are requested.

EXPLANATION OF OTHER CHANGES: The Commission amended Section (15) slightly for clarification purposes to ensure that these rules were consistent.

It was noted that the numerical references to the size of paper in Sections (6) and (10) were published in the Notice of Rulemaking incorrectly omitting the ½ symbol. These sections will be reprinted in the Order of Rulemaking for correction.

4 CSR 240-2.130 Evidence

(6) Prepared testimony shall be typed or printed, in black type on white paper eight and one-half inches by eleven inches (8 1/2" × 11"); it shall be double-spaced and pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1; it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form; and it shall be filed in sufficient number of copies as required by order of the commission, observing the following margins: left-hand margin, one inch (1"); top margin, one inch (1"); right-hand margin, one inch (1"); and bottom margin, one inch (1"). Printing on both sides of the page is encouraged. Schedules shall bear the word “schedule” and the number of the schedule shall be typed in the lower right-hand margin of the first page of the schedule. All prepared testimony and other exhibits and schedules shall contain the following information in the following format on the upper right-hand corner of a cover sheet:

Exhibit No.: (To be marked by the hearing reporter)
Issue: (If known at the time of filing)
Witness: (Full name of witness)
Type of Exhibit: (Specify whether direct, rebuttal, or other type of exhibit)

Sponsoring Party:
Case No.:
Date Testimony Prepared:

The prepared testimony of each witness shall be filed separately and shall be accompanied by an affidavit providing the witness’ oath. Prepared testimony shall be filed on line-numbered pages. Testimony which addresses more than one (1) issue shall contain a table of contents.

(10) Exhibits shall be legible and, unless otherwise authorized by the commission, shall be prepared on standard eight and one-half by eleven inch (8 1/2" × 11")-size paper. The sheets of each exhibit shall be numbered and rate comparisons and other figures shall be set forth in tabular form.

(15) Evidence for which a claim of confidentiality is made shall be filed in conformance with a protective order approved by the commission. Parties shall obtain a protective order prior to filing of documentary evidence, except as permitted otherwise by these rules.

(17) All late filed exhibits shall be submitted by simultaneously providing a copy to all parties, and by submitting an original and eight (8) copies to the presiding officer. Unless otherwise ordered, any objection to the admission of a late filed exhibit must be filed within ten (10) days of the date the exhibit was tendered.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
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Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.140 Briefs and Oral Arguments is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336). No changes were made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.140 Briefs and Oral Arguments is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336). No changes were made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment was received noting that only minor stylistic changes were being made to this rule and therefore, no further changes were suggested.

RESPONSE: The Commission has reviewed this comment and finds that no change to the proposed rule is requested.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.150 Orders of the Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.150 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336–2337). The section with changes is reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No public hearing was held. Written comments were submitted.

COMMENT: A comment was received suggesting that the commission change the time limit in subsection (4) from five days to ten. This would allow parties additional time to file a response to a preliminary order.

RESPONSE AND EXPLANATION OF CHANGE: The provision that has been questioned creates a default requirement that comments in response to a preliminary order be limited to five pages and be filed within five days. The commission is free to vary those limits if it chooses to do so. There is no need to have any such limitations in the rule. The commission does not frequently issue preliminary orders, but it will consider time and page limitations at the time it chooses to issue such an order. The rule has been modified to remove the time and page limitations. No other comments were received.

4 CSR 240-2.150 Decisions of the Commission

(4) The commission may, at its discretion, issue a preliminary order and allow parties to provide responses to the preliminary order. The commission may then issue its order after reviewing the responses of the parties.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.160 Rehearings or Reconsideration is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2337). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.160 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2337-2338). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No public hearing was held. Written comments were submitted.

COMMENT: A comment was received suggesting that the commission does not have the authority to draw a distinction between “applications for rehearing” and “motions for reconsideration.” The comment suggests that the right to rehearing of any decision of the commission is established by statute and the commission does not have the authority to limit a right established by statute.

RESPONSE AND EXPLANATION OF CHANGE: The right to rehearing of an order or decision of the commission is established by Section 386.500, RSMo 1994. The commission cannot, by rule, limit the right to rehearing established by statute. However, the rule is not intended to limit the right to rehearing, but is instead intended to create an additional remedy known as reconsideration, the use of which is limited to procedural and interlocutory orders. The commission on occasion may issue such orders with a short effective date. Therefore, the motion for reconsideration, which the regulation allows to be filed within ten days of the order’s issue date, would be useful to allow these matters to be brought to the attention of the commission without requiring an extended effective date on the order. The rule has been modified to clarify the difference between rehearing and reconsideration.

COMMENT: A comment was received suggesting that the commission add a new section (5) to provide that a motion for rehearing shall be deemed denied if the commission does not rule on it within 90 days of the filing of the motion.

RESPONSE: The commission agrees that motions for rehearing should be ruled upon promptly. However, it is not clear that a denial of rehearing based solely on the passage of 90 days from the filing of the motion would operate to establish the right to review by circuit court set out in Section 386.510, RSMo 1994. For that reason, the Commission will not adopt the suggested section. No other comments were received.

4 CSR 240-2.160 Rehearings and Reconsideration

(1) Applications for rehearing may be filed pursuant to statute.

(2) Motions for reconsideration of procedural and interlocutory orders may be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the commission. Motions for reconsideration shall set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust, or unreasonable.

(3) The filing of a motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.

(4) The commission may correct its own orders nunc pro tunc.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.170 Forms is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2338). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Office of the Public Counsel offered a comment indicating that it does not oppose the rescission.

RESPONSE: The Commission thanks the Office of the Public Counsel for its comment. No other comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 386.310, 386.410, 387.050, 387.160, 387.170, 387.230, 387.240, 387.290, 387.310, 387.320, 387.330, 389.580, 389.710, 389.795, 389.945, 389.992, 389.993, 390.041, 390.126, 390.136, 390.138, 392.200, 392.210, 392.220, 392.240, 392.280, 392.290, 392.330, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994 and Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.180 Rulemaking is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2338). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 392.210, 392.240, 392.280,

392.290, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994, and sections 386.250, 386.310, 386.410, 392.200, 392.220 and 392.330, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.180 Rulemaking is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2338-2339). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received one written comment on the substance of the rule.

COMMENT: Sections (6) and (7) imply that there will not be cross-examination during rulemaking hearings. There are Commission statutes which require evidence as to the reasonableness of rules adopted by the Commission. If cross-examination is not allowed in rulemaking proceedings, there can be no competent and substantial evidence upon which to base the Commission's decision. This provision should be modified to allow cross-examination in rulemaking proceedings.

RESPONSE: The Commission finds that the rule does comply with applicable statutes and does not conflict with Commission rules. Therefore, the Commission determines that no changes to the rule are necessary.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.200 Small Company Rate Increase Procedure is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2339). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule, and are discussed there.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.200 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2339-2340). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received written comments from three sources.

COMMENT: One comment simply noted support of the proposed changes.

RESPONSE: The Commission notes the comment in support of the rule. The comment does not propose any changes and none were made as a result of the comment.

COMMENT: One gas utility which presently has approximately 7,000 customers requested that the Commission modify the rule to permit natural gas utilities with ten thousand (10,000) or fewer customers to utilize the small company rate increase procedure. Under the proposed rule, the small company rate increase procedure would be available to only one natural gas company. Based upon the size of the various natural gas utilities in Missouri, a ten thousand (10,000) customer eligibility requirement would appear to be a more natural breaking point. In order to reduce the cost of processing rate cases, the commenter believes it would be in the public interest to broaden the applicability of the small company rate increase procedure to include small gas utilities with ten thousand (10,000) or fewer customers.

RESPONSE: The Commission has raised the threshold from 1,500 customers (in the current rule) to 3,000 customers. The Commission determines that, at this time, it is not appropriate to further raise the threshold for gas utilities above the level of 3,000 customers. No changes were made to the rule as a result of this comment.

COMMENT: One commenter indicated that it was a "heating company" and a "public utility," as those terms are defined in Section 386.020(20), (42), RSMo Supp. 1998, and is certified by the Commission to provide centralized steam heating services to commercial, nonresidential customers in a limited portion of downtown Kansas City, Missouri. The entity currently serves less than fifty (50) customers. The commenter believes that expanding the threshold availability of the small company rate increase procedure is in the public interest and therefore supports the Commission's proposed expansion of the rule. The small company rate increase procedure not only benefits the companies electing to use the procedure in terms of resources, cost and time, it also significantly reduces the resource, cost and time burden on the Commission in dealing with such companies. More importantly, since most costs of regulation are ultimately passed on to the utilities' customers, the small company rate increase procedure ultimately benefits the customer. In addition, the comment contends that expanding the availability of the proposed rule beyond water, sewer and gas companies to specifically include steam companies is also in the public interest.

RESPONSE: The Commission has reviewed the comment and has chosen not to amend the rule to include steam companies at this time. The small company rate increase procedure was developed for use by small companies. Although the company commenting may have a relatively small number of customers, it is not the small, unsophisticated company that the small company rate increase procedure was designed to benefit. The comment was from a sophisticated company with sufficient revenue to undertake a general rate case if it believes that one is necessary. No changes were made to the rule as a result of this comment.

COMMENT: One comment noted that the proposed rule as currently drafted will conflict with another Commission rule, namely 4 CSR 240-10.070(1), which governs the filing of general rate cases. The company indicated that there are several ways to deal with this conflict between the two rules, but it appears that the most effective and easiest way to address the problem would be to simply add some "notwithstanding" language to the proposed rule. Accordingly, the company suggested that the Commission add the following language to Section (1) when it adopts the final rule: "Notwithstanding any other rule to the contrary, [S]small companies . . ." The company stated that this minor addition, or some similar language, should take care of any conflict between the proposed new rule and the existing general rate case rule and should allow the Commission to proceed with the new small company rate increase procedure rule without the need for further delay.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed the comment and finds that the suggested language should be included in the rule. The phrase "Notwithstanding any other rule to the contrary" has been added to the beginning of Section (1), in order to avoid possible conflict between the two rules.

4 CSR 240-2.200 Small Company Rate Increase Procedure

(1) Notwithstanding any other rule to the contrary, small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include water and sewer utilities having eight thousand (8,000) or fewer customers and gas utilities having three thousand (3,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994 and 386.250, 392.200, 392.450 and 392.451, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-32.110 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2341-2343). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on November 2, 1999. Written comments were submitted.

COMMENT: A comment suggests that the commission require that the bond be issued by a surety authorized to do business in Missouri.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and the suggested change has been incorporated into the rule.

COMMENT: A comment suggests that the basic local telecommunications company be required to maintain a bond for so long as it has any customer prepayments or deposits and suggests that the bond not be waived after three years.

RESPONSE AND EXPLANATION OF CHANGE: The commission acknowledges the concerns expressed in the comment. However, on balance, the commission believes that a basic local telecommunications company that has successfully complied with the surety requirement for three consecutive years has demonstrated sufficient financial stability to justify the possible lifting of the surety requirement. The rule has, however, been changed so that the lifting of the surety requirement after three years is not automatic. The revised rule indicates that the commission may eliminate that requirement but does not mandate that the commission shall do so.

COMMENT: A comment suggests that there is no evidence that a surety-bonding requirement is needed. It suggests that there is no problem that needs to be addressed.

RESPONSE: The commission disagrees with the comment. A witness for the Staff of the Commission testified at the hearing regarding the need for this rule. In addition, the comment filed by Southwestern Bell Telephone Company, which details its experiences with basic local telecommunications companies that have failed in other states, illustrates the need for this rule.

COMMENT: A comment suggests that it is unfair to impose a surety requirement on providers of basic local service while not imposing a similar requirement on providers of interexchange telecommunications services.

RESPONSE: The financial obligations of a company that wants to provide basic local service differ significantly from those that only provide interexchange service. The commission does not believe that it would be appropriate to expand this rule to include interexchange telecommunications providers.

COMMENT: A comment suggests that the surety requirement should be waived if a basic local telecommunications company agrees not to take customer deposits.

RESPONSE: The commission disagrees with the comment. The comment considers only one aspect of the rule. The rule is also designed to ensure that a basic local telecommunications company has the financial resources to successfully provide the services it is seeking to offer. Furthermore, the surety requirement is designed to protect the carriers-of-last-resort that would be obligated to provide transition service to the customers of a basic local telecommunications company that suddenly ceases operation. Neither of these aspects of the rule depends upon whether or not a basic local telecommunications company agrees to take customer deposits.

COMMENT: A comment suggests that a basic local telecommunications company be allowed to meet the surety requirement by posting an irrevocable bank letter of credit or by opening an escrow account, as an alternative to posting a surety bond.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and the rule has been modified to allow for the posting of a letter of credit or the opening of an escrow account.

COMMENT: A witness for the staff of the commission testified at the hearing that the rule was not intended to ensure the payment of the general debt obligations a basic local telecommunications company might owe to other telecommunications providers.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (E) of the rule was modified to remove the provision allowing such claims to be made against the bond. In addition, subsection (D) was modified to remove the requirement that the basic local telecommunications company maintain records of amounts owed to other telecommunications providers. No other comments were received.

4 CSR 240-32.110 Surety Bonding Requirements for Basic Local Telecommunications Companies

(1) To ensure the protection of the basic local telecommunications company end-users and other telecommunications providers, any basic local telecommunications company with less than a two hundred fifty thousand dollars (\$250,000) net book value in telephone plant and/or telephone facilities located in Missouri shall maintain a third-party surety bond issued by a surety authorized to do business in Missouri, an irrevocable bank letter of credit issued by a bank or other financial institution doing business in Missouri, an escrow account at a bank or other financial institution in Missouri, or other mechanism as may be approved by the commission.

(A) The bond, letter of credit, or escrow account shall be in the amount of one hundred thousand dollars (\$100,000), and shall be payable to the Missouri Public Service Commission. Such bond, letter of credit, or escrow account shall be maintained for the benefit of the basic local telecommunications company's end-user customers who have prepaid for services from the basic local telecommunications company or who have given a deposit for services to the basic local telecommunications company. Such bond, letter of credit, or escrow account shall also be maintained for the benefit of any telecommunications company serving as a carrier-of-last-resort that is required to provide transition services to a basic local telecommunications company's end-user customers in the event that the basic local telecommunications company ceases to provide basic local telecommunications services to those end-user customers for any reason other than cause as provided for in its approved tariffs. The basic local telecommunications company shall submit proof that it has complied with this requirement, or that it is exempt. Such proof shall be contained in an application to provide basic local telecommunications services or on a form, provided by the commission, to be filed annually.

(B) The bond, letter of credit, or escrow account shall be maintained as long as the basic local telecommunications company is furnishing basic local telecommunications service in the state of Missouri pursuant to this chapter unless modified or released pursuant to commission order.

(C) The bond shall provide that the issuer of the bond shall notify the commission when the bond is canceled or is otherwise terminated prematurely. The bank or other financial institution that issues a letter of credit or holds an escrow account shall notify the commission when the letter of credit is canceled or the escrow account is closed.

(D) The basic local telecommunications company shall maintain records that identify by customer name, address and telephone number the dollar amount of a customer's prepaid basic local telecommunications services and any held deposits. Such records shall be made available to the commission, upon request.

(E) Claims against the bond, letter of credit, or escrow account shall be paid in the following order: first, claims from end-user customers for return of deposits and for claims for prepaid basic local telecommunications services; second, claims from carriers-of-last-resort for costs incurred by the carrier-of-last-resort for providing end-users with uninterrupted basic local telecommunications service should the basic local telecommunications company cease providing that service for any reason other than cause as provided for in its approved tariffs.

(2) Upon application to the commission, the surety requirement mandated under section (1) may be waived if the basic local

telecommunications company successfully complies with the surety requirement for a period of three (3) consecutive years.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 32—Telecommunications Service**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994 and 386.250, 392.200, 392.450 and 392.451, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-32.120 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2344-2346). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on November 4, 1999. Written comments were submitted.

COMMENT: Written comments, as well as testimony at the hearing, strongly urged the commission to limit application of this rule to companies that are reselling the services of a carrier-of-last-resort. The comments pointed out that companies that are providing services through unbundled network elements or through their own facilities are less likely to suddenly go out of business and thus are less likely to trigger the need for a snap-back procedure. The comments also pointed out many technical and legal barriers to imposing the proposed snap-back procedures when service is provided through unbundled network elements or separate facilities.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments. The rule has been modified so that it will apply only to resellers of services. It will not apply to the provision of service to end-user customers through unbundled network elements or through separate facilities. Section (5) of the proposed rule, which applied only to facilities based providers has been eliminated in its entirety.

COMMENT: The staff of the Public Service Commission suggested that a provision be added to account for a situation where there may be more than one carrier-of-last-resort in a given service area.

RESPONSE AND EXPLANATION OF CHANGE: The concerns expressed by the staff are addressed in new section (4) that provides that if there is more than one carrier-of-last-resort in a service area, the customers of the company that has ceased operation will be transferred to the carrier-of-last-resort whose services are being resold.

COMMENT: One comment suggests that the rule provide that no company may cease serving customers until the commission has approved its plan to abandon service.

RESPONSE: The comment seemingly would have the commission expand the reach of Section 392.460, RSMo 1994 to include competitive local exchange companies. The commission has neither the power, nor the inclination to do so.

COMMENT: One comment suggests that the carrier-of-last-resort should be required to provide at least transitional service to all customers of the company that is ceasing to provide service. The comment asks that no exception be made for when the carrier-of-last-

resort's tariff would not require service to that customer. Another comment takes the opposite position and suggests that the rule should clearly indicate that the carrier-of-last-resort should not be required to provide even interim service to a customer that it would not otherwise serve.

RESPONSE AND EXPLANATION OF CHANGE: The exception in question would allow the carrier-of-last-resort to not provide transition service to customers whom the carrier-of-last-resort would not serve under its own tariffs, most often because of unpaid bills. The purpose of this regulation is to ensure that Missouri's phone customers do not suddenly lose basic local phone service because of the failure of their basic local phone service provider. In order to fulfill that purpose, the carrier-of-last-resort must be required to provide transitional services to all of the customers who would otherwise suddenly lose service. This requirement may impose some additional costs on the carrier-of-last-resort because of unpaid bills. However, those additional costs should not be unduly burdensome. A witness who appeared at the hearing on behalf of Southwestern Bell Telephone Company testified that Southwestern Bell has taken back customers of failed basic local providers in other states. The witness indicated that Southwestern Bell will take back all customers for a transition period, even if those customers owe money to Southwestern Bell. Section (3) has been modified to specifically require the carrier-of-last-resort to provide transitional service to all customers of the company that ceases service.

COMMENT: One comment suggests that if the customer has not chosen a new carrier at the end of the thirty-day interim period, the carrier-of-last-resort be required to continue to provide service to the customer.

RESPONSE AND EXPLANATION OF CHANGE: The commission disagrees with the comment. Requiring the carrier-of-last-resort to continue to provide service to a customer after the end of the interim period would be unfair to the carrier-of-last-resort if it does wish to provide services to that customer if, for example, that customer is a poor payment risk. Paradoxically, under other circumstances, it might be unfair to the carrier-of-last-resort's competitors to allow the carrier-of-last-resort to inherit the good customers of the company that ceases providing service unless those customers affirmatively choose to engage the services of the carrier-of-last-resort. A provision has been added to section (3) to clarify that the carrier-of-last-resort is under no obligation to provide service to a customer beyond the thirty-day interim period.

COMMENT: One comment suggests that if the carrier-of-last-resort selects an intraLATA and/or interLATA carrier for an interim customer, the carrier-of-last-resort be required to notify the customer of its right to make a PIC change without charge to the customer's preferred carrier.

RESPONSE: The commission will decline to impose this additional cost on the carrier-of-last-resort.

COMMENT: One comment suggests that the rule should provide that the customer shall not be charged any installation or service fee for the interim transition back to the carrier-of-last-resort. The comment suggests that the carrier-of-last-resort should bill those costs to the company that is ceasing to provide service and thereby necessitating the snap-back. Another comment suggests that the carrier-of-last-resort should not be held responsible for the cost of transitioning the customer and that the rule should explicitly state that the customer shall be responsible for all charges relating to the snap-back procedure.

RESPONSE: The carrier-of-last-resort and the customer are both innocent victims in a snap-back situation. There is no reason to impose the cost of the snap-back procedure on the carrier-of-last-resort. When a customer chooses to accept the benefits of obtaining basic local phone service from a competitive company, they

must also accept the responsibility of considering the financial stability of that competitive company. If the company with which they choose to deal is not able to provide the agreed upon service, it is the customer who must bear the risk. The commission will not establish any specific fees or charges in this rule. However, if a carrier-of-last-resort wishes to propose such fees or charges in its tariffs, the commission will consider those proposals through the tariff making process.

COMMENT: Several comments suggest that the company that is ceasing operations should be responsible for informing its own customers of that situation. That obligation should not be imposed upon the carrier-of-last-resort.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment. A provision has been added to section (2) that will require the company that is ceasing operations to provide such notice. Section (5) still requires the carrier-of-last-resort to give notice to the customer after the snap-back has occurred.

COMMENT: Several comments expressed concern about section (6) of the proposed rule. That section would have required the carrier-of-last-resort to provide detailed information about the snap-back to the commission within five days after the interim transfer of customers. The comments indicated that this requirement would be a great burden on the carriers-of-last-resort.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and section (6) of the proposed rule has been eliminated.

COMMENT: One comment suggests that a provision should be added to the rule to protect carriers-of-last-resort from allegations of slamming if they are in good faith complying with this snap-back rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and has added a new section (6) to address this situation.

COMMENT: One comment expresses concern that this rule would require carriers-of-last-resort to incur additional uncollectable expenses because customers who have been snapped-back might not feel an obligation to pay for services that they did not authorize.

RESPONSE: The commission is aware of this concern and has attempted to limit the financial impact that this rule will have on the carriers-of-last-resort.

COMMENT: One comment suggests that a carrier-of-last-resort should be reimbursed for its additional costs from the snap-back rule through the universal service fund.

RESPONSE: The commission does not believe that this would be an appropriate use for the universal service fund.

COMMENT: One comment suggests that section (1) of the rule is overly broad in that it would seem to make the snap-back rule apply where the company "otherwise terminates service to the end-user customer for any reason other than cause." The comment suggests that this language would make the rule apply if a customer voluntarily leaves the company and obtains service from the carrier-of-last-resort or another competitive company.

RESPONSE: The comment overlooks the rest of section (1) which adds the phrase "as provided for in its tariffs and approved by the commission." Normal business situations, such as a customer choosing to change carriers will be provided for in a company's tariffs and thus will not trigger application of the snap-back rule.

COMMENT: One comment indicates that a carrier-of-last-resort would not be able to give a customer specific rate information in its initial notification letter following a snap-back. Because of the

need for quick notice to the affected customers, that initial letter would need to be generic. The comment suggests the specific rate information instead be included with the customer's initial bill.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and new section (5) has been modified to address that concern. No other comments were received.

4 CSR 240-32.120 Snap-Back Requirements for Basic Local Telecommunications Companies

(1) To ensure uninterrupted service to basic local telecommunication service customers, a basic local telecommunications company reselling the services of a carrier-of-last-resort shall provide an immediate and orderly transition of its resale customers to a carrier-of-last-resort in the event the company ceases operation or otherwise terminates service to the end-user customer for any reason other than cause as provided for in its tariffs and approved by the commission.

(2) If a provider of basic local telecommunications service, serving a customer through resale of a carrier-of-last-resort's services, ceases service, it shall immediately, but in no event later than thirty (30) days prior to its last day of service, provide the carrier-of-last-resort all relevant information to ensure that the end-user customer will not experience a service outage. The provider of basic local telecommunications service shall also send a notice to its end-users advising them of its intention to cease doing business and that such end-users must choose another basic local service provider. The notice shall further indicate that failure to choose another provider may result in the carrier-of-last-resort providing service during a thirty (30)-day interim period until such a choice is made and that failure to choose another provider within thirty (30) days after the transition shall result in a loss of service. The customer's intraLATA and/or interLATA carrier of choice will be continued if available. If it is not available, the carrier-of-last-resort will provide access to any carrier it selects until the customer notifies the carrier-of-last-resort in writing of a new carrier selection.

(3) The carrier-of-last-resort will immediately accept the resale customers of a provider of basic local telecommunications service, providing service through resale, that ceases operation or otherwise terminates service to the end-user customer for any reason other than cause as provided for in its tariffs and approved by the commission. The carrier-of-last-resort shall provide the end-user identical or equivalent service during a thirty (30)-day interim period, or until the end-user chooses another provider. The rates and terms for the service supplied will be provided according to the carrier-of-last-resort's approved tariff, except that the payment or credit history of the customer shall not permit the carrier-of-last-resort to refuse to provide service during the transition period. Within thirty days after transfer of the customer, the customer must make an affirmative choice to stay with the new carrier or select another carrier. The carrier-of-last-resort is not obligated to provide service to the customer beyond the thirty (30)-day interim period. If the customer does not choose a new carrier, the carrier-of-last-resort may immediately terminate service to the customer notwithstanding any other requirements in its tariffs.

(4) If there is more than one carrier-of-last-resort in a service territory, customers of the basic local telecommunications company that has ceased operation shall be transferred to the carrier-of-last-resort whose services are being resold.

(5) The carrier-of-last-resort shall notify the customer of the temporary change of service provider, the applicable rates that will be charged the customer, and that the customer has thirty (30) days to make a choice of a preferred service provider. Such notice shall be

given no later than the carrier-of-last-resort's initial bill to the affected customer. The information regarding rates may be provided in such bill. The notice shall also provide that within thirty (30) days after transfer of a customer, the customer must make an affirmative choice to stay with the new carrier or select another carrier. If no choice is made, the current carrier may terminate service, notwithstanding any additional notice requirements contained in its tariffs.

(6) No good faith effort to comply with this rule shall be grounds for a claim of unwanted or unlawful provision of service, i.e. slamming or cramming, provided that the carrier-of-last-resort shall convert the end-user in an orderly fashion to their carrier of choice when an order is received from the end-user's provider of choice.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo 1994, the director adopts a rule as follows:

12 CSR 10-110.013 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 1999 (24 MoReg 2632-2634) as 12 CSR 10-111.013. The subsections of the proposed rule with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: The department received two letters of comment on this proposed rule. The department is in the process of rewriting the State Sales/Use Tax Regulations. As a part of the rewriting process, the chapter numbers and titles will be changed. This request is based on public comments asking the department to make the Sales/Use Tax Regulations easier to locate and understand.

COMMENT: One commenter suggested adding more specifics regarding dental work referred to in (3)(C).
RESPONSE AND EXPLANATION OF CHANGE: Incorporated.

COMMENT: One commenter suggested changes in (4)(A) to allow purchases by an agent of a disabled person.
RESPONSE AND EXPLANATION OF CHANGE: Incorporated.

COMMENT: One commenter suggested not requiring any type of purchaser identification for items sold to or for disabled persons.
RESPONSE: The department disagrees with the comment and did not change the proposed regulation.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

12 CSR 10-110.013 Drugs and Medical Equipment

(3) Basic Application of Tax.

(C) Also exempt from sales tax are items specified in section 1862(A)(12) of the Social Security Act of 1965. Exempt items included in this class are those used in connection with the treatment, removal or replacement of teeth or structures directly sup-

porting teeth. Dental equipment or supplies are not exempt. The exempt items include:

1. Dentures
2. Inlays
3. Bridge work
4. Fillings
5. Crowns
6. Braces, or
7. Artificial dentistry and dental reconstructions, which are made, manufactured or fabricated from molds or impressions made by dentists of the mouths of their particular patients and sold to dentists for insertion in the patient's mouth as the direct support of, substitution for, or part of the patient's teeth.

(4) Examples.

(A) A retailer sells an over-the-counter drug to an individual claiming a disability. The sale is exempt if the retailer obtains from the purchaser or their agent a statement similar to the following:

Purchases of over-the-counter drugs by individuals with disabilities are exempt from sales tax. IT IS UNLAWFUL TO FRAUDULENTLY CLAIM AN EXEMPTION. I CERTIFY THAT I HAVE A DISABILITY AND AM ENTITLED TO CLAIM THIS EXEMPTION OR I AM CLAIMING THIS EXEMPTION ON BEHALF OF A PERSON OR PERSONS WITH A DISABILITY.

Type of Purchase _____ Amount _____
Type of ID _____
ID Number _____
Name (print) _____
Signature _____

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2702). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.020 Missouri Motor Vehicle Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2702). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.030 General Organization is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2702–2703). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.040 Policy for Handling Release of Public Records is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2703). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.050 Public Complaint Handling and Disposition Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2703). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.060 Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2703–2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.010 Licensure Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.020 Licensure Requirements for Boat Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.030 Licensure Requirements for Franchised New Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.040 Licensure Requirements for Used Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704–2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.050 Licensure Requirements for Wholesale Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.060 Licensure Requirements for Recreational Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.070 Licensure Requirements for Historic Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.080 Licensure Requirements for Classic Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705-2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.090 Licensure Requirements for Motorcycle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.100 Licensure Requirements for New Vehicle and Trailer Manufacturers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.110 Licensure Requirements for Boat Manufacturers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.120 Bona Fide Established Place of Business **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706-2707). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.130 Registration with Secretary of State **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2707). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.140 Business Records of Motor Vehicle Manufacturers, Boat Manufacturers, Motor Vehicle Dealers and Boat Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2707). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.150 Dealer License Plates is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2707–2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.160 Business Records of Manufacturers, Dealers and Boat Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.170 Regulation of Boat Dealer's Certificate of Number and Plates is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 3—Off-Premise Shows or Tent Sales**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-3.010 Dealership Activity Conducted Away From Registered *Bona Fide* Established Place of Business is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.010 License Denial or Disciplinary Actions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708–2709). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.020 Review of License Denial is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2709). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.030 Waiver of Hearing is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2709). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.040 Disciplinary Procedures and Hearings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2709-2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.050 Designated Hearing Officer is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.060 Notice of Hearing is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.070 Prehearing Conferences and Stipulations is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.080 Deliberations of the Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710-2711). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 5—Advertising Practices**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-5.010 Advertising Practices for Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2711). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 19—Energy Assistance**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Family Services under section 207.020, RSMo 1994, the director amends a rule as follows:

13 CSR 40-19.020 Low Income Home Energy Assistance Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2394-2395). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 80—Maternity Home Tax Credit**

ORDER OF RULEMAKING

By the authority vested in the Missouri Division of Family Services under section 135.600, RSMo Supp. 1999, the division hereby amends a rule as follows:

13 CSR 40-80.010 Maternity Home Tax Credit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2395-2396). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.152, 208.153, 208.201, and 208.471, RSMo 1994, the director hereby amends a rule as follows:

13 CSR 70-15.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2408-2410). Changes have been made in the text of the proposed amendment, so they are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Division of Medical Services reviewed all comments received on or before October 31, 1999. One comment was received and is summarized as follows:

COMMENT: The Division of Medical Services received one letter requesting changes to the proposed amendment 13 CSR 70-15.010. The first change was to revise the calculation of the Medicaid Share of the FRA assessment to include the out-of-state Medicaid patient days. The second change was to reinstate the add-on payment for days above the PAS limit.

RESPONSE: The division has reviewed the comments regarding the FRA assessment for out-of-state days and the add-on for days above the PAS limit. The division does not agree that an adjustment is necessary. The add-on payment for the Medicaid share of the assessment is made to recognize the full cost of caring for Missouri recipients. We do not believe it is appropriate for Missouri to make payments for out-of-state residents beyond the payments levels determined by that state. The add-on payment for days above the PAS limit was eliminated due to the pre-admission and concurrent review process implemented in October 1996. OB admissions are exempt from the review process and are subject to the Division's PAS limit which we believe establishes an appropriate maximum length of stay.

EXPLANATION OF OTHER CHANGES: The Division corrected a reference in paragraph (18)(B)5. The term "uninsured working parents" has been changed to "uninsured parents" to conform to Missouri's Medicaid Section 1115 Health Care Reform Demonstration Proposal. A revised fiscal note is attached to reflect the effect the reduction in the FRA assessment in 13 CSR 70-15.110 for state fiscal year 2000 has on Direct Medicaid and uninsured payments.

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology

(18) In accordance with state and federal laws regarding reimbursement of unreimbursed costs and the costs of services provid-

ed to uninsured patients, reimbursement for each State Fiscal Year (SFY) (July 1–June 30) shall be determined as follows:

(B) Uninsured Add-Ons. The hospital shall receive eighty-one percent (81%) of the Uninsured costs prorated over the SFY. Hospitals which contribute through a plan approved by the director of health to support the state's poison control center and the Primary Care Resource Initiative for Missouri (PRIMO) shall receive eighty-two percent (82%) of its uninsured costs prorated over the SFY. The uninsured Add-On will include:

1. The Add-On payment for the cost of the Uninsured. This is determined by multiplying the charges for charity care and allowable bad debts by the hospital's total cost-to-charge ratio for allowable hospital services from the base year cost report's desk review. The cost of the Uninsured is then trended to the current year using the trend indices reported in subsection (3)(B). Allowable bad debts do not include the costs of caring for patients whose insurance covers the particular service, procedure or treatment;

2. An adjustment to recognize the Uninsured patients share of the FRA assessment not included in the desk-reviewed cost. The FRA assessment for Uninsured patients is determined by multiplying the current FRA assessment by the ratio of uninsured days to total inpatient days from the base year cost report;

3. The difference in the projected General Relief per-diem payments and trended costs for General Relief patient days;

4. The increased costs per day resulting from the utilization adjustment in subsection (15)(B) is multiplied by the estimated uninsured days; and

5. In order to maintain compliance with the Balance Budget Act of 1997 (BBA) DSH cap and the budget neutrality provisions contained in Missouri's Medicaid Section 1115 Health Care Reform Demonstration Proposal, the Uninsured Add-On for SFY 2000 has been established at eighty-two percent (82%) of the cost of the uninsured as computed in accordance with this subsection. One factor in determination of the payment percentage is an estimate that fifty-four (\$54) million dollars shall be paid from July 1, 1999 thru April 30, 2000 related to previously uninsured parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal. The SFY 2000 payment percentage shall be increased by an additional one percent (1%) for every three point five (\$3.5) million dollars increment not paid for parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal as of April 30, 2000. For example, if total spending on the Medicaid Section 1115 Health Care Reform Demonstration Proposal parent population is forty-seven (\$47) million dollars, as of April 30, 2000, the Uninsured Add-On percentage for SFY 2000 shall be increased by two percent (2%).

REVISED PUBLIC COST: The fiscal impact in the proposed amendment has been revised to reflect the reduction in Direct Medicaid payments and uninsured payments resulting from the lowering of the FRA assessment percentage in 13 CSR 70-15.110 for SFY 2000. The revised fiscal impact is \$1,582,679 less than the amount submitted with the proposed amendment. The division estimates the annual aggregate public entity cost will be \$303,024,538.

REVISED FISCAL NOTE
PUBLIC ENTITY COST**I. RULE NUMBER**

Title: 13 -- Department of Social Services

Division: 70 -- Division of Medical Services

Chapter: 15 -- Hospital Program

Type of Rulemaking: Final Order

Rule Number and Name: 13 CSR 70-15.010 Inpatient Hospital Services
Reimbursement Plan; Outpatient Hospital Services
Reimbursement Methodology

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual Estimated Cost: \$303,024,538

III. WORKSHEET

The fiscal impact in the proposed amendment has been revised to reflect the reduction in Direct Medicaid payments and uninsured payments resulting from the lowering of the FRA assessment percentage in 13 CSR 70-15.110 for SFY 2000. The revised fiscal impact is \$1,582,679 less than the amount submitted with the proposed amendment. The division estimates the annual aggregate public entity cost will be \$303,024,538.

IV ASSUMPTIONS

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Title 20—DEPARTMENT OF INSURANCE

IN ADDITION

Pursuant to section 538.210, RSMo regarding the medical malpractice award limit, the director of insurance is required to calculate the new limitation for noneconomic damages in medical malpractice awards.

Using the Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 538.210, RSMo, the new limit was established by the following calculations:

Index Based in 1996 Dollars

Fourth Quarter 1999 IPD Index	105.13
Fourth Quarter 1998 IPD Index	103.07

New Limit = 1999 Limit \times (1999 Index/1998 Index)
 $527,583 + 517,245 \times (1.0513/1.0307)$

2000 Noneconomic Damages Limit (Rounded) = \$528,000

As defined in section 536.026, RSMo Supp. 1999 “an agency may solicit comments from the public on the subject matter of a rule that the agency is considering proposing. The agency may file a notice of the rule under consideration as a proposed rulemaking with the secretary of state for publication in the *Missouri Register* as soon as practicable after the filing thereof in the secretary’s office. The notice may contain the number and the subject matter of the rule as well as a statement indicating where, when, and how persons may comment.”

This section complies with this statutory requirement to publish rules being considered for proposal by an agency. These rules carry none of the weight of a proposed rule or amendment. Publishing a rule under consideration places no obligation on the agency to promulgate an actual rule in the future. Rules under consideration are reproduced in the format provided by the agency and are not subject to the secretary of state’s formatting requirements.

Following is the Text of Rules Under Consideration Submitted by the Department of Labor and Industrial Relations

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretation of
Employment Anti-Discrimination Laws**

RULE UNDER CONSIDERATION

The Commission is examining the need for a rule change. The Commission plans to hold a pre-filing hearing under Section 536.026 in Jefferson City on March 30, 2000 from 10:00 am to 12:00 noon in Training Rooms 1 & 2 of the Employment Security building at 421 E Dunklin to determine the need to promulgate a proposed amendment.

On September 17, 1999 the Commission filed a proposed amendment to **8 CSR 60-3.040**, Employment Practices Related to Men and Women, in order to have its rule conform to the current federal standard for sexual harassment. A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 15, 1999 (24 MoReg 2588). Due to the comments received, which indicated a misunderstanding by the majority of the commentators on what the rule change would accomplish, an order to withdraw the proposed amendment was filed on December 29, 1999 and published in the *Missouri Register* on February 1, 2000. The hearing will allow all interested parties to have input into the process, and the content of the rule will be carefully considered. All parties who commented in writing on the October 15, 1999 proposed amendment will receive an individual notification of the hearing.

Current Rule under consideration for amendment.

8 CSR 60-3.040 Employment Practices Related to Men and Women

PURPOSE: The Missouri Commission on Human Rights has the authority to formulate policies to effectuate the purposes of Chapter 213, RSMo (1986). This rule sets forth guidelines and interpretations governing, but not limited to, the major aspects of employment practices in relation to sex.

(1) References to employer(s) in these rules state principles that are applicable not only to employers but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities, as defined in the Missouri Fair Employment Practices Act, Chapter 213, RSMo (1986).

(2) The bona fide occupational qualification exception as to sex is strictly and narrowly construed. Labels—men’s jobs and women’s jobs—tend to deny employment opportunities unnecessarily to one sex or the other.

(A) The following situations do not warrant the application of the bona fide occupational qualification exception:

1. The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men;

2. The refusal to hire an individual based on stereotyped characterizations of the sexes. These stereotypes include, for example, that men are less capable of assembling intricate equipment; that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group; and

3. The refusal to hire an individual because of the preferences of coworkers, the employer, clients or customers.

(3) Employers engaged in recruiting activity must recruit employees of both sexes for all jobs unless sex is a bona fide occupational qualification.

(4) Advertisement in newspapers and other media for employment must not express a sex preference, unless sex is a bona fide occupational qualification for the job. The placement of an advertisement in columns headed male or female will be considered an expression of a preference limitation, specification or discrimination based on sex.

(5) Section 213.055, RSMo (1986) specifically states that it shall be unlawful for an employment agency to discriminate against any individual because of sex. Private employment agencies which deal exclusively with one sex are engaged in an unlawful employment practice, except to the extent that those agencies limit their services to furnishing employees for particular jobs for which sex is a bona fide occupational qualification.

(A) An employment agency that receives a job order containing an unlawful sex specification will share responsibility with the employer placing the job order if the agency fills the order knowing that the sex specification is not based upon a bona fide occupational qualification. However, an employment agency is not in violation of the law, regardless of the determination as to the employer, if the agency does not have reason to believe that the employer's claim of bona fide occupational qualification is without substance and the agency makes and maintains a written record available to the commission of each job order. This record shall include the name of the employer, the description of the job and the basis for the employer's claim of a bona fide occupational qualification.

(B) It is the responsibility of employment agencies to keep informed of opinions and decisions of the commission on sex discrimination.

(6) A preemployment inquiry may ask male-, female-, or Mr., Mrs. or Miss, provided that the inquiry is made in good faith for nondiscriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

(7) Written personnel policies relating to job policies and practices must expressly indicate that there shall be no discrimination against employees on account of sex. If the employer deals with a bargaining representative for his/her employees and there is a written agreement on conditions of employment, this agreement shall not be inconsistent with these rules.

(8) Employees of both sexes shall have an equal opportunity to any available job that s/he is qualified to perform unless sex is a bona fide occupational qualification.

(9) No employer shall make any distinction based upon sex in employment opportunities, wages, hours or other conditions of employment. In the area of employer contributions for insurance, pensions, welfare programs and other similar fringe benefits, the employer will not violate these rules if benefits are equal for men and women.

(10) Any distinction between married and unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex will be considered to be a distinction made on the basis of sex. Similarly, an employer must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to members of the opposite sex.

(11) The employer's policies and practices must assure the appropriate physical facilities to both sexes. The employer may not refuse to hire men or women or deny men or women a particular job because there are no restrooms or associated facilities.

(12) An employer must not deny a female employee the right to any job she is qualified to perform. For example, an employer's rules cannot bar a woman from a job that would require more than a certain number of hours or from working at jobs that require lifting or carrying more than designated weights.

(13) It is an unlawful practice to classify a job as male or female or to maintain separate lines of progression or separate seniority lists based on sex where this would adversely affect any employee unless sex is a bona fide occupational qualification for that job. Accordingly, employment practices are unlawful which arbitrarily classify jobs so that—

(A) A female is prohibited from applying for a job labeled male or for a job in a male line of progression and vice versa;

(B) A male scheduled for layoff is prohibited from displacing a less senior female on a female seniority list and vice versa; and

(C) A seniority system or line of progression which distinguishes between light and heavy jobs constitutes an unlawful employment practice if it operates as a disguised form of classification by sex or creates unreasonable obstacles to the advancement by members of either sex.

(14) The employer's wage schedules must not be related to or based on the sex of the employees; and the employer may not discriminatorily restrict one sex to certain job classifications. The employer must take steps to make jobs available to all qualified employees in all classifications without regard to sex.

(15) Fringe benefits, as used in this rule, include medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions and privileges of employment.

(A) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to fringe benefits.

(B) Where an employer conditions benefits available to employees and their spouses and families on whether the employee is the head of the household or principal wage earner in the family unit, the benefits tend to be available only to male employees and

their families. Due to the fact that conditioning discriminatorily affects the rights of women employees, and that head of household or principal wage earner status bears no relationship to job performance, benefits which are so conditioned will be found in a prima facie violation of the prohibitions against sex discrimination contained in the act.

(C) It shall be an unlawful employment practice for an employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees.

(D) It shall not be a defense under Chapter 213, RSMo (1986) to a charge of sex discrimination in benefits that the cost of benefits is greater with respect to one sex than the other.

(16) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy is in prima facie violation of Chapter 213, RSMo (1986) and may be justified only upon showing of business necessity.

(A) Disabilities caused or contributed to by pregnancy, miscarriage, legal abortion, childbirth and recovery are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave, plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

(B) Where the termination of a temporarily disabled employee is caused by an employment policy under which insufficient or no leave is available, this termination violates the act if it has a disparate impact on employees of one sex and is not justified by a business necessity.

(17) Harassment on the basis of sex is a violation of Chapter 213, RSMo.

(A) Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when—

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(B) In determining whether alleged conduct constitutes sexual harassment, the commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.

(C) Applying general principles of Chapter 213, RSMo, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as employer) is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

Auth: section 213.030(6), RSMo 1986. This rule was previously filed as 4 CSR 180-3.040. Original rule filed Oct. 31, 1973, effective Nov. 10, 1973. Amended: Filed July 1, 1980, effective Nov. 13, 1980. Emergency amendment filed Sept. 17, 1999, effective Sept. 27, 1999, terminated Dec. 29, 1999.

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support or opposition to a rule change, including suggested language, with the Commission through Steven Skolnick, Missouri Commission on Human Rights, P.O. Box 1129, Jefferson City, MO 65102. To be considered, comments must be received within forty-five (45) days after publication of this notice in the Missouri Register. A public hearing is scheduled for March 30, 2000 in Jefferson City at the Employment Security Building, 421 E. Dunklin, from 10:00 am to 12:00 noon.*

SPECIAL NEEDS: *If you have special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-1966 at least five working days prior to the pre-filing hearing.*

**OFFICE OF ADMINISTRATION
Division of Purchasing**

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, P.O. Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: <http://www.state.mo.us/oa/purch/purch.htm>. Prospective bidders may receive specifications upon request.

B1Z00257 Grocery-4th Quarter-April through June 3/1/00;
B1Z00279 Steel Tubing & Rods 3/1/00;
B1Z00281 Equipment: Sewing Machinery 3/2/00;
B1Z00289 Lighting Fixtures 3/2/00;
B1Z00291 Trucks: 1 1/2 Ton, 4 x 4 3/2/00;
B1Z00302 Film, Polaroid 3/2/00;
B3Z00133 Trash Collection Services 3/2/00;
B003056 Training Services/Management Training Programs
3/6/00;
B3Z00094 International Marketing-Missouri Tourism 3/6/00;
B3Z00138 Conference Services 3/6/00;
B1Z00231 Folder, Medical File 3/7/00;
B1Z00293 Bras 3/7/00;
B1Z00233 Terry Toweling Blanks 3/8/00;
B2Z00287 Mace: Pepper, Dye 3/8/00;
B1Z00304 Vehicle: Sport Utility 3/9/00;
B1Z00305 Crawler Dozers 3/9/00;
B1Z00306 Trailers: Gooseneck 3/13/00;
B1Z00313 Vans: One-Ton Cargo 3/13/00;
B1Z00310 Paper: Die Cut Tabs 3/14/00;
B1Z00311 Office Supplies-Statewide 3/14/00;
B1Z00315 Paper, Carbonless 3/14/00;
B3Z00093 Non-Emergency Medical Transportation 3/14/00;
B3Z00107 Court Reporting Services 3/14/00;
B1Z00303 Paper, Office and Print Shop 3/15/00;
B3Z00130 Referral/Outreach & Interpreter Services 3/17/00;
B3Z00143 Trash Collection Services 3/17/00;
B3Z00135 Advertising Agency Services-Tourism 3/30/00.

It is the intent of the state of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

Public Awareness Multi-Media Campaign- "Baby Your Baby", supplied by Vanguard Media.

Joyce Murphy, CPPO,
Director of Purchasing

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—23 (1998), 24 (1999) and 25 (2000). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable and RUC indicates a rule under consideration.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule.....				23 MoReg 2473 24 MoReg 2535
1 CSR 10-15.010	Commissioner of Administration	25 MoReg 143	24 MoReg 2577	25 MoReg 298	
1 CSR 20-5.010	Personnel Advisory Board.....		24 MoReg 2578		
1 CSR 20-5.015	Personnel Advisory Board.....		24 MoReg 2578		
1 CSR 20-5.020	Personnel Advisory Board.....		24 MoReg 2579		
1 CSR 20-5.025	Personnel Advisory Board.....		24 MoReg 2580		
DEPARTMENT OF AGRICULTURE					
2 CSR 10-5.005	Market Development	24 MoReg 2269			
2 CSR 10-5.010	Market Development		23 MoReg 2676	This Issue
2 CSR 60-1.010	Grain Inspection and Warehousing.....		24 MoReg 2755		
2 CSR 60-4.011	Grain Inspection and Warehousing.....		24 MoReg 2755		
2 CSR 60-4.040	Grain Inspection and Warehousing.....		24 MoReg 2755R		
2 CSR 60-4.070	Grain Inspection and Warehousing.....		24 MoReg 2756		
2 CSR 60-4.110	Grain Inspection and Warehousing.....		24 MoReg 2756		
2 CSR 60-4.140	Grain Inspection and Warehousing.....		24 MoReg 2757		
2 CSR 60-4.150	Grain Inspection and Warehousing.....		24 MoReg 2758		
2 CSR 60-4.180	Grain Inspection and Warehousing.....		24 MoReg 2758		
2 CSR 60-5.010	Grain Inspection and Warehousing.....		24 MoReg 2759		
2 CSR 60-5.020	Grain Inspection and Warehousing.....		24 MoReg 2759R		
			24 MoReg 2759		
2 CSR 60-5.030	Grain Inspection and Warehousing.....		24 MoReg 2760R		
2 CSR 60-5.040	Grain Inspection and Warehousing.....		24 MoReg 2760		
2 CSR 60-5.050	Grain Inspection and Warehousing.....		24 MoReg 2760		
2 CSR 60-5.070	Grain Inspection and Warehousing.....		24 MoReg 2761		
2 CSR 60-5.080	Grain Inspection and Warehousing.....		24 MoReg 2761		
2 CSR 60-5.100	Grain Inspection and Warehousing.....		24 MoReg 2762		
2 CSR 60-5.120	Grain Inspection and Warehousing.....		24 MoReg 2763		
2 CSR 80-2.180	State Milk Board	24 MoReg 2675	24 MoReg 2764		
2 CSR 80-5.010	State Milk Board		25 MoReg 357		
DEPARTMENT OF CONSERVATION					
3 CSR 10-1.010	Conservation Commission.....		24 MoReg 2764	25 MoReg 429	
			This Issue	
3 CSR 10-4.115	Conservation Commission.....		24 MoReg 2581	25 MoReg 50	
			25 MoReg 259		
3 CSR 10-4.116	Conservation Commission.....		24 MoReg 2582	25 MoReg 50	
3 CSR 10-4.125	Conservation Commission.....		24 MoReg 2583	25 MoReg 50	
3 CSR 10-5.205	Conservation Commission.....		24 MoReg 2583	25 MoReg 50	
3 CSR 10-5.210	Conservation Commission.....		24 MoReg 2586	25 MoReg 51	
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11 CSR 45-30.220	Missouri Gaming Commission		24 MoReg 2769		
11 CSR 45-30.280	Missouri Gaming Commission		24 MoReg 2769		
11 CSR 45-30.370	Missouri Gaming Commission		24 MoReg 2769		
11 CSR 50-2.080	Missouri State Highway Patrol		This Issue		
11 CSR 50-2.090	Missouri State Highway Patrol		This Issue		
11 CSR 50-2.100	Missouri State Highway Patrol		This Issue		
11 CSR 50-2.150	Missouri State Highway Patrol	This Issue	This Issue		
11 CSR 50-2.160	Missouri State Highway Patrol	This Issue	This Issue		
11 CSR 50-2.290	Missouri State Highway Patrol	This Issue	This Issue		
11 CSR 50-2.320	Missouri State Highway Patrol		This Issue		
11 CSR 50-2.350	Missouri State Highway Patrol	24 MoReg 2747R	24 MoReg 2770R		
11 CSR 50-2.360	Missouri State Highway Patrol	24 MoReg 2747R	24 MoReg 2770R		
11 CSR 50-2.370	Missouri State Highway Patrol	24 MoReg 2748R	24 MoReg 2771R		
11 CSR 50-2.380	Missouri State Highway Patrol	24 MoReg 2748R	24 MoReg 2771R		
11 CSR 50-2.390	Missouri State Highway Patrol	24 MoReg 2749R	24 MoReg 2771R		
11 CSR 50-2.400	Missouri State Highway Patrol	25 MoReg 253	25 MoReg 282		
11 CSR 50-2.401	Missouri State Highway Patrol	24 MoReg 2749R	24 MoReg 2772R		
11 CSR 50-2.402	Missouri State Highway Patrol	24 MoReg 2749R	24 MoReg 2772R		
11 CSR 50-2.403	Missouri State Highway Patrol	24 MoReg 2750R	24 MoReg 2772R		
11 CSR 50-2.404	Missouri State Highway Patrol	24 MoReg 2750R	24 MoReg 2772R		
11 CSR 50-2.405	Missouri State Highway Patrol	24 MoReg 2750R	24 MoReg 2773R		
11 CSR 50-2.406	Missouri State Highway Patrol	24 MoReg 2751R	24 MoReg 2773R		
11 CSR 50-2.407	Missouri State Highway Patrol	24 MoReg 2751R	24 MoReg 2773R		
11 CSR 50-2.410	Missouri State Highway Patrol	24 MoReg 2751R	24 MoReg 2773R		
11 CSR 50-2.420	Missouri State Highway Patrol	24 MoReg 2752R	24 MoReg 2774R		
11 CSR 50-2.430	Missouri State Highway Patrol		This Issue		
11 CSR 50-2.440	Missouri State Highway Patrol		This Issue		
11 CSR 60-1.070	Division of Highway Safety		25 MoReg 18		
11 CSR 70-2.190	Division of Liquor Control		24 MoReg 2390	25 MoReg 327	
11 CSR 75-3.010	Peace Officer Standards and Training		24 MoReg 2963		
11 CSR 75-3.020	Peace Officer Standards and Training		24 MoReg 2963		
11 CSR 75-3.030	Peace Officer Standards and Training		24 MoReg 2963		
11 CSR 75-3.050	Peace Officer Standards and Training		24 MoReg 2967		
11 CSR 75-3.060	Peace Officer Standards and Training		24 MoReg 2967		
11 CSR 75-3.070	Peace Officer Standards and Training		24 MoReg 2968		
11 CSR 75-3.080	Peace Officer Standards and Training		24 MoReg 2968		
11 CSR 75-10.010	Peace Officer Standards and Training		24 MoReg 2969		
11 CSR 75-10.020	Peace Officer Standards and Training		24 MoReg 2969		
11 CSR 75-10.030	Peace Officer Standards and Training		24 MoReg 2969		
11 CSR 75-10.040	Peace Officer Standards and Training		24 MoReg 2970		
11 CSR 75-10.050	Peace Officer Standards and Training		24 MoReg 2970		
11 CSR 75-10.060	Peace Officer Standards and Training		24 MoReg 2970		
11 CSR 75-10.090	Peace Officer Standards and Training		24 MoReg 2971R		
11 CSR 75-10.100	Peace Officer Standards and Training		24 MoReg 2971		
11 CSR 75-11.040	Peace Officer Standards and Training	24 MoReg 2937	24 MoReg 2972		
11 CSR 80-1.010	Missouri State Water Patrol		25 MoReg 290		
11 CSR 80-2.010	Missouri State Water Patrol		25 MoReg 290		
11 CSR 80-3.010	Missouri State Water Patrol		25 MoReg 291		
11 CSR 80-3.020	Missouri State Water Patrol		25 MoReg 291		
11 CSR 80-4.010	Missouri State Water Patrol		25 MoReg 291		
11 CSR 80-5.010	Missouri State Water Patrol		24 MoReg 2774		
11 CSR 80-6.010	Missouri State Water Patrol		25 MoReg 292		
11 CSR 80-7.010	Missouri State Water Patrol		25 MoReg 292		
11 CSR 80-8.010	Missouri State Water Patrol		25 MoReg 292		
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12 CSR	Construction Transient Employers				24 MoReg 2087
12 CSR 10-2.015	Director of Revenue	25 MoReg 5	25 MoReg 18		
12 CSR 10-2.240	Director of Revenue		24 MoReg 2632	25 MoReg 441	
12 CSR 10-3.460	Director of Revenue	25 MoReg 144			
12 CSR 10-5.015	Director of Revenue		24 MoReg 2973R		
12 CSR 10-5.020	Director of Revenue		24 MoReg 2973R		
12 CSR 10-5.035	Director of Revenue		24 MoReg 2974R		
12 CSR 10-5.105	Director of Revenue		24 MoReg 2974R		
12 CSR 10-5.520	Director of Revenue		24 MoReg 2974R		
12 CSR 10-11.030	Director of Revenue		24 MoReg 2974R		
12 CSR 10-11.040	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.090	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.190	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.200	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.210	Director of Revenue		24 MoReg 2976R		
12 CSR 10-11.220	Director of Revenue		24 MoReg 2976R		
12 CSR 10-11.230	Director of Revenue		24 MoReg 2976R		
12 CSR 10-23.100	Director of Revenue		This Issue		
12 CSR 10-23.446	Director of Revenue	24 MoReg 2270	24 MoReg 2391	25 MoReg 212	
12 CSR 10-23.450	Director of Revenue		24 MoReg 2775		
12 CSR 10-24.050	Director of Revenue		24 MoReg 2976		
12 CSR 10-24.430	Director of Revenue		24 MoReg 2391	25 MoReg 212	

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12 CSR 10-25.090	Director of Revenue		25 MoReg 392R		
12 CSR 10-26.010	Director of Revenue		24 MoReg 2776		
12 CSR 10-26.020	Director of Revenue		24 MoReg 2779		
12 CSR 10-26.030	Director of Revenue		24 MoReg 2781		
12 CSR 10-26.040	Director of Revenue		24 MoReg 2784		
12 CSR 10-26.050	Director of Revenue		24 MoReg 2787		
12 CSR 10-26.060	Director of Revenue		24 MoReg 2789		
12 CSR 10-26.070	Director of Revenue		24 MoReg 2791		
12 CSR 10-26.080	Director of Revenue		24 MoReg 2793		
12 CSR 10-26.090	Director of Revenue		24 MoReg 2795		
12 CSR 10-26.100	Director of Revenue		24 MoReg 2797		
12 CSR 10-26.110	Director of Revenue		24 MoReg 2799		
12 CSR 10-26.120	Director of Revenue		24 MoReg 2801		
12 CSR 10-26.130	Director of Revenue		24 MoReg 2803		
12 CSR 10-26.140	Director of Revenue		24 MoReg 2805		
12 CSR 10-26.150	Director of Revenue		24 MoReg 2807		
12 CSR 10-26.160	Director of Revenue		24 MoReg 2809		
12 CSR 10-26.170	Director of Revenue		24 MoReg 2811		
12 CSR 10-41.010	Director of Revenue	24 MoReg 2938	24 MoReg 2977		
12 CSR 10-43.020	Director of Revenue		24 MoReg 2230	25 MoReg 113	
12 CSR 10-43.030	Director of Revenue		24 MoReg 2230	25 MoReg 113	
12 CSR 10-101.500	Director of Revenue		25 MoReg 19		
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12 CSR 10-103.610	Director of Revenue		25 MoReg 293		
12 CSR 10-103.360	Director of Revenue		24 MoReg 2977		
12 CSR 10-103.390	Director of Revenue		24 MoReg 2978		
12 CSR 10-103.500	Director of Revenue		24 MoReg 2979		
12 CSR 10-109.050	Director of Revenue		24 MoReg 2980		
12 CSR 10-110.013	Director of Revenue	<i>Changed from 12 CSR 10-III.013</i>	24 MoReg 2632		This Issue
12 CSR 10-110.016	Director of Revenue	<i>Changed from 12 CSR 10-III.016</i>	24 MoReg 2634	25 MoReg 441	
12 CSR 10-110.900	Director of Revenue		25 MoReg 20		
12 CSR 10-110.910	Director of Revenue		25 MoReg 294		
12 CSR 10-110.920	Director of Revenue		25 MoReg 295		
12 CSR 10-111.010	Director of Revenue		24 MoReg 2392	25 MoReg 327	
12 CSR 10-111.013	Director of Revenue	<i>Changed to 12 CSR 10-III.013</i>	24 MoReg 2632		This Issue
12 CSR 10-111.016	Director of Revenue	<i>Changed to 12 CSR 10-III.016</i>	24 MoReg 2634	25 MoReg 441	
12 CSR 10-111.060	Director of Revenue		25 MoReg 23		
12 CSR 10-112.300	Director of Revenue		24 MoReg 2981		
12 CSR 30-1.030	State Tax Commission		24 MoReg 2695		
12 CSR 30-2.017	State Tax Commission		24 MoReg 2696		
12 CSR 30-2.018	State Tax Commission		24 MoReg 2702		
12 CSR 30-4.010	State Tax Commission		25 MoReg 296		
12 CSR 40-40.090	State Lottery		25 MoReg 392		
12 CSR 40-60.020	State Lottery		25 MoReg 393		
12 CSR 60-1.010	Motor Vehicle Commission		24 MoReg 2702R		This IssueR
12 CSR 60-1.020	Motor Vehicle Commission		24 MoReg 2702R		This IssueR
12 CSR 60-1.030	Motor Vehicle Commission		24 MoReg 2702R		This IssueR
12 CSR 60-1.040	Motor Vehicle Commission		24 MoReg 2703R		This IssueR
12 CSR 60-1.050	Motor Vehicle Commission		24 MoReg 2703R		This IssueR
12 CSR 60-1.060	Motor Vehicle Commission		24 MoReg 2703R		This IssueR
12 CSR 60-2.010	Motor Vehicle Commission		24 MoReg 2704R		This IssueR
12 CSR 60-2.020	Motor Vehicle Commission		24 MoReg 2704R		This IssueR
12 CSR 60-2.030	Motor Vehicle Commission		24 MoReg 2704R		This IssueR
12 CSR 60-2.040	Motor Vehicle Commission		24 MoReg 2704R		This IssueR
12 CSR 60-2.050	Motor Vehicle Commission		24 MoReg 2705R		This IssueR
12 CSR 60-2.060	Motor Vehicle Commission		24 MoReg 2705R		This IssueR
12 CSR 60-2.070	Motor Vehicle Commission		24 MoReg 2705R		This IssueR
12 CSR 60-2.080	Motor Vehicle Commission		24 MoReg 2705R		This IssueR
12 CSR 60-2.090	Motor Vehicle Commission		24 MoReg 2706R		This IssueR
12 CSR 60-2.100	Motor Vehicle Commission		24 MoReg 2706R		This IssueR
12 CSR 60-2.110	Motor Vehicle Commission		24 MoReg 2706R		This IssueR
12 CSR 60-2.120	Motor Vehicle Commission		24 MoReg 2706R		This IssueR
12 CSR 60-2.130	Motor Vehicle Commission		24 MoReg 2707R		This IssueR
12 CSR 60-2.140	Motor Vehicle Commission		24 MoReg 2707R		This IssueR
12 CSR 60-2.150	Motor Vehicle Commission		24 MoReg 2707R		This IssueR
12 CSR 60-2.160	Motor Vehicle Commission		24 MoReg 2708R		This IssueR
12 CSR 60-2.170	Motor Vehicle Commission		24 MoReg 2708R		This IssueR
12 CSR 60-3.010	Motor Vehicle Commission		24 MoReg 2708R		This IssueR
12 CSR 60-4.010	Motor Vehicle Commission		24 MoReg 2708R		This IssueR
12 CSR 60-4.020	Motor Vehicle Commission		24 MoReg 2709R		This IssueR
12 CSR 60-4.030	Motor Vehicle Commission		24 MoReg 2709R		This IssueR
12 CSR 60-4.040	Motor Vehicle Commission		24 MoReg 2709R		This IssueR
12 CSR 60-4.050	Motor Vehicle Commission		24 MoReg 2710R		This IssueR
12 CSR 60-4.060	Motor Vehicle Commission		24 MoReg 2710R		This IssueR
12 CSR 60-4.070	Motor Vehicle Commission		24 MoReg 2710R		This IssueR
12 CSR 60-4.080	Motor Vehicle Commission		24 MoReg 2710R		This IssueR
12 CSR 60-5.010	Motor Vehicle Commission		24 MoReg 2711R		This IssueR

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13 CSR 40-2.300	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.305	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.310	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.315	Division of Family Services	23 MoReg 2133T			

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13 CSR 40-2.320	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.325	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.330	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.335	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.340	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.345	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.350	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.355	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.360	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.365	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.370	Division of Family Services	23 MoReg 2135T			
13 CSR 40-19.020	Division of Family Services	24 MoReg 2270	24 MoReg 2394		This Issue
13 CSR 40-80.010	Division of Family Services		24 MoReg 2395		This Issue
13 CSR 70-3.020	Medical Services		24 MoReg 1742		
13 CSR 70-3.030	Medical Services		24 MoReg 1743		
13 CSR 70-3.130	Medical Services		24 MoReg 1747		
13 CSR 70-4.080	Medical Services		24 MoReg 2396		
			24 MoReg 2398		
13 CSR 70-4.090	Medical Services	24 MoReg 2569	24 MoReg 2399	25 MoReg 441	
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13 CSR 70-10.015(13)	Medical Services	24 MoReg 2572	24 MoReg 2401	25 MoReg 328	
13 CSR 70-10.080	Medical Services	24 MoReg 2574	24 MoReg 2404	25 MoReg 328	
13 CSR 70-10.110	Medical Services	24 MoReg 2575	24 MoReg 2406	25 MoReg 328	
13 CSR 70-15.010	Medical Services		24 MoReg 2408		This Issue
			24 MoReg 2938		
			25 MoReg 204		
13 CSR 70-15.110	Medical Services	24 MoReg 1026	24 MoReg 2411	25 MoReg 444	
13 CSR 73-2.015	Board of Nursing Home Administrators	24 MoReg 2752	24 MoReg 2813		
13 CSR 73-2.020	Board of Nursing Home Administrators	24 MoReg 2753	24 MoReg 2816		
13 CSR 73-2.070	Board of Nursing Home Administrators	24 MoReg 2753	24 MoReg 2819		
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15 CSR 30-4.010	Secretary of State		24 MoReg 2413	25 MoReg 212	
15 CSR 30-15.010	Secretary of State		24 MoReg 2417	25 MoReg 212	
15 CSR 30-15.020	Secretary of State		24 MoReg 2417	25 MoReg 212	
15 CSR 30-45.030	Secretary of State		24 MoReg 2147R	25 MoReg 113R	
			24 MoReg 2147	25 MoReg 113	
15 CSR 50-4.010	Treasurer		24 MoReg 2417	25 MoReg 212	
15 CSR 50-4.020	Treasurer	24 MoReg 2271	24 MoReg 2418	25 MoReg 213	
15 CSR 60-11.010	Attorney General		24 MoReg 1103		
15 CSR 60-11.020	Attorney General		24 MoReg 1104		
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16 CSR 10-4.010	Public School Retirement System		24 MoReg 2231	25 MoReg 113	
16 CSR 10-4.014	Public School Retirement System		24 MoReg 2822		
16 CSR 10-5.010	Public School Retirement System		24 MoReg 2232	25 MoReg 113	
16 CSR 10-5.020	Public School Retirement System		24 MoReg 2233	25 MoReg 114	
16 CSR 10-5.030	Public School Retirement System		24 MoReg 2233	25 MoReg 114	
16 CSR 10-5.055	Public School Retirement System		24 MoReg 2234	25 MoReg 114	
16 CSR 10-6.020	Public School Retirement System		25 MoReg 24		
16 CSR 10-6.040	Public School Retirement System		24 MoReg 2235	25 MoReg 114	
16 CSR 10-6.045	Public School Retirement System		24 MoReg 2822		
16 CSR 10-6.060	Public School Retirement System		24 MoReg 2235	25 MoReg 114	
16 CSR 10-6.090	Public School Retirement System		24 MoReg 2236	25 MoReg 114	
16 CSR 10-6.100	Public School Retirement System		24 MoReg 2236	25 MoReg 115	
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17 CSR 10-2.010	Kansas City Board of Police Commissioners		25 MoReg 393R		
			25 MoReg 393		
17 CSR 10-2.020	Kansas City Board of Police Commissioners		25 MoReg 400R		
			25 MoReg 400		
17 CSR 10-2.030	Kansas City Board of Police Commissioners		25 MoReg 404R		
			25 MoReg 404		
17 CSR 10-2.040	Kansas City Board of Police Commissioners		25 MoReg 405R		
			25 MoReg 405		
17 CSR 10-2.050	Kansas City Board of Police Commissioners		25 MoReg 413R		
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17 CSR 10-2.055	Kansas City Board of Police Commissioners		25 MoReg 418R		
			25 MoReg 418		
17 CSR 10-2.060	Kansas City Board of Police Commissioners		25 MoReg 423R		
			25 MoReg 423		
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19 CSR 10-5.010	Office of the Director		25 MoReg 24		
19 CSR 20-8.010	Environmental Health and Epidemiology	24 MoReg 2275R	24 MoReg 2423R	25 MoReg 213R	
19 CSR 20-8.020	Environmental Health and Epidemiology	24 MoReg 2275R	24 MoReg 2423R	25 MoReg 213R	
19 CSR 30-70.110	Health Standards and Licensure	24 MoReg 2276	24 MoReg 2423	25 MoReg 213	
19 CSR 30-70.120	Health Standards and Licensure	24 MoReg 2276	24 MoReg 2424	25 MoReg 214	
19 CSR 30-70.130	Health Standards and Licensure	24 MoReg 2277	24 MoReg 2427	25 MoReg 214	

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19 CSR 30-70.140	Health Standards and Licensure	24 MoReg 2279	24 MoReg 2431	25 MoReg 214	
19 CSR 30-70.150	Health Standards and Licensure	24 MoReg 2281	24 MoReg 2435	25 MoReg 214	
19 CSR 30-70.160	Health Standards and Licensure	24 MoReg 2283	24 MoReg 2439	25 MoReg 214	
19 CSR 30-70.170	Health Standards and Licensure	24 MoReg 2285	24 MoReg 2443	25 MoReg 214	
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19 CSR 30-70.320	Health Standards and Licensure	24 MoReg 2292	24 MoReg 2465	25 MoReg 215	
19 CSR 30-70.330	Health Standards and Licensure	24 MoReg 2295	24 MoReg 2471	25 MoReg 216	
19 CSR 30-70.340	Health Standards and Licensure	24 MoReg 2296	24 MoReg 2471	25 MoReg 216	
19 CSR 30-70.350	Health Standards and Licensure	24 MoReg 2297	24 MoReg 2472	25 MoReg 216	
19 CSR 30-70.360	Health Standards and Licensure	24 MoReg 2297	24 MoReg 2472	25 MoReg 216	
19 CSR 30-70.370	Health Standards and Licensure	24 MoReg 2298	24 MoReg 2473	25 MoReg 216	
19 CSR 30-70.380	Health Standards and Licensure	24 MoReg 2398	24 MoReg 2473	25 MoReg 217	
19 CSR 30-70.390	Health Standards and Licensure	24 MoReg 2300	24 MoReg 2477	25 MoReg 217	
19 CSR 30-70.400	Health Standards and Licensure	24 MoReg 2301	24 MoReg 2477	25 MoReg 217	
19 CSR 30-70.510	Health Standards and Licensure	24 MoReg 2301	24 MoReg 2478	25 MoReg 217	
19 CSR 30-70.520	Health Standards and Licensure	24 MoReg 2302	24 MoReg 2478	25 MoReg 217	
19 CSR 30-70.600	Health Standards and Licensure	24 MoReg 2302	24 MoReg 2482	25 MoReg 217	
19 CSR 30-70.610	Health Standards and Licensure	24 MoReg 2304	24 MoReg 2483	25 MoReg 218	
19 CSR 30-70.620	Health Standards and Licensure	24 MoReg 2305	24 MoReg 2484	25 MoReg 218	25 MoReg 447
19 CSR 30-70.630	Health Standards and Licensure	24 MoReg 2307	24 MoReg 2493	25 MoReg 219	
19 CSR 30-70.640	Health Standards and Licensure	24 MoReg 2312	24 MoReg 2503	25 MoReg 222	
19 CSR 40-13.010	Maternal, Child and Family Health		24 MoReg 515		
19 CSR 40-13.020	Maternal, Child and Family Health		24 MoReg 526		
19 CSR 40-13.030	Maternal, Child and Family Health		24 MoReg 527		
19 CSR 60-50	Missouri Health Facilities Review				24 MoReg 2243
					24 MoReg 2721
19 CSR 60-50.300	Missouri Health Facilities Review		24 MoReg 2822	25 MoReg 222W	
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19 CSR 60-50.310	Missouri Health Facilities Review		24 MoReg 2823		
19 CSR 60-50.420	Missouri Health Facilities Review				25 MoReg 116
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19 CSR 60-50.470	Missouri Health Facilities Review		24 MoReg 2825		
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19 CSR 60-50.700	Missouri Health Facilities Review		24 MoReg 2825		
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20 CSR	Medical Malpractice				23 MoReg 514
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20 CSR 500-4.100	Property and Casualty		24 MoReg 1950	25 MoReg 223	
20 CSR 500-7.200	Property and Casualty		24 MoReg 1587		
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22 CSR 10-2.010	Health Care Plan	25 MoReg 7	25 MoReg 41		
22 CSR 10-2.020	Health Care Plan	25 MoReg 7	25 MoReg 41		
22 CSR 10-2.040	Health Care Plan	25 MoReg 8	25 MoReg 42		
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22 CSR 10-2.050	Health Care Plan	25 MoReg 9	25 MoReg 45		
22 CSR 10-2.060	Health Care Plan	25 MoReg 10	25 MoReg 45		
22 CSR 10-2.063	Health Care Plan	25 MoReg 12	25 MoReg 47		
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		25 MoReg 146			
22 CSR 10-2.075	Health Care Plan	25 MoReg 13	25 MoReg 49		

Emergency Rules in Effect as of March 1, 2000

Expires

Office of Administration

Commissioner of Administration

1 CSR 10-15.010 Cafeteria Plan June 28, 2000

Department of Agriculture

Market Development

2 CSR 10-5.005 Price Reporting Requirements for Livestock Purchases by Packers March 2, 2000

State Milk Board

2 CSR 80-2.180 Adoption of the *Grade A Pasteurized Milk Ordinance* with Administrative Procedures—Recommendations of the United States Public Health Service/Food and Drug Administration (PMO) May 1, 2000

Department of Transportation

Missouri Highways and Transportation Commission

7 CSR 10-2.010 Overdimension and Overweight Permits May 16, 2000
7 CSR 10-2.010 Overdimension and Overweight Permits May 16, 2000
7 CSR 10-10.010 Definitions May 16, 2000
7 CSR 10-10.040 Contractor Performance Questionnaire Used in Evaluating Contractor Performance May 16, 2000
7 CSR 10-10.050 Procedure and Schedule for Completing the Contractor Performance Questionnaire May 16, 2000
7 CSR 10-10.070 Procedure for Annual Rating of Contractors May 16, 2000
7 CSR 10-14.020 Definitions August 15, 2000
7 CSR 10-14.030 Application for Participation August 15, 2000
7 CSR 10-14.040 Agreements; Responsibilities of Adopter and Commission August 15, 2000

Department of Natural Resources

Air Conservation Commission

10 CSR 10-5.380 Motor Vehicle Emissions Inspection June 28, 2000

Public Drinking Water Program

10 CSR 60-3.010 Construction Authorization, Final Approval of Construction Owner-Supervised Program and Permit to Dispense Water March 27, 2000
10 CSR 60-3.020 Continuing Operating Authority March 27, 2000
10 CSR 60-3.030 Technical, Managerial, and Financial Capacity March 27, 2000

Department of Public Safety

Missouri Gaming Commission

11 CSR 45-10.150 Child Care Facilities—License Required June 7, 2000

Missouri State Highway Patrol

11 CSR 50-2.350 Applicability of Motor Vehicle Emission Inspection June 28, 2000
11 CSR 50-2.360 Emission Fee June 28, 2000
11 CSR 50-2.370 Inspection Station Licensing June 28, 2000
11 CSR 50-2.380 Inspector/Mechanic Licensing June 28, 2000
11 CSR 50-2.390 Safety/Emission Stickers June 28, 2000
11 CSR 50-2.401 General Specifications June 28, 2000
11 CSR 50-2.402 MAS Software Functions June 28, 2000
11 CSR 50-2.403 Missouri Analyzer System (MAS) Display and Program Requirements June 28, 2000
11 CSR 50-2.404 Test Record Specifications June 28, 2000
11 CSR 50-2.405 Vehicle Inspection Certificate, Vehicle Inspection Report and Printer Function Specifications June 28, 2000
11 CSR 50-2.406 Technical Specifications for the MAS June 28, 2000
11 CSR 50-2.407 Documentation, Logistics and Warranty Requirements June 28, 2000
11 CSR 50-2.410 Vehicles Failing Reinspection June 28, 2000
11 CSR 50-2.420 Procedures for Conducting Only Emission Tests June 28, 2000

Peace Officer Standards and Training Program

11 CSR 75-11.040 Suspension of the Certification of a Peace Officer, Reserve Officer or Chief Executive Officer for Failing to Maintain Minimum Continuing Education Requirements May 29, 2000

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